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SEVENTY-FOURTH CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES

SATURDAY, JUNE 29, 1935

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

We are here, our Father in heaven, to perform the ministries of a sacred trust, and our personal responsibilities cannot be canceled. Grant that our deliberations may be prompted by the pure motives of patriotism, by unselfish service and sacrifice. Give us strength of will to discredit doubt and honor faith, looking beyond the narrow rim of sense and apprehending the future. Do Thou inspire us with fresh power to touch common toil and dignify it, to meet weak and worried folk and help them, to consecrate labor, and sanctify the hard and the homely things of life. O let us be ambitious for the excellent. We beseech Thee that the Congress may be led to think wisely and cooperate harmoniously that great opportunities and possibilities may be revealed for the good, happiness, and the contentment of a better land. Hear us, for Thy name's sake. Amen.

The Journal of the proceedings of yesterday was read and approved.

NULLIFICATION OF ACTS OF CONGRESS

Mr. LEWIS of Maryland. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, in connection with the subject of the Judicial Review of Federal Statutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. LEWIS of Maryland. Mr. Speaker, my reason for taking the time of the House today is that we are face to face with the gravest question presented in my experience in Congress.

An unparalleled economic situation has dictated that Congress should do something. The highest Court in the land has just told us we may not.

When 2 years ago we first faced this depression we found that the separate States were organically incompetent to act because of geographical limitations. We then took national action, as any other nation might do. The refusal of a coordinate department of the Government to apply the law has produced such a crisis that an honorable Member of this body, Representative SISSON, of the State of New York, has offered a resolution asking the House to seek the advice of the Judicial Committee and to advise us—

> Whether the legislative power of the Congress does or does not extend to the enactment of laws making provision for the general welfare of the United States and to insure the domestic tranquillity.
>
> Whether the authority of the courts of the United States, including the Supreme Court, extends to the annulment of statutes duly enacted by the Congress to provide for the general welfare of the United States and insure the domestic tranquillity.

Ladies and gentlemen of the House, let us not mistake or neglect the import of this resolution. The questions it raises of the competency of the Nation under the Constitution to deal with national subjects involving commerce among the States and the general welfare of the American people command immediate consideration. I am for the Constitution as it is written. If we take out of it two unwritten amendments interpolated at the instance of private litigants, and put back into it a fundamental part forced out of it by like interpolation, our beloved Constitution is as ample to meet our needs today as the fathers designed it to be. It is these amendments by interpolation that provide color for decisions which leaves this National Parliament alone, among parliaments stripped of power to defend the Nation against an economic depression more devastating than ordinary war. (A)

FIRST INTERPOLATION

Mr. Speaker, the first interpolative amendment is the power assumed by the courts to invalidate an act of Congress. Certainly no such power is expressly granted in any of the parts of the instrument defining the jurisdiction of the courts. Such a power, even as proposed by Madison in the form of a veto, viz, that "a convenient number of judges" must join with the President in order to veto bills passed by Congress, was four times rejected by decisive votes of the Constitutional Conventions.

Here is a power to void our statutes unknown when the Constitution was forming to the national governing institutions of the world—ancient, medieval, or modern. Is it conceivably probable that such an innovation was consciously intended to be incorporated without any expression of the purpose in the Constitution itself? (B)

Madison had proposed that State laws should be subject to approval by Congress. The Constitutional Convention agreed that control ought to be exercised by the Federal Government over the laws of States, but deemed it impracticable that Congress should directly exercise the power. There was, therefore, inserted in the Constitution the second paragraph of article VI, vesting the power in the judges. It reads:

> This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

To enforce this clause the Judiciary Act was passed in 1789. In this act jurisdiction was given the Federal courts to review decisions of the State courts where rights under Federal laws had been claimed, if the decision of the State court had been against such rights. If the decision was favorable to the Federal right claimed, the State decision was not appealable.

The casual reader of the above clause is sometimes confused by the word "pursuance." It has an unquestioned reference to express parliamentary procedural steps required by the Constitution in the passage of an act of Congress. For example:

First. The bill must be passed by both Houses.

Second. There must be the favoring vote of a majority of a quorum of each House.

Third. (a) It must be approved by the President; (b) or in his hands and not disapproved for 10 days, and so forth; and (c) or if vetoed by him, receive two-thirds of the votes of each House by yeas and nays entered on the Journals.

These are express procedural formalities to be pursued or followed by Congress in the enactment of a law.

Thus Congress, while expressly requiring the courts to nullify State legislation in conflict with the Federal law, recognized no such power in the Federal courts to nullify Federal statutes. The cases differed in their nature. Where two legislatures act on the subject a conflict may result. Some power must determine which law is to be

supreme. The Constitution expressly gave supremacy to the Federal law, and the act of 1789 gave the courts power to so declare.

Justice Holmes emphasized the importance of this distinction when he said:

I do not think the United States would come to an end if we lost our power to declare an act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several States.

Ladies and gentlemen of the House, there never was a contention that the nullifying power was expressly given. If it were an intended branch of the Court's jurisdiction, it could, and would, be found stated in terms as concrete as the Court's jurisdiction of suits between States and suits concerning ambassadors. (C)

FIRST UNWRITTEN AMENDMENT

So far as I can learn, the question was first raised before that eminent tribunal in the case of *Ware* v. *Hilton* in 1796 (3d Dallas at pp. 211 and 223). It was raised by Marshall as an attorney for the defendant. In his brief he declared:

The legislative authority of any country can only be restrained by its own municipal constitution. This is a principle that springs from the very nature of society; and the judicial authority can have no right to question the validity of a law unless such a jurisdiction is expressly given by the Constitution. It is not necessary to inquire how the judicial authority should act, if the legislation were evidently to violate any of the laws of God; but property is the creature of civil society and subject in all respects to the disposition and control of civil institutions.

In order to assume this power, constructive inference was at length resorted to, with the result of a dictum by Marshall in 1802, then Chief Justice, in the case of *Marbury* v. *James Madison, Secretary of State* (1 Cranch, beginning at p. 137.) Discountenancing his former opinion as attorney, Judge Marshall said:

So if a law be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the Court must either decide that case comformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

Thus the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void; and that courts, as well as other departments, are bound by that instrument.

Apparently the case had proceeded ex parte so far as argument is concerned, Secretary Madison refusing to recognize the Court's proceeding or to appear or be represented by counsel. (D)

Thomas Jefferson was President at the time of this decision. That he regarded the decision as a usurpation appears in the following excerpts of his correspondence:

On September 11, 1804, he wrote to Mrs. Adams relative to the power of the Supreme Court to declare acts contrary to the Constitution as follows:

* * * But the opinion, which gives to the judges the right to decide what laws are constitutional, and what not, not only for themselves in their own sphere of action, but for the legislature and Executive also in their spheres, would make the judiciary a despotic branch (Jefferson's Works, vol. IV, p. 26).

Each department "in their own sphere of action": That is, Congress enacts the law against piracy, but only the courts can punish the pirate. Congress alone can declare war, but only the Executive; that is, the President and War Department, can conduct it. Congress can enact a bankruptcy law, but only the courts can declare a man a bankrupt.

Mr. Speaker, Chief Justice Marshall concluded his decision with the statement:

That a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument.

Please observe what this power signifies if thus allowed to be derived by mere inference. Not only the Supreme Court and the lower courts but the humblest justice of the peace is empowered to nullify the statute before him if he thinks it is repugnant to the Constitution.

Such a case happened in my own State; the justice of the peace was trying a commercial traveler from some other State for violation of a Maryland law. He concluded that the Maryland law violated the Federal Constitution, and actually held the Maryland law void. The case went to a Maryland circuit court, where the justice of the peace was promptly reversed. The commercial traveler carried his case to the Court of Appeals of Maryland, and the justice of the peace was reversed again. The case at length reached the Supreme Court of the United States. That Court reversed our court of appeals and circuit court and affirmed the squire.

Now, mark you, not only may the justice of the peace nullify a statute under this unbridled power to veto, which carries no express limitations as to who shall exercise it, but officers of "other departments are bound by the Constitution" to do so should the sworn official applying the act infer that it was repugnant to the Constitution. Executive officials have already shown such temerity. All judicial officers may nullify; all executive officers may nullify an act of Congress. Certainly "here is the philosophy of anarchy issuing from the fountain of the law", declares an author. And anarchy it has proved to be when this dictum of Marshall received its confirmation 55 years later in the Dred Scott decision.

An inference implying an intention may be proved wrong by the absurd consequences it involves. An absurd consequence of assuming such a power is that when thus merely inferred it possesses characteristics of the veto, but carries no limitations as to the time when it shall be exercised. It also has the effects of a veto which may not be reversed. The Missouri Compromise Act was passed in 1820 and permitted to perform its high purpose of insuring the "domestic tranquillity" for 37 years before it was thus vetoed by a divided Court in 1857.

Is it conceivable, I ask you, my colleagues, that any gathering of lawmakers would propose a veto that might be exercised by any sworn official—judicial or executive—without limit on time or opportunity to the statute makers to revise the legislative mandate? If not, how can such an intention be imputed by mere inference to the makers of the Constitution? Other able judges of the time, Judge Bland, of Maryland, among them, discountenanced and in argument utterly destroyed the Marshall view. The comment of the late Chief Justice Clarke, of North Carolina, seems fitting: (E)

The power to set aside or nullify an act of Congress or a State legislature is a purely political power, and is so recognized by the constitutions which give the veto to the Executive. It comes under no definition or conception of the judicial power, which is to judge between the parties to a controversy. Neither the Government nor the State is a party to these proceedings, in which its supremest power—that of enacting laws—is nullified. As claimed and exercised by the courts, it is the absolute, autocratic power, because it is irreviewable. Those whose interest it is to have such power over the legislative and executive assert it for their own ends. The wonder is that it has ever been acquiesced in at all under a free form of government.

MISSOURI COMPROMISE ACT AND DRED SCOTT

Mr. Speaker, attending the birth of the Constitution was the unhappy institution of slavery, regretted by the noble spirits of the South, like Washington and Jefferson and others, as much as by humanitarians anywhere. A Representative from the South myself, I am happy now to look into the faces of other southern Representatives and say the southern conscience on the subject was not a less Christian conscience than the veriest reformer's. Here today are a hundred of the grandsons of soldiers of the Confederacy. If anyone were to offer a single one of you the ownership of a slave today, you would repulse him with disgust. It was with such a feeling that your great-grandfathers joined in the passage of the Missouri Compromise Act prohibiting the extension of slavery north of the Mason and Dixon's line. The Missouri Compromise Act, passed in 1820, was the product of the statesmanship of both the North and the South. It was designed to insure the national tranquillity, and with its passage some of the greatest names in our history—Clay, Calhoun, Webster, and other worthies—are immortally associated.

It was a private litigant in a private suit, not a State of the South, that gave challenge to Dred Scott's demand for his freedom under this law. His master and owner,

though knowing the law, had still carried a slave into free territory, with notice that such an act on his part would emancipate him. In 1772 Lord Mansfield, under similar circumstances, had ruled "a slave cannot breathe the free air of England and not be emancipated." This was the declared intent of the Missouri Compromise Act, which gave freedom to Dred Scott when his master voluntarily took him into free territory. And I say that it was a private litigant, not a Southern State, that challenged Dred Scott's rights. I much doubt whether any State could have been induced to do so.

SECOND UNWRITTEN AMENDMENT

The act of Congress conferred freedom on Dred Scott thus taken by his master into free territory. But his master insisted on holding him, despite the law. Dred Scott then invoked the protection of the courts; that is, the guaranteed "due process of law" in the Constitution to compel his release. The Constitution provided that slaves escaping into another State should be delivered back to the owner, and the fugitive slave law was passed by Congress to secure faithfully the slave owner in this constitutional right. But Dred Scott was not an escaped slave, and when he sought his day in court under "due process of the law", he was proceeding under a like act of Congress. What can the court do but grant its protection and free him under the act? Here we meet the second amendment by interpolation.

The "due process of law" clause in the fifth amendment, designed by Jefferson, was interpreted to invalidate the Missouri Compromise Act. The relevant parts of the amendment read as follows:

No person shall be * * * subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law, * * *.

The Court ruled, at length, that "due process of law" meant something over and besides a just and regular trial by a competent court, and that the fifth amendment to the Constitution should be read with an interpolation to read as follows:

If the law under which the person claims his right be an act of Congress involving any claim to life, liberty, or property, the judge shall consider and decide whether such law conforms to his ideas of right and wrong and invalidate the act if he considers it to be wrong, the judgment of the Congress that it be right to the contrary notwithstanding.

Thomas Jefferson, expositor of human rights and apostle of democracy, could not have imagined such a perversion of his bill of human rights as this and later applications. How about his statute repealing the law of primogeniture? Could it have survived such rulings under his bill of rights? True to his instincts, he had placed life first, liberty second, and property third, and never imagined an addition by way of interpolation which should invalidate a statute of the United States or of any State designed to protect a just liberty of the human being. Nevertheless, a divided Court declared that Dred Scott had no right to sue under the Missouri Compromise law because it deprived the master, Sanford, of property. Here is a second unwritten amendment interpolated by a divided Court 68 years after the adoption of the Constitution.

The life, liberty, and property clause was clearly meant to be an epitome of Magna Carta. King John had been throwing his subjects into the tower and denying them a trial, had been confiscating their property and even hanging them without trial, without a day in court; that is, without due process of law. Magna Carta was wrested from him by his rebellious subjects to guarantee a day in court and proper trial before their lives, liberties, or properties should be condemned.

Says Dr. Edward S. Corwin, McCormick professor of jurisprudence in Princeton University:

When the fifth amendment was added to the Constitution in 1792 no one, so far as I am aware, had even suggested that the term "due process of law" had any other than its anciently established and self-evident meaning of correct procedure; nor was such a suggestion to be accepted by any court, in any jurisdiction, for many years to come (p. 95, Twilight of the Supreme Court).

Mr. Speaker, let it be clearly understood that the significance of the expression "life, liberty, and property" is embracive of all the civil rights of the human being. The words are only titles, each a title to a large branch of the law. Whole law libraries are necessary in our day to describe such rights; and for a nonlegislative tribunal to assume final power to veto legislative acts dealing with such all-embracive categories is bluntly to serve notice on us that the judge has taken over a superlegislative power. It will do its legislating without committee investigation or report, without public debate by responsible representatives of the people and in a forum of private litigants upon the arguments of their interested advocates.

Life, liberty, property. Under titles so lacking in specificity, without standards to guide judgment, it is the sociologist, not the judge, whose reaction is secured. And to whose philosophy of human rights shall he react? To Sir William Blackstone or Jeremy Benthams? To John Stuart Mill, the economist of the laissez faire, or to John Stuart Mill, the Socialist? The history of the Court unhappily emphasizes this difficulty. Note the reaction of Justice Field to the income tax of 1894:

The income-tax law under consideration is marked by discriminating features which affect the whole law. It discriminates between those who receive an income of $4,000 and those who do not. It thus vitiates, in my judgment, by this arbitrary discrimination, the whole legislation. * * * Whenever a distinction is made in the burdens a law imposes or in the benefits it confers on any citizens by reason of their birth or wealth or religion, it is class legislation, and leads inevitably to oppression and abuses, and to general unrest and disturbance in society.

To which Judge Field, naively overlooking the Court's own usurpation, adds an expression of his apprehensions:

Where is the course of usurpation to end? The present assault upon capital is but the beginning. It will be but the stepping stone to others, larger and more sweeping, until our political contests will become a war of the poor against the rich; a war constantly growing in intensity and bitterness.

What else might be expected from the judge? He has been asked his opinion on the right or wrong of legislation regarding life, liberty, and property. He answers, according to his pre-Victorian lights, just as he would have voted in the legislature on the subject. The unwritten amendment, the interpolation, gives him no standards for guidance. He will choose his own. A graduated income tax was unknown to the common law, to Blackstone, or Kent. He will void the act on some ground or other.

Ladies and gentlemen, the application of this interpolated unwritten amendment to State statutes proved so destructive to State welfare, that the judges had to call a halt. Stare decisis forbade them to strike out the former interpolation; so that they had to add another interpolation, the well-known legal fiction of a "police power." Such a power will be sought in vain in any written constitution. How fitting the remark of Governor Hughes, now Chief Justice:

We are under a Constitution, but the Constitution is what the judges say it is.

Ladies and gentlemen, may I give you a few examples of what has happened to laws passed by this body? They are taken by permission from the comprehensive work of Professor Haines, published by the University of California, entitled the "American Doctrine of Judicial Supremacy", an excellent treatise. (F)

REVENUE ACTS NULLIFIED

We have, first, the courts nullifying the income-tax law of 1894. Here is a veto by the Court coming after it had been once sustained by the Court. Dissenting opinions were rendered by Justices Harlan, Brown, Jackson, and White. Justice Harlan claimed that by reversing the earlier law and practice of the Government the majority of the Court rendered it necessary to amend the Constitution to secure principles of right, justice, and equality in Federal taxation; and he insisted that policy and economic considerations, rather than law, actuated the majority in their conclusions. More recently, a decade ago, the courts struck down the taxation levy on net income paid stockholders through stock dividends. This decision has already cost the Government,

according to careful estimate, more than a billion dollars; and its effect still continues. (G)

Professor Haines says:

The Revenue Act of 1916 imposed a tax on stock dividends of corporations issued from the profits accumulated since the adoption of the sixteenth amendment. The imposition of such a tax was held void. A stock dividend was held not to be income within the meaning of that term as comprised in the sixteenth amendment.

Justice Pitney delivered the opinion. Justices Holmes, Day, Brandeis, and Clarke dissented. Justice Holmes believed that the word "income" in the sixteenth amendment should be read in "a sense most obvious to the common understanding at the time of its adoption", and that according to this meaning the amendment clearly justified the tax. Justice Brandeis also contended that stock dividends were income within the authority granted to Congress under the sixteenth amendment, and he claimed that the majority of the Court departed from the rule that "the high prerogative of declaring an act of Congress invalid should never be exercised except in a clear case" (*Eisner* v. *Macomber*, 252 U. S. 189).

Again, the Revenue Act of 1919 levied a tax on the net income of Federal judges and included in the assessment their official salaries. This provision was held violative of the constitutional provision that the compensation of the judges shall not be diminished during their continuance in office. Justices Holmes and Brandeis dissented. Justice Holmes found nothing in the Constitution to exonerate a judge from the ordinary duties of a citizen. A tax that applied to all other citizens seemed to be properly levied against the salaries of Federal judges. The phrase of the sixteenth amendment that Congress might levy taxes on incomes "from whatever source derived" was thought to be an express warrant for the minority view (253 U. S., p. 245).

Similarly, all the employees of the State, county, and city governments escape payment of Federal taxes on their salaries. The familiar legal fiction, "The power to tax is the power to destroy", is made to do service for this purpose in the absence of any such an exemption in the Constitution. A fine piece of rhetoric, sir, is this legal fiction. I know of nothing in all the poets so apt to warm the cockles of the tax dodger's heart. The fiction also works to exempt Federal officeholders from the payment of State income taxes where they are levied.

Sections 319–324 of the Revenue Act of 1924 were interpreted so as to impose a tax on gifts fully consummated before its provisions came before Congress, and were held invalid as contrary to the due-process-of-law clause.

Justices Holmes, Brandeis, Sanford, and Stone thought these provisions should be construed as operating only from the date of the act and applicable only to gifts thereafter made, and thus they would be clearly valid (275 U. S., p. 142).

SOCIAL JUSTICE

Here is the Child Labor Act voided by a 5-to-4 decision. The Supreme Court held this law invalid on the ground that it was an attempt to invade the State's police power over local trade and manufacture and hence not warranted by the authority delegated to Congress over interstate commerce.

Justice Day delivered the opinion of the Court. Justices Holmes, McKenna, Brandeis, and Clarke dissented. Justice Holmes thought the statute should have been upheld because its prohibitions applied only to the carriage of certain goods in interstate and foreign commerce which brought it clearly within one of the express powers granted to Congress.

He observed—

I should have thought that the most conspicuous decisions of this Court had made it clear that the power to regulate commerce and other constitutional powers could not be cut down or qualified by the fact that it might interfere with the carrying out of the domestic policy of any State.

But he added:

The act does not meddle with anything belonging to the States. They may regulate their internal affairs and their domestic commerce as they like. But when they seek to send their products across the State line, they are no longer within their rights (*Hammer* v. *Dagenhart*, 247 U. S. 251 (1918)).

And the right to work—here is an act of Congress safeguarding the right to work by prohibiting the dismissal of an employee in interstate commerce because of membership in a labor union. A majority of the Court voted it down. Justice McKenna emphatically dissented, finding that entire act presented "a well-coordinated plan for the settlement of disputes between carriers and their employees by bringing the disputes to arbitration and accommodation and thereby prevent strikes and the public disorder and derangement of business that may be consequent upon them."

Justice Holmes, also dissenting, said:

I also think that the statute is constitutional, and but for the decision of my brethren I should have felt pretty clear about it. * * * The section simply prohibits the more powerful party to exact certain undertakings, or to threaten dismissal or unjustly discriminate on certain grounds against those already employed. * * * I confess that I think that the right to make contracts at will that has been derived from the word "liberty" in the amendments has been stretched to its extreme by the decisions; but they agree that sometimes the right may be restrained. When there is, or generally is believed to be, an important ground of public policy for restraint, the Constitution does not forbid it, whether this Court agrees or disagrees with the policy pursued.

This House once passed a statute fixing minimum wages for women in the District of Columbia, as to which Congress alone can legislate. The Court voided it under this interpolation to the fifth amendment designed by Jefferson to protect life, liberty, and property.

The Court declared this law an interference with the right to contract as protected by the due-process-of-law clause of the fifth amendment. The act was condemned as a price-fixing measure in private employment and characterized as "the product of a naked, arbitrary exercise of power."

Justice Sutherland delivered the opinion of the Court. Justice Brandeis took no part in the decision. Chief Justice Taft and Justices Sanford and Holmes dissented. Chief Justice Taft declared that—

It is not the function of this Court to hold congressional acts invalid simply because they are passed to carry out economic views which the Court believes to be unwise or unsound.

The Chief Justice believed that former decisions of the Court gave ample warrant for the action which Congress had taken. Justice Holmes, also dissenting, said:

I confess that I do not understand the principle on which the power to fix a minimum for the wages of women can be denied by those who admit the power to fix a maximum for their hours of work * * *.

The criterion of constitutionality is not whether we believe the law to be for the public good. We certainly cannot be prepared to deny that a reasonable man reasonably might have that belief in view of the legislation of Great Britain, Victoria, and a number of the States of the Union (*Adkins* v. *Children's Hospital*, 261 U. S. 525 (1923)).

Sir, very recently, by 5-to-4 decision, the Railway Old-Age Pension Act has been nullified. However, the full-salary pensions of the judges do not offend. An act passed by the Congress assuming to reduce the pensions of retired Federal judges was even held void. Some 70 statutes of the United States have been thus voided so far.

STARE DECISIS

Mr. Speaker, the fourteenth amendment to the Constitution carries the same life, liberty, and property clause with respect to legislation by the States. It has been subjected to the same interpolation in its application; and innumerable State statutes relating to social justice have been similarly nullified.

THE GENERAL WELFARE

Mr. Speaker, Congressman SISSON in his resolution asks the Judiciary Committee to investigate and report—

Whether the legislative power of the Congress does or does not extend to the enactment of laws making provision for the general welfare of the United States and to insure the domestic tranquillity.

Certainly the inquiry is timely. If ever a parliament has had to face a problem in the general welfare it is now, and in our own country.

Now, how about the Constitution on the subject of such general welfare? Well, the general welfare is one of the triology of great objectives mentioned in its preamble as the purpose of the Constitution. But it also received specific attention in the enumeration of our legislative powers.

When the Virginia delegation reached Philadelphia, somewhat ahead of the delegations from other States, they prepared a plan for a constitution. General Washington headed that delegation. Governor Randolph, Mr. Madison, and, I think, also Mr. Mason were members. What did they propose with regard to this subject? I read now from the preamble of the Virginia plan:

Resolved, That the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution, namely, common defense, security of liberty, and general welfare.

But how attain this general welfare? Well, relying on the States to legislate as to local problems of the public welfare, the plan provided "that the Congress should enjoy the power to legislate in all cases to which the separate States are incompetent."

In other words, Mr. Chairman, when the subject matter transcended the powers of the State because of its geographical inability to reach both cause and effect, they recognized a general or interstate subject. In such cases the Federal Government should enjoy legislative power to act. The makers of the Constitution did not intend leaving a vacuum in the Constitution as to national legislative subject matter on which the State was geographically incompetent to act. They left no such vacuum in the judicial power to act where plaintiff and defendant reside in different States. The intention of the Convention was often made manifest: That the sum total of the powers of the State legislature plus the power of the National Legislature should equal the sum total of the powers of the Colonial Legislature and the House of Commons before their separation. Why not? There was no vacuum in Colonial days. The Virginia plan in this respect was voted on favorably a number of times in the Convention. What did the Convention do? The Virginia plan became the general welfare clause of section 8, article I, of the Constitution.

The welfare clause appears in the Convention print of the Constitution of September 12, just 5 days before signing. I read from the desk copy of General Washington, who was president of the Convention:

The Congress shall have power to lay and collect taxes, duties, imposts, and excises;—

Semicolon after excises—

to pay the debts and provide for the common defense and general welfare of the United States.

The journal indicates that no action was taken by the Convention changing the punctuation from a semicolon to a comma. Here, then, was a power, a clearly enumerated power, to legislate as to the general welfare.

The printed convention copy was turned over to a copyist to write out on parchment for engrossment, and then a mistake occurred. A comma was substituted for the separating semicolon. The engrossed written copy was "read to" the Members, there being no final printed copies of it as yet. It was "read to" them as like documents are read to us here from the desk. They had their printed convention copies of September 12, which carried the semicolon. Of the semicolon they were conscious. And the semicolon rendered interpolation inadmissible. However, it is clear, I think, that the comma here means "and", its usual meaning. And if it means "and", then it carries the same meaning as if the semicolon remained.

THIRD UNWRITTEN AMENDMENT

And now, Mr. Speaker, may I continue the exposition by quoting from a dialog with Senator NORRIS, chairman, and the late Senator Walsh in the Judiciary Committee of the Senate:

Senator WALSH of Montana. If I understand the question of the chairman right, the idea in his mind is that it is equally as well when you put a comma there, it is equally as well set apart from what goes before as though there was a semicolon there, and if the clause "to provide for the payment of debts and general welfare" is a modification of what precedes, you should not have either a comma or a semicolon.

Mr. LEWIS. Exactly so. The erroneous comma is meaningless as a modifier unless you interpolate some phrase like "in order." Of course, no interpolation whatever would have been admissible had the semicolon remained. If the comma be read to mean "and", as the history of the subject requires, then a distinct legislative power is carried.

The CHAIRMAN. The contention is this, as I understand it, that where you have a comma there it is the same as though it read like this:

"Congress shall have power to lay and collect taxes, duties, imposts and excises 'in order' to pay the debts and provide for the common defense and general welfare."

If that were true, then the authority to pay debts, provide for the common defense and general welfare of the United States would be limited to the powers given in the first part of the sentence, to wit, to lay and collect taxes, duties, imposts, and excises. Is that the contention?

Mr. LEWIS. That is the contention of the contractionists who would destroy this clause as a power.

Senator WALSH of Montana. As I understand you, Mr. LEWIS, you contend it should be construed as though Congress had power to lay and collect taxes, imposts, and excises; that Congress shall have the power to pay the debts of the United States; that Congress shall have the power to provide for the common defense and the general welfare of the United States?

The other contention is that Congress shall have the power to lay and collect taxes, imposts, and excises "in order" to pay the debts and provide for——

The CHAIRMAN. It seems to me to get the last construction you would have to take the comma out. What is the use of the comma?

GENERAL WELFARE—A NECESSARY POWER

Mr. Speaker, I think it is clear that whether with comma or semicolon the clause was intended as a grant of power, and that under it Congress may "provide for the general welfare" not merely through the levying of a tax but by other logical and legitimate methods; that is by the prescription of justiciable rights and duties generally. It is true that such a power is applicable to but a limited part of the total field of our national life. It is not a power to do anything the legislator pleases. But when applicable it possesses properties like the postal clause, enabling the lawmaker to fully control the subject matter. The break-down of the principle of competition in coal mining which calls for a limitation of the production of such products, the equal right of competent men to work and to share of the Nation's employment—all subjects which the separate State is organically unable to encompass for geographical reasons—are examples of interstate or general welfare subjects, the evils of which may run into civil catastrophes if an equal interstate power to treat them be denied.

Sir, I have now to make a most surprising statement. This "general-welfare" clause has never been examined, has never had a hearing as a power in the Supreme Court. In no case has that Court critically examined its history to ascertain whether it was intended as an enumerated legislative power. I make this statement on the authority of Dr. James F. Lawson, who has made a thorough-going study of the history of the Constitution with particular reference to the legislative powers, and published a work called "The General-Welfare Clause, a Study of the Power of Congress under the Constitution of the United States." (H)

I have come to know Dr. Lawson personally, and feel warranted in making the above statement on the basis of his character as well as the scholarship manifest in his book. Certain it is that the N. R. A. statute involved this subject and referred to the general welfare as its objective. Yet I do not remember a single reference to the welfare clause in the Court's opinion with reference to the act.

I say the welfare clause has never had its day in court as a power. Early in the discussion of the Constitution the contractionist became busy with his interpolations. In the place of the comma he would insert the words "in order", so that the welfare clause should be merged as a tail to the tax power. The "in order" interpolator was willing that taxes might be levied in order to provide for the general welfare, but that no other rights or duties should be prescribed. After the inauguration of the Government there was always an interest and a power to question its legislative powers. Then as now there were the loud voices of the "outs" challenging the legislation proposed by the "ins."

Mr. Speaker, having presented the general-welfare subject historically and in detail on another occasion to this body, I will now conclude my reference to it with an appeal to those mentally willing to act on our problems of the general welfare, to examine the convention history of the clause

and determine at first hand whether its purpose in the Constitution be not to grant the legislative power now necessary to meet our national exigencies.

RÉSUMÉ

Ladies and gentlemen, may I detain you a little longer to summarize my contribution to this discussion. If our beloved Constitution fails us in our generation, it fails only because it has suffered by these interpolated unwritten amendments. The first one which adds to the expressed judicial powers, a jurisdiction to invalidate our acts, is a power to prorogue this Congress so far as our present problems are concerned. The second one perverts the life, liberty, and property clause to provide that all new laws relating to life, liberty, or property must conform to the opinions of the judges as to right and wrong, the opinion of Congress as to right and wrong to the contrary notwithstanding. The effect of this unwritten amendment is to crystallize the preexisting laws as to personal and property rules, whether right or wrong, and to sterilize all legislature power for the advancement of legal justice, or adaptation of the laws to even profound changes in industrial and social conditions.

It was perhaps not foreseen that this interpolation into the fifth amendment, under the rule of stare decisis, would "peg" or crystallize the preexisting order of law as to personal and property rights, sterilize the legislative power, and block progress in the field of jurisprudence. Stare decisis, stare Blackstone. Stare ye common law and ancient statutes. Long live ye philosophers of the laissez faire. Now, sir, I am a lawyer by profession and have no prejudice against the principle of stare decisis as applied in the interpretation of statutes where the legislature is in waiting to revise the statute. That a judge has decided a disputed legal question is to my advantage. It enables me to advise my client as to what the law actually is. It enables me to pilot him safely through his affairs. In such cases no denial of fundamental right or progress is involved. If the judge has erred in his decision, or if the statute has not been properly worded to express the purpose of the lawmaker, the statute can be amended at the next session of the legislature, sure to meet at an early time. But, sir, when this rule of stare decisis is applied to decisions as to the meaning of the Constitution and there is no constitutional convention in waiting to rectify the judge's decision, or revise the constitutional language which failed to properly express its intended meaning, then I say such application is revolutionary, is destructive of both justice and the functions of government.

There is again the third unwritten amendment suppressing the power granted to legislate on problems of the general welfare. This abrogation of an expressed power creates a vacuum where neither the State nor Federal Government may act, a vacuum into which the country has already once fallen only to pay the terrible price of a civil war.

REMEDIAL SUGGESTIONS

How can this work of restoration be performed? May I say our task is mostly a work of elimination of these unwritten interpolations. That it can be performed I am without doubt. The people, acting through their Congress, are still paramount.

Let me here repeat my opening statement that if we take out of it these false interpolations and restore to it its express power to legislate for the general welfare, our beloved Constitution is as ample to meet our needs today as it was designed to be by the fathers.

It is the purpose of the Sisson resolution to have the Judiciary Committee examine the subject and advise the House as to methods. Bills have already been introduced proposing various methods. May I refer to the Ramsey bills, one providing for a constitutional amendment and another bill requiring that three-fourths of the judges should have to agree in a judgment competent to invalidate; the bill of Congressman MONAGHAN vacating the office of a judge invalidating an act; the resolutions of Senator NORRIS and Representative KELLER proposing a constitutional amendment to be passed upon by conventions in the respective States and a bill of Congressman CROSSER. Of course, a general convention to revise the Constitution in any of its parts may be called by the States.

I should not omit a reference to the clauses in the Constitution dealing with the jurisdiction of the courts. I read:

> In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction.

Sir, this clause confers the Court's entire original jurisdiction. All its other jurisdiction is conferred by Congress under the following clause:

> In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

REGULATIONS—EXCEPTIONS

In one instance at least this power to make exceptions in its jurisdiction was exercised (*McCardle*, 7 Wall. 506 (1868) (d)). May I suggest that certain exceptions and regulations are plainly indicated as desirable. It is understood, of course, that all the inferior courts have only such jurisdiction as Congress may confer on them. Many acts passed by the Congress have been invalidated on the charge that they impaired the sovereign power of the States at the mere instance of private litigants. Surely only a State itself should be heard by the courts to utter such a complaint. The private litigant commonly is only seeking to avoid a personal obligation on the ground that only the State can legislate thereon. A regulation by statute providing that the State alone be allowed to complain seems justified.

I am bound to think that the experience of the country with frustration of its just revenue laws by court nullification demands a denial of such jurisdiction at the mere instance of private litigants in the courts. Are the Members of Congress under oath, the President under his high oath, who have been selected by the taxpayers themselves, and who must face them frequently for vindication or dismissal, not as responsible in the matter of taxation as members of parliament in the other countries of the world?

Let me also refer to regulations which might be applied as to Bill of Rights and other prohibitions found in the Constitution. Many of the prohibitions concern concrete and specific subjects, as in the first amendment, for example, habeas corpus, religion, freedom of speech, or of the press, right to assemble, and to petition, and various others. Jurisdiction might well be left in the courts to pass upon the validity of acts relating to such fully described subjects. In the case of such specific prohibitions the courts themselves can feel a real confidence in their opinions.

But, sir, with regard to such general titles as life, liberty, and property which describe no thing in particular, specificity of subject is utterly lacking, and the only office a judge discharges in declaring a child-labor law, a minimum-wage, or a maximum-hour law as in violation of the rights of life, liberty, or property is to assume that he has a better understanding of social justice and wise legislation in respect thereto than the legislature, or the Congress selected by the people to act upon these subjects. In my view, the courts should be denied jurisdiction to invalidate acts of the State legislature or of the Congress on such nonspecific titles as life, liberty, and property, unless the day in court and a fair trial be denied by the statute. Our high Court has but recently declared an act of Congress ineffective because, although Congress was competent to deal with the subject, we had failed to provide sufficiently specific standards to guide the Chief Executive in applying it.

By the same philosophy should the judge's power to invalidate be judged where the judges lack standards to guide them on such all-comprehensive titles as "life, liberty, and property." No man not secretly wishing to enjoy arbitrary power would seek this power in the first instance; and no responsible tribunal would accept it, even unsought, did it not feel bounden by the doctrine of stare decisis and the binding power of precedent. I would relieve the fallible judge of such an undefined power to pronounce an irreparable judgment. Many of them, seeing that they can give no initiative in this legislative field but can act only negatively,

and even so without prescribed standards for guidance, would doubtless welcome relief from such responsibility. And should not standards—that is, a definition—be provided for their guidance and on such an ethereal and nondescriptive phrase as "commerce among the States"?

Another remedial suggestion: It comes from a source certainly in pari materia as lawyers would say. It is a way out suggested by Judge Marshall himself in a letter to Judge Chase.

About 2 years after the decision in Marbury against Madison, Justice Chase was under impeachment, charged with acting in various ways, as a sort of judicial dictator. In a letter to Judge Chase in 1804, Chief Justice Marshall took the position that it might be well to concede to Congress a veto of the Court's decisions. Judge Marshall used this language: "A reversal of those legal opinions deemed unsound by the legislature would certainly better comport with the mildness of our character than the removal of the judge who has rendered them, unknowing of his faults." (I)

In effect, Judge Marshall advises that the Court's decision against a statute be taken by Congress as "advisory" only and that Congress might restore the statute by reaffirming it.

SUMMARY OF SUGGESTIONS

Mr. Speaker, may I summarize these suggestions? They call for the enactment of a jurisdictional statute providing for certain "exceptions" and "regulations" in the exercise of this power by the courts, e. g.:

(a) Only a State should be heard to complain in the courts that an act of Congress invaded or impaired a power belonging exclusively to the States.

(b) Jurisdiction be denied to courts to nullify revenue acts of Congress.

(c) Jurisdiction be granted to review constitutionality of statutes violative of prohibitions as to specific subjects such as "right of petition", "habeas corpus", "trial by jury", "freedom of the press", and about 20 others to be enumerated in the bill. (J)

(d) Jurisdiction to be denied to annul statutes on such nonspecific titles as "general welfare, life, liberty, property" as in the fifth amendment, except so far as they may deprive a person of a regular trial.

Finally the suggestion of Chief Justice Marshall:

(e) That any decision of a court determining a United States statute to be void be subject to reversal by Congress.

These suggestions fall clearly within the express provisions of the Constitution I think, and are such as may be realized by act of Congress.

But, sir, we are told it is too late, too late; that the Court's assumption has become the law of the land by acquiescence. By whose acquiescence? I summon the first protectors of the Constitution and the people:

Thomas Jefferson, did you acquiesce?

No, no, my countrymen. The opinion which gives to the judges the right to decide what laws are constitutional and what are not * * * makes the judiciary a despotic branch. The Constitution has erected no such single tribunal, that to whatever hands confided * * * its members would become despots.

Andrew Jackson, military spokesman of democracy, what say you? Did you acquiesce?

I acquiesce? I repudiate the assumption entirely.

Abraham Lincoln, savior of the Union, what was your answer?

My answer: Somebody has to reverse that decision and we mean to reverse it. If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court * * * in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal. "Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world?"

President Grant, they have struck down the Legal Tender Act giving character to the greenbacks with which you won the war. Do you acquiesce?

Acquiesce? Never! I will reconstitute that Court.

And he did. Theodore Roosevelt, militant spokesman of the Republican Party, speak:

I do speak. Let the people recall the decision. The highest right of a free people is the right to make their own laws; and this right does not exist if under the pretense of interpolation an outside body can nullify the laws. I hold that the people should say finally whether these decisions are or are not to stand as the laws of the land. (K)

And our present Chief Magistrate. He has pleaded, too, for a public understanding of the dilemma of the Government, which, when he and his advisers had thought they had solved some of the people's problems, had acted only to find the solutions thrown back in their faces.

There is the answer of Franklin D. Roosevelt. Under his leadership the Nation was engaged in a war to conquer the worst depression in history.

The solutions have been thrown back into our faces. There is no retreating. We must act.

APPENDIX A

FOREIGN COUNTRIES—THE POWER OF JUDICIAL REVIEW

In the Union of South Africa Parliament is supreme. The courts have no power to declare an act of Parliament unconstitutional.[1]

The Supreme Court of Canada has hardly any power of interpreting the constitution, since powers of the Provinces are enumerated and powers of the Dominion are residual.[2]

The federal court in Switzerland cannot declare a law unconstitutional even when it appears to be so. The legislative authority is the sole judge of the validity of its own acts unless recourse is had to the federal council, which is the executive in Switzerland.[3]

The constitution of Australia provides that Parliament may make laws conferring original jurisdiction on the high court in any matter arising under the constitution or involving its interpretation, and in any matter arising under any laws made by the Parliament. (Ch. III, sec. 76.)

The constitution further provides: "The Parliament of Australia has power to make laws with respect to matters necessary and incidental to the execution of any power vested by the constitution in the federal judicature" (ch. I, sec. 51 (XXXIX)).[4]

The courts in Norway assumed the right to declare laws unconstitutional in 1904, and in Rumania in 1912.[5]

Of the Latin American States Shepherd said: "In no republic do the federal or national courts possess either the degree of independence or the right to interpret and apply the constitution to the extent enjoyed by the Supreme Court of the United States."[6]

The constitution of Colombia provided that the supreme court shall have power to decide upon the constitutionality of legislative acts, which may have been objected to by the Government as unconstitutional.[7]

In Salvador, Honduras, and Nicaragua bills modifying or repealing any section of the codes or affecting the administration of justice may not be passed until the opinion of the supreme court has been heard.

In Salvador the justices of the supreme court may initiate legislation necessary to correct imperfections or deficiencies in the existing law that have been noticed in the course of its application.[8]

The supreme court of justice in Mexico has exclusive jurisdiction in all controversies arising between the powers of government of any state as to the constitutionality of their acts.[9]

In France the legislative authority is the interpreter of its own powers. Of the power of the President of France to administer law Woodrow Wilson wrote:

"[The power of the President of France] to execute and administer the laws means, according to immemorial practice in France, that he may freely interpret them to meet circumstances and cover cases which the legislature did not foresee and provide for. The laws are for the most part themselves without detailed provisions. They give the officers of state who are to execute them a principle by which to go, rather than a body of minute instructions. He may not disregard the plain principles of the law, indeed, but he is not

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[1] Woodrow Wilson, The State (1918 ed.), p. 257.

[2] C. F. Strong, Modern Political Constitutions, p. 116.

[3] James Bryce, The American Commonwealth (1926 rev.), vol. I, p. 260; Woodrow Wilson, The State, pp. 408, 415.

[4] The Commonwealth of Australia Constitution Act, 63 and 64 Vict., c. 12, as amended. The text is printed in K. O. Warner's Introduction to Some Problems of Australian Federalism, University of Washington Press, 1933, p. 271. For provisions concerning the judiciary see pp. 289–291.

[5] C. F. Strong, Modern Political Constitutions, p. 270.

[6] W. R. Shepherd, Latin America, p. 149.

[7] Art. 151 (IV), text of the constitution in Bernard Moses' Constitution of the Republic of Colombia. Supplement to Annals of the American Academy of Political and Social Science, Jan. 1893, p. 56.

[8] Robert Luce, Legislative Procedure, Boston, 1922, p. 588.

[9] Art. 105, Constitution of 1917. Text printed in M. H. Andrews' Twelve Leading Constitutions. Compton, Calif., 1931, p. 268.

restrained by detail; and in shaping administrative arrangements, instructing officials, and developing plans to meet the requirements of public business the executive authority exercised by the ministers through the President's decrees is in most cases wholly free from the trammels of statute. The legality of administrative action, moreover, is tested, when challenged, not by the ordinary courts of law, in which private rights are determined and guarded, but by special administrative tribunals, in which the utmost latitude of discretion on the part of officers of state is the principle chiefly respected and enforced." [10]

The Parliament in Belgium is likewise sole interpreter of its own powers.

Dicey explains the French and Belgian systems by saying that "the statesmen of these countries may have thought that parliamentary invasions of the constitution were a less evil than the participation of the judges in politics." [11] In New Zealand and Finland no act of Parliament can be unconstitutional.[12]

In Japan no court of law may take cognizance of any suit which relates to rights alleged to have been infringed by the illegal measures of executive authority. Administrative courts were established by law in 1890.[13]

The Constitution of Italy expressly prohibits any power other than the legislative from passing upon the validity of its acts. Article 73 of the constitution reads as follows: "The interpretation of the laws, in the form obligatory upon all citizens, belongs exclusively to the legislative power." [14]

A preliminary law to the constitution and by its own terms an integral part of the Constitution of Czechoslovakia provided for the creation of a constitutional court to determine whether laws of the Czechoslovak Republic and the Diet of Carpathian Ruthenia conform with the constitution or with laws which may supplement or amend it.[15]

The Constitution of Czechoslovakia prohibits the ordinary courts to pass on the constitutionality of laws. In a special instance, however, there is an exception. The committee which sits in the interim of sessions of the National Assembly may promulgate emergency measures which must be submitted to the constitutional court for review before they become law. This court determines whether the measure is in harmony with the constitution.[16]

Under article 102 of the constitution judges are authorized to examine into the validity of a government decree. In the case of a law, however, they may only inquire into the question whether it was properly promulgated.[17]

No court in England will pass on the constitutionality of an act of Parliament, not because England, as it is sometimes said, has no constitution, but because an act of Parliament amends the constitution. This attitude of the courts dates from the seventeenth century, when Parliament became the supreme power in England. Before that time the Magna Carta was held by the courts to be superior to Parliament or the crown, and judges interpreted the law in the light of the great charter. Coke maintained that common law was superior to acts of Parliament. Sir Thomas More contested the right of Parliament to make the King the supreme head of the English Church.[18]

APPENDIX B

The thought of an absolute veto without limit as to time or opportunity to reconsider by Congress, being granted to any judicial officer, high or low, could not be attributed to a Constitution maker who had formally proposed the following method:

On August 15, Mr. Madison moved that all acts before they become laws should be submitted both to the Executive and supreme judiciary departments (Form. of the U. S., p. —) as follows:

"Every bill which shall have passed the two Houses shall before it becomes a law, be severally presented to the President of the United States, and to the judges of the Supreme Court for the revision of each. If, upon such revision, they shall approve of it, they shall respectively signify their approbation by signing it; but if, upon such revision, it shall appear improper to either, or both, to be passed into a law, it shall be returned, with the objections against it, to that House, in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider the bill; but if, after such reconsideration, two-thirds of that House, when either the President or a majority of the judges shall object, or three-fourths, where both shall object, shall agree to pass it, it shall, together with the objections, be sent to the other House, by which it shall likewise be reconsidered; and, if approved by two-thirds, or three-fourths, of the other House, as the case may be, it shall become a law." (From a Study of the Supreme Court, Super-Legislature, Permanent Constitutional Convention—John M. Henry.)

On June 16, 1789, in an address in Congress, Mr. Madison said: "The legislative powers are vested in Congress, and are to be exercised by them uncontrolled by any other department, except the Constitution has qualified it otherwise. The Constitution has qualified the legislative power by authorizing the President to object to any act it may pass, requiring, in the case, two-thirds of both Houses to concur in making a law; but still the absolute legislative power is vested in the Congress, with this qualification alone." (Fourth Elliot Debates, p. 456.)

APPENDIX C

CONSTITUTIONAL PROVISIONS BEARING UPON JUDICIAL POWER AND ACTION THEREUNDER OF FIRST CONGRESS

The constitutional provisions important to be borne in mind in connection with the discussion which must follow are:

Article III

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and facts, with such exceptions and under such regulations as the Congress shall make.

Article VI

This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

Article XI.—Amendment

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

We extract from the Judiciary Act enacted September 24, 1789, section 25:

SEC. 25. *And be it further enacted,* That a final judgment or decree in any suit in the highest court of law or equity of a State in which a decision in the suit could be had where is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of such their validity, or where is drawn in question the construction of any clause of the Constitution, or of a treaty, or statute of, or commission held under the United States, and the decision is against the title, right, privilege, or exemption specially set up or claimed by either party, under such clause of the said Constitution, treaty, statue, or commission, may be reexamined and reversed or affirmed in the Supreme Court of the United States upon a writ of error, the citation being signed by the Chief Justice or judge or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been ren-

[10] Woodrow Wilson, The State, New York, 1918, pp. 164–165.

[11] Quoted by C. F. Strong, Modern Political Constitutions, N. Y. 1930, p. 270.

[12] Ibid.

[13] Article 61, Constitution of Japan. Text in C. E. Martin and W. H. George, Representative Modern Constitutions, Los Angeles, 1923, p. 224.

[14] Article 73, Constitution of Italy. Text printed in Supp. to the Annals of the American Academy of Political and Social Science, Nov. 1894, p. 39. The validity of the constitution has not been brought into question by the Fascisti. See C. F. Strong, Modern Political Constitutions, pp. 142–144. Text in H. L. McBain and Lindsay Rogers, The New Constitutions of Europe, 1923, Garden City, p. 559.

[15] M. H. Andrews, Twelve Leading Constitutions. Text of this law p. 5; Kamil Krofta, A Short History of Czechoslovakia, New York, 1934, p. 194.

[16] Malbone W. Graham, New Governments of Central Europe, New York, 1924, pp. 304, 305, 311. Article 54, Constitution of Czechoslovakia. Text printed in M. H. Andrews, Twelve Leading Constitutions, 1931, pp. 19–22.

[17] Article 49 of the constitution provides that a law must be promulgated within 8 week days after its passage by Parliament. McBain and Rogers, New Constitutions of Europe, 1923 edition, p. 320.

[18] C. H. McIlwain, The High Court of Parliament, Yale Press, 1910, pp. 55–64; Ch. Petit-Dutaillis, Studies and Notes Supplementary to Stubbs' Constitutional History, Manchester University Press, 1930, pp. 144, 145; James Bryce, The American Commonwealth, New York (1926 edition), vol. I, p. 242.

dered or passed in a circuit court, and the proceeding upon the reversal shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision as before provided, may at their discretion, if the cause shall have been once remanded before, proceed to a final decision of the same, and award execution. But no other error shall be assigned or regarded as a ground of reversal in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before-mentioned questions of validity or construction of the said Constitution, treaties, statutes, commissions, or authorities in dispute.

Commenting on the subject in his book, The Judicial Veto, Prof. Horace A. Davis says:

A critical study of the Constitution and the statute leads me to the following conclusions: The Constitution leaves to Congress not only the organization of the entire judiciary department but also the practical definition of its jurisdiction except in a negligible number of cases; the statute does not use apt words to give any Federal court the power of annulling statutes as unconstitutional; but on the contrary, it does expressly, by an elementary canon of construction, deprive the Supreme Court of such power.

Practically, then, what did Congress do? It was in a position to make the Supreme Court custodian of the Constitution or to give that authority to the States. What did it do? The answer is contained in the Judiciary Act of September 24, 1789 (1 Stat. 73, chap. 20), unilluminated by any of the usual aids to statutory construction—precedent, report, debate, criticism, or record of amendment.

That act is largely devoted to the mere machinery of organization—division of the country into districts, provision for sessions and officers of court, process, and like matters. Its significant features are as follows: (1) It creates the district courts (sec. 3), with jurisdiction (sec. 9) of certain crimes, admiralty and revenue, certain cases where an alien sues, certain suits brought by the United States, and suits against consuls and vice consuls; (2) it creates the circuit courts (sec. 4), with jurisdiction (sec. 11) in certain suits brought by the United States, or where an alien is a party, or between citizens of different States, over certain crimes and over appeals from the district courts; (3) it organizes a Supreme Court (sec. 1), with original jurisdiction (sec. 13) cases where a State, an ambassador, public minister, consul, or vice consul is a party and appellate jurisdiction from the circuit court (sec. 22), and also (sec. 25) from a State court "where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity", and where a State statute is questioned, and "where is drawn in question the construction of any clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision is against the title, right, privilege, or exemption specially set up or claimed by either party under such clause of the said Constitution, treaty, statute, or commission."

I am unable to find in this statute, either expressly or by implication, any grant of power to annul an act of Congress. It is highly significant that the jurisdiction of none of the courts is extended to "cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." If Congress had intended to give the power of judicial control, the inevitable inference is that at least the words of the Constitution would have been inserted in the statute (as they were by Randolph in his draft); intending not to give it, Congress need only omit these words. It may be argued that the insertion of these words was unnecessary; that if any courts were created, they acquired such jurisdiction by operation of the Constitution itself. This invites a highly technical line of discussion which cannot be pursued in this article, but I may express the opinion that the Constitution does not directly vest jurisdiction in any inferior court, but only describes the limits of possible jurisdiction. In any case it cannot be supposed that Congress would have left so important a matter to mere construction; and it is the intent of Congress that we are seeking—its actual human common sense intent, and not a fictitious intent by legal implication.

If the inferior courts had no such authority, the Supreme Court could not acquire it as a normal appellate function. Nor is such authority expressly given by the statute. On the contrary, it is expressly withheld.

APPENDIX D

THE JUDICIAL VETO

By Horace A. Davis

The United States Supreme Court assumes to decide the constitutionality of acts of Congress, and its decisions are accepted as final. What is the origin of this important power?

The question, it may be argued, is purely academic. The authority of the Supreme Court is so well recognized that its source is a matter of no importance. While that argument is largely true, it is also true that the judicial review of legislation is so far from satisfactory in its results that changes of method are unquestionably impending, and history can assist us in attaining a proper perspective for the study of the political problem that confronts us today. The historical study is interesting also in showing that our forefathers in their discussions by no means adopted the viewpoint of most of the modern writers—of assuming that whenever a law is declared unconstitutional the Court is always right and is performing a public service in so deciding. And, more important still, it suggests the true theory, not clearly formulated then and wholly overlooked in recent discussion, that constitutionality is a political and not a legal question. * * * Several phases of the subject tempt discussion, but for the purposes of a single paper I must confine myself strictly to an attempt to answer the one question: Did our forefathers who adopted the Constitution intend to give the Federal Supreme Court the power conclusively to determine the constitutionality of acts of Congress?

In my judgment, they did not (pp. 42–43).

It seems, too, that the Virginia and Kentucky resolutions and their reception indicate the politics of the moment rather than any fixed philosophical views about the method of determining the constitutionality of laws; and that Chief Justice Marshall's opinion in the case of *Marbury* v. *Madison* was a shrewd political manifesto rather than a logical foundation for the decision of that highly technical case (pp. 45, 46).

James Madison, of Virginia: Madison's views are discussed so fully and with such liberal quotations by Professor Beard that I have nothing new to add. I can only say that the extracts he gives are convincing to my mind that Madison strongly disapproved the theory that the Federal judges should have power conclusively to determine the constitutionality of acts of Congress. I may mention, particularly, the following:

"In the State constitutions, and indeed in the Federal one also, no provision is made for the case of a disagreement in expounding them (the laws), and as the courts are generally the last making the decision, it results to them, by refusing or not refusing to execute a law, to stamp it with its final character. This makes the judiciary department paramount in fact to the legislature, which was never intended and can never be proper" (p. 53).

William Johnson, of Connecticut; Robert Morris, of Pennsylvania; and George Washington: For precisely the reason that Professor Beard concludes that these three members "understood and indorsed the doctrine" of judicial review, I infer that while they may well have understood it, they not only did not indorse it, but actually disapproved it. The only evidence is the support of the Judiciary Act of 1789 by Johnson and Morris with their votes in the Senate and by Washington with his signature as President (pp. 61, 62).

Taking now the preliminary census of the attitude of the 25 active and influential members of the Constitutional Convention, as shown from 1787 to 1789, we find: Favoring judicial control by the Supreme Court, Blair, Gerry, Hamilton, King, Mason, G. Morris, Williamson, and Wilson—8; disapproving of such control, Ellsworth, Johnson, Madison, L. Martin, R. Morris, Paterson, Charles Pinckney, and Washington—8; doubtful or noncommittal, Butler, Dayton, Dickinson, Franklin, Gorham, C. C. Pinckney, Randolph, Rutledge, and Sherman—9 (p. 62).

The final count thus adds to those in favor of judicial control the names of Baldwin, Brearly, and Livingston, 3, making a total of 11; to those against judicial control it adds Bassett, Bedford, Few, Mercer, Read, Spaight, Strong, and Yates, 8, making a total of 16; and to the doubtful it adds Butler, Langdon, and Wythe, 3, making a total of 12. If we add to the third group the names of those who signed the Constitution but have not been mentioned thus far in the discussion, we shall fairly have disposed, as best we can, of all members of the convention entitled to consideration in ascertaining the opinions of the framers. This silent and not particularly influential group is as follows: William Blount, of North Carolina; Jacob Broom, of Delaware; Daniel Carroll, of Maryland; George Clymer and Thomas Fitzsimons, of Pennsylvania; Nicholas Gilman, of New Hampshire; Jared Ingersoll, of Pennsylvania; Daniel S. Jenifer and James McHenry, of Maryland; and Thomas Mifflin, of Pennsylvania, 10, making the total for the doubtful and noncommittal members, 22 (p. 67).

The argument in favor of vesting judicial control in the courts was fully and cogently presented by Alexander Hamilton in the Federalist series, while the opposite view was strongly urged by Robert Yates writing as "Brutus" (p. 104).

APPENDIX E

Judge Bland's opinion was rendered in 1816 in the case of Evans and Dwinn against Randall and Payson, Baltimore County Court, March 1816. Judge Bland said:

Judicial review presumes a right in one department to construe, control, or vacate the acts of another department, which is itself invested with discretionary power to determine on the limitations and circumstances under which it may or may not act; it presumes specific limitations to be imposed on one set of agents, which such agents may interpret and are enjoined strictly to observe; and yet supposes a power in another set of organs, also to expound such limitations, and to annul any acts that may run counter to them.

For a fuller statement of the above opinion, see American Doctrine of Judicial Supremacy, Haines, page 261. Later expressions are as follows:

William L. Ransom, in Majority Rule and the Judiciary (p. 4):

The judge has no more right than any other official to be set up over the people as an irremovable and irresponsible despot. He has no more right than any other official to decide for the people what the people ought to think about questions of vital public policy, such as the proper handling of corporations and the proper methods of securing the welfare of farmers, wage workers, small business men, and small professional men.

Mr. Ransom, on page 168 of his work, quotes The Nation (p. 203), by Elisha Mulford, as follows:

* * * To make the opinions of the judiciary a finality in the political order would fetter the free spirit of the people, confining it, not in the assertion and regulation of law as the determination of the organic will, but in the conformance to a mere legality. The past, by its precedents, would impose its authority upon the present. The energy of the people perishes when precedents become the substitute for the action of a living will, and the strength of a living spirit. * * * The formative political power must belong only to the power which is representative of the political will.

Prof. J. Allen Smith, in the Spirit of American Government, expresses himself to this effect:

With the progress of democracy it must become more and more evident that a system which places this far-reaching power in the hands of a body not amenable to popular control is a constant menace to liberty. It may not only be made to serve the purpose of defeating reform but may even accomplish the overthrow of popular rights which the Constitution expressly guarantees. In proof of this statement we need but refer to the recent history of our Federal judiciary. The sixth amendment to the Constitution guarantees the right of trial by jury in all criminal prosecutions; but it is a matter of common knowledge that this time-honored safeguard against the tyranny and oppression of ruling classes has been overthrown by the Federal courts. With the ascendency of corporate wealth and influence, government by injunction has become an important feature of our system. The use made of the injunction in recent years in the conflicts between labor and capital has placed a large and important class of crimes beyond the pale of this constitutional provision. Moreover, this particular class of crimes is the one where denial of the right of trial by jury is most likely to result in oppression. Under this mode of procedure the court has virtually assumed the power to enact criminal legislation, and may punish as crimes acts which neither law nor public opinion condemns. It insures conviction in many cases where the constitutional right of trial by jury would mean acquittal. It places a powerful weapon in the hands of organized wealth which it is not slow to use.

Brooks Adams, in his Theory of Social Revolutions (p. 75), says:

* * * I contend that no court can, because of the nature of its being, effectively check a popular majority acting through a coordinate legislative assembly, and I submit that the precedents which I have cited prove this contention. The only result of an attempt and failure is to bring courts of justice into odium or contempt, and, in any event, to make them objects of attack by a dominant social force in order to use them as an instrument, much as Charles II used Jeffreys.

On page 97 he expresses himself as follows:

* * * In fine, whenever pressure has reached a given intensity, on one pretext or another, courts have enforced or dispensed with constitutional limitations with quite as much facility as have legislatures, and for the same reasons. The only difference has been that the pressure which has operated most directly upon courts has not always been the pressure which has swayed legislatures, though sometimes both influences have combined. For example, during the Civil War the courts sanctioned everything the popular majority demanded under the pretext of the war power, as in peace they have sanctioned confiscation for certain popular purposes under the name of the police power.

Prof. W. F. Dodd, writing in the Political Science Quarterly, volume 28, no. 1, remarks:

The exercise of policy-determining functions by the courts causes no difficulty so long as judicial action is in accord with sober popular sentiment on social and industrial questions. But the power of the courts in recent years to declare laws invalid as depriving persons of "due process of law" has been exercised in direct opposition to growing popular sentiment and to present social and industrial conditions; and the "due process of law" clause, meaning what the judges in any particular case may decide that it means, is, as now interpreted, simply a means of vesting judges with power to declare unconstitutional any laws of which they disapprove. There are under this clause no fixed or definite standards for determining what laws are constitutional and what are unconstitutional. Judges are thus exercising political functions without corresponding political responsibility; and inasmuch as such functions are being exercised in a manner opposed to public sentiment, popular criticism of the courts is a necessary consequence.

Professor Freund, of the University of Chicago, in his work, Standards of American Legislation (p. 285), says:

The spirit of adjudication is after all a very different one from the spirit of legislation. Adjudication decides between contentions for the full measure of abstract rights carried to their logical conclusions, unaffected by the possible expediency of indulgence and concession, for courts deal with human relations in an atmosphere of controversy and extreme self-assertion; they touch life mainly at the point of abnormal disturbance. The function of legislation, on the other hand, is to prevent controversy, and is therefore dominated by the spirit of compromise and adjustment; it is for this reason that legislative rights are likely to be more qualified than common-law rights. The result is that the principle of judicial rule or justice is the minimum, the principle of legislative rule or justice the maximum. of reciprocal concession. If so, judge-made law is ill-suited for guiding legislation, and we should not look to the courts for the development of rules of legislative justice.

Dean William Trickett, in American Law Review (vol. 44, p. 650), writes as follows:

* * * The people will never be masters of their own house so long as a majority of nine gentlemen, pretending to have Marconigrams from the defunct men of 1787 and 1788 concerning their meaning when they adopted this or that phrase of the Constitution, arrogate to themselves the power to veto, and not merely refuse to aid in the enforcement of statutes, but even launch prohibitions against the carrying out of these statutes by those who, unhindered by them, would legally execute them.

Very pointedly Prof. Edward S. Corwin (American Political Science Review, May 1912) said:

The truth of the matter is that the modern concept of due process of law is not a legal concept of all; it comprises nothing more or less than a roving commission to judges to sink whatever legislative craft may appear to them to be, from the standpoint of vested interests, of a piratical tendency.

Judge Wannamaker, of Ohio (Illinois State Bar Association, Year Book 1912, pp. 181–182), says:

No English court for more than 200 years has held an act of Parliament unconstitutional. Such jurisdiction had not been exercised by any English court for 75 years prior to the formation of our Federal Constitution. The fathers never intended to confer such an extraordinary jurisdiction, then unknown * * *. It is a usurpation of judicial power.

The exercise of this unwarranted and usurped governmental power against the public interest, against the public health, safety, and life, has done more than any other single thing to arouse the present popular hostile feeling toward our courts of last resort.

Mr. Gilbert E. Roe in Our Judicial Autocracy takes positions similar to those already outlined.

APPENDIX F

(From Professor Haines, American Doctrine of Judicial Supremacy, by permission of publishers, the University of California)

CLASSIFICATION OF ACTS DECLARED VOID

I. REFUSAL TO ACCEPT JURISDICTION CONFERRED BY CONGRESS, BECAUSE AUTHORITY GRANTED NOT WITHIN POWERS GRANTED BY CONSTITUTION OR NOT JUDICIAL IN NATURE

1. *Hayburn's Case, Chandler* v. *The Secretary of War*, and *United States* v. *Todd* (1792–94) (see 13 How. 52): Refusal to pass on invalid pension claims.

2. *Marbury* v. *Madison* (1 Cr. 137 (1803)): Authority to issue mandamus under original jurisdiction of Supreme Court denied.

3. *Gordon* v. *United States* (2 Wall. 561 (1865)): Refusal to accept jurisdiction on appeal from Court of Claims, because authority to control decisions was vested in other departments.

4. *The Alicia* (7 Wall. 571 (1869)): Prize cases could not be transferred from circuit courts, because not within grant of original jurisdiction.

5. *United States* v. *Klein* (13 Wall. 128 (1872)): Jurisdiction denied because of attempt of Congress to restrict pardoning power of President and to prescribe rules for decisions in Federal courts.

6. *United States* v. *Evans* (213 U. S. 297 (1909)): Refusal of jurisdiction because there was no real case before court.

7. *Muskrat* v. *United States* (219 U. S. 346 (1911)): Congress cannot refer issue to Court for an advisory opinion on validity of a law.

8. *Keller* v. *Potomac Electric Power Co.* (261 U. S. 428 (1921)): Authority to revise orders and proceedings of District of Columbia Public Utilities Commission not within jurisdiction of court.

II. ACTS WHICH ENCROACHED ON THE POWERS OF THE STATES

1. *United States* v. *Dewitt* (9 Wall. 41 (1870)): Standard for sale of petroleum oil fixed by Congress held interference with internal trade of State.

2. *Collector* v. *Day* (11 Wall. 113 (1871)): Federal tax on salary of State judicial officer held void.

3. *United States* v. *Railroad Co.* (17 Wall. 322 (1873)): Federal tax on interest from municipal bonds held void as an interference with an agency of the State.

4. *United States* v. *Reese* (92 U. S. 214 (1876)): Regulation of elections by Congress deemed beyond authority granted by fifteenth amendment.

5. *United States* v. *Fox* (95 U. S. 670 (1878)): Acts not directly related to bankruptcy cannot be regulated by Congress under guise of bankruptcy law.

6. *Trade Mark cases* (100 U. S. 82 (1879)): Regulation of trade marks not confined to foreign and interstate commerce held beyond authority of Congress.

7. *United States* v. *Harris* (106 U. S. 629 (1883)): Conspiracy to deprive persons of equal protection of laws not subject to regulation by Congress under Civil War amendments.

8. *Civil Rights cases* (109 U. S. 3 (1883)): Congress cannot require equal enjoyment of facilities of inns, theaters, etc., to cit-

izens of every race and color under authority granted by thirteenth and fourteenth amendments.

9. *Baldwin* v. *Franks* (120 U. S. 678 (1887)): Ruling of United States against Harris applied to aliens.

10. *James* v. *Bowman* (190 U. S. 127 (1903)): Attempt of Congress to provide for punishment of individuals for interfering with right of suffrage at all elections held not warranted by fifteenth amendment.

11. *Hodges* v. *United States* (203 U. S. 1 (1906)): Congress has no authority to punish a conspiracy in a State to prevent Negroes from making or carrying out contracts of labor.

12. *Employers' Liability cases* (207 U. S. 463 (1908)): Federal Employers' Liability Act not limited to interstate and foreign commerce held void.

13. *Keller* v. *United States* (213 U. S. 138 (1909)): Congress cannot control aliens for police purposes for 3 years after their entry to United States.

14. *Coyle* v. *Smith* (221 U. S. 559 (1911)): Provision of enabling act for admission of a State limiting right to locate State capitol held void.

15. *Hammer* v. *Dagenhart* (247 U. S. 251 (1918)): Congress cannot prohibit interstate shipments of goods produced by child labor.

16. *Newberry* v. *United States* (256 U. S. 232 (1910)): Federal Corrupt Practices Act held not to apply to primary elections for Senators.

III. ENCROACHMENTS UPON INDIVIDUAL RIGHTS

1. *Ex parte Garland* (4 Wall., 333 (1867)): Test oath held void as an ex post facto law and as an interference with pardoning power of President.

2. *Reichart* v. *Felps* (6 Wall. 160 (1868)): Congress could not interfere with patents to land confirmed by Continental Congress in 1788.

3. *The Justices* v. *Murray* (9 Wall. 274 (1870)): Removal of certain cases for retrial on facts and law held to violate guaranty of jury trial of seventh amendment.

4. *Boyd* v. *United States* (116 U. S. 616 (1886)): Compulsory production of papers in action for forfeiture of goods for fraud held to violate guaranties of fourth and fifth amendments.

5. *Callan* v. *Wilson* (127 U. S. 540 (1888)): Trial by jury cannot be dispensed with in the courts of District of Columbia in a trial for the crime of conspiracy.

6. *Counselman* v. *Hitchcock* (142 U. S. 547 (1892)): Self-incrimination clause of fifth amendment held to prohibit compulsory testimony even though a person is protected against a personal criminal action.

7. *Monongahela Navigation Co.* v. *United States* (148 U. S. 312 (1893)): The value of a franchise to collect tolls must be included in appraisal in eminent domain proceedings in order to meet the requirements of due process of law of the fifth amendment.

8. *Wong Wing* v. *United States* (163 U. S. 228 (1896)): Conviction of an alien for being unlawfully within United States on a summary hearing and sentence of imprisonment at hard labor held to violate fifth and sixth amendments.

9. *Kirby* v. *United States* (174 U. S. 47 (1899)): A judgment of conviction against an embezzler cannot be made conclusive evidence of the theft in an action for receiving stolen property.

10. *Matter of Heff* (197 U. S. 488 (1905)): Act of Congress prohibiting sales of liquor to Indians held void as applicable to Indians who were presumed to be citizens of the United States. Overruled by *United States* v. *Nice* (241 U. S. 591).

11. *Rassmussen* v. *United States* (197 U. S. 516 (1905)): Sixth amendment held to require trial by jury in Alaska because the territory was incorporated.

12. *Adair* v. *United States* (208 U. S. 161 (1908)): Congress cannot make it a criminal offense for an employer engaged in interstate commerce to dismiss an employee because of membership in a labor organization.

13. *Butts* v. *Merchants Trans. Co.* (230 U. S. 126 (1913)): Provisions of Civil Rights Act held void in its application outside of the States.

14. *Choate* v. *Trapp* (224 U. S. 665 (1912)): Tax exemption in issuance of patents to Indians held a vested right and not subject to repeal under due process clause of fifth amendment.

15. *United States* v. *Cohen Grocery Co.* (255 U. S. 81 (1921)): Sections of Food Control Act inflicting a penalty for any person making an unreasonable charge for handling necessaries of life held void.

16. *United States* v. *Moreland* (258 U. S. 433 (1922)): Imprisonment at hard labor in workhouse held an infamous punishment and hence subject to limitations of fifth amendment.

17. *Adkins* v. *Children's Hospital* (261 U. S. 525 (1923)): Congress cannot authorize the fixing of minimum wage standards for adult women in District of Columbia under requirements of due process of law of fifth amendment.

18. *A. B. Small* v. *American Sugar Ref. Co.* (267 U. S. 233 (1925)): Reasoning of Cohen Grocery Co. case held applicable to consideration of validity of a contract for the sale of a commodity and applied to civil as well as to criminal proceedings.

IV. LIMITATIONS ON THE POWERS OF CONGRESS TO LEVY TAXES

1. *Hepburn* v. *Griswold* (8 Wall. 603 (1870)): Congress denied authority to make United States notes legal tender in the payment of debts public and private.

2. *Pollock* v. *Farmers Loan & Trust Co.* (157 U. S. 429, and 158 U. S. 601 (1895)): Income-tax provisions of Revenue Act held void because not apportioned among the States as a direct tax as required by article 1, section 2 of the Constitution.

3. *Fairbank* v. *United States* (181 U. S. 283 (1901)): Stamp tax on bills of lading for goods destined for export deemed void as tax on exports.

4. *United States* v. *Hvoslef* (237 U. S. 1 (1915)): Stamp tax on charter parties held void as tax on exports.

5. *Thames & Mersey Ins. Co.* v. *United States* (237 U. S. 19 (1915)): Stamp tax on marine insurance policies held void as tax on exports.

6. *Eisner* v. *Macomber* (252 U. S. 189 (1920)): Taxation of net income on stock dividends distributed from profits of corporation held not authorized by sixteenth amendment.

7. *Evans* v. *Gore* (253 U. S. 245 (1920)): Income tax on salaries of Federal judges held void because judges' salaries may not be diminished while they are in office.

8. *Bailey* v. *Drexel Furniture Co.* (259 U. S. 20 (1922)): Tax of 10 percent on net profits of any person employing children under certain ages in a mine or factory held interference with exclusive authority of State.

9. *Lipke* v. *Lederer* (259 U. S. 557 (1922)): Assessment of additional tax upon evidence of illegal manufacture or sale of liquor held invalid as penalty and not a tax and not enforceable except under requirements of due process of law of fifth amendment.

10. *Hill* v. *Wallace* (259 U. S. 44 (1922)): Tax on contracts for sale of grain for future delivery held void as not within authority of Congress to tax or regulate. This case may also be regarded as an interference with powers belonging to the States.

11. *Trusler* v. *Crooks* (269 U. S. 475 (1926)): Principle of *Hill* v. *Wallace* applied in declaring tax on future trading a penalty.

12. *Nichols* v. *Coolidge* (274 U. S. 531 (1927)): Retroactive provision of estate tax of 1919 held void.

13. *Untermeyer* v. *Anderson* (276 U. S. 440 (1928)): Tax on gifts made before approval of statute held invalid.

V. MISCELLANEOUS DECISIONS

1. *Scott* v. *Sandford* (19 How. 393 (1857)): Congress cannot prohibit the introduction of slavery in the Louisiana territory north of Missouri.

2. *Knickerbocker Ice Co.* v. *Stewart* (253 U. S. 149 (1920)): Congress cannot adopt workmen's compensation laws of States in relation to maritime transactions.

SUPPLEMENT

ACTS OF CONGRESS INVALIDATED BY THE SUPREME COURT

By Library of Congress

Decisions of the United States Supreme Court invalidating acts of Congress are listed in Dr. Charles Grove Haines' work on the American Doctrine of Judicial Supremacy, pages 567–572 (1932). His list is complete through volume 276 of the United States Reports. Subsequent decisions declaring acts of Congress unconstitutional are noted below (complete through the October term 1934).

I. Refusal to accept jurisdiction conferred.

(Add none.)

II. Acts which encroached on the powers of the State.

(Add none.)

III. Encroachment upon individual rights.

19. *Lynch* v. *United States* (292 U. S. 571 (1934)). War-risk insurance policies are property protected by the fifth amendment. Congress cannot repudiate such obligations (sec. 17, Economy Act of Mar. 20, 1933).

20. *Railroad Retirement Board* v. *Alton R. Co.* (79 Law ed., adb. op., p. 803 (1935)). Statute requiring a compulsory pension system takes property in violation of fifth amendment.

21. *Louisville Joint Stock Land Bank* v. *Radford* (— U. S. — (May 27, 1935)). Frazier-Lemke Act (47 Stat. 1470) violates fifth amendment.

IV. Limitations on the power of Congress to levy taxes.

14. *National Life Insurance Co.* v. *United States* (277 U. S. 508 (1928)). Revenue Act of 1921 is void insofar as it attempts to place a direct tax on exempt securities.

15. *Indian Motocycle Co.* v. *United States* (283 U. S. 570 (1931)). Section 600 of the Revenue Act of 1924 is invalid when it taxes motorcycles sold to State police.

16. *Heiner* v. *Donnan* (285 U. S. 312 (1932)). Section 302 (c) of the Revenue Act of 1926 violates fifth amendment in imposing death transfer tax on gifts made 2 years prior to death of donor.

17. *Burnet* v. *Coronado Oil & Gas Co.* (285 U. S. 393 (1932)). Application of Federal income tax to income derived from land leased by the State is unconstitutional, it being a tax on an instrumentality of the State.

V. Miscellaneous decisions.

5. *Booth* v. *United States* (291 U. S. 320 (1934)). Act decreasing salaries of retired Federal judges (48 Stat. 283, 307) is unconstitutional.

6. *Panama Refining Co.* v. *Ryan* (293 U. S. 388 (1935)). Section 9 (c) of the N. I. R. A. and orders issued thereunder concerning "hot oil" are an unconstitutional delegation of power.

7. *Schechter Poultry Corp.* v. *United States* (— U. S. — (May 27, 1935)). N. R. A. as created by 48 Statutes, 195, is unconstitutional—improper delegation of power by Congress and an unlawful attempt to regulate intrastate commerce.

According to these tables, 70 acts of Congress, or sections thereof, have been invalidated by decisions of the United States Supreme Court (1789–June 3, 1935).

APPENDIX G

JUNE 12, 1935.

Hon. DAVID J. LEWIS,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: Supplementing my letter to you of June 11, I desire to submit the following additional information as to the loss in revenue occasioned by the Supreme Court decision in the case of *Eisner* v. *Macomber* (252 U. S. 189), holding that stock dividends were not subject to the income tax:

1916, 1917, and 1918	$35,000,000
1919	70,000,000
1920	250,000,000
1921	250,000,000
1922	207,000,000
1923	36,000,000
1924	25,000,000
1925	22,000,000
1926	30,000,000
1927	29,000,000
1928	25,000,000
1929	47,000,000
1930	10,000,000
1931	3,000,000
1932	4,000,000
Total	1,043,000,000

You will note that these figures slightly exceed the estimate of $1,000,000,000 given you yesterday.

Very respectfully,

L. H. PARKER, *Chief of Staff.*

JUNE 11, 1935.

Hon. DAVID J. LEWIS,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: Reference is made to your inquiry as to the amount of revenue lost to the Government as a result of the decision of the Supreme Court in *Eisner* v. *Macomber* (252 U. S. 189), holding that stock dividends were not subject to the income tax. This decision was handed down by the Supreme Court on March 8, 1920.

On March 18, 1920, hearings were held before the Committee on Ways and Means as to the effect of that decision. A copy of these hearings is enclosed.

Mr. McCoy, the Government actuary for the Treasury, appeared before the Ways and Means Committee at that time and estimated the loss in revenue as follows:

1916, 1917, and 1918	$35,000,000
1919	70,000,000
1920	250,000,000
Total	355,000,000

We are getting some data from the Treasury relative to the loss in revenue on stock dividends during the periods from 1921 on. As soon as this data is available we will advise you further as to this matter. However, it is believed that a conservative estimate, on the basis of the stock dividends declared during the total period since the stock-dividend decision, would be about a billion dollars loss in revenue as a result of this decision. Of course, a tax on stock dividends might have some deterrent effect. In this connection I wish to call your attention to the statement of former Speaker Rainey made in the House on February 20, 1924, at page 2843 of the CONGRESSIONAL RECORD, volume 65, part 3, Sixty-eighth Congress, first session.

The Government also picks up some of the loss by taxing the gain from the sale of the stock distributed in case such stock is sold.

Very respectfully,

L. H. PARKER,
Chief of Staff.

JUNE 18, 1935.

Hon. DAVID J. LEWIS,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: With reference to your inquiry as to the compensation received by Federal judges, I wish to submit the following information:

	Salary
Supreme Court:	
Chief Justice	$20,500
Associate Justices	20,000
Circuit courts of appeals, all judges	12,500
District courts, all judges	10,000
Court of Claims, all judges	12,500
Court of Customs and Patent Appeals, all judges	12,500

The Supreme Court has held that the salaries of judges of constitutional courts are not subject to the income tax. The first case on this point was that of *Evans* v. *Gore* (253 U. S. 245), and related to the salary of a United States district judge for the western district of Kentucky. This judge was appointed by the President with the advice and consent of the Senate in 1899. The Supreme Court held that his salary could not be taxed for income-tax purposes under the Revenue Act of 1918.

The next case involved the taxability of the salary of a judge of the Court of Claims. This was the case of *Miles* v. *Graham* (268 U. S. 501), in which the Supreme Court held that Judge Graham was entitled to a refund of the income tax paid on his salary for the years 1919 and 1920. However, since the *Miles* v. *Graham* decision the Supreme Court has held that the Court of Claims, as well as the Court of Customs and Patent Appeals, is not a constitutional court, but a legislative court. *Ex parte Bakelite Corporation* (279 U. S. 453), *Williams* v. *United States* (289 U. S. 553). It would appear, therefore, that the salaries of judges of the Court of Claims and the Court of Customs and Patent Appeals are no longer exempt from the income tax, in spite of the decision of the Supreme Court in the *Miles* v. *Graham* case, which overlooked the fact that the Court of Claims was a legislative and not a constitutional court.

Judges of the district courts, the circuit courts of appeals, and the Supreme Court, being judges of constitutional courts, are exempt from the income tax on their salaries in all cases where they were appointed prior to the Revenue Act of 1932. An attempt has been made to include in income the salaries of judges of constitutional courts appointed after the Revenue Act of 1932, but it is extremely doubtful whether this provision will be sustained by the Supreme Court.

Not only are judges of constitutional courts exempt from the income tax on their salaries but also their salaries are not subject to reduction by Congress even where Congress finds it necessary in the interest of economy to reduce the compensation of all Federal employees (*O'Donohue* v. *United States*, 289 U. S. 516). Moreover, the salaries of retired judges of constitutional courts are not subject to the income tax, nor can such salaries be diminished after retirement (*Booth* v. *United States*, 291 U. S. 339).

I am listing below most of the tax provisions held unconstitutional by the Supreme Court. I have not been able to complete my data as to the loss in revenue from the decisions involving such provisions, but will supplement this letter with additional information as soon as same is available.

Very respectfully,

L. H. PARKER,
Chief of Staff.

(1) Taxing salaries of State officers and employees by the Federal Government: The Supreme Court, in *Collector* v. *Day* (11 Wallace 813 (Apr. 3, 1871)), held that the Federal Government had no authority to subject to the income tax the salary of a State officer or employee.

(2) The income tax of 1894 was held unconstitutional by the Supreme Court in *Pollock* v. *Farmers Loan & Trust Co.* (151 U. S. 429; 158 U. S. 601).

(3) The stamp tax on foreign bills of lading was held unconstitutional in *Fairbanks* v. *United States* (181 U. S. 283).

(4) The stamp tax on charter parties was held unconstitutional in *United States* v. *Riveself* (237 U. S. 1).

Turning to the income-tax field, we find the following:

(1) Stock dividends are not subject to the income tax (*Eisner* v. *Macomber* (252 U. S. 189)).

(2) The income from oil lands leased by a State to a private corporation is not subject to the income tax (*Burnet* v. *Coronado Oil & Gas Co.* (285 U. S. 393)).

(3) In *National Life Insurance Co.* v. *United States* (277 U. S. 508), the Supreme Court held that treatment of tax-exempt interest in the manner set out in the Revenue Act of 1921 in computing the deduction allowed for interest in the case of life-insurance companies was unconstitutional. This decision resulted in refunds of about $36,000,000.

In the estate-tax field we find the following:

(1) The Supreme Court held, in *Heiner* v. *Donnan* (285 U. S. 312), that Congress could not provide by statute that a gift made within 2 years prior to death was conclusively presumed to be in contemplation of death. This cost the Government about $5,000,000.

(2) In *Nichols* v. *Coolidge* (274 U. S. 531), the Supreme Court held that Congress could not include in the gross estate for estate-tax purposes a gift made prior to the enactment of the Revenue Act of 1918, even though such gift was made in contemplation of death. This cost the Government about $10,000,000.

In the gift-tax cases of *Blodgett* v. *Holden* (275 U. S. 142) and *Untermyer* v. *Anderson* (276 U. S. 440), the Supreme Court held that Congress could not impose a gift tax retroactively. This cost the Government about $3,500,000.

APPENDIX H

Dr. James F. Lawson, testifying as to the general-welfare clause before the Committee on Labor of the House of Representatives, January 27, 1933, at pages 211–212 of the hearing, stated:

THE COURT HAS NEVER CONSTRUED THIS CLAUSE

I may now observe that in more than 286 volumes of the reported decisions of the Supreme Court, among which are scarcely more than a score of decisions holding that Congress has gone beyond the enumerated powers, there is not one opinion dealing with the immensely significant expression. In *United States* v. *Realty Co.* (163 U. S. 427), the Court said:

"Under the provisions of the Constitution (art. I, sec. 8) Congress has power to lay and collect taxes, etc., 'to pay the debts' of the United States. Having power to raise money for that purpose, it, of course, follows that it has power, when the money is raised, to appropriate it to the same object."

Again, in *Juillard* v. *Greenman* (110 U. S. 421), the Court said:

"That clause of the Constitution which declares that 'the Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States', either embodies a grant of

power to pay the debts of the United States or presupposes and assumes that power as inherent in the United States as a sovereign Government."

These were cases in which the action of Congress was upheld. It is passing strange that, in the cases where acts of Congress are held void as not being within the enumerated powers, not once is any reason given why the same clause cannot be construed as a grant of power to provide for the general welfare or a presumption that the powers following must in their sum total equal such a grant. There are innumerable examples of dicta declaring this a government of limited powers. These did not ripen into an actual annulment of an act of Congress, based upon the lack of an enumerated power, until after the Civil War. But neither in dictum nor in decision is there a reason, giving consideration to this clause, why the enumeration excludes the particular exercise of power. I challenge the courts, the Congress, and the public to apply to this clause the ordinary rules of statutory construction, as they are applied to other clauses of the Constitution, to statutes, and to the common legal instruments of the people.

APPENDIX I

In passing I may remind you of a curious circumstance. That case (*Marbury* v. *Madison*) was decided in February 1803, and in January 1804 Marshall wrote a letter to Mr. Justice Chase, then involved in an impeachment proceeding based upon the charge that in various ways he had acted as a sort of judicial dictator. In that letter Marshall took the position that it might be well to concede to Congress a veto of the Court decisions, using this language: "A reversal of those legal opinions deemed unsound by the legislature would certainly better comport with the mildness of our character than the removal of the judge who has rendered them, unknowing of his faults." Mr. Beveridge, who in general is Marshall's unreserved eulogist, makes the following comment on the letter: "Marshall thus suggested the most radical method of correcting judicial decisions ever advanced before or since by any man of the first class. * * * Had we not the evidence of Marshall's signature to a letter written in his well-known hand, it could not be credited that he ever entertained such sentiments. They were in direct contradiction to his reasoning in *Marbury* v. *Madison*, and utterly destructive of the Federalist philosophy of judicial control of legislation." (Extract from address of Hon. R. Walton Moore, Assistant Secretary of State, former Member of Congress, of Virginia, on June 11, 1935.) The letter of Marshall apparently never became public until the publication of Beveridge's work.

APPENDIX J

The prohibitions in mind relate to laws affecting the the following specifically described subjects:

Habeas corpus.
Bills of attainder.
Ex post facto laws.
Duties on exports from a State.
Preference to ports of any State.
Proof of treason, two witnesses, etc.
Religious qualifications for office, not to be.
No law establishing religion, or prohibiting its exercise.
No law to abridge—
(a) Freedom of speech.
(b) Freedom of the press.
(c) Freedom of peaceable assembly.
(d) Freedom of right of petition.
No law to infringe right of State to Militia.
Soldiers not to be quartered "in any house", etc.
Unreasonable searches and seizures.
Denial of presentment and indictment, certain crimes.
Twice in jeopardy, or witness against oneself.
Excessive bail, fines, or cruel and unusual punishments.
Questioning validity of public debt.
Denial right to vote on account of race, slavery, sex.
Treason not to work corruption of blood, etc.
Right of trial by jury, etc.

APPENDIX K

The answers of Jefferson, of Lincoln, and of the two Roosevelts are in their own words. Those of Jackson and Grant are based on their well-known actions.

APPENDIX L

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MRS. O'DAY AND MRS. JENCKES, LEADERS OF WOMEN, SUPPORT WAR REFERENDUM

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein some remarks of the gentlewoman from New York [Mrs. O'DAY] and of the gentlewoman from Indiana [Mrs. JENCKES].

The SPEAKER. Is there objection?

There was no objection.

Mr. LUDLOW. Mr. Speaker, I am deeply gratified and greatly impressed by the large number of splendid, intellectual women who are alive to the dangers of war in the existing world situation and who are rallying to the support of House Joint Resolution No. 167, which I have introduced as a means of preventing America from being dragged into another world cataclysm.

Among the eminent women who have taken their stand for that resolution, bringing to it a dignified support which its friends greatly appreciate, are two of our colleagues in this chamber—the distinguished gentlewoman from New York, Mrs. CAROLINE O'DAY, and the distinguished gentlewoman from Indiana, Mrs. VIRGINIA JENCKES.

When the hearing on this measure took place the other day before the Judiciary Subcommittee of which Mr. CELLER of New York is chairman, three women of national reputations as leaders of their sex appeared among other witnesses to champion it—Mrs. Harvey W. Wiley, director of the District of Columbia Federation of Women's Clubs; Dr. Mary Wilhelmine Williams, professor of history of Goucher College, and Miss Dorothy Detzer, national secretary of the Women's International League of Peace and Freedom. These are names that are associated with high idealism and with all that is best in our national life.

Mrs. O'DAY and Mrs. JENCKES were not able to be present at the hearing because the House on that afternoon had the Wagner bill, a most important measure, under consideration and they could not leave the floor, but both have sent statements to the Judiciary Committee in support of my resolution and by unanimous consent of the House I now submit their statements to be printed in the CONGRESSIONAL RECORD.

The interest manifested in my proposal by such brainy and intelligent women as Mrs. O'Day, Mrs. Jenckes, Mrs. Wiley, Dr. Williams, and Miss Detzer augurs well, I think, for a general awakening among the women of the country to the importance of House Joint Resolution No. 167. That resolution proposes (except in the case of invasion or attack) that war shall not be declared until after the question has been submitted to the people and a majority have voted for war in a national referendum; also that in the event of war all war properties shall be taken over for use of the Government during the period of the emergency, thus removing the profit incentive to war.

WHY WOMEN ARE INTERESTED

Some one may ask, "Why should women be especially interested in this resolution?" The answer is that it grants to them a precious franchise which is rightfully theirs but which in all their painful struggle upward from serfdom they have not yet been able to acquire, and that is the right to have their views and wishes expressed on a declaration of war. At this time 535 Members of Congress, not one of whom is obliged to go to war, can plunge a Nation of 125,000,000 souls in war at any time. Under my resolution war cannot be declared unless a majority of men and women voting in a national referendum shall so decree and in that referendum the votes of women shall have exactly the same weight and importance as the votes of men, which is as it should be.

Women should have a keen interest in this proposition for a plebiscite on war. They have never had any consideration when men get ready for the bloody business of war. In my mind's eye I can see one of the many war widows of Macedonia three centuries before Christ standing on the bank of the Euphrates with arms upraised toward Heaven, exclaiming in anguish before she throws herself into the turbulent waters: "By what right, O God, did Alexander the Great conscript my husband and hurl him against the sharp spears of Darius' men without giving him or me a chance to say anything about it?"

If we look backward over the pages of the past until history becomes lost in the mists of antiquity, we find it ever has been the same; that widows have been weeping their hearts out and children have been suffering because tyrants and scheming selfish interests have been forcing men to war without "giving them a chance to say anything about it."

To my way of thinking this is an abhorrent violation of the rights of both men and women.

This proposal reaches to the very fundamentals of equality as defined in the Declaration of Independence. It makes me indignant to think that a man, just because he happens to hold an official station, may order me out to be shot and killed without consulting me, and in the interest of justice, in the interest of perpetuating the principles of equality on which this Nation arose in majesty out of the oppressions of the past it is time to revise the fundamental law of the land so that every citizen of the Republic, however poor and humble, shall have an equal right with every other citizen to decide whether or not this Nation shall go to war.

WOMEN DEPRIVED OF RIGHTS

And there is another point I would like to make: Why should not the women have some say about this important business of declaring war? Slowly, by almost imperceptible degrees, women have advanced through the centuries to the point where they at last have the right of suffrage. Having with much travail attained that high plane, why should they not have an equal right with the men to decide whether this country shall go to war? Certainly, women have a vital interest at stake. War robs them of their husbands and takes away their sons whom they have watched over with the solicitude known only to a mother's heart from the cradle to manhood, and piles on them an avalanche of heart-breaking woes. Who is there, realizing what war mean to a wife and mother, that dares stand up and say that women do not have an inherent right to a vote on war? Yet women are singularly penalized at the present time in being denied a voice in respect to war. Of the 531 Members of Congress, 524 are men, with a masculine viewpoint, and only 7 are women, and in the war-declaration machinery as it now exists, women are so oversloughed by numbers that they virtually have no voice at all in giving expression to whatever may happen to be the feminine viewpoint.

The enthusiastic championship of House Joint Resolution No. 167 by our colleagues, Mrs. O'DAY and Mrs. JENCKES, should, and I believe will, be a rallying cry to the women of America to come to the support of that resolution which of all the proposals before the Congress is, I think, the best preventive of war. If the women of the country follow the leadership of Mrs. O'DAY and Mrs. JENCKES they will not need to fear that a small group of male noncombatants, sitting in Congress, may order their sons and husbands into foreign lands to be shot by men with whom they have no personal quarrel and whose language they do not speak, for if Mrs. O'DAY and Mrs. JENCKES have their way the women of the land will have a right to vote on the next declaration of war.

MRS. O'DAY'S STATEMENT

Mrs. O'DAY's statement to the Judiciary Committee is as follows:

I am in favor of the Ludlow resolution (H. J. Res. 167).

So long as there are economic rivalries between nations, so long as there are territories to be annexed, so long as there are political controversies, so long will there be potential tendencies toward war—for war is the final and most violent phase of political action.

Nevertheless, there is no problem affecting humanity that cannot be settled without resort to war, if the people so will.

War, in the last analysis, results through a game played behind closed doors in the courts, foreign offices, committee rooms, and county houses of the world. The rank and file of citizens, the man in the street who later becomes the man at the front, know nothing of this game until cleverly directed propaganda begins to play upon the finest, and most admirable trait of mankind all the world over—love of country.

The word patriotism is debauched by diplomats, statesmen, and by profiteers. A conscienceless press fans the flames of international misunderstanding. Mass psychology is artfully directed, and when the time is ripe for the purpose of its instigators, war is declared!

We who know the horrors of the World War and its ghastly aftermath, must shape a new code of international morality—a new system of relationship between nations that will prevent the slaughter of the youth of the world and the sacrifice of its young manhood.

A national referendum held by hostile nations pending a declaration of war would provide time for sober reflection, for allaying national hysteria, for investigating the truth or falsity of prevailing propaganda, for weighing the cost of human lives as against the acquisition of territories, the salvaging of investments for powerful financiers, as against the glorification of rulers and war lords, or avenging a national slight.

Through a referendum the rank and file of the people, the fathers and mothers of the nation's youth, would make the solemn decision as to whether or not that youth should be sent to the fields of slaughter.

Who can doubt but that a national referendum would prove a powerful instrument toward the maintenance of peace and the abolishment of that "sum of all iniquities"—War.

MRS. JENCKES' STATEMENT

The statement submitted to the Judiciary Committee by Hon. VIRGINIA E. JENCKES, Member of Congress from Indiana, follows:

Mr. Chairman, I desire to express my approval of House Joint Resolution 167, introduced by my distinguished colleague, the Honorable LOUIS LUDLOW, of Indiana.

I endorse this most important measure, not only as a Member of the Congress, but as an American woman, a mother, and a citizen, who has had the opportunity of observing the sufferings of the people resulting from the declaration of war as a result of an emotion or hysteria rather than upon the cool, calm judgment as expressed by the ballot of all the people, as provided by Mr. LUDLOW's bill.

As we look back over the years and remember the day when the Congress declared war on Germany and when we review the many events which caused suffering and anguish and privation among our citizens, I am sure that if Mr. Ludlow's bill had been law in 1916 our Nation would not have been so quick to have rushed into a conflict which destroyed thousands of our fine American men and caused untold sufferings among their families.

We all remember how proud we were when we took credit for having helped save the world for democracy, but today we find these same nations, for whom we sacrificed the flower of our citizenship, for whom we impoverished ourselves in sending them supplies and funds—we find these same nations today refusing to repay to the United States the moneys which we loaned them, moneys which represented the earnings and savings of our people. We find these same nations again getting ready for war, wasting their resources and again getting ready to destroy the lives of their citizenship.

I am not a pacifist. I believe in an adequate and proper national defense. I believe in the best army and the best navy and the best air force of any nation in the world, but I also believe that we should be the slowest Nation in the world to think of war or to engage in war, except for the purpose of repelling an actual invasion.

The mothers of America demand that they be recognized in determining whether their sons shall be used for cannon fodder to satisfy a national emotional outburst. The women of America have been given the ballot. The women of America are voting, and the women of America demand that the United States shall never engage in another war until all of the citizens, by their direct ballot, shall indicate their approval or disapproval of the contemplated declaration of war.

I appeal to the committee for favorable action on House Joint Resolution 167. I appeal to our American women to support this very meritorious measure, and when it becomes law, and I hope it will be made law at this session of the Seventy-fourth Congress, I request all women to take a genuine interest in the administering of this law, in order to prevent the horrors of another war.

I thank you.

ORDER OF BUSINESS

Mr. TAYLOR of Colorado. Mr. Speaker, I have had a great many inquiries about the program of the House. My thought is this: We hope to finish this bill by Tuesday night next, and if we do, then we hope to adjourn over, until the following Friday and to then adjourn, after whatever we do on Friday, until the following Monday.

Mr. SNELL. Mr. Speaker, I may say to the majority leader that we on this side will be very pleased to cooperate with him in facilitating the passage of the bill. Even the people who are opposed to the bill will not do anything to delay its passage.

Mr. TAYLOR of Colorado. If we cannot pass the bill on Tuesday, it will necessitate our being in session on Wednesday, but we hope that may not occur, because many Members want to go home Tuesday night and stay over until the following Monday.

Mr. SNELL. I think we can cooperate all around and finish the legislation by Tuesday night.

CALL OF THE HOUSE

Mr. TRUAX. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The doors were closed.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 111]

Adair	DeRouen	Kimball	Ryan
Amlie	Dickstein	Kniffin	Sadowski
Bacon	Dies	Kopplemann	Sandlin
Bankhead	Dingell	Lamneck	Schneider
Beam	Ditter	Lee, Okla.	Schuetz
Bell	Dorsey	Lehlbach	Scott
Berlin	Driscoll	Lesinski	Secrest
Binderup	Duffey, Ohio	McCormack	Shanley
Boehne	Ellenbogen	McGroarty	Shannon
Brewster	Englebright	McKeough	Sirovich
Brooks	Faddis	McLean	Smith, Conn.
Buckley, N. Y.	Ferguson	Marshall	Smith, Va.
Bulwinkle	Fish	Mitchell, Ill.	Smith, Wash.
Burdick	Frey	Moran	Spence
Cannon, Wis.	Gambrill	Moritz	Stack
Carter	Gingery	Norton	Stewart
Casey	Goldsborough	O'Brien	Sumners, Tex.
Cavicchia	Granfield	Oliver	Sutphin
Celler	Greenway	O'Malley	Sweeney
Clark, Idaho	Greenwood	Palmisano	Taber
Clark, N. C.	Harlan	Perkins	Taylor, S. C.
Cochran	Hart	Peterson, Ga.	Underwood
Connery	Hartley	Peyser	Utterback
Corning	Healey	Powers	White
Costello	Higgins, Conn.	Quinn	Wigglesworth
Daly	Higgins, Mass.	Reece	Withrow
Darden	Hook	Richardson	Wood
Dempsey	Kennedy, Md.	Russell	Woodrum

The SPEAKER. Three hundred and eighteen Members have answered to their names, a quorum.

Mr. TAYLOR of Colorado. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

A PROGRAM FOR YOUTH

Mr. EDMISTON. Mr. Speaker, I ask unanimous consent that my colleague the gentleman from West Virginia [Mr. RANDOLPH], who is absent attending a funeral, be permitted to extend his remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. RANDOLPH. Mr. Speaker, the announcement recently made by the President that he has outlined a program for the youth of this country will certainly be met with approval by the majority of our people.

For several years I taught young men and young women in a small college in West Virginia, and I have watched hundreds of cases in which hardships were paramount.

This administration realizes full well the value of a youthful program to not only secure but keep intact the splendid forces of those just starting their lives of useful service to themselves and to their country. The allocation of $50,000,000 that those between the ages of 16 and 25 may be molded into a great factor for our Nation's well-being is altogether proper at this time. I cannot help but feel strongly that the yield on the investment to be made will be high.

In this month of June young men and women stepping out into the full stream of life from high school and college are confronted with this ever old yet ever new question, You have youth; what are you going to do with it? These are not the easiest times for a young man or a young woman to answer that question in any definite sense. Positions are not waiting just around the corner to be picked for the asking. It is altogether probable that discouragement may take hold of the youth of America in this year of 1935, but there are certain to be many young men and women listening in tonight who will realize that there are opportunities for them in this hour of our Nation's crisis. It is not necessary that a young man or woman should feel that he or she should not try to gain a foothold while yet young. A definite goal of achievement can be aimed at now. There is no reason to stand idly by. To be sure, the enthusiasm of youth should be tempered with the association of those who have gained wisdom through their experience in life.

As a challenge, let me say that at 15 years of age Victor Hugo presented a poem to the Royal Academy in Paris and Leigh Hunt was a prolific writer of verses. At 16 Michelangelo's ability as a sculptor and painter had been discovered and Mozart had captivated the courts of Germany. At 17 Alexander Hamilton commanded the attention of his country and Washington Irving delighted the readers of the Morning Chronicle. At 18 George Spurgeon was pastor of a congregation and Stephenson was carrying within his brain an improved steam engine. At 19 George Washington was a major in the army and William Cullen Bryant had given Thanatopsis to the world.

At 20 Bach was organist at Armstadt and Beethoven had added another great name to music. At 21 Galileo was awake to the secret of the vibrations of the bronze lamp of Pisa Cathedral and Wilberforce was a member of the British Parliament and fearlessly introduced a bill against slavery in Africa. At 22 Alfred began one of the most magnificent reigns which England had ever seen and Savonarola was robed with a splendid name. At 23 David Hume had written his Treatise on Human Nature and Richard Wagner had composed Lohengrin. At 24 Alexander the Great had taken Thebes and had crossed the Hellespont and John Ruskin had written Modern Painters.

At 25 Aeschylus was the greatest tragic poet of Greece, and Coleridge had written The Ancient Mariner, and at 25 Charles A. Lindbergh, the apostle of good will to the nations of Europe, had piloted his frail craft, the *Spirit of St. Louis*, from New York to Paris, was acclaimed by millions, and added a second story to the world. At 26 Mark Antony was the hero of the Roman Empire and Benjamin Franklin had written the wisdom of "Poor Richard." At 27 Carreggio had the commission to execute the frescoes on the cupola of San Giovanni in Parma and Francis Bacon was already counsel extraordinary for the Queen. At 28 Hannibal took Saguntum while Rome deliberated on its rescue, and William Wordsworth had written some of his greatest poems. At 29 Cromwell had begun his work as a mighty religious figure, and Sir Joshua Reynolds was the most-noted portrait painter in England.

At 30 the finest example of living had been given to the world through the service of the Man of Galilee, and today we do not ask, "How long did He live?" but we know the fullness of His earthly existence.

Since I speak in the Capital City of our land, I believe it would not be amiss to say that I feel that many teachers and parents have given a wrong advice to youth by admonishing young men and women to steer clear of a study of politics and the functions of our Government. They have said that politics are dirty and youth should not get mixed up in them. All the more reason, if that statement be true, why political careers should challenge the youth of America.

Into the building of a young man or young woman goes, I believe, three outstanding attributes which will not only bring success but a true degree of happiness. The first is industry; that desire for labor in which accomplishment may come through hard work. There is a story told of the multimillionaire who one June morning met with his son just graduated from college to discuss this young man's future. The boy said to his father: "Up in the university I have been called the pampered son of a multimillionaire. I want to go out into the world and make a name for myself without your millions or your prestige to back me up." And then was uttered the most false philosophy that a father could give to his son when he said: "When I was your age I had to work hard for everything I had. I determined that if ever I became rich, my son would never have to endure the tribulations which I have faced." And then he added, "What's the use of running when you are there?" It is said that some time later the press told the story of this young man's suicide. Those discerning eyes that read between the lines perhaps came to the realization that the young man's tragic end was brought about by wrong advice. The hours which might have been spent in hard work which would have built up the body and strengthened the mind had been turned into hours of leisure which tore down the desire for accomplishment.

Secondly, I feel that integrity is a vital building stone. At the close of the Civil War that famous soldier and gentleman, Robert E. Lee, found himself in reduced circumstances inci-

dent to the War between the States. A group of gamblers, knowing Lee's need for immediate funds, approached him with the offer of $50,000 if he allowed his name to be used in connection with an enterprise which became known in history as the infamous Louisiana gambling enterprise. When approached by these men, Lee hesitated not a moment in his decision. He looked them in the eye and said, "Gentlemen, I have nothing left but my name. It shall never be for sale." A splendid answer for a defeated warrior with a lost cause behind him and the finest answer for a young man or woman today who is approached by any group or individual and asked to lend his or her influence to anything that does not ring 100 percent true.

And lastly, there is a need today more compelling than ever before for an abiding faith. This Nation and its institutions of the home, the church, and the school are being daily attacked by false prophets and lying tongues. To youth interested in true character building there is the challenge of a faith which will make of all of us true Americans who believe in the basic principles upon which this country was founded and which we increasingly trust will lead America into prosperous and happy tomorrows.

PUBLIC UTILITY ACT OF 1935

Mr. RAYBURN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating or marketing securities in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2796, with Mr. WARREN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose yesterday, section 1 of the House substitute had been read and is now open to amendment.

Mr. HAMLIN. Mr. Chairman, I move to strike out the last word, and ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HAMLIN. Mr. Chairman, because of the limited time I am sorry I must decline to yield. In the few minutes that I have I cannot tell to this crowded House one-tenth of all the story about iniquities of the holding companies in Maine, and so I shall refuse to yield.

In speaking for this bill which aims to regulate, not destroy, utility holding companies, I do not forget my many, many letters from women and men, old and young, who beg of me not to take away their hard-earned investments in utilities and holding companies. Others say they are working for holding and utility companies, and beg piteously for me to save them from poverty.

I have others, as these, signed by one man inspired doubtless by companies themselves, and threatening me with sure defeat if I vote and speak for the Wheeler-Rayburn bill, and yet here I am speaking for it. I do not know as I would, if I thought it would destroy all holding companies, but it will not; the good ones will live. So I want you here and my friends in Maine to know that I am standing for this bill primarily because I believe I am standing for the common people and for investors in good holding companies and utilities, and that I am doing my duty as a Democrat and a man and if as many of you threaten to defeat me because I do my duty as I see it, go ahead.

I sometimes feel that the people of Maine have been lied to, stolen from, knocked down and dragged out, and exploited more in high utilities costs, in elections—local, State, and National—by utility holding companies and their half brothers, cousins, aunts, and uncles and under the guise of law than any other State in the Union barring none.

Mr. BLANTON. Will the gentleman yield? If the people of Maine were to defeat our distinguished colleague from Maine [Mr. HAMLIN] they would defeat one of the most active, efficient, energetic, and dependable Representatives in this House. [Applause.]

Mr. HAMLIN. Mr. Chairman, I refuse to yield. [Laughter.]

In the State of Maine, the First District of which I have the honor to represent, we have had first-hand experience with holding companies. We have seen them at work. It was just about 10 years ago that the holding company began to develop in Maine in all its fine flower.

We saw the expanding empire of the Insulls reach out from Chicago into New England and take possession not merely of light and power companies and operating companies, but to exercise a dominating control over industries, banks, newspapers, and political parties—in short, to dominate the political, the economic, and the social life of my State. What took place in Maine, I think, we can safely assume took place in the 47 other States in the Union. But I am familiar with what happened in Maine, and I purpose in the brief time at my disposal to tell you what happened there and to let those facts speak for themselves.

Let me tell you a little about it. Portland, Maine, is supplied electrical power by the Cumberland County Power & Light Co. from its generating plant 20 miles out of Portland, very cheaply generated power from the Saco River, where God is good if politicians are not. The cities of Portland, South Portland, Westbrook, and many other suburban people—not as many as should since the rates are so high—use this electrical energy on trolly lines and lights, heat, refrigeration, power, and many, many ways. But just here, this Cumberland County Power & Light Co. is owned by the New England Finance Investment Co., which is owned by the New England Public Service Co., which is owned by the National Electric Light & Power Co., which is owned by the Middle West Utilities Co., incorporated in Delaware—a very good State for them to get incorporated in. This is owned by the Corporation Securities Co., which is incorporated in Illinois, where two men by the name of Insull live, who should be in jail.

When Mr. Insull came into Maine in 1925 he began buying up the voting shares of the local power companies. He paid $140 a share for the stock of the Central Maine Power Co. At that time that stock had been selling for some $50 to $60 a share; in other words, he paid, assuming the current top price of $60, approximately 130 percent more than the stock was worth. That was the first step in the holding-company process of increasing the capitalization and overhead burden which has since been borne by the light and power consumers of the State of Maine. The second step was by that process recently known as "write-up." In the old days they used to call it "stock watering", but the power companies do not like that word; but whatever they call it, this is what they did: When a certain number of the local power companies' securities had been bought at a price already 130 percent above their previous market value, for a sum totaling $1,227,994, this cost appeared on the books of the Middle West Utilities Co. at $2,413,119—an artificial and arbitrary increase of approximately another 100 percent. You can call it water, wind, holding-company practice, or just plain hold-up. When the holding-company process was completed the operating company which serves the territory in which I live, as I have told you—the Cumberland County Power & Light Co.—found itself at the bottom of the pyramid. Directly above the Cumberland County Power & Light Co. was the New England Finance & Investment Co., a holding company, which acquired 40,965 shares out of a total of 47,000 of the common stock of the Cumberland County Power & Light Co. Directly above that was the National Electric Power Co., another holding company. Directly above that was the great Middle West Utilities, another holding company. And as those who have followed this complicated maze well know, above and on top of all that, out in Chicago, was a complex interlocking superstructure intricately intertwined consisting of Insull Utilities Investments, Inc., Insull

Son & Co., and Corporations Securities Co.—all dominated and controlled by Samuel Insull, his brother Martin Insull, and Samuel Insull, Jr. These fellows and their kind have been the real dictators of America and not the brave-hearted soul who has been and still is battling for the lives and liberties of the common people of this country, many of whom do not know it. Let me quote from a big man [Senator GEO. NORRIS]:

> In all the years of my investigation—and it was not inspired by cheap politics nor graft, but politics of good government—in all of the years of my investigation, and it was many, I have been unable to find a single instance where a holding company in the second degree is any benefit to society. On the contrary, it is always a danger and affords a strong temptation for dishonest men to create great wealth for themselves.

But, back to Maine—

If I were to detail fully the various ramifications of the holding companies merely directly related to Maine, and because I am speaking today only of Maine in its relation to the holding-company problem, I should be obliged to speak throughout this entire day, because in addition to this vertical line upward through the pyramid, there were numerous radiating and collateral lines. For under the New England Public Service Co., the second holding company above the operating company which serves my territory—the Cumberland County Power & Light Co.—were also several other local holding companies and some holding companies which in turn controlled operating companies. The Central Maine Power Co., for instance, which serves the central part of the State of Maine, was an operating company as well as a holding company. It owned the common stocks of the Central Securities Corporation, of Waterville, Fairfield & Oakland Railway, and of the Androscoggin Corporation, which in turn was a holding company controlling through ownership of its entire stock the Androscoggin Electric Co. Every acquisition of these properties meant a financial deal, a handsome profit, a rake-off for the insiders—or, I should say, so far as the State of Maine is concerned, for the outsiders living in Chicago—the cost of which ultimately borne by the Maine consumers and by the investors.

For the variety of securities which those investors bought are today depreciated far below their sale price. And what a variety of those stocks there were sold to the Maine public! Each holding company had its varied assortment. The New England Public Service Co., for instance, issued $7,840,000 of $7 prior lien preferred stock; $5,205,000 of $6 prior lien preferred; $4,428,650 of $7 preferred; $6,520,000 of $6 preferred; $3,662,060 of $6 convertible preferred; $76,650 of adjustment series preferred. And that is only one of these numerous holding companies whose so-called "securities" were unloaded on the Maine investor. Now, this the New England Public Service Co. above the operating company which serves the territory which I represent; the Cumberland County Power & Light Co. did not confine itself to power and light companies. It likewise went into industry. It established another holding company, subsidiary to the New England Public Service Co., and called it New England Industries, Inc. This sub, sub, sub, sub holding control of an important share of a great variety of enterprises. It acquired the control or a large interest in five textile companies—the Edwards Manufacturing Co., the Androscoggin Mills, the Bates Manufacturing Co., the Hill Manufacturing Co., the Dwight Manufacturing Co.; it secured an interest in the Limerick Mills. It acquired an interest in the Crossett Shoe Co., in the Keyes Fibre Co., in the Tire Fabric Corporation, in the Keyes Securities Co., in the Cushnoc Paper Corporation, in the Maine Steel Products Co. A number of these enterprises have since gone into receivership, with a virtual loss to those who acquired their securities. Now further to complicate the picture, although the New England Industries was a subsidiary of the New England Public Service Co., a company incorporated in Maine, this New England Co. held only 33.08 percent of the New England Industries voting stock. Who do you suppose owned virtually all the balance? Why, 65.99 percent was owned by the Mississippi Valley Utilities Investment Co., another holding company, a subsidiary of the Middle West Utilities Co. So we see that when we talk of a pyramid, even that graphic picture ever simplifies the labyrinth which holding companies created. Stop to think of this controlling interest in these Maine industries which I have mentioned to you; textile mills, shoe companies, iron works, paper companies were owned by a sub, subholding company out in the Middle West. But only the insiders knew that at the time.

I have given you but a suggestion of what happened in the process of setting up this holding company pyramid. What happened after? For one thing, we now witnessed the process of milking the operating companies by the excessive levying of service fees. The year after the pyramid was formed in 1926 the Central Maine Power Co. paid the New England Service Co. in fees for engineering and other services the sum of $82,858.33. Note this figure—eighty-two-and-odd thousand dollars. What was the cost of rendering those services?—$40,684.69. In other words, for service that costs forty-and-odd thousand dollars one holding company alone charged eighty-two-and-odd thousand dollars—a profit on this one transaction alone of 103 percent. Was this unusual? Not at all. Approximately the same ratio continued in subsequent years. In the case of the Cumberland Power & Light Co., for reasons unknown to me, this particular holding company's charges were slightly more modest. While to be sure in some years the profit exceeded 100 percent for service allegedly rendered—such as in 1930, when the profit was 117.7 percent—for the first 5 years, from 1926 to 1930, inclusive, the profit on those so-called "services" was 89.8 percent. My figures stop in 1930, because it was in the year thereafter that the Federal Trade Commission made its sweeping and thorough investigation of Maine as a part of its Nation-wide inquiry, and the facts and figures which I am here giving you are taken from volume 42 of the Federal Trade Commission's report. I have given you some indication of the holding-company process in its relation to write-ups and milking by excessive service charges. For the bearing this may have on rates in Maine, I would refer you to the recent report on domestic and residential electric rates in effect January 31, 1935, in the State of Maine issued by the Federal Power Commission. Its State Report No. 2 in its rate series dispassionately tells of the wide spread of electric charges in Maine, of residential rates which were described out by one company in its own words as "too complicated to tabulate", of one rate of 30 cents per kilowatt-hour, and of a rate which the Federal Power Commission describes as unique, and in which the charges in a dairying region vary with number of cows the farmer owns. But I want to turn briefly to some of the political consequences of the holding-company system. In the State of Maine, ever since 1909 we have had on the statute books a law known as the "Fernald law", adopted under the governorship of the late Bert M. Fernald, who later occupied a seat in the United States Senate. Maine had witnessed the careless looting of its great timber resources in the half century previous, and in 1909, when the power industry was still relatively in its infancy, and certain outside interests were apparently casting envious eyes at its abundant water-power resources, the State adopted a measure which forbade corporations from exporting hydroelectric power out of the State. This measure was adopted by a Republican legislature and Governor, but it was subsequently approved by a Democratic administration as well, and it became an accepted part of our State policy. It may be true that the erection of a State boundary as a barrier for the export of power may be questionable as a matter of national policy, but Maine, uniquely situated as it is in one corner of the Union, had come to feel that it would serve its own interests better, that it would be more likely to attract industries and to make use of its abundant and potentially cheap power, if it adhered to this statute. When Mr. Insull came into Maine and bought up the local power companies he was well aware of this law and of its existence as part of the Maine policy. But immediately, carrying out that characteristic belief of his that his money—or perhaps I should better say other people's money controlled by him—could buy anything, he set about to have this law repealed. By processes which are not unfamiliar, he managed to se-

cure control of a majority of the legislature sufficient to pass this measure.

I have no doubt that a considerable number of the legislators who voted for it were induced to do so by Mr. Insull's glittering promises and lavish propaganda. But the bill was vetoed in 1927 by former Governor RALPH O. BREWSTER, now a Member of this House representing the Third District. Undaunted, the power companies having meanwhile helped to elect another Governor more of their choosing, proceeded to pass a similar bill through the next legislature, and this time the Governor signed it.

Fortunately, however, in Maine the people through the initiative and referendum, have a final controlling voice in their policies. A referendum clause was attached to the bill. In the interval between the closing of the legislature in the spring of 1929 and the day of the referendum, September 9, 1929, Maine witnessed the expenditure of a slush fund unprecedented in its dimensions. Suffice it to say that virtually every newspaper—with the honorable exception of one in the city of Portland—was lined up in favor of reversing Maine's traditional policy. Newspapers which for years had been extolling the wisdom of the Fernald Act now suddenly blossomed out with the most fulsome editorials declaring that the salvation of the State depended upon a reversal of this policy. Every little country weekly—weeklies which seldom printed editorials—now appeared equipped each week with a long editorial, admirably written, devoted to glorifying the value of the export of power and the reversal of the old policy. Speakers toured the State, hailing the proposed change. These speakers included State senators and representatives, Republican State chairmen, and county chairmen, county attorneys—the equivalent in my State of the district attorney in other States—and even the Federal attorney. These prominent people were apparently all suddenly convinced of the value of the new policy. It was prophesied on all hands that this measure would sweep in overwhelmingly. In the Portland Evening News, Editor Ernest Gruening led the fight for the peoples' heritage, the water power of Maine, seconded by the Maine State Grange. Before this a good Republican Governor—accent on the good—had been kept from the United States Senate by the utility gang, and now by every conceivable smooth, slick, underhanded way the holding and utility company and their relatives began sending money into Maine to buy up the election so that the greatest asset of the people—that is, the water power—could be owned by the Insulls and Walter Wyman and the bunch, interstate and intrastate. The News published their names and amounts sent them—now and then a Democrat got a crumb—but the loaf naturally went to those who had and would rule the State. I am not going to give their names for it would hurt them, they were high officials and good fellows not to blame, the system was what was wrong. Well thank God power export in Maine was defeated and today the people rather than the utilities and holding companies own their priceless water power. An interesting glimpse of the character of the campaign came to light 2 years later when the Federal Trade Commission, having subpenaed the files of the power companies, found just how much money had been expended. In addition to the payment to newspapers, which completely accounted for this new-found enthusiasm and editorial approval of the measure, it was discovered that 74 persons more or less prominent in the State had been secretly on Mr. Insull's pay roll during the campaign. Their names appear as exhibit no. 5047 of the Federal Trade Commission's investigation of utilities. I am glad to say that of the 74 names only 3 were Democrats. The rest were Republicans. But in all fairness I must admit that in those days in Maine Democrats were not worth as much as Republicans.

We were a minority party then, and the influence of Democrats was not valued as high by Mr. Insull as that of Republicans.

Just as in the Illinois senatorial campaign of 1926, he contributed to the senatorial campaign fund of the Republican candidate, Frank L. Smith—who, at that time, as some of you will recall, was chairman of the Illinois Commerce Commission, the regulatory commission for Illinois utilities—the sum of $125,000, whereas the Democratic candidate, Mr. Brennan, was only rated $16,000.

In Maine the men who were secretly paid to work for Mr. Insull's measure included State senators and representatives, county attorneys, and the United States district attorney. It included a State senator who, unabashed by the exposure that he has received $2,602.90, proceeded to run as candidate for Congress in the last election in 1934 against my honorable colleague from the second Maine district, Mr. EDWARD CARLETON MORAN, JR., who was one of the first in the public life of Maine to take his coat off and wage a gallant battle against the absentee holding company control which had come to Maine. Needless to say, Mr. MORAN was victorious.

One final word about that attempt to debauch the Maine electorate. Where do you suppose the money came from? It came out of one of the numerous Insull pockets—from Texas, from the Central & Southwestern Utilities Co., a subsidiary of the Middle West Utilities Co., which transferred $200,000 of its funds to Maine for the purpose of buying legislation there. I mention this to show how far flung the holding company empire is; I might suggest that some of my colleagues from Texas might well raise the question as to why the securities holders of the Texas holding company were thus mulcted of $200,000 to achieve a result in a State 2,000 miles away. The answer, of course, is that you can play fast and loose with other people's money; and that is just what the holding companies have done, are doing, and will continue to do unless we put a stop to it.

It may be alleged that with the collapse of the Insull empire some of these abuses have taken care of themselves. Adjoining my district on the west is our sister State of New Hampshire, whose distinguished Senator, FRED BROWN, bringing to the Senate the expert experience of 7 years on the State public utilities commission, pointed out that precisely those abuses still exist through another great holding company system. My voice and my vote are thoroughly with the President. I am familiar with the insidious and eloquent pleas of the great army of lobbyists who surround the Capitol. I have seen their work before. I know it to be a work which is detrimental to the interests of the people whom I represent, the people of my district, of my State, and of the Nation.

Now, I hope I realize that we must have companies, utility and holding companies, if you please, to organize capital and direct the management of great projects, although I confess that I am utterly opposed and shall always oppose their holding and managing public necessities as air—I mean God's, not hot—gas, water, and electricity. If I had time I would like to tell you how we got for the people of western Maine the right to own Sebago Lake water where we and you ought to fish and drink—and that makes me think.

I do not want to close until I just allude to the brilliant chief justice of Maine, William R. Pattangal, who has never raised his voice for the common people's rights versus the interests and holding companies, but with a lightning change of his judicial robe, has nights and Sundays and patriotic days campaigned against the President and the new deal, and, using his court position, has told people how the President threatens, and he says that the only way for the Republicans to win in 1936 is to have a Republican and a Democrat nominated for President and Vice President, or vice versa. He certainly could logically support such a mongrel ticket for he has been in all parties, and this would be a fitting climax for him—one from each party.

I would not thus speak of the chief justice of Maine did I not feel that in the past and present he has been with the privileged class and holding companies of Maine. I believe his ably filled judicial position terminates very soon, and when it does he will be able to give his whole time toward saving the Nation.

I have never been so strong a Democrat, never so proud of my party, as now, since I came in contact with its real leaders and you my colleagues. [Applause.]

The CHAIRMAN. The time of the gentleman from Maine [Mr. HAMLIN] has expired.

Mr. SAUTHOFF. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, yesterday and the day before yesterday the proponents of the House bill used three-fourths of the time, while the proponents of the Senate bill had but one-fourth of the time. We are now told we will have an opportunity to be heard under the 5-minute rule. In the brief time that I have at my command I want to say a few things to the gentleman from Alabama [Mr. HUDDLESTON], who took it upon himself to stand forth in this House and act as the critic of the administration.

Mr. HUDDLESTON has a right to his views; but when he challenges the right of the President to proceed to express himself as the Chief Executive of the people in the interests of the common people, I deny that he or any other Member has a right to challenge his motives and to attribute to him purely propaganda ideas and not the motives of defender and protector of the rights of the people. [Applause.]

I expected that some Democrat would rise and defend the leader of his party. I did not think that that duty would devolve upon a Progressive from Wisconsin. Nevertheless, Mr. HUDDLESTON may castigate the President, may challenge the motives of the leader of his party, but the seven Progressives from Wisconsin will stand shoulder to shoulder to fight with Franklin D. Roosevelt in this cause. [Applause.]

Who are the critics of the administration? First and foremost, let me mention to you the late but not lamented Herbert Hoover. Next, his chief adviser, Ogden Mills. The third of the great triumvirate, Harriman, of the chamber of commerce. Now we may add to that illustrious list GEORGE HUDDLESTON, of Alabama. [Applause and laughter.] As far as I am concerned, if the gentleman chooses to make his bed with those critics of the administration, he is welcome to them; but I know, and you know, that when the campaign of 1936 is on and Mr. Roosevelt makes this the chief issue of his campaign—and he will make it if this bill is defeated—then I ask that Mr. HUDDLESTON stand out beside his chosen critic, Mr. Hoover, and support Mr. Hoover for President instead of Mr. Roosevelt. [Applause.]

Mr. HUDDLESTON. Will the gentleman yield?

Mr. SAUTHOFF. May I say that the gentleman had 55 minutes yesterday and he would not yield to anyone. I only have 5 minutes, and I refuse to yield.

Mr. HUDDLESTON. But the gentleman has mentioned me. Surely he will yield.

Mr. McFARLANE. Sit down. You would not yield to anybody yesterday.

The regular order was demanded.

Mr. SAUTHOFF. I would gladly yield to anybody, including Mr. HUDDLESTON, but he has a 10 to 1 advantage now. What more does he want? [Applause.] He spoke to you and said that no one would take this foundling to his bosom, but that he would stretch forth his withered arms to accept it. I would say to that foundling that unfortunately it will find a breast that has run dry of the milk of human kindness. This is not a foundling, Mr. Chairman. This is the bastard brat of the Power Trust. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. SAUTHOFF] has expired.

Mr. MAVERICK. Mr. Chairman, yesterday I heard a great many fine speeches on the subject of the Power Trust and with respect to this bill before the House. Eighty per cent of the speakers spoke against the intention and desire of the President and the substantial things we want to accomplish in the Democratic Party, and such persons and organizations as favor attacking fundamental economic problems. The Republicans, in their generosity, gave their time to Democrats who were against the purposes of this bill and friendly to the holding companies. Hence, few of those friendly to the party and President have been heard.

Now, they talk about the "death sentence", which, of course, is only another odious slogan to mislead the public minds, and they say it is a question of whether we are going "to regulate or destroy." Destroy what? They imply the investors, but they mislead. Mr. Chairman, when we had the Revolution in 1776, did we say we were going to "regulate" King George the Third? No. The Tories did, of course, like the Republicans now do. They represent the king—the power king—and are his vassals. They say now they want to "regulate", when they see something is going to be done. They never wanted regulation before—and do not want it now. The truth is, they are for the Power Trust. But to get back to the American Revolution, we said we were going to do away with the rulership of King George the Third. And when we do away with it, we do away with the trust, not the rights of our investors, and like when we put George the Third out, we help the people who own the stocks. When we abolished old George the Third, we did not abolish his subjects, but relieved them from being subjects, and made them better off. That is what we ought to say to these infamous giant holding companies, and the Power Trust. [Applause.] That is what we have before us. I say to them, as was said to King George and all the rest of them, "To hell with the Power Trust. They are against me and I am against them." That is the way I feel about it. [Applause.]

You know, down in Mexico they had a revolution one time, and a great many people were shot. Some were led up against a wall and shot, and before being shot a man wrote on the wall, "It is better to die standing than to live kneeling." I would rather die standing—I do not mean this literally or in a dramatic sense, but politically—with that Power Trust before me than I would kneeling before them. And this is the point. We must stand and fight for our people and not kneel before any special interests. Yes; the question has come whether this Government of the United States is going to be a subsidiary of the holding companies or whether we are going to govern our own country for the people who elected us. That is the decision we face.

Now they say the death-sentence amendment will ruin investors. We know that is not so. It is going to cut out the high salaries, but it is not going to hurt the investments in the companies; the investors will get more money. Our duty is to abolish these companies, as provided in section 11 of the Senate bill. I will not go into detail, as the subject has been and will be well covered by several speakers, but we all know if holding companies turn themselves into investment trusts or are within a single State or within a single economic and geographic area that they can continue. But the proof of the pudding lies in the fact that this is not enough for them—they want to go on forever exploiting the American people.

These "power trusters" and reactionaries quote Thomas Jefferson and Abraham Lincoln and Madison and others. It is the old game—using somebody else's name, or twisting our ancestors around to give a different meaning to their true views. Now, it is well known that the President is for section 11 and the Senate bill—and I am for him, not because he is President of the United States but because he is right. [Applause.] That is not the only reason I am for it; I have sense enough on my own accord to know that we must deal effectually with—and block—the economic power of these organizations. It is a question of whether the Government is stronger than the holding companies or the holding companies stronger than the Government. Our duty is clear, and I, for one, serve notice on them that I am for the "death sentence" of those big salaries and of the racketeers and of the Power Trust. I am for these widows and orphans that have been mentioned, and get sick at power companies crying and bellowing about the widows and orphans. Were they for the widows and orphans when they sold the stock? They were not then, and are not now.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. MAVERICK. I yield.

Mr. COX. Four or five months ago there was a well-defined sentiment in this House favorable to an effective treatment of the holding company evil, as was manifested by the tremendous enthusiasm and approval with which the President's message on the subject was received. What has become of that high resolve?

Mr. MAVERICK. Possibly the lobby that has been working. I hate to think it. This lobby has misinformed at least

many American people. They send in inspired telegrams. Maybe it has some effect. I do not know. I think it is all a question of our duty as Congressmen. There may be thousands—or there may be millions—of Americans who have been misinformed, deluded, bulldozed, and lied to by the Power Trust; they may write us letters and ask us not to pass this bill; but what are we? We Congressmen are supposed to be leaders; we are not supposed to follow views sent on misinformation or the inspiration of the Power Trust. We are supposed to have some brains of our own. Also some courage; and spelled with a "g." We are supposed to be leaders. [Laughter.]

Please note that was solid Republican laughter. Not a Democratic laugh. The Republicans, in their nervous state, spontaneously giggled like unwanted wallflowers. The laugh is self-contempt.

Oh, yes; you Republicans laugh, but you are the ones who are going to be laughed at. You laugh at me, you funny Republicans, you representatives of the interests, but when the truth is known the laughter will be on my side; I will be laughing at you in 1936. [Applause.]

Yes; and I say again, and it is not funny—it is funny for some of you Republicans over here—we are supposed to be leaders of the people. With this one word I close: Do not be bullied by the Power Trust. Let us be leaders and really represent the American people. [Applause.]

Mr. Chairman, now let the tumult and cheering die down. Let me bring up just one phase of this legislation. Listen a while. I call your attention to the fact that the Consumers Power Co., operating as a subsidiary of the Commonwealth & Southern Corporation, has just recently sold a banking syndicate $18,594,000 at par value of its first lien and unified mortgage bonds. That this syndicate, through advertisements placed in the New York Times and the Wall Street Journal of the 27th instant, is presenting this issue to the public through the prospectus as authorized by the S. E. C. In view of the statements made by the opponents of the Public Utility Act of 1935, as to the injurious and destructive effects of this bill on public utilities, the question arises, How can the Consumers Power Co. dare offer this amount of bonds for sale to the public?

Mr. Wilke, president of the Commonwealth & Southern Corporation, at the hearings on the bill before the House and Senate committees, referred to the fact that the Consumers Power Co. would have an issue of $16,000,000 of bonds, par value and maturing January 1, 1936, and was concerned as to how it would be possible for this company to finance this issue in view of the Wheeler-Rayburn bill. The fact that this company has sold to a banking syndicate over $18,000,000 of bonds to take up or refund the $16,000,000 issue referred to by Mr. Wilke, is a fact that should outweigh all the dire protests made by Mr. Wilke and other opponents of the bill. The fact of an actual sale of this amount of securities at 3¾-percent interest is absolutely contrary to the misleading statements made by the opponents of the bill, and the inconsistency of Mr. Wilke and the Commonwealth & Southern Corporation, requesting the security and stock holders to protest against the passage of this bill, and to then be a party to and allow the subsidiary these bonds is apparent.

This, of course, is just one example of hundreds of phases of the "big game", but it shows that the horrendous yells of the Power Trust are for the purpose of scaring people. Here is the ad, and which is another reason we ought to pass the bill with good, strong teeth to protect the American people:

This advertisement appears as a matter of record only and is under no circumstances to be construed as an offering of these securities for sale, or as an offer to buy, or as a solicitation of an offer to buy, any of such securities. The offering is made only by the prospectus. New issue. $18,594,000. Consumers Power Co. (the Michigan operating unit of the Commonwealth & Southern system). First lien and unifying mortgage bonds, 3¾-percent series of 1935, due 1965, to be designated "First-mortgage bonds" on or about January 1, 1936, provision having been made to make the lien of the mortgage a first lien upon substantially all of the property of the company. To be dated May 1, 1935, and to be due May 1, 1965. Price 100 percent and accrued interest. Copies of the prospectus may be obtained from any of the undersigned: Bonbright & Co., Inc.; the First Boston Corporation; Brown Harriman & Co., Inc.; E. W. Clark & Co.; Coffin & Burr, Inc.

Mr. RANKIN. Mr. Chairman, I ask unanimous consent that all Members who speak on this bill may have permission to revise and extend their remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. KNUTE HILL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, yesterday we listened to a masterful address. No one will question that, but in that address was made a statement that I challenge today. That statement was made when the gentleman from Alabama [Mr. HUDDLESTON] said that he never was a liberal. I want him to go back and read his speeches in 1917. Possibly he has destroyed those speeches. I will lend him my copy of them if he wants it, that he may read them; and I would commend these speeches to him rather than the propaganda of the Power Trust.

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. KNUTE HILL. I cannot yield; I have only 5 minutes.

Mr. Chairman, I ask unanimous consent that I may extend my remarks in the RECORD and include therein a speech by the gentleman from Alabama [Mr. HUDDLESTON], appearing on page 104 of the CONGRESSIONAL RECORD of January 4, 1917, the Sixty-fourth Congress.

Mr. ALLEN. Mr. Chairman, I object.

Mr. KNUTE HILL. All right, we will read it, then; we will let you know just how he stood then.

In 1917 I sat at the feet of George Huddleston, Norris, and La Follette. Senator La Follette died fighting for the common people. [Applause.] Senator GEORGE NORRIS is fighting in the Senate today. [Applause.]

Mr. Chairman, I am quoting from Mr. HUDDLESTON now:

Mr. Speaker, under the subject of cooperation the United States may be said to be one of the most conservative among the civilized countries. We seem to be mortally afraid of public or community ownership, even of natural monopolies and public utilities. By a singular coincidence this fear is more wide-spread among our big financial interests—those who benefit most by private ownership of such things.

So lively is the fear of the classes financially interested in public utilities that they maintain a periodical devoted to propaganda against public ownership of them and to arguments against community cooperation and to recounting instances of failure.

If that was true in 1917, how much more is it true now?

Mr. HUDDLESTON. Will the gentleman yield to me now?

Mr. KNUTE HILL. No.

No city may even undertake to furnish its own water supply but that an active fight is made against the plan, every effort made to discredit it, and the damning epithet that "it is socialistic" is leveled at it.

The opposition to community ownership and development of hydroelectric power is especially active and determined. The great Water Power Trust, with its powerful affiliated interests, seem determined to wrest the power sites, our last remaining great natural resource, from the hands of the people. They have enlisted support upon various specious pleas from one end of our country to the other and seem thoroughly determined to secure for their own exclusive enjoyment the benefits of the harnessing of our rivers in modern development.

Mr. HUDDLESTON. Will not the gentleman in all fairness yield to me?

Mr. KNUTE HILL. The gentleman from Alabama did not yield to anyone yesterday.

Mr. RANKIN. Mr. Chairman, I make the point of order that the gentleman from Alabama [Mr. HUDDLESTON] is not in order.

Mr. KNUTE HILL. This evidently gets under the skin of the gentleman from Alabama.

Mr. HUDDLESTON. I want to tell the gentleman from Washington that I stand by every word I said then, and I believe now what I said then, and I stand by it now.

The regular order was demanded.

Mr. KNUTE HILL. "The opposition to community ownership and development of hydroelectric power is especially active and determined."

Mr. HOFFMAN. Mr. Chairman, I make the point of order that the gentleman from Washington cannot read from the RECORD.

The CHAIRMAN. The gentleman from Michigan [Mr. HOFFMAN] makes the point of order that the gentleman from Washington [Mr. KNUTE HILL] is reading from the RECORD. It has been held in past rulings that a Member may not even be permitted to read his own speech. The Chair has the privilege of presenting the matter to the Committee of the Whole:

Shall the gentleman from Washington be permitted to read his speech or read from the RECORD?

So many as are in favor of the motion will say "aye", those opposed "no."

The "ayes" have it, and the gentleman from Washington [Mr. KNUTE HILL] will proceed.

Mr. CLAIBORNE. Mr. Chairman, I ask for a division.

The CHAIRMAN. The demand for a division comes too late. The gentleman from Washington will proceed.

Mr. KNUTE HILL. You Republicans were willing to listen to the gentleman from Alabama [Mr. HUDDLESTON] yesterday for 55 minutes when he said he was a Thomas Jefferson Democrat. What kind of a Thomas Jefferson Democrat? An Al Smith-Thomas Jefferson Democrat, a Hoover-Thomas Jefferson Democrat, a reactionary Republican Thomas Jefferson Democrat? But now when I read from a speech he made when he was a real, ideal Thomas Jefferson Democrat you do not want to listen. [Applause.]

I quote further from the speech made by the gentleman from Alabama:

> In every civilized country community cooperation in the development of water power is far advanced—in every country except our own.

That was in 1917. It is far more true in 1935.

> Here we continue to rely upon the good old method of turning over the monopoly of diverting water from our streams to private interests, who in turn use it as a profitable means of exploitation.

[Applause.]

This is sufficient to indicate how liberal on this very question the gentleman from Alabama was 20 years ago when he first came to Congress. It is a deplorable fact that too many of our liberals of yesterday are the conservatives of today.

When shall we follow this Dr. Jekyl and Mr. Hyde of the Democratic Party? When is he a real Thomas Jefferson Democrat? Is it in 1917, when he is pleading the cause of the common people, or is it in 1935, when he is defending the uncontrollable Power Trust? Is it in 1917, when in clarion tones he is voicing the ideals and principles of Thomas Jefferson, or is it in 1935, when with faint praise he is condoning the sins of the public utilities? Is it in 1917, when he is a real, sincere Thomas Jefferson Democrat, or is it in 1935, when in the company of reactionary Democrats as well as reactionary Republicans he is denouncing the policies and principles of our great Thomas Jefferson President, Franklin D. Roosevelt?

Yesterday the gentleman from Alabama denounced in no uncertain terms a newspaper chain for its remarks about him. It is the only newspaper bureau that has ever had a progressive editorial and has been fair to the progressive cause. Today the gentleman from Alabama appears in headlines on the front page of the largest and most unscrupulous chain newspapers in the United States—the Hearst papers. They are chain papers in fact as well as name. They are ever supporting the special interests that are forging the shackles on helpless men, women, and children in this country. This must have been of considerable comfort and elation to the gentleman from Alabama, and I can hear him softly murmur from the Twenty-third Psalm, "My cup runneth over." He is welcome to all the glory he can get from the Hearst press.

Yesterday a large part of the House Membership rose and applauded the gentleman from Alabama when he concluded his remarks. I could not. I sat with bowed head, ashamed and grievously disappointed. The great liberal—yes, the radical of 1917—and I ask Members to judge of this by his own speeches of 20 years ago—GEORGE HUDDLESTON, of the United States, was closing his great career as the conservative gentleman from Birmingham, Ala. He has sung his swan song. And how pathetic! One of my three heroic champions of the common people had succumbed to the subtle voice of special interests and was using his great talents and wide influence to oppose and denounce the most progressive President we have had in decades, Franklin D. Roosevelt, in his noble efforts to establish real Americanism. [Applause.]

Mr. HUDDLESTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have been a Member of this House now for something over 20 years. In that time I have made many speeches on the floor. They are not often quoted against me. But let me say here and now, in order to save trouble for other gentlemen who may be of like mind with the chivalrous, courteous, and gentlemanly gentleman from Washington [Mr. KNUTE HILL], that of all that I have said in the House from the day I took my seat down until today I have not a single word to take back. I stand upon every syllable that I have ever spoken. [Applause.]

Men have called me a liberal, and I was glad to be called that. But always I have called myself a "Democrat" [applause], an old-fashioned, southern, Jeffersonian Democrat. [Applause.] I claimed that when first I came to the House. I claim that today. It is not my fault if, in the light of the actions and words of men like the gentleman from Washington [Mr. KNUTE HILL] and the very courteous, polite, and gentlemanly gentleman from Wisconsin [Mr. SAUTHOFF], principles which at one time were considered liberal should now be considered as conservative. My principles and myself remain unchanged—it is the definition of "liberalism" which has been changed. It is not my fault that I am unable to accompany these courteous gentlemen to the extremes of radicalism and that variety of "liberalism"—spurious and false liberalism—the "liberalism" of Mussolini and of Stalin and of Hitler, which they support upon the floor of the House. [Applause.]

I am now, and so long as I may remain in the House will be, a Democrat. I cannot turn Communist merely to please the gentleman from Washington [Mr. KNUTE HILL]. I cannot turn to the kind of radicalism and half-baked theory which he holds and miscalls "progressivism" merely to please the gentleman from Wisconsin [Mr. SAUTHOFF].

Mr. KNUTE HILL. How about the President, Mr. HUDDLESTON?

Mr. HUDDLESTON. The gentleman was so courteous and so kind and gentlemanly that I will yield to him.

Mr. KNUTE HILL. I can stand your ridicule, but how about the President? How do you stand on the President?

Mr. HUDDLESTON. So long as the President stands by the doctrines of the Democratic Party of Thomas Jefferson, so long as he stands upon the Democratic platform of 1932, I will go with him to the end. [Applause.]

Mr. KNUTE HILL. How about the election of 1934?

Mr. HUDDLESTON. But if the President or any other man, of whatever rank, eminence, or degree, shall depart from the fundamental principles of Americanism, I will not go with him.

I made my argument on yesterday. I had no intention of again taking the floor. I am only a humble Member here, trying to do my duty as I see it. May I not be spared the further delicate, kindly, chivalrous, and gentlemanly attentions from my associates in the House? [Laughter and applause.]

Mr. CITRON. Mr. Chairman, the subject before us today is important. It resolves itself into a very simple question, in my opinion, What are we going to do to protect the people of this country, including investors and consumers, from the evils and abuses that are characteristic of the large public utility holding companies and which endanger and threaten our Democratic institutions? Under this system millions of people have invested their money in all kinds of fake and fraudulent securities, and in other securities that are watered so much that many investors will never get their

money back. So many holding companies have been pyramided, one on top of the other, that millions of stockholders will never receive a penny of interest unless the electricity and gas rates are raised from 2 to 1,000 times as much as they are now.

I am sorry to see such a condition. I want to prevent the recurrence of this situation, and I want to protect these investors from being cleaned out altogether, which they surely will be if we do not do anything to stop the continuance of these abuses.

CHAMBER OF COMMERCE ADMITS ABUSES

Everyone seems to admit that such abuses exist. The United States Chamber of Commerce, through its president, Mr. Harper Sibley, admits the necessity for Federal regulation in a circular letter addressed to Members of Congress under date of June 24 of this year. Commenting on this, under date of June 27, the New York Times states the following:

At odds with utility holding company executives for the first time in its history, the Chamber of Commerce of the United States came out today in favor of the utility control bill now pending before the House. * * * The chamber's view, expressed to House Members in a communication over the signature of Harper Sibley, president, was a repudiation of the position of the committee of public-utility executives. * * *

Manufacturers, bankers, progressive as also conservative Members of Congress, and even some utility executives themselves admit that some form of regulation is necessary to protect the people.

On page 20 of this morning's—June 29—New York Times we read the following:

BOND "FRAUD" LAID TO ASSOCIATED GAS—UTILITY ACCUSED OF GIVING AN UNJUSTIFIED GUARANTY AND FORCING EMPLOYEES TO BUY—HOPSON UNIT UNDER FIRE—PAID OFFICERS IN SYSTEM AND BILLED COMPANIES AT RATE 250 PERCENT HIGHER, MACK HEARS

An investment scheme of the Associated Gas system was denounced yesterday as a "swindle" and a "crime" at a public hearing held yesterday by the Mack utility investigating committee.

The revelation was only one of several heard by the committee yesterday reflecting on the tactics of the Associated system.

PROFITS TO HOPSON CONCERN

The testimony showed that in 1931 Harry C. Hopson, dominant figure in the system, in response to a request that he reassure the investing public that his private companies were not "milking" the system, wrote a letter declaring that only "a few small payments" had been made to companies not wholly owned by the Associated.

PUBLIC-UTILITY OFFICERS ADMIT ABUSES

I hope every Member of the House is familiar with an article by Mr. Samuel Ferguson, president of the Hartford Electric Light Co., and a capable and highly distinguished executive, in the Electric World for January 21, 1933, entitled "Public Putting Blame Where It Belongs"; in that article he said:

The most striking feature pertaining to the public-utility industry during the past year has been the terribly expensive lesson which has taught the public to understand that a holding company is something very different from a public-utility company.

Heretofore in the public minds the two have been practically synonymous, and as a consequence the sins of speculation, wild finance, and get-rich-quick schemes, to which abuses the holding company set-up has lent itself all too readily, have been attributed to the operating utility which renders the daily service. Today criticism is to a large extent being directed more nearly toward the perpetrators of abuses, and the operating utility is being judged as it should be—upon its specific local performance.

Mr. Ferguson recently reiterated these sentiments in a public debate in Connecticut, since reported in the Hartford Daily Courant and in the New London Day of April 7, 1934, in these words:

* * * I join whole-heartedly in denouncing many of the acts of financial pirates who abused their control of utility securities to further what was straight robbery.

In that debate he referred to another portion of his article in the Electric World in these words:

Referring to the abuses which were being perpetrated in the acquisition by holding companies of the stocks of operating companies at fabulously high prices, I said: "When a company is sold for many millions of dollars more than has been paid into the treasury for the purpose of providing facilities for service, we must realize the public is bound to sit up and take notice. What the public sees is that only a comparatively small fraction of the purchase price is represented by what the company receives for its stock at the time of issue and that the new owners must of necessity earn a return on the whole of the price paid.

Consequently, we must shape our course in such matters with a clear knowledge that the public has an interest in the extent of the capitalization of our companies, and that if our liberty of action in this respect is abused, as it is today being abused in some cases, there will be an eventual day of reckoning, and when that day comes it may not be possible to separate the sheep from the goats.

FUNDAMENTAL CAUSE OF PUBLIC HOLDING COMPANY ABUSE

Mr. Chairman, everyone recognizes that the abuses are caused by the complexity and the centralized control of these large holding companies. When a small clique on top of one of these pyramided structures has an investment of only $23,000 and controls over a billion dollars' worth of stock in holding companies, the evidence is clear of overcentralization. Most of these holding companies are not operating companies, and the legislation formulated by Congress is aimed at the holding companies and will hardly affect most local operating companies except to improve their condition and to increase the value of their stocks and bonds.

RORABACK OR ROOSEVELT

Mr. Chairman, I know something about this question from my experience in the Legislature of Connecticut. In 1927 I introduced a measure to study our utility situation in that State and to find out if we had any water power left. The Republican-controlled legislature, dictated to by Mr. J. Henry Roraback, who for many years has been the national committeeman and State chairman of the Republican Party in that State, defeated this measure.

Mr. Roraback is a personally estimable gentleman, whose abilities I respect. But I object to his theory and system of government. He has been for many years the head of the Connecticut Light & Power Co., the Connecticut Electric Service Co., and the Connecticut Electric Syndicate. In addition, he controls many other public utilities in that State, and of late years he has been connected with the United Gas Improvement Co. of Pennsylvania. Mr. Roraback guided the course of the Republican legislature not only in utility legislation but in many other matters. He is the head and dictator of the Republican organization in Connecticut; so much so that when former Congressman Tilson desired to run for the United States Senate and subsequently for Vice President on the Republican ticket, Mr. Roraback was able to prevent his nomination in both instances. Mr. Roraback is high in the councils of the National Republican Party and was closely affiliated with Mr. Hoover during the latter's administration. Mr. Roraback is prominently mentioned for vice chairman of the Republican National Committee.

In 1927 this same Connecticut Legislature defeated certain proposals to improve regulatory laws affecting public utilities and to give the public utilities commission much-needed supervisory authority. Since 1927, at every session of the legislature, similar proposals were defeated. A Republican-controlled legislature, under the direction of Mr. Roraback, head of the Republican Party in Connecticut and head of the largest and most influential utility group in my State, refused to permit the passage of such legislation until this year; when, lo and behold, it became evident that Congress was going to do something about holding companies such as the United Gas Improvement Co., with which Mr. Roraback is connected. The Connecticut Legislature then passed an act granting more authority to its utility commission and enacting the suggestions turned down before this at every session since 1927.

The United Gas Improvement Co. is a holding company controlling a great many of the utilities and operating companies in the State of Connecticut. In former times, in response to the suggestion to improve our regulatory statutes in the State of Connecticut, the Republicans stated that this could not be done in the State of Connecticut because it was a matter of interstate commerce and that it was the function of Congress to handle such a matter, hence the defeat of all such proposals.

The following quotation from an article in the Nation of May 2, 1934, shows further the political utility tie-up in the State of Connecticut:

The State of Connecticut is owned by the Connecticut Electric Service Co. This is not a rhetorical statement. It is a practical truth. * * * Furthermore, the company, through the political machine built up and bossed by J. Henry Roraback, president of the company, controls both houses of the general assembly, dictates to the Governor, and manipulates the other executive and administrative officials as it sees fit. * * * Mr. Roraback was elected chairman of the Republican State central committee in Connecticut in 1912. He did not come into control of the State until 1915. * * * But from 1915, when Mr. Roraback came into power by defeating the Democrats, until the present time the commission (that is, the Public Utilities Commission of the State of Connecticut) has steadily taken the position that it cannot move to regulate the public-service corporations until complaints are made by the patrons of the companies or by the State or by the companies themselves. The corporations did not need to bring rate cases as they could fix any rates they chose. When they filed the rates with the commission, the rates were in effect. The commission did not question them in any way or regulate them in any respect. The customers of the companies had to pay whatever the companies charged.

The State did not start rate cases because up to 1931 all the Governors were Republican. They were "made" by Mr. Roraback and did nothing to injure or antagonize him through the public utilities commission.

The same Mr. Roraback received sometime about the year 1913 the sum of $15,000 from the Northern Connecticut Securities Co. "for legislative services." He also received $5,000 per year from the United Gas Improvement Co., an item which he could not explain at the time of the hearings by the Federal Trade Commission. (See vol. 55, Doc. 92, "Letters from the Chairman of the Federal Trade Commission.")

And this same report (p. 219) shows that the secretary of the Republican State committee received various yearly sums for the dissemination of public-utility propaganda in the State of Connecticut. Is it any wonder that under such circumstances as exist in the State it is impossible to secure public-utility regulatory legislation?

The State of Connecticut is merely a typical example of conditions existing in every other State, and the tentacles of this powerful political-public-utility octopus reach into Washington from all directions. For example, one of the leaders of the Fairfield County, Conn., Republican organization, which is the backbone of the Roraback machine in Connecticut, is our esteemed and delightful colleague, the Honorable SCHUYLER MERRITT, a member of the Interstate and Foreign Commerce Committee. Mr. MERRITT is an officer and director of the Stamford Electric Co., closely affiliated with the Connecticut Power Co., of which Mr. Samuel Ferguson, of Hartford, Conn., is one of the heads. Mr. Ferguson is also head of the Hartford Electric Light Co., which has certain business relations with the Connecticut Light & Power Co. (Mr. J. Henry Roraback's outfit) through the Connecticut Valley Power Exchange.

Shall I, sent here by the people of the State of Connecticut, permit these abuses to go unchallenged, and go back to my State and tell them that I listened to the voice of Mr. Roraback, or shall I agree with President Roosevelt and millions of fellow citizens that we must enact legislation to meet the situation that confronts us?

My conscience and experience tell me I have a duty to perform. I, therefore, agree with President Roosevelt that these public-utility holding companies should and will be changed into investment trusts by proper legislation, thereby giving an opportunity to millions of investors in holding-company bonds and stocks to protect themselves against the fraudulent practices of some of the manipulators on top. If we accept the suggestion of the President, then the investor has a chance of a fair return on his investment, when the public-utility holding company has ceased to exercise any controlling influence over the management and policies of any electric or gas operating company and has become simply a passive investment company holding its assets and the income therefrom for the benefit of its security holders.

Therefore let me say that I take off my hat to nobody when it comes to the question of protecting the investors in any kind of stock, whether they be bondholders, preferred-share holders, or common-stock holders, and for this reason I am whole-heartedly with the President on this question. [Applause.]

PUBLIC UTILITIES IN CONNECTICUT

A study of the reports of the Federal Trade Commission reveals much of the history of the utilities in the State of Connecticut and their domination of the political life of that State. But I again reiterate that this is merely symptomatic of every State.

THE CONNECTICUT ELECTRIC SYNDICATE

The following report is a summary in the report of the Federal Trade Commission, page 703, volume 54, Senate Document 92, Seventieth Congress, "Letters from the Chairman of the Federal Trade Commission":

Summary

1. Connecticut Electric Syndicate was organized November 1, 1916, to consolidate certain public-utility properties within the State of Connecticut.

2. The principal holder of Syndicate participation certificates was the United Gas Improvement Co., which held $8,238,600 face value out of $10,300,000 face value issued.

3. The $10,300,000 participation certificates of Connecticut Electric Syndicate were issued, $5,284,859.60 for cash and $5,015,040.40 for capital stocks which cost the United Gas Improvement Co. $4,132,299.53.

4. The Syndicate acquired capital stock of the Rocky River Power Co. through W. H. Marshall acting for the United Gas Improvement Co. The Syndicate surrendered to the Rocky River Power Co., whose name was changed to the Connecticut Light & Power Co., its investment in the stocks the Syndicate had acquired from the United Gas Improvement Co. at a stated cost of $5,284,576.04. The Syndicate received $6,650,000 par value of the capital stock of the Connecticut Light & Power Co.

5. J. Henry Roraback, the organizer and principal owner of the Rocky River Power Co., received $180,000 participation certificates for himself and Edgar L. Ropkins through the United Gas Improvement Co. in lieu of certain stock of the Connecticut Light & Power Co. in part consideration for his interests in the Rocky River Power Co.

6. The Syndicate acquired and at all times held all of the issued and outstanding common stock of its principal subsidiary, the Connecticut Light & Power Co.

7. Common stocks of other Connecticut companies were acquired for cash, i. e., the New Milford Electric Light Co., the Woodbury Electric Co., the Meriden Electric Light Co., the Meriden Gas Light Co., the Westport Electric Light Co., and the Bristol & Plainville Electric Co.

8. On December 16, 1925, the Syndicate acquired 515,000 shares, out of 625,000 shares, no par value, of the Connecticut Electric Service Co. In payment for this stock the Syndicate transferred all of its assets, except the stock of Bristol & Plainville Electric Co., to the Service Co. These assets cost the Syndicate $11,050,-237.44, which were taken onto the books of the Service Co. together with 30,000 shares of the Eastern Connecticut Power Co. as $24,450,000, or an excess book cost to the Service Co. over costs to the Syndicate and the stockholders of the Eastern Connecticut Power Co. of at least $10,400,000. The stock of the Bristol & Plainville Electric Co., which had cost the Syndicate $2,828,687.50 in cash, was sold on December 30, 1925, to the Service Co. for $2,929,147.08.

9. On February 19, 1929, the Syndicate terminated, and through the Connecticut Electric Securities, which was organized for the purpose, merged with and into the Connecticut Electric Service Co.

10. Among cash receipts of the Syndicate there was $49,926.45 interest on loans made by it to its subsidiaries, and $603,285.49 on loans to an affiliated company. There was paid out by the Syndicate as interest $795,989.05 to subsidiary and affiliated companies for borrowed money.

[124] 11. Of the cash receipts in 1923, $101,775.31 was received as income from J. A. P. Crisfield Co. as interest on unused funds in the bank. This amount should have been credited to construction accounts. In 1924, a similar item of $24,089.65 was received.

12. On February 19, 1929, the date the Syndicate terminated, the Syndicate had one subsidiary, i. e., the Connecticut Electric Service Co.

13. A small profit of $8,634 was made in dealing in the preferred stock of the Connecticut Light & Power Co., which the Syndicate purchased through brokers and sold to employees of the Connecticut Light & Power Co.

14. During the activity of the Syndicate, August 1917 to February 1929, the Syndicate earned and distributed to its stockholders $5,071,408.40 in dividends.

15. The average annual income, $504,607.15, was an average annual return of 5.49 percent on the average annual investment (including surplus) of $9,198,654. Eliminating excess costs of $905,026.51 from the investment in the Syndicate the average annual return was 6.17 percent per year, on average annual investment at cost of $8,178,871.

THE CONNECTICUT ELECTRIC SERVICE CO.

This report is from page 751 of the same volume.

Summary

1. The Connecticut Electric Service Co. was organized in 1925, and acquired the assets of the Connecticut Electric Syndicate, which received 82.4 percent of the capital stock of the Service Co.

2. The charter rights of the Service Co. are "broad enough to cover generation and distribution of electric current and gas over the entire State of Connecticut, the ownership of the capital stocks of companies engaged in a similar business, and the connection by transmission lines of the facilities of such companies."

3. The Service Co. is purely a holding company and engages only in the acquisition, holding, and disposition of capital stocks of other companies.

4. The Service Co. causes the properties of the companies whose stocks it acquires to be merged into its principal subsidiary, the Connecticut Light & Power Co.

5. Stocks of Northern Connecticut Power Co. and the Waterbury Gas Light Co. which were acquired by the Connecticut Electric Service Co. in exchange for Service Co. common stock were taken onto the Service Co.'s books at market values as of the date of acquisition. These values were in excess of the values shown on the books of the Northern Connecticut Power Co. by $1,524,000 and on the books of the Waterbury Gas Light Co. by $4,444,000.

6. On December 31, 1931, the stocks of Northern Connecticut Power Co. were held by the Service Co., but the properties of the Waterbury Gas Light Co. had been merged into the Connecticut Light & Power Co. at book values as reflected in the books of the Waterbury company. This value was over 50 percent less than the stated costs to the Service Co. of the Waterbury stocks.

7. On December 31, 1931, the Service Co. books showed holdings in common stocks at the following values:

The Connecticut Light & Power Co. (411,400 shares)	$54,460,507.71
The Rockville-Willimantic Lighting Co. (34,180 shares)	1,875,650.00
Ousatonic Water Power Co. (5,000 shares)	823,086.53
Northern Connecticut Power Co. (85,000 shares)	4,324,238.76
West Gloucester Light & Power Co. (25 shares)	2,500.00
Total	61,485,983.30

The foregoing represented all of the issued common stock of the respective companies. Excess book values in the foregoing, leaving out of consideration costs over book values of the Waterbury Gas Light Co., were $11,118,649.

8. The Connecticut Electric Service Co. system on December 31, 1930, covered about three-fourths of the State of Connecticut, controlled 37.55 percent of the fixed capital in gas and electric properties in the State, generated 35.96 percent of the electricity, and served 30 percent of the population of the State with electricity.

9. On December 31, 1930, the United Gas Improvement Co. owned 59.79 percent of the capital stock of the Connecticut Electric Service Co.

10. Four of the fourteen directors of the Service Co. represented the United Gas Improvement Co.

11. The Service Co. operated as freely as an independent company.

12. A small amount of electric energy was purchased by the system at the Massachusetts State line and Rhode Island State line.

13. The Service Co. made cash advances to its subsidiaries from time to time at prevailing interest rates for corporate purposes, such as redemption of preferred stocks, bonds, etc.

14. The 1,147,860 shares of common stock outstanding on December 31, 1931, had been issued at various stated values as follows:

	Per share
75 shares	$7.33⅓
89,970 shares	62.50
432,890 shares	75.00
550,000 shares	44.45

Part of the 432,890 shares stated above as having been issued at $75 was actually issued at $140 and part at $124.76. The amounts in excess of $75 were credited to paid-in surplus.

15. The $5,625,000 of preferred stock issued in 1925 had all been redeemed by the end of 1930; 89,970 shares were converted at $62.50 per share into common stock, and 30 shares were redeemed at $68 per share.

16. A consolidated balance sheet as of December 31, 1931, shows the net worth applicable to majority interests of the Connecticut Electric Service Co. to have been $84,689,237, in which common-stock holders had an equity of $70,866,237, or $61.74 per share.

THE CONNECTICUT LIGHT & POWER CO.

This is from pages 806 and 807 of the same volume.

Summary

1. The Connecticut Light & Power Co. is a Connecticut corporation whose common stock was 100 percent owned by the Connecticut Electric Service Co., a subsidiary holding company of the United Gas Improvement Co., which owned 59 percent of the common stock of the Service Co.

2. Practices in use prior to the organization of the Service Co. of the holding company obtaining capital stocks of the Connecticut Light & Power Co. in amounts expressed in par value in excess of stated values of properties sold to the operating company were discontinued shortly after the Service Co. came into being.

3. The credit of the company through its relations with the Connecticut Electric Service Co. and the United Gas Improvement Co. was such that funds needed for immediate purposes were borrowed at favorable rates.

4. The fixed-capital account on December 31, 1931, was $85,681,537.02, which included excess costs over recorded book values of $8,657,448.76, or 10.10 percent of the total. Actual values acquired, however, may have warranted the cost of $85,681,537.02.

5. Excess costs to the Connecticut Light & Power Co., while in fact indeterminable, may on one basis be said to have been a negative amount of $741,011.21. On another basis, probably as accurate as the first basis, such costs may have been in excess of prior costs by $925,488.79.

6. Appraisals of the physical properties by Day & Zimmerman, Inc., an affiliated engineering company, based on reproduction costs new, was $55,478,387, or $5,222,673 less than recorded costs. Based on reproduction costs less observed depreciation, the appraised value was $51,260,550, or $8,384,893.86 less than recorded costs. Day & Zimmerman, Inc., did not make a valuation of certain undeveloped power sites. Had such been done, the difference between book values and appraised values would have been materially lessened, if not obliterated.

7. The retirement reserve on December 31, 1931, appeared inadequate. Officials contend that the reserve, being accumulated in accordance with the requirements of the bond indenture and within the provisions of the uniform classification of accounts prescribed by the Public Utilities Commission of Connecticut—i. e., "with due regard to the earnings of the company"—meets the immediate needs of the company, and that a continuation of the present policy will result in the long run in the accumulation of a reserve adequate for all practicable purposes.

8. Claims made for recovery of overpayment of Federal income taxes because of insufficient deduction for retirement expenses have in large part been allowed by the Internal Revenue Department.

9. Intercompany cash loans were made at interest rates on a basis comparable to rates obtainable from banks. Since September 1929 the general policy adopted is that the holding company shall receive no cash loans from the operating companies.

10. Discounts and expenses incurred on bond issues have consistently been written off to profit and loss. Commissions paid on preferred stocks were capitalized.

11. Retirement reserve balance of $3,326,470.51 as of December 31, 1931, had been reduced to that amount by $892,921.92 because of maintenance charges in excess of 10 percent of gross income and by $2,383,514.14 because of the replacements and the abandonment of property.

12. Except for the years 1917, 1918, and 1921, dividends were regularly paid on common stock.

13. The rate of return on investment has not been excessive. In some years it appears to have been less than a normal or "fair return."

14. The company served 71 towns in Connecticut with an aggregate population of 724,549.

The company served electricity to 113,336 customers and gas to 31,867 customers.

15. The company had a total generating capacity of 193,725 kilovolt-amperes, and in 1930 generated 426,979,949 kilowatt-hours.

16. Generating costs per kilowatt-hour varied from 0.48 mill in 1927 to 1.11 mills in 1926 for hydroelectric power and from 5.46 mills in 1928 to 5.54 mills in 1926 for steam plants.

17. The company purchased energy from several sources in 1930 at prices per kilowatt-hour ranging from 2.85 mills to 1.4 cents.

18. The company sold energy to other electric companies in 1930 at an average price per kilowatt-hour of 1.18 cents; to railroad corporations at 1.26 cents; to municipally owned plants ranging from 1 cent to 1.3 cents, except in two instances, where the amount of energy sold was of such an amount as to make the lower prices unprofitable.

19. Exchanges of power were made with the Hartford Electric Co. through an oral pool agreement by which the company acquired more electricity than it sold at a net cost of 0.95 mill.

20. In 1930 domestic customers provided 85.4 percent of the total customers, used 11.17 percent of the energy sold, and supplied 31.52 percent of the revenue.

Commercial customers provided 12.61 percent of the total customers, used 6.41 percent of the energy sold, and supplied 17.08 percent of the revenue.

Power customers provided 1.93 percent of the total customers, used 44.25 percent of the energy sold, and provided 32.64 percent of the revenue.

Other customers provided six one-hundredths of the total customers, used 38.17 percent of the energy sold, and provided 18.76 percent of the revenue.

21. Average rates for service for kilowatt-hour ranged from 1.21 cents to 6.96 cents.

22. Total expenses amount to 1.3 cents per kilowatt-hour sold, of which all taxes amounted to 1.9 mills, or 14.34 percent of total expenses. Of that 14.34 percent Federal income taxes amounted to 6.39 percent. All taxes comprised 16.27 percent of net operating profits, of which 5.81 percent applied to local taxes.

23. The company discourages uneconomic extensions in rural districts and does not require contributions of funds to build extensions when made.

THE NORTHERN CONNECTICUT POWER CO.

This is from Volume 58, Document 92, pages 60 to 63, of the Federal Trade Commission:

Summary

1. The Northern Connecticut Power Co. was incorporated June 21, 1905, under a special act of the General Assembly of the State of Connecticut.

From the date of its incorporation to the latter part of 1925 the company acquired no property and had no activities other than those necessary to maintain its corporate existence.

In November 1925 stock control of the company passed to the Northern Securities Co., and in 1926 the stock of the latter company came under the control of a syndicate headed by J. G. White & Co., Inc., and E. H. Rollins & Sons.

This syndicate also held substantial interests in other Connecticut corporations, and on January 29, 1926, caused an agreement of merger and consolidation to be executed between the following companies:

The Northern Connecticut Power Co.
The Connecticut River Co.
The Northern Connecticut Light & Power Co.
The Thompsonville Water Co.
The Stafford Springs Aqueduct Co.
The Somers Electric Co.

The merger and consolidation became effective on March 31, 1926, the resultant corporation being the Northern Connecticut Power Co.

2. The recorded book value of the assets less the liabilities acquired was $1,791,186.41, for which 24,970 shares of no par value common stock and 10,000 shares of no par value preferred stock with a stated value of $1,499,550 and $1,100,000 face value of mortgage bonds at 91 percent of face value, or $1,001,000, were issued to the syndicate plus $5,041.75 accrued interest on the bonds. The aggregate value of stocks, bonds, and accrued interest therefore was $2,505,591.75, or $714,405.34 greater than the net book value acquired. This was an increase over ledger costs of 28.51 percent.

3. The owners of the Connecticut River Co. and the Northern Connecticut Light & Power Co., 20 to 30 years ago, apparently caused the fixed capital accounts to be written up over actual cost to an aggregate amount of $918,647, but they realized these write-ups in cash in 1925, when they sold their holdings to the syndicate.

On March 31, 1926, the date of the merger, fixed capital was increased by $714,405, being the excess of par value of securities issued over book value of all assets acquired less liabilities assumed.

In addition to these amounts there was capitalized by the Northern Connecticut Light & Power Co., from 1909 to 1918, an amount of $20,125, of which it is possible that $19,125 was improperly capitalized.

These three items indicate that a number of years prior to these properties being acquired by either J. G. White & Co., Inc., and its associates on January 25, 1926, or the Connecticut Electric Service Co., on July 1, 1929, the fixed capital accounts were recorded at values $1,652,177 in excess of probably original costs. This amount of estimated excess was, however, paid for in cash by J. G. White & Co., Inc., and its associates, and subsequently purchased from them by the Connecticut Electric Service Co.

4. The cash investment by the syndicate as of March 31, 1926, in the several companies which formed the merger was $3,106,423.70.

5. The syndicate, during 1926, sold the preferred stock and bonds of the Northern Connecticut Power Co. to the public and other brokers for a net cash consideration of $3,014,505.51, leaving in its hands the 24,970 shares of common stock, no par value, of the Northern Connecticut Power Co. This common stock may be said to have cost the syndicate $91,918.19.

6. On July 1, 1929, the Connecticut Electric Service Co. acquired all of the common stock of the Northern Connecticut Power Co. by issuing 25,000 shares of its own common stock in exchange for the 25,000 shares of no par value common stock of the Northern Connecticut Power Co. from the syndicate headed by J. G. White & Co., Inc. This was an arm's-length transaction—this syndicate being strangers to the Connecticut Electric Service Co. The stated value of the 25,000 shares of stock issued was $3,119,000, or $124.76 per share, which the board of directors of the Connecticut Electric Service Co. certified they believed to be the true value of the stock of the Northern Connecticut Power Co. The market value of the Connecticut Electric Service Co. in July 1929 was approximately $124 per share.

7. Dividends on common stock were paid in cash by the Northern Connecticut Power Co. as follows: March 31, 1926, to July 1, 1929, to J. G. White & Co., Inc., etc., $75,000; July 1, 1929, to December 31, 1932, to the Connecticut Electric Service Co., $379,250. Over the 3½-year period the average dividends were $108,356 per year. During this period the outstanding common stock had increased by 60,000 shares.

8. The return, based on cash dividends $75,000, to J. G. White & Co., Inc., and its associates, on their investment in the common stock, $91,918.19, over 3¼ years was 25.10 percent per year.

In addition to these cash dividends, J. G. White & Co. and its associates in 1929 received from the Connecticut Electric Service Co. common stock of the Connecticut Electric Service Co. with a market value of $3,100,000 for stock which cost J. G. White and associates $91,918.19 in 1926.

9. The return to the Connecticut Electric Service Co., based on the increase in surplus of the Northern Connecticut Power Co., on its recorded investment, was as follows:

Year	Average annual investment	Increase in surplus before dividend payments	Annual rate
			Percent
1930	$3,724,239	$115,066	3.09
1931	4,324,239	126,264	2.92
1932	4,324,239	87,250	2.02

In the year 1929 cash dividends were received at a rate of 2 percent per year on an investment of $3,124,239.

10. Annual rates of return to the Northern Connecticut Power Co. were as follows:

1. On capital employed in the business, per books:
   Highest, 8.80 percent, in 1929.
   Lowest, 6.09 percent, in 1932.
2. On fixed capital, per books:
   Highest, 7.65 percent, in 1930.
   Lowest, 5.80 percent, in 1932.

11. Of the electric energy sold in 1932, 48.94 percent was sold to domestic consumers, representing 84.49 percent of all consumers, at an average price of 6.9 cents per kilowatt-hour, and provided 56.03 percent of the total revenue from sales of electrical energy; 11.72 percent was sold to commercial consumers, representing 11.44 percent of all consumers, at an average rate of 8.69 cents per kilowatt-hour, and provided 16.89 percent of the total revenue from sales of electrical energy; 34.35 percent was sold to power consumers, representing 3.99 percent of all consumers, at an average price of 3.21 cents per kilowatt-hour, and provided 18.28 percent of the total revenue from sales of electrical energy; and 5 percent was sold to municipalities for street lighting, representing eight one-hundredths of all consumers, at an average price of 10.6 cents per kilowatt-hour, and provided 8.8 percent of the revenue from sales of electrical energy.

And further study of the aforesaid volume 58 will show the following capitalization of Northern Connecticut Power Co. on December 31, 1932, the closing date of the Federal Trade Commission's investigation:

Long-term debt		$2,475,000.00
Common stock	$1,644,565.00	
P. & L. surplus	170,795.27	
		1,815,360.27
Total capitalization		4,280,360.27

The above common-stock equity reflects the capitalization of write-ups of $1,652,177 (par. 4 of item 3, p. 60) on the property value of the company. This indicates that the investing public, through long-term debt holdings, paid in substantially all of the actual money needed to finance the property; and as indicated by the earnings statement (exhibit no. 3, p. 95) the consuming public has and presumably will continue to pay rates sufficient for the company to earn on the write-ups.

The report indicates that there were large promotional profits in connection with this company.

Item 1 (p. 60) of the summary shows that a syndicate headed by J. G. White & Co. and E. H. Rollins & Sons acquired control of Northern Connecticut Power Co. and other Connecticut companies and caused their consolidation and merger in 1926.

Item 4 (p. 60) of the summary shows that the syndicate's investment in these companies was $3,106,423.70, and item 5 (pp. 60 and 61) shows that the syndicate recovered all but $91,918.19 of its investment through the sale of the bonds and preferred stocks which the merged company issued in part payment for the assets of the constituent companies; and that the syndicate, for this $91,918.19, held 27,970 shares of the common stock.

Item 6 (p. 61) shows that the syndicate then sold the stock in 1929 to Connecticut Electric Service Co. for 25,000 shares of the latter's common stock, which had a then market value of $3,119,000. For further details as to their proportional profit, I refer readers to the testimony on pages 10 and 11 of this same volume.

Write-ups and improperly capitalized intangibles of some Connecticut concerns

(Taken from exhibit no. 6218, Federal Trade Commission report)

The United Gas Improvement Co. group:
Connecticut Electric Service Co $11,118,649
(Vol. 54, p. 769, report of Federal Trade Commission.)

The United Gas Improvement Co. subsidiaries:	
Connecticut Light & Power Co. (Vol. 54, p. 790.)	$8,657,449
Northern Connecticut Power Co. (Vol. 58, p. 65, report of Federal Trade Commission.)	1,633,052

SOME ATTEMPTS IN CONNECTICUT TO PREVENT OUTSIDE HOLDING COMPANIES FROM PROCURING CONTROL OF CONNECTICUT CONCERNS

It is interesting to note that Mr. Samuel Ferguson, president of the Hartford Electric Light Co., was instrumental in forming a trust agreement at one time among the stockholders of his company to prevent that company from being swallowed up by outside interests. It is my contention that if we follow the suggestion of President Roosevelt we will avoid absentee ownership, one of the curses of the present utility set-up, which has done so much damage to operating companies. This particular firm, the Hartford Electric Light Co., was able to ward off the attempt of outsiders to obtain control, but most of the other operating companies succumbed to outside manipulators.

The following quotation is taken from the notice sent to the stockholders of the Hartford Electric Light Co. at that time:

It has been the policy of your company from the beginning to operate as a locally owned institution in the interest of both the stockholders and the community. This policy has produced results greatly to the advantage of each, and there is a general opinion that the policy should be continued unless more urgent and specific reasons should in the future demand a change.

In various parts of this country one or other financial interests have been able to influence the majority of stockholders of local operating companies to surrender their control and sell out. A specific case recently in New England, the stockholders, through the ignorance of their stock and the purposes of their company, were induced to part with their stock far below its value.

EXTRACTS FROM HOUSE COMMITTEE REPORT

At this time I would like to reiterate the view expressed by Hon. EDWARD C. EICHER, Member of Congress, in the report from the Committee on Interstate and Foreign Commerce:

[Rept. No. 1318, 74th Cong., 1st sess., pp. 48–51.]

Do the holding companies own the local operating companies? They do not. They simply control the operating companies. As a general rule all that a holding company owns is the common stocks of operating companies, and the common stock which a holding company owns in an operating company seldom represents more than one-fourth of the capital that has been put into that operating company. Sometimes the common stock of the operating company which the holding company owns represents no real investment at all—all the real money that goes into the operating company is obtained through the sale to the public of preferred stocks and bonds of the operating company, and the common stock is water, issued without consideration as promoter's profit.

Who then really owns the operating companies? The answer is that three-fourths or more of the operating companies' securities are represented by preferred stocks and bonds which are held directly by the general public. It is those securities of the operating companies, not the securities of the holding companies, which are held by the life insurance companies, the savings banks, and other fiduciaries. These organizations put their funds directly into the securities of operating companies. The securities of the holding companies are normally not even legal investments for such trust funds.

Of the $12,000,000,000 estimated to have been invested in the operating-utility industry not more than $3,000,000,000 of that investment is represented by operating-company securities which are owned by the holding companies. It is important to bear that well in mind—while the holding companies control virtually the entire privately owned utility industry, they exercise that control by the possession of securities representing not more than one-quarter of the real ownership.

The report of the National Power Policy Committee shows how even this one-quarter investment can be attenuated:

"By the pyramiding of holdings through numerous intermediate holding companies and by the issue, at each level of the structure, of different classes of stock with unequal voting rights, it has frequently been possible for relatively small but powerful groups with a disproportionately small investment of their own to control and to manage solely in their own interest tremendous capital investments of other people's money. And the ownership of the stock of operating companies is but one of many devices by which a few clever men have woven the amazing network of control and influence with which they have enveloped and entangled large sectors of the gas and electric utility industry. Voting trusts, interlocking directors and officers, management contracts, the control of proxies, and other means, all have been facilely used to bring about a concentration of control in fewer and fewer hands.

The result is that, in 1932, 13 large superholding groups controlled 75 percent of the entire privately owned electric-utility industry, and the 3 largest of these groups between themselves alone controlled over 40 percent of that industry.

As a matter of fact, the Senate bill makes it possible for any giant holding company to maintain intact its existing corporate structure, however intricate and confusing, and to retain intact the ownership of all of its assets, however heterogeneous and geographically diverse, upon one condition. That condition is that it satisfies the Securities and Exchange Commission that it has ceased to be a holding company within the meaning of the bill, i. e., that it has ceased to exercise any controlling influence over the management and policies of any electric- or gas-operating company and has become simply a passive investment company, holding its assets and the income therefrom for the benefit of its security holders. Here certainly is a "grandfather's clause" fully protecting all ancient equities which the giant holding companies have acquired for their indispensable widows and orphans.

The argument has been made that the equities of the giant holding companies cannot be protected if they are denied the right to vote the stock of the operating companies and if the operating companies are denied the benefits of their paternalistic, bureaucratic, and absentee management. So far as the right to vote is concerned, the great mass of utility investors would be immensely benefited by the enfranchisement of the senior security holders of the operating companies, whose stake in the operating companies is usually at least three times more substantial than that of the holding company.

It has already been pointed out that absentee holding company supermanagement is not needed by any sizable operating company.

Although in some instances the regional holding company tying together small plants and distributing areas may have served to draw capital into the actual industry, there has been no evidence adduced that the giant holding company has attracted any considerable money into the industry. The money that has gone into the giant holding company has not gone into the capital improvement of the industry. The proceeds of sales of holding company securities have rather been used to purchase securities of other utilities at inflated values, frequently from corporate insiders, and not to build up the capital plants of utility enterprises.

In 1929, when bankers and corporate insiders were distributing holding company securities to the public, the aggregate market value of electric utility holding company securities was estimated at $19,000,000,000. But that $19,000,000,000 did not go into generators and transmission lines for the electric-utility industry; that entire $19,000,000,000 did not represent an investment of more than $3,000,000,000 in capital plant and equipment. The difference went to the bankers, the speculators, and corporate insiders. These figures explain the losses that the investors in holding company securitites have had to bear. These losses the Government did not cause and cannot restore. But section 11 of the Senate bill would give fair assurance that what is left of the investor's equity would not hereafter be taken from him and it would give fair assurance that any legitimate increase in value of the underlying operating properties would go to investors and would not be absorbed by more holding company ventures in high finance.

A BATTLE FOR THE PEOPLES' WELFARE

Our fight is to protect the bond and security holders and the consuming public. There is no better way to save them from further depredation and destruction than to see that these holding companies become bona fide and honest investment trusts, and in doing this we must eliminate the dangerous political-utility combination, which is a menace to the financial and economic stability of this country, and whose activities threaten to undermine not only the faith in but the very existence of good government. [Applause.]

[Here the gavel fell.]

Mr. CITRON. Mr. Chairman, I ask unanimous consent in extending my remarks to include therein certain records from the Federal Trade Commission.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DUNN of Pennsylvania. Mr. Chairman, I have been informed that the bill now before us, even if enacted into law, will do but very little for the people of the United States. Several months ago, when the Rayburn bill was first introduced, like other Congressmen, I received many letters and telegrams requesting me to oppose the Rayburn bill. I remember I made a speech at that time on the floor of the House and said I wanted it understood that I was going to support the Rayburn bill. It was my intention then and it is my intention now to support the Rayburn bill, provided the teeth are put back into the bill. [Applause.] If the bill in its present form will not benefit the people, then I think it is a waste of time to discuss this question. However, an attempt will be made to put it in its original form.

The reason I am going to support this bill with the teeth in it is because I desire to do something constructive for the citizens of our country. Every man and woman who possesses average intelligence knows that many of the holding companies have been for years stealing from the people by selling them something which did not exist. I have received many telegrams and letters informing me that if I vote for this bill I will be defeated next year when I run for Congress. Mr. Chairman, I want to make this impression on the minds of everyone present: I would much rather go with the seat out of my breeches and dance the black bottom for the next 50 years than to hold the highest office in the land knowing that in order to hold that high position I would have to subject myself to the whims and wishes of unprincipled demagogues. In other words, I shall not allow any person to intimidate me while I am a public official. I never did in the past and I do not intend to do so in the future. It is the duty of every Congressman to do his utmost to represent the people. When you campaigned for office in 1934 you did your utmost to impress upon the minds of your constituents that if you were elected to Congress you would sponsor and support legislation which would take the people out of the depression. I have no doubt that in every congressional district this utility question was discussed, and that you did not hesitate to let your constituents know that if you went to Congress you would support legislation which would prevent the utility companies from continuing their unlawful practices. It is my opinion that every Congressman made that statement—Republican, Democrat, Farmer-Laborite, and Progressive. We are not down here to represent political parties. We are here to represent the people. I have made the statement many times in this Hall that we could get the people out of the depression in a brief period of time if we would be actuated by humanitarian motives instead of selfish ones. Therefore let us enact a law to abolish holding companies and every other kind of corporation which is a detriment to the people of our Government. [Applause.]

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. GIFFORD. Mr. Chairman, I was unable to get any time in general debate, and regret that I could not speak more at length on the general aspects of this bill. I know how useless it is to expect many sections in the bill itself to be explained. I have tried to read it, and I sympathize with the gentleman from Alabama [Mr. HUDDLESTON] when he said that even a Philadelphia lawyer would have to get down on his knees and pray for somebody to interpret it for him. I thank the gentleman from California [Mr. LEA] for the brief explanation that he made of certain sections. Most of us know nothing about what you may have done to the Federal Power Act, and so our remarks can be only general. As has been well said in this debate, this bill was "born in an obsession and reared upon the milk of destruction."

You have your Securities Commission, and you have boasted about its effectiveness. You are locking the barn door now when it is too late. You should acknowledge that. These evils probably could and ought to be corrected by your Securities Commission, although much of what has been said lately about the recovery of confidence in the Securities Commission I call ballyhoo. Only refunding operations seem to have been carried on at a time when interest is very low and attractive for such operations. Very little, if any, new business has dared to incorporate and pass the gantlet of the Commission. However, this Securities Commission ought to remedy future abuses, and it seems unnecessary to wreck and destroy, as is the purpose of this bill. Business already finds itself pinioned and intimidated, hemmed about by penal provisions of crazy unconstitutional statutes, tricked and whipsawed and weighted down with taxation that will soon bring about its extinction.

Mr. Chairman, in the last 3 days I have had over 500 letters and telegrams. I have received altogether more than 3,000 against this bill. Not a single one in favor of it, even though your great President has appealed even by a real propaganda message and widely heralded interviews. It was called such even by the gentleman from Alabama [Mr. HUDDLESTON] on yesterday. Certainly it was a propaganda message. Many others have spoken most violently against these companies over the radio, yet no one from my district asks me to support this bill. I would say to these seven progressives, "We welcome the issue, combined with all these other crazy socialistic issues in the next campaign." The speech of Mr. HUDDLESTON was truly a patriotic speech. It was not for the Progressives or the "new dealers." It was for the great Democratic Party; a reminder of their ancient and recent platforms and pretensions. When he finished that speech nearly all of you rose and applauded it. You now dig back 10 years to find that he was at that time a liberal, so called. Do not go back 10 years! Go back only 2 years to your own platform. He only asks you to stand with him on that.

There are evildoers in nearly all kinds of business. Regulate and punish, but do not destroy. There are too many holding companies that have proved a blessing, especially in rural electrification. The President seems obsessed to reform to the point of destruction, following the advice and importunities of such men as the gentleman from Pennsylvania [Mr. WILSON] fully described in his great speech of Thursday.

Automobiles are destructive of life even; thousands are killed yearly by careless, drunken, and irresponsible operators. Let us pray that the President does not hear of this lest he "hotfoot" a message to Congress to abolish automobiles. Your Owen D. Young and others have used abolishing the automobile as analagous to this act.

Were consumers of electricity or their representatives and investors before the committee? Apparently few, if any, at all. We acknowledge the grave abuses of the past in many forms of businesses, but it is neither common sense nor wisdom to destroy, when so many of these companies have given real service honestly rendered.

Political attacks have brought about shocking losses in the values of holding companies' securities. It is nothing short of marvelous that the values of utility securities are what they are. After 1929 securities and values in nearly everything catapulted downward—utilities probably to no greater degree that most others. Enthusiasts for government or municipal ownership are out to assassinate even the good holding company—emotional and demagogic tirades must be withstood by the saner elements who will try to preserve our form of government. Encroachment by Government in private enterprise should be fought at every stage. Both political parties declaim against it in their platforms. Will this new-deal party actually swallow the old Democratic Party which, if mistaken in its ideals, has all these years at least been generally consistent in its statement of principles. You have a tremendous majority; you will be held accountable for this somersault of your pretensions as to Government invading private business or strangling it with such measures as we are now considering. We plead with this huge majority to give business and capital opportunity to recover and bring a measure of prosperity to our people. They are ready to proceed if the heavy hand of Government will relax its constant threatening attitude and if you will even in a measure curtail the enormous extravagances in Government largesses and experiments.

Let us hope that sanity will prevail in the consideration of this particular legislation.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. GIFFORD] has expired.

Mr. TRUAX. Mr. Chairman, there were some wonderful speeches made yesterday. There were some wonderful speeches made today; but I know that the Members of this House, and I know the people back home—I know that 7,000,000 people in my State of Ohio need no speeches from any Member of this House to determine what this issue is. They need no speeches from anyone in this House to tell those people on whose side they should be. Much has been said about the so-called "death clause." I, too, am for that; but I say that that is a misnomer. It is not a death clause. The enactment of the Senate bill into law means a new-life clause, a new economic and financial life for those millions

of consumers of the products of public utilities who have been exploited, robbed, and plundered for decades by the multimillionaire public-utility holding companies, operated largely from Wall Street, United States of America. I have yet to hear—I do not expect to hear any Member of this body come here and tell you—I do not expect them to give you one justifiable reason for the maintenance of any public-utility holding company. I challenge any Member to justify the infamy, the piracy of these robber feudal barons. It cannot be done. I say again that every citizen in this great country of ours is going to determine for himself and for herself upon whose side these Members stand. They are going to place a label on your backs in 1936, and that label is going to read "For the utilities of this country", or "For the American people, the taxpayers and consumers of electrical energy, gas, and telephones."

Neither you nor I will be able to fool the voters in 1936. As far as I am concerned, there is not going to be any utility-company brand pasted on my back. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio [Mr. TRUAX] has expired.

Mr. TRUAX. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRUAX. Mr. Chairman, we have heard much about the Democratic platform of 1932. I was there, not as a delegate, but I have been a delegate to former conventions. I know how platforms are written. You know how platforms are written. They are largely written by the delegates and representatives of the party bosses, if you please. You know that. That 1932 convention was literally alive with lobbyists of the Power Trust of this country. We had them in the Ohio delegation. The resolutions favored by most of those delegates were dictated by the lobbyists of the Power Trust of this country. They had those lobbyists in Chicago They have those lobbyists here today. I see them now in the gallery. I see them from Ohio—men who are drawing salaries reported to be from $15,000 to $25,000 a year. What for? For their ability to besmirch State legislators, to debauch State executives and Governors. I say to you, each and every one of you, that when you enter the campaign of 1936 you are going to have a label on your back. You cannot fool the voters with what you say here today or what you do not say. When you vote to regulate you will have that label on your back, and it is yellow. It is yellow clear through. Do you want that kind of label on your back? I do not. I propose to vote for the Senate bill and to support it. When it comes to the death clause, I am like the old fellow whose mother-in-law had died and they wired him what to do with the body. They said, "Shall we embalm, bury, or cremate?" He replied, "Do all three. Take no chances." [Laughter.]

So that is what I want to do with these nefarious holding companies. I want to embalm, I want to bury, I want to cremate them, so that there will never be any possible chance of resurrection at any time.

Mr. KNUTE HILL. Will the gentleman yield?

Mr. TRUAX. I yield.

Mr. KNUTE HILL. Did the people follow the Democratic Party platform of 1932 in the election of 1934 or did they follow the new deal as we had enacted it under Franklin D. Roosevelt?

Mr. TRUAX. I would say to the gentleman that the people of this country followed the greatest humanitarian that has stepped into the White House since Abraham Lincoln. I refer to President Franklin D. Roosevelt. We are going to follow him today. The issue is clear today. The issue is between the Power Trust, the rotten, robbing, plundering Power Trust, and Franklin D. Roosevelt. I propose to support him. [Applause.]

Mr. Chairman, I repeat, what justification is there today for a holding company? What right has a giant corporation, owned and controlled by J. P. Morgan & Co., by the Chase National Bank, by Henry L. Doherty & Co., and other malefactors of great wealth to come to Ohio, to harness the sleeping energy and power of age-old rivers, the Sandusky, as they did at Ballville, Ohio, only a few miles distant from my farm, and at other locations in Ohio, capture and subdue that dormant power, which, like Rip Van Winkle, has slept there peacefully throughout the centuries, transmit that power to thousands of users in Bucyrus, Tiffin, Sycamore, Toledo, and other cities, and receive their enormous tolls and profits on energy and power that rightfully belong to all the people?

Break up and abolish the unnecessary superprofit holding companies and there will be no economic loss, there will be no financial loss. While it may be true that many investors in holding companies will lose money, that those investments will record a loss, at the same time those losses will be no greater than they are now, no greater than they were while Mr. Hoover was still President of the United States, no greater than they were when Franklin D. Roosevelt was inaugurated as the thirty-second President of the United States. Those losses were due primarily and fundamentally to the racketeering and plundering methods of the holding company millionaires. We finally learned that the Insulls, instead of being supermen and supergeniuses, are supercrooks. The larger their holding companies, the larger their fortunes, was more prima facie evidence that the measure of their stealings, the measure of their frauds, the measure of their thefts could be accurately gaged by the amount of their holdings and the amount of ill-gotten wealth they had amassed. Every Insull with his $4,000,000,000 empire of fraudulent holding securities meant an empire also of thousands of innocent investors deliberately fleeced. Make it possible by the enactment of this legislation, a law which does not include the destruction and abolition of the unnecessary holding companies, and you make it possible for them to continue their marauding and depredation.

You can never restore real values to those securities that now have little value. You cannot throw a man out of bed when he is already lying on the floor. You cannot pump life into securities that are already deceased. You cannot blow rejuvenating wind into nostrils that have already flattened out in economic death. We hear the commonly accepted alibi of "regulation." Utility mouthpieces tell us that they are for "regulation but not for destruction." That alibi has been heard so often that it is now moth eaten, antiquated, and shopworn. The utility holding companies themselves use it quite freely. After robbing and filching the public savings for years they now plead guilty but are willing to be "regulated", so that they may go on for the years to come in their predatory operations.

Webster defines "regulation" as follows: "To put in good order, to make regular." If we accept this definition as a true one, then the holding companies and their proponents and mouthpieces, by admitting that they need regulation and are willing to accept regulation, must by the same token and the same process of reasoning, admit that they must have been wholly out of order and most irregular in the past. Now, when they tell you that they are willing to be regulated, do you have any faith or confidence in their promises and pledges? If you have a murderer in your house, do you want to regulate him on his promises to be good or do you want to put him in the penitentiary for life, where he belongs? If you have a safe-cracker in your office who applies the "soup" to the combination, blows the door, and rifles the contents, do you want to "regulate" that safecracker in the future or do you want to put him where iron bars, a ball and chain, and bread and water will give him the only kind of regulation that will do him any good? If you have a kidnaper, who steals your youngest child or baby, treats him rough, puts him to death, and demands a king's ransom, are you willing to let him ply his trade again by "regulation" or do you rather want to send him to the gallows, give him lethal gas, or the hot seat?

If the mouthpieces and spokesmen for the utilities who are so loud and vociferous in their defense of their acts in the past who assure us with such fervor and enthusiasm that even though they have been bad in the past, if we will be generous and give them a new lease on life that they assuredly would behave themselves in the future, would give us just one illustration and citation of one legitimate utility

holding absolutely needed to preserve the life and welfare of a single operating company, then I am willing to withdraw the criticisms and objections just now voiced.

The guiding motivation of utility holding companies' propaganda is smart, high-priced lawyers. With these smart corporation lawyers and lobbyists perpetually on the job, with their infesting State capitals, with their infesting the National Capital, with their checking up the records, the resources, and life habits of State legislators, Members of Congress, and others in a position to influence State and Federal legislation you might as well try to regulate the sun, moon, and tides. Their pleas for regulation are merely pleas for more loot.

For instance, the Associated Gas & Electric System comprises 164 companies, only 42 of which have securities in the hands of the public. Their companies and their subsidiaries are found in many States. This plutocratic organization is so big, so arrogant, and its lobbyists, lawyers, and officials so active that effective regulation for the interests of the public cannot be obtained. The old truism, "Figures do not lie, but liars figure" still prevails.

Their smart accountants drift into a community where this Wall Street owned and controlled organization purchases a municipal light plant for $100,000. These smart accountants, aided by their smart lawyers and smart lobbyists, pay for the services of an authentic appraisal company; they pyramid real-estate values, equipment, stock, and goodwill until they have emerged with a fraudulent value of $500,000. That amount is placed on the tax burden and that is the amount upon which their rates are computed so that the consumer of gas and electrical energy in this little town now pays a rate that has been doubled, tripled, and quadrupled in many instances to pay dividends upon this skyrocketed valuation. These accountants, lawyers, and lobbyists are paid well to become expert jugglers. They can juggle real and false values. They can juggle anytime, anywhere, always in the interest of their employers, the millionaire holding companies.

These holding-company corporations are divided into various units, among which are so-called "management contracts, construction contracts, purchasing contracts, appliances contracts, and advertising contracts." One of these is the so-called "management contract." They have the right to secure employees for any local company or subsidiary and to fix the compensation paid to those employees. For this service the holding company gets a toll of 2½ percent per annum on the gross earnings of the operating company, paid every month—toll and tribute, if you please. They charge exorbitant interest rates for money loaned to the operating companies, they take profits for the engineers of various types used by the operating companies. They have construction contracts, so-called—dummy contracts, which are paid a fee of approximately 8 percent of the gross amount, and which is charged to the local plant, another legalized burglary.

There are purchasing contracts whereby the holding company extorts 1½ percent of all sums expended for purchase of equipment and commodities required by the operating utility.

They have appliances contracts. They go into the business of securing electrical and gas appliances for their customers. Formerly this business was handled by the local utility operating company. Now in most cases it is conducted by a holding company agency. This is called the appliances corporation, and the margin of profit or toll taken in this form of extortion runs from 30 to 40 percent. Local operating utility companies must advertise their products and wares to consumers, yet it cannot be done directly by the operating companies themselves; they cannot use the services of their local newspapers, they cannot spend their money for local projects in advertising and publicity. All this must be done in New York through the Wall Street crowd. This tribute to the New York feudal barons is another well-recognized and known form of pillage.

During the past 6 months much has been heard about protecting investors in the utility stocks and securities. Thousands and hundreds of thousands of letters have been written on that subject and mailed to Members of Congress, thousands and hundreds of thousands of telegrams have been transmitted on that subject to Members of Congress, volumes of argument on that subject have emanated from witnesses appearing before the Committee on Interstate and Foreign Commerce during the hearings on the Rayburn bill. Much has been said during the past 2 days on this bill on the floor of this House on this subject.

Yet in all those months of superlobbying activities, in all those weeks of propaganda which has deluged Members of Congress, in these 2 days of debate largely by champions of the utility holding companies, not one word has been said about the most numerous, the most vitally interesting, and almost forgotten small investor who never had money to invest in any stock, bond, or security, but who by dint of hard work, toil, and thrift equipped his home with appliances usually regarded as luxuries, but in many cases necessities, that use the electric current and energy, that use the gas, mobilized and peddled by the giant holding companies.

I refer first to those electrical appliances that are observed in the majority of homes. The electric-lighting equipment, wiring, conduits, chandeliers, bulbs, costing the average owner from $50 to $200 and on up to $500. Next the washing machine costing from $60 up, electric refrigerator costing from $150 up, the radio costing from $25 up, the electric toaster, coffee percolator, and whatnots from $5 up. Taking it all in all the average urban home owner has invested from $500 up for electrical equipment to use electrical power and energy sold by the Power Trust. Many farm owners today have the identical equipment that is used in the urban homes. We have gas stoves, gas appliances. The total investment of investors in utility equipment in this country amounts to $13,200,000,000, while the investment of the electric utility companies' operating companies and holding companies amounts to only $12,900,000,000 in capital equipment.

In other words, the people of this country, the common people, the people without riches, without large incomes, without wealth, have an investment in appliances equipment greater than the investment of all the people in utility operating equipment.

Everyone knows that the consumer of electrical equipment, every dollar that he invests actually goes into equipment, while the money invested in utility stocks and securities part of it goes to watered stocks, legalized plunder, graft, and corruption. There is no question about that. So these home investors, these investors in appliances for their own comfort and not for the enrichment of utility barons have a prior right, a greater right, if you please, to be considered ahead of those millionaries who profit by the purchase and use of these appliances. Without question and without challenge they are as much entitled to a fair rate on their investments as are the holders of utility stocks. A fair rate for these millions of consumers of gas and electricity should be a far more reasonable cost. Those costs and rates can never be reduced or lowered to any appreciable extent as long as the racketeering utility plunderbunds are permitted to live and fatten themselves on the toil and sweat of the home owners and home renters. I propose to vote for this latter class. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. FORD of California. Mr. Chairman, I offer a pro forma amendment.

Mr. Chairman, in common with hundreds of other Members of the House, for the last month or so I have been receiving many letters from honest, but I think misinformed, persons asking me to vote to defeat the Wheeler-Rayburn bill. In many instances these letters have been pathetic. They have come from widows, stating that their entire holdings were invested in holding-company stock; they have come from business men, pointing out that their investments, too, were in this class of stocks. To me letters of this type are pathetic; and, indeed, it is pathetic to find so many people who have been robbed, rooked, looted, and exploited by a crew of pirates who far outshine Captain Kidd on the sea or Jesse James on the land in their robber exploits. [Applause.] Captain Kidd took a chance; so did Jesse

James. One went out on ships and met his victims on the sea, taking the chance of being sunk, should his victims be prepared for him. Jesse James and his brother mounted a horse, one facing forward and one facing back, and they took the chance of being shot in attempting to carry out their exploits. But, Mr. Chairman, this holding company crowd, outside the moral code but within the legal code, have exploited, robbed, and rooked the American people to the tune of about $10,000,000,000; yet now the very people they have robbed, the very people they have exploited, have been prevailed upon by these robbers and crooks to write their Congressmen and ask them to support these robbers and crooks and permit them to continue their nefarious activities from now on and forever. My friends, I, for one, refuse to be a party to a fraud of this character. [Applause.]

[Here the gavel fell.]

Mr. FORD of California. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FORD of California. Mr. Chairman, in addition to investors in securities of holding companies we have another class of people to consider—the consumers of electric energy, the consumers of gas, and the users of the services of the telephone companies. If we permit this group of pirates to continue to exploit and hold their positions, we shall take from the American consumers of these three classes of utilities another two or three billions of dollars in the next 2 or 3 years; and I refuse to be a party to this kind of fraud and a steal.

Reference has been made to the Securities Commission, and the statement has been made that with this Commission in operation these things could not go on. That is true. But true only because a Democratic administration outlawed the outrageous practices of this gang. What I am interested in is trying to save the investments of those people who got into this thing before the Commission came into existence. It is my purpose to salvage what we can for them out of the present mass of securities that are floating over the country, which these pirates sold them but which do not have one dollar of value behind them. [Applause.]

We were told on the floor of this House by Mr. WADSWORTH that the value of the average share of common stock in the average holding company represented one ten-thousandth part of a share in an operating company. That being true, what may the holders of shares in holding companies expect to realize on such stock?

The whole holding company set-up has been a fraud on the innocent investors. These innocent investors, thinking they have stocks of value, are appealing to Congress to protect them. If I thought Congress could do so, I would vote to protect their securities. But Congress cannot breathe the breath of life into securities that never had any value. Nor will Congress be a party to a fraud giving such securities a value they do not contain.

I, at least, will not sanction such a fraud.

I am sorry to have to advert to the remarks of the gentleman from Alabama. I admit his sincerity and I am an admirer of his ability. But when he talks about propaganda of the believers in public ownership, he totally ignores the fact that this group was forced into the field by the untrue, inaccurate, and deliberately falsified statements of the Power Trust as represented by the National Electric Light Association. This gang resorted to every form of publicity, including sky-writing, to put over their statements, most, if not all, of which were untrue. It grieves me indeed that a man of his splendid ability should—mistakenly, I am sure—lend his splendid ability to forwarding the cause of this most unscrupulous gang of highbinders.

The pirate we have always endowed with a species of glamour; the highwayman with at least admiration for his courage. But the financial buccaneer, protected as he is by the law, is beneath the contempt of every honest man.

It is this class of buccaneer that we are dealing with. My friends, do not be deceived. Vote for the Wheeler-Rayburn bill. That is the misinformed stockholders' salvation.

[Here the gavel fell.]

Mr. SISSON. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, I have no hope that my remarks will meet with enthusiastic approval from the Republican side of the House such as was given the remarks of the gentleman from Alabama [Mr. HUDDLESTON]; and if my remarks were to meet with such approval from the Power Trust that I know the remarks of the gentleman from Alabama [Mr. HUDDLESTON] will meet with, I should feel that there was something wrong with me as a Democrat. [Applause.] If this be unparliamentary, make the most of it.

Mr. Chairman, I do not believe that in the history of this Congress there has been a piece of legislation subjected to such skillful and effective propaganda as the pending bill. I am not here to cast aspersions on the motives of any man, Member of the House, or otherwise. The Committee on Interstate and Foreign Commerce worked long and hard upon this bill, and I think they did the best job they probably could do under the circumstances; but I am bound to conclude, because the conclusion is inevitable, that there has been no piece of legislation on which great organized propaganda has so effectively stamped its mark as on this bill, which has rightly been called a bastard offspring.

I rose, however, Mr. Chairman, to speak a little about letters which have been coming in; and I want this to go back to my constituents. I am glad to have my constituents write me. I have received two classes of letters about this bill. There are those which bear the mark of sincerity, which bear the mark of originality; and there are large numbers of others—and I got a bunch of over a hundred of them this morning—of another kind. Where the same phrases recur in each letter, where the language, though not exactly identical, is much the same, and where even the stationery and envelops are the same and they are all mailed from the same post office and at the same time, I am bound to conclude that they are inspired and not genuine, not spontaneous. I hope, as I said yesterday, that Members of the House are not going to be buffaloed by this kind of thing.

Permit me to take this observation: There happens to be operating in the State of New York a power company known as the "Niagara-Hudson Power Co.", a great holding company. While I have not investigated this legislation so much as I would like, nevertheless it is my understanding of this bill that the securities of this corporation, which are quite widely held in my district and adjoining congressional districts, will not be affected by this legislation because the transactions of this company are purely intrastate. So I want the holders of the securities of the Niagara-Hudson Power Co. to know that they are not going to be affected by this legislation. I feel, and I hope, that they are going to be protected by our New York State Public Service Commission. I am going on Monday to finish the story on the floor of this House of the Niagara-Hudson Power Co., and who got the money and where it went, of the investors who bought Niagara-Hudson.

Mr. MARTIN of Colorado. Mr. Chairman, I offer a pro forma amendment.

Mr. Chairman, I am not so sure as my friend TRUAX, of Ohio, that you cannot fool the people in 1936 or in any other year, because during my somewhat long life I have seen too many good men lay their services on the altar of their country in public life only to go back to the people and be defeated for reelection by men who were unfit to lace their shoes. According to my viewpoint, a majority of the people were fooled for 12 long years, and this bill is just one of the penalties.

Mr. Chairman, I want to say a word on this bill which is perhaps a little different from anything that has been said by a Member thus far. As a member of the committee who sat for 7 weeks in the hearings on the holding-company bill, I feel it my duty to contribute a few such words to the

debate, if only for the RECORD. I began the hearings with the idea in mind that the only remedy for the holding companies was to lay the ax to the roots, but before the hearings were concluded, and as a result solely of the testimony produced before the committee, a doubt arose in my mind as to whether section 10 of the original bill, and now section 11 of the Senate bill, was the answer. My mind involuntarily accepted the validity of the claim that if the death sentence was imposed in the law, the case of the holding company would be helped little by a stay of execution and that its use for good or ill would be at an end. So much for an honest confession on the section carrying the so-called "death sentence."

Now I want to pay my respects to section 11 of the committee substitute. After 7 weeks of hearings, the bill went to a subcommittee of six, which after nearly 3 months' consideration reported to the full committee the measure now before the House. Section 11 as it appears in the committee bill was not read in the full committee, it was not discussed in the full committee, it was not mentioned in the full committee, and the full committee did not vote on it. When the vote was taken to report out the bill as a whole, no member of the subcommittee which produced it voted for it. This was the most extraordinary procedure I have ever witnessed in my life.

The gentleman from Alabama in his eloquent speech on yesterday characterized the committee bill as an orphan. It is not only an orphan, but a repudiated orphan, disowned by its own parentage. I intended to call it a repudiated bastard, but some of the other Members have already worn that word out. Your action on section 11 of the committee substitute need not be influenced by the action of the committee in reporting it out. All they know about it is such self-study as they may have given it since the committee adjourned or what has been learned in debate, which could not be much, since section 11 of neither bill has been analyzed, and its operation and effect explained to the House.

Practically the whole debate has revolved around the "death sentence."

[Here the gavel fell.]

Mr. MARTIN of Colorado. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mr. COOPER of Ohio. Mr. Chairman, the gentleman from Ohio is a very important and able member of the committee. He did not have a chance to talk in general debate. If I may, I ask unanimous consent that the gentleman may be permitted to speak for 10 minutes.

Mr. MARTIN of Colorado. No; I thank the gentleman. Three minutes will be sufficient.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. MARTIN of Colorado. Mr. Chairman, practically the whole debate has revolved around the "death sentence", whereas the hearings before the committee revolved around the question of simplification, of the cutting out of the layers of intermediate companies, and of boiling down these fantastic superstructures. Such complex structures are manifestly impossible of regulation. The abuses we considered principally were the pyramiding of companies until they reached 10 stories, the pyramiding of securities until they became merely blue-sky, fictitious write-ups, and other questionable practices, if not dishonest, and the abuses of the manifold management and service companies, blood-sucking devices, leeches on the body of the operating industry and on the interests of the investors.

Section 13 of the committee substitute dealing with these companies disposes of any pretense that the health and welfare of the operating companies was the primary concern of the subcommittee. The beneficent provisions of the original section 13 whereby these management and service companies were to be owned and operated for the benefit of the operating companies, were set aside, and in their place we have a provision which enables the holding company to still own the management and service companies, whose thousand and one differences and practices will be subject to impossible regulation by the Commission.

Another thing I would like to mention about the "death sentence" and that is while in the original House bill the "death sentence" was imposed in the law, in the substitute that responsibility, the greatest responsibility, in my judgment, that was ever placed upon the shoulders of five men in the service of the Government, the discretion of deciding between life and death, is turned over to a commission of five men.

Questions have been raised concerning the constitutionality of the original bill. It seems to me that much graver questions are raised by the proposition to delegate to five men the discretion of determining whether corporations involving billions of dollars shall live or be destroyed.

It has been claimed in debate that the bill was amended in the subcommittee and that every amendment was an improvement. That is true, an improvement from the standpoint of holding companies. So much for the committee bill.

Now, what am I going to do? I have a doubt about the wisdom and necessity of the original section 11. I have indicated some questions in my mind about the committee section 11, and I have some more. And yet I have an answer. In this confusion and uncertainty there has come back to my mind repeated pledges made by me to support the President as far as I can and to give him the benefit of the doubt. [Applause.] That statement was not only made orally but it was printed in every newspaper in my congressional district and distributed in thousands of pamphlets, the pledge in so many words that I would go along with the President as far as I could and would give him the benefit of the doubt.

[Here the gavel fell.]

Mr. MARTIN of Colorado. Mr. Chairman, I ask unanimous consent to proceed for one-half minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. MARTIN of Colorado. Mr. Chairman, the President of the United States is the responsible head of the Government and the leader of my party. His is the great stake at issue, and his is the place in history. That is my answer. [Applause.]

[Here the gavel fell.]

Mr. MOTT. Mr. Chairman, it seems to be the fashion this afternoon to make political speeches. I am not going to make a political speech. I seldom make a purely political speech on any occasion, and I assure you I think political speeches upon this subject, such as we have been listening to here, are distinctly out of place and improper. I am sorry, indeed, that a faction on the majority side has sought to make a question of this kind, which is legislative in character and which should receive calm and deliberate consideration here, a purely political issue. I am certain the people of this country are not going to consider this question from its political angle at all. What they want us to do is to make a correct and intelligent decision upon this question here and now, and unless I am very much mistaken they will resent efforts of gentlemen who are attempting to use it as a political football.

Since the whole House must consider the merits of this bill, and since few gentlemen have had personal experience in the subject matter it embraces, I have wondered whether it would not be somewhat informative to hear the views of someone who, in his official capacity, has been required to understand and be familiar with at least a part of the utility problem.

I have very carefully examined the bill and have read the entire testimony before the committee, and it seems to me, as one who has had a considerable amount of actual experience in regulating the sale of securities of holding companies, that certain inevitable conclusions will be arrived at by anyone who will take the time to study the bill; and that these inevitable conclusions must be the deciding factor

in passing upon the issue involved in our consideration of the bill.

In the first place, he must be convinced that the Senate bill, which is the framework upon which the committee has had to build, is not a regulatory bill, but a bill for elimination of utility holding companies. I think this is a conclusion we can all come to.

I think we must also come to the conclusion that there is not very much essential difference between the House and Senate bills, except as to section 11 of the Senate bill and section 11 of the House bill, and that the real issue will arise upon the motion to substitute section 11 of the Senate bill for section 11 of the House bill. The issue thus made will be whether utility holding companies can be regulated or whether they must be destroyed in order to cure the evils which the bill declares to be inherent in them.

I think we must come also to another conclusion, and that is that any requirement of divestment of the major portion of their properties by holding companies under any circumstances must affect the securities of the holding companies in the hands of some 5,000,000 investors in this country who were purchasers in good faith, and that if any such requirement is made these investors must be protected. If that is true, then we must further conclude that such divestment must be made, first, only by a court of law and by due process of law; second, only in those cases where the public interest demands it; and, third, only under such circumstances as will save these investors whole.

Unless we intend deliberately to violate the plain provisions of the Constitution, these three requisites must be contained in any bill we pass.

Mr. FLETCHER. Will the gentleman yield for a brief question?

Mr. MOTT. Yes.

Mr. FLETCHER. Did the gentleman mean to say 5,000,000 stockholders of holding-company stocks?

Mr. MOTT. Of holding-company stocks; yes.

Mr. FLETCHER. Or of operating-company stocks?

Mr. MOTT. Of the holding-company stocks. They are the figures I have.

We must come to another conclusion, I think, and that is this: The theory of the Senate bill, which contains the mandatory "death sentence" for all utility holding companies, proceeds upon several assumptions which are, in fact, not true. I wish I could speak of all of them, but I am going to select the principal one only, and that is the assumption that a utility holding company cannot be regulated under any circumstances and, particularly, the assumption that a utility holding company, insofar as rate making is concerned and insofar as sale of its securities is concerned, cannot be regulated under State law. The sponsors of the "death sentence", having assumed this to be true, argue that the total elimination of utility holding becomes a necessity.

Every corporation commissioner and utilities commissioner in the United States knows this is a false assumption. We know that in all progressive States having modern utilities and securities laws that utilities of all kinds, including holding companies, insofar as they affect the interests of either the consumer or of the investing public in the States where they operate, are now adequately protected within the jurisdiction of those States, and we all know, furthermore, that it is only a small fraction of the possible activities of utility holding companies that are interstate in character.

[Here the gavel fell.]

Mr. COOPER of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman from Oregon may be permitted to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MOTT. Mr. Chairman, because it has been repeatedly asserted here that State regulatory laws are useless and ineffective, I should like to tell you, if I have time, just how under proper State laws both the customers of the utility and the investing public are protected, insofar as the jurisdiction of those States extends.

I know from my own knowledge, as well as from the statements made by gentlemen from Texas and Maine and Mississippi and from several other States, that they do not have proper security and utility laws in those particular States; but there is no reason in the world why they should not have proper laws in those States, and that they do not have them is entirely and solely the fault of the people of those States. In most of the States of the Union we have proper laws, and I want to tell you very briefly now just how under those laws we do protect, first, the customer of the utility and then the investing public to whom the utility may desire to sell its securities.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. MOTT. Will the gentleman let me finish my statement, please? I have only a short time.

I speak of the securities and utilities laws of the State of Oregon, not because I think they are better than the laws of several other progressive States but because they are typical of the best of the utilities and securities laws of all the progressive States. During my 8 years' service as a member of the legislature of my own State it was my privilege and good fortune to help enact most of the modern utility and securities laws of that State, and during the last 2 years before coming here as a Member of the Seventy-third Congress, I was the corporation commissioner of the State of Oregon, and as such I had sole charge of the regulation of the sale of the securities of all companies, whether utility holding companies or otherwise. I say this by way of prefacing the statement I am about to make.

Under the laws of our State we protect the customer of the utility by vesting in the utilities commissioner the sole authority to make the rates which the utility may charge for light, heat, power, and other services. The utilities commissioner makes the rate by taking as his rate-making base the value of the usefully and legitimately used property of the operating utility in the State alone, and upon that base he makes his finding, publishes his order, and fixes the rates the utility must charge. He is under no obligation to pay any attention to holding-company ownership and does not recognize holding-company contracts or holding-company valuations unless they correspond to his own findings as to the propriety, fairness, and necessity of the one and amount of the other. The commissioner's orders are subject, of course, to review by the courts, but in recent years so adequate has been our law and so proper its administration that in only a very few cases has the order of a utility commissioner of the State of Oregon been reversed by either State or Federal court.

As a result of that regulation, under laws which have already been held valid and constitutional, we have about the lowest utility rates in the United States, except, of course, the rates of our municipal plants, of which we have several, and this notwithstanding the fact that every privately owned utility company in the State of Oregon is owned by a utility holding company, and that until recently our largest operating company was owned by one of the very worst financial racketeering holding companies in the United States, the Central Public Corporation of Chicago. This holding company was worse than the Insull companies, and yet, in spite of that, in spite of its rotten methods and management, its Oregon subsidiary is obliged under our law to give to the city of Portland, Oreg., one of the lowest light and power rates in the United States.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. MOTT. If the gentleman will get me a little more time, I shall be glad to yield.

Mr. RANKIN. I want to say that compared to the rates charged in Tacoma, Wash., the people of Oregon are overcharged more than $6,000,000 a year.

Mr. MOTT. Certainly we do not have as low rates as the municipal plant in Tacoma, Wash., nor as the municipal plant in Eugene, Oreg., nor as any of the numerous municipal plants in my own district. The gentleman cannot get into an argument with me on the merits of municipal own-

ership of power and light plants. In my State, unlike the gentleman's, the people themselves decide whether they want municipal plants. Those municipalities that want them have them. And those that have them operate them successfully and economically. I agree with the gentleman that our municipal plants, especially in Oregon, can and do furnish power and light at lower rates than those of privately owned companies. But I was not talking about municipal plants, whose rates are not regulated by the State. I was talking about the rate regulation of private companies under the law of Oregon, and my statement was that under that law we had compelled one of the worst utility holding companies in the United States to give us one of the lowest rates charged by any privately owned operating utility in the United States. We have rates as low now as the courts have declared we may legally make them, and these rates were obtained by the proper administration of adequate regulatory State law—the very kind of law which the gentleman has stated the legislature of his own State refuses to enact.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. MILLARD. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for 10 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOTT. Let me make it perfectly plain that I hold no brief for holding companies. That there may be no possible chance for misunderstanding on this point, let me say further that I do not even like holding companies of the class that has been referred to here as "good holding companies." I think that the majority of holding companies perform no very useful service. I particularly dislike bad holding companies, and I imagine I have had the pleasure, in the performance of my official duty as corporation commissioner, of prosecuting and convicting more responsible officers of bad holding companies, who were violating the law, than perhaps any gentleman here. In the last 2 years before I came to Congress I prosecuted 16 responsible officers of holding companies for violating the "blue sky" laws of our State, and convicted 14 of them; and some of them are still in the penitentiary. [Applause.]

So I think I am safe in saying that I hold no brief for these holding companies. I do not like their corporate set-ups nor the way many of them operate. But for that matter there are a great many other corporate set-ups that I do not like. I do not like chain stores; I do not think they perform any useful functions. I do not like the corporate set-up of the Standard Oil Co. which, although it does not operate as one corporation, actually has as much of a monopoly as it ever had. I do not like mail-order houses. I do not think they perform any function commensurate in benefit with the harm they do to local merchants. But just because I do not like either the corporate set-up or some of the methods of these corporations, because I do not like what they do, that certainly, in my opinion, does not give me any logical or constitutional reason for voting for a law which, in violation of the plain provisions of the Constitution, would not only put these corporations out of business without their day in court but would ruin the securities of these corporations held by millions of innocent investors in the United States. This, admittedly, is what section 11 of the Senate bill will do, with its mandatory "death sentence" for all utility holding companies, good or bad, and irrespective of whether their corporate set-ups, their methods, and their activities are lawful or not.

So much for the manner in which utility-company customers or consumers are at present protected against unreasonable rates in States having proper utility laws administered by competent utility commissioners. And so much for the statements so glibly made to the effect that States cannot protect the people in the matter of utility rate making.

Let us see now how the investing public is protected in those States having proper securities laws administered by competent officers. The entire control of the regulation of all securities, whether domestic or foreign, whether a utility holding company or what not, in the State of Oregon, is vested in a corporation commissioner. The commissioner is a one-man commission. No company of any kind in the United States can sell one of its securities in the State of Oregon without first receiving a permit from the corporation commissioner of that State. When an applicant applies for a permit he submits to the commissioner a statutory statement of the securities proposed to be offered and of the company issuing them, and upon examination of that application the commissioner then orders an examination of the issuing company.

That examination can be as extensive and as expensive and as much in detail, and it may cover as much time as the Commissioner thinks necessary, and the applicant corporation pays the entire expense of the examination, so that it does not cost the people of the State of Oregon a single dollar. If after this examination, which is conducted by experts of the corporation department, with the assistance of whatever professional experts may be required, the corporation commissioner is of the opinion that the security proposed to be sold is a legitimate security, that it is offered for a legitimate purpose by a sound company in a legitimate business, with legitimate and sound corporate set-up methods and practices, he issues a permit. Otherwise he does not issue it. Every company now operating in the State of Oregon or out of it and selling its securities in that State has that kind of permit. That is true in a great many other States, and under those laws the investing public in those States can be adequately protected.

I do not claim the administration of our law has always been perfect. There have been some lapses, just as there have been in the administration of every law in every State and in the Federal Government. It was on account of one of those rare lapses, which shocked and humiliated the people of my State that I assumed the duties of corporation commissioner of Oregon. During the speculative days prior to 1929 a predecessor of mine, through laxity, did permit several of these racketeering holding companies to sell their securities in the State. The securities which they issued—and which were sold under these permits—were not legitimate securities. Some of them were of the kind described by the gentleman from Texas, the gentleman from Mississippi, and other gentlemen who have spoken here and who have stated that such securities are still being sold in their States and that they have no law to prevent it. The companies I am referring to were nearly all holding companies and at least one was a utility holding company, the one I mentioned a moment ago. I accepted the office of corporation commissioner because I had an interest in the enforcement of the laws I had helped to make and because I did not want to see our people cheated and robbed by any company's disregard of those laws.

Under our law it was not a very difficult task to clean up this unfortunate situation. We caused an examination to be made of every security that was then being sold in the State under permits issued by my predecessor. When the examination disclosed that any of those securities were not sound or legitimate, I canceled the permits without notice. Under our laws we are authorized to take over, operate, or liquidate certain kinds of companies when the "blue sky" law is violated. What companies we could salvage we did salvage, and I asked the grand jury for immediate indictment of the responsible officers of every one of those corporations. The indictments were secured and these officials prosecuted and convicted, and, as I said a moment ago, several are still in the penitentiary for violating the "blue sky" law and the corporation laws of our State, under which, let me repeat, it is impossible, with efficient administration, for anybody to operate a financial racket in that State, or to sell a racketeering security.

Mr. KENNEY. Will the gentleman yield?

Mr. MOTT. I yield.

Mr. KENNEY. The gentleman referred to the people being robbed in his last statement. Did he refer to the consumers or to the investors?

Mr. MOTT. To the investors. The consumer has never been robbed in our State, and never will be so long as our utility law is properly administered and enforced.

Mr. KENNEY. I wonder if the gentleman agrees with me that in cases where we have State commissions the State commission will continue to regulate the charges to the legitimate customer?

Mr. MOTT. Ours will, and there is no reason whatever why the commissions of other States should not do the same thing, if they have the same kind of utility laws that we do.

I listened with a great deal of interest to the statements of the gentleman from Texas, the gentleman from Mississippi, and the gentleman from Maine, saying that their legislatures would not give their corporation commissioners and their utility commissioners either a proper law or the power to enforce the law. I do not know what those gentlemen may think it proper for them to do in those circumstances, but I will tell you what I think I would do if there existed in my State a condition such as those gentlemen have confessed exists in their own States. I think I would resign my seat in this body and go home and ask the people to give me back my seat in my own State legislature, and I would see whether I could get proper utility and security laws or not for the people of my own State. [Applause.]

Mr. RANKIN. Will the gentleman yield?

Mr. MOTT. I yield.

Mr. RANKIN. The rates are about as high in Oregon as they are in these other States. The gentleman's people are paying almost as much as they are in Mississippi.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. MOTT] has expired.

Mr. MOTT. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOTT. I have not the time in 2 minutes to discuss comparative rates with the gentleman from Mississippi. Rates of utilities are public records, and the record, which the gentleman has read to this body many times, contradicts the statement he has just made. There is one point which I just want to touch on, and that is the matter of Federal jurisdiction. I believe in not only State regulation but I believe in the most effective and drastic Federal regulation that we can possibly get, although I do not believe in wholesale elimination, as section 11 of the Senate bill provides. I would be delighted, of course, if the racketeers who control some of the bad holding companies could be put out of business, but I know, as a securities commissioner, that you cannot dissolve their companies without injuring innocent people who own their securities. But you can regulate them. The jurisdiction of the Federal Government in regard to regulation is only a very small fraction of the whole jurisdiction in this field. The amount of electricity transported over State lines, for example, amounts altogether to only 17 percent.

In all but 2 percent of that the State has exclusive jurisdiction. It loses its jurisdiction only as to that portion of electricity passed over State lines which is sold at wholesale. Also, the activities that any holding company can engage in, which are interstate in character, are small; and as to those I say that the Federal Government should come in with its full legitimate power. It should regulate and protect in that jurisdiction just as we regulate and protect both investor and consumer within our own jurisdiction in Oregon.

The House bill provides for that kind of Federal regulation. It gives to the Federal Government all the power and authority necessary, not only to regulate but to take the abuses out of the utility holding-company system. Section 11 of the House bill goes as far in that direction as any thoughtful lawyer will venture to say the Federal Government may go without doing that which the Constitution forbids us to do. The House bill would, in my opinion, be entirely sufficient for this purpose even without section 11. And I think, as a beginning and until we acquire a little more experience in the field of Federal regulation, it would be as well to eliminate section 11 of the House bill. If, after a year of operation, we find we need the provisions of that section, we could then put it in. However, the House bill, with its own section 11 included, will certainly give us all the authority we shall possibly need, not only to regulate but to reform and reorganize the utility operations of the country; and further than this we have no right, either in justice or within the limitations of the Constitution, to go. I hope, therefore, when the motion is made to substitute the Senate bill, with its compulsory "death sentence" clause of section 11, that the motion will not prevail and that this body will insist upon retaining its own bill, which the committee has spent months in considering, which will give us complete power of effective regulation and which will allow us to control the utilities of the country by regulatory law without ruining the millions of innocent people who now own the securities of those companies. [Applause.]

Mr. FOCHT. Mr. Chairman, I ask for recognition.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. FOCHT].

Mr. FOCHT. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FOCHT. Mr. Chairman, I shall make no attempt to criticize or in any way inveigh against the President of the United States or anyone who proposes this legislation, but I shall try to say a few words to express the motive actuating my opposition to any legislation of this type. In the first place, as has been explained, Federal legislation is not needed to control these matters.

You are trying to do now in the matter of concentrating Federal power something inconsistent with your philosophy opposing the concentration of the power of wealth to be dealt with in another bill to be presented to Congress. These two bills show your inconsistency.

Why am I opposed to this bill, and why can we get along without it? Like my friend from Oregon, it so happens that I was a member of the Legislature of the State of Pennsylvania, having served in both the house and the senate, when much of the great fiscal system of that mighty State was enacted. Some of our Northwestern friends might take this bit of history back home with them, might carry with them the knowledge that came from a master mind which cooperated with the grangers of the State, Senator Quay, Governor Beaver, and others, who sat across the table with Farmer Taggart, Col. Thomas Leonard Rhone, leading grangers of Pennsylvania, formulating the great tax system of that Commonwealth whereby taxes on corporations flow through the auditor general's office back to the schools until we have there the greatest system, I believe, in the country or anywhere in the world.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. FOCHT. I yield for a brief question only.

Mr. RANKIN. Is that the same law which exempts the utilities of Pennsylvania from a tax on real estate?

Mr. FOCHT. Yes; but they are not exempted as corporations.

Mr. RANKIN. Their real estate is exempt, however.

Mr. FOCHT. Foreign corporations must register in Pennsylvania and pay an annual tax to do business. They must maintain an office in the State where service can be had upon them. That is another feature I had forgotten about. I shall call attention to some notable instances of how my State controlled the utility question.

If many of the brilliant ideas of my friend ran in a straight track and led somewhere, I believe I could follow him on lots of things, but I cannot do it now. However, let me say the gentleman has stated a lot of truth.

Mr. RANKIN. I thank the gentleman.

Mr. FOCHT. I am going to cite some outstanding instances of what happened in my State. I am sorry for my good friend from Mississippi if they do not have a public-service law in his State. I do not claim our public-utility regulation in Pennsylvania is perfect, and I will tell you

wherein it is not perfect, but before I do that I want to cite the experience of one town, one municipality of Pennsylvania—Mifflinburg—a town in my district.

If there is not a public-service commission in the gentleman's State, if his State is so backward that they do not have a public-service commission to control these utilities, then the State is entitled to suffer. They have no right to come here and force this thing on the President of the United States, nor do they have the right to come here and ask for a statute that will prevent the free flow of commerce between the States given to America under that immortal decision of John Marshall in the case of Gibbons against Ogden. Out of the common sense, the philosophy, the logic, the progress of the people of the States was created an institution known as the "public-service commission." Under these commissions the individual States should discharge their duty.

Now let me tell you of the experience of Mifflinburg—but before I get into that let me say that at one time I was interested in taking over a telephone line in the gentleman's State of Mississippi, a line down in Meridian, Miss., my friend's home town.

Mr. RANKIN. No; I do not live there.

Mr. FOCHT. About the time I was ready to take it over along came a windstorm and blew down the telephone line and half the town; so that ended the proposition. But in Mississippi, or anywhere else where you do not have regulation—and you do not need to have a public-service commission—you need good, common-sense, business judgment, business acumen, and management. In the case of the town of Mifflinburg, Pa., in my district, the town owns a lighting system and a water system. The revenues from these two utilities pay all of the rest of the taxes of the town. [Applause.] Take that down to Mississippi, will you; take that to your people down there, instead of coming here and asking the Federal Government to take over so many of these responsibilities.

Mr. RANKIN. But the majority of towns are controlled by the utilities.

Mr. FOCHT. Do not hurry me along; I may lose my reform idea on this. I want to tell you how you can reform your State and the rest of them. [Laughter.]

Let me tell you what happened in another town in my State not so long ago. They had a question of water rates before the town council, and hired an attorney to represent them before the public-utilities commission. What happened? I made inquiry about it a little later and we found that the attorney who was employed to make this fight in Harrisburg for the people represented not only my town of Lewisburg but also the water company, which is now owned in New York.

What a fine chance you would have. Those are the things we are going to correct, and we are going to do it through the public-service commission. We are not going to have any more of this concentrated power here in Washington. As I previously said about John Marshall, he rendered the decision which made it possible for this country to be great, so that there could be no interference or hindrance to hamper the free flow of trade between the States. There is great, mighty trade between the States, greater than is the trade between all the other nations of the world. Now then, you come here and undertake to turn back upon the Federal Government the obligation to set up a system by which all these evils may be corrected. I say that there is enough intelligence and enough honor in every community of every State of the country to see to it that we have proper laws made and executed right at home.

Why is it that in the past we have not had proper enforcement of these utility laws, as we have had in the State of Pennsylvania? I admit, and not only admit but deplore, that it was impossible until lately to get somewhere with them up there. I may be asked the question, How would we get at the matter of honest rates and regulations?

[Here the gavel fell.]

Mr. FLETCHER. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

The CHAIRMAN (Mr. PATMAN). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. FOCHT. Mr. Chairman, we have heard wonderful speeches made here by men who have studied long and written at great length on this subject. They have spoken mighty well on this matter and we ought to be proud of the ability of the Members who addressed us yesterday and today.

Mr. Chairman, I am going to conclude by telling the Membership how this may be done. Of course, it is easy to ask questions. It is easy to abuse the President and have all kinds of retorts made and recorded here and then taken out of the RECORD. But let someone come forward and tell us what to do and how we are going to do it. This is what we are going to do. Even the best set-up we ever had in the country failed in part. This is true of the examination of banks by capable men who were sworn to do their duty and who thought they were discharging that duty. Yet crooked cashiers, tellers, and clerks could fix the books on them.

Mr. Chairman, never for a minute let anyone ever think of destroying accumulated capital. Some of it may have been acquired in crooked ways, but I believe the vast majority of the capital of this country was secured in an honest way, and whether your father earned it or whether your grandfather earned it or you earned it, someone's brains, someone's sacrifice, thrift, and self-denial somewhere accumulated what fortunes remain, and the possessors have the right to its control. It should not be confiscated.

The way to reach this thing of fair regulation is to have a system set down in every community by examiners who will go in and show the relationship of the capital invested and not permit them to do what has been done in the past, which has brought forth all this complaint. I have seen it done. I was in the promotion business for many years. I do not admit I did anything of this sort, but I saw what was going on. You acquire a little water-works plant for $20,000 and put it in a big company for $300,000; then call on the utility commission to permit you to earn 7 to 10 percent on the combined capitalization. That is what was done, and that is what we want to prevent in the future. You will not do it in this way, because you are going to be met, first, by the Constitution. You must get it through your minds that a unanimous Supreme Court told you that you should keep your hands off the sovereign rights of the States. I believe in that decision. There was only one time that any question was raised about that, and that was on the possible dissolution of the Union. I think we all agree on that great question at this time. But in connection with everything else, there is that sacred right of the States, not the Federal Government. The Federal Government has no rights except those that were given to it by the States. And let us not deny that fact here today. Let us find a way to cure these evils in another way. Go back to your States and see that there is a law enacted and enforced providing a method of bookkeeping so that the people will not be oppressed by capital and at the same time capital may have its honest and just reward. That is the way out of this problem.

Do not bring this load down here to Washington and confuse things. You have gone along so fast here with all this mighty legislation that we do not understand it; the country does not understand it; and there has not been a piece of legislation passed here but that you had to bring it back and overhaul it. You will have to do that with this piece of legislation if you pass it.

Furthermore, if you are anxious to put these utility organizations out of business, it can be done by purchase of the local plants under a law which admits of this under appraisement of their own value. Then you can have municipally owned plants, water and electric, the same as they have in Mifflinburg, Pa. Of course, communities must be alert, enterprising, and have enough civic pride to accomplish this, yet it can be done as in Pennsylvania where we have the laws to do it.

[Here the gavel fell.]

Mr. FOCHT. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FOCHT. Mr. Chairman, I have shown the way out of this dilemma. If we do it the other way, certainly we can see the peril to the aged school teacher, the aged clerk, with their stock. They all have a little of this stock which they believed was good because it was sanctioned by the "blue-sky laws", by the laws of Commonwealths everywhere, and by the Federal Government. You will take away and destroy whatever equity they have. In the name of mercy and justice, I call upon you not to do it. [Applause.]

[Here the gavel fell.]

Mr. MARCANTONIO. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. RANKIN. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. MARCANTONIO] may proceed for 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MARCANTONIO. Mr. Chairman, a great deal has been said about the huge campaign of propaganda which has been carried on on both sides of this question. Certain names have been mentioned. Those who are opposed to the so-called "death sentence" have seen fit to mention and, very often in a derogatory manner, to point out and signal out the names of Mr. Ben Cohen and Mr. Thomas Cochran. I think the answer to that charge is very simple and very obvious. Both of these gentlemen work for the Government of the United States. They have no financial or selfish interest in the outcome of the issues involved here. Whether this bill fails, whether the "death sentence" goes in or whether the "death sentence" stays out, they are not going to be financially rewarded, nor are they going to be punished. I submit they have a perfect right, irrespective of whether you agree with their views or not, to come here in the corridors of the Congress and advance a cause to which they are adhering from purely idealistic viewpoints.

But let us compare this idealistic viewpoint and attitude on the part of these two gentlemen representing the interests of the United States Government, whose names have been often mentioned, with some of the people who are now infesting the corridors of our National Capitol, seeking to strangle the Senate bill. I am referring to some of the gentlemen who have been seen around here during the last 2 days, and I am going to mention the names of some who are even in the galleries now. Mr. Bradley, representing the Commonwealth-Edison Co. of Chicago; Mr. Auchinloss, representing the International Paper & Power Co.; Mr. Brumback, counsel for the Associated Gas & Electric; Mr. Muhlfeld, president of Stone & Webster; Mr. Wakelee and Mr. Wright, of the Public Service of New Jersey; Mr. Millikan, counsel for the American Gas & Electric Co.; and then the grand marshal, Mr. Oliphant, who has been in and out of here this very morning. He is the counsel of the Committee of Public Utility Executives, who have made their headquarters in room 368 of the Mayflower Hotel. That room in that hotel is general headquarters of the army which has descended on Washington for the purpose of terrorizing the Congress of the United States in behalf of the vicious utilities that have exploited America for the past 50 years. [Applause.]

I do not know what power we may have as Members of Congress on this question. I do not know what the rules may permit us to do, but if the rules and the statutes do permit us, I intend, and I hope others will join with me, after this fight is over, to introduce and pass a resolution to investigate the lobbyists and the political cockroaches that have infested the corridors of our National Capitol during this great fight. [Applause.]

Mr. CLAIBORNE and Mr. MONAGHAN rose.

Mr. CLAIBORNE. Will the gentleman put Mr. Cochran and Mr. Cohen in with it?

Mr. MARCANTONIO. Yes; I will put Mr. Cochran and Mr. Cohen in without any fear, because Mr. Cochran and Mr. Cohen are fighting this battle with no ulterior motives. They can stand any investigation. They are fighting the battle from an unselfish standpoint, and they are fighting for a cause without any financial interest in that cause. They are fighting for the Government's and public's interests; but where does Mr. Bradley——

Mr. CLAIBORNE. Will the gentleman yield for one more question?

Mr. MARCANTONIO. Let me finish this statement.

But where does Mr. Bradley stand? Is his interest idealistic? Where does Mr. Auchinloss stand? Is his interest idealistic? Where does Mr. Oliphant stand? Can they stand an investigation? Where do these other gentlemen stand? They are here to protect the financial interests of the corporations which they represent, huge octopuses that are squeezing the lifeblood out of the American consumers. Yes; we will investigate them all, and after the investigation is over I am safe in my prediction that Ben Cohen and Tom Cochran will come out with honors, and some of these other fellows will go to jail, where they properly belong, for attempting to obstruct the processes of legislation.

Mr. CLAIBORNE. Will the investigation develop that either one of them will get a judgeship, as did Pecora?

Mr. MARCANTONIO. Well, now, so far as getting a judgeship is concerned, I do not know anything about that; but if they do get a judgeship, I want to congratulate the President of the United States on his excellent choice for appointing two good men.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MARCANTONIO. Yes.

Mr. COOPER of Ohio. The gentleman referred a moment ago to the idealistic work of Mr. Cochran and Mr. Cohen. It is a matter of fact, is it not, they are on the pay roll of the Federal Government?

Mr. MARCANTONIO. That is correct—and they are here advancing the interests of the Federal Government and of the people of the United States. By doing that they are doing their duty. What is wrong about that?

Mr. RAYBURN. Mr. Chairman, will the gentleman yield just there?

Mr. MARCANTONIO. Yes.

Mr. RAYBURN. It seems that when anyone speaks of somebody else being around the Capitol that is very bad. When you speak of a representative inside the Government, such as these young men who sat down, on account of their skill and their great intelligence, to write into a bill what the President wanted them to write, it is a great crime for them to be seen around the Capitol. [Applause.]

Mr. MARCANTONIO. The gentleman from Texas is correct. I think they are doing a great, patriotic service to their country.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. MARCANTONIO. Yes.

Mr. McFARLANE. And it seems to be a crime in the eyes of the Power Trust when these gentlemen you have just mentioned bring in a bill in keeping with the wishes of the President, the taxpayers, and, of course, the consuming public, yet it is political propaganda when viewed from the Power Trust viewpoint. We could not write any legislation as it ought to be and yet have it satisfactory to them. The Power Trust does not want regulation, as they claim; they are using that as a smoke screen to try to kill this legislation. They want to be allowed to continue to rob the American consumer in rates.

Mr. MARCANTONIO. The gentleman is absolutely correct.

Mr. MONAGHAN. I want to say, in line with the gentleman's proposal, I intend to introduce an amendment to the bill which will prevent lobbying on the part of any of those men you have mentioned connected with the holding companies and to prevent contributions by them to political campaigns.

Mr. MARCANTONIO. I want to go further than that. I want to investigate those who have already lobbied against the Senate bill.

Mr. MONAGHAN. I agree with the gentleman about that.

Mr. MARCANTONIO. Now, a very effective statement was made yesterday against this bill by the gentleman from Alabama [Mr. HUDDLESTON], and this morning he stated that he stands by everything he has said in the past. I want to have it clearly understood that I do not question his motives. I have never questioned any man's motives on the floor of this House or outside the floor of this House until I had conclusive evidence, and I am not questioning his motives, but I am challenging his statement to the effect that he stands today on everything that he has said in the past.

On December 9, 1931, after Mr. Garner was elected Speaker of the House, Mr. HUDDLESTON was yielded 30 minutes to speak on the question of the dole, and in discussing the question of the dole Mr. HUDDLESTON incidentally referred to the very utility companies which he defended yesterday in his speech, and what are those references? He said:

In taking the collections for our chest the response which was made came from local parties.

Get this—

The absentee owners of numerous business from their offices in distant financial centers heard our pleas in vain. Mr. Chairman, our streets were full of those whom they had discharged.

[Here the gavel fell.]

Mr. MARCANTONIO. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

Mr. MILLARD. Mr. Chairman, reserving the right to object, it seems to me the gentleman is making a speech here in the absence of the gentleman from Alabama [Mr. HUDDLESTON], and it is not fair.

Mr. MAVERICK. I have told the gentleman from Alabama [Mr. HUDDLESTON] about it.

Mr. MARCANTONIO. I have notified the gentleman from Alamaba [Mr. HUDDLESTON] through the gentleman from Texas [Mr. MAVERICK] to be here. It is not my fault if he has not remained.

Mr. PARSONS. Mr. Chairman, I object.

Mr. MILLARD. Mr. Chairman, I object until Mr. HUDDLESTON gets here.

Mr. MARCANTONIO. Mr. Chairman, I ask an additional 5 minutes at this time, and I state now that, even though I sent notice to Mr. HUDDLESTON, since he is not here I shall not read his speech. I shall do so on Monday, when I intend to take the floor again. I hope Mr. HUDDLESTON will be present then.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for 5 minutes additional. Is there objection?

There was no objection.

Mr. MARCANTONIO. I shall not read Mr. HUDDLESTON'S speech.

Mr. MILLARD. Provided the gentleman will not quote Mr. HUDDLESTON, I have no further objection.

Mr. RANKIN. Be sure not to say anything that offends the opposition to this proposition.

Mr. ANDREWS of New York. Mr. Chairman, will the gentleman yield?

Mr. MARCANTONIO. No. I have only 5 minutes.

Mr. ANDREWS of New York. I ask unanimous consent that the gentleman may be permitted to talk about Mr. HUDDLESTON.

Mr. RANKIN, O Mr. Chairman, I make the point of order that that is not permissible.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. MARCANTONIO. Mr. Chairman, it is not a pleasant thing for me to take a position which is diametrically opposed to a position taken by a majority of my own party. At this time I want to submit to them a simple proposition. Is it sound republicanism for members of my party to brazenly stand in the well of this House and defend the nefarious practices of the Electric Bond & Share Co., as was done yesterday? Is it republicanism to stand in the well of this House and attack a policy which eventually will bring about the use of the power and light of this Nation for the benefit of the consumers of this Nation? If you call that republicanism, then you have a perfect right to challenge my republicanism, but between that republicanism and the republicanism of Abraham Lincoln, I shall take my stand with old-fashioned, conservative republicanism of Abraham Lincoln and not the extreme reactionary republicanism that was expressed yesterday in the well of this House.

Mr. Chairman, charges have been made that this proposition of the so-called "death sentence" for public-utility holding companies is radical. We are always accused of radicalism when we advance an idea for the benefit of the American consumers. Let me say this in answer: If it be radicalism to believe that when God said, "Let there be light", that that light should be used for the benefit of all of the American people and not for the sole benefit of a few exploiters; if it be radicalism to believe that our national resources should be used for the benefit of all of the American people and not for the purpose of enriching just a few; if it be radicalism to smash, to abolish, and to surgically eradicate these companies which have been throttling the life of America and siphoning out the lifeblood of American consumers, then, ladies and gentlemen of this House, I accept the charge; I plead guilty to the charge; I am a radical, and I am willing to fight it out on this issue until hell freezes over. [Applause.]

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. MARCANTONIO. Yes.

Mr. MICHENER. I have much respect for the gentleman's sincerity. The gentleman always says the things that he believes. As a matter of fact, the gentleman is for and believes in and would do anything he could legitimately to bring about Government ownership of all public utilities, would he not?

Mr. MARCANTONIO. I believe in the proposition of the Federal Government aiding municipally owned enterprises which operate and own their public utilities, so that the people will get the benefit of that which belongs to the people.

Mr. MICHENER. Pursuing that, and putting it in simple language so that we can all understand it, if the gentleman had the power he would pass legislation here and now which would cause Government ownership of all of these utilities.

Mr. MARCANTONIO. I believe that the Government, as I said, should aid every municipality that wants to go into the public-utility business. It is being done today, and it should be carried out; and if you call that Government ownership, then it is Government ownership.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. MICHENER. To the end that the Government would, when we got through with the legislation, own the public utilities?

Mr. MARCANTONIO. Mr. Chairman, I ask unanimous consent to proceed for 1 minute to answer that question.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MARCANTONIO. Mr. Chairman, my answer is simply this: The policy of the Government has been to aid municipalities and communities in owning and operating their own power and light plants, and that policy should be continued to the *n*th degree.

Mr. MICHENER. To the *n*th degree—and that means until the Government owns the public utilities?

Mr. MARCANTONIO. The municipalities will own them, not the Government. Now, let me also add, it seems that you people on my side of the aisle are afraid today of an invasion of State rights. When I studied the history of the Republican Party I learned that it was a party that believed in a strong Federal Government. Why the tears over State rights?

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. RANKIN. Mr. Chairman, I was very much amused this morning to hear the distinguished gentleman from Massachusetts [Mr. GIFFORD] rise in his place and lecture the Democratic Party, saying that even if the gentleman

from Alabama [Mr. HUDDLESTON] had at one time been a liberal, since he has come across to their way of thinking we should go with him. In other words, since he has found himself in the same boat with the gentleman from Massachusetts and other members of the Old Guard Republican Party, the rest of the Democrats ought to capitulate, surrender their views, repudiate their President, and go back on the American people and follow him into their rank.

I for one must decline that invitation. You other Democrats can do as you please. If you want to embrace the Republican elephant and receive the "kiss of death", that will be your funeral, not mine. [Applause.]

Mr. ANDREWS of New York. Will the gentleman yield?

Mr. RANKIN. Not now. I may later on.

I was further amused at the distinguished gentleman from Pennsylvania [Mr. FOCHT] when he advised us to follow him and Pennsylvania in regulating utilities. An old fellow who died down in my country had a neighbor who did not like him. Some of the old man's relatives put on his tombstone this epitaph:

Harke ye strangers passing by,
As you are now so once was I,
As I am now so you may be,
Prepare for death and follow me.

This old neighbor slipped into the cemetery one night and wrote under it these lines:

To follow you I would not consent,
Unless I knew which way you went.

[Laughter.]

I must respectfully decline to follow the leads of the distinguished gentleman from Pennsylvania, not because I do not know which way he went, but because I do know which way he went. [Laughter and applause.]

The gentleman said he was there when those corporation laws were made. Of all the outrages—and I say this respectfully—ever perpetrated against the taxpayers of any State in this Union, it was perpetrated against the people of Pennsylvania in the passage of those laws.

The utilities in the State of Pennsylvania own a hundred million dollars' worth of real estate that is exempt from taxation under those statutes, even State, county, or municipal taxes. The Members of Congress from Pennsylvania live in those towns and in the shadow of those buildings and they will verify every word I say. In some of those towns the utility companies own large office buildings, skyscrapers, if you please, that are absolutely exempt from State, county, or municipal taxes, while they are renting out space in them for money to the public, to anybody who wants to rent an office.

Mr. FOCHT. Will the gentleman yield for a question?

Mr. RANKIN. I yield for a question.

Mr. FOCHT. I want to call attention to the statement I made. It was that under the tax system of Pennsylvania that is all included in the corporation tax.

Mr. RANKIN. Oh, yes. They say that the corporation pays taxes. The corporation pays corporation taxes, but they exempt from taxes this real estate and they are grinding the small home owner and small business man and the farmers of Pennsylvania into the dust, to make up the deficit caused by exempting the property of these utility companies from taxation by the statute of that State.

The CHAIRMAN. The time of the gentleman from Mississippi [Mr. RANKIN] has expired.

Mr. RANKIN. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COOPER of Ohio. Will the gentleman yield to me for a question?

Mr. RANKIN. I yield.

Mr. COOPER of Ohio. The gentleman says they have $100,000,000 already invested. It is contemplated they will spend $300,000,000 in the T. V. A. That is exempt from Federal and State taxation, is it not—local, State, and Federal taxes?

Mr. RANKIN. O Mr. Chairman, that question is so wide of the mark and so irrelevant that I do not care to go into that. [Laughter and applause.] But I want to continue with the gentleman from Pennsylvania.

Mr. COOPER of Ohio. Will the gentleman answer my question?

Mr. RANKIN. The property owned by the T. V. A. is exempt from taxation.

Mr. COOPER of Ohio. Local, State, and Federal?

Mr. RANKIN. Yes; and it ought to be, just as your post-office building is exempt from taxes. But the T. V. A. pays 5 percent of its gross earnings in lieu of taxes.

The people of Pennsylvania are overcharged $75,000,000 a year for electric light and power over and above a legitimate charge that would take care of the operating company and pay all of its expenses. That is siphoned from the little home owners, from the stores and business places, the factories of Pennsylvania in order to keep going this great octopus that is known as the "Power Trust", this great sprawling cancer that is pyramided many times, which, as the gentleman from New York said, is sucking the lifeblood from the American people.

Mr. KENNEY. Will the gentleman yield?

Mr. RANKIN. I yield.

Mr. KENNEY. How will the passage of this bill affect local rates to the consumers of Pennsylvania?

Mr. RANKIN. Oh, it will help the operating companies and will enable them to lower their rates. It will stop them from wringing from the people, through these operating companies, hundreds of millions of dollars annually that they are now taking that ought to go to the operating company or be passed back to the consumer in rate reductions.

Mr. FOCHT. Just one question. What will it also do to the soft-coal industry of Pennsylvania if electricity is brought there from Muscle Shoals? Will the gentleman answer that question?

Mr. RANKIN. I am not going into the soft-coal business.

Mr. FOCHT. There are 22 Democrats from Pennsylvania who want an answer to what will happen to the soft-coal industry.

Mr. GILDEA. Mr. Chairman, will the gentleman yield to permit me to answer the gentleman from Pennsylvania?

Mr. RANKIN. Yes; but make it brief.

Mr. GILDEA. The electric companies are selling heating apparatus, electric ranges, stoves, and all kinds of electrical appliances, and to that extent are taking coal off the market.

Mr. RANKIN. I want to answer the gentleman from New Jersey [Mr. KENNEY]. Go to the Public Utilities Commission of New Jersey and look at the records, see what the records of New Jersey show. They show that you have about the highest rate of any State in the Union. The highest rates prevail in Louisiana. The next two highest are Arkansas and New Hampshire; then comes New Jersey. (Mr. KENNEY arose.) Wait a minute. The lowest per capita consumption of electricity in the United States is in the State of New Jersey. That is the record.

Mr. KENNEY. If the State commission of New Jersey permits that now, it will still be able to do so despite the passage of this bill.

Mr. RANKIN. It will not be necessary when you get rid of this gigantic empire that is sucking the economic lifeblood from the people of New Jersey. They are overcharged for electric lights and power $39,000,000 in the State of New Jersey alone. How can your people stand it?

The gentleman from Oregon [Mr. MOTT] talked to us in favor of State regulation. As a matter of fact, you cannot regulate these sprawling companies that straddle, if you please, from Oregon to New York, from Maine to Florida, from Delaware to Louisiana.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. RANKIN. I yield.

Mr. MOTT. Did not the gentleman understand that I made it plain that in the State of Oregon we did not attempt

to regulate activities of holding companies outside the State, but wholly within the State?

Mr. RANKIN. Yes; I understood that.

Mr. MOTT. I stated very plainly that regulation outside the State was a matter for the Federal Government to control, something I am strongly in favor of.

Mr. RANKIN. We have been unable to regulate at all, and what I am about to say will illustrate the reason. Here is a man by the name of Knight, Peter O. Knight, with Stone & Webster. In one of his letters he says that the power interests, the utilities industry, have at their "command more influence than the American Legion and the American Federation of Labor and a dozen other organizations." Besides, how can you regulate, what can a State do, in the face of all this powerful propaganda, all this money and all this force of organized effort, if you please, concentrated on one legislature when Congressmen of the United States find themselves in a great many instances withering and cringing before their attacks?

Now, let me read further what they attempted in the State of Florida. Let me read you what this same gentleman wrote when he was lobbying before the State Legislature of Florida. As a distinguished Senator said the other day, it is impossible to regulate these racketeers; you might as well attempt to regulate a rattlesnake. What we ought to do is to get rid of these great super holding companies, which, as the President of the United States says, serve no useful purpose.

Let us see what this man said. He stated:

We have been able up to date—

Now, this is the case of the Florida State Legislature, and I hope the Florida Members read this.

We have been able up to date to kill every bill of any kind or character that was objectionable to the public utilities of the State, and numerous such bills have been introduced.

It has been absolutely impossible to control them, as I pointed out the other day, absolutely impossible to fix rates with their lobbying around in the legislatures and preventing us from giving our public utilities commissions the right to fix rates. We came to the Federal Government. They say they have no power to regulate rates. The people are robbed and plundered mercilessly. The people, through their boards of aldermen and mayors, attempted to regulate these rates. What did the utilities do? They went into Federal court and enjoined them, because they knew they could draw money from New York to pay lawyers; they could draw money from other sources to help pay the expenses of the litigation. But the small municipalities are unable to fight their cases through to the Supreme Court of the United States.

I hold that the only effective relief is to pass this bill as it came from the Senate, or at least with section 11 and section 13 of the Senate bill.

My God! Read the propaganda that comes to your desk; go into it thoroughly, familiarize yourselves with what they are doing, and you will agree with me that the only hope of protecting the ultimate consumer of electric light and power is for the American Congress to put a stop to this legalized racketeering. [Applause.]

Mr. RAYBURN. Mr. Chairman, while I do not want to cut off debate, I should like to have a little more of the bill read this afternoon. There are a lot of uncontroversial sections that we could just as well read and get out of the way today.

Mr. Chairman, I ask unanimous consent that all debate on this section, and all amendments thereto, close in 15 minutes.

Mr. JENKINS of Ohio. Mr. Chairman, reserving the right to object, can the Chair inform us how this 15 minutes will be used?

The CHAIRMAN. The Chair states to the gentleman from Ohio that the Chair has promised to recognize the gentleman from Texas [Mr. McFARLANE], the gentleman from Georgia [Mr. CASTELLOW], and the gentleman from California [Mr. HOEPPEL].

Mr. JENKINS of Ohio. Mr. Chairman, I should like to have 2 minutes. Will the gentleman modify his request to that extent?

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 17 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. McFARLANE. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD and include excerpts.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. McFARLANE. Mr. Chairman, we have heard some very interesting speeches on the bill now before us, and in the brief time at my disposal I want to hit some of the highlights of this legislation, if I can.

At the outset, what is the real issue before us at this time? The issue is that we ought to do what we think is best for all the people. Speaking to that subject, I desire to make certain observations. I think it is undeniable and beyond successful contradiction that today the private power companies all over the Nation are charging the consuming public from two to four times as much as has been proven to be a fair and reasonable rate for the service rendered. The Power Trust has been charging the consumer these unreasonable rates for the last 25 years, and the fact being clearly shown by information placed in the RECORD repeatedly, beyond successful contradiction, that the Power Trust today is charging the consuming public almost a billion dollars a year beyond what would be considered a fair and legitimate rate to charge the consuming public, and it being shown further that the State regulatory commissions cannot and have not the power or authority to deal with the situation, then the question arises as to whether or not the Power Trust is stronger than the Federal Government and stronger even than the Congress of the United States.

From the lobbying activities that have been going on up and down the halls of Congress since the pending bill has been introduced, increasing in intensity as time went on, it begins to look like maybe they have stepped in and taken charge and control of the situation now before the Congress.

It has been stated here by those who favor killing this bill in any way they can or crippling it in any way they can that they want regulation. They never have wanted regulation; and, as the gentleman who preceded me just said, would you try to regulate a rattlesnake? I would not, nor you would not. The only way to regulate a rattlesnake is to kill it—and the only way to stop these blood-sucking, useless holding companies is to prohibit their further operation and require liquidation of such useless holding companies as soon as possible. You are satisfied from the background of that rattlesnake that he will bite you if he can. We are satisfied from the background of the Power Trust that they have robbed the American people out of about a billion dollars a year over a long period of time. They are going to continue to do so just as long as you sit here supinely and let them get away with it. Do not think the American public is going to be deceived. The widows and orphans that the Power Trust have set up in the background, and which they are so interested in now, have been taken for a royal cleaning year after year through their sale to them of their worthless securities, based on nothing but "hot air" in most instances, and these very same men who have robbed these widows and orphans are now using them through trickery and fraud to try to force Congress to let them continue their piracy upon the innocent and unsuspecting, and they are going to continue to do it just as long as you let them get by with it. Did they not take them for a ride in 1929? They have taken the present investors for a ride. You know it and I know it. There is not left 10 percent of the amount that the investors invested in this fake stock of theirs existing today, and this stock these holding companies sold

these widows and orphans and others was not worth 10 percent of the amount charged for it on March 4, 1933, when this administration came into power. Yet they come before you and shed great tears of anguish, saying that "You are robbing the widows and orphans." They have already been robbed. We are trying to protect them and keep this crowd from robbing them in the future.

TEXAS CONSUMERS OF ELECTRICITY PAY OVER $25,000,000 ANNUALLY IN EXCESSIVE RATES

Let me call to your attention how the consumers of electricity of the State of Texas and my congressional district have been robbed by the Power Trust for many years.

The people of the State of Texas used 1,683,558,000 kilowatt-hours of electric energy last year, for which they paid the sum of $51,403,516. Under the T. V. A. rates, the cost would have been $25,491,516, a saving of $24,912,000 a year. Under the Tacoma rates the cost would have been $26,481,516, a saving of $24,922,000 a year. Under the Ontario rates the cost would have been $20,789,117, a saving of $30,614,399 a year. Under the Winnipeg rates the cost would have been $23,394,516, a saving of $28,009,000 a year.

From the above rates it will be seen that the users of electricity in Texas have paid about $25,000,000 per year for electric light and power over what is considered a reasonable rate for the service rendered, which, in 10 years would amount to $250,000,000, which would be sufficient money to complete a connected system of hard-surfaced roads through every county in the State of Texas. At the present price of cotton it would take about 500,000 bales a year to pay this annual overcharge in Texas alone. This would amount to about 1,968 bales per county throughout the State.

THE POWER TRUST LOBBY

Is it any wonder the Power Trust maintains a strong lobby at Austin, and has for 25 years, to defeat any and all legislation that in any way interferes with their right to further exploit the users of electricity. Is it any wonder the Power Trust maintains a similar strong lobby throughout every State in the Union for the same purpose and particularly have used this set-up of their State lobby headed up through their powerfully well-financed lobby here at Washington to defeat any national legislation on this subject? Any well-informed lawyer will tell you that it is impossible to adequately regulate utility rates through any State regulatory commission today, because of their inability to secure necessary information on rate controversies with the utilities.

The utilities have so complicated their organization structure that it is impossible for any rate commission to reach or estimate with any degree of accuracy their financial structure because of their intricate holding-company set-up throughout the Nation. This is the reason the Power Trust has bitterly opposed any and all kinds of adequate regulation by the Federal Government. This is why the Power Trust has bitterly fought any and all representatives of the people who have stood and fought for adequate regulation of the Power Trust.

The disclosure of the investigation of the utility rates covering a period of several years recently conducted by the Federal Power Commission has furnished irrefutable information as to the many different ways the power companies operate to defeat the will of the people in securing a fair rate for electric lights and power.

I believe that the publicity given by the Power Trust on this legislation has aroused the public interest to the extent that the consumers of electricity now thoroughly realize the issues involved and understand clearly both sides of this question.

THE ISSUE—SERVE THE PEOPLE OR THE POWER TRUST

Very certainly for the future every official and every candidate for public office is either on the side of the people or on the side of the Power Trust. Those who try to hoodwink and mislead the people by failing and refusing to take a definite stand, who continue and persist to talk about nonessential issues and who conduct flag-waving exercises instead of discussing great public questions vitally affecting the taxpayers may well be placed with the Power Trust. It is well to study the background of each candidate who offers for public office so that you will better know and understand which crowd he runs with. A man cannot serve two masters, and this is particularly true of all public officers. He will either serve all the people or be a tool of the special interests. By their deeds ye shall know them.

LIGHT AND POWER OVERCHARGES IN THIRTEENTH DISTRICT OF TEXAS

I want to take up now and discuss the overcharges made by the Power Trust in the different counties in my district. I have had this data carefully prepared. I know it is substantially correct as to every county in my district.

ARCHER COUNTY

The consumers of electric energy of Archer County have been overcharged approximately $14,000 a year, according to T. V. A. rates, $19,000 a year, according to Tacoma rates, and $24,000 per year, according to Ontario rates.

In other words, if the people of Archer County, which includes Archer City, were supplied with electric light and power under T. V. A. rates they would save approximately $14,000 a year, under Tacoma rates they would save approximately $19,000, and under Ontario rates approximately $24,000 per year, besides they would double their consumption of electric energy and increase the use of electrical appliances if they were supplied with electricity at these lower rates.

For instance, in Archer City, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.60, or $31.20 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $22.20 a year; 40 kilowatt-hours a month in Archer City cost $3.35—under the T. V. A. rates it cost $1.20. In other words, the householder in Archer City using 40-kilowatt-hours a month would pay $40.20 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 179 percent.

In the city of Megargel, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $2.64, or $31.68 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $22.68 a year; 40 kilowatt-hours a month in Megargel cost $3.24—under the T. V. A. rates it costs $1.20. In other words, the householder in Megargel using 40 kilowatt-hours a month would pay $38.88 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 170 percent.

In the city of Holliday, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.85, or $34.20 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $25.20 a year; 40 kilowatt-hours a month in Holliday cost $3.60—under the T. V. A. rates it cost $1.20. In other words, the householder in Holliday using 40 kilowatt-hours a month would pay $43.20 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 200 percent.

With cotton at the present price it would take 280 bales of cotton a year to pay this overcharge in Archer County alone.

BAYLOR COUNTY

The consumers of electric energy of Baylor County have been overcharged approximately $11,000 a year, according to T. V. A. rates; $15,000, according to Tacoma rates; and $19,000 a year, according to Ontario rates.

In other words, if the people of Baylor County, which includes Seymour, were supplied with electric light and power under T. V. A. rates they would save approximately $11,000 a year; under Tacoma rates they would save approximately $15,000; and under Ontario, approximately $19,000—besides they would double their consumption of electric energy and increase the use of electrical appliances, if they were supplied with electricity at these lower rates.

For instance, in the city of Seymour, which is served by the municipal light plant, 25 kilowatt-hours a month cost $2.30, or $25.60 a year—under T. V. A. rates, 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $16.60 a year. Forty kilowatt-hours a month in Seymour cost $3.50—under the T. V. A. it costs $1.20. In other

words, the householder in Seymour using 40 kilowatt-hours a month would pay $42 a year, whereas, under T. V. A. rates he would pay $14.40 a year, an overcharge of 192 percent.

The municipal light plant at Seymour gives free awning lights to all of the business houses and filling stations, regardless of whether they patronize the municipal light plant or not. This allows them to put a 15-watt globe every 18 inches across the front of their place of business; and in case of filling stations located on corner lots, this allows them to light three sides of their business. This gives the business houses a well-lighted and inviting front, without any cost to them.

The street lights in Seymour are charged at a flat rate of $125 per month. This charge is about one-third of the rate they would be paying if they were paying the same rates that other towns their size are paying privately owned utility companies.

The city of Seymour is setting aside sufficient funds to retire the bonded indebtedness and in a few years will own its own municipal light plant, which will, of course, permit it to materially reduce their light and power rates.

In the city of Bomarton, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.85, or $34.20 a year—under T. V. A. rates, 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $25.20 a year. Forty kilowatt-hours a month in Bomarton costs $3.60—under the T. V. A. rates it cost $1.20. In other words, the householder in Bomarton using 40 kilowatt-hours a month would pay $43.20 a year, whereas, under the T. V. A. rates, he would pay $14.40 a year, an overcharge of 200 percent.

With cotton at the present price it would take 250 bales of cotton to pay this overcharge in Baylor County alone.

CLAY COUNTY

The consumers of electric energy of Clay County have been overcharged approximately $21,000 a year according to T. V. A. rates, $28,000 a year according to Tacoma rates, and $36,000 according to Ontario rates. In other words, if the people of Clay County, which includes Henrietta, were supplied with electric light and power under T. V. A. rates, they would save approximately $21,000 a year. Under Tacoma rates they would save approximately $28,000, and under Ontario rates approximately $36,000 per year; besides they would double their consumption of electric energy and increase the use of electric appliances, if they were supplied with electricity at these lower rates.

For instance, in the city of Henrietta, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.45, or $29.40 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $20.40 a year. Forty kilowatt-hours a month in Henrietta cost $3.20; under the T. V. A. rates it cost $1.20. In other words, the householder in Henrietta using 40 kilowatt-hours a month would pay $28.40 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 97 percent.

In the city of Bellevue, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.60, or $31.20 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $22.20 a year. Forty kilowatt-hours per month in Bellevue cost $3.35; under the T. V. A. rates it cost $1.20. In other words, the householders in Bellevue using 40 kilowatt-hours a month would pay $40.20 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 179 percent.

In the city of Byers, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $3.75, or $45 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $36 a year. Forty kilowatt-hours a month in Byers cost $5.25; under the T. V. A. rates it cost $1.20. In other words, the householder in Byers using 40 kilowatt-hours a month would pay $63 a year, whereas under the T. V. A. rates it would pay $14.40—an overcharge of approximately 337 percent.

With cotton at the present price, it would take 420 bales of cotton a year to pay this overcharge in Clay County alone.

COOKE COUNTY

The consumers of electric energy of Cooke County have been overcharged approximately $34,000 a year according to T. V. A. rates, $47,000 a year according to Tacoma rates, and $59,000 according to Ontario rates.

For instance, in the city of Gainesville, which is served by the Texas Power & Light Co., 25 kilowatt-hours a month cost $2.15, or $25.80 a year; under the T. V. A. rates, 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $16.80 a year. Forty kilowatt-hours a month in Gainesville cost $2.90; under the T. V. A. it cost $1.20. In other words, the householder in Gainesville using 40 kilowatt-hours a month would pay $34.80 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 142 percent.

In the city of Muenster, which is served by the Texas Power & Light Co., 25 kilowatt-hours a month cost $2.60, or $31.20 a year; under the T. V. A. rates, 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $22.20 a year. Forty kilowatt-hours a month in Muenster cost $3.35; under the T. V. A. it cost $1.20. In other words, the householder in Muenster using 40 kilowatt-hours a month would pay $40.20 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 179 percent. With cotton at the present price, it would take 680 bales of cotton a year to pay this overcharge in Cooke County alone.

DENTON COUNTY

The consumers of electric energy have been overcharged approximately $47,000 a year according to T. V. A. rates, $64,000 a year according to Tacoma rates, and $81,000 a year according to Ontario rates.

In the city of Aubrey, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $3, or $36 a year; under the T. V. A. rates, 25 kilowatt-hours cost 75 cents, or $9 per year, a saving of $27 a year. Forty kilowatt-hours a month in Aubrey cost $3.66; under T. V. A. rates it cost $1.20. In other words, the householder in Aubrey using 40 kilowatt-hours a month would pay $43.92 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 328 percent.

In Lewisville, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $3, or $36 a year; under T. V. A. rates, 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $27 a year. Forty kilowatt-hours a month in Lewisville cost $3.66; under the T. V. A. rates it cost $1.20. In other words, the householder in Lewisville using 40 kilowatt-hours a month would pay $43.92 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 328 percent.

In the city of Pilot Point, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $3, or $36 a year; under the T. V. A. rates, 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $27 a year. Forty kilowatt-hours a month in Pilot Point cost $3.66; under the T. V. A. rates it cost $1.20. In other words, the householder in Pilot Point using 40 kilowatt-hours a month would pay $43.92 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 328 percent.

WHAT A MUNICIPAL LIGHT PLANT HAS DONE FOR THE CITY OF DENTON

The city of Denton owns and has operated its own water, light, and sewerage plants for many years, and the value of their city-owned utility system on May 31, 1935, according to the report of a disinterested auditor, was set at $983,217.91. This city has one of the most outstanding records for successful municipal ownership and operation of its utilities of any city in the United States. They have practically built and paid for their present system of utilities without expense to the taxpayers of the city, while in doing so all the while have enjoyed lower utility rates than similar size cities have enjoyed under private ownership, and these cities of similar size have not received the low utility rates nor have they been able to pay for nearly $1,000,000 worth of utility property which has been accomplished by the citizens of Denton, since they have owned and operated their own utilities. In addition to enjoying low utility rates, lower than charged by private power companies for cities of similar size, they have been able to reduce the city tax rates out of earnings from

their power plant from $2.09 to $1.75. Their municipal light plant has made it possible for the city to have the best-lighted streets of any city its size in Texas, no charge being made for street lights. Free water and lights are also furnished the public schools of the city. These services alone would cost the city $40,000 a year, the price charged by similar power companies for similar services. There is no sewage charge in Denton.

Private power companies have offered the city more than $1,000,000 for their light-plant system. This they have repeatedly declined, realizing that should they sell their plant to the private utilities that these utilities would increase their rates to their citizens sufficient to make an adequate return on the investment, no matter what amount should be paid.

With cotton at the present price, it would take 940 bales of cotton a year to pay this overcharge in Denton County alone.

FOARD COUNTY

The consumers of electric energy of Foard County have been overcharged approximately $9,000 a year, according to T. V. A. rates, $13,000 according to Tacoma rates, and $16,000 according to Ontario rates.

In the city of Crowell, which is served by the West Texas Utilities Co., 25 kilowatt-hours a month cost $2.38, or $28.56 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $19.56 a year. Forty kilowatt-hours a month in Crowell cost $3.28; under the T. V. A. rates it cost $1.20. In other words, the householder in Crowell using 40 kilowatt-hours a month would pay $39.36 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of approximately 174 percent.

With cotton at the present price it would take 180 bales of cotton a year to pay this overcharge in Foard County.

HARDEMAN COUNTY

The consumers of electric energy of Hardeman County have been overcharged approximately $21,000 a year according to T. V. A. rates, $28,000 a year according to Tacoma rates, and $36,000 per year according to Ontario rates.

In the city of Chillicothe, which is served by the West Texas Utilities Co., 25 kilowatt-hours a month cost $2.38, or $28.56 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $19.56 a year; 40 kilowatt-hours a month in Chillicothe cost $3.28; under T. V. A. rates it cost $1.20. In other words, the householder in Chillicothe using 40 kilowatt-hours a month would pay $39.36 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 174 percent.

The city of Quanah is served by the West Texas Utility Co.; 25 kilowatt-hours a month cost $2.25, or $27 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $18 a year; 40 kilowatt-hours a month in Quanah cost $3.15; under T. V. A. it costs $1.20. In other words, the householder in Quanah using 40 kilowatt-hours a month would pay $37.80 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 163 percent.

With cotton at the present price, it would take 420 bales of cotton a year to pay this overcharge in Hardeman County.

JACK COUNTY

The consumers of electric energy have been overcharged approximately $13,000 a year according to T. V. A. rates, $18,000 a year according to Tacoma rates, and $22,000 per year according to Ontario rates.

In the city of Jacksboro, which is served by the Texas Power & Light Co., 25 kilowatt-hours a month cost $2.25, or $27 a year; under the T. V. A. rates 25 kilowatt-hours cost 75 cents, or $9 a year, a saving of $18 a year; 40 kilowatt-hours a month in Jacksboro cost $3; under T. V. A. rates it costs $1.20. In other words, the householder in Jacksboro using 40 kilowatt-hours a month would pay $36 a year, whereas under T. V. A. he would pay $14.40 a year, an overcharge of 150 percent.

In the city of Bryson, which is served by the Community Public Service, 25 kilowatt-hours a month cost $3, or $36 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $27 a year; 40 kilowatt-hours a month in Bryson cost $3.60; under the T. V. A. rates it costs $1.20. In other words, the householder in Bryson using 40 kilowatt-hours a month would pay $43.20 a year, whereas under the T. V. A. rates he would pay $14.40 a year, an overcharge of 200 percent.

With cotton at the present price, it would take 260 bales of cotton to pay this overcharge in Jack County alone.

KNOX COUNTY

The consumers of electric energy of Knox County have been overcharged approximately $16,000 a year according to T. V. A. rates, $22,000 according to Tacoma rates, and $28,000 per year according to Ontario rates.

For instance, in the city of Benjamin, which is served by the West Texas Utilities Co., 25 kilowatt-hours a month cost $2.95, or $35.40 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year—a saving of $26.40 a year. Forty kilowatt-hours a month in Benjamin cost $4—under the T. V. A. it costs $1.20. In other words, the householder in Benjamin using 40 kilowatt-hours a month would pay $48 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 233 percent.

Knox City, which is served by the West Texas Utilities Co., 25 kilowatt-hours a month cost $2.50 or $30 a year. Under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year—a saving of $21 a year; 40 kilowatt-hours a month in Knox City cost $3.40. Under the T. V. A. rates it costs $1.20. In other words, the householder in Knox City using 40 kilowatt-hours a month would pay $40.80 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 184 percent.

In the city of Munday, which is served by the West Texas Utilities Co., 25 kilowatt-hours a month cost $2.38, or $28.56 a year. Under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year—a saving of $19.56 a year. Forty kilowatt-hours a month in Munday cost $3.28. Under T. V. A. rates it costs $1.20. In other words, the householder in Munday using 40 kilowatt-hours a month would pay $39.36 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 173 percent.

With cotton at the present price, it would take 320 bales of cotton a year to pay this overcharge in Knox County.

MONTAGUE COUNTY

The consumers of electric energy of Montague County have been overcharged approximately $27,000 a year according to T. V. A. rates, $37,000 a year according to Tacoma rates, and $47,000 a year according to Ontario rates.

In the city of Bowie, which is served by the Bowie Municipal Light Plant, 25 kilowatt-hours a month cost $2.16, or $25.92 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $16.92 a year; 40 kilowatt-hours a month cost $3.24—under the T. V. A. rates it costs $1.20. In other words, the householder in Bowie using 40 kilowatt-hours a month would pay $38.88 a year—an overcharge of 175 percent.

The city of Bowie has operated its own municipal light plant since 1916. For the fiscal year 1931 they showed an operating profit of $11,856.22, for the succeeding year $13,437.56, and a similar profit for succeeding years. They have furnished 500 street lights to the city that at private power company rates would amount to $6,000 per year. All expenses of the city are paid by the water and light profits.

The city of Montague is served by the Community Public Service Co. Twenty-five kilowatt-hours a month cost $3.75, or $45 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $36 a year. Forty kilowatt-hours a month in Montague cost $5.70—under the T. V. A. rates it costs $1.20. In other words, the householder in Montague using 40 kilowatt-hours a month would pay $68.40 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 375 percent.

In the city of Nocona, which is served by the Community Public Service Co., 25 kilowatt-hours in a month cost $2.75, or $33 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $24 a year.

Forty kilowatt-hours a month in Nocona cost $4—under the T. V. A. rates it costs $1.20. In other words, the householder in Nocona using 40 kilowatt-hours a month would pay $48 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 233 percent.

The city of St. Jo, which is served by the Community Service Co., 25 kilowatt-hours a month cost $3.75 or $45; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a savings of $36 a year. Forty kilowatt-hours a month in St. Jo cost $5.70; under the T. V. A. rates it costs $1.20. In other words, the householder in St. Jo using 40 kilowatt-hours a month would pay $48.40 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 375 percent.

With cotton at the present price it would take 540 bales of cotton a year to pay this overcharge in Montague County.

THROCKMORTON COUNTY

The consumers of electric energy of Throckmorton County have been overcharged approximately $7,000 a year according to T. V. A. rates, $10,000 a year according to Tacoma rates, and $13,000 a year according to Ontario rates.

For instance, in the city of Throckmorton, which is served by the West Texas Utility Co., 25 kilowatt-hours a month cost $2.75, or $33 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $24. Forty kilowatt-hours a month in Throckmorton cost $3.80; under the T. V. A. rates it costs $1.20. In other words, the householder in Throckmorton using 40 kilowatt-hours a month would pay $45.60 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 217 percent.

In the city of Woodson, which is served by the West Texas Utility Co., 25 kilowatt-hours a month cost $2.95, or $35.40 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $26.40 a year. Forty kilowatt-hours a month in Woodson cost $4; under the T. V. A. rates it costs $1.20. In other words, the householder in Woodson using 40 kilowatt-hours a month would pay $48 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of approximately 233 percent.

With cotton at the present price it would take 140 bales of cotton a year to pay this overcharge in Throckmorton County.

WICHITA COUNTY

The consumers of electric energy of Wichita County have been overcharged approximately $106,000 a year according to T. V. A. rates, $145,000 a year according to Tacoma rates, and $184,000 according to Ontario rates.

In the city of Wichita Falls, which is "served" by the Texas Electric Service Co., 25 kilowatt-hours a month cost $1.90, or $22.80 a year—under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $13.80 a year; 40 kilowatt-hours a month in Wichita Falls cost $2.80—under the T. V. A. rates it costs $1.20. In other words the householder in Wichita Falls using 40 kilowatt-hours a month, would pay $33.60 a year, whereas under T. V. A. he would pay $14.40 a year, an overcharge of 133 percent.

In Iowa Park, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.45, or $29.40 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $20.40 a year; 40 kilowatt-hours a month in Iowa Park cost $3.20; under the T. V. A. rates it costs $1.20. In other words, the householder in Iowa Park using 40 kilowatt-hours a month would pay $38.40, whereas under T. V. A. rates he would pay $14.40, an overcharge of 166 percent.

In the city of Burkburnett, which is served by the Hardin municipal light plant, 25 kilowatt-hours a month cost $1.67, or $20.04 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $11.40 a year; 40 kilowatt-hours in Burkburnett cost $2.34; under T. V. A. rates it costs $1.20. In other words, the householder in Burkburnett using 40 kilowatt-hours a month would pay $28.08 a year, whereas under T. V. A. rates he would pay $14.40 a year, an overcharge of 95 percent.

I quote recent advertisements of the municipal light plant contained in the Burkburnett Star:

WITH FLAGS FLYING HIGH

Citizens of Burkburnett may read with satisfaction a copy of a report recently released by the Federal Government, in which rates for electricity are compared.

Burkburnett ranks third in the entire State (for towns with populations from 2,500 to 5,000) on its rate for the small consumer of electricity, University Park coming first and Alamo Heights second.

Throughout the report Burkburnett is among the foremost in its low rates, a direct result of its municipal light plant. With its establishment here rates were lowered 20–25 percent, and differing rate schedules abolished.

Municipal plants throughout the State make excellent showings in the report also. This is especially true when tax rates are taken into consideration.

TAKE A LOOK AT THIS

Citizens may derive satisfaction by comparing electrical rates of the Hardin Municipal Light Plant with those of other communities.

Rates of 15 towns in this section of the State (Iowa Park, Electra, Wichita Falls, Archer City, Olney, Henrietta, Bowie, Seymour, Jacksboro, Graham, Newcastle, Megargel, Nocona, Vernon, and Chillicothe) with an average population of 5,687 were averaged, and a comparison of these averages with the rates here are highly gratifying. Burkburnett's population is 3,281.

Such rates as apply locally have been made possible by the erection of a municipal light and power plant. The comparison follows:

Burkburnett:	
Minimum:	
13 kilowatts	$1.00
15 kilowatts	1.08
25 kilowatts	1.67
40 kilowatts	2.34
100 kilowatts	5.04
Average:	
Minimum:	
10 kilowatts	$1.25
15 kilowatts	1.64
25 kilowatts	2.32
40 kilowatts	3.13
100 kilowatts	5.51

The city of Electra, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.15, or $25.80 a year—under T. V. A. rates 25 kilowatt-hours a month cost 75 cents or $9 per year, a saving of $16.80 a year. Forty kilowatt-hours a month in Electra cost $2.90—under the T. V. A. rates it costs $1.20. In other words, the householder in Electra using 40 kilowatt-hours a month would pay $34.80 a year, whereas, under T. V. A. rates he would pay $14.40 a year—an overcharge of approximately 142 percent.

With cotton at the present price it would take 2,120 bales of cotton a year to pay this overcharge in Wichita County.

WILBARGER COUNTY

The consumers of electric energy of Wilbarger County have been overcharged $35,000 a year according to T. V. A. rates, $48,000 a year according to Tacoma rates, and $61,000 per year according to Ontario rates.

In the city of Harrold, which is served by the West Texas Utilities Co., 25 kilowatt-hours a month cost $2.95 or $35.40 a year—under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents a month, or $9 a year, a saving of $26.40 a year. Forty kilowatt-hours a month in Harrold cost $4—under the T. V. A. rates it costs $1.20. In other words, the householder in Harrold using 40 kilowatt-hours a month would pay $48 a year, whereas under T. V. A. rates, he would pay $14.40 a year—an overcharge of approximately 233 percent.

In the city of Vernon, which is served by the Vernon Municipal Light Co. and the West Texas Utility Co., 25 kilowatt-hours a month cost $2, or $24 a year—under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $15 a year. Forty kilowatt-hours a month in Vernon cost $2.70—under the T. V. A. rates it costs $1.20. In other words, the householder in Vernon using 40 kilowatt-hours a month would pay $32.40 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 124 percent.

With cotton at the present price, it would take 700 bales of cotton a year to pay this overcharge in Wilbarger County.

VERNON'S MUNICIPAL LIGHT PLANT

The city of Vernon has operated its own municipal light plant for many years and is recognized as one of the most successfully owned and operated plants in Texas.

They have built their own beautiful city hall worth more than $100,000 largely out of earnings of the light plant, and

have made many other improvements in the city out of light-plant profits. The city makes no charge for street lighting, parks, football and baseball grounds, municipal building, and library. They also have some charity cases where they furnish current in residences. This will approximate 125,000 kilowatt-hours per year. In addition to this, practically all mercantile establishments, filling stations, and so forth, using display and window lights, and signs are furnished lights on a flat charge per month. None of this is metered, however, I am informed; they do not collect exceeding 1 cent per kilowatt-hour for this class of service.

Their plant, according to the audit for the past year, showed a profit of approximately $33,000. However, replacements aggregated about $11,000. No doubt this should have been charged as expense in view of the fact that they make no charge for depreciation. If it had been so charged, the profit would have been about $22,000.

At the end of their fiscal year March 21, their balance was $21,429.91, with no outstanding indebtedness.

The municipal light plant at Vernon represents an actual investment of approximately $450,000, entirely out of debt, all paid for out of plant earnings. The citizens of Vernon have a very efficient plant, and their light rates are among the lowest rates of any city in the State. In spite of this enviable record they have had the bitter opposition of the West Texas Utility Co. and their own daily newspaper, The Vernon Record.

WISE COUNTY

The consumers of electric energy of Wise County have been overcharged $27,000 a year according to T. V. A. rates, $37,000 a year according to Tacoma rates, and $47,000 a year according to Ontario rates.

In the city of Alvord, which is served by the Texas Power & Light Co., 25 kilowatt-hours a month cost $2.60, or $31.20 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year, a saving of $22.20 a year; 40 kilowatt-hours a month in Alvord cost $3.35; under the T. V. A. rates it costs $1.20. In other words, the householder in Alvord using 40 kilowatt-hours a month would pay $40.20 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 179 percent.

In the city of Chico, which is "served" by the Texas Power & Light Co., 25 kilowatt-hours a month cost $2.60, or $31.20 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $22.20 a year. Forty kilowatt-hours a month in Chico cost $3.35; under the T. V. A. rates it costs $1.20. In other words, the householder in Chico using 40 kilowatt-hours a month would pay $40.20 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 179 percent.

In the city of Bridgeport, which is served by the Empire Southern Service Co., 25 kilowatt-hours a month cost $3, or $36 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $27 a year. Forty kilowatt-hours a month in Bridgeport cost $4.50; under the T. V. A. rates it costs $1.20. In other words, the householder in Bridgeport using 40 kilowatt-hours a month would pay $54 a year, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 275 percent.

In the city of Decatur, which is served by the Texas Power & Light Co., 25 kilowatt-hours a month cost $2.25, or $27 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $18 a year. Forty kilowatt-hours a month in Decatur cost $3; under the T. V. A. rates it costs $1.20. In other words, the householder in Decatur using 40 kilowatt-hours a month would pay $36 a year, whereas under the T. V. A. rates he would pay $14.40 a year—an overcharge of 150 percent.

In the city of Boyd, which is served by the Texas Power & Light Co., 25 kilowatt-hours a month cost $2.60, or $31.20 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year, a saving of $22.20 a year. Forty kilowatt-hours a month in Boyd cost $3.35; under the T. V. A. rates it costs $1.20. In other words, the householder in Boyd using 40 kilowatt-hours a month would pay $40.20 a year, whereas under the T. V. A. rates he would pay $14.40 a year—an overcharge of 179 percent.

With cotton at the present price it would take 540 bales of cotton a year to pay this overcharge in Wise County.

YOUNG COUNTY

The consumers of electric energy of Young County have been overcharged approximately $29,000 a year, according to T. V. A. rates, $39,000 a year according to Tacoma rates, and $50,021 per year according to Ontario.

In the city of Graham, which is served by the Texas Electric Service Co., 25 kilowatt-hours a month cost $2.15, or $25.80 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 per year—a saving of $16.80 a year. Forty kilowatt-hours a month in Graham cost $2.90; under the T. V. A. rates it costs $1.20. In other words, the householder in Graham using 40 kilowatt-hours a month would pay $34.80, whereas under T. V. A. rates he would pay $14.40 a year—an overcharge of 141 percent.

In Eliasville, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $3, or $36 a year; under T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year—a saving of $27 a year. Forty kilowatt-hours a month in Eliasville cost $3.60; under the T. V. A. rates it costs $1.20. In other words, the householder in Eliasville using 40 kilowatt-hours a month would pay $43.20 a year, whereas under the T. V. A. rates he would pay $14.40 a year—an overcharge of 200 percent.

In the city of Olney, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $2.64, or $31.68 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year—a saving of $22.68 a year. Forty kilowatt-hours a month in Olney cost $3.24; under the T. V. A. rates its costs $1.20. In other words, the householder in Olney using 40 kilowatt-hours a month would pay $38.88 a year, whereas under the T. V. A. rates he would pay $14.40 a year—an overcharge of 170 percent.

In the city of South Bend, which is served by the Texas Electric Service, 25 kilowatt-hours a month cost $2.85, or $34.20 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year—a saving of $25.20 a year. Forty kilowatt-hours a month in South Bend cost $3.60; under the T. V. A. rates it costs $1.20. In other words, the householder in South Bend using 40 kilowatt-hours a month, would pay $43.20 a year, whereas, under the T. V. A. rates he would pay $14.40 a year—an overcharge of 200 percent.

In the city of Loving, which is served by the Community Public Service Co., 25 kilowatt-hours a month cost $3, or $36 a year; under the T. V. A. rates 25 kilowatt-hours a month cost 75 cents, or $9 a year—a saving of $27 a year. Forty kilowatt-hours a month in Loving cost $3.60; under the T. V. A. rates it costs $1.20. In other words, the householder in Loving using 40 kilowatt-hours a month would pay $43.20 a year, whereas under the T. V. A. rates he would pay $14.40 a year—an overcharge of 200 percent.

With cotton at the present price it would take about 580 bales of cotton a year to pay this overcharge in Young County.

CONCLUSIONS

From the above analysis of the rates charged for electric lights and power throughout my district and the State of Texas it is clearly shown wherein and how the Power Trust, through its control of legislation, State and National, to date has been able to take from the pockets of the consumers of electricity more than $25,000,000 a year, more than what is considered by unbiased reports based on a careful analysis of what it is considered to be worth to furnish this electric service and what is being charged for this electric service by T. V. A., Ontario, and Tacoma, and many other plants. Illustrations too numerous to mention could be given showing that similar publicly owned plants, honestly and efficiently operated, are serving their people at similar rates. There are many cities in the United States that are free of taxation for local government expenses as a result of their owning their own public utilities, and through this ownership and operation at low rates are enabled to take care of all overhead expenses of city government. The excessive light rates charged, as above shown, are siphoned out of the district and

the different States of the Nation, most of it going to Wall Street, never to return, except at usurious interest rates.

The battle is on between the people and the Power Trust. Every official in public life is on one side or the other—he is either with the people or with the Power Trust.

As you perhaps know, I have always actively fought for rigid regulation and lower rates on all public utilities. During my entire public career of 8 years' service in the House and the Senate of Texas, as well as my service while in Congress.

The enactment of the Wheeler-Rayburn bill providing rigid regulation of the utilities, including the elimination of useless holding companies, will go a long way toward forcing a reasonable regulation upon the operating companies of the respective States. It should save the overburdened consumers of electricity much of the billion dollars a year they are now being overcharged for electric power alone. The special interests never sleep; be on your guard, "eternal vigilance is the price of a democratic form of government", and each of you must be up and doing if the Jeffersonian principles of democracy prevail—"equal rights to all, special privileges to none." [Applause.]

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. HOFFMAN] for 5 minutes.

(Mr. HOFFMAN asked and was given permission to revise and extend his remarks in the RECORD.)

Mr. HOFFMAN. Mr. Chairman, several references have been made to certain lobbyists in the gallery. So far as I am concerned, I have not felt their influence or presence as yet, and if they are here I hope their employers will note my statement that they have yet to buy even a glass of milk or a cigarette for me. It may be because they feel that my vote is of no importance. They may know I am a "round-headed Dutchman" with convictions of my own. But why is it a crime, I ask you, for those gentlemen to come down here and urge us to accept their views? Are we so weak minded that we cannot resist the arguments that they make if there be no substance to them? Are we so dishonest that we cannot resist their bribes if they offer bribes?

Mr. MARCANTONIO. Will the gentleman yield in order that I may answer the question?

Mr. HOFFMAN. I yield to the gentleman from New York, but not to make a speech at great length.

Mr. MARCANTONIO. The reason I object to their activities is because of the fact that they come here today and then tomorrow morning telegrams pour in from back home.

Mr. HOFFMAN. There are stockholders in my district, and they are sensible people. They own property. They are able to judge just as well as I can of the soundness of the arguments put forth by these lobbyists. Is there any reason why the stockholders of my district should not appeal to me for protection?

Mr. Chairman, the gentleman from Texas said that the Republicans were funny. Is there anything funnier than the way the administration last week called up the Democratic leaders and then used them to operate a Punch and Judy show, not with the usual two performers, but with five on a string, so that figuratively one day we saw them and the next day we did not? Mr. Chairman, we all respect and have sympathy for those distinguished gentlemen in their difficult position.

Mr. MAVERICK. I still think the Republican Party is funny.

Mr. HOFFMAN. Mr. Chairman, it was stated that State regulation was impossible. Why is it impossible? The only reason I heard advanced is that those in charge in the States sold out to the public utilities. If that be true, is there any reason to suspect that the Federal officials will not do likewise? Have we forgotten Teapot Dome and other scandals—the recent "stamp acts" of our Postmaster General? It has been called to our attention often enough. Is there any reason to assume that the Democratic Party will be any more honest than the Republicans when they were in? Do we not all realize that? We may sometimes assume anything, regardless of the logic. Do you on that side claim that there are no dishonest men in your party?

Mr. MAVERICK. Yes.

Mr. HOFFMAN. Is the gentleman so innocent of political life as to believe that?

Mr. MAVERICK. I do not think there are any dishonest men on either side of the aisle.

Mr. HOFFMAN. But the gentleman knows as well as I do that always around the successful party there comes a fringe of dishonest grafters.

Mr. MAVERICK. The Republicans have been in power longer.

Mr. HOFFMAN. We have been there longer, but the Democratic Party has made up for our length of time in power by the rapidity with which they have acted. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Chairman, ladies and gentlemen of the Committee, this proposed legislation which proposes to destroy holding companies has given much anxiety and concern to millions of our best people. They are waiting anxiously the result of our action here in Congress. I recognize the justice of their claims and I propose to do my part to grant their wishes as far as I can. These people are vitally interested. Many of them feel that their life savings are in jeopardy. They can see the clouds gathering that may bring them the rainy day that they thought they had by frugality and hard work safely guarded against. They are wondering whether thrift is really a virtue. They are doubtful whether honesty is the best policy. They wonder why the President is taking such an interest in a program that must inevitably result in a change of their status from that of one who has been able to take care of himself to one who in his old age might be made to feel the pangs of hunger and to know the woes of want. We should ponder well on our action. They have a right to expect us to do the right thing. We should not permit ourselves to be moved by such flimsy excuses as that we must support the President. We must remember that these people are not initiating this legislation. The President is initiating it. They are not asking anything except to be let alone. They should be let alone, and any discipline that might be necessary should be administered to those in fault and who deserve it. They did not make their agreements with the Government, but they made them under laws sanctioned by the Government. If there has been anything improper, illegal, or dishonest done, they are not responsible, then why punish them by taking away from them that which represents honest effort and honest toil on their part.

I am one of those who believe that it is not wise for an individual to live only in the past when the great interesting and uncertain future lies all undiscovered before him. I believe that the time has come when the spiritual and economic values of life are being given more consideration than ever before. But I am not one of those who think that everything must be leveled down so that nobody will have anything and that those who slaved and saved must share with those who loafed until the worker is in no better financial condition than the shirker. I believe that the hope of a reward for good deeds done is an eternal principle in the heart of every rational person regardless of his culture or lack of it. I believe in the profit motive. Psychology teaches that every willful act of any individual springs from the desire of that individual to better himself. Nature has so constructed us. When these people saved their money it was as a result of a willful desire on their part to accumulate. They resolved to provide themselves against a rainy day. And when the President and the Congress willfully take from them that which they acquired honestly, the President and Congress do them a great injustice, and I for one protest against taking from these people their valuable property practically by coercion and Presidential and congressional duress. There is no doubt many holding companies need to be regulated. There is no doubt that much fraud and misrepresentation has been practiced in the organization and operation of some holding companies, but this taint cannot be traced to millions of innocent investors. Those who wish to remedy this situation have

their remedy without causing any great financial loss to those thousands who own these companies. To use an old homely illustration, "There is no need to burn the barn in order to kill the rats."

Therefore regulation and not destruction is the proper course. The President should not lend the power and influence of his high office to destroy the investment of millions of people just to satisfy the demand of the Socialists and Communists who surround him in high places in his administration. He is lending himself to the purposes of those who are trying to remake America and to substitute such principles of government as are now exemplified in Russia. His advisers are those who advocate the socialization of America. They are practicing it every day. Witness the Tennessee Valley project, where it is sought to spoil perfectly good American mountaineers with new notions of sovietism and where it is intended to engraft upon our social structure practices that will inevitably undermine our Constitution. Say what you will, there is no doubt that there are many persons high in the councils of this administration who would gladly welcome the day when our Constitution is set aside and the Supreme Court shorn of its power, the Congress disbanded, and State lines obliterated, so that there would be no obstruction to the edicts of a dictator, who each evening could announce over the radio what would be the rights, privileges, and duties of every individual for the next day. The difference is that under a constitution the voices of all the people are molded into one voice, and that voice is what we call "the law", and that voice is the voice that must be heeded by President and people. Under a dictatorship the powers are reversed. The voice of one person is the chart and compass of all. As one dictator once said, "I am the state."

Ladies and gentlemen, we in America, Republicans and Democrats, are overwhelmingly against governmental or Presidential control of business and the necessities of life. It is not a matter of politics. Neither party has a right to claim that it is the sole representative of Americanism. When a President or any other high official, who is yet only human and who as yet has no attributes of the Omnipotent, attempts to inflict a nation with a program born of an unreasonable prejudice against one industry and its leaders, it is our duty to remind him that the Constitution prescribes his duties and that as yet we have found no safer compass by which the Ship of State might be navigated. Let us be reasonable. Let us be fair. Let us improve carefully and not destroy ruthlessly. Holding companies have a place in our financial structure, but they must be regulated. So with banks and railroads and many other concerns. We cannot successfully indict a great industry when only a small portion of it may be unworthy. I favor strict regulation by law, and I oppose domination by Executive edict. Let the President confine himself to his constitutional duties and let Congress and the courts function freely, and we will have a better America.

The Clerk read as follows:

DEFINITIONS

SEC. 2. (a) When used in this title, unless the context otherwise requires—

(1) "Person" means an individual or company.

(2) "Company" means a corporation, a partnership, an association, a joint-stock company, a business trust, or an organized group of persons, whether incorporated or not.

(3) "Electric-utility company" means any company which owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale, other than sale to tenants or employees of the person operating such facilities for their own use and not for resale. The Commission, upon application, shall by order declare a company operating any such facilities not to be an electric-utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of an electric-utility company, and (B) by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric-utility company for the purposes of this title. The filing of an application hereunder in good faith shall exempt such company (and the owner of the facilities operated by such company) from the application of this paragraph until the Commission has acted upon such application. As a condition to the entry of any such order, and as a part thereof, the Commission may require application to be made periodically for a renewal of such order, and may require the filing of such periodic or special reports regarding the business of the company as the Commission may find necessary or appropriate to insure that such company continues to be entitled to such exemption during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke such order whenever it finds that the conditions specified in clauses (A) and (B) are not satisfied in the case of such company. Any action of the Commission under the preceding sentence shall be by order. Application under this paragraph may be made by the company in respect of which the order is to be issued or by the owner of the facilities operated by such company. Any order issued under this paragraph shall apply equally to such company and such owner.

(4) "Gas-utility company" means any company which owns or operates facilities used for the distribution at retail (other than distribution only in enclosed portable containers, or distribution to tenants or employees of the person operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power. The Commission, upon application, shall by order declare a company operating any such facilities not to be a gas-utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of a gas-utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered a gas-utility company for the purposes of this title. The filing of an application hereunder in good faith shall exempt such company (and the owner of the facilities operated by such company) from the application of this paragraph until the Commission has acted upon such application. As a condition to the entry of any such order, and as a part thereof, the Commission may require application to be made periodically for a renewal of such order, and may require the filing of such periodic or special reports regarding the business of the company as the Commission may find necessary or appropriate to insure that such company continues to be entitled to such exemption during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke such order whenever it finds that the conditions specified in clauses (A) and (B) are not satisfied in the case of such company. Any action of the Commission under the preceding sentence shall be by order. Application under this paragraph may be made by the company in respect of which the order is to be issued or by the owner of the facilities operated by such company. Any order issued under this paragraph shall apply equally to such company and such owner.

(5) "Public-utility company" means an electric-utility company or a gas-utility company.

(6) "Commission" means the Securities and Exchange Commission.

(7) "Holding company" means—

(A) Any company which directly or indirectly owns, controls, or holds with power to vote 10 percent or more of the outstanding voting securities of a public-utility company or of a company which is a holding company by virtue of this clause or clause (B), unless the Commission, as hereinafter provided, by order declares such company not to be a holding company; and

(B) Any person which the Commission determines, after notice and opportunity for hearing, directly or indirectly to exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this title upon holding companies.

The Commission, upon application, shall by order declare that a company is not a holding company under clause (A) if the Commission finds that the applicant (i) does not, either alone or pursuant to an arrangement or understanding with one or more other persons, directly or indirectly control a public-utility or holding company either through one or more intermediary persons or by any means or device whatsoever, (ii) is not an intermediary company through which such control is exercised, and (iii) does not, directly or indirectly, exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this title upon holding companies. The filing of an application hereunder in good faith by a company other than a registered holding company shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a holding company, until the Commission has acted upon such application. Within a reasonable time after the receipt of any application hereunder, the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of, such application. As a condition to the entry of any order granting such application and as a part of any such order, the Commission may require the applicant to apply periodically for a renewal of such order and to do or refrain from doing such acts or things, in respect of exercise of voting rights, control over proxies, designation of officers and directors, existence of interlocking officers, directors, and other relationships, and submission of periodic or special reports regarding affiliations or intercorporate relationships of the applicant, as the Commission may

find necessary or appropriate to ensure that in the case of the applicant the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. The Commission, upon its own motion or upon application of the company affected, shall revoke the order declaring such company not to be a holding company whenever in its judgment any condition specified in clause (i), (ii), or (iii) is not satisfied in the case of such company, or modify the terms of such order whenever in its judgment such modification is necessary to insure that in the case of such company the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. Any action of the Commission under the preceding sentence shall be by order.

(8) "Subsidiary company" of a specified holding company means—

(A) any company 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company (or by a company that is a subsidiary company of such holding company by virtue of this clause or clause (B)), unless the Commission, as hereinafter provided, by order declares such company not to be a subsidiary company of such holding company; and

(B) any person the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies.

The Commission, upon application, shall by order declare that a company is not a subsidiary company of a specified holding company under clause (A) if the Commission finds that (i) the applicant is not controlled, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) either through one or more intermediary persons or by any means or device whatsoever, (ii) the applicant is not an intermediary company through which such control of another company is exercised, and (iii) the management or policies of the applicant are not subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies. The filing of an application hereunder in good faith shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a subsidiary company of such specified holding company until the Commission has acted upon such application. Within a reasonable time after the receipt of any application hereunder, the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of, such application. As a condition to the entry of, and as a part of, any order granting such application, the Commission may require the applicant to apply periodically for a renewal of such order and to file such periodic or special reports regarding the affiliations or intercorporate relationships of the applicant as the Commission may find necessary or appropriate to enable it to determine whether in the case of the applicant the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke the order declaring such company not to be a subsidiary company whenever in its judgment any condition specified in clause (i), (ii), or (iii) is not satisfied in the case of such company, or modify the terms of such order whenever in its judgment such modification is necessary to insure that in the case of such company the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. Any action of the Commission under the preceding sentence shall be by order. Any application under this paragraph may be made by the holding company or the company in respect of which the order is to be entered, but as used in this paragraph the term "applicant" means only the company in respect of which the order is to be entered.

(9) "Holding-company system" means any holding company, together with all its subsidiary companies.

(10) "Associate company" of a company means any company in the same holding-company system with such company.

(11) "Affiliate" of a specified company means—

(A) any person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of such specified company;

(B) any individual who is an officer or director of such specified company; and

(C) any person that the Commission determines, after notice and opportunity for hearing, to stand in such relation to such specified company that there is such an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this title upon affiliates of a company.

(12) "Registered holding company" means a person whose registration is in effect under section 5.

(13) "Director" means any director of a corporation or any individual who performs similar functions in respect of any company.

(14) "Security" means any note, draft, stock, Treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, receiver's or trustee's certificate, or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guaranty of, assumption of liability on, or warrant or right to subscribe to or purchase, any of the foregoing.

(15) "Voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company, or any security issued under or pursuant to any trust, agreement, or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a company; and a specified percent of the outstanding voting securities of a company means such amount of the outstanding voting securities of such company as entitles the holder or holders thereof to cast said specified percent of the aggregate votes which the holders of all the outstanding voting securities of such company are entitled to cast in the direction or management of the affairs of such company.

(16) "Utility assets" means the facilities, in place, of any electric-utility company or gas-utility company for the production, transmission, transportation, or distribution of electric energy or natural or manufactured gas.

(17) "Service contract" means any contract, agreement, or understanding whereby a person undertakes to sell or furnish, for a charge, any managerial, financial, legal, engineering, purchasing, marketing, auditing, statistical, advertising, publicity, tax, research, or any other service, information, or data.

(18) "Sales contract" means any contract, agreement, or understanding whereby a person undertakes to sell, lease, or furnish, for a charge, any goods, equipment, materials, supplies, appliances, or similar property. As used in this paragraph the term "property" does not include electric energy or natural or manufactured gas.

(19) "Construction contract" means any contract, agreement, or understanding for the construction, extension, improvement, maintenance, or repair of the facilities or any part thereof of a company for a charge.

(20) "Buy", "acquire", "acquisition", or "purchase" includes any purchase, acquisition by lease or exchange, or other acquisition.

(21) "Sale" or "sell" includes any sale, disposition by lease, exchange or pledge, or other disposition.

(22) "State" means any State of the United States or the District of Columbia.

(23) "United States", when used in a geographical sense, means the States.

(24) "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State which under the law of such State has jurisdiction to regulate public-utility companies.

(25) "State securities commission" means any commission, board, agency, or officer, by whatever name designated, other than a State commission as defined in paragraph (24) of this subsection, which under the law of a State has jurisdiction to regulate, approve, or control the issue or sale of a security by a company.

(26) "Interstate commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(27) "Integrated public-utility system" means—

(A) As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal condition may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management and efficient operation; and

(B) As applied to gas utility companies, a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management and efficient operation, provided that gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.

(b) No person shall be deemed to be a holding company under clause (B) of paragraph (7) of subsection (a), or a subsidiary company under clause (B) of paragraph (8) of such subsection, or an affiliate under clause (C) of paragraph (11) of such subsection, unless the Commission, after notice and opportunity for hearing, has issued an order declaring such person to be a holding company, a subsidiary company, or an affiliate. Such an order

shall not become effective for at least 30 days after the mailing of a copy thereof to the person thereby declared to be a holding company, subsidiary company, or affiliate. Whenever the Commission, on its own motion or upon application by the person declared to be a holding company, subsidiary company, or affiliate, finds that the circumstances which gave rise to the issuance of any such order no longer exist, the Commission shall by order revoke such order.

(c) No provision in this title shall apply to, or be deemed to include, the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto.

The CHAIRMAN (Mr. WARREN). The Chair thinks, in the interest of orderly procedure and in order to facilitate progress on this measure, that all perfecting amendments should be considered ahead of pro forma amendments, and with the aid of the gentlemen of the Committee, the Chair would like to adhere to this program in the further consideration of the bill.

Mr. WADSWORTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WADSWORTH: On page 162, lines 8 and 9, after the word "means", strike out "the Securities and Exchange Commission" and insert in lieu thereof "the Federal Power Commission."

Mr. WADSWORTH. Mr. Chairman, I ask unanimous consent that this amendment may be printed in the RECORD and that permission be given to return to it at an appropriate time during the consideration of the bill on Monday next.

I make this request, Mr. Chairman, because I am well aware of the fact that the amendment is controversial and may give rise to extended debate. We are now getting well on to the middle of a Saturday afternoon; there are many Members absent, and I think it would be better if the amendment were considered at a time when everyone expects to be here.

Mr. RAYBURN. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield.

Mr. RAYBURN. I may say, Mr. Chairman, that a great many Members have gone home on the theory there would not be anything very controversial brought up today, and I hope the request of the gentleman from New York will be granted.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any perfecting amendments to be offered to this section at this time? If not, the gentleman from California [Mr. HOEPPEL] offers a pro forma amendment and is recognized for 5 minutes.

Mr. HOEPPEL. Mr. Chairman, in speaking in reference to this bill and other legislation, I hope the Committee will be indulgent with me as I read a part of a poem. A constituent of mine sent this poem to me, which is so applicable to the situation here in Washington that it seems reasonable to assume that conditions in the Capital City may have served as the author's inspiration when he wrote of "Crazyland."

Then make a trip to Crazyland,
Down on the Looney Pike,
You'll find the queerest people thar,
You never see the like.
They're wrong side to, in Crazyland,
They're upside down with care;
They walk around upon their heads,
Their feet up in the air.

After experience in three sessions of Congress, and on a basis of my analysis of our legislative actions which absolutely defy embodiment in any intelligent, organized program, I am convinced that if this is sanity, then it is the sanity of Crazyland!

It appears that all that is necessary is for some economist to have a pipe dream and transmit it to the administration, and, lo and behold, a breath is passed over the Capitol from the White House and the Congress is subject to the "jitters", such as we experienced today when certain Members rose to criticize the gentleman from Alabama [Mr. HUDDLESTON], who differs with them on the issues of this bill. Paradoxical as it may seem, the gentleman from Washington [Mr. HILL], who, among others, has criticized Mr. HUDDLESTON, has been one of the most ardent opponents of gag-rule legislation in the House, for which I commend him. Mr. HUDDLESTON is to be complimented on his vigorous opposition to a measure which he, in all sincerity, believes to be inimical to the best interests of the people and absolutely at variance with the principles of our platform declarations of 1932.

I myself am opposed to the death-sentence provision of the pending measure. A surgeon does not kill the patient in order to cure appendicitis. Dr. Braintrust apparently is a graduate of a different school of surgery!

Thank God, even though we have surrendered our legislative prerogatives, we yet have the right to criticize and differ with each other, even though unfortunately many of us appear to exhaust our energies in preliminary skirmishing so that when the issue actually confronts us, we meekly lay down our arms and "follow the leader."

Crazyland appears to have its counterpart in Washington. Our Democratic platform promised 25 percent reduction in expenditures and the curtailment of bureaus in the interest of economy. But what actually has been done? The number of bureaus has increased almost beyond computation and our expenditures have been pyramided into the billions.

Sometime ago, the administration sent us a bill which we passed in about 20 minutes. This bill, docilely enacted, under an administration gag rule, removed from the retired list 4,000 emergency officers who were disabled in war service. This was represented to us as essential in the interest of economy and to protect the credit of the United States, and on that basis, we justified our enactment of the economy bill, which brought such suffering to our worthy disabled veterans. Now the administration favors pending legislation which will place 4,000 or more Army officers, in perfect physical condition, on the retired list, at high retired pay for the rest of their lives.

In other words, we are adding a potential tax burden of $200,000,000 or $300,000,000 to the backs of the taxpayers for the lifetime of these officers. When retired with pay up to $375 per month, the majority of these able-bodied officers will doubtless, as so many others have done, compete in the field of civil employment, thus aggravating our unemployment problem.

We pay our farmers for remaining idle, and destroy crops to raise prices of agricultural products, while millions of our people are unable to purchase the barest necessities of life. At the same time, while we curtail production of agricultural products, we permit agricultural imports from foreign countries in increasing amounts. While our own farmers are paid to remain idle, foreign farmers are thus usurping the legitimate markets of our agriculturalists. This type of insanity is described in a verse of the poem from which I have already quoted:

They raise so much in Crazyland,
Of food and clothes and such,
That they who work have not enough,
Because they raise too much.
The children starve in Crazyland
To satisfy the greed
Of plundersharks, who only live
To loaf around and feed.

The Democratic Party promised the people an abundant life. What have we done? We have enacted a pauper's pension of $15 per month for our worthy aged citizens and now the administration proposes to spend a munificent sum as high as $1.85 per week on the young people of our country between the ages of 18 and 25 who are the helpless victims of this depression. By an irony of fate, these young people who are given this insignificant sum per week, will be called upon in their later years to carry the burden of tax-exempt securities, which have been issued with such abandon, in the interest of the coupon clippers.

[Here the gavel fell.]

Mr. HOEPPEL. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOEPPEL. In California we are providing $6 a month for the youth of our land to live in transient youth camps and they are working 30 hours a week. Is this the abundant life we were promised in the Democratic new deal? The convicts in San Quentin Penitentiary are earning three times more per month for themselves than are the boys in our C. C. C. camps. The boys in the C. C. C. camps earn only $5 per month for themselves while the convicts in California penitentiaries earn $15 and more per month. I opposed this insignificant pay to the C. C. C. boys and offered an amendment to increase their wages to $50 per month when the measure was under discussion. These worthy boys are entitled to more than $5 per month spending money in return for their labor.

We pledged ourselves to recognize the interests of labor, and what have we done? We enacted this four billion eight hundred and some-odd million dollar appropriation and we have provided wage scales as low as $19 a month for the distressed American citizen. Thus we lower the standard of living of our citizens, and at the same time raise prices and the cost of living. Surely reasonable hope for recovery on such a basis could only germinate in the brain of a citizen of Crazyland!

Tomorrow the appropriations for the Reclamation Service and the Coast and Geodetic Survey, engaged in highly meritorious scientific work, will expire, and no new funds as yet have been made available to them because the administration is endeavoring to restrict expenditures from the work relief funds to eleven hundred or twelve hundred dollars per man, including the cost of materials involved in their work. These scientific men are receiving just a little bit too much salary and we must therefore chisel them down. The administration has used the word " chisel ", but if there is any greater chiseling being done than that by the administration in respect to the unemployed, I would like to know where it is. It is provided that work relief at the below-the-prevailing-wage scale shall only be given to those on the charity lists in May 1935. Is it the intention of the administration to force worthy citizens into pauperism before any consideration is to be extended to them? If so, I must express my unalterable opposition to such type of new deal.

There was no criticism of the Supreme Court when that Court ruled on the gold clause, but when the Court ruled on the N. R. A., we were told that we were going back to the " horse and buggy days." In its work-relief program, the administration is going back to the " pick and shovel days ", or may I say that we are going back to the Stone Age, as the minds of some of these brain trusters appear to be as responsive as stone to the interest of our people. Your money and mine is being spent for projects whose chief and sometimes only merit is that the cost per man employed conforms to the arbitrary requirements of the administration in this respect. Could anything be crazier in Crazyland?

The President, in his inaugural address, promised to drive the money changers from the temple. Instead, we are spending millions of the taxpayers' money through F. E. R. A. relief employment in an endeavor to prevail upon the distressed citizens to borrow from the private bankers through the F. H. A., where the lowest interest rate is 9.72 percent per annum. This is indeed a new deal for the bankers.

I have sat on this floor for three sessions, and I have pondered, from time to time as we enacted measures which in my opinion common sense would condemn: Am I crazy, is the Congress crazy, or is the administration crazy? On a basis of the presentation I have made today I leave the answer to you. Certainly, in a time of stress such as we are undergoing today, it is tragic indeed that the philosophy and practices of Crazyland should be reflected in the Nation's Capital. It is to be hoped that a psychiatrist will not be necessary to analyze the situation for us, but that the suffering so wide-spread in our country today may open our eyes to justice and reason and that in conscientious, courageous representation of the interest of the people we may yet escape from the chaos and contradictions of Crazyland.

The CHAIRMAN. The time of the gentleman from California has again expired.

The Clerk read as follows:

POWER TO MAKE PARTICULAR EXEMPTIONS REGARDING HOLDING COMPANIES, SUBSIDIARY COMPANIES, AND AFFILIATES

SEC. 3. (a) The Commission, by rules and regulations upon its own motion, or by order upon application, shall exempt any holding company, and every subsidiary company thereof as such, from any provision or provisions of this title, unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors or consumers, if—

(1) such holding company, and every subsidiary company thereof which is a public-utility company from which such holding company derives, directly or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such holding company and every such subsidiary company thereof are organized;

(2) such holding company is predominantly a public-utility company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto;

(3) such holding company is only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company and (A) not deriving, directly or indirectly, any material part of its income from any one or more subsidiary companies, the principal business of which is that of a public-utility company, or (B) deriving a material part of its income from any one or more such subsidiary companies, if substantially all the outstanding securities of such companies are owned, directly or indirectly, by such holding company;

(4) such holding company is temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona fide debt previously contracted or in connection with a bona fide arrangement for the underwriting or distribution of securities; or

(5) such holding company is not, and derives no material part of its income, directly or indirectly, from any one or more subsidiary companies which are, a company or companies the principal business of which within the United States is that of a public-utility company.

Within a reasonable time after the receipt of any application for exemption under this subsection, the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of, such application. The filing of any such application in good faith by a person other than a registered holding company shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a holding company until the Commission has acted upon such application. Whenever the Commission, on its own motion or upon application by the holding company, or any subsidiary company thereof, exempted by any order issued under this subsection, finds that the circumstances which gave rise to the issuance of such order no longer exist, the Commission shall by order revoke such order.

(b) The Commission may, by rules and regulations, conditionally or unconditionally exempt any specified class or classes of persons from the obligations, duties, or liabilities imposed upon such persons as subsidiary companies or affiliates under any provision or provisions of this title, if and to the extent that it deems the exemption necessary or appropriate in the public interest or for the protection of investors or consumers.

Mr. RAYBURN. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment to section 3: Page 175, strike out beginning with line 22 down through line 11, on page 176, and insert in lieu thereof the following:

"(b) The Commission, by rules and regulations upon its own motion, or by order upon application, shall exempt any subsidiary company, as such, of a holding company from any provision or provisions of this title, unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors or consumers, if such subsidiary company derives no material part of its income, directly or indirectly, from sources within the United States, and neither it nor any of its subsidiary companies is a public-utility company operating in the United States.

"(c) Within a reasonable time after the receipt of an application for exemption under subsection (a) or (b) the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of such application. The filing of an application in good faith under subsection (a) by a person other than a registered holding company shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a holding company until the Commission has acted upon such application. The filing of an application in good faith under subsection (b) shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a subsidiary company until the Commission has

acted upon such application. Whenever the Commission, on its own motion, or upon application by the holding company or any subsidiary company thereof exempted by any order issued under subsection (a), or by the subsidiary company exempted by any order issued under subsection (b), finds that the circumstances which gave rise to the issuance of such order no longer exist, the Commission shall by order revoke such order."

And in line 12, page 176, strike out "(b)" and insert in lieu thereof "(d)".

The CHAIRMAN. The question is on the adoption of the committee amendment.

The amendment was agreed to.

The Clerk read as follows:

TRANSACTIONS BY UNREGISTERED HOLDING COMPANIES

SEC. 4. (a) After November 1, 1935, unless a holding company is registered under section 5, it shall be unlawful for such holding company, directly or indirectly—

(1) to sell, transport, transmit, or distribute, or own or operate any utility assets for the transportation, transmission, or distribution of, natural or manufactured gas or electric energy in interstate commerce;

(2) by use of the mails or any means or instrumentality of interstate commerce, to negotiate, enter into, or take any step in the performance of, any service, sales, or construction contract undertaking to perform services or construction work for, or sell goods to, any public-utility company or holding company;

(3) to distribute or make any public offering for sale or exchange of any security of such holding company, any subsidiary company or affiliate of such holding company, any public-utility company, or any holding company, by use of the mails or any means or instrumentality of interstate commerce, or to sell any such security having reason to believe that such security, by use of the mails or any means or instrumentality of interstate commerce, will be distributed or made the subject of a public offering;

(4) by use of the mails or any means or instrumentality of interstate commerce, to acquire or negotiate for the acquisition of any security or utility assets of any subsidiary company or affiliate of such holding company, any public-utility company, or any holding company; or

(5) to engage in any business in interstate commerce.

(b) Every holding company which has outstanding any security any of which, by use of the mails or any means or instrumentality of interstate commerce, has been distributed or made the subject of a public offering subsequent to January 1, 1925, and any of which security is owned or held on October 1, 1935 (or, if such company is not a holding company on that date, on the date such company becomes a holding company) by persons not resident in the State in which such holding company is organized, shall register under section 5 on or before November 1, 1935, or the thirtieth day after such company becomes a holding company, whichever date is later.

Mr. RAYBURN. Mr. Chairman, I offer the following amendment:

Page 176, line 21, strike out the word "November" and insert in lieu thereof the word "December."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The Clerk read as follows:

REGISTRATION OF HOLDING COMPANIES

SEC. 5. (a) On or at any time after September 1, 1935, any holding company or any person purposing to become a holding company may register by filing with the Commission a notification of registration, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. A person shall be deemed to be registered upon receipt by the Commission of such notification of registration.

(b) It shall be the duty of every registered holding company to file with the Commission, within such reasonable time after registration as the Commission shall fix by rules and regulations or order, a registration statement in such form as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such registration statement shall include—

(1) such copies of the charter or articles of incorporation, partnership, or agreement, with all amendments thereto, and the by-laws, trust indentures, mortgages, underwriting arrangements, voting-trust agreements, and similar documents, by whatever name known, of or relating to the registrant or any of its associate companies as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers;

(2) such information in such form and in such detail relating to, and copies of such documents of or relating to, the registrant and its associate companies as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers in respect of—

(A) the organization and financial structure of such companies and the nature of their business;

(B) the terms, position, rights, and privileges of the different classes of their securities outstanding;

(C) the terms and underwriting arrangements under which their securities, during not more than the 5 preceding years, have been offered to the public or otherwise disposed of, and the relations of underwriters to, and their interest in, such companies;

(D) the directors and officers of such companies, their remuneration, their interest in the securities of, their material contracts with, and their borrowings from, any of such companies;

(E) bonus and profit-sharing arrangements;

(F) material contracts, not made in the ordinary course of business, and service, sales, and construction contracts;

(G) options in respect of securities;

(H) balance sheets for not more than the 5 preceding fiscal years, certified, if required by the rules and regulations of the Commission, by an independent public accountant;

(3) such further information or documents regarding the registrant or its associate companies or the relations between them as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) Whenever the Commission, upon application, finds that a registered holding company has ceased to be a holding company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall, upon such terms and conditions as the Commission finds and in such order prescribes as necessary for the protection of investors, cease to be in effect. The denial of any such application by the Commission shall be by order.

Mr. RAYBURN. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Page 178, line 12, strike out "November" and insert "December."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. RAYBURN. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Page 178, line 16, strike out "September" and insert "October."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mrs. KAHN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the development of the electric utility industry in the United States has been the most phenomenal of all industries save that of automobiles. During the first 20 years of the electric industry it was largely experimental. By 1902 people had gained confidence in the character and dependability of the service to such an extent that electricity was largely supplanting gas, oil, and other forms of lighting. Wherever it could be reasonably obtained it was preferred for domestic uses. Since the turn of this century the advancement in this field has been most rapid.

Up to 1902 the total invested capital in electrical plant equipment was less than $500,000,000. Thirty years later, in 1932, this sum had risen to more than twelve and one-half billion dollars, and the business had become one of the most important in the Nation. Here was a capital increase multiplied about 25 times, which had to be new capital investment chiefly of a permanent nature.

The number of domestic consumers increased rapidly during this same period. In fact, the demand for electricity was the moving incentive for the investment of additional capital. New equipment had to be continually purchased to supply the new consumers. The total number of domestic consumers in 1902 was about 500,000 families. Today this number has risen to over twenty and one-half million families. Over two-thirds of all families in the country are now regular users of electricity in their homes. To take care of this enormous increase of users there was required a vast increase in the production of materials and the manufacture of generating equipment. This directly benefited many other lines of industry. To further illustrate the vast expansion over these years the number of kilowatt-hours generated in 1902 was two and one-half billions; in 1934, almost ninety billions, an increase of 36 times. This rapid growth in the use of electricity is accounted for not only by the lighting of more homes by this means but through the development of

refrigeration, the radio, power machines, and domestic appliances of many kinds.

The electric utilities are essentially local and domestic in character. In the beginning each community usually started its own plant with local capital furnished by local citizens. How well these plants were established and operated depended very greatly upon the amount of local capital available. The average distance that electricity moves in operation is only about 20 miles from the point of generation. It cannot be sent economically much over 150 miles. In the early days of the industry these distances were much more limited. Therefore it was difficult to link up at that date two or more small communities with the type of plants first installed. Even today, with modern equipment, 83 percent of all electricity generated moves wholly within State lines and the business continues to be largely intrastate. Of the remaining 17 percent, the investigations disclose that only 1 percent of it is in interstate commerce and passing between unrelated groups of ownership. In other words, 16 percent of electric energy moving in interstate commerce is passing over State lines from one unit to another unit of the same companies. Consequently, so far as the practical operation of the electrical energy is concerned, the Federal Government is asked by this legislation to establish a regulatory system for the whole industry when only 1 percent of it can be properly defined as coming within interstate commerce.

Once the superiority of electricity over other kinds of energy for lighting and other purposes had been established, the demand for plants all over the United States so far outstripped the resources of local capital that it was necessary to look elsewhere for funds for financing these enterprises. It was this fact which brought the holding company into the field, and it cannot be denied that, but for the services of this financial agency, electrical development would have been retarded many years. There is no foundation for the belief that the holding company is of recent origin, even though agitation for its elimination is now much in the public press. The truth is, as brought out in the investigations, that as early as 1915, 76 percent of the electric-utility operating companies of the United States was owned or controlled by holding companies. It may be mentioned also that this situation was not limited to electricity, for holding companies were the important financial factor in other lines, including manufactures, transportation, and distribution.

The new capital that has gone into the electric-utility field has continued as a steady stream at the average rate of about $100,000,000 a year. It slowed up during the duration of the World War, but for the 5 years immediately following the new invested capital in utilities averaged $200,000,000 a year. This enormous demand for capital investment could not have been met by any other means than the holding company. At the outset the chief function of these organizations was to furnish capital and see that it was safely invested. Properties had to be appraised with engineering skill and the utmost care taken to insure efficient and economical management. Adherence to this policy has resulted in unsurpassed service to consumers and safety to over 5,000,000 investors. There can be no question but that the holding companies have done an able job in the public utilities industry, for notwithstanding the rapid and tremendous expansion, the average rates to consumers have been continuously cheaper.

Anyone who makes an impartial investigation of the utility business as a whole, and weighs the evidence submitted on this bill, including the Federal Trade Commission report, cannot help but arrive at the conclusion that the proposed legislation is inspired by some source not connected directly with the industry itself. In other words, there has been no urgent demand for it from consumers, investors, or the public generally. In fact, the consumers have had the most efficient and dependable service in the world, and the investors are unanimously and vigorously protesting against the legislation with the realization that if enacted it will depreciate the value of their securities far beyond that caused by the depression.

The national public interest, as recited in the bill, requires the exercise of Federal control over different transactions and practices of public-utility holding companies which affect the issuance and sale of their securities. These securities are widely scattered over every State in the Union. And yet, not one of the first six practices complained of is limited alone to public-utility holding companies. These same complaints could be lodged with equal force against the holding companies of other industries, of which there are nearly 500, as against less than 40 public-utility holding companies. Records show that the latter have been no better, and no worse, than all other holding companies whose stocks are dealt in on the exchanges. The passage and operation of the Securities and Exchange Commission Acts has effectively corrected these abuses. The other practices of public-utility holding companies, about seven of which are enumerated in the bill, and to which objection has been made, include excessive charge for services, construction work, equipment and materials furnished subsidiaries; absence of arm's length bargaining; open competition; arbitrary management, and accounting practices. These are all susceptible of correction under the Securities and Exchange Commission Acts, and in fact, with few exceptions, ceased automatically with the passage of those measures.

To say that the public-utility holding company should be eliminated as a result of these practices, indulged in as the exception rather than the rule, is to impose a severe penalty. If it be the intention of the Federal Government to be fair in the enactment of legislation, and we assume that such is the case, then the only logical conclusion to be reached is that all holding companies should be treated alike, not that one branch, the utilities, should be singled out for punishment or destruction.

Heavy losses have been suffered by investors in stocks and securities during this depression, but these losses have not been confined to utilities' securities alone, nor in any greater degree. Every branch of industry has been injured by falling prices, none to as great an extent as agriculture. The value of farm property in some respects has been almost wholly wiped out. Stockholders and depositors in thousands of banks have lost billions of dollars despite Federal and State supervision of these institutions. This situation was brought about by conditions which even our most able financiers were not able to foresee. A return to normal prosperity will dissipate most of the complaints which the Wheeler-Rayburn bill proposes to remedy. The fact is there is a field open for the expansion of the utility industry equal to 50 percent of its present volume, and this awaits only stabilization of conditions and the assurance that it can go forward without destructive governmental interference.

Summarized briefly, this legislation proposes to take over the control and management of privately owned properties from the hands of their owners and put them in the hands of Government bureaus or commissions. It will take the effective regulatory authority away from the different States and vest it in a Federal commission, notwithstanding the admitted fact that the utility business is over 90 percent local in character. It prevents the owners of utility properties from exercising any authority, initiative, or independence in the handling of their own property. It makes a loosely constituted and political commission the quasi-court of last resort, with jurisdiction over many legal questions that may arise affecting the properties. It gives to the Federal commissions almost complete power of management over properties worth billions of dollars, without any managerial responsibility. It creates an assumed and nationalized system of government control, more autocratic than actual ownership, without the formality and expense of acquiring ownership, and with no risk as to the consequences that may destroy honestly earned and honestly owned private property and investment. Under the guise of exempting operating companies from the provisions of the bill, it strikes down the managerial force which has largely built up the efficiency of the system, and would thus destroy the value of many of the stocks and securities issued and sold for the purpose of developing the properties. Finally, it places with a Federal commission the power to say which holding companies shall be permitted to exist and which shall be eliminated, this power to be exercised for a period

of 5 years following the enactment of the bill. In other words, in order to continue to live, each public-utility holding company must justify itself to the satisfaction of the Commission that it is "useful and necessary for the operations of a geographically and economically integrated public-utility system." It does not require much imagination to see the opportunity for favoritism that this section affords to a politically minded commission. Furthermore, the uncertainty that will undoubtedly result from the administration of this section cannot help but have a most depressing influence upon the industry.

Nor can it be denied that such a sweeping extension of Federal bureaucratic control over an industry as is contemplated in the legislation, with the appalling enlargement of Government pay rolls, will place a heavy burden on the taxpayers of the Nation. It would constitute a most significant step toward the socialization of all industries.

The principal argument for legislation of this kind is that the consumers are paying too much money for the service rendered, and that it can be furnished cheaper and better by a Government-owned plant. The experiment of a Government-owned plant, as being developed in the Tennessee Valley, has not sufficiently demonstrated this fact. It will take several years yet to show whether the Government can successfully compete with private industry in the electrical field. Until it has been definitely and scientifically proven that the Government can do this on a strictly business basis, it is not the part of wisdom for Congress to enact legislation which will seriously cripple, if not destroy, the present efficient and economical system of operation.

If, on the other hand, Government operation is not the ultimate objective, the bill could not be better drawn to suit the purposes of the big speculators in stocks. During the 5-year period for dissolving holding companies, it is safe to predict that the small, timid investor would become so frightened as to sacrifice his stocks at any price. This would set the stage for the speculator to pick up all of these securities at his own figure.

Notwithstanding assurances to the contrary, the holding company bill, as reported by the Senate committee, retains all of the objectionable features of the original draft. If passed in its present form, it will exterminate practically all utility holding companies except a favored few. This will naturally lead to the taking over of the local operating companies by the municipalities of the Nation. Why this ruthless economic change should be desired just as we are emerging from the depression is a mystery. Certainly local public ownership has never been fairly tested and proved to be economically satisfactory. The bill further ignores the protests of millions of utility investors, and wipes out the right of States to regulate business operations within their own boundaries.

The theory that only single geographically integrated systems should survive, as set out in the bill, is, to say the least, novel and unique in financial circles, and totally ignores the soundest investment principle known—that of diversity of risk. Why State lines which separate portions of a utility system should be deemed to lessen the value of its securities, and serve as a reason for dissolution of the system, is not understandable.

SENATE BILL FAVORED BY THE ADMINISTRATION

In order to prevent abuses charged against holding companies, and enumerated in the preamble of the bill, must Congress destroy, rather than attempt to regulate? The testimony in the hearings failed to bring out any abuse which could not be effectively corrected by regulation. It is hard to escape the conclusion that what the proponents of the legislation want is not regulation and proper operation of holding companies but their destruction. Let there first be regulation—Federal control of the strictest nature, if need be. If we cannot regulate efficiently, we certainly cannot operate efficiently. The discovery of abuses, local or national, should not be the signal for dealing a death blow to all capital in an industry.

In the final analysis, then, the only question is, Are we going to regulate or exterminate the utility holding company? Granted that we are going to try regulation, and that would seem to be the wise course, the following proposals are among those submitted—no valid criticism appeared in the testimony that they would not meet every reasonable regulatory requirement: First, authorize the Federal Power Commission, in conjunction with the several States, to prescribe the rules and rates affecting gas and electric energy moving in interstate commerce. It is assumed State commissions will continue to regulate wholly intrastate business. Second, enlarge the authority of the Securities and Exchange Commission governing the sale of debentures, securities, and stocks of utility holding companies. Third, provide for a comprehensive and adequate system of accounting for such companies, and require annual reports, with authority for the Commission to check and analyze same and to publish the results. Fourth, require publicity of the services performed by holding companies for their subsidiaries, including engineering work done and supplies furnished. Contracts entered into for construction should be filed with the Commission and the rates of profit approved. Fifth, in simplifying the corporate structure of a system reasonable time should be allowed under the authority of the Commission. Sixth, electric transmission and natural-gas pipe lines should not be made common carriers. The weight of the testimony demonstrated that this would not work out equitably, and that feature of the bill should be eliminated.

If these steps, and such others as may be deemed advisable, be taken, confidence will be restored in the utilities industry, thousands of small investors will be saved tragic losses, consumers will receive an improved service, and every public interest will have been served.

In the hue and cry to abolish public-utility holding companies, it is well to remember that in large areas of the United States small communities could not have enjoyed the benefits of electrical service but for the agency of the holding company. This is illustrated in every sparsely populated State where practically every little town has electric lights and housewives have the convenience of electrical appliances. It is a fact that the installation of small, independent plants was in many towns impossible for lack of capital, and where attempted, their operation proved unsatisfactory. Not until utility holding companies entered the field in the States did electrical development proceed on a basis where its benefits were generally available to householders, and at reasonable rates. It can be safely stated that not only has no one in many of the States been injured by the existence of utility holding companies of their own States but thousands of families have been benefited. [Applause.]

The Clerk read as follows:

UNLAWFUL SECURITY TRANSACTIONS BY REGISTERED HOLDING AND SUBSIDIARY COMPANIES

SEC. 6. (a) Except in accordance with a declaration effective under section 7, it shall be unlawful for any registered holding company, or for any subsidiary company thereof which is a public utility company the issuance of whose securities is not subject to regulation by a State commission or State securities commission, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly (1) to issue or sell any security of such company; or (2) to exercise any privilege or right to alter the priorities, preferences, voting power, or other rights of the holders of an outstanding security of such company.

(b) The provisions of subsection (a) shall not apply to the issue, renewal, or guaranty by a registered holding company or subsidiary company thereof of a note or draft (including the pledge of any security as collateral therefor) if such note or draft (1) is not part of a public offering, (2) matures or is renewed for not more than 9 months, exclusive of days of grace, after the date of such issue, renewal, or guaranty thereof, and (3) aggregates (together with all other then outstanding notes and drafts of a maturity of 9 months or less, exclusive of days of grace, as to which such company is primarily or secondarily liable) not more than 5 percent of the principal amount and par value of the other securities of such company then outstanding, or such greater percent thereof as the Commission upon application may by order authorize as necessary or appropriate in the public interest or for the protection of investors or consumers. In the case of securities having no principal amount or no par value, the value for the purposes of this subsection shall be the fair market value as of the date of issue. The provisions of subsection (a) shall not apply to the issue, by a registered holding company or subsidiary company thereof, of a security issued pursuant to the terms of any security outstanding on January 1, 1935, giving the holder of such outstanding security the right to convert such outstanding

security into another security of the same issuer or of another person, or giving the right to subscribe to another security of the same issuer or another issuer. Within 10 days after any such issue, renewal, or guaranty, such holding company or subsidiary company thereof shall file with the Commission a certificate of notification in such form and setting forth such of the information required in a declaration under section 7 as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) It shall be unlawful for any registered holding company, by the use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly to cause any officer or employee of any subsidiary company of such holding company to sell or cause to be sold any security of such holding company.

Mr. CHANDLER. Mr. Chairman, I move to strike out the last word for the purpose of seeking information on this bill. It is with considerable hesitation that I inject myself into this discussion, because, as a new Member of the House, I recognize my limitations and my lack of experience; but the bill now under consideration is such an important measure and is so vital to the interests of the people whom I represent that I cannot refrain from seeking more light on it than the report of the committee gives me.

In this section, in the list of information which the Commission may require from the company upon registration, the substitute bill reported by the House committee omits the requirement appearing in section 5 (E) of the bill passed by the Senate that information concerning the identity of the principal stockholders of the company be filed. This information is essential to any understanding by the public of the set-up of holding companies and their affiliations. Will the distinguished chairman of the committee [Mr. RAYBURN] enlighten us on that omission?

Mr. RAYBURN. Mr. Chairman, the subcommittee and the whole committee I think viewed it in this fashion, that there may be times in which that would not be material, and even though it were material the committee thinks that under (3), page 181, if it became material the Commission could secure that information. That provision says:

Such further information or documents regarding the registrant or its associate companies of the relations between them as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

Mr. CHANDLER. I submit that the Senate bill is far preferable so far as that provision is concerned.

Mr. SAUTHOFF. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. SAUTHOFF: On page 183, after line 20, add a new subsection, as follows:

"(d) Every registered holding company and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holders of each class of preferred stock, common stock, or any other stock of such company, voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights. Every registered holding company and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holder of each bond or debenture of such company contingent voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights; such voting rights shall be contingent and exercisable upon any default in the payment of interest or principal upon such bond or debenture and shall be effective during the continuance of any such default."

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin [Mr. SAUTHOFF] that the amendment may be considered later?

There was no objection.

The Clerk read as follows:

DECLARATIONS BY REGISTERED HOLDING AND SUBSIDIARY COMPANIES IN RESPECT OF SECURITY TRANSACTIONS

SEC. 7. (a) A registered holding company or subsidiary company thereof may file a declaration with the Commission, regarding any of the acts enumerated in subsection (a) of section 6, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such declaration shall include—

(1) Such of the information and documents which are required to be filed in order to register a security under section 7 of the Securities Act of 1933, as amended, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers; and

(2) Such additional information, in such form and detail, and such documents regarding the declarant or any associate company thereof, the particular security and compliance with such State laws as may apply to the act in question as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) A declaration filed under this section shall become effective within such reasonable period of time after the filing thereof as the Commission shall fix by rules and regulations or order, unless the Commission prior to the expiration of such period shall have issued an order to the declarant to show cause why such declaration should become effective. Within a reasonable time after an opportunity for hearing upon an order to show cause under this subsection, unless the declarant shall withdraw its declaration, the Commission shall enter an order either permitting such declaration to become effective as filed or amended, or refusing to permit such declaration to become effective. Amendments to a declaration may be made upon such terms and conditions as the Commission may prescribe.

(c) The Commission shall not permit a declaration regarding the issue or sale of a security to become effective unless it finds that—

(1) Such security is (A) a common stock having a par value and being without preference as to dividends or distribution over, and having at least equal voting rights with, any outstanding security of the declarant; (B) a bond adequately secured by a lien on assets of the declarant; (C) a guaranty of, or assumption of liability on, a security of another company; or (D) a receiver's or trustee's certificate duly authorized by the appropriate court or courts; or

(2) such security is to be issued or sold solely (A) for the purpose of refunding, extending, exchanging, or discharging an outstanding security of the declarant and/or a predecessor company thereof or for the purpose of effecting a merger, consolidation, or other reorganization; (B) for the purpose of financing the business of the declarant as a public-utility company; (C) for the purpose of financing the business of the declarant, when the declarant is neither a holding company nor a public-utility company; and/or (D) for necessary and urgent corporate purposes of the declarant where the requirements of the provisions of paragraph (1) would impose an unreasonable financial burden upon the declarant and are not necessary or appropriate in the public interest or for the protection of investors or consumers; or

(3) such security is one the issuance of which was authorized by the company before January 1, 1935.

(d) If the requirements of subsection (c) are satisfied, the Commission shall permit a declaration regarding the issue or sale of a security to become effective unless the Commission finds that—

(1) the security is not reasonably adapted to the security structure of the declarant and other companies in the same holding-company system;

(2) the security does not bear a proper relation to the fair value of the property of the declarant and its subsidiary companies;

(3) financing by the issue and sale of the particular security is not necessary or appropriate to the economical and efficient operation of a business in which the applicant lawfully is engaged or has an interest;

(4) the fees, commissions, or other remuneration, to whomsoever paid, directly or indirectly, in connection with the issue, sale, or distribution of the security are not reasonable;

(5) in the case of a security that is a guaranty of, or assumption of liability on, a security of another company, the circumstances are such as to constitute the making of such guaranty or the assumption of such liability an improper risk for the declarant; or

(6) the terms and conditions of the issue or sale of the security are detrimental to the public interest or the interest of investors or consumers.

(e) The Commission shall permit a declaration to become effective regarding the exercise of a privilege or right to alter the priorities, preferences, voting power, or other rights of the holders of an outstanding security unless in the judgment of the Commission such exercise of such privilege or right will result in an unfair or inequitable distribution of voting power among holders of the securities of the declarant or is otherwise detrimental to the public interest or the interest of investors or consumers.

Mr. CHANDLER. Mr. Chairman, I move to strike out the last word. I have endeavored to contrast or compare the bill passed by the Senate with that originally introduced in the House and also that reported by the House committee, and section 7 of the substitute or House bill, in my opinion, is much weaker than the corresponding section of the Senate bill. The subsection (c) completely wipes out the original requirement that securities issued by holding companies for holding-company purposes be confined to common stocks or bonds secured by physical assets. The substitute provision in subsection (c) in respect of bonds states that the security may be "a bond adequately secured by a lien on assets of the declarant." By leaving out the essential word "physical" the committee's bill makes it

possible to continue the practice by holding companies of issuing, under the name of bonds, pieces of paper which are secured only by common stock or preferred stocks of subsidiary operating companies. Is it not, I ask the chairman of the committee, inadvisable to leave out that word "physical"?

Furthermore, Mr. Chairman, in the same subsection (c) of section 7 there has been added a provision which will permit the issuance of any security which was authorized by the company prior to January 1, 1935. This provision, while seemingly innocuous, would permit the continued issue of multifarious classes of common and preferred stocks with unequal voting rights, pursuant to authorized issues which have been used up only in small part in the past few years.

There has been omitted also from this section dealing with the Commission's jurisdiction over security issues the power of the Commission to prescribe in its order the terms upon which the security may be issued and to prohibit certain practices such as unfair options, and so forth, in connection with the issue. It had been expressly provided in this section of the original bill and in the Senate bill that the Commission's order permitting the issue of a security should prescribe such terms and conditions regarding the granting of preemptive rights, the giving of options, the elimination of unfair financial practices, and so forth, as the Commission found necessary in the public interest or for the protection of investors or consumers. This power to safeguard the interests of the public and investors in relation to the facts accompanying an issue of securities is no longer present in the substitute bill.

In addition, while the issue of securities by holding companies is still subject to the requirements of the bill, the issue of securities by subsidiary companies has been drastically limited. No subsidiary company's security issues are subject to the requirements of the substitute bill unless (i) it is a subsidiary public-utility company, and (ii) its security issues are not in some way regulated by a State commission. This method of drafting the section gives free rein to all manner of financial practices carried on by means of subsidiary financing, service, construction, real estate, and so forth, companies. Furthermore, even subsidiary public-utility companies are not adequately subjected to the requirements of fairness set out in the bill because, if in any manner their security issues are passed upon by a State "blue sky" law or by a State regulatory commission, even though the State law in no wise attempts to regulate the soundness or honesty of the issue, they are automatically exempted from the security-issue provisions of the bill. I will appreciate an explanation of these apparent defects in the House bill.

Mr. RAYBURN. That was a matter of very great controversy in the subcommittee. However, I will say that even though the word "physical" is stricken out, if the gentleman will read further he will find it says "adequately." It leaves it up to the Commission, even though it is based upon assets not physical assets, that the bonds must be adequately secured; that is, in the judgment of the Commission in passing upon it.

I will say to the gentleman that that is one spot where there was very sharp division, but in the vote there had to be a majority, so the word "physical" went out.

The Clerk read as follows:

RESTRICTIONS ON BUSINESS OF HOLDING COMPANIES AND SUBSIDIARY COMPANIES

SEC. 8. (a) It shall be unlawful for any registered holding company which, or any subsidiary company of which, is a public-utility company operating in the United States to acquire any interest, directly or indirectly, through the ownership or control of securities, or otherwise, in any public-utility company operating outside of the United States: *Provided, however,* That upon application the Commission may by order exempt any such registered holding company from the provisions of this subsection, upon such terms and conditions as it may find necessary or appropriate in the public interest or for the protection of investors or consumers, in respect of a public-utility company or companies operating outside of the United States, if it finds that the operations of such public-utility company or companies are, or may be, economically and geographically integrated with the public-utility system of such registered holding company.

(b) Whenever a State law prohibits, or requires approval or authorization of, the ownership or operation by a single company of the utility assets of an electric utility company and a gas utility company serving substantially the same territory, it shall be unlawful for a registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise,—

(1) to take any step, without the express approval of the State commission of such State, which results in its having a direct or indirect interest in an electric utility company and a gas utility company serving substantially the same territory; or

(2) if it already has any such interest, to acquire, without the express approval of the State commission, any direct or indirect interest in an electric utility company or gas utility company serving substantially the same territory as that served by such companies in which it already has an interest.

Mr. RAYBURN. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. RAYBURN: On page 188, strike out lines 1 to 19, inclusive, and insert the following section heading: "Acquiring interest in electric and gas utility companies serving same territory", and in line 20 strike out the letter "b" in parenthesis and insert in lieu thereof "Sec. 8."

Mr. RAYBURN. Mr. Chairman, I will say to the House that with the provisions in section 10, 8 (a) is not necessary. It is an amendment to follow up the amendment adopted a while ago.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. CHANDLER. Mr. Chairman, I move to strike out the last word. The original bill introduced in the House expressly provided that the funds of companies in holding-company systems should not in the future be used to embark upon speculative, nonutility ventures. It was clearly set forth in section 8 that holding companies and their subsidiaries could not acquire properties which were not either gas or electric utility properties or which were not businesses reasonably incidental or economically necessary or appropriate to public-utility systems. This provision has been struck out entirely from section 8, and holding companies are left free to embark upon real-estate ventures, oil ventures, natural-gas ventures, farms, and any other sort of business that they may see fit to speculate in. Furthermore, the section 8 of the original bill contains an express prohibition against future acquisitions in the natural-gas field unless the acquisition were for the purpose of supplying the utilities in the system. That prohibition evidently was drafted after careful consideration of the detriment arising from the suppression of competition between natural gas and electricity in certain fields through the common ownership of both the gas and electricity sources of supply. This provision has been entirely eliminated from section 8.

Mr. RAYBURN. No; it is not in the House bill in this section. That is another question of very sharp division in the committee. That was stricken out, and it is inserted in the bill that hereafter no utility company can acquire nonutility property without the consent of the Commissioner; also, that they can retain those nonutility properties they now have, unless they are found to be detrimental to the public interest.

Mr. CHANDLER. I think the chairman will permit me to observe that, as far as I have read the substitute House bill, it is a bill that apparently has been drawn in the interest of the very group that it is supposed to regulate.

Mr. RAYBURN. I do not think all of it is.

The Clerk read as follows:

APPROVAL OF ACQUISITION OF SECURITIES AND UTILITY ASSETS AND OTHER INTERESTS

SEC. 10. (a) A person may apply for approval of the acquisition of securities or utility assets, or of any other interest in any business, by filing an application in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors and consumers. Such application shall include—

(1) in the case of the acquisition of securities, such information and copies of such documents as the Commission may by rules and regulations or order prescribe as necessary or appropriate in

the public interest or for the protection of investors or consumers in respect of—

(A) the security to be acquired, the consideration to be paid therefor, and compliance with such State laws as may apply in respect of the issue, sale, or acquisition thereof,

(B) the outstanding securities of the company whose security is to be acquired, the terms, position, rights, and privileges of each class and the options in respect of any such securities,

(C) the names of all security holders of record (or otherwise known to the applicant) owning, holding, or controlling 1 percent or more of any class of security of such company, the officers and directors of such company, and their remuneration, security holdings in, material contracts with, and borrowings from such company and the offices or directorships held, and securities owned, held, or controlled, by them in other companies,

(D) the bonus, profit-sharing and voting-trust agreements, underwriting arrangements, trust indentures, mortgages, and similar documents, by whatever name known, of or relating to such company,

(E) the material contracts, not made in the ordinary course of business, and the service, sales, and construction contracts of such company,

(F) the securities owned, held, or controlled, directly or indirectly, by such company,

(G) balance sheets of such company for not more than the 5 preceding fiscal years, certified, if required by the rules and regulations of the Commission, by an independent public accountant,

(H) any further information regarding such company and any associate company or affiliate thereof, or its relations with the applicant company, and

(I) if the applicant be not a registered holding company, any of the information and documents which may be required under section 5 from a registered holding company;

(2) in the case of the acquisition of utility assets, such information concerning such assets, the value thereof and consideration to be paid therefor, the owner or owners thereof and their relation to, agreements with, and interest in the securities of, the applicant or any associate company thereof as the Commission may by rules and regulation or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers; and

(3) in the case of the acquisition of any other interest in any business, such information concerning such business and the interest to be acquired, and the consideration to be paid, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) If the requirements of subsection (f) are satisfied, the Commission shall approve the acquisition unless the Commission finds that—

(1) such acquisition will tend toward interlocking relations or the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interest of investors or consumers;

(2) in case of the acquisition of securities or utility assets, the consideration, including all fees, commissions, and other remuneration, to whomsoever paid, to be given, directly or indirectly, in connection with such acquisition is not reasonable or does not bear a proper relation to the fair value of the utility assets to be acquired or the utility assets underlying the securities to be acquired; or

(3) such acquisition will unduly complicate the capital structure of the holding-company system of the applicant or will be detrimental to the public interest or the interest of investors or consumers.

The Commission may condition its approval of the acquisition of securities of another company upon such a fair offer to purchase such of the other securities of the company whose security is to be acquired as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) Notwithstanding the provisions of subsection (b) the Commission shall not approve—

(1) an acquisition of securities or utility assets, or of any other interest, which is unlawful under the provisions of section 8; or

(2) the acquisition of securities or utility assets of a public-utility or holding company unless the Commission finds that such acquisition will serve the public interest by tending toward the economical and efficient development of an integrated public-utility system.

(d) Within such reasonable time after the filing of an application under this section as the Commission shall fix by rules and regulations or order, the Commission shall enter an order either granting or, after notice and opportunity for hearing, denying approval of the acquisition unless the applicant shall withdraw its application. Amendments to an application may be made upon such terms and conditions as the Commission may prescribe.

(e) The Commission, in any order approving the acquisition of securities or utility assets, may prescribe such terms and conditions in respect of such acquisition, including the price to be paid for such securities or utility assets, as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

(f) The Commission shall not approve any acquisition as to which an application is made under this section unless it appears to the satisfaction of the Commission that such State laws as may apply in respect of such acquisition have been complied with, except where the Commission finds that compliance with such State laws would be detrimental to the carrying out of the provisions of section 11.

Mr. RAYBURN. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. RAYBURN: On page 195, line 16, after the period insert a new sentence, as follows:

"This paragraph shall not apply to the acquisition of securities or utility assets of a public-utility company operating exclusively outside the United States."

The CHAIRMAN. The question is on the adoption of the committee amendment.

The committee amendment was agreed to.

Mr. CHANDLER. Mr. Chairman, I move to strike out the last word to ask another question. Section 10 of the original bill very carefully attacked the problem of watered capitalization by requiring that future security issues, as well as the price paid for future acquisitions of properties and securities, bear a proper relation to the prudent investment value of the underlying properties. This policy was adopted in an effort to make possible an appraisal by State commissions in the future of the cost and value of property devoted to utility service. It would have put on the law books a definite congressional policy which some States have, that utility financing in the future should assume a predictable and less variable status—to wit, that it should be properly related to cost rather than to the problematical and varying standard of "fair value." The substitute bill in sections 7 and 10 not only struck out this congressional sanction of the prudent investment theory of utility financing but gave instead sanction to the already discredited and unsatisfactory standard of "fair value."

Mr. RAYBURN. Mr. Chairman, I may say to the gentleman that I do not know of any case in which the phrase "prudent investment" has been used in a Federal statute; and we did not have anybody around us who seemed to be able to define it to the satisfaction of the committee. When that was dropped, the phrase "fair value" was hit upon as more nearly what the majority of the committee wanted it to mean.

Mr. CHANDLER. I thank the gentleman.

Mr. RAYBURN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WARREN, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill S. 2796, the Public Utility Act of 1935, had come to no resolution thereon.

CHANGING THE CONSTITUTION

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to revise and extend my remarks by including therein a speech of a party on the Constitution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAVERICK. Mr. Speaker, we are now discussing all over the United States the Constitution. I have noted in history that it generally depends on what a given person thinks about an issue, not really what he thinks about the Constitution. For instance, in the N. R. A. the Supreme Court was hailed by many as a great institution, because it declared the N. R. A. unconstitutional; and the main point, the flexibility of our laws, was entirely lost sight of. It was therefore a pleasure recently to have read an able speech by one of the most distinguished lawyers in the State of Texas, Hon. Henry A. Hirshberg, of San Antonio, on "Changing the Constitution", and I therefore include it in my remarks. It is not my speech, but the speech of Mr. Hirshberg, and I believe it is well worth reading.

It is as follows:

My subject is Changing the Constitution, a subject on which many are reaching different conclusions. Some cynic has said

that if all of the lawyers in the world were laid end to end they would not reach a conclusion. And I am not going to discuss whether the Constitution should be changed, or, if so, how it should be changed. That would be too big a job to undertake, for I am neither a constitutional lawyer, an economist, nor a sociologist. Only William Randolph Hearst, it seems, can afford to be completely cocksure in the matter.

Leaving altogether out of the picture the conflicting positions of those who assert that the Constitution is so perfect that it must never be changed in any particular, of others who assert that it should be completely revised and rewritten, and of still others who think that a few amendments from time to time may make the historic document more in keeping with the changing needs of the social order—I shall confine this discussion to a brief history of the constitutional amendments and what I think our attitude should be toward those who propose further changes.

As you know, an amendment to the Constitution, to be effective, must be proposed by a two-thirds vote of the Members of each House of Congress, and then must be ratified by either the legislatures or by conventions in three-fourths of the States of the Union.

Now, while several hundred amendments have been introduced into Congress, only 26 in all in our entire history have received the necessary two-thirds vote in both Houses of Congress. Of these 26, 12 were proposed at one time by the very first Congress; 10 of these 12 were ratified as part of the Bill of Rights. The other 2 of the original 12 proposed amendments failed of ratification and were inconsequential.

Since 1789, over 145 years, only 14 proposed amendments have passed the two Houses of Congress. Three of these failed of ratification by the necessary three-fourths of the States. One of the amendments, proposed in 1810 and relating to titles of nobility, was of no consequence. The next which the States failed to ratify was proposed on the eve of the Civil War, seeking to prohibit the abolition of slavery; naturally, the Civil War killed its consideration. The other instance of failure to ratify was the child-labor amendment proposed in 1924.

The child-labor amendment, then, for all practical purposes, is the only amendment to the Constitution of the United States of any consequence which met with the favor of two-thirds of both the House and the Senate, which three-fourths of the States failed to adopt.

Bear in mind, however, that neither this child-labor amendment, nor the 4 unimportant ones, a total of 5 so-called "rejections", out of a total of 26 amendments passing both Houses, has actually been turned down by one-fourth or more of the States. Defeat has come by inaction, rather than by action; the necessary three-fourths have simply failed to ratify.

In most cases, while the States have ratified quickly, Congress has been slow in its consideration and approval of the proposals submitted for ratification. Take, for instance, the Federal income-tax amendment. There had been strong agitation for this ever since 1895, when the Supreme Court, in the absence of the amendment, held that form of taxation invalid. It took Congress 14 years to propose the amendment. That may or may not serve as a precedent in the matter of the N. R. A. and the like.

Similarly in the case of the popular election of United States Senators. This had been urged for many, many years, and the lower House had approved the amendment several times. The Senate was obdurate and would not yield to pressure until 1912, when a constitutional convention was threatened.

At first glance, it might be said that the prohibition and woman's suffrage amendments were not long in the making; but both propositions had been a matter for consideration and adoption in various States as matters of State organic law for a number of years before they reached the national stage, and then, of course, were accelerated by the World War. As to the recent "lame-duck" amendment, that had been the subject of discussion and a demand for reform for a great many years.

The one amendment that got really quick action was the repeal of prohibition. That was because there had never in our history been such a quick change of public sentiment on a controversial public issue. Probably the very Congress that proposed this amendment would not have dreamed of proposing it a year earlier than it did.

From all of which it seems clear that ordinarily it requires years of agitation, effort, and public demand to squeeze a proposal for amendment through the Halls of Congress. Even when popular demand is sufficient, as in the case of the child-labor amendment, to get the necessary majority in both Houses of Congress, the popular demand may not be sufficient to overcome inaction by the States. Naturally, also, public sentiment may change between the time an amendment is sufficiently popular to get by Congress and the time it is up for submission in the various States of the Union. It is only in most exceptional cases, like that of prohibition repeal, that public opinion is sufficiently insistent to drive an amendment through both the congressional and ratification stages in a short time.

With this history of amendments in mind, those who fear a complete revamping of our congressional system through the process of amendments are either not well informed on the history of amendments and the difficulties incident to their passage; or, like many propagandists and politicians on the outs these days, are setting up bogy men for their own purposes. So if any of you are worried about how to fix your bank accounts in the light of possible constitutional amendments, put aside your worries for a while. The Constitution won't be amended tomorrow; I doubt if the liberals, radicals, call 'em what you will, will get around to it before next Wednesday, at the earliest.

Anyway I submit that a man is neither a heretic nor a traitor merely because he says that the Constitution is not perfect. [Applause.] Any more than such a statement proves him to be either a Republican, a Democrat, a Socialist, or a Communist. He might be any one of the four and still, in denying the infallibility of the Constitution, be in perfect accord on this one question with those who framed the document. [Applause.]

But it is unquestionably true that the man on the street today regards any criticism of the Constitution as just as sacrilegious as the most hard-shelled fundamentalist regards any question about whether the whale really swallowed Jonah. Perhaps I am not an authority on the mind of the mythical man on the street, or perhaps I should say the mythical mind of the man on the street.

But from all I can gather, the uninformed man, and by that I mean the man who reads only headlines, thinks that when the Supreme Court declared the N. R. A. legislation unconstitutional, the Court also, as a matter of right, declared the entire social and economic program of the administration unwise, dangerous, and destructive; and further than that, that the Supreme Court has pronounced some sort of divine ukase, condemning to everlasting fire and damnation any and all people who propose any legislation that was not within the contemplation of Washington, Franklin, and Jefferson.

Just as some backwoods preacher, although he may be wholly uninformed on ecclesiastical history and the writings of religion, says, "If it ain't in the Bible, it ain't so", just so does the man on the street today think, I fear, that if the Supreme Court says it isn't in the Constitution, it means it must never be put in the Constitution, and that that's the last word on the subject.

I never did think the pendulum of public opinion had swung very far to the left; but I do sincerely believe that the pendulum of public opinion by virtue of the now prevailing misconception of the divine origin and infallibility of the Constitution has swung back to the right, dangerously close to incurable reactionism. [Applause.]

Now please don't misunderstand me; I am not criticising the N. R. A. decision. As a lawyer, I can't possibly complain of the logic of that decision. Nor am I going to enter into any philosophical discussion of whether the Supreme Court, as some maintain, has usurped power not granted to it by the Constitution. Certainly the power to declare laws unconstitutional has been exercised long enough to become part of our unwritten constitution, if not of the written one. Nor shall I enter into the highly controversial subject of the proper limits of State rights and national rights. Democrat though I am, and southerner by nearly 30 years' happy voluntary choice, I think there is as much unreasoning fundamentalism on the subject of State rights as there is on the subject of the divine origin and infallibility of the Constitution.

For instance, the Constitution, since its adoption, has vested in Congress the power to establish uniform laws on the subject of bankruptcies throughout the United States. Just why bankruptcies were singled out for Federal legislation by the framers of the Constitution as about the only subject of substantive law, except patents and copyrights, for such national treatment, I do not know—unless it was because through the stress of hard times then prevailing the framers of the Constitution realized how confusing it would be if each State had its own insolvency laws and there was no uniform system of discharging debtors and guaranteeing parity to creditors. My guess is that bankruptcy was the only national economic or social problem of which the framers of the Constitution thought.

To my mind it was just as important away back in 1787 as it is today to have uniform laws on the subject of divorce throughout the United States as on the subject of bankruptcies. I do not believe that there is any serious student of our social order who does not deplore the disrespect which many hold for the marriage contract, because of the varying degrees of respect, or lack of it, which many States have shown in their competitive legislative scramble for divorce business. Yet I dare say some fundamentalists would hold up their hands in holy horror at the suggestion that Texas should yield her sovereign right to make her own laws on the subject of divorce in the interest of uniform protection for wives, husbands, and children, whether they live on one side of an artificial boundary or not.

Of course, the framers of the Constitution were accustomed to more or less permanency in the marriage institution and did not foresee the social changes that too much money and too much Hollywood would bring about. Had they foreseen that dissolution of the marriage contract through the courts would become one of the most fertile fields of litigation, they doubtless would have deemed national legislation on the subject as necessary and as proper as national legislation on the subject of bankruptcy. But because the founders of the Constitution were not seers and prophets and could not look ahead 150 years to revolutionary social changes, is your constitutional fundamentalist justified in branding as a dangerous radical, a heretic, and a traitor anyone who suggests that maybe the time has come to consider adapting the Constitution to a changing social order?

Thomas Jefferson himself frequently stated that the constitution of every State should be revised at least once every 19 or 20 years, so as to allow each generation to determine for itself its fundamental law; but your standpatter is perfectly willing to let

the man on the street believe that Jefferson and his fellows were inspired from on high to bring down from Mount Sinai a code as unchanging and uncheangeable as the Ten Commandments.

Of course every student of history knows that one of the things that brought about the Constitutional Convention was the fact that the Articles of Confederation, in addition to other serious defects, had one insurmountable one, that any amendments to it, to be effective, required the consent of all of the members of the Confederation. In the Constitutional Convention itself there was little, if any, discussion on the subject of amendments; the framers were perplexed and harassed over matters that they regarded as more pressing, particularly the difficult questions of representation.

When Massachusetts, by a very close vote, 187 to 168, ratified the new Constitution, it was on the express reservation that its congressional representative fight for the adoption of the Bill of Rights, that is, amendments. And on the day that Massachusetts ratified the Constitution, Jefferson wrote from Paris to Madison, the real father of the Constitution, if anyone can be called a father, that while he hoped the 9 first States might accept the new Constitution for the sake of the good it contained, he equally wished that the 4 latest States, whoever they might be, would refuse to accede to the Constitution until the Bill of Rights should be annexed. And, as you know, a Bill of Rights, containing the first 10 amendments, was adopted shortly thereafter.

You may search recorded history from now until doomsday and you won't find where any of the framers of the Constitution claimed for themselves such divine inspiration or such a monopoly on wisdom as to preclude any later inquiry as to whether their job might not need a little amplification, patching, or repairing. They had a very difficult job to do. They realized that conditions under the Articles of Confederation were intolerable; and they did a magnificent job, involving months of patient study, bitter controversy, and many compromises; not one of the framers regarded the finished document as entirely satisfactory. The thing that finally sold adoption and ratification was the pliability of the document and the fact that it could be amended.

I could go on for hours in an attempt to point out how those who were familiar only with the simple agricultural economics of the sovereign States of 1789 could not possibly foresee the railroads, the telegraph, the telephone, the radio, and the airplane that have brought Hawaii much nearer to New York than Boston was 150 years ago. Even that greatest of all colonial merchants, John Hancock, of Boston, had no occasion to worry about conflicts of laws. He never dreamed that his successors' operations would be interwoven with problems affecting the economics, the social welfare, the standards of living, and the future of citizens of 48 States as different in their so-called "civilization" from the Massachusetts of 1787 as Massachusetts then was different from the Palestine of biblical days.

But I do not propose to be drawn into the making of any half-baked declarations as to just how far the Federal Government should be allowed to encroach upon the traditional powers of the States in order to regulate more effectively social and economic problems that are no longer possible of exclusive solution within the borders of the several States.

It may well be that the ideal solution, in order to maintain the respect and adoration for the Constitution which the fundamentalists demand, is to work a few hundred years for uniform State laws. We have after many years of work more or less uniform negotiable-instrument laws. Big business had no objection; it will probably have plenty of objections to uniform State laws on really important social and economic matters. I leave to your imagination how many years or centuries really effective uniform State laws would require for enactment. I fear that, human nature being what it is, social justice and abolition of special privilege are not apt to be realized when the big boys have so little trouble blocking progressive legislation in the several States. Nor do I have any too much faith in the piety of big business, or its present profession of a willingness to voluntarily regulate itself, without any legislative restraint.

But here, again, I run the risk of getting into a subject that would be too big for this talk or a dozen talks. The point I make is that a man may be a patriot, rather than a traitor, who suggests the time has come to look at both the Constitution and the changing social and economic order dispassionately to see whether the great instrument drawn 150 years ago will serve the greatest good of the greatest number as it is or whether it should be changed to serve the greatest good of the greatest number. [Applause.] And if amendments are proposed let's consider them on their present merits; let's not dismiss them as unworthy of consideration because they were not thought of 150 years ago. Let's apply to suggested changes the test laid down in the constitutional preamble of 1787—whether they are designed to form a more perfect union, establish justice, promote the general welfare, and secure the blessings of liberty to ourselves and to our posterity. [Applause.]

FEDERAL REGULATION OF PUBLIC-UTILITY HOLDING COMPANIES

Mr. BEITER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. BEITER. Mr. Speaker, I have been following the progress of the legislation providing for Federal regulation of public-utility holding companies in both Houses of Congress with considerable interest.

Of course, the utilities crowd, whom I believe to be the most powerful single business influence we have with government—local, State, and national—are opposing this bill. In view of the lavish spending policies of this great lobby, it is not difficult to understand where the thousands of protests being received on Capitol Hill originated.

It may be that this propaganda is going to have its effect on some of my friends on both sides of the aisle. I look for more threats of reward and punishment in the next national election than we have ever seen before. In making these statements I do not reflect on the motives of the opponents of this legislation, except to say that their business and personal interests are too great to permit them to look upon the matter in an unbiased and unprejudiced manner.

I have a very great admiration for the gentleman from Texas [Mr. RAYBURN] who is the very able chairman of the committee that reported this bill, and I listened with growing interest to his recent remarks concerning the concerted efforts of lobbyists to defeat the measure. At that time he spoke on the species and sinister situation presented by the utility lobbyism, and I gave to his statements the attention which they deserved.

No one knows how much lobbyists spend to influence government, but here and there Congress has been able to discover fees paid individual lobbyists, and almost without exception they have been larger than the salaries drawn by the men they are supposed to influence.

Edwin P. Shattuck, member of the war-time Sugar Equalization Board and friend of Herbert Hoover, was paid $75,000 for "legal services" while the Smoot-Hawley tariff bill was pending.

Josiah T. Newcomb was paid $39,994 by the electric utilities at the time they were trying to escape investigation by the Senate; and on the same pay roll were Stephen B. Davis, former Assistant Secretary of Commerce, who received $33,735, and ex-Senators Irvine Lenroot and Charles S. Thomas, who received $20,000 each.

From the point of view of special-interest groups who pay the lobbyists, the fees paid are important. From the public point of view it is more important to know to what extent these high-paid gentlemen succeed in molding government to their heart's desire. Everyone knows that these parasites that are obtaining money from people under the belief that they can influence legislation are without power to do it.

Mr. Speaker, a legislator cannot be true to himself and serve the people of the United States to the best of his ability if he yields his judgment or conforms his action to the persuasive efforts of these holding company lobbyists, who are working not only here in Washington but in every community in the country to defeat this legislation. It has been brought to my attention that a number of the utility companies have ordered their employees to write and telegraph Members of Congress protesting the passage of this bill. It is apparent that the letters and telegrams being received by the thousands are from a single source of inspiration because of the similarity of the phrases used. All of them have one idea—killing the Wheeler-Rayburn bill—and it is obvious that they have no conception of the purpose of the bill or of the difference between a holding company and an operating utility company.

The galleries of the House are filled daily with holding-company lobbyists and publicity men. Many of them do not appear to know how to go about their task of filling the newspapers with pro-utility matter and, I am advised, have been seeking the advice of newspaper correspondents.

"Remember that the eye of this country is onto you", wrote Bill Nye in a letter of advice and warning to Grover Cleveland when the latter became President the first time. To write such a thing to the President today would only fractionally state the case. The country at present has its eye "onto" the President and the Congress as well. Hundreds of lobbyists are kept in the National Capital whose duty it is to watch not only the Chief Executive but the whole works of the Government, and particularly the legislative branch, so that no laws are passed that might imperil fancied interests of the aggregations who pay the salaries of these lobby watchdogs.

We have heard only from the investors, and misinformed investors at that. We have yet to hear from the consumers, who far outnumber those who hold securities. I believe that both groups should be protected and the pending legislation is designed to do just that. I do not know of any investor who would be hurt by the Government's plan to give him assurance that his security is sound. I do not know of any consumer who would not welcome Federal regulation which would guarantee a fair rate for service received.

Among the pleasant surprises which have been mine since becoming a legislator have been the letters received from various persons in my district displaying an enthusiasm and keen interest in this bill and indicating a sympathetic attitude toward its provisions. These letters have been few compared to the thousands received protesting against the enactment of this legislation but they were sent voluntarily and at no one's suggestion, and therein lies a truth that is impressive.

In concluding my remarks I desire to state that, in my opinion, the importance and benefits of holding companies has been far overrated for several reasons. In the first place, stock in these companies is not as widely distributed as formerly thought. Second, customers of operating companies are more numerous than stockholders; that is, service is better distributed than ownership. Third, it is the operating unit or units which make dividends possible. Fourth, regulation of holding corporations is difficult; that is, "convenient legislation" or regulation is more easily arranged by and for the benefit of holding companies.

Usually because of "outside" influences, purchases of materials are made at points outside of the territory served, causing a loss of potential business to local business men. Surely no one can believe that the holding company gives more opportunity for employment than several independent operating companies would. Assets are not increased, although it is conceded that evidence of water is plain under the holding company set-up. It is granted that the whole is neither more nor less than the sum of its parts and that the operating units are the parts.

If there are any advantages in the holding company arrangement, they are chiefly those gained as a result of concentration and which operate to increase propaganda to explain its existence, or those gained as a result of size, power, influence, and greater ability to obtain lenient regulation. Also, possibly, to produce a balm for the local business man who loses the business that goes out of town.

EXTENSION OF REMARKS

Mr. BUCK. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks and to include therein an editorial from the Sacramento Commercial News.

Mr. MICHENER. Mr. Speaker, reserving the right to object, an editorial on what subject?

Mr. BUCK. On the agricultural situation in California.

Mr. MICHENER. The gentleman from Pennsylvania [Mr. RICH] is not in the Chamber.

Mr. BUCK. This editorial is written by the vice president of a bank, a good Republican.

Mr. MICHENER. Then I would not want it anyway and I would object.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. MARTIN of Massachusetts. Mr. Speaker, I object.

Mr. RAYBURN. Mr. Speaker, in order to save time—and I think it will—I now ask unanimous consent that all Members of the House may have 5 legislative days after passage of the pending bill within which to revise and extend their own remarks on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a speech delivered by the gentleman from New York [Mr. BOYLAN] over Station WOL on Thursday, June 27.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McCORMACK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech of Congressman JOHN J. BOYLAN, of New York, on station WOL Thursday, June 27, 1935:

Gentlewomen and gentlemen, the greatest need of the world today is the assurance of permanent peace—an assurance based on mutual understanding and mutual regard. The National Council for Prevention of War, whose headquarters are in the Nation's Capital, where I am now speaking, has asked me to open a series of biweekly radio talks on the general subject of "Highlights on Legislation Dealing With Foreign Affairs."

I am glad to do this, for as I survey the legislative scene here in Washington, I am more and more impressed with the growing importance of our relations with other nations. The United States now occupies a leading place in the world family. Its legislative enactments, the pronouncements of its public officials, the decisions of its judges are now matters of world concern. Does Congress decide to increase the American Navy? Then the newspapers of Japan, France, England, Germany, and Russia proclaim the fact to their readers. Does President Roosevelt appeal for new taxation? Then the headlines in a score of foreign countries blaze with the words of our Chief Executive. In some measure today, as the United States goes, so goes the world.

In the family of nations at the moment the pressing question is: Will the tensions which exist between some of the world's great nations lead to war? Illustrating the predominant part that America plays in the affairs of the world, nothing seems more important than the attitude of this Nation toward a possible conflict.

If war comes, what will America do? Can we stay out of it? That is the question that is demanding the attention of some of our Congressmen and Senators. That is the question that other nations are asking—What will America's attitude be? It is the question I am concerned with tonight, for I believe that with proper changes in our national policy through congressional legislation America can stay out of another war.

To that end several bills calling for revision of our neutrality policy have been introduced in the present session of Congress by Members of both Houses. On Tuesday of next week the Foreign Affairs Committee of the House of Representatives plans to hold a hearing on the bill introduced by Representative MAVERICK, of Texas, a veteran of the World War. He proposes that it shall be the policy of the United States that American troops shall never be used in aid of or against any foreign nation, except to protect the United States, and that our Army and Navy shall not be transported to or used upon the soil of any foreign nation for the purposes of armed conflict.

Senator NYE, Chairman of the Munitions Committee, and Senator CLARK, a member of that committee, have introduced bills in the Senate which would forbid the issuance of passports to American citizens to travel in war zones, and prohibit loans of money or credit to nations at war. These two bills were reported out of the Senate Foreign Relations Committee yesterday, and they are now ready for consideration by the Senate. The various neutrality bills will be discussed in detail over this station next Tuesday evening at 8 o'clock, eastern standard time, by my colleague, Congressman MARCANTONIO, of New York.

In commenting on this proposed legislation, I would emphasize the need of laying down our policy, whatever it may be, in times of peace, and this means in this or the very next session of Congress. The machinery to enforce a program to keep us out of war must be ready to work when a crisis occurs. The program must be formulated when we can think clearly, unhampered by the distortions of war-time hysteria. Another Sarajevo may occur this summer; if it does, America must be prepared—not to be drawn into the conflagration but to stay out of it.

On another line Congress is working to lessen the danger of our being drawn into a future war. I refer to the bill to take the profits out of war, which Senator NYE has introduced in the Senate. This bill provides for a tax of 99 percent on all incomes in war time over $10,000 a year. Tax-exemption figures are to be decreased—personal exemption for single persons drops from $1,000 to $500 and for married people from $2,500 to $1,000. It is planned to have no one escape the burden of financing the war. Under another provision the President is empowered to license any business and to determine the conditions under which it will operate.

If legislation along these lines can be made into law, war will be less attractive to all classes in this country, for with everyone aware of the great financial burden of war, no one will be anxious for it. Such legislation, I believe, is valuable in time of war. If it is true, however, that armament races in peace time cause war, then the profit which stimulates such races ought also to be removed from the preparation of war. It is my hope that the Nye committee, which has worked long and industriously on these kindred problems, will also direct its energy to the elimination of profits from the peace-time manufacture of war materials.

Still another proposal, introduced in the House of Representatives by Representative LUDLOW, of Indiana, would act as a deterrent to war. He has proposed an amendment to the Constitution which provides for a Nation-wide referendum on a declaration of war. This would remove from Congress the power to declare war and would place the proposition directly in the hands of the voters.

While I am not particularly keen about amending the Constitution on account of our disastrous experience with the eighteenth amendment—of course, that was an amendment that tried to reform our daily habits and say what we should drink and what we should not drink, etc.; thank God, our people were able to realize the Constitution was no place in which to regulate the daily lives of our people; they corrected this by the repeal of the amendment—yet I feel an amendment of the type introduced by Representative LUDLOW would put the matter squarely up to the people.

At a hearing before the House Judiciary Committee some objection was taken to the language of the proposed amendment. This, however, could be worked out in committee in such a way as to cover all anticipated contingencies and in no way interfere with the safety of our country. I would be the last one to propose an amendment of this type if I thought for one minute it would jeopardize the safety of our country or the property or possessions of citizens of the United States.

The second section of the amendment provides as follows:

"SEC. 2. Whenever war is declared the President shall immediately conscript and take over for use by the Government all the public and private war properties, yards, factories, and supplies, fixing the compensation for private properties temporarily employed for the war period at a rate not in excess of 4 percent, based on tax values assessed in the year preceding the war."

On three fronts, then, Congress is moving to insure America's staying at peace. Enactment of legislation to modify our neutrality policy, taking the profits out of war as requested by the President, a referendum of the voters before war can be declared—these will make the awful catastrophe of war less probable.

A more desirable achievement cannot be imagined, and it is to Congress that the people of this Nation look for protection against war. It is trite to say that no person wants war, but peace cannot be insured unless that desire is translated into the enactment of concrete programs and policies that mean peace. That responsibility belongs to Congress, and it is my earnest hope that we may meet it with the proper legislation.

It has been a pleasure for me to speak to you this evening, and I trust that you will be listening in to the other talks in this series.

I thank you. Good night.

THE AMERICAN NATIONAL THEATER AND ACADEMY

Mr. McLAUGHLIN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2642) to incorporate The American National Theater and Academy.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

Mr. WADSWORTH. Mr. Speaker, reserving the right to object, may I ask if this is a measure which is to extend a Federal charter to a private organization?

Mr. McLAUGHLIN. It is. I may say to the gentleman from New York that this matter was brought before the Committee on the Judiciary, of which I am a member. It was considered by the committee; a hearing was had, and after thorough consideration of questions affecting the granting of the charter, these having been discussed by the Honorable James Beck, it was unanimously voted to report out the bill for passage.

Mr. STEFAN. I understand there is no appropriation involved?

Mr. McLAUGHLIN. No.

Mr. WADSWORTH. Could the gentleman advise us how many charters of this sort have been granted in the past?

Mr. McLAUGHLIN. I cannot give the number exactly, but there have been a number of the same sort granted.

Mr. WADSWORTH. I think it is doubtful policy, Mr. Speaker; but if the House desires to consider it now, I have no objection.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There being no objection, the Clerk read the Senate bill, as follows:

Be it enacted, etc., That Leopold Stokowski, of Philadelphia, Pa.; Evelyn Price (Mrs. Eli Kirk Price), of Philadelphia, Pa.; George W. Norris, of Philadelphia, Pa.; Samuel S. Fleisher, of Philadelphia, Pa.; Amory Hare Hutchinson, of Philadelphia, Pa.; Ellen D. Cleveland (Mrs. Richard F. Cleveland), of Baltimore, Md.; Otto T. Mallery, of Philadelphia, Pa.; Roland S. Morris, of Philadelphia, Pa.; Mrs. George H. Lorimer, of Philadelphia, Pa.; Hugh Hampton Young, of Baltimore, Md.; Richard F. Cleveland, of Baltimore, Md.; J. Howard Reber, of Philadelphia, Pa.; Mary Stewart French, of Philadelphia, Pa.; Clara R. Mason, of Philadelphia, Pa.; Katharine Dexter McCormick (Mrs. Stanley McCormick), of Chicago, Ill.; Evangeline Stokowski (Mrs. Leopold Stokowski), of New York, N. Y.; Elsie Jenkins Symington (Mrs. Donald Symington), of Baltimore, Md.; B. Howell Griswold, of Baltimore, Md.; Ann Morgan, of New York, N. Y.; John Hay Whitney, of New York, N. Y.; Otto H. Kahn, of New York, N. Y.; Harriet Barnes Pratt (Mrs. Harold I. Pratt), of New York, N. Y.; Mrs. W. Murray Crane, of New York, N. Y.; A. Conger Goodyear, of New York, N. Y.; Alice Garrett (Mrs. John W. Garrett), of Baltimore, Md.; John W. Garrett, of Baltimore, Md.; Joy Montgomery Higgins, of New York, N. Y.; Arthur Woods, of New York, N. Y.; Helen Woods (Mrs. Arthur Woods), of New York, N. Y.; C. Lawton Campbell, of New York, N. Y.; John H. Finley, of New York, N. Y.; Cass Canfield, of New York, N. Y.; Katharine E. Canfield (Mrs. Cass Canfield), of New York, N. Y.; William Rhinelander Stewart, of New York, N. Y.; Dorothea Blagden (Mrs. Linzee Blagden), of New York, N. Y.; John W. Davis, of New York, N. Y.; Francis Anita Crane, of New York, N. Y.; Frank L. Polk, of New York, N. Y.; Edward M. M. Warburg, of New York, N. Y.; William Green, of Washington, D. C.; Mary Chichester du Pont (Mrs. Felix du Pont), of Wilmington, Del.; Betty Hawley, of New York, N. Y.; Isabelle Anderson (Mrs. Larz Anderson), of Washington, D. C.; Mabel Boardman, of Washington, D. C.; Huibertje Lansing Pryn Hamlin (Mrs. Charles Hamlin), of Washington, D. C.; their associates and successors, duly chosen, are hereby incorporated, constituted, and declared to be a body corporate. The name of this corporation shall be "The American National Theater and Academy."

SEC. 2. The corporation shall be nonprofit and without capital stock. Its purposes shall embrace:

(a) The presentation of theatrical productions of the highest type;

(b) The stimulation of public interest in the drama as an art belonging both to the theater and to literature and thereby to be enjoyed both on the stage and in the study;

(c) The advancement of interest in the drama throughout the United States of America by furthering in the production of the best plays, interpreted by the best actors at a minimum cost;

(d) The further development of the study of drama of the present and past in our universities, colleges, schools, and elsewhere;

(e) The sponsoring, encouraging, and developing of the art and technique of the theater through a school within the National Academy.

SEC. 3. That the corporation created by this act shall have the following powers:

To have perpetual succession with power to sue and to be sued in the courts of law and equity; to receive, hold, own, use, mortgage, and dispose of such real estate and personal property as shall be necessary for its corporate purposes; to adopt a corporate seal and alter the same at pleasure; to adopt a constitution, bylaws, and regulations to carry out its purposes not inconsistent with the laws of the United States or any States; to establish and maintain offices and buildings for the conduct of its business; to establish State and territorial organizations and local branches; and generally to do all such acts and things as may be necessary and proper in carrying into effect the purposes of the corporation.

SEC. 4. That the organization shall be nonpolitical, nonsectarian, as an organization shall not promote the candidacy of any persons seeking public office. There shall be no honorary members.

SEC. 5. That said corporation and its State and local branches and subdivisions shall have the sole and exclusive right to have and to use in carrying out its purposes the name "The American National Theater and Academy."

SEC. 6. That said corporation be, and is hereby, authorized to have its headquarters and hold its meetings at such places within or without the District of Columbia as it from time to time may deem best.

SEC. 7. The corporation is hereby authorized and empowered to receive by devise, bequest, donation, or otherwise, either real or personal property, and to hold the same absolutely or in trust and to invest, reinvest, and manage the same in accordance with the provisions of its constitution and to apply said property and the income arising therefrom to the objects of its creation and according to the instructions of its donors.

SEC. 8. That said corporation shall on or before the 1st day of January in each year make and transmit to Congress a report of its proceedings for the preceding calendar year, including a full and complete report of its receipts and expenditures: *Provided, however,* That said report shall not be printed as a public document.

SEC. 9. That as a condition precedent to the exercise of any power or privilege herein granted or conferred, "The American National Theater and Academy" shall file in the office of the secretary or the properly designated officer of each State or Territory or the District of Columbia in which is located either its headquarters or branches or subdivisions thereof the name and post-office address of an authorized agent upon whom legal process or demand against "The American National Theater and Academy" may be served.

SEC. 10. That the right to repeal, alter, or amend this act is hereby expressly reserved.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H. R. 8214) was laid on the table.

HOUR OF MEETING

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a. m. Monday.

Mr. BOILEAU. Mr. Speaker, reserving the right to object—and I dislike very much to object to any request of the majority leader—I would like to say that some of the committees have very important work to do. During the past week we have been working under the handicap of meeting at 11 o'clock almost every day and are having a great deal of difficulty in getting work through the committees. Unless there is some urgency, I shall feel constrained to object.

Mr. TAYLOR of Colorado. My only object in the matter is a desire to finish the bill Tuesday evening. If we can, it means that many of the Members can go home until Monday. If we are going to have a point of no quorum made every time we meet at 11 o'clock, we might just as well meet at 10 o'clock.

Mr. BOILEAU. I was going to observe that if we met at 12 o'clock we would get just as much work done in the end.

Mr. TAYLOR of Colorado. I do not know about that.

The SPEAKER. Is there objection to the request of the gentleman from Colorado that when the House adjourns today it adjourn to meet at 10 o'clock on Monday?

There was no objection.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 5 minutes p. m.) the House, in accordance with its previous order, adjourned until Monday, July 1, 1935, at 10 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

401. Under clause 2 of rule XXIV a letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of Mississippi on January 1, 1935, was taken from the Speaker's table and referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. JONES: Committee on Agriculture. H. R. 8495. A bill to amend certain plant-quarantine laws; with amendment (Rept. No. 1410). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. MONTET: Committee on Military Affairs. S. 1497. An act to authorize the appointment of First Lt. Claude W. Shelton, retired, to the grade of captain, retired, in the United States Army; without amendment (Rept. No. 1409). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 8725) for authorization to remove the statue of Maj. Gen. John A. Rawlins to Galena, Ill.; to the Committee on the Library.

By Mr. BURNHAM: A bill (H. R. 8726) to provide funds for cooperation with the board of trustees of the Warner Springs Union School District, Warner Springs, Calif., in the construction of a public-school building to be available to Indian children of the Los Coyotes and Volcan Indian Reservations, Calif.; to the Committee on Indian Affairs.

By Mr. KING: A bill (H. R. 8727) to provide for a plebiscite on the question of statehood in the Territory of Hawaii; to the Committee on the Territories.

By Mr. LEMKE: A bill (H. R. 8728) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto; to the Committee on the Judiciary.

By Mr. LUNDEEN: A bill (H. R. 8729) to create a Department of Air Service; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNN of Pennsylvania: A bill (H. R. 8730) to provide special rates of postage on reading matter and sound-reproduction records for the blind; to the Committee on the Post Office and Post Roads.

By Mr. DIES: A bill (H. R. 8731) to authorize the prompt deportation of criminals and certain other aliens to guard against the separation from their families of certain law-abiding aliens, to further restrict immigration into the United States, and for other purposes; to the Committee on Immigration and Naturalization.

By Mr. LUNDEEN: Joint resolution (H. J. Res. 341) proposing an amendment to the Constitution of the United States to permit the taxation of tax-exempt securities; to the Committee on the Judiciary.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Alaska Territorial Legislature, requesting consideration of several memorials to help Alaska; to the Committee on the Territories.

Also, a memorial memorializing the President and the Congress to enact legislation proposed by H. R. 6984; to the Committee on Pensions.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURCH: A bill (H. R. 8732) for the relief of the estate of Hattie M. Dunford; to the Committee on Claims.

By Mr. GILCHRIST: A bill (H. R. 8733) to reimburse W. B. Donelson for revenues wrongfully paid; to the Committee on Claims.

By Mr. HESS: A bill (H. R. 8734) renewing and extending Patent No. 1090502; to the Committee on Patents.

By Mr. HILDEBRANDT: A bill (H. R. 8735) authorizing the Secretary of the Treasury to pay Dr. A. E. Taplin, Veblen, S. Dak., for medical service and supplies furnished the Indians; to the Committee on Indian Affairs.

By Mrs. KAHN: A bill (H. R. 8736) for the relief of Gabriel Boyajian; to the Committee on Naval Affairs.

Also, a bill (H. R. 8737) for the relief of Harry L. Burgess; to the Committee on Military Affairs.

By Mr. MAVERICK: A bill (H. R. 8738) authorizing Capt. Timothy Sapia-Bosch, United States Army, to accept the decoration of the Order of Isabel the Catholic; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9032. By Mr. DOBBINS: Petition of O. O. Rohrbaugh and 692 other citizens of Decatur, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9033. By Mr. JOHNSON of Texas: Petition of W. H. Taylor, T. J. Dodson, F. L. Jackson, P. C. Hyder, Sam McCluskey, A. J. Martin, and J. H. Hobson, of Blum, Tex., favoring adequate regulation of busses and trucks and opposing exemption of contract and common trucks from such regulation; to the Committee on Interstate and Foreign Commerce.

9034. By Mr. LUNDEEN: Petition of the Northwestern Retail Coal Dealers Association, of Minneapolis, Minn., urging the enactment of House bill 3263, to repeal the long-and-short-haul clause; to the Committee on Interstate and Foreign Commerce.

9035. Also, petition of the International Association of Machinists of St. Paul, Minn., urging the enactment of House Joint Resolution 219, to extend the present Emergency Rail-

road Transportation Act beyond June 16; to the Committee on Interstate and Foreign Commerce.

9036. Also, petition of the Northwestern Retail Coal Dealers Association, Minneapolis, Minn., urging the enactment of Senate bill 1632 and House bill 5379, providing for the regulation of interstate water transportation; to the Committee on Interstate and Foreign Commerce.

9037. Also, petition of the Northwestern Retail Coal Dealers Association, Minneapolis, Minn., urging the enactment of Senate bill 1629 and House bill 5262, providing for the regulation of interstate transportation by highway; to the Committee on Interstate and Foreign Commerce.

9038. Also, petition of the Minneota Businessmen's Association, Minneota, Minn., urging the enactment of the flaxseed amendment and other amendments to the Agricultural Adjustment Act; to the Committee on Agriculture.

9039. By Mr. SADOWSKI: Petition of the Michigan State Association of Letter Carriers, endorsing House bills 19, 44, 46, 47, 48, 124, 3893, 4440, 4672, 5157, 6680, and 7688, and Senate bills 2196 and 2040; to the Committee on the Post Office and Post Roads.

9040. Also, petition of the Michigan State Association of Letter Carriers, endorsing House bill 3801; to the Committee on the Post Office and Post Roads.

9041. By Mr. TRUAX: Petition of the executive council of the International Longshoremen's Association, New York City, by their representative, Joseph P. Ryan, commending the House of Representatives on their action on the Wheeler-Rayburn bill and urging them to continue their fight; to the Committee on Interstate and Foreign Commerce.

9042. Also, petition of the Ohio Buckeye Brewers' Association, comprising all breweries in Ohio and one in West Virginia, by their secretary, John D. Marshall, opposing the enactment of House bill 8539, which would place brewers under a permit and would write into Federal law an inflexible code of fair trade practices; to the Committee on Interstate and Foreign Commerce.

9043. Also, petition of the Retail Tobacco Dealers of America, Inc., New York City, by their president, William A. Hollingsworth, urging the immediate adoption by the Congress of the United States of a resolution providing for a congressional investigation with full inquisitorial powers of the loss-leader practice in nationally distributed products of all kinds, and in particular of tobacco products; to the Committee on Interstate and Foreign Commerce.

9044. Also, petition of the Toronto Fire Clay Co., Toronto, Ohio, by their secretary, H. H. Campbell, urging modification of the $1,400 ruling so as to permit the inclusion of labor from factories or plants producing and transporting materials and equipment for road-construction purposes; to the Committee on Labor.

9045. Also, petition of the International Association of Machinists, Lodge No. 521, Lorain, Ohio, by their recording secretary, P. J. Gifford, asking for modification of the $1,400 ruling to permit the ruling to apply to the men in the shops as well as to the men in the actual hand-labor work, as it is not fair to the machinist to have unemployment forced upon him, which will be done if the present ruling stands; to the Committee on Labor.

9046. By Mr. WELCH: California Assembly Joint Resolution No. 56, memorializing the President and the Congress to enact legislation proposed by House bill 6984, providing benefits to persons who served in the Quartermaster Corps or under the Quartermaster General during certain wars; to the Committee on Pensions.

SENATE

MONDAY, JULY 1, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, June 27, 1935, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts and joint resolutions:

On June 25, 1935:

S. 148. An act for the relief of the estate of Donnie Wright;

S. 1052. An act for the relief of the Washington Post Co.;

S. 1066. An act to extend the provisions of section 2 of the act of February 28, 1925, authorizing reservations of timber, minerals, or easements to exchanges of lands in the State of New Mexico, under the act of February 14, 1923, and the act of February 7, 1929;

S. 1656. An act for the relief of Ward J. Lawton;

S. 2185. An act to amend an act entitled "An act to accept the cession by the State of Oregon of exclusive jurisdiction over the lands embraced within the Crater Lake National Park, and for other purposes";

S. 2333. An act for the relief of John W. Dady; and

S. 2780. An act to repeal the limitation on the sale price of the Federal building at Main and Ervay Streets, Dallas, Tex.

On June 26, 1935:

S. 1051. An act for the relief of the Western Union Telegraph Co.; and

S. 1860. An act for the relief of the Tampa Marine Co.

On June 28, 1935:

S. 314. An act for the relief of Vito Valentino;

S. 2276. An act to authorize participation by the United States in the Interparliamentary Union;

S. 2917. An act authorizing an appropriation to effect a settlement of the remainder due on Pershing Hall, a memorial already erected in Paris, France, to the commander in chief, officers, and men of the expeditionary forces, and for other purposes;

S. J. Res. 131. Joint resolution providing for the participation of the United States in the Texas Centennial Exposition and celebrations to be held in the State of Texas during the years 1935 and 1936, and authorizing the President to invite foreign countries and nations to participate therein, and for other purposes; and

S. J. Res. 152. Joint resolution to extend to August 31, 1935, the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the bill (S. 2642) to incorporate The American National Theater and Academy.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. VINSON of Georgia, Mr. DREWRY, and Mr. DARROW were appointed managers on the part of the House at the conference.

The message further announced that the House had concurred in the concurrent resolution (S. Con. Res. 19), as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate be, and he is hereby, authorized and directed, in the enrollment of the joint resolution (S. J. Res. 152) to extend for 1 year the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended, to amend the title thereof by striking out the words "for 1 year" and inserting in lieu thereof "to August 31, 1935."

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 27) to print and bind the proceedings in Congress and in Statuary Hall upon the acceptance in the Capitol of the statue of Hannibal Hamlin, presented by the State of Maine, in which it requested the concurrence of the Senate.

SIGNING OF ENROLLED BILLS AND JOINT RESOLUTIONS DURING RECESS

The legislative clerk read the following announcements on behalf of the Vice President:

The Chair announces that, under authority heretofore granted by the Senate, he signed, on Friday, June 28, 1935, the following enrolled bills and joint resolution and they were delivered to the committee to be presented to the President of the United States:

S. 2738. An act to authorize the use of park property in the District of Columbia and its environs by the Boy Scouts of America at their national jamboree;

S. 2917. An act authorizing an appropriation to effect a settlement of the remainder due on Pershing Hall, a memorial already erected in Paris, France, to the commander in chief, officers, and men of the expeditionary forces, and for other purposes;

H. R. 5809. An act to amend an act entitled "An act to control the manufacture, transportation, possession, and sale of alcoholic beverages in the District of Columbia";

H. R. 7160. An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges; and

H. J. Res. 324. Joint resolution to provide revenue, and for other purposes.

The Chair also announces that, under the said authority, he signed, on Friday, June 28, 1935, the enrolled joint resolution (S. J. Res. 152) to extend to August 31, 1935, the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended, said joint resolution having been signed by the Speaker of the House of Representatives and previously reported by the Committee on Enrolled Bills as having been examined and found truly enrolled, and that it was delivered to the committee to be presented to the President of the United States.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Overton
Ashurst	Coolidge	La Follette	Pittman
Bachman	Copeland	Lewis	Pope
Bankhead	Dickinson	Logan	Radcliffe
Barbour	Dieterich	Lonergan	Reynolds
Barkley	Donahey	Long	Robinson
Bilbo	Duffy	McAdoo	Schall
Black	Fletcher	McCarran	Schwellenbach
Bone	George	McGill	Sheppard
Borah	Gerry	McKellar	Shipstead
Brown	Gibson	McNary	Smith
Bulkley	Glass	Maloney	Steiwer
Bulow	Gore	Metcalf	Thomas, Okla.
Burke	Guffey	Minton	Townsend
Byrd	Hale	Moore	Trammell
Byrnes	Harrison	Murphy	Truman
Capper	Hatch	Murray	Tydings
Caraway	Hayden	Neely	Wagner
Carey	Holt	Norbeck	Walsh
Chavez	Johnson	Norris	Wheeler
Clark	Keyes	O'Mahoney	White

Mr. LEWIS. I announce that the Senator from North Carolina [Mr. BAILEY], the Senator from Colorado [Mr. COSTIGAN], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS] are absent from the Senate on important public business. I request that this announcement stand for the day.

Mr. McNARY. I wish to announce that the senior Senator from Michigan [Mr. COUZENS] is absent on account of illness, and that the Senator from Vermont [Mr. AUSTIN], the Senator from Pennsylvania [Mr. DAVIS], the Senator from North Dakota [Mr. FRAZIER], the Senator from Delaware [Mr. HASTINGS], the Senator from North Dakota [Mr. NYE], and the junior Senator from Michigan [Mr. VANDENBERG] are necessarily detained from the Senate. I ask that this announcement stand for the day.

The VICE PRESIDENT. Eighty-four Senators have answered to their names. A quorum is present.

FIDELITY TRUST CO. OF BALTIMORE, MD.—VETO MESSAGE (S. DOC. NO. 105)

The VICE PRESIDENT laid before the Senate the following letter from the Secretary of the Senate, which was read:

UNITED STATES SENATE,
Washington, July 1, 1935.

Hon. JOHN N. GARNER,
President of the Senate.

MY DEAR MR. PRESIDENT: On Tuesday, June 18, 1935, the Committee on Enrolled Bills of the Senate presented to the President of the United States the enrolled bill (S. 694) for the payment of the claims of the Fidelity Trust Co. of Baltimore, Md., and others, which had passed both Houses of Congress and been signed by the Speaker of the House of Representatives and the President of the Senate.

The Senate at 5:35 p. m., Thursday, June 27, 1935, took a recess until 12 noon on Monday, July 1, 1935.

During the interim, the President of the United States sent by messenger a message addressed to the Senate, dated June 27, 1935, giving his reasons for not approving this bill. The Senate not being in session on the last day which the President had for the return of this bill under the provisions of the Constitution of the United States, in order to protect the interests of the Senate so that it might have the opportunity to reconsider the bill, I accepted the message, and I now present to you the President's veto message, with the accompanying papers, for disposition by by the Senate.

Sincerely yours,

EDWIN A. HALSEY,
Secretary of the Senate.

The VICE PRESIDENT also laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Claims and ordered to be printed, as follows:

To the Senate:

I return herewith, without my approval, S. 694, an act for the payment of the claims of the Fidelity Trust Co. of Baltimore, Md., and others.

This bill authorizes refunds of the bankers' special taxes which were, under the principles laid down by the United States Supreme Court, in *Fidelity & Deposit Co.* v. *United States* (259 U. S. 296) and *United States* v. *Fidelity & Deposit Co.* (266 U. S. 587), erroneously collected many years ago under the acts of June 13, 1898, and October 22, 1914, notwithstanding the fact that the prescribed statutory periods for refund have long since expired.

But recently there was submitted to me another bill which proposed to except certain taxpayers from the operation of the statutes of limitations pertaining to the revenue laws by extending the time for the refunding of certain taxes to such taxpayers. At that time I had occasion to express my accord with the enacted policy of Congress that it is sound to include in all revenue acts statutes of limitations, by the operation of which, after a fixed period of time, it becomes impossible for the Government to collect additional taxes or for the taxpayer to obtain a refund of an overpayment of taxes. I pointed out in that instance that legislation, such as the proposed bill, selects a small class of taxpayers for special treatment by excepting them from that policy. Such legislation thus discriminates against the whole body of Federal taxpayers and establishes a precedent which would open the door to relief in all cases in which the statute operates to the prejudice of a particular taxpayer, while leaving the door closed to the Government in those cases in which the statute operates to the disadvantage of the Government.

In this regard the instant measure (S. 694) does not differ in principle from S. 279, which was under consideration on the prior occasion. With regard to S. 694, too, I know of no circumstances which would justify the exception made by that bill to the long-continued policy of Congress. Again I must express my belief that the field of special legislation should not be opened to relieve special classes of taxpayers from the consequences of their failure to perfect their claims for the refund of taxes within the period fixed by law.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 27, 1935.*

HEIRS OF JAMES TAYLOR, DECEASED CHEROKEE INDIAN—VETO MESSAGE (S. DOC. NO. 106)

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Com-

mittee on Agriculture and Forestry and ordered to be printed, as follows:

To the Senate:

I return without approval Senate 2306, an act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the heirs of James Taylor, deceased Cherokee Indian, for the value of certain lands now held by the United States, and for other purposes.

The bill involves a claim of approximately $389,706 made by the heirs of James Taylor, a deceased Cherokee Indian, for some 22,800 acres of land in North Carolina, now a part of the Nantahala National Forest. A finding of facts in connection with this claim was transmitted to Congress by the Court of Claims on November 11, 1915, and is contained in the Senate report, no. 875, Seventy-third Congress, second session, on Senate 3092, a bill similar in purpose, which was vetoed by me, both because I considered that it tied the hands of the Court of Claims and prevented an equitable determination of the case, and because of other objectionable features.

While the present bill omits most of the objectionable features of that bill, I invite particular attention to section 4 of the present bill, which authorizes the court to allow attorney's fees in addition to the award on the claim. Such action is without precedent, and if permitted to stand, the United States would be placed in the position of paying the fees for attorneys representing both the plaintiff and the defendant. If the court awarded the claimants in this case the total amount stated, the Government, in addition to paying $389,706 or any other amount found due, would pay a sum of not to exceed an additional 10 percent to the attorneys for the plaintiffs. Any fees to attorneys should be paid out of the amount recovered.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 26, 1935.*

THOMAS G. CARLIN—VETO MESSAGE (S. DOC. NO. 107)

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Military Affairs and ordered to be printed, as follows:

To the Senate:

I return herewith, without my approval, S. 1410, entitled "An act for the relief of Thomas G. Carlin."

This bill authorizes me to summon Thomas G. Carlin, formerly a captain in the Regular Army, before a retiring board to inquire whether at the time of his resignation he was incapacitated for active service, and whether such incapacity was a result of an incident of service, and if, as a result of such inquiry, it is found that he was so incapacitated, to take the necessary action to have him placed upon the retired list of the Army.

From the facts in this case of record in the War Department it appears that on September 9, 1929, a board of general officers placed the then Captain Carlin provisionally in class B, under the provisions of the National Defense Act, as amended; that on December 2, 1929, charges were preferred against him involving drunkenness and disorderly conduct; and that while these charges were pending he tendered his unconditional resignation, which was accepted. It further appears that although Captain Carlin, at the time of his separation from the service, expressed the belief that he was suffering from the effects of being gassed in France in 1918, and an injury received in an automobile accident in October 1929, his final physical examination on January 4, 1930, by the Army medical authorities showed that he was not incapacitated for active field service at that time. Also, as I am advised, his annual physical examinations for several years prior to and including 1928, as well as a 4 months' period of observation and general medical survey in a general hospital, failed to develop any incapacity for the performance of full military duty.

I am also advised by the Veterans' Administration that a claim filed by Thomas G. Carlin for disability compensation was disallowed November 20, 1930, because of his failure to establish as much as a 10-percent service-connected disability.

In view of the foregoing, it would be a futile thing for me to order this man before an Army retiring board, even if I considered him entitled thereto, which I do not. It is not good policy subsequently to reopen the cases of officers separated from the military service with a view to placing them upon the retired list, when at the time of their separation they were clearly not entitled to such treatment. The retirement system of the Regular Army was provided for the twofold purpose of attracting desirable permanent personnel to the service and of vitalizing the active list. Its maintenance for such purpose is vital to the national defense, and should not be jeopardized by utilizing it as a means of relief or for placing upon the retired list persons other than the permanent personnel of the Military Establishment.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 27, 1935.*

PARTICIPATION BY UNITED STATES IN INTERPARLIAMENTARY UNION (S. DOC. NO. 98)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States transmitting a supplemental estimate of appropriation, Department of State, for the fiscal year 1936, amounting to $12,500, for participation by the United States in the Interparliamentary Union, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: M'MILLAN PARK PUMPING STATION (S. DOC. NO. 99)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the water fund of the District of Columbia, for replacing of pumping equipment at the McMillan Park pumping station, amounting to $150,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: MEMORIAL TO PERSONNEL OF AMERICAN EXPEDITIONARY FORCES (S. DOC. NO. 100)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation, for the fiscal year 1936, for Memorial to Personnel of American Expeditionary Forces, amounting to $482,032.92, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: LEGISLATIVE ESTABLISHMENT (S. DOC. NO. 101)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate for the legislative establishment, United States Senate, fiscal year 1936, amounting to $2,089.18, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

PUBLIC SERVICE COORDINATED TRANSPORT OF NEWARK, N. J. (S. DOC. NO. 102)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the payment of a claim of the Public Service Coordinated Transport of Newark, N. J., upon settlement and adjustment by the Comptroller General of the United States, amounting to $122,422.43, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: NAVY DEPARTMENT (S. DOC. NO. 103)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting supplemental estimates of appropriations for Public Works, Bureau of Yards and Docks, Navy Department, no

fiscal year, aggregating $3,050,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

RELIEF OF LILY M. MILLER (S. DOC. NO. 104)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the fiscal year 1935, for the relief of Lily M. Miller, amounting to $9,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

ELECTRIC RATE SURVEYS IN MISSISSIPPI, MARYLAND, AND THE DISTRICT

The VICE PRESIDENT laid before the Senate letters from the Chairman of the Federal Power Commission, transmitting, pursuant to law, compilations completed through the electric rate survey of the domestic and residential rates in effect in the States of Mississippi and Maryland and the District of Columbia on January 1, 1935, which, with the accompanying papers, was referred to the Committee on Interstate Commerce.

EMPLOYMENTS IN FEDERAL ALCOHOL CONTROL ADMINISTRATION

The VICE PRESIDENT laid before the Senate a letter from the United States Civil Service Commission, signed by its president, relative to House bill 8539, exempting from the merit system established by the Civil Service Act and Rules all employments in the Federal Alcohol Control Administration proposed to be created by such bill, and recommending that the bill be amended to provide that, with such exceptions as the President may make, all employments will be subject to the provisions of the Civil Service Act and Rules, and compensation be fixed in accordance with the Classification Act of 1923, as amended, which was referred to the Committee on Civil Service.

PRINTING OF PROCEEDINGS AT UNVEILING OF STATUE OF HANNIBAL HAMLIN

The VICE PRESIDENT laid before the Senate House Concurrent Resolution 27, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed with illustrations, and bound, in such form and style as may be directed by the Joint Committee on Printing, the proceedings at the unveiling in Statuary Hall, upon the acceptance of the statue of Hannibal Hamlin, presented by the State of Maine, 1,000 copies, of which 200 shall be for the use of the Senate and 500 for the use of the House of Representatives, and the remaining 300 copies shall be for the use and distribution of the Senators and Representatives in Congress from the State of Maine.

SEC. 2. The Joint Committee on Printing is hereby authorized to have the copy prepared for the Public Printer, who shall provide suitable illustrations to be bound with these proceedings.

Mr. HALE. Mr. President, I ask unanimous consent for the immediate consideration of the concurrent resolution.

Mr. KING. Mr. President, I should like to ask the Senator whether under the rule the resolution would be required to go to the Committee on Printing? There may be maps or engravings to be included.

Mr. HALE. No; there is nothing that would make it necessary for the resolution to go to the committee.

The VICE PRESIDENT. Is there objection to the consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a joint resolution of the Legislature of the State of California, requesting the President and the Congress of the United States to cause an invitation to be extended to the peoples of the world to participate in the Pacific Exposition, an international exposition to be held in the county of Los Angeles, Calif., during 1937–38, etc., which was referred to the Committee on Commerce.

(See joint resolution printed in full when presented by Mr. MCADOO on June 27, 1935, p. 10240, CONGRESSIONAL RECORD.)

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of California, which was referred to the Committee on Military Affairs:

Assembly Joint Resolution No. 56

Assembly joint resolution relating to memorializing the President and the Congress to enact legislation proposed by H. R. 6984, providing benefits to persons who served in the Quartermaster Corps or under the Quartermaster General during certain wars.

Whereas many persons who served in the Quartermaster Corps or under the jurisdiction of the Quartermaster General during the War with Spain, the Philippine Insurrection, and the China Relief Expedition were disabled while in such service; and

Whereas many of these persons, because of their disabilities, need aid from the national Government; and

Whereas there was introduced into Congress by Hon. RICHARD J. WELCH a bill known as "H. R. 6984" which proposes to allow certain benefits to disabled persons mentioned therein; and

Whereas many social and civic organizations together with the service organization known as "McKinley Fleet No. 1" have endorsed this bill; and

Whereas the legislation proposed is humanitarian and for a worthy cause: Now therefore be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress are hereby respectfully urged to enact the legislation proposed by H. R. 6984 as speedily as possible: And, be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California in the Congress of the United States and that such Senators and Members from California are hereby respectfully urged to support such legislation.

The VICE PRESIDENT also laid before the Senate a petition of sundry citizens of Carroll County, Md., praying for the passage of the bill (S. 916) to carry into effect the decisions of the Court of Claims in favor of claimants in French spoliation cases not heretofore paid, which was referred to the Committee on Claims.

He also laid before the Senate resolutions adopted by the Board of Aldermen of the City of Chelsea, Mass., protesting against certain regulations promulgated in regard to the personnel of the C. C. C. camps, which were referred to the Committee on Education and Labor.

He also laid before the Senate papers in the nature of petitions from several citizens of Chicago, Ill., and New York City, N. Y., praying for the enactment of House bill 7688, for the benefit of substitute postal employees, which were referred to the Committee on Post Offices and Post Roads.

He also laid before the Senate petitions of sundry citizens of the United States, praying for an investigation of charges filed by the Women's Committee of Louisiana relative to the qualifications of the Senators from Louisiana (Mr. LONG and Mr. OVERTON), which were referred to the Committee on Privileges and Elections.

He also laid before the Senate a letter in the nature of a petition from Rebecca Dobson, of New York City, N. Y., praying for the granting of certain old-age relief, which was ordered to lie on the table.

Mr. BARBOUR presented the petition of the congregation of the First Methodist Church of Lakewood, N. J., praying for the enactment of legislation to prevent profiteering in war and to promote peace, which was ordered to lie on the table.

REPORTS OF COMMITTEES

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (H. R. 3109) for the relief of Herman W. Bensel, reported it with an amendment and submitted a report (No. 976) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 6768. A bill to authorize the Secretary of War to lend War Department equipment for use at the Seventeenth National Convention of the American Legion at St. Louis, Mo., during the month of September 1935 (Rept. No. 977):

H. R. 7902. A bill to provide a right-of-way (Rept. No. 978); and

H. R. 8400. A bill providing for the loan by the War Department of certain material and equipment to the Veterans of Foreign Wars 1935 Encampment Corporation, and for other purposes (Rept. No. 979).

Mr. BLACK, from the Committee on Military Affairs, to which was referred the bill (S. 1683) for the relief of Robert L. Monk, reported it without amendment and submitted a report (No. 980) thereon.

Mr. HALE, from the Committee on Naval Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 4274. A bill correcting date of enlistment of Elza Bennett in the United States Navy (Rept. No. 981); and

H. R. 4623. A bill for the relief of George Brackett Cargill, deceased (Rept. No. 982).

Mr. LOGAN, from the Committee on the Judiciary, to which was referred the bill (S. 1194) for the relief of the State of Maine, reported it without amendment and submitted a report (No. 983) thereon.

Mr. McCARRAN, from the Committee on the Judiciary, to which was referred the bill (S. 3002) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto, reported it with amendments and submitted a report (No. 985) thereon.

Mr. TYDINGS, from the Committee on Territories and Insular Affairs, to which was referred the bill (S. 2330) authorizing the Virgin Islands Co. to settle valid claims of its creditors, and for other purposes, reported it without amendment and submitted a report (No. 984) thereon.

Mr. PITTMAN, from the Committee on Foreign Relations, to which were referred the following joint resolutions, reported them each with amendments and submitted reports thereon:

S. J. Res. 99. Joint resolution to regulate the issuance of passports to American citizens in time of war (Rept. No. 987); and

S. J. Res. 100. Joint resolution to prohibit the extension of credits and the issuance of foreign loans under certain conditions (Rept. No. 988).

Mr. CONNALLY, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 382) to provide for the purchase of a certain lot of land in Cedar City, Utah, reported it with amendments and submitted a report (No. 986) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 2888. A bill to provide for the disposition, control, and use of surplus real property acquired by Federal agencies, and for other purposes (Rept. No. 1004);

S. 2958. A bill authorizing the Secretary of the Treasury to execute a quitclaim deed of certain land located in the village of Lyons, N. Y. (Rept. No. 989);

H. R. 5920. A bill to authorize the conveyance of certain Government land to the borough of Stroudsburg, Monroe County, Pa., for street purposes and as a part of the approach to the Stroudsburg viaduct on State Highway Route No. 498 (Rept. No. 990); and

H. R. 6983. A bill to provide for the transfer of certain land in the city of Anderson, S. C., to such city (Rept. No. 991.)

Mr. BAILEY, from the Committee on Commerce, to which was referred the bill (S. 1820) to provide warrant officers of the Coast Guard parity of promotion with warrant officers of the Navy, reported it with an amendment and submitted a report (No. 992) thereon.

Mr. McNARY, from the Committee on Commerce, to which was referred the bill (S. 620) to authorize the periodic construction of channels for fishing purposes in the Siltcoos and Takenitch Rivers, in the State of Oregon, reported it without amendment and submitted a report (No. 993) thereon.

Mr. WHITE, from the Committee on Commerce, to which was referred the bill (S. 2002) to provide for the establishment of load lines for American vessels in the coastwise trade, and for other purposes, reported it without amendment and submitted a report (No. 994) thereon.

Mr. COPELAND, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 33. A bill to encourage travel to and within the United States by citizens of foreign countries, and for other purposes (Rept. No. 999);

S. 2905. A bill to increase the efficiency of the Coast Guard (Rept. No. 995); and

S. 3071. A bill providing for the placing of improvements on the areas between the shore and bulkhead lines in rivers and harbors (Rept. No. 996).

Mr. COPELAND also, from the Committee on Commerce, to which was referred the bill (S. 3) to regulate commerce in firearms, reported it with amendments and submitted a report (No. 997) thereon.

Mr. TRAMMELL, from the Committee on Naval Affairs, to which was referred the bill (H. R. 1714) for the relief of Russell H. Lindsay, reported it without amendment and submitted a report (No. 998) thereon.

Mr. REYNOLDS, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 2021. A bill to recognize the service of Brig. Gen. Edward R. Chrisman (Rept. No. 1000); and

S. 2558. A bill for the relief of Pettus H. Hemphill (Rept. No. 1001).

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 2731) to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes, reported it with amendments and submitted a report (No. 1002) thereon.

Mr. BURKE, from the Committee on the Judiciary, to which was referred the bill (S. 2867) to reenact section 463 of the act of Congress entitled "An act to define and punish crime in the District of Alaska and to provide a code of criminal procedure for said District", approved March 3, 1899, and for other purposes, reported it with an amendment and submitted a report (No. 1003) thereon.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on June 28, 1935, that committee presented to the President of the United States the following enrolled bills and joint resolution:

S. 2738. An act to authorize the use of park property in the District of Columbia and its environs by the Boy Scouts of America at their national jamboree;

S. 2917. An act authorizing an appropriation to effect a settlement of the remainder due on Pershing Hall, a memorial already erected in Paris, France, to the commander in chief, officers, and men of the expeditionary forces, and for other purposes; and

S. J. Res. 152. Joint resolution to extend to August 31, 1935, the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred, as follows:

By Mr. BARBOUR:

A bill (S. 3174) granting a pension to Julia A. King; to the Committee on Pensions.

By Mr. LEWIS:

A bill (S. 3175) for the relief of Jesse Ashby; to the Committee on Claims.

By Mr. CONNALLY:

A bill (S. 3176) to authorize the Secretary of War to lend to the reunion committee of the United Confederate Veterans, to be delivered to a United States property and disbursing officer, 3,000 blankets, olive drab, no. 4, and 3,000 canvas cots, to be used at their annual encampment to be held at Amarillo, Tex., in September 1935; to the Committee on Military Affairs.

By Mr. SCHWELLENBACH:

A bill (S. 3177) granting a pension to Lottie B. Smith; to the Committee on Pensions.

A bill (S. 3178) to authorize the incorporated city of Anchorage, Alaska, to construct a municipal building and purchase and install a modern telephone exchange, and for such purposes to issue bonds in any sum not exceeding $75,000; and to authorize said city to accept grants of money

to aid it in financing any public works; to the Committee on Territories and Insular Affairs.

By Mr. McKELLAR:

A bill (S. 3179) to appoint one additional judge of the district court of the United States for the eastern, middle, and western districts of Tennessee; to the Committee on the Judiciary.

By Mr. ADAMS:

A bill (S. 3180) to authorize the appointment and retirement of Joseph P. Constantine as a second lieutenant of the United States Army; to the Committee on Military Affairs.

By Mr. THOMAS of Oklahoma:

A bill (S. 3181) authorizing an appropriation to enable the Secretary of Agriculture to cooperate with the experiment station of the Panhandle Agricultural and Mechanical College, located at Goodwell, Okla.; to the Committee on Agriculture and Forestry.

A bill (S. 3182) authorizing an appropriation to carry out the provisions of section 26 of the agreement with the Muskogee or Creek Tribe of Indians, approved March 1, 1901; to the Committee on Indian Affairs.

By Mr. SMITH:

A bill (S. 3183) to amend the Agricultural Adjustment Act to make all varieties of potatoes included in the species Solanum tuberosum a basic agricultural commodity, to raise revenue by imposing a tax on the first sale of such potatoes, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. HARRISON:

A bill (S. 3184) to provide for the immediate settlement of the obligation of the Joe Graham Post of the American Legion arising out of the purchase of the Ship Island Military Reservation; to the Committee on Military Affairs.

By Mr. COPELAND:

A bill (S. 3185) for the relief of Grace K. Barber; and

A bill (S. 3186) for the relief of Edward H. Karg; to the Committee on Claims.

A bill (S. 3187) to amend section 32 of the World War Veterans' Act of 1924, as amended; to the Committee on Finance.

A bill (S. 3188) authorizing the Secretary of War to purchase lands for the purpose of carrying into effect the provisions for national cemeteries; to the Committee on Military Affairs.

By Mr. FLETCHER:

A joint resolution (S. J. Res. 155) authorizing exchange of certain securities, coins, and currencies of the United States, withdrawing the right to sue the United States on its bonds and other similar obligations, limiting the use of certain appropriations, and for other purposes; to the Committee on Banking and Currency.

AMENDMENTS TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. WHEELER submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 47, after line 12, to insert the following:

"CUSTER MEMORIAL MUSEUM

"For the establishment and maintenance of a public museum as a memorial to Lt. Col. George A. Custer, $20,000: *Provided*, That the Secretary of War is authorized and directed to erect and maintain such museum on such site as he shall select within the Custer Battlefield National Cemetery in the State of Montana and to accept such historical relics as he may deem appropriate for exhibit therein."

Mr. FLETCHER submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 34, after line 14, to insert the following:

"Naval air station, Pensacola, Fla.: Barracks and mess hall, $650,000; assembly and repair shop, $675,000; quarters for student officers, $500,000; improvement to power plant and distributing systems, roads, walks, and sewer systems, $175,000; in all, $2,000,000."

Mr. SHEPPARD submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 26, after line 6, to insert the following:

"NATIONAL PARK SERVICE

"Big Bend National Park: To enable the Secretary of the Interior to determine the boundaries of the Big Bend National Park under the provisions of an act entitled 'An act to provide for the establishment of the Big Bend National Park in the State of Texas, and for other purposes', approved June 15, 1935, and to carry out the provisions of said act, fiscal year 1936, $50,000."

LEGISLATIVE PROGRAM AND ADJOURNMENT

Mr. McNARY. Mr. President, in the absence of the senior Senator from Delaware [Mr. HASTINGS], I submit a concurrent resolution, and ask that it be read. I shall ask that the resolution lie over under the rule for the day, but I commend it to the studious and careful consideration of the Congress.

The PRESIDING OFFICER. The clerk will read.

The Chief Clerk read the concurrent resolution (S. Con. Res. 20), as follows:

Resolved by the Senate (the House of Representatives concurring), That when the Congress shall have completed its legislative program, except the revenue bill, it shall adjourn until noon on Monday, November 18, 1935;

Further resolved, That between the day of adjournment and November 18, 1935, the proper committees of the two Houses are requested to study the financial conditions of the Government as to income and expenses and make such recommendations as they find necessary to balance the Budget and begin the reduction of the national debt;

Further resolved, That when the Congress reconvenes on November 18, 1935, such revenue bill as such committees may recommend shall be the first order of business.

Mr. KING. Mr. President, I ask that the resolution go over for the day under the rule.

Mr. McNARY. I suggested that, in view of the rule, the resolution would have to go over for the day. I commend it to the studious consideration of the Senator from Utah and his brethren, both in the House and in the Senate, and on another day, if not tomorrow, I shall ask that it be brought before the Senate for consideration and discussion.

The PRESIDING OFFICER. The concurrent resolution will lie over under the rule.

INVESTIGATION OF PATENT POOLS, PATENT HOLDING CORPORATIONS, ETC.

Mr. FLETCHER. I submit a resolution, which I ask to have printed in the RECORD and referred to the Committee on Interstate Commerce.

The PRESIDING OFFICER (Mr. MINTON in the chair). Without objection, the resolution will be received and referred as requested by the Senator from Florida.

The resolution (S. Res. 164) was referred to the Committee on Interstate Commerce, as follows:

Senate Resolution 164

Whereas the following combinations of patent holding corporations, patent pools, and major companies in each commodity and industry, directly or indirectly affecting interstate commerce, the national defense, and relations with foreign governments and interests, viz: Glass-container industry—including milk bottles, beverage bottles, and pharmaceutical ware; radio industry; electrical industry—including electrical equipment manufacturing and articles approved by underwriters; railway signaling apparatus and systems—including automatic train control; business-machine industry—including stenciling machines, tabulators, bookkeeping machines, and cash registers; ethyl-gasoline industry; and telephone and telegraph equipment industry; and

Whereas the combinations of holding corporations, patent pools, and the major companies in each industry simultaneously control most, if not all, of the thousands of patents covering products of the above-mentioned industries through patent pools and exclusive franchises to the continuing disadvantage of other manufacturers, small enterprises, and the consuming public; and

Whereas it is alleged that the control of these patent pools and patents is tantamount to the power to dominate the industries and to fix all prices for the products thereof by mentioning royalties under the patents on the one hand and by issuing or refusing to issue franchises for the manufacture and use of patented articles on the other hand; and

Whereas the military and naval forces cannot effectively operate without the patented articles so essential to the national defense; and

Whereas it is alleged that the advantages inherent in the exercise of the exclusive franchise to manufacture and use the various patented articles are not available to all manufacturers in each of the industries upon open, equal, and reasonable terms but

are granted or withheld solely within the absolute discretion of the holding corporations or patent pools; and

Whereas it is alleged that such limitations upon the free use of the patented products tends to substantially lessen free and open competition and constitutes an unreasonable restraint of trade; and

Whereas it is alleged that this control of holding corporations and patent pools is preventing the full recovery of small industries, preventing the reemployment of hundreds of thousands of unemployed: Now, therefore, be it

Resolved, That the Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is authorized and directed to make a full and complete investigation of patent pools, patent holding corporations, and the major companies and corporations in each of the above-named industries, with a view to determining to what extent, if any, their patent rights, trade practices, trade policies, contracts, financial status, and other functions directly or indirectly affect interstate commerce, the national defense, and our relations with foreign governments, and to determine the cost of Government purchase of patented articles manufactured by such industries and such other matters as may be pertinent thereto. The committee shall report to the Senate as soon as practicable the result of its investigation, together with its recommendaions.

For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth and succeeding Congresses, to employ such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $———, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

MAKING NATURALIZATION ADMINISTRATIVE

Mr. WAGNER. Mr. President, on June 27 I requested unanimous consent to have printed in the RECORD an article entitled "Making Naturalization Administrative", published in the Boston University Law Review for April 1935 and written by Mr. Harold Fields.

At that time I did not have at hand the estimate for the printing of this article. I now have that estimate and wish to submit it, together with a copy of the article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston University Law Review for April 1935]

MAKING NATURALIZATION ADMINISTRATIVE

By Harold Fields *

Under present statutes, regulations, and practices, acquiring a change in nationality in the United States is a function which is divided between the executive and judicial departments of our Government.

Problems of citizenship have assumed increasing importance in recent conferences and legislation. By authorization of Congress, President Roosevelt has appointed the Secretary of State, the Secretary of Labor, and the Attorney General as members of a special commisison to study nationality problems arising out of our citizenship and legislative procedure, and to make recommendations. The same topic was made the basis of a long discussion at the last Pan American conference. In spite of pressing economic problems, Congress, in 1934, passed legislation tending to equalize nationality rights between men and women. At Geneva, too, and elsewhere this problem has assumed increasing importance.

For these reasons, therefore, careful thought should be given, for review and evaluation, to the manner and process by which foreign-born arrivals are permitted to become American citizens.

Since 1790, and through the basic law of June 29, 1906,[1] the right to naturalize has been given to Federal courts or State courts of record. However, unlike most other judicial functions, the executive branch of the Government, through the Naturalization Service, is also legislatively required to act, much in the capacity of a master or referee.[2] The functions of these two departments of our Government are basic to any naturalization case if it is to be legal and proper.

The result of this judicial-executive procedure has brought about lack of harmony in viewpoints between the two branches of the Government. Frequently these differences are of diametric character; frequently they resolve themselves into a subordination of opinion by one department to the other.

But because of the increasing importance of naturalization and in the face of a very small immigrating group, it is timely now to consider whether, as a matter of efficiency, the process of effecting the conversion of aliens into citizens should not be placed exclusively in the hands of one branch of the Government only, rather than be made subject to the decisions of two.

The statutes require that an alien who applies for citizenship must evidence to the satisfaction of the Government that he was admitted to this country with its sanction and approval.[3] To do this he must apply to the Naturalization Service for a certificate of arrival when requesting his declaration of intention or first papers. The Service checks his application as to facts of identity, arrival, residence, and other pertinent data and then, when found satisfactory, places it before the naturalization court, for recording and issuance of the declaration of intention itself. (This is the first instance where the court actively participates in the process, the role it plays being purely formal and clerical in character.) The fee which is required for the certificate of arrival on which the declaration of intention is based is made payable not to the court but to the Naturalization Service which has investigated the facts on which the issuance of the first papers is determined.

Some years later, but not earlier than two nor more than seven, the applicant may send in his application to the Naturalization Service for his second papers. The petition is then formally filed by requiring the applicant and his two witnesses to appear before a naturalization examiner who questions him and his witnesses as to his fitness for citizenship. The alien is then turned over to a "designated examiner" who, in the capacity of a master or referee, reports to the court his recommendation as to the fitness of the applicant for naturalization. The right of the designated examiner to so act has been established by law and applies to Federal courts only.[4]

The provisions of this act were summarized by Dr. Henry B. Hazard, Chief Counsel, Bureau of Naturalization, as follows:[5]

"In relieving the judges of hearing the testimony in these cases, the naturalization officers really act in the capacity of masters in chancery. The preliminary hearings by the designated examiner or officer, referred to in this law, are held in a naturalization office or other convenient place, and are open to the public. They are conducted in the orderly and dignified manner which characterizes a regular court proceeding. * * * Other witnesses than those produced by the applicant may be called by the Government, acting through a naturalization officer, and mate-

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* B. S. (cum laude 1911) New York University, M. A. 1914; executive director National League for American Citizenship; active in immigration and naturalization fields; frequent contributor to legal and other publications on naturalization, citizenship, and immigration.

[1] Act of June 29, 1906 (34 Stat. 596), as amended and supplemented:

"SEC. 3. That exclusive jurisdiction to naturalize aliens as citizens of the United States is hereby conferred upon the following specified courts:

"United States * * * district courts now existing, or which may hereafter be established by Congress in any State, United States district courts for the Territories of * * * Hawaii and Alaska, the Supreme Court of the District of Columbia, and the United States courts for the Indian Territory; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

"That the naturalization jurisdiction of all courts herein specified, State, Territorial, and Federal, shall extend only to aliens resident within the respective judicial districts of such courts" (34 Stat. 596; U. S. C. t. 8, secs. 357, 358).

[2] This right was granted in the law of June 8, 1926, which stated that:

"(a) The judge of any United States district court, or the senior judge of such court, if there are more judges than one, is hereby authorized, in his discretion, to designate one or more examiners * * * of the Bureau of Naturalization * * * to conduct preliminary hearings upon petitions for naturalization to such court and to make findings and recommenations thereon. For such purposes any such designated examiner or officer is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibiilty of any petitioner for naturalization, to subpena witnesses, and to administer oaths, including the oath of the petitioner to his petition and the oath of his witnesses.

"(b) The findings of any such designated examiner or officer upon any such preliminary hearing shall be admitted to the court at the final hearings upon the petition required by sec. 9 (of the act of June 29, 1906), with a recommendation that the petition be granted or denied or continued, with the reasons therefor. * * * The judge to whom such findings and recommendations are submitted shall by written order approve such recommendations with such exceptions as he may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendation.

"(c) The provisions of sec. 9 requiring the examination of the petitioner and witnesses under oath before the court and in the presence of the court shall not apply in any case where a designated examiner or officer has conducted the preliminary hearing authorized by this subdivision, except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court and in the presence of the court."

[3] U. S. Code, Annotated, title 8, ch. 9, par. 380: "At the time of filing his petition there shall be filed with the clerk of the court a certificate from the Department of Labor, if the petitioner arrived in the United States after June 29, 1906, stating the date, place, and manner of his arrival in the United States and the declaration of intention of such petitioner which certificate and declaration shall be attached to and made part of such petition (June 29, 1906, ch. 3592, par. 4, 34 Stat. 596).

[4] See note 2.

[5] See article in Zeitschrift für Volkerracht, 1932.

rial evidence introduced in opposition to the granting of naturalization. Where the applicant appears to be qualified and his witnesses competent, the witnesses are usually excused from further appearance.

"These provisions have resulted in the practical elimination from congested court dockets of naturalization cases which had accumulated under the previous method. * * *

"The attitude of the judges of the Federal district courts, who have the power to disapprove the recommendations of the designated naturalization examiners or officers, is indicated by * * * figures showing the results of hearings. * * * (The percentage shown in Dr. Hazard's table is 1.2.)

"As one Federal judge has recently declared: 'Under the law * * * and the practice which has grown up, the report of the Naturalization Bureau practically determines an admission to citizenship.'"[6]

The Federal courts today concede almost all naturalization matters to the administrative service except the final act of formally certifying to the citizenship of the applicant. The only positive and active exercise of the function of the court is found in cases that are recommended for denial, or where justices—in rare instances—choose to decide cases for themselves. Justices of State courts, where as yet designated examiners are not permitted to act, frequently take an active part in naturalization cases. This generally occurs, however, only where naturalization cases are few in number; the recommendation of the Service in the vast majority of cases are accepted by the courts.

Concisely, the task of securing certificates of arrival, the process of checking up on such arrivals, action on declarations of intention and on second papers, the preliminary hearings, examinations of facts submitted, official recommendations to the court on such petitions, even the function of providing duplicates of lost papers and the providing of certificates of derivative citizenship, are all administrative or executive matters. The Commissioner of Immigration and Naturalization promulgated rules and regulations bearing on naturalization, which decide and dictate the standards for the examiners in determining the qualifications for citizenship. The courts do not act except to sign the necessary petitions or to question applicants about whom some doubt has been raised.

Thus, at the present time, naturalization is largely an administrative function, with the courts exercising—save in exceptional instances—a purely formal, signatory, and presiding capacity. For that reason, the recent renewal of a discussion on the topic whether naturalization in the United States should not be made entirely an administrative measure, and the functions of the court removed, becomes a fair problem for consideration in the present Federal program of economy and the elimination of duplication functions.

Although legislation has technically assigned to the judiciary the right to establish the determinants for naturalization, such practice today is archaic, inefficient, and contrary to every theory of proper Government procedure. The fact that both State and Federal judges are governed by appellate court decisions and all of them by decisions of the Supreme Court of the United States is observed in the fields of immigration and naturalization, in the breach from time to time. The custom of relegating to the Naturalization Service almost 90 to 95 percent of the work incident to citizenship and then permitting its technical work to be overruled by justices who frequently are unacquainted with naturalization precedent, decisions, and laws, leads to grave faults. Since naturalization is subject to the rule and interpretation of two departments, neither of which is subordinate to the other, the result has been one of conflict or of domination of one over the other—not a desirable state of affairs. There can be no sense of responsibility for decisions; the Service advises its field force as to certain standards, which are variously received by the judges of more than 2,000 courts throughout the land, and who give little heed to one another's decisions. The Service is thus confused, not knowing how to rule in many cases. Thus an applicant for citizenship, whose minor son was deportable, was denied his papers in a Detroit court,[7] whereas in a parallel case in New York, citizenship was granted.[8] A judge in one of our New England States granted citizenship to an applicant although her family was still abroad,[9] while, in another State, another judge sitting on the same type of case, denied a similar petition.[10] A case involving rape was held by one judge not to have come within the province of immoral conduct even though the crime took place within the 5-year period for naturalization;[11] in another State immoral conduct was construed to cover a single traffic violation.[12] In naturalization cases we have one of the few instances in law where State courts are permitted to rule on Federal functions and where their own interpretation often differs widely from that given by the United States courts.

The Naturalization Service can send out its instructions to its field force defining such terms as "continuous residence" and "immoral character", and upon such instructions the force will recommend (or not recommend) favorable action in each case. The designated examiner himself, an employee of the administrative staff but acting on behalf of the court, is guided by these instructions under present conditions. There is no assurance, however, that the court will abide by them, nor for that matter that any one court will agree with any other court in the interpretation of these terms. There is no authority which can compel any judge to abide by former or higher decisions. As illustrative of this, we note that even after the Supreme Court of the United States had disapproved applications for citizenship where there was involved the refusal to bear arms, minor and inferior courts occasionally continued to approve of such applications.[13] This lack of uniformity and responsibility leads to chaos and irresponsibility. As constituted today, the courts are not a check on the Naturalization Service; in fact, in most cases they subscribe to the decisions of the Service, as is indicated by the fact that in only 1.2 percent of the cases acted on, as has been stated, are differences to be noted between the recommendations of the Service and the courts. Today many courts turn to the naturalization examiner for guidance; other courts attempt to dictate to the examiner what steps and attitude he should follow. In the first instance this leads to needless duplication of decisions; in the second, to confusion. In New York most judges are guided by the Service; in Massachusetts the Service is guided by the courts. With 2,000 courts authorized to grant certificates of naturalization and with from 1 to 25 judges sitting in each of these courts,[14] the total of judicial opinions possible is colossal and Babel-like. A single authority can overcome this confusion by drawing up regulations which will set uniform standards. It can allow for exceptional factors and thus aid social agencies and attorneys to properly instruct their clients. Today advisers hesitate to commit themselves or even to follow precedent in naturalization decisions because of the innumerable differences in attitudes between judges sitting in the same term, between courts in the same district, and between Federal and State courts generally.

Good government demands a centralized authority with power to enforce obedience; where provision has been made by law for administrative action in the first instance, the courts should be instruments of appeal only. The naturalization process today does not comply with this fundamental precept.

In fairness to the judges sitting in naturalization terms, it should be stated that the attitude of the courts is the natural consequence of a number of circumstances. Precedent, laws, regulations, and treaties in naturalization work are quite outside the content of the average court calendar. Where the number of applications is few, the problems and contentions are few; where the numbers of applications are many, the judge frequently finds the demands on his time a source of irritation because of their interference with the civil or criminal cases facing him. Federal and State judges have frankly stated that it is their practice to hurry naturalization cases along; they do not consider these matters part of their basic function of arbiter and interpreter of laws; they frequently maintain that the simplest solution lies in accepting the findings of the Bureau, particularly where favorable recommendations are reported.[15] Courts frequently tend to clear their calendars of accumulated naturalization cases by putting such cases "through the mill." In one instance, 2,500 applications in 1 day were acted on by a single judge.[16] About 3 years ago, in a New York court, 10,000 cases were acted on in 1 month.[17] In the latter instance the accumulation had taken place because the court for a period of a year and a half had had very little time for naturalization. Cases waited not the statutory 90-day period, but 6 months, a year, and a year and a half. The work of the Service was thus held up until the courts would find time to give consideration to these applications. The Service could have disposed of all of them in the statutory period and saved aliens from the consequent exploitation that ensued.

[6] In a report by the United States Department of Labor entitled "Historical Sketch of Naturalization in the United States" (p. 17) the statement is made: "The Bureau of Naturalization knows, from an actual daily experience, extending over a period of nearly 20 years, that the judges as a body may be depended upon implicitly to discharge with fidelity the high function imposed upon them by the law granting naturalization to only such aliens as are qualified to become citizens. But the judges can pass only upon the evidence before them. If that consists solely of the ex parte statements made by a petitioner and his friendly witnesses, what can a judge do but grant the petition, unless by a happy accident in cross-examination he develops some contradiction of those statements? Nothing. What was formerly left to chance, and at the cost of the consumption of much valuable time of the court, is now developed, if any objection exists, by skilled investigators of the Bureau of Naturalization and presented to the court with definiteness and the minimum expenditure of time at the hearings."

[7] United States District Court, Detroit, Mich., Petition No. 68961.

[8] Supreme Court, State of New York, Onondaga County, *In re Iannolo*, Petition No. 9590.

[9] United States District Court, Providence, R. I., Petition No. 29491 (woman's husband and three children were still in their native land).

[10] United States District Court, Detroit, Mich., Petition No. 23129.

[11] United States District Court, Southern District, New York, No. 138788.

[12] United States District Court, Western District, Washington, *In re Erickson*, May 25, 1934.

[13] United States District Court, District of Minnesota, Third Division, Petition No. 2361, *In re Beale*.

[14] Such as the Supreme Court of the State of New York, First Judicial District.

[15] The late Chief Justice Taft, of the Supreme Court of the United States, and other leading justices of the Federal courts, urged the plan for the designated examiner, on these grounds, before the House Committee on Immigration and Naturalization on May 27, 1926.

[16] Historical Sketch of Naturalization in the United States, printed by Government Printing Office, p. 8, last paragraph.

[17] Supreme Court, State of New York, Bronx County.

In the case of unfavorable recommendations by the Service, the examiner may be overruled because of the personal attitude of the judge, or even in opposition to the law. Thus one judge admitted an alien to citizenship who had been absent from the country for 13 consecutive months,[18] despite the specific language of the law to the contrary;[19] another judge refused to allow applicants to request a change in their names in their petitions although the Government form and the law so permitted it;[20] one judge held a common-law marriage illegal under any circumstances;[21] aliens who cannot speak our language are admitted to citizenship by "liberal" judges while others whose ability to read is measured by some difficult passage, are denied by "strict" judges.[22]

Courts do not agree with each other nor with the Bureau; rule and precedent are frequently set aside. The lack of a directional or supervisory power over the courts has increased the demand that naturalization be placed in the hands of one department only, with the right of appeal to the other (rather than leave it, as at present, to be buffeted between the two). The selection of the administrative branch of the Government for this work is logical because of the major part it plays in this function and because it can offset the perfunctory work of many courts, and overcome the lack of administrative control, now existent under the present set-up.

It is regrettable that objection to this change has frequently been laid at the door of precedent and custom. Precedent is an excellent guide when situations are parallel and similar, but where customs, attitudes, and social forms change, not alone might precedent well change but the machinery for precedent, with it. Those who would retain the function of the judiciary in this program because it has been so in the past, should recognize the fact that all our institutions today are undergoing a late metamorphosis. We face a new social order—an order of responsibility and expedition of rights for the average man. Courts are giving way to arbitration tribunals and laws to agreements; and in this specific instance, naturalization should logically be turned over to that agency which can perform it most expeditiously under proper authority, and where it can be given specialized consideration. Under the law today, it is the underlying purpose of the Naturalization Service to encourage citizenship; hence in its hands should be left the right to grant citizenship.

Two chief objections against placing naturalization in the hands of an administrative bureau are often advanced. One is that it would make naturalization a procedure controlled by men rather than by law and the other that there would be no right of appeal. The first objection is tenuous; all law is man controlled and interpreted. Each judge must, in the nature of things, form his decisions from the composite angles of his own background and his personal interpretation of the law. Court procedure involves man-made law just as much as does the administrative process. How else can one explain away the inconsistencies and disagreements already cited in the interpretations given to naturalization procedure by these judges? To contend that many judges have no prejudices or personal "slants" is to overlook constant illustrations of man-made law.

Nor would administrative control block the right of appeal—where appeal is logical. While the law today grants the right of appeal in naturalization cases, it is a right that is so rarely exercised that it is almost nonexistent. In the last analysis there is no right of appeal for the poor man who must engage the services of a lawyer, pay the expenses of a printed brief, and be involved in other costs far beyond his financial reach. The printing of briefs for such appeals costs the average alien approximately $250 or $1,000. Hence, since the average alien is a man of small income, the right of appeal for him is a gesture, an empty grant. Were naturalization made an administrative power exclusively, there would still be retained the right of appeal to the courts just as it is today exercised in immigration matters (which is also an administrative function). Under such an arrangement, the number of such appeals would unquestionably increase and thus make this right a real one.

Administrative procedure would permit of a greater opportunity of appeal than does the present administrative-judicial process. There could be instituted an appeals board within the jurisdiction of the Service itself, the members of which would be selected lawyers of unquestioned repute and probity, or members of the Service selected specially similar to the Board of Review in the Immigration Service. These men could constitute a court similar to parallel tribunals in other departments. All rejected cases would, in the course of a stipulated formal process, come before them for review so that every rejected case would thus have the right of appeal, a right that would, in essence, be compulsory. Because the presence of attorneys would be optional, because formal briefs could be waived, because arguments on behalf of the applicant would be recognized whether presented as informal statements personally or through the representation of interested social-welfare workers—because of all of these humanized processes, appeal would be a step that every alien would not alone be entitled to but would actually receive. The cost element would be entirely eliminated. Furthermore, such a board would prove to be an excellent check on the efficiency and humanity of the acts of members of the field force.

Under such an arrangement, the right of further appeal to the Federal courts would still be retained, provided any question of law was involved. This would continue the right now in existence where appeals are allowed in cases only where it is maintained that the law has not been adhered to.

Some have held that administrative control will lead to greater strictness if naturalization is put under the authority of a single division. Under the present system there are innumerable cases of unwarranted and even unjustified strictness in judicial decisions which are unfair and disruptive of the spirit of true American citizenship. All execution of law, whether from the bench or from the desk, is molded, shaped, and affected by the personal attitudes of the one in authority. The present policy of the Naturalization Bureau shows convincingly that it is easier to change administrative attitudes through elections and appointments than it is through the courts.

One finds it difficult to justify objections to a program which calls for unification of direction and centralization of responsibility in the administration of any governmental function. The courts have always stood as interpreters of law rather than as enforcers. Placing naturalization exclusively under the direction of the Naturalization Service and so modifying the present law as to empower the designated examiner to issue the final certificate of citizenship (with a right of review as suggested above) will in no sense give unusual authority to that branch of our Government since that authority is already being exercised. In many instances judges, because they do not have the opportunity to study the naturalization law, urge this change. They point to the fact that they themselves lean on the opinions of the examiners. They believe that a program of proper supervision over naturalization matters, if under one control, can be articulated with a dignified and formal program for induction into citizenship—a program that is altogether too frequently lacking because of the pressure of other cases on the regular court calendar.

The transfer of the power over naturalization from the judiciary to the executive department can be authorized by congressional action.[23] Such a change would be logical and expeditious. It is to be hoped that some day the law will be changed to allow naturalization to be placed in the hands of the Commissioner of Immigration and Naturalization only. It will mean but little added work to the present service; it will release the present naturalization work of the courts, and it will be the means of adapting regulations to social conditions and the law. Further, it will afford, through statutory form, the right of supervision, the authority of direction, the opportunity for review in all denied cases without expense to the alien, the elimination of a dual control, and the means for developing and executing programs, which will lead to a finer, more dignified, more significant ceremony of induction into the state of citizenship. To the alien, to the courts, and to the development of efficiency in government such a change would prove a desirable boon.

[18] United States District Court, Philadelphia, Pa., *In re Ringstead* (41 Fed. (2d) 753).

[19] Under sec. 382 of title 8 of the United States Code, as amended on Mar. 2, 1929, absence from the United States for a continuous period of 1 year or more during the 5 years immediately preceding the date of filing the petition for citizenship, for which continuous residence is required as a condition precedent to admission to citizenship, breaks the continuity of such residence.

[20] Superior Court, Bristol County, Fall River, Mass., Sept. 26, 1933; other Massachusetts courts ruled similarly. Act of June 29, 1906, sec. 6 * * * It shall be lawful at the time and as a part of the naturalization of any alien, for the court * * * upon the petition of such alien, to make a decree changing the name of said alien, and his certificate of naturalization shall be issued to him in accordance therewith (34 Stat. 598; U. S. C., title 8, sec. 396; also 46 Stat. 1511).

[21] United States District Court, Eastern District New York, Petition No. 116952.

[22] This difference is found in almost all courts exercising jurisdiction over naturalization cases, where two or more judges have successive jurisdiction.

[23] *Tutun* v. *United States* (1926), 270 U. S. 576. "The United States may create rights in individuals against itself and provide only an administrative remedy * * *."

ADMINISTRATION TAX PROGRAM

Mr. BARBOUR. Mr. President, I ask unanimous consent to have inserted, in full, in the RECORD an article which appears in the New York Times this morning carrying the statement or address by my friend and able colleague the junior Senator from Michigan [Mr. VANDENBERG], dated Washington, June 30, 1935, in connection with the tax program of the President recently messaged to the Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times of June 30, 1935]

VANDENBERG ASKS A NEW INCOME TAX ON A WIDER BASIS—REPUBLICAN SENATOR INSISTS SUCH A MEASURE IS NEEDED TO PREVENT WILD INFLATION—OPPOSES ROOSEVELT PLAN—WOULD ASSESS, "NOT DESTROY", WEALTH—ASKS CORPORATION TAX AWAIT RECOVERY

WASHINGTON, June 30.—Demand for a tax bill which would broaden the base on income taxes and not be a measure designed as an "appeal to mass prejudice" nor "a mere sop to political prejudice" was voiced today by Senator VANDENBERG, of Michigan, a potential candidate for the Republican Presidential nomination.

In uniting with the 22 so-called "Senate Progressive Republicans and Democrats" who protested against the proposed administration bill, Senator VANDENBERG has aided the movement for a tax bill that would raise vast revenues as a step to balance the Budget. His attitude and that of other independent Republicans and Democrats aims at a tax bill that would not be an attempt to soak the rich, but one which would in the end raise sufficient revenues, along with present taxation, to prevent currency inflation. Objection also was made by Senator VANDENBERG to increases in the corporation tax at this time when business was convalescent.

Opposition to an increase in the taxes on the larger corporations while taxes of smaller businesses were reduced, as proposed in the tentative administration draft, was registered today by the National Association of Manufacturers, which asserted that such a tax plan would be an injustice to thousands of small stockholders in larger corporations and would place them at a disadvantage with those having investments in corporations assessed at a lower rate.

"If we are to have a new tax bill, let it be a real tax bill and not a mere political appeal to mass prejudice", Senator VANDENBERG said in a statement.

"Last week's administration proposals were a mere sop to political strategy. They would neither support the public credit by adequately overtaking our tragically mounting deficit nor 'redistribute wealth' pursuant to the demands of those whom the President would placate. Fortunately a flash of recurrent sanity interrupted the original program, which certainly implied a purpose to rewrite the basic tax laws of the Republic in 72 hours.

"Now that a bit of rational deliberation is to be dedicated to the task, let it be done effectively or not at all.

"I am one who bitterly opposes uncontrolled inflation. It is, in my judgment, the one calamity which we could not survive. The rate of public spending and public waste now going on leads ultimately either to inflation on the one hand or heavily increased taxation on the other. As between these alternatives I choose taxation.

PREFERS TAXATION TO INFLATION

"No amount of taxation could be as burdensome or confiscatory as an inflation spree. Therefore I am ready to support a new tax program, provided it is real and adequate and effective.

"This means, first, that rational economy must again dedicate itself to the pursuit of a balanced Budget as speedily as possible—because it will be only an added and final dissipation of the resources of our citizens if new tax revenues are poured into a bottomless well of incontinent spending. It will do no good to 'refill the barrel' if the bunghole remains wide open.

"Secondly, with a recurrent dedication to a balanced Budget—a dedication which, for a change, means what it says—the new tax program should raise enough money to do the job and not merely flirt with it. This manifestly means that the income-tax base must be broadened because all the incomes of all 'the rich' will not suffice to pay our mounting deficit. We must get the money. Inevitably millions of our citizens must contribute, each in proportion to his ability to pay. Incidentally, when this happens—and citizens realize that there is no Santa Claus—the popularity of loose public spending will suffer a desirable set-back.

"Thirdly, the tax program must be practical. I do not believe in using income taxes for social objectives. But I do believe in using inheritance taxes for social objectives. Nevertheless, we must be sure we do not destroy wealth in our efforts to redistribute it.

WARNS OF BREAK-UP OF FORTUNES

"There is a point beyond which the break-up of a large fortune may spell the break-up of an industry which produced it. There is no useful social objective in such a result if it adversely affects thousands of related employees.

"Fourthly, corporation taxes are business taxes. Convalescent private business is our hope for the future. Business must take its share of this burden; but it must not be driven to discouragement and despair. At the moment it may be better to emphasize taxation upon the individual after the earnings of business have been distributed to him.

"Finally, any such program must include the elimination of tax-exempt bond priviliges, because there never can be an equitable distribution of the tax burden so long as the exemptions open the back door for escape."

The statement of the National Association of Manufacturers described the proposed graduated tax on the net income of corporations as "unsound from whatever aspect it is considered" and as "an attack upon the welfare of millions of consumers and upon millions of thrifty people who have invested their savings in our business corporations."

"As an income-producing measure it is inadequate", the organization added. "Under the rate schedule suggested by the Senate Finance Committee it has been estimated that the graduated corporation income tax would raise between $40,000,000 and $100,000,000 additional revenue a year—an amount equal to the continuing Federal deficit for from only 1 to 2 weeks of the year.

"It is admittedly a proposal designed to facilitate redistribution of wealth; it is, in other words, a reform measure and not a tax measure. By adding new tax burdens, by proposing unsettlement of relationships between corporations and their stockholders, it is, in fact, an antirecovery measure.

"This is not a small problem involving only a small number of corporations with large incomes. The proposal affects millions of persons. A corporation is simply an aggregation of individuals who have invested in the same enterprise. There are nearly 10,000,000 registered owners of common stocks listed on the New York Stock Exchange and additional millions of owners of companies listed on other exchanges or not dealt in on any security exchange. Even allowing for duplications of stock holdings, there remain millions of Americans who are part owners of business corporations.

"There is a greater diffusion of ownership and wealth in the United States than in any other country. It is now proposed to levy higher taxes upon the corporation in which there is the greatest diffusion of ownership. The result would unquestionably tend toward a decreased number of small investors in large corporations, and thus toward increased concentration of wealth ownership—an objective contrary to the announced aims of its own sponsors.

"Corporations are not simply large pools of wealth; they are owned by great masses of individuals. The average individual investment in corporations is $2,700, with millions owning less. These investors have every right to expect and demand that the Government shall treat them fairly and without discrimination.

"As representatives of industrial management we point out that a graduated corporation income tax is unfair to millions of stockholders since the rate of tax suggested bears no relation to the percentage of profit earned on the investment, and since it taxes the millions of small investors in corporations having large incomes at a higher rate than either large or small investors in small corporations.

"A graduated corporation income tax is, moreover, a penalty on efficiency. It says, in substance, that whenever a corporation makes a sufficiently good product to attract customers and earns a substantial profit, it shall be taxed more than the corporation with less customer demand and smaller profits."

It is now apparent that the Ways and Means Committee, to which has been shifted the responsibility of writing the new tax bill, will be the object of strong appeals and arguments.

This committee will not begin hearings until next week, and many observers believe that a bill will emerge from its deliberations to produce revenues greatly in excess of the $340,000,000 estimated yield of the original administration measure.

Even some of the Progressive bloc are opposed to imposing a graduated tax on corporations at this time, and some Members of Congress say this tax, if adopted, may not be made operative until a year or 18 months after the other taxes are in effect.

PRESIDENT ROOSEVELT'S MESSAGE ON TAX METHODS AND POLICIES

Mr. NEELY. Mr. President, I ask unanimous consent to have printed in the RECORD an able address which the brilliant senior Senator from Colorado [Mr. COSTIGAN] delivered on June 27, 1935, over the National Broadcasting network on the subject, "President Roosevelt's Message on Tax Matters and Policies."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

One week ago today President Roosevelt transmitted to Congress an epoch-marking message on tax methods and policies. His statement is an unexpected and refreshing departure from political platitudes. It is aptly and impressively adapted to urgent and immediate national problems. It is comprehensive in plan and philosophically true to the oldest and best traditions of self-governing America. In the judgment of progressive liberals, it instantly claimed and is fated to hold a foremost place among the remarkable state papers of our country. The message is its best interpreter. No summary can adequately, fairly, or with equal persuasiveness represent it, and available time permits me merely to indicate its major suggestions and significance. The message has been further dramatized by an effort in Congress, which is well advanced at this very hour, to write into law with little delay, though with moderation, a number of the President's leading suggestions.

President Roosevelt announced that his recommendations to Congress and the country "are based on the broad principle that if a government is to be prudent, its taxes must produce ample revenues without discouraging enterprise; and if it is to be just, it must distribute the burdens of taxes equitably."

Supplementing this confidence-inspiring assurance, the President declared:

"Our revenue laws have operated in many ways to the unfair advantage of the few, and they have done little to prevent an unjust concentration of wealth and economic power."

Continuing, he said:

"With the enactment of the income-tax law of 1913, the Federal Government began to apply effectively the widely accepted principle that taxes should be levied in proportion to ability to pay and in proportion to the benefits received. Income was wisely chosen as the measure of benefits and of ability to pay. This was and still is a wholesome guide for national policy. It should be retained as the governing principle of Federal taxation. * * * Taxation according to income is the most effective instrument yet devised to obtain just contribution from those best able to bear it and to avoid placing onerous burdens upon the mass of our people."

On this ample base of reasonable principles, President Roosevelt included in his message to Congress the following half dozen noteworthy recommendations:

First, he urges: "That in addition to the present estate taxes there should be levied an inheritance, succession, and legacy tax respect to all very large amounts, received by any one legatee or beneficiary; and to prevent, so far as possible, evasions of this tax, * * * the imposition of gift taxes suited to this end."

Second, he favors: "A definite increase in the taxes now levied upon very great individual net incomes."

Third, he advocates: "The substitution of a corporation income tax graduated according to the size of corporation income in place of the present uniform corporation income tax of 13¾ percent."

The President's interpretation of this recommendation reads as follows, quoting his own language:

"The rate for smaller corporations might well be reduced to 10¾ percent, and the rates graduated upward to a rate of 16¾ percent on net income in the case of the largest corporations, with such classifications of business enterprises as the public interest may suggest to the Congress."

Fourth, the President recommends: "A tax on dividends received by corporation * * * to prevent evasion of such graduated tax on corporate incomes through the device of numerous subsidiaries or affiliates, each of which might technically qualify as a small concern, even though all were in fact operated as a single organization."

Fifth, the President stresses the desirability of investigation with a view to "the simplification of our corporate structures through the elimination of unnecessary holding companies in all lines of business" and the discouragement of "unwieldy and unnecessary corporate surpluses"; and

Sixth, the President's final request is for "A constitutional amendment whereby the Federal Government will be permitted to tax the income on subsequently issued State and local securities and likewise for the taxation by State and local governments of future issues of Federal securities."

By and large we have here the most notable, best balanced, fundamentally just, and constructive tax program in our history, having in view the economic problems before the Nation. The recommendations are so consistent with American tax principle and practices that various leading Washington tax experts have welcomed the message, alike because of its aims and for its rational and underlying philosophy. Broadly speaking, the President seeks to equalize and make uniform the tax policies which since the ratification in 1913 of the sixteenth amendment to the Federal Constitution authorizing income taxes have become an indispensable and permanent part of our fiscal system.

It perhaps should be mentioned—especially in these times when the Supreme Court has been declaring recent Federal legislation unconstitutional—that our right to levy and collect income taxes as we are now doing was only secured by the adoption in 1913 by the States of a constitutional amendment after the Supreme Court had denied the practical exercise of that right under the Constitution as originally framed. I need scarcely add that without such Federal authority, under that constitutional amendment, it would be impossible for the Federal Government at this time, in any fair or reasonable way, to meet, through taxation, the Nation's unavoidable debts and current obligations. Income taxes, for instance, long ago outran our tariff revenues. Indeed, without such authority our Nation would today be financially impotent and demoralized.

Passing by certain technical aspects of the message, the public's vivid interest should first be drawn to the social objectives at which the President's proposed changes in fiscal policy are frankly directed. He mentions and reaffirms his public purposes. He subscribes to the growing conviction of thoughtful men and women that without Government control wealth and its concentration are increasingly dangerous to freedom and equality of opportunity for the people of this country. He insists that impressive gains will be recorded if the Nation uses taxation to decentralize excessively concentrated corporate power, the menace of which springs from the fact, as he says, that "size begets monopoly." Nor is he content with the implication that taxation should be used to check corporate growth when needlessly complex and industrial organizations when inefficiently overbuilt. He also justifies a far-reaching program of graduated taxation both on individual incomes and corporation net returns, because under our economic system, though energy and originality are occasionally rewarded in their own right, even in such cases, as he argues, luck and other advantages are usually promoted by government, which thereby largely and continuously contributes to the accumulation of our modern fortunes. It follows, as he suggests, that those on whom the Government thus confers economic power over employment and unemployment, and over far-reaching human happiness and unhappiness, must stand ready to respond to the Government's reasonable demands for appropriate taxes.

With similar analysis and insight, the President also emphasizes that community use of individual effort is far more the source of individual wealth than unassisted effort can possibly be, and that it is this silent partnership of the many to whom wealth does not accrue, to which are largely due the enormous financial returns received by individuals and corporations from mass production. The President's discussion also recites, what all of us know, that individual businesses furnish the basis for the Nation-wide markets which make possible the success of mass-production industries. From this he reasonably concludes that tax returns should be substantially increased in graduated form on the high net incomes of large industries and relatively reduced on the net returns of smaller businesses; also that, as a self-governing people, we are called upon to establish a sound, scientific, and more progressive tax system, designed to diminish the concentrated control of wealth in the hands of a relatively few individuals, who thereby wield excessive power over the employment and welfare of many others.

Nor are we left in doubt about other national ends to be served. Those business leaders and representatives of commercial organizations in America who for the past 2 years have been clamoring for balanced budgets can hardly fail to be impressed by the fact that the President specifically urges that increased returns on net incomes of the country's larger corporations be utilized to retire the national debt and to promote balanced national budgets. Incidentally, of course, as the President indicates, such use of swollen incomes, by lightening the average burdens, will contribute to quiet social unrest and any reasoned sense of governmental unfairness.

Surely little, if any, elaboration is needed of such obviously just public principles and policies. There is much authority for asserting that the decentralization of controlled wealth by relatively moderating the tax burdens of smaller corporations with smaller incomes and by driving needless and idle surpluses from their hiding places into the fields of active business will vitalize economic democracy. Such decentralization, if it can be brought about, offers fairer chances for smaller industrial units and for citizens of small means by distributing the immense competitive or monopolistic power that attaches, in part by an economic law of gravity, to accumulated fortunes. Such a program, too, redistributes benefits, if not wealth, by renewing our reservoir of Federal funds, to be drawn upon, if and when required, for the primary needs of public welfare. Whether the President's plan be labeled "share the wealth" "share the burden", as alternately described, it suffices for the average citizen that it promises wider economic justice and surer equality of opportunity under government.

The question has been publicly raised whether a policy of taxation, having definite social and economic objectives, is permitted under the Federal Constitution. Section 8 of article I of that document provides, in part:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

Under that section uniform Federal tax policies which have the purpose and effect of producing revenue to pay the debts and meet the current obligations of the Government are hardly open to constitutional objection. It was declared by the Supreme Court of the United States in a leading case that "the fact that the statute * * * had a moral end in view, as well as the raising of revenue, presents no valid constitutional objection to its enactment."

The income-tax amendment to the Constitution assures the validity of the taxes on individual and corporate net returns; and we have the practice of years and authority of the Supreme Court in support of the constitutionality of estate and inheritance taxes. The enactment, therefore, of the President's program appears to fall safely within the bounds of constitutional authority. Corporations, as licensed beneficiaries of government; individuals, in proportion to their ability to pay and because of benefits they receive; estates and inheritances, because death eliminates ownership, except insofar as government cares to sanction transfers, are properly taxable under our Federal Constitution.

Those who contend that the new proposals are nonetheless unconstitutional doubtless are expressing theoretical, not legal, objections on the basis of assumed American traditions. Both facts and law are against them. They forget that our experimentation in this field has already covered a period of almost a quarter of a century. And certainly the incidental social and economic effects of a national tax program, particularly when consistent with political and economic liberty, cannot fairly be declared a departure from American traditions. Nothing can be more legitimate than a tax policy which produces substantial revenues and also tends to make certain that immense fortunes in this country, with their accompanying dictatorial economic powers, shall not be transmitted without guarding the general welfare; that the piling up of enormous fortunes by government favor shall not be encouraged; and that control of concentrated wealth in corporate forms shall not be left without effective regulations.

The ability of our Nation to survive the hurricanes on our economic seas is intimately associated with such fiscal policies. No government, faced as ours has been during the last 6 years by economic disaster, is really a nation if it lacks the power to collect adequate taxes to be used in the public interest. Since 1929 the lack of such authority would have permitted the starvation of millions of our citizens, with our Government impotently looking on. That inability would have robbed us of the power, through relief and employment on public works, to render first aid to a credit-stricken, exhausted, and all but paralyzed national economy. Indeed, balancing the Budget from such taxes should also be condemned by those who contend that legislation is invalidated when social consequences enter the scene. In other words, such consequences often flow from legislation, with or without legislative intent. We should at all times frankly acknowledge that social and economic consequences are inherent in most legislation. President Roosevelt, therefore, in recommending such tax revision, has rendered a public service by putting fairly before the Nation the great ends he has in view.

The country will wish to know how large a return may be expected by the Federal Treasury from the proposed additional taxes. Any answer must be speculative at present. Even the measure prepared for consideration by Congress is involved in uncertainties and is subject to change. Widely different estimates, ranging from a minimum of about $340,000,000 annually to a maximum of almost three times that amount, have been given publicity. Such variations necessarily—and particularly at the highest level—indicate indulgence in fanciful inaccuracies.

No one should be surprised if actual returns the first year are lower, not higher, than any present forecast. In any event, substantial additional tax returns will be assured by the adoption of the proposed legislation. These should also, eventually be capable of increase, and, of course, the issue of legislative principle, already discussed, is of first significance.

Concluding his message, the President touched a popular chord by recommending long-delayed submission of a constitutional amendment by Congress to the States for ratification. Such an amendment would eliminate hereafter issued Federal and State tax-exempt securities and would render them mutually subject to taxation. Half a dozen such proposed amendments, including one offered by me both at this and the preceding session, are now pending before the Judiciary Committee of the Senate. It is hoped that an adequate draft will be reported without delay for congressional approval.

President Roosevelt has thus repeated a recommendation which has been officially made in recent years by different administrations, regardless of partisan affiliations. All tax experts realize that the States and the Federal Government alike have provided in tax-exempt securities a retreat in which idle wealth hibernates. The tax potentialities in this field are large. On May 31 of this year wholly tax exempt Federal, State, and municipal securities, actually in the hands of the public in this country, amounted to $31,641,000,000. This does not take account of substantial amounts of outstanding partly tax exempt securities. The total figures necessarily vary from time to time with the retirement of old and the issue of new securities.

Here is a closed door which, if opened, will make available extensive revenues for Budget balancing, debt retirement, and other necessary purposes. We cannot afford to continue indifferent to such resources. We have traveled too far in our contest with economic disaster to deny that, as in war, we must be prepared to win through to recovery, even if other campaigns are the price of victory. We have spent liberally but must spend more. We have borrowed and will borrow more. Whether or not we put an end to tax-exempt securities, we must now begin to pay more fully, through income and other taxes, for expenditures made and to be made. It should also be said that with that objective, we must be prepared, not only to tax the country's largest incomes, but also to levy increased returns on relatively lower incomes, so far as necessary for the safety and well-being of America. In so doing, we shall increase deserved confidence in our Government's integrity as one valuable step toward a new era of more general prosperity.

One vital service of the President's message is its emphasis on our increasing concentration of wealth and the fact that we have in America powerful and limited groups of individuals who have benefited enormously under our laws and Government. We are almost forgetting that during the period of less than 2 years of our participation in the World War, we are said to have created, at least temporarily, more than 23,000 new American millionaires, and that in the 8 or 9 years after 1920 more than 11,000 new yearly incomes in excess of $100,000, including many exceeding $1,000,000, were revealed by our income-tax returns. A study of national income and its relation to purchasing power by W. I. King, as of 1926, disclosed in the previous 12 years a marked increase in the percentage of very large individual annual incomes. A recent examination of those returns indicates that in 1932 on the basis of income and values, about 40 of our wealthiest citizens controlled more than 2 percent of the total estimated wealth of our country.

The contrasted incomes—omitting the unemployed—of wage earners in our production system should not be ignored. The Committee on Economic Security reported this year that—

"In 1929, at the peak of the stock-market boom, the average per capita income of all salaried employees at work was only $1,475. Eighteen million persons, exclusive of farmers, had annual earnings of less than $1,000; 28,000,000, or nearly 70 percent, earnings of less than $1,500. The average earnings dropped from $1,475 in 1929 to $1,199, in 1932."

One cannot examine these and similar facts, keeping in mind the myriads of men and women who are dependent for chance employment on those who enjoy large incomes, without reaching the conclusion that such conditions give only haphazard promise of future industrial well-being.

The President has served our country well by thus calling attention to grave evils in the bodies politic and economic, and by indicating lawful and equitable methods for lessening those evils. We should join in defining fair rules for the profit game in a self-governing country for those who, through concentrated industrial and financial resources, may decree the economic fate of countless other human beings. Americans might be more content if those who wield autocratic authority always came to their control by proven genius. But life does not so discriminatingly reward, and an impartial government must at last shield against lost economic liberty, which draws political liberty after it, our average citizens who are the source of the strength of our Nation.

The American background of the President's message is worthy of special record. We often hear warnings on the consequences of concentrated corporate wealth and power. Perhaps our conviction will be strengthened if we turn back a century of the pages of history to the wisdom of Daniel Webster. Long before the Civil War the most noted expounder of our Constitution declared:

"A republican form of government rests not more on political constitutions, than on those laws which regulate the descent and transmission of property. * * *

"The true principle of a free and popular government would seem to be, so to construct it as to give to all, or at least to a very great majority, an interest in its preservation; * * *.

"The freest government, if it could exist, would not be long acceptable, if the tendency of the laws were to create a rapid accumulation of property in few hands, and to render the great mass of the population dependent and penniless."

Woodrow Wilson, 25 years ago, said:

"A modern corporation is an economic society, a little economic state—and not always little, even as compared with States. Many modern corporations wield revenues and command resources which no ancient state possessed, and which some modern bodies politic show no approach to in their budgets."

And, limiting ourselves to one more of many such impressive American views, Andrew Carnegie, as if discussing present tax problems, years ago in The Gospel of Wealth, wrote:

"The growing disposition to tax more and more heavily large estates left at death is a cheering indication of the growth of a salutary change in public opinion. * * * Of all forms of taxation, this seems to be the wisest. Men who continue hoarding great sums all their lives—the proper use of which for public ends would work good to the community from which it chiefly came—should be made to feel that the community, in the form of the State, cannot thus be deprived of its proper share. * * * By all means such taxes should be graduated, beginning at nothing upon moderate sums to dependents, and increasing rapidly as the amounts swell * * *."

How many thinking men and women any longer challenge such judgments? Who longer doubts that autocratic industry lessens the security of government, if permitted to usurp in the economic field the freedom, equality, and security which America's founders long ago assumed they had won for themselves and their descendants?

In conclusion, and by way of summary, the following features of the President's tax program commend it to the American people:

It rounds out and equalizes our tax structure.

It should bring in during the first 12 months substantial amounts of new and needed revenue.

It is well adapted, if and when necessary, to produce, under future rate adjustments, further and larger returns to the Federal Treasury.

It will aid in balancing the Nation's Budget.

It will help reduce our public debt.

It will tend to encourage smaller and more efficient business units and to discourage relatively large and inefficient corporate organizations.

It will serve to move needlessly unused and bulky corporation surpluses into investment, production, and employment.

It will promote earlier and more equitable distribution than at present of phenomenal fortunes.

It will tend to make American industry less autocratic and more democratic in form and essence.

It looks toward standards of traditional American equality and heightens our faith in the ability of popular government to rescue itself from monopolistic privileges and the power of concentrated wealth.

It is one answer of American statesmanship to Goldsmith's famous warning:

"Ill fares the land, to hastening ills a prey,
Where wealth accumulates, and men decay."

VALUE OF EDUCATION—ADDRESS BY POSTMASTER GENERAL FARLEY

Mr. COPELAND. Mr. President, a distinguished citizen of my county, the Honorable James A. Farley, made a notable address to the graduating class at the Stony Point, N. Y., High School on June 26. It seems to me that the address is so interesting and appealing and so important that it ought to be included in the RECORD, and I ask unanimous consent that it may be so printed.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It has been my privilege during the past few years to address gatherings of every nature, large and small, East and West, and North and South. But I say to you in all frankness that I know of no occasion when I have had more satisfaction or more pleasure than the honor of speaking here tonight. Because, naturally, everyone likes to come back home.

I can recall full well the emotions that I felt when I graduated from this high school 30 years ago, and it gives me the greatest pleasure to greet here tonight one of my classmates of the class of 1905, the present principal of this high school, Miss Norma A. Bowers.

As I look over the list of graduates I note many familiar names, sons and daughters of intimate friends of a lifetime, and as I congratulate them, I congratulate the parents who made it possible for them to complete their education. I hope that they will go out into life in the same spirit and in the same commendable way as did their parents, equipped with the same solid foundations of education that were provided for us here at Stony Point. I well remember tonight, too, that part of my education which I received in the Grassy Point grade school before I attended school at Stony Point. In looking back over that span of years I can recall a hundred pleasant memories and hardly a single regret.

When a man returns to the town and the school where, years ago, he was given the privileges of education, he has, as you may well understand, mixed emotions. The events of the past come to him in a strange perspective; the troubles and the disappointments are forgotten or sink into insignificance; the pleasures and the successes loom large. I am keenly aware of that fact today, and so I am less disposed to dwell upon the memory of what happened in those days than upon the benefits of the education I was privileged to receive. I count it as my greatest fortune that the basic education that is given by the schools in this town was, while simple, wholesome, wise, and useful.

I have, in the years since, undertaken many tasks. I have been in business, and that experience taught me that education is indispensable to any business success. I have been in politics, and I have learned there that education makes for understanding and tolerance, and a love of freedom. I have held office in the Government, and there, too, I have learned that education is an indispensable tool of the people's servants.

In a very real sense, education is the symbol and the instrument of a democratic form of government. History teaches us that, without education among the people, government tends to degenerate into autocracy of the most cruel and selfish character. It is important to note that Thomas Jefferson wanted to be remembered not so much as a man who held public office, but as the man who laid the basis of an educational system in the State which had given him so many honors. In his Notes on Virginia, written in 1782, he set forth the principles on the basis of which his State might be intelligently and successfully governed. He placed high among the purposes which his State must achieve the development of education. His idea was to lay off the State into small districts, 5 or 6 miles square, and in each of them to establish a school for teaching reading, writing, and arithmetic. The pupils in this school were to be taught at the expense of the State for at least 3 years of their course. Of the pupils of these schools, the one who showed the best ability in each school and who, at the same time, came of parents too poor to pay for his education, was to be sent to a grammar school where he would be taught Greek, Latin, geography, and the higher branches of arithmetic. Of the boys thus sent to the higher school, the best were to be selected and were to continue for a further 6 years. Finally, the best ones of this selected group were to be sent on to college. The ultimate purpose of this plan was to base the education of the people upon the principles of ability, and to give, on the basis of ability, an opportunity for as much education as the State could offer, to the poorest boy in the community. In his old age, Jefferson planned and founded his University of Virginia to provide not only a place for the higher education of these children selected on the basis of ability, but a place designed to train teachers, lawyers, and statesmen.

This plan of basic education for all and of a continuation of the education not of all, but of those who best merit it, is essential to a free State and a free country. So long as the opportunity for an education remained the exclusive possession of those with much money, so long would our lawyers, doctors, officers of the Army, judges, and our statesmen come only from these more fortunate classes. Such a state of affairs is incompatible with a democracy. It was to insure the preservation of our democracy that free education was provided. I cannot do better than to quote Jefferson himself on this important point of how education is a means of protecting the liberty of the people.

"But of all the purposes of law none is more important, none more legitimate, than that of rendering the people the safe guardians of their own liberty. For this purpose the reading in the first stage, where they will receive their whole education, is proposed, as has been said, to be chiefly historical. History, by apprising them of the past, will enable them to judge of the future, it will avail them of the experience of other times and other nations, it will qualify them as judges of the actions and designs of men, it will enable them to know ambition under every disguise it may assume and, knowing it, to defeat its views. In every government on earth is some trace of human wickedness, some germ of corruption and degeneracy, which cunning will discover, and wickedness insensibly open, cultivate, and improve. Every government degenerates when trusted to the rulers of the people alone. The people themselves, therefore, are its only safe depositories. And to render even them safe, their minds must be improved to a certain degree. * * * The influence over government must be shared among all the people. If every individual which composes their mass participates in the ultimate authority, the government will be safe."

Thus viewed in the light in which Jefferson saw education, the schools of the country—public, private, and religious—become the mainspring and the defender of liberalism in government.

As President Roosevelt has so well said, a free government does not and cannot give to people all that they want, but it is not true to its fundamental purpose unless it gives to people all that they need; and the only sound way in which they can voice those needs and achieve their satisfaction is through the process of free education, free speech, and the free and untrammeled right to vote and hold office.

It is true that public education makes the masses of the people more and more conscious of differences of wealth and in opportunities. It makes them demand that these differences be eliminated so far as is humanly possible. In many countries of the world autocracy has been secure until the coming of education has made the people conscious of their own power and their own rights. Education has, therefore, been the basic force behind progressive changes in government and social life.

But education does not perform its full service to the people when it makes them merely want their rights. It must go beyond this and teach us not only the meaning of our rights but the meaning of the rights of others. I have certainly been in a position to know that it is impossible to give everyone everything he wants. As the chief of a political party, I am called upon much more often to say "no" than to say "yes." A very small part of my time is given to the happy duty of pleasing people. A much larger part of my time is given to disappointing them. I wish this were not so; and whenever I must tell someone that he cannot have what he wants I seek to show him the reasons why it is necessary to deny him what he seeks. That task is not always easy, but it is infinitely easier when I am dealing with men of sufficient vision to comprehend the necessities of the people as a whole. It is at this point that education performs its greatest task. Education must not only teach the people to demand their rights; it must teach them their duties and their responsibilities. Essentially a free government is a government in which self-denial and unselfishness become a habit of mind on the part of people. They must learn the fundamental fact that no one of us is secure except insofar as all of us are secure. This, I believe, is not only the objective of good education but of good government.

In this respect the task of educating people is not merely teaching them a lot of detailed and complex knowledge. Information is not wisdom. Information, after all, is not the most important thing that a man can possess in going about the daily duties of his life. He needs information for the particular job he is engaged in. This information can be brought to him under modern conditions by thousands of specialized books. He can, if his job involves the direction of many other people, depend largely upon others for the specific information that he must use. Anyone who expects to do a large job in the world must distinguish between information and wisdom. And the fundamentals that lie at the basis of all wisdom are the things that the public schools must seek to teach.

Essential to such wisdom is a sense of proportion, a sense of values, the ability to differentiate between things that matter and things that do not matter. Education, therefore, in its primary sense much teach us to respect the things that are deep, permanent, and abiding in human life. Education must enlighten us so that we can choose wisely in the great decisions a free people must make in conducting their government. It must give us a sense of our responsibility, of the importance of thinking of others.

My duties have taken me to all parts of this great country. I have met many thousands of people, and the most important thing I have learned from this is the fact that essentially true education tends to make people understand each other. This is because true education teaches people the similarities and the common interests that unite all the people. The more truly a man is educated the more truly simple will be his outlook on life. His sympathies will be broad, and he will find more easily the means of understanding others and of making others understand him. One does not make fundamentally different speeches in the North from the South, nor in the East from the West. Human beings are human beings and people are people.

Years ago Mr. Brand Whitlock, who was our heroic Minister to Belgium in the Great War, was asked by the mayor of his city, Toledo, Ohio, who was called "Golden Rule" Jones, to make a speech in a certain part of the city. Mr. Whitlock asked Mr. Jones what kind of people were going to be there, so that he could know what kind of speech to make. Mr. Jones in his answer taught Mr. Whitlock a great lesson. He said: "They are just good people, just folks. There is only one kind of people in the world."

Education is the means by which people of all walks of life find common ground, common interests in the face of all of our great human problems.

But education must do more than that. It must be a practical instrument of progress, aiming always to develop in students those capacities which, when applied to the tasks of government, make government more useful. That is why the present administration of government in this Nation has sought wherever possible to bring to its service well-trained men and women.

There was a time in our history when the holding of public office was not highly respected, because those who held public office were not, in all cases, worthy of respect. But the time has come when government must perform such difficult tasks that it must call to its service the best trained and the most competent public servants that can be found. A few years ago it was a commonplace to say that business was attracting the best brains in the country and that government must be content with those in the second rank. That time has now passed. Government must go out and compete with business in drawing to itself men of ability and capacity for large undertakings. This cannot be done by merely seizing upon men who have made a success in business, because that would mean that we had failed to recognize that the holding of public office is itself a means of education.

The President in Washington is constantly seeking to recruit to the Government service the best young men and women that are graduating from our institutions of learning. The time is rapidly coming when we shall in this country encourage young men and young women in schools to look forward to a career in government as well as to a career in business, the arts, and the professions. We have finally come to the point where we must discard the old idea that in a free government any man can hold any office. That simply is not true. Modern government requires specialists on every hand. It requires the best specialists that can be found. Despite all that can and will be said to the contrary, this principle is in the large the principle upon which this Government is now operating.

I want to be perfectly frank about this, because I well realize that many people will claim that ability and experience are not the fundamental considerations that enter into the selection of men and women for public office under our system of government. I myself have been criticized for some of the selections that I have made, and I have been willing to accept this with other criticism in good spirit when I have felt it to have been prompted by disinterested considerations of public policy. I am not willing, however, to accept without resentment the inference that when a man is under consideration for public office who has been a loyal supporter of the candidate of the party and his policies in an election he should be placed at a disadvantage for that reason as against one who has not served in that way. In my opinion we can find efficient, competent, and educated men who are at the same time loyal to the principles of the Government in which they will serve. This is what we have been seeking to do, and while mistakes are made just as they are made in every other line of endeavor the record shows that we have succeeded. The question of loyalty to the ideas and principles held by the head of this Government is fundamental in getting the right kind of service, for it does not matter how competent a man may be if his sympathies are not what is being done he will be a bad public servant.

This question of loyalty goes far beyond mere party regularity. It is the question of a man's fundamental belief in progressive and humane government, his belief that by the effort of government the conditions of human beings can be improved, and improved in the manner selected by the great leader who is the choice of the American people for the high office of President.

True education should teach this deep lesson of loyalty. If a man cannot be loyal to the work that he is performing or to the profession in which he is engaged he ought to leave it and try something else. One of the greatest moral lessons that was ever written was that which a man many years ago wrote on the picture of his favorite pet, a great English bulldog: "An ounce of loyalty is worth a pound of cleverness." This is a motto that can well be heeded in every walk of life, because no matter how great may be a man's ability or how profound his education he cannot do his job if he does not believe in it, and he cannot work for another, no matter how high or low his station may be, unless he believes in his leader and is loyal to him.

The motto of my graduating class back in 1905 was "labor conquers all." I have tried to take that lesson seriously in the years since I left school and to follow it consistently. As one goes through life the importance of this motto is more and more forcibly brought to one's attention. Some men and women are what might be termed "luckier" than others, but in the long run, it is hard work that makes it possible to meet success in every field of effort.

You, the graduates of this high school, need not be disturbed about success in life because you have graduated from a small high school. The history of this great democratic country shows that the road to opportunity is still open and that just as in the past, men and women who started from communities such as this have found lasting satisfaction and solid success, so is the way still open for such achievement.

I congratulate you, the graduates of 1935 of the Stony Point High School, and I congratulate your parents who have made this education possible. In the last analysis, however, you are the ones who must complete your own education. Others can give you the opportunity to achieve things in this world, but you are the ones who must adapt these opportunities to the conditions that you meet. It is your loyalty and your courage that make your education count in the world, not only to the end that you, yourselves, may succeed, but that your success may make the world in which you live a better place for others.

NATIONAL AIRPORT

Mr. GIBSON. Mr. President, there is on the calendar of the Senate a bill providing for the construction and operation of a national airport. In connection with that bill I ask unanimous consent to have printed in the RECORD an editorial from the Washington Herald and an article and an editorial from the Washington Daily News.

There being no objection, the editorials and article were ordered to be printed in the RECORD, as follows:

[From the Washington Herald of July 1, 1935]

AN AIRPORT CRASH

Whatever chance there was of getting action on the projected model airport for the National Capital seems to have been effectively killed by the House.

It may seem strange that by passing a bill which apparently provides for action on the project the House could have doomed it, but that is one of the peculiarities of the government of the District of Columbia.

The bill passed by the House provides for setting up two successive commissions, one of which would select a site and the other of which would construct and operate the airport.

The procedure which would be set up is sort of like going around Robin Hood's barn, especially after half a dozen committees and commissions have already spent about 10 years selecting various sites and discarding them.

But the coup de grâce was given hopes for an airport when the House adopted an amendment to the bill providing that all of the expense of the airport should be borne by the District of Columbia, the government of which will not have 2 pennies to rub against each other at the end of the new fiscal year.

The House proclaimed that the half million residents of Washington must pay all the expense of providing an airport which would be an important unit in national defense and which would be used, even in peace time, largely for the business of the Federal Government.

A modern and adequate airport is certainly needed in the National Capital, but it is not needed only by the rank and file of our taxpayers.

It is needed far more by the Nation than by the city.

Common justice, therefore, would seem to demand that the Nation pay at least as much as the city for construction and maintenance of the port.

Such a bill as the House has passed fortunately stands little chance of passage in the Senate.

That body is far more likely to take a reasonable and just view of the situation and to pass the kind of airport bill that should be passed.

But the Senate is not likely to attempt to pass any kind of an airport bill during the current session, because of the botch which the House has made of that kind of legislation.

As a result it will probably be another year or two before airport legislation is passed and additional years before the port is ready for operation.

In the meantime anyone flying into the National Capital takes his life in his hands.

[From the Washington Daily News of July 1, 1935]

SETTLEMENT SEEN FOR AIRPORT ROW—GIBSON BILL SEEMS TO BE FAIR AND TO SATISFY ALL SIDES

By Ernie Pyle

The old, old controversy over an airport for Washington has reared its ugly head again in Congress during the past few days.

The head is ugly, for one reason, because it is old. It has been appearing several times a year for nigh onto a generation now.

The men and women on the Hill have not been able to make much progress toward settling the controversy for the reason that there are two sides to the question.

The airport situation, in tabloid, is this:

Washington is one of the busiest air centers in the world. All commercial air traffic here uses Washington Airport, a privately owned field. The field is terrible, and only skillful piloting and a lot of luck have prevented bad accidents. Everybody who lands here says the field is a disgrace.

Both Congress and the city agree that Washington should have a modern field. The question is, Should the private field be bought and improved or should a new field be created at Gravelly Point, down the river, a mile from Highway Bridge?

That is the stumbling block. Local people and Congress have been arguing over that one for 10 years. Arguing and not getting anywhere. Here are the arguments:

AGAINST WASHINGTON AIRPORT

1. It is owned by New York interests, who have naturally lobbied a great deal for the sale of their field.
2. It is in Virginia, and no place to put Washington money.
3. It is unsafe, because of restricted size, nearby chimneys, and Arlington hills and towers.
4. The title is in dispute, and some day the Boundary Commission may find that it belongs to the Government anyway, so why buy it?
5. It has no seaplane facilities.

AGAINST GRAVELLY POINT

1. Too close to Army and Navy fields across the river.
2. More than a mile farther from city than Washington Airport, one of the "closest in" metropolitan airports in the world.
3. Would take too long to complete—from 3 to 5 years.
4. Estimated cost ($2,500,000) cannot be relied upon. Many think it would cost much more than this to dredge out the river and "make" enough land for the airport.
5. Would cost more than buying and improving Washington Airport. (Gravelly Point proponents claim it would cost less.)

In addition to these points of disagreement, there is the continual argument between the District and Congress as to who shall pay for it. Most of the bills in the past have had the District paying half and the Federal Government half.

THE GIBSON BILL

There is now in the Senate a bill, called the "Gibson bill", which many believe solves most of the points at issue.

The Gibson bill provides $2,500,000 for building Gravelly Point within 5 years. The United States would put up the money and the District pay half of it back without interest.

The bill also provides (and aviation people consider this very important) for the improving of Washington Airport while Gravelly Point is being built.

It would close Military Road, thus enabling Washington Airport and Hoover Fields to be thrown together into one big airport. It would also add the agricultural experimental farms, west of Hoover Field, to the whole area, making a landing field of about 218 acres.

A GUARANTY

This field would then be operated by the Washington Airport people until Gravelly Point was ready; or if they did not want to run it, they could lease it to a commission created by the bill, and the commission would run it. At any rate, Washington would be guaranteed a decent airport while Gravelly Point was being built.

Although the relative merits of Washington Airport and Gravelly Point will be argued long after we get an airline to the moon, the Gibson bill seems to be about the best that has been offered yet.

[From the Washington Daily News of July 1, 1935.]

STOP FIDDLING

Ten years ago we of the District started arguing among ourselves, and with Congress, over where we should put a municipal airport.

For the first few years the argument was very grave. Then as it dragged on and on, it began to get ridiculous. But now, as the years roll by and nothing, absolutely nothing but a lot of talk results, it is getting unpleasant.

The argument is simply: Shall it be Washington Airport or Gravelly Point?

Just to help settle the argument, we say Gravelly Point.

There is a lot for and against both locations. It seems to us about a toss-up between them. Neither will be perfect, and neither will be bad.

But either one is certainly better than nothing, and it is time something were done.

The Gibson bill, now in the Senate, is the best of the reams of airport bills that have been put before Congress.

It provides for an airport at Gravelly Point, and for putting Washington Airport in condition till Gravelly Point is ready.

It seems fair to everybody and, above all, it would settle the question. The Gibson bill should be passed.

We can't fiddle away forever, depending on luck to prevent a serious crash at our present municipal mudhole.

TRIBUTE TO JAMES MADISON

Mr. BYRD. Mr. President, June 28 was the ninety-ninth anniversary of the death of James Madison, fourth President of the United States and the father of the Constitution.

Madison was born in King George County, Va., and was buried at Montpelier, in Orange County, Va. I am proud of the distinction he enjoyed during his legislative and executive career, and liberty-loving people throughout the world honor and respect him for his eminent service in the Constitutional Convention at Philadelphia in 1787. The freedom we have since enjoyed under constitutional government has been purchased at too great a price to be soon forgotten.

A year or two ago a distinguished gathering assembled in the old hall of the House of Delegates in the State capitol at Richmond to pay homage to this great Virginian, the occasion being the unveiling of a marble bust presented to the State by one of his descendants. On this occasion Chief Justice Charles Evans Hughes delivered the principal address. In the course of his remarks he said:

> It was the ideal of the fathers that our Government should be representative and responsible; that our institutions should provide unity and stability, with the limitation of national power to appropriate national ends and with the circumscribing of both Federal and State authority in order that a fair freedom of individual opportunity might be preserved. There is no indication that we desire to abandon this system in favor of any form of autocracy, whether contrived to promote efficiency or to establish class rule. With all the imperfections of our institutions we have not yielded to despair. * * * It was preeminently the political genius of Madison which has given us opportunity, and we shall profit in our use of it to the extent that we emulate his example in making reason, and not emotion, our guide.

Mr. President, I ask unanimous consent that the entire speech of Chief Justice Hughes be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

JAMES MADISON

Address by the Honorable Charles Evans Hughes

As we approach the two hundredth anniversary of the birth of Washington our thought is directed, not simply to his own incomparable career, but also to the essential collaboration in statecraft which crowned the success of revolution. We owe our institutions to the operation of two forces—the pressure for unity and national power which made possible a strong Republic, and a passion for individual liberty, which was jealous of strength and insistent upon the protection of what were regarded as fundamental rights. Two types of leadership appear reflecting the devotion of rare political genius to the one or the other of these aims. It is the unsurpassed distinction of Virginia, not only that from her soil sprang so many eminent statesmen of the formative period, but that she brought each of these types to the highest point of development, finding their historic illustration in George Washington and John Marshall, in Patrick Henry and Thomas Jefferson. Another personality, in whose honor we are met today, stands out as conspicuously exhibiting a blend of ideals and purposes, fitting him to receive the confidence of Washington and the intimate friendship of Jefferson, with a constructive ability and aptitude for conciliation which in the supreme test won for him the deserved and distinctive title of the Father of the Constitution.

James Madison began his public life in the Virginia Convention of 1776, at the age of 25, and continued it with but slight interruption until he left the Presidency, 41 years later, to enjoy the retirement of an experienced political philosopher. In the picture of that long public career there are lights and shades. In the effort to arrest attention by novel and sensational emphasis there is often observed a tendency to resort to biographical distortion by making a parade of mistakes and frailties. While historic accuracy is always desirable, a sense of proportion is quite as essential to a veracious narrative as familiarity with details. Much of the work of men in public life is inevitably concerned with issues and conflicts, which, although they seem to be of transcendent importance at the time, rapidly give place to other controversies and have but little permanent influence. Other labors are of a monumental character, revealing the genius of leadership and conferring lasting benefits. We are thinking today of such achievements.

I shall not abuse the privileges of this occasion by an attempt—futile, indeed, it would be—to make a comprehensive review of Madison's career, embracing his activities in the new government, as party leader in the Congress, as Secretary of State, and as President, and involving an examination of the strife of parties, the diplomatic difficulties culminating in war, the humiliations and victories of that war, and the circumstances of the ensuing peace. Important as are these events in the history of the period, their consideration should not be permitted to detract from our paramount interest in the outstanding work of Madison in laying the foundations of the Republic. In this brief tribute I present to you Madison in the distinction of his greatest service, as an architect of institutions and a defender of liberty.

Of the illustrious Virginians to whose public service the Nation is indebted, three were preeminent in establishing our Federal Constitution, Washington, Madison, and Marshall. Washington not only won opportunity by his military success, but made the Constitution possible by presiding at the Philadelphia Convention and giving to the issue of its labors the essential support of his great influence. "A confederation", John Quincy Adams said, "is not a country." And in the truest sense Washington became the Father of his Country as a Nation equipped with the requisite authority of national government. At a later day, Marshall made this authority secure by his judicial exposition of cardinal constitutional principles. But both the inspiring leadership of Washington and the juristic skill of Marshall depended on the development and formulation of the constitutional scheme. In that supremely important enterprise Madison had the leading part.

He was well equipped for the task by temperament, studies, and political experience. Cool, cautious, deliberative, he was capable of prolonged concentration in intellectual work, which resulted in convictions securely based in profound study and adequate reflection. His mental equilibrium was not upset by gusts of passion and he had no aptitude for attempts to sway others by tempestuous eloquence. He sought to convince, and he became formidable in debate because he was thorough in preparation and precise in statement. With his regard for the processes of reason, there was no acerbity in his disposition, and there was a notable absence of any assumption of superiority. Exceptionally modest, he was tolerant in spirit, temperate in speech, and conciliatory in action.

In his studies he was his own best preceptor, and he was driven by an insatiable desire for knowledge. When we reflect upon the slender scholastic opportunities of his day, we must not overlook the advantage of a student life unencumbered by a bewildering multiplicity of activities which absorb the energies of youth, too frequently at the expense of intellectual interests. Nor was the ambitious student embarrassed by a host of attractive courses and a superabundance of material leading to a dissipation of effort. We are told that Madison's favorite studies at Princeton were the history of the free states of antiquity and all subjects relating to government; and, despite the handicap of delicate health, his unremitting industry won for him the reputation of being the "deepest student" in college. Perhaps it was in the informal association of undergraduates in the American Whig Society, which he organized, that he found the most helpful discipline in the preparation of papers and in earnest debates upon government. After leaving college he continued his intellectual pursuits at home, and he brought to his public career a comprehensive knowledge of ancient and modern history which has been described as "quite unequaled among the Americans of the Revolutionary period."

With all his calmness and studiousness, he was not destitute of zeal. He had the zeal of a liberal mind. This became apparent at the very outset when, as a delegate to the State convention which framed the Constitution of Virginia, he became the champion of religious liberty, a cause to which he was devoted throughout his life. A deeply religious man, he wished religion to flourish in a free atmosphere, without leaning upon the support of government with the consequent dangers of governmental interference. Freedom of conscience in his view was a fundamental right, and it was his amendment which led to the substitution for the words "fullest toleration" the provision that "all men are equally entitled to the free exercise of religion according to the dictates of conscience." He would have gone even further than the convention by prohibiting emoluments and privileges on account of religion. Eight years later in the Virginia Legislature he determinedly opposed the assessment bill for the support of churches, and as the result of the response to his "Remonstrance" sent broadcast through the State the proposed resolution was defeated, Jefferson's bill of 1779 was revived and passed, and the cause of religious liberty in Virginia had a lasting triumph. Her

example was influential in other States, and Madison takes his place with Roger Williams and Thomas Jefferson in the front rank of those to whom we are indebted for the American conception of the essential freedom of the spirit from governmental license or restraint.

After his first brief term in the State legislature, Madison was sent in 1780 as a representative of Virginia to the Continental Congress, and his experience there gave him an intimate knowledge of the perils of independence in the absence of union. He put the case pithily in these words: "The close of the war brought no cure for the public embarrassments. The States, relieved from the pressure of foreign danger and flushed with the enjoyment of independent and sovereign power (instead of a diminished disposition to part with it), persevered in omissions and in measures incompatible with their relations to the Federal Government and with those among themselves." With his keen realization of pressing need, it was natural that Madison should have joined earnestly in the effort to "form a more perfect Union." In describing the genesis of the Federal Convention, Madison tells us of his own important part while not withholding the credit due to others who were seeking the same end. "The change in our Government", he said,[1] "like most other important improvements ought to be ascribed rather to a series of causes than to any particular and sudden one, and to the participation of many rather than to the efforts of a single agent. It is certain that the general idea of revising and enlarging the scope of the Federal authority, so as to answer the necessary purposes of the Union, grew up in many minds, and by natural degrees, during the experienced inefficacy of the old confederation. The discernment of General Hamilton must have rendered him an early patron of the idea. * * * In common with others, I derived from my service in the old Congress during the later stages of the Revolutionary War, a deep impression of the necessity of invigorating the Federal authority. I carried this impression with me into the Legislature of Virginia."

The fact of greatest importance is that out of Madison's efforts in that legislature grew the resolution in 1785 for the appointment of commissioners to meet at Annapolis "in order to form some plan for investing Congress with the regulation and taxation of commerce." Madison adds that "although the step taken by Virginia was followed by the greater number of the States, the attendance at Annapolis was so tardy and so deficient that nothing was done on the subject immediately committed to the meeting. The consultations took another turn." These resulted in the recommendation for the meeting in Philadelphia. As to this recommendation, Madison says, "The manner in which this idea rose into effect makes it impossible to say with whom it more particularly originated. I do not even recollect the member who first proposed it to the body. I have an indistinct impression that it received its first formal suggestion from Mr. Abraham Clark, of New Jersey. Mr. Hamilton was certainly the member who drafted the address." Madison then observes that the Legislature of Virginia was the first "that had an opportunity of taking up the recommendation, and the first that concurred in it. It was thought proper to express its concurrence in terms that would give the example as much weight and effect as possible; and with the same view to include in the deputation the highest characters in the State, such as the Governor and chancelor. The same policy led to the appointment of General Washington, who was put at the head of it."

The bill complying with the recommendation from Annapolis was written by Madison. This action was followed by appointments from other States, and finally, on February 21, 1787, the Congress passed what Madison called its "Recommendatory resolution", giving, in effect, its sanction to the project of a Federal convention to revise the Articles of Confederation. This removed the suspense which congressional inaction had created. Thus the labors of Madison at last found fruition. Without his sagacity and persistence there would have been no Federal Constitution.

It is pleasant to picture this quiet and studious young man of 36 as he takes his place with the distinguished Virginia delegation in that body of eminent men who were to frame the political structure of the new Nation. That he fully recognized the significance of the meeting, and his remarkable forethought, are apparent from the arrangement that he at once made to secure an appropriate record of its proceedings. "The curiosity I had felt", he said, "during my researches into the history of the most distinguished confederacies, particularly those of antiquity, and the deficiency I found in the means of satisfying it * * * determined me to preserve as far as I could an exact account of what might pass in the convention whilst executing its trust, with the magnitude of which I was duly impressed. * * * I chose a seat in front of the presiding member, with the other members on my right and left hands. In this favorable position for hearing all that passed, I noted in terms legible and in abbreviations and marks intelligible to myself what was read from the chair or spoken by the members. * * * It happened, also, that I was not absent a single day, nor more than a casual fraction of an hour in any day, so that I could not have lost a single speech unless a very short one."

It was not until 1840 that this Journal of Madison was published and to him we owe the most important document of the period. It is not the least of his services that he thus has given us the most direct approach to the intention of the makers of the Constitution.

But the calling of a convention and the reporting its proceedings, after all, derive their importance from the action which the convention takes. What was needed was not merely a feeling of urgent need, but a plan adequate to solve the most pressing problems and reasonable enough to triumph over the seriously divergent views of men and States. Leadership naturally fell to Virginia, which had first adopted the recommendation of the Annapolis Convention and appointed delegates. And that Virginia was ready to assume the responsibilities of leadership, and again to justify it, was undoubtedly due in the main to Madison. He had a plan. It was called the Virginia plan, and it was the first presented to the Federal Convention. It was fittingly presented by Edmund Randolph, the Governor of the State and the head of its delegation. While the plan was appropriately developed in consultation among the Virginia delegates, Madison has been recognized as its principal author. Randolph himself wrote, "Before my departure for the Convention, I believed that the confederation was not so eminently defective as it had been supposed." It was in the consultations which followed his arrival that Randolph reached the conclusion that a more thorough-going plan was needed, and with the knowledge of Madison's views, one can readily understand his share in producing the final conviction.

The Virginia plan was taken as a basis for the debates in the Convention. While many of its important provisions were altered in the process of making the Constitution, it had the root idea of national government operating directly upon the people and not simply upon the States, that is, as Madison explained, "national with regard to the operation of its powers", although limited in "the extent of its powers." The basic proposal of the Virginia plan was "that a national legislature, a national executive, and a national judiciary, should be established." In thus providing for national power, supreme within its sphere, for a national legislature which should make laws binding upon the people as a whole in the same manner as the laws of the State within its sphere bound the people of the State, the plan went to the heart of the existing evils. It is not extravagant to say, as John Fiske has said, that "this was the supreme act of creative statesmanship which made our country what it is", and that "it is to Madison we owe this grand and luminous conception of the two co-existing and harmonious spheres of government." Neither the important modifications of the plan, nor the compromises which were necessary to secure the adoption of the Constitution, disturbed this central principle, which today no less than heretofore makes possible the government of a vast territory with a distribution of power adapted to the satisfaction of both national and local needs. In this fundamental respect Madison stands forth as the chief architect of our political structure.

I cannot undertake to dwell upon the proceedings of the Convention, but Madison's contribution consisted not only in a plan but in his effective participation in the debates. He brought to the Convention not only exceptional learning but cogency in argument. He made 161 speeches—a number exceeded only by Gouverneur Morris and James Wilson. The impression made by Madison upon his colleagues is thus described by William Pierce, a delegate from Georgia: "Every person seems to acknowledge his greatness. He blends together the profound politician with the scholar. In the management of every great question he evidently took the lead in the Convention, and though he cannot be called an orator, he is a most agreeable, eloquent, and convincing speaker. From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best-informed man of any point in debate. The affairs of the United States, he, perhaps, has the most correct knowledge of, of any man in the Nation."

Mr. Pierce also refers to Madison's "remarkable, sweet temper", and the Convention profited by his practical judgment as well as by his tenacity of conviction. One of the compromises of the Constitution was that relating to the apportionment of Representatives in the Congress on the basis of population, embracing the whole number of free persons and three-fifths of the slaves, was a contribution of Madison, following the clause of a proposal made by him, and adopted by the Continental Congress in 1783, as a recommendation for an amendment of the Articles of Confederation.

Despite the criticism to which this compromise was subsequently subjected, there can be no doubt that without it the formation of a national government with adequate authority would have been impossible. It should not, however, be overlooked that Madison stoutly opposed another necessary decision of the Convention as to the equality of the voice of the States in the Senate. He said that the Convention "was reduced to the alternative of either departing from justice in order to conciliate the smaller States and the minority of the people of the United States, or of displeasing them by justly gratifying the larger States and the majority of the people. He could not himself hesitate as to the option he ought to make. * * * If the principal States comprehending a majority of the people of the United States should concur in a just and judicious plan, he had the firmest hopes that all the other States would by degrees accede to it." But by a close vote, Madison's position on this crucial question was disapproved, and the decision went in favor of the equal suffrage of the States in the Senate.

While Madison's paramount purpose was to rescue the people from the perils of an existing condition bordering on anarchy, and to maintain justice between the States, he was also intent upon preserving the rights of the States. In his view, it was through the Union that the States themselves were to be preserved. His conception was of the needs of a great people, and as he put it, "the Federal and State Governments are in fact but different agents and trustees of the people, constituted with different powers, and designed for different purposes." Madison was seeking

[1] Letters to Noah Webster, Oct. 12, 1804; Mar. 10, 1826.

not to impair the necessary functions of State governments but by conserving the essential interests of national security and stability to make it possible for the people in their respective States to enjoy the advantages of the peaceful administration of their local affairs.

Madison very clearly recognized the necessity of providing for invalidating State legislation which might be repugnant to the Federal authority as granted by the Constitution. The Virginia plan proposed to confer upon the national legislature the power "to negative all laws passed by the several States contravening in the opinion of the national legislature the Articles of Union." In describing the action of the convention, Madison explained that "The obvious necessity of a control on the laws of the States, so far as they might violate the Constitution and laws of the United States, left no option but as to the mode. The modes presenting themselves were: (1) a veto of the passage of the State laws; (2) a congressional repeal of them; (3) a judicial annulment of them. The first, though extensively favored at the outset, was found, on discussion, liable to insuperable objections arising from the extent of country and the multiplicity of State laws. The second was not free from such as gave a preference to the third as now provided by the Constitution." And again, referring to what he termed the "supremacy of the judicial power" in this respect, Madison said, in one of his latest writings: "I have never ceased to think that this supremacy was a vital principle of the Constitution as it is a prominent feature in its text. * * * I have never been able to see, that without such a view of the subject the Constitution itself would be the supreme law of the land; or that the uniformity of the Federal authority throughout the parties to it could be preserved; or that without this uniformity anarchy and disunion could be prevented."

That was Madison's view of the essential function of the Supreme Court of the United States. It was very clearly expressed in a letter to Jefferson in 1823, when he sent to Jefferson a copy of his letters to Spencer Roane, a correspondence growing out of the decision in *Cohens* v. *Virginia*[2] holding that the Supreme Court had jurisdiction on a writ of error to a State court in a State criminal prosecution. Madison had there said: "The Gordian knot of the Constitution seems to lie in the problem of collision between the Federal and State powers, especially as eventually exercised by their respective tribunals. If the knot cannot be untied by the text of the Constitution, it ought not, certainly, to be cut by any political Alexander."

Without attempting to review the history or content of the Virginia resolutions of 1798, which Madison drafted, or the Kentucky resolutions of the same year, it is sufficient for the present purpose to say that when South Carolina in 1832 passed its nullification ordinance, Madison disclaimed any intention in preparing the Virginia resolutions to support what he called "the colossal heresy" of the nullifiers or to express disapproval of the jurisdiction of the Supreme Court in passing upon the validity of the legislation of the Congress. What he had in mind was a common protest by the States against Federal legislation deemed to be in excess of the power of Congress. As he said in his report on the Virginia resolutions: "The declarations in such cases are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will—possibly, to a change in the opinion of the judiciary—the latter enforces the general will, whilst that will and that opinion continue unchanged." Madison believed that "the nullifying claims if reduced to practice, instead of being the conservative principle of the Constitution, would necessarily, and it may be said obviously, be a deadly poison."

The Constitution as adopted by the Convention did not conform in all respects to Madison's views, still less to those of Hamilton. But both, yielding to a conviction of the paramount necessity of ratification, united in a collaboration of luminous reasoning and persuasive argument which has no parallel in political literature. The papers of the Federalist are an enduring monument to the intellectual power and patriotic zeal of both Hamilton and Madison. Whatever their later differences, in the cause of the ratification of the Constitution they worked as one. And there was need of their best efforts. While Madison observed that "the case in Virginia seems to prove that the body of sober and steady people, even of the lower order, are tired of the vicissitudes, injustices, and follies which have so much characterized public measures, and are impatient for some change which promises stability and repose", the opponents of ratification were formidable. In Virginia the situation was critical. "The general and admiralty courts, with most of the bar", said Madison, "oppose the Constitution. * * * Mr. Henry is the great adversary who will render the event precarious." Madison thus had the opportunity of crowning his service in the Convention by his defense of its work. In the opposition along with Patrick Henry were found such antagonists as Richard Henry Lee, George Mason, James Monroe, and Benjamin Harrison. Madison had the advantage of precise and comprehensive knowledge of his subject.

Beveridge gives us a striking picture of Madison's appearance as he rose to speak: "The Chair recognized a slender, short-statured man of 37, wearing a handsome costume of blue and buff, with doubled straight collar and white ruffles on breast and at wrists. His hair, combed forward to conceal baldness, was powdered and fell behind in the long beribboned queue of fashion. He was so small that he could not be seen by all the Members; and his voice was so weak that only rarely could he be heard throughout the Hall. Such was James Madison as he stood, hat in hand and his notes in his hat, and began the first of those powerful speeches, the strength of which, in spite of poor reporting, has projected itself through more than a hundred years." With the decisive influence of Washington's support, the Constitution was ratified in the Convention by a slender majority. While New Hampshire's ratification had given the requisite nine State votes, failure in Virginia would probably have been followed by failure in New York, with most serious consequences.

Yet, even with that success, Madison's labors for our constitutional system were not ended. There was wide-spread dissatisfaction because of the absence of a bill of rights. Madison had not seen in the Constitution those serious dangers "which alarmed many respectable citizens", but he welcomed the opportunity to demonstrate anew his devotion to individual liberty. Accordingly, in the First Congress under the Constitution, he proposed the amendments which should satisfy "the public mind that their liberties will be perpetual." These had the provisions which are now found in substance in the first 10 amendments to the Constitution. In thus maintaining, as against interference by the Federal Government, the rights of freedom of conscience, of speech, and of the press, of trial by jury, and immunity from unreasonable searches and seizures, in providing the guaranty against deprivation of life, liberty, and property without due process of law, Madison had in mind protection against both legislature and executive, and for the maintenance of these guaranties he relied upon an independent judiciary. "If", said he, in proposing the amendments, "they are incorporated into the Constitution, independent tribunals will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the Declaration of Rights." Thus Madison, who had insisted upon adequate national power operating directly upon the people, and that the new constitutional government must be "founded on the people" through ratification in State conventions chosen in each State, justifying the inspiring words of the Preamble—"We the people of the United States"—evidenced his deepest conviction that the ultimate purpose of the Constitution was to maintain the security and the opportunity of the individual citizen.

Madison had read too widely and had thought too deeply to put his ultimate trust in any form of words, even if they were endowed with the solemnity of a constitution and were formulated and approved with the utmost deliberation. Political wisdom might erect the structure, but the result would depend upon the use that was made of it. Madison had no illusions as to the source of the dangers to the interests he had sought so earnestly to safeguard. Power could always be abused. "Wherever the real power in a government lies", he remarked in a letter to Jefferson in 1788, "there is the danger of oppression. In our governments the real power lies in the majority of the community, and the invasion of private rights is chiefly to be apprehended, not from acts of government contrary to the sense of its constituents, but from acts in which the government is the mere instrument of the major number of the constituents. * * * Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful and interested party than by a powerful and interested prince."

In his preparation of the great Convention, Madison had voiced the perennial complaint of the multiplicity of laws. His comment upon this evil of his own time is not without an amusing aspect in the light of the conditions of our day. Said he, "As far as laws are necessary to mark with precision the duties of those who are to obey them, and to take from those who are to administer them a discretion which might be abused, their number is the price of liberty. As far as laws exceed this limit, they are a nuisance; a nuisance of the most pestilent kind. Try the codes of the several States by this test, and what a luxuriancy of legislation do they present. The short period of independency has filled as many pages as the century which preceded it. Every year, almost every session, adds a new volume!" But it was the injustice of the laws as he found them that gave him the greater anxiety. As he put it, "If the multiplicity and mutability of laws prove a want of wisdom, their injustice betrays a defect still more alarming; more alarming not merely because it is a greater evil in itself, but because it brings more into question the fundamental principle of republican government that the majority who rule in such governments are the safest guardians both of public good and private rights." And "the great desideratum in government" he thought to be "such a modification of the sovereignty as will render it sufficiently neutral between the different interests and factions, to control one part of the society from invading the rights of another, and at the same time sufficiently controlled itself, from setting up an interest adverse to that of the whole society."

The problem of securing a just and efficient government is far more difficult today than when Madison made these observations. It is the irony of the present situation, that in the hour of the apparent triumph of democracy, when the rule of peoples instead of monarchs was thought to have been made secure, there should be the most serious challenge of democratic ideals. The challenge is more fundamental than one to the particular forms of democratic or republican institutions. It is a challenge to the efficiency, wisdom, and justice of popular rule carried on through the instrumentalities of responsible legislators and administrators.

[2] 6 Wheat. 264.

Whether the attack is in the interest of the State conceived as the protector of the social interests of all the people, or it is motivated by class consciousness in a particular interest, there is common ground in denying the capacity of the people to make laws and to execute them through representatives freely chosen without dictatorship. For the delays and ineptitude of parliaments it is sought to substitute the promptitude and vigor of executive power, and self-constituted authorities assume the responsibility of supplying the intelligence which government by the people is said to lack.

The challenge is not simply to the democratic principle with respect to the source of authority in government, but to the ideals of liberty. For the alternative to democratic institutions is found in despotic power, whether or not exercised with benevolent intent. The final questions are the extent to which governmental coercion is to be permitted to proceed and who is to be allowed to exert it. It was the ideal of the fathers that our Government should be representative and responsible; that our institutions should provide unity and stability, with the limitation of national power to appropriate national ends and with the circumscribing of both Federal and State authority in order that a fair freedom of individual opportunity might be preserved.

There is no indication that we desire to abandon this system in favor of any form of autocracy, whether contrived to promote efficiency or to establish class rule. With all the imperfections of our institutions we have not yielded to despair. We desire to foster our collective interests, but we have not yet been persuaded that we should be the gainers in the end, either by subordinating all individual concerns to the wholly uncontrolled will of the majority or by submitting to any sort of dictatorship.

We cannot fail to realize, however, that our governmental system is most complex. It makes extraordinary demands upon intelligent political activity and upon capacity for self-restraint. We cannot save ourselves by worshiping the forms of our institutions if we fail to make them serve our just interests. Success in solving our problems lies in a wise application of Madison's controlling principle of the maintenance of a strong national government, together with the essential authority of the States over their local affairs, and with constant respect for those individual rights which experience and conscience teach us should be inviolable. It was preeminently the political genius of Madison which has given us opportunity, and we shall profit in our use of it to the extent that we emulate his example in making reason, and not emotion, our guide. We need leadership in thought even more than leadership in action. And to James Madison, who gave that leadership when it was needed most, we render our homage.

REMOVAL OF PREFERENCES AND PREJUDICES AGAINST PORTS

Mr. MOORE. Mr. President, I move that the Senate proceed to the immediate consideration of the bill (S. 1633) to amend the Interstate Commerce Act, as amended, and for other purposes.

The VICE PRESIDENT. The clerk will report the bill by title.

Mr. LONG. Mr. President, I object. I want to be heard before we take up the bill.

The VICE PRESIDENT. The Senator from Louisiana has not the floor and has no right to object to the bill being reported. The Senator has his rights and will get them, but merely objecting does not give them to him. The Senator from New Jersey has the floor and has submitted a motion. The clerk will report the bill by title.

The LEGISLATIVE CLERK. A bill (S. 1633) to amend the Interstate Commerce Act as amended, and for other purposes.

The VICE PRESIDENT. The Senator from New Jersey has the floor.

Mr. McNARY, Mr. COPELAND, and Mr. LONG addressed the Chair.

The VICE PRESIDENT. Does the Senator from New Jersey yield; and, if so, to whom?

Mr. MOORE. I should like to state the purpose of the bill before yielding.

Mr. McNARY. I was about to suggest that the Senator from New Jersey make a brief statement of the purpose of the bill before the motion is submitted to the Senate for a vote.

Mr. MOORE. Mr. President, the bill, which was introduced at the request of the Interstate Commerce Commission, proposes to amend paragraph (1) of section 3 of the act, which reads:

> It shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

This section has been a part of the law since 1887, and for more than 40 years the Commission entertained no doubt that the word "locality" as used in the section comprehended a port.

The Supreme Court, however, by a 5-to-4 decision, held that the word "locality" did not mean a port. All that the amendment undertakes to do is to insert the words "port", "gateway", and "transit point", so there will be no question as to their inclusion.

Mr. LONG. Mr. President——

Mr. MOORE. Will the Senator wait? The Senator from Louisiana wants to talk all the time. I desire to complete my statement before being interrupted.

Mr. LONG. I just wanted to ask the Senator to explain one point.

The VICE PRESIDENT. The Senator from New Jersey declines to yield.

Mr. MOORE. If the bill should become a law it would give opportunity for any port or any gateway or any transit point to appeal to the Interstate Commerce Commission when there is discrimination or prejudice against it. It gives the Commission the right to hear the appeal. We believe it is only just and proper that any State, any municipality, or any port should at least have the right to appeal to the Interstate Commerce Commission and have its case heard by the Commission. That is all the amendment would permit.

Mr. LONG. Mr. President——

Mr. MOORE. I yield to the Senator from Louisiana.

Mr. LONG. I thought the Senator had yielded the floor.

Mr. MOORE. No; I have not.

Mr. LONG. I merely want to ask the Senator a question. What the amendment really does is to annul two decisions of the Supreme Court of the United States. As a matter of fact, this is an appeal to Congress from two decisions of the Supreme Court of the United States. That is really what the amendment is, is it not?

Mr. MOORE. No; it would not annul the Supreme Court decision in any sense. It would simply give the right to a gateway or a town or a municipality to appeal to the Interstate Commerce Commission. The Supreme Court held that under the law as it was written a municipality or gateway or town had no right to appeal; that they could be discriminated against; that they could be unjustly treated; but that the law did not permit any port, gateway, or transit point to appeal to the Interstate Commerce Commission and ask for a decision or a determination of the discrimination or prejudices which such a complainant might allege existed.

Mr. BLACK. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Alabama?

Mr. MOORE. I yield.

Mr. BLACK. As I gather from the report some ports claim there has been discrimination against them by the railroads.

Mr. MOORE. That is true.

Mr. BLACK. The Supreme Court opinion, to which the Senator from Louisiana referred, deprives most of the localities in the country of the right which they had under the law to appeal to the Interstate Commerce Commission in order to have presented to the Commission alleged discriminations.

Mr. MOORE. That is correct.

Mr. BLACK. Unless the bill shall pass, ports which do not come within the definition prescribed by the Supreme Court will be deprived of the opportunity of having their cases heard before the Interstate Commerce Commission even though there might be rank discrimination against them.

Mr. MOORE. The Senator has stated it correctly. I might add that representatives of Oregon, Texas, Virginia, Maryland, Pennsylvania, Massachusetts, New Jersey, and New York appeared before the committee in favor of the amendment to the law which is proposed by the bill.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Massachusetts?

Mr. MOORE. I yield.

Mr. WALSH. As I understand the situation, the word "locality" in the original law was construed by the Inter-

state Commerce Commission to include "ports." That was the situation until 1929 when the Supreme Court by a 5-to-4 decision held that the word "locality" does not include the word "port." The object of the bill is to have the word "port" included as well as "locality" for the purpose of permitting the Commission to entertain complaints of undue or unreasonable preference or advantage to any port. It seems to me there can be no reasonable objection to a port, as well as a locality, person, company, corporation, or firm being permitted to make complaint to the Commission under the Interstate Commerce Act when it is unjustly treated by a railroad or other common carrier.

Mr. MOORE. That is a correct statement of the purpose of the bill.

Mr. WALSH. From 1887 to 1929 the Interstate Commerce Commission construed the term "locality" to be broad enough to include "port", and not until this decision of the Supreme Court was it assumed that "locality" did not include any place, including a port.

Mr. MOORE. The point was not raised before the Supreme Court by the attorneys, but was raised by the Court itself.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. MOORE. I yield.

Mr. LEWIS. I take the liberty to state that the subject was before the committee when I was complimented by being a member of the committee. I may say to the able Senator from New Jersey it was assumed that all he is contending for, and all that his bill now contends, had been the intent of the law, that such had always been the object; and it was something of a surprise to have the ports of the Lakes for which I speak excluded upon the theory that a port was not a locality within the meaning of the decision.

It is understood by us that the position taken by the Senator from New Jersey in his explanation is that what the bill proposes was intended to be the law originally, at the time the measure was passed, and all the time it was in effect. I take the liberty of saying that such was the viewpoint of those whom I have the honor in part to represent.

Mr. MOORE. That is correct, sir.

Mr. BORAH. Mr. President——

Mr. MOORE. I yield to the Senator from Idaho.

Mr. BORAH. As I understand this bill, it is not intended to do anything other than to make the statute speak as it was supposed to speak for a number of years.

Mr. MOORE. Yes, sir; that is the intention.

Mr. NORRIS. In other words, Mr. President, it is a bill which will have the effect of reversing a 5-to-4 decision of the Supreme Court. Is not that true?

Mr. MOORE. I should hardly say that. The Supreme Court held that they did not have power to act on this case because, in their estimation, the word "locality" did not include a port. Now it is proposed specifically to include "port", so that on another determination the Court may act. The bill does not provide that the Interstate Commerce Commission must discriminate against any port of the United States, but they can at least hear and determine the matter in the case of any port or city. Take, for instance, Baltimore, which is a port and also a locality.

Mr. NORRIS. What did the other four members of the Supreme Court say in dissenting in the 5-to-4 decision? Did they believe that the word "locality" included the word "port"?

Mr. MOORE. No, sir. I will read a brief extract from the dissenting opinion.

Mr. NORRIS. I do not think we ought hurriedly to reverse the effect of a 5-to-4 decision of the Supreme Court.

Mr. MOORE. We are not doing that, if the Senator please.

Mr. NORRIS. I hope not. I should not want to do such a thing.

Mr. MOORE. Mr. Justice Stone, speaking for the Chief Justice and for Justices Brandeis and Cardozo, said:

> I can find nothing in the purpose or history of the statute which suggests that it means any less than it says. This Court has often declared that the purpose of the all-embracing language of the statute was to suppress every form of unreasonable discrimination which it was within the power of Congress to condemn. It has said that discrimination was the principal thing aimed at, and "the purpose of Congress was to cut up by the roots every form of discrimination, favoritism, and inequality."

That is the point. They cannot cut out by the roots every form of discrimination, every form of prejudice, unless a port at least has the right to come before the Commission and state its case and have it determined. That is the purpose of this bill.

Mr. LONG. Mr. President, I hope the Members of the Senate will not become prejudiced because the Supreme Court has twice decided this case. Once the Supreme Court decided the case unanimously. There was not any ground for anybody to think the law was any such thing as the Senator contends.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Kentucky.

Mr. LOGAN. Is it not true that a good many years ago the Congress enacted a statute using the word "locality", and the Supreme Court held that "locality" did not include a port? There is no question that Congress has a right to amend the law so as to make it include a port, and it has nothing to do with reversing the decision of the Supreme Court.

Mr. LONG. Yes; it has.

Mr. LOGAN. It is accepting the decision of the Supreme Court, and then amending the law so as to include what the Supreme Court said it did not include.

Mr. LONG. No; the Senator does not understand. If he will listen to me a minute he will understand. It is broader than that.

Mr. LOGAN. I do not see how the Senator can contend that it is reversing the Supreme Court.

Mr. LONG. I will tell the Senator all about it if he will listen to me.

Mr. LOGAN. The Court simply held that the word "locality" did not include a port.

Mr. LONG. There was a decision before that. There were several points.

Mr. LOGAN. Is there any decision holding that Congress could not include a port?

Mr. LONG. Yes, sir.

Mr. LOGAN. I have not heard about it.

Mr. LONG. I will inform the Senator in just a moment.

Mr. LOGAN. And I do not believe there is.

Mr. LONG. Well, there is. The Constitution of the United States provides in express terms that the ports of one State shall not be preferred over the ports of another State. That is the Constitution of the United States.

We have been legislating without knowing, in some cases, a great deal about foreign questions. Here is what this case brings up:

A number of years ago the people of North America undertook to get the South American trade. That is one thing. The South American trade was largely being handled by countries like Germany and even Belgium and even England and France. We undertook to get the South American trade. Why were we not getting it? The economies were against North America getting that business. It could not be had through the ports at that time. We were unable to get it.

Here is what this case finally meant: There is the Texas & Pacific Railroad, which has only one port, the port of New Orleans. There is the Louisville & Nashville Railroad, which has only one port, the port of New Orleans. On the other hand, there is the Trinity & Brazos Valley Railroad, which has only one port, Houston-Galveston. Every one of those railroads and every one of those ports for the past 150 years has been protected under the Constitution of the United States through the provision for an equality of ports; so that if the Texas & Pacific Railroad, hauling for foreign commerce—not for domestic commerce—wishes to haul its commerce to its port, that railroad has as much right to take foreign commerce to the only port it serves as the Baltimore & Ohio Railroad has to take its commerce to the only port it serves. Had the law been otherwise, half the railroads of

the United States could not have carried their own freight to a port that they served. Not a railroad in America, beginning east of the Rocky Mountains, would have been able, as an ordinary proposition, to carry its commerce to its own port. If the New York Central went to the port of New York, it would have had to stop short and send by another line to Baltimore. If the Trinity & Brazos Valley went by a short line to Galveston, it would have had to stop and send by another line to Houston. If the Pennsylvania Railroad and the New York Central wanted to come into New York, perhaps they would have been made to send their traffic through such a port as Winnipeg.

So this matter finally reached the Supreme Court of the United States a number of years ago—30 or 40 years ago. The citation is given here. I shall give these citations after a while. In that case one of the regulations of the Interstate Commerce Commission undertook not to afflict a railroad but to afflict every farmer exporting wheat in America; and it did. What the Interstate Commerce Commission undertook to do cost every farmer in America from 1 to 5 cents a bushel. The farmers of Nebraska—and I have the figures to show it—the farmers of Oklahoma—and I have the figures to show it—and the farmers even of Texas itself were penalized from 1 cent to 3 cents to 5 cents per bushel because of the fact that the railroad lines serving those fields were not allowed to carry the commerce even on their own lines into ports lying on those railroads.

What is the necessity for this? The necessity is that there is what is known as a "balancing of cargo." If you take your produce from the wheat fields and the corn fields of the West to the port of Baltimore, or to the port of New Orleans, and dump the load to be exported, and haul the car back empty, somebody is paying twice the normal freight. In other words, if you are made to haul your commerce or your export crop from Kansas to the nearest port 10 miles closer or 40 miles closer, and after it has taken a trip of a thousand miles there is no import commerce to put into that empty box car which went from the interior to the port, that means 2 freight charges for 1 load; and the converse of that is true. If the ship which comes to New York or to Baltimore or to Galveston must come there loaded but go back empty, that means that ocean transportation must bear two costs instead of one.

Therefore Congress is now called upon to wreck more than all the merchant marines in the world could ever rebuild. We are called upon to tear up the only thing which brings any commerce at all to this country. We are called upon today to do more harm, in undertaking to disrupt and destroy the routes and economies of trade channels than all the appropriations Congress can possibly put back together in the next 20 years.

Now, let me give you the explanation.

There are coming from South America large quantities of tropical fruits. Those fruits have to be distributed in America within 24 to 48 hours from the time the ships are docked in the port of New Orleans. If those ships are to return without being practically empty, they must of necessity go to a port where there is an outbound cargo. Therefore, naturally the only port on the whole Gulf coast where tropical fruits like bananas could be brought and hastily and practicably and readily diffused and distributed into the interior of America was the port of New Orleans; and why? Because the fruit could be sent from New Orleans to Omaha, to St. Louis, to Chicago, and to Indiana within 24 to 30 hours' time at the most. That is no. 1.

Second. Further, the tramp steamer bringing that tropical fruit into New Orleans could find an outbound cargo from the port of New Orleans to Spain, or to South America, or to England, or to wherever else it might be destined.

Had there existed the practice now sought to be established, what would have been the result? The result would have been just what happened; they imposed an arbitrary rate, and as a result of that, all the wheat went to Galveston, Tex., because the Interstate Commerce Commission compelled the railroad lines to disrupt their entire haul and divert the traffic from the lines of the Texas & Pacific and the lines of the Missouri Pacific to a port that was entirely off their lines because the total rail distance was slightly shorter to Galveston than it was to New Orleans.

What was the consequence? Galveston did not have the ships, Galveston did not have the market, and the wheat and the corn stayed there and sprouted, and rotted, and the farmers lost millions and millions of dollars because there were no adequate facilities at the particular point, which happened to be a few miles nearer the interior, to the place of origination. As a result, millions of dollars were lost by the farmers being compelled to divert their crops to Galveston, Tex. They would have been penalized if they had sent the crops to a port where there were facilities for export, and where there were facilities for storing and for handling the crops.

Mr. President, a railroad line cannot be divided. We went into the West and we went into the South and railroads were built, so that the coal lines might take the coal from their fields and take it to a port, so that the grain fields might be served by railroads, and those fields needed a port. But now comes this new line of logic.

A railroad cannot take grain from the grain fields of Kansas into the port of Baltimore. A railroad cannot take grain into Port Arthur, Tex., it cannot take it into New Orleans, La., because Lake Charles, La., is 40 miles nearer the field, and therefore you have to dump it all when you get to Shreveport, La., or Texarkana, Ark.-Tex.; you have to unload it all, because the railroads are not to be allowed to equalize their rates, something that has been done under the Constitution of this country, and something that was upheld in the Supreme Court since this country was first created.

Mr. CLARK. Mr. President——

The PRESIDING OFFICER (Mr. BYRD in the chair). Does the Senator from Louisiana yield to the Senator from Missouri?

Mr. LONG. I yield.

Mr. CLARK. If I understand the Senator's argument, it amounts to this, that under the practice sought to be established by the bill, no consideration whatever is to be given to the advantages of export from one port as against another.

Mr. LONG. That is correct.

Mr. CLARK. In other words, whether a man wishes to or not, he has to send his products to the port which happens to be geographically nearer to him?

Mr. LONG. Yes.

Mr. CLARK. Irrespective of the fact that at another port there may be an outlet to foreign countries not to be found at the port to which he is compelled to send?

Mr. LONG. Yes. Not only that, but every dollar spent for waterways is thrown into the ash can, and not another dollar should be appropriated. Cancel the appropriation for dredging the Mississippi, because that is out; that is through, on the enactment of this measure, because Lake Charles—which we built; which is my own State—Lake Charles will have all the business which ought to go to Galveston and New Orleans, which are equipped to take care of it; Lake Charles will get it because it is a few miles nearer.

There is the port of Baltimore, but some small place will be a little nearer than Baltimore, and it will be preferred. They will get a spirit level and a compass, and they will go a hundred miles on the Pennsylvania, and 40 miles on the I. & G. N., and 10 miles on another railroad, and there will be a difference of a hundred miles, and then all the traffic will have to be dumped in a load, and all the ports which have been built up, and all the railroads which have been built up, and all the business which has been developed for a hundred years will have to be torn limb from limb.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BORAH. Do I understand it to be the Senator's contention that if this bill shall be enacted it will take the discretion away from the Interstate Commerce Commission to examine into the questions which the Senator is discussing?

Mr. LONG. No; it gives them power, and I will tell the Senator what the power is. They have a mileage scale of rates for import and export and interstate commerce. I

mean, if the Senator will permit me, that the Interstate Commerce Commission prescribes a mileage scale of rates, and the rate is highest to the point farthest away. That is what has been prescribed for import and export commerce, and that means that if a carload of cattle headed for South America is shipped over a railroad which goes to New Orleans, where there is a steamer waiting for it, if it is 50 miles or 100 miles nearer to another port, the shipment must be diverted from that railroad's own line to the port that is nearest to the interior.

Mr. BORAH. Notwithstanding the fact that there are no facilities there?

Mr. LONG. Yes. The corn and the wheat sprouted in Galveston, Tex., and the farmers lost every dollar they had in them, and notwithstanding that, if it had not been for the United States Supreme Court, that practice would have stood until today.

Let me cite an illustration to show what was done. The Federal Government came to New Orleans and got the people there to spend $41,000,000 on the port, and the railroads came there and they wanted to get South America's business. They said that it needed a Latin city to get the Latin business, so Latin New Orleans was sent out to get the business of Latin South America, and they got it.

There were more imports into New Orleans than there were exports from that port, and there was a balanced tonnage. A ship would load in Belgium and come to New Orleans with a cargo because they knew there would be outbound tonnage, and they knew there would be facilities there for handling their business.

The Interstate Commerce Commission said, "You cannot take that cargo to that port and have a return cargo, because we have ordered the return traffic to come from Morgan City, La., because it is a little bit nearer."

I have used that as an illustration. As a result, there can be no such thing as a waterway in the United States, and the opinion of the Interstate Commerce Commission in effect said that, irrespective of the fact that Congress had appropriated hundreds and thousands of millions of dollars to build up the waterways, none the less traffic has to be taken right out of the bed of the Mississippi River and sent over to a port that happens to be a little nearer to the river port than the particular place sought to be used.

Taken to its logical conclusion, it means that if the river, flowing around in a serpentine course, is a hundred miles farther at one point from its own port, a port which the river serves, then the distance necessary to be traveled in order to reach the Gulf coast or the Atlantic coast by a more direct rail route, you have to take the tonnage out of the boat that is on the river and load into railroad cars and send it to the nearest port. That is what it means. If this proposal is to be adopted, we have spent a lot of money here quite uselessly, we have absolutely thrown it away; billions of dollars of the people's money will be thrown away if this kind of thing is to be done.

Let me show what it means. I do not take the position that because a railroad is a railroad it should be torn up. There are railroads in favor of this practice, and there are railroads that are against it. I do not take the position that just because a railroad has a line it will improve conditions to blow it up. There is a line of thought in the United States to the effect that if you can find that anything does a railroad any good you ought to try to blow it up. There are some who feel that if you can take a canthook and a little dynamite and blow up a railroad, that is good business. I do not see any difference between legislative destruction of railroads and court destruction and anarchistic destruction of property. One is the same as the other to me.

Let me show what this means. I am sorry I have not a map. I have used illustrations from my part of the country because they explain what happens elsewhere.

Let us suppose that a railroad goes from St. Louis through Pittsburgh and through Philadelphia to New York. Under this bill that railroad cannot haul its goods through Pittsburgh by rail, it cannot haul its goods through Philadelphia by rail, it cannot haul its goods to the city of New York by rail. Why? Because there is nothing whatever to keep a tramp steamer from going to Philadelphia, and Philadelphia is 80 miles nearer inland than is New York City, and therefore, since the Interstate Commerce Commission cannot control the tramp steamer rate from Philadelphia to Liverpool, or from Philadelphia to Buenos Aires, none the less it does control the rate from St. Louis to Philadelphia, and St. Louis to New York, and it is cheaper to Philadelphia, and New York must be blown up as a port, and hundreds of millions of dollars which have been spent in this country are to be wiped out on the theory of the distance from points of inland shipment to ports.

Now, let me give another illustration. The only thing to do is to tear up the New York Central line from Philadelphia to New York, tear up the New York Central line from Albany to New York, tear it up because they will not be allowed to haul a pound of freight for export commerce under the pending bill. That is what the Supreme Court sought to prevent.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

Mr. BLACK. The report states—I am not sufficiently familiar with its history to know the facts in the case—that for many years the law was exactly as it is said to be now.

Mr. LONG. That is not true, Mr. President.

Mr. BLACK. The Senator denies it is a fact that up to the time the Supreme Court rendered its opinion the present status was held to be the law?

Mr. LONG. Yes; I do.

Mr. BLACK. I will get those opinions.

Mr. LONG. The Senator can get those opinions. It was not so held. I am the man who brought this suit, I will state for the Senator's information. I know something about the case. I myself brought the lawsuit as the head of the department of the State of Louisiana which had jurisdiction over port matters. The first suit had been brought by the Texas & Pacific Railway. I had the last suit brought. I knew it was not the law, and it never had been the law, and the Commission never had imposed any such law on us. Perhaps they had enforced such a law against some other port, but when they imposed it on Louisiana we carried the question to the Supreme Court again, and it was held there not to be the law, and is not the law. I understand that a few other little ports were made to feel the effect of the law and two or three were put out of business. However, that is not the point. That does not change what I am saying. I desire to proceed.

Mr. President, I desire to say to my friend from Nebraska [Mr. NORRIS], and my friend from Utah [Mr. KING], and my friend from Alabama [Mr. BLACK], and others, that everything the Supreme Court does is not prima facie bad. If it had not been for the Supreme Court we would not have had a union of states. I know there is sentiment in this body that if the Supreme Court has decided a thing one way that is a mighty good reason to try to make the law the other way. If that be true, let us abolish the Court by constitutional processes. However, I wish to say that everything the Supreme Court does is not bad.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. NORRIS. Any intimation by the Senator that I believe in anything of that kind has no foundation.

Mr. LONG. I do not mean that, and I hope the Senator does not think I do. I am getting down to 5-to-4 decisions. Everything the Supreme Court does is not bad, even though it is done by a 5-to-4 decision. I was in the Senate and cast the deciding vote on the holding-company bill the other day. If my vote had gone the other way the "death sentence" would have been out of the bill. There are many people inside and outside the Senate who certainly do not think that any good can come out of the vote which I cast, but nonetheless my vote was the deciding vote on whether the bill went out of here with life in it or not.

I know that there is a prejudice here against 5-to-4 decisions; but if it had not been for this particular decision going against what had been the law it would have been a

9-to-0 decision. The decision was not 5 to 4 the first time the case came up. It was not decided on the ground of any congressional statute. It was decided on fundamental grounds that a man's property could not be taken without due process of law, and that one port of a State could not be deprived of the equality which it had a right to assert against the port of another State. That always has been the Constitution and always should be the law.

There is now an undertaking to legislate that out of the law. Endeavor has been made to legislate it out of the law probably on many other occasions, but what would be the consequence? Here is the Texas & Pacific Railroad. There is no passenger business on that railroad because we have paved highways paralleling the Texas & Pacific Railroad from Dallas and Fort Worth, Tex., to New Orleans, La. We have good roads there—better roads than in many other States in which I have been. I have ridden over the roads in Pennsylvania and Maryland. They are good highways. However, I wish to tell the Senate that the roads I have just spoken of, paralleling the Texas & Pacific, are better than the roads over which Senators are accustomed to travel, even in the Eastern States. They are wide, paved boulevards. They are straight; they do not go through populous centers; and therefore there is no such thing as a passenger business on the railroad lines which they parallel. Therefore the Texas & Pacific Railroad, leaving the wheat fields, leaving the cotton fields, leaving the corn fields of the West, when it arrives at Dallas and Fort Worth, Tex., strikes what is known as the "T. & B. V. Railroad", which serves the port of Galveston-Houston, which is only 200 miles away from another port, and it is 350 to 400 miles away from the port of New Orleans. Therefore the Texas & Pacific has to unload its traffic, and that railroad line which the Texas & Pacific has from Fort Worth into New Orleans is absolutely worthless for any purpose whatever.

I hope the Senator from Nebraska [Mr. NORRIS] appreciates the point I am making. The point I desire to make and which I desire to explain—and this is positively the law—is that if this bill were enacted into law and the law were held to be constitutional the Texas & Pacific Railroad, for the construction of which an immense amount of land was given by the Government so that the West might be served through the Mississippi Valley port of New Orleans would be absolutely worthless so far as one section of the line is concerned. There would not be anything to haul on its tracks from Fort Worth to New Orleans. Why? Because under this bill the Texas & Pacific would be obliged to dump its own traffic into the lap of the Texas & Brazos Valley, because it is 100 miles nearer to the port of Galveston than it is to New Orleans.

The Interstate Commerce Commission had previously issued such an order, and what happened? The wheat from Nebraska and the wheat from New Mexico and Arizona and Oklahoma, and the wheat from Kansas lay right there in Galveston until it sprouted. Galveston did not have any facilities for putting it into the bins. It did not have any inbound cargo bringing tramp steamers there to haul the wheat out. Why? Because there was no one sending bananas to Galveston, because it took 60 hours to distribute the carload of bananas from Galveston into the interior, whereas it only required 24 hours to distribute bananas from New Orleans into the interior. Therefore, there were no banks, there was no market, there were no storage facilities, there was nothing to take care of the traffic coming into Galveston, and there was nothing to take care of the traffic coming through Galveston. So what happened? The ships came there empty to get cargoes to take out, and the cost of transporting wheat from Galveston to foreign countries was two times as much as from New Orleans, because they could bring a loaded ship into New Orleans and take a loaded ship out. Therefore, the railroad charges into Galveston had to be correspondingly higher, which had to be absorbed by someone, because the box car that went from Omaha to New Orleans went back from New Orleans to Omaha loaded, but the box car that went from Omaha to Galveston loaded went back from Galveston to Omaha empty, because there was no tonnage in Galveston to fill the car that went from the interior to Galveston. Who paid the rate? The farmer paid it. He had to pay it, and he lost the amount represented by the difference in the rate in the amount which he received in the market for his commodities.

Who else paid the rate? The Commission by their ruling disrupted a large percentage of the commerce between South America and North America, due to the fact that they destroyed the business contracts, they destroyed the use of the ports, they destroyed the use of the waterways, they destroyed the use of mercantile contacts and developments and intercourse, and they destroyed the use of the facilities of the tramp steamer which came in loaded and went out loaded.

They destroyed the use of the box car, which went there loaded and came back loaded. They destroyed a large percentage of the commerce. The Interstate Commerce Commission itself had to whittle around with the thing, backing up on it, and never dared to put it into complete effect until finally, after they had messed around and destroyed so much of the business, they concluded to see if they could not destroy the balance of it, and that is when we had to go to the United States Supreme Court the second time, and the Supreme Court of the United States annulled the order of the Interstate Commerce Commission.

Some of my friends may feel different about that question than I do. I cannot conceive any interior merchant who for a moment would stand idly be if he understood what this issue meant. Let us say, for example, Mr. President, that the port of New Orleans was importing about 110 percent of its exports; let us assume that exports out of New Orleans were 100 tons, just to fix the basis, and that there were being imported into New Orleans 110 tons or 115 tons. I believe there is a greater disparity than that. Then, taking the exports out of Galveston at 100, let us assume that there were being imported into Galveston about 25 tons. I do not think the percentage of imports is so great. In other words, Galveston brought in a loaded boat every time it sent out about five boat loads of goods from the interior down there, but New Orleans was bringing in, excepting the river traffic, what was just about as much as it was exporting. Therefore there was a use for the Mississippi River, there was a use for the rails coming into New Orleans, and there was a use for the tramp steamer.

Do not forget, Mr. President, who is behind this bill from the standpoint of the interest of the steamship companies. I hope Senators will hear me, because so many of us have had no occasion to learn anything about this matter.

The steamship interest is in favor of this bill. It is the large controlling factor for this cause.

The little tramp steamer makes the rates. The greatest rate-reducing agency for commerce as it affects the farm sections is the tramp steamer. If I may be permitted to do so, I hope my friends will hear me tell them what a tramp steamer is. The tramp steamer may be found at almost every ocean port. It may be found at Liverpool; it may be found at Shanghai, China; it may be found in Buenos Aires; it may be anywhere. A tramp steamship, wherever it may be, is always looking for something to carry somewhere. It goes to the place where it can find a cargo to transport to a port where it can find a return cargo. A tramp steamship usually has no connections whatever except with the boss who is in charge of it. The only man who has anything to do with a tramp steamer is the man who owns it, and he is generally the captain of the ship. He runs the business; he carries the freight to whatever point he may be hired to haul it, and he tries to get a cargo to bring back. A tramp, therefore, is the ship which will carry the load at whatever it can carry it at a profit, and it keeps the rates down on the large lines regularly traveling between one port and another. It prevents them from establishing a monopoly, because, whenever we find a man with a cargo to send, he goes out and hunts for a tramp steamer and the tramp takes it to the place he wants to send it. That keeps foreign-commerce rates down. In other words, if we did not have the tramp steamer there would be nothing to keep the big liners from

charging anything they wanted to charge for carrying commodities between Liverpool and New York or between New Orleans and Madrid.

The tramp steamer must go to a port where it can find a cargo. The tramp steamer must be given a haul to a place where it is going to find something to haul away from there; otherwise it has got to charge double rates. Therefore a tramp steamer from Liverpool can take a cargo at a cheap rate to New Orleans; it can take a cargo at a cheap rate to New York; it can take a cargo at a cheap rate at those places because there is abundant traffic, and the tramp can get something to haul back. But a tramp steamer cannot take a cargo to Galveston, Tex., because 90 percent of the time there a return cargo cannot be found at Galveston, Tex., because there are no facilities for ordinary commodities there and consequently there is no distribution. They have no banking; they have no contacts by which the general run of commodities can be handled. Therefore the tramp steamer becomes an unimportant factor in the handling of transportation under this kind of proposed law proposing that no port may even be patronized by its own rail lines.

So, Mr. President, at this time I ask the Members of the Senate to consider more carefully before undertaking to take up a bill of this consequence in the closing, hurried, hurly-burly days of this session of Congress. I ask the Members of the Senate not to dump into the laps of an already tired and overworked body this complicated kind of measure, by the passage of which more harm may be done to our commerce than all our water expenditures can do good. Certainly, in view of our appropriations for rivers and harbors and other waterways, we ought not to enact a bill which will make useless everything we have spent.

As an example, the water routes are naturally longer than are rail routes. It is farther to go by water from Pittsburgh to New Orleans than it is to go by rail from Pittsburgh to New Orleans. Therefore, under the mileage system, the water route is killed; there can be no route. Why? Because, after figuring it out according to mathematics, it is a discrimination to allow the goods to float down the Mississippi River into the port of New Orleans if the mileage rate is prescribed; and it is and will be prescribed. Everything must go according to the mileage basis; and I challenge anyone to tell me how we will ever be able to transport by water routes where the distance is several hundred miles greater by water to one port when there is compulsion to go by rail to another port without practically destroying every dollar of money that has been spent by the Congress to establish inland waterways. I have never yet seen a man arise and undertake to explain how the Congress can consistently appropriate hundreds of millions of dollars, knowing that the routes to reach the ports served by the inland waterways are necessarily going to be longer, and at the same time compel a rate on a mileage basis whereby one port is given a discrimination, though it is a hundred miles farther away than another port that could be served from the locality from which the cargo is to be sent.

That is the case before the Senate today. There is not any explanation for that kind of monstrosity. What is the pretended explanation? It is that there is some little port over here somewhere that claims it is closer than another port, and therefore, being closer, it is entitled to a better rate.

I will give a little example of that. Jersey City says that it is closer than New York, and therefore Jersey City ought to have an advantage over New York.

Mr. MOORE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. POPE in the chair). Does the Senator from Louisiana yield to the Senator from New Jersey?

Mr. LONG. I yield.

Mr. MOORE. The statement the Senator has just made is not correct.

Mr. LONG. I will ask the Senator in what respect it is not correct.

Mr. MOORE. I will refer to it in my own time.

Mr. LONG. It is just as I have said, as my friend from New Jersey will realize, I think, if he will listen. Jersey City, Mr. President, gets a rate, we will say, that is, maybe, a little higher than the New York rate. It ought to be higher than the New York rate. Why? Because New York has probably developed facilities for 150 years which Jersey City does not have. It is only natural that Jersey City shall hug up to New York, and as time goes, it will probably become a part of New York. But let me use another case so that my friend will not be offended, perhaps, at the comparison; and so I will leave out Jersey City and use a city in my State.

Lake Charles, La., we will say, says it ought to have a better rate than New Orleans. Why? Because by the Kansas City Southern Railroad from Texarkana, Ark.-Tex., it is a hundred miles closer to the port of Lake Charles, La., than it is to the port of New Orleans, La. So, therefore, just as in the case of Jersey City against New York City, Lake Charles says, "It has never done so as yet, but it will under a bill of this kind if it shall become a law—we want a better rate than New Orleans." Why? "We are entitled to it under the Interstate Commerce Commission ruling."

There is the L. & A. Railroad which goes from Texarkana, or near Texarkana, to New Orleans through Shreveport. There is the Texas & Pacific Railroad which goes to New Orleans through Shreveport; there is the Missouri Pacific Railroad which goes to New Orleans through Shreveport. All those railroads are important railroads. They do not go to Lake Charles, and those three railroads that go through to New Orleans when they reach Texarkana or Shreveport will have to dump their cargoes and let them go down the K. C. S. Railroad to Lake Charles, La., because Lake Charles is 106 miles nearer to water from Shreveport, La., than is New Orleans to Shreveport, La. In other words, if this is to be the law, we will have to blow up about 45 to 60 percent of the railroad lines in the United States, because, gentlemen of the Senate, if we bar railroads from foreign commerce, the day we say that the Texas Pacific cannot haul freight for foreign commerce, that the Missouri Pacific Line cannot haul freight for foreign commerce, and the L. & A. Railroad cannot haul freight for foreign commerce—and that is what would be done under the ruling that has been made by the Interstate Commerce Commission—whenever we say that those railroad lines cannot haul anything that is to be exported, then we the same as say that the railroads have got to be discontinued.

That is what the passage of this bill would mean. My illustrious friend from New Jersey is very new on this question, and it is the new men on this question we have all our trouble with. We do not have any trouble with anybody who has studied the question through the years; we have all our trouble with the new angles that are projected into this body. All of our troubles come from those who think that commerce can be built up overnight. Those who have studied this case for years have a different idea. Take, for instance, my friend from Alabama [Mr. BLACK], who was very much interested a few moments ago.

I know of a case in Alabama. There is in the State of Louisiana the railroad which I have been telling about, the Louisiana & Arkansas Railroad, that connected at Natchez, Miss., with what is known as the "Mississippi Central", which goes into the port of Mobile through railroads known as the "Gulf, Mobile & Northern" and the "Mobile & Ohio." Time after time has wheat gone all the way from Texas through Shreveport, through Natchez, into the port of Mobile when, under the bill for which the Senator from Alabama is contending, it would have had to go to Lake Charles, La. The port of Mobile would be dried up like a powder horn. There would not be any freight coming there at all. I could carry more freight in my shirt tail than the port of Mobile would get if this bill should become law. Remember what I am saying. Anybody who will take a map and look at it will find that the only export commerce the port of Mobile will ever be able to get will be what is raised below New Albany, Miss., on down the Mobile & Ohio, and not much of that. That is what they will get. They will get practically nothing.

As it is, the wheat farmer, the corn farmer, the cotton farmer of the West and the South can take his choice of any port through which he wants to ship. If his friend from South America has a tramp steamer coming to Mobile, he

can send his goods to Mobile, and the ship which comes there loaded will go out loaded and, therefore, can haul his goods cheaper in foreign commerce. On the contrary, if that man has to send his goods to Lake Charles, La., he probably knows no forwarding agent in Lake Charles; he does not know any banker in Lake Charles, and there is not a single wheat bin in Lake Charles to take the wheat if he ever got it there. It would have to lie there and sprout as it did at Galveston and as it did at Lake Charles at other times.

The final wind-up of the whole matter would be that the commerce would have to be scattered to many ports. There would not be one really big port. We would not have such a port as the port of New Orleans with its immense facilities. We would have a port very often where they could get a boat a mile nearer inland than a real port like New Orleans. We would have no such thing as a respectable port, and it would mean destroying, disrupting, and wrecking interstate and foreign commerce which has been coordinated and made a factor of the business of this country.

I want to hear my friend from New Jersey explain that point. He said that in his own time he would answer these points. My friend from Alabama [Mr. BLACK], I understood, said this was considered the law in some cases, but it was not the law down our way.

Mr. BLACK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Alabama?

Mr. LONG. I yield.

Mr. BLACK. The question I asked the Senator was whether or not the statement I am about to quote was true, and I understood him to say it was not. I refer to the following statement which appears in the report accompanying the bill:

> Until 1929 no doubt was ever entertained that the word "locality" was broad enough to include any place, including a port, and the Commission heard and decided many cases involving ports under that language.

I simply asked the Senator if that statement was correct, and I understood him to say it was not.

Mr. LONG. No; that statement is not exactly correct. The power of the Interstate Commerce Commission, whether it was on the ground of being a port or under the Constitution, was nevertheless questioned, and the point was upheld in the Galveston case.

Mr. BLACK. Does the Senator mean the 1933 decision?

Mr. LONG. Oh no; many years before that. It was in the case of Texas Pacific Railroad against Interstate Commerce Commission, at least 30 years ago, I should say. I know that is the decision I have in mind. I did not know the matter was coming up this morning or I should have had the decision with me. We had a case there many years ago. I do not believe it went up on the question of "port" being a locality. I think it was on the broader constitutional question, and if the bill should be passed we would still have the Constitution to hurdle before at least five of the judges of the Supreme Court who, I believe, would uphold what they once decided.

Mr. BLACK. The point I had in mind was that the Interstate Commerce Commission, according to my information then—and I have verified it since—had for years exercised this authority of regulation without question.

Mr. LONG. No; that is not correct. There was a case decided about 30 years ago—Texas Pacific Railroad against Interstate Commerce Commission. I have sent for that decision and will read it to the Senator.

Mr. BLACK. Do I understand the Senator is of the opinion—and I am not talking about the merits of the bill—that the Interstate Commerce Commission did not for years in a number of cases act on this law as though the particular amendment now proposed had been in effect?

Mr. LONG. They may have done so with respect to some localities, but not in our section of the country. On the other hand, they rendered a decision against the Texas Pacific Railroad, which was taken to the Supreme Court and reversed. From that time on for a number of years we never heard of it, and then came along another case in which the Commission rendered a 50-50 decision, and before we could get that up to the Supreme Court they came along with the last decision, and we brought that to the Supreme Court and knocked it all out.

Mr. BLACK. I was not talking about the merits of any particular decision. I was talking about the fact that they had accepted it and acted under it and had decided a large number of cases coming from various sections of the country.

Mr. LONG. They may have done so as applied to some localities, but not the southern part of the United States. There was a reason why they would have been hesitant about applying such a decision to the South. They ran into the internal waterway system of the country. That had to come. There has to come this fight with the internal waterway system. The Ohio River from Pittsburgh flows into the Mississippi River, and the Missouri River will some day go from beyond Kansas City down into St. Louis and again down the Mississippi River. There has to be some time when this fight has to be met. Apparently the Interstate Commerce Commission went into some of these territories where the internal-waterway question was not involved, and there never was much contest made about it and rendered some decisions probably that were not of such far-reaching consequence as the one they rendered against us.

But the internal-waterway problem has to be met. It has to be dealt with. There is a time coming when it will have to be met and disposed of. If we have the Missouri River from Kansas City, what is the result? Under the amendment to the act proposed by the bill we could not haul wheat from Kansas City by the Missouri River route into the Mississippi port of New Orleans. Notwithstanding the fact that the Missouri River runs into the Mississippi and the Mississippi runs to New Orleans, we could not haul wheat to New Orleans. Why? Because that same traffic could be hauled some hundreds of miles shorter into another port, and therefore the river never would be worth anything except to flood the people. That is all it will be worth.

The same thing is true as to other routes. We are trying to make the Red River navigable, but we will not be able to haul freight throughout the entire distance of the Red River because there is a point where we would reach the railroad line that is 150 miles closer to the Gulf than where the Red River touches the Gulf, and therefore that river becomes good for nothing except to flood the people of Texas and Louisiana as it has been doing for a number of years. That is what the whole thing means.

I hope my distinguished and learned and patriotic friend from the little nook of New Jersey, a sacred and beloved part of this land, will think about a little bit wider space and the wider consequences which may be involved. Hardly any of us can see beyond the borders of our own State in many cases, but I know our friend from New Jersey is a broader-minded man than that. I wish he would think about this matter in a broader aspect. As a matter of fact, I was going to meet with the committee more than I did. I went there one morning. I was unable to get to the subcommittee, and the first thing I knew the bill was reported out without a number of the members of the committee ever understanding the facts of the case. The record in this case is as thick as from where my hand is to the floor on which I stand with exhibits showing the effect of this kind of regulation and legislation.

Mr. LEWIS. Mr. President——

Mr. LONG. I yield to my friend from Illinois.

Mr. LEWIS. I wish to interrogate the Senator from Louisiana, in order to reach his conclusion, and, in doing so, with this query, to reveal my position.

I may say to the Senator that the State of Illinois has spent many millions for a waterway down through the State to the sea. It is the purpose of the West, I trust, through the city of Chicago, to ship its products by the waterway from the edge of the Lakes to the sea or the Gulf, and thus to transport them to South and Central America. It is my con-

tention that unless a provision such as that presented by the Senator from New Jersey [Mr. MOORE] in behalf of his committee shall prevail, the waterway cut through the State of Illinois, with its first port on the lake at the city of Chicago, will be perfectly useless, for the reason that though we had a port at the lake on a waterway passing through the river on to the Gulf, under the law as it now stands and under the decisions, New Orleans and Galveston, by virtue of having been previously constituted ports, will be treated as localities or as ports to the exclusion of the new port which we hope to establish at Chicago for the purpose of conveying the grain of the West and the shipments of the West on through the waterway to the Gulf and out to the sea, and on the sea to South America.

I ask my friend does he not realize that unless such a change should be made as suggested by the bill of the Senator from New Jersey, the new port of Chicago would be placed at a disadvantage and would be discriminated against, under the present law, completely to its destruction by Galveston and New Orleans?

Mr. LONG. That goes to show how complicated and dangerous this question is, for if the brilliant and talented mind of my friend from Illinois falls into that error, all of us can be expected to err. On the contrary, this particular bill would dry up the port of Chicago like a powderhorn. You would be fenced in from Milwaukee on the west and St. Louis would catch you on the south. You would never breathe the first breath of life. I can take my friend to his desk and lay out the maps and show the situation to him. I know the port of Chicago from the standpoint of the traffic on the Mississippi waterway and up through the valley of the Mississippi River; and, in connection with this case, every railroad out of Chicago, including the Illinois Central, said it meant destruction to their business if this thing went in. Go and ask the Illinois Central Railroad, and see if they do not tell you the same thing—that it would absolutely destroy the business of the Mississippi gateways, both of them. I know what I am talking about, and I can show my friend the condition.

Take, for instance, the West. Milwaukee will be shortly more inland to some of that western territory. St. Louis will hedge you in on another part of your territory. You will find that Chicago never will get its first chance to breathe, whereas, left alone, with the development of the Mississippi Valley and the Mississippi waterway, Chicago bids fair to be the biggest inland port in the world. The worst thing that could possibly happen is for Chicago to get itself tangled up with this particular kind of legislation which is going to fence it in with local boundary limits, so that if it is a little bit farther to get to Chicago with traffic, it makes no difference that the Mississippi River and the Chicago River have been joined up—no; nothing counts. It is a mere matter of the spirit level and the compass pointing out which, from each particular point, is the shortest route to water, and Chicago would be wrecked like all the rest of us.

Let me show you what they did with us. The people of this country and the United States Government representatives themselves came down there, and they had the State of Louisiana appropriate, not Federal money; we were not building it all with Federal money as we are now. We were not in those glorious days when we just put up something and the bill to Uncle Sam. They came down there long years before my time, and they got our people to invest $41,000,000 in a publicly owned port. They said, "The United States Government wants to get the business of Central and South America and other parts of the world, and New Orleans is the only practicable port, and we want a publicly owned port. Philadelphia is privately owned; Houston is privately owned; Galveston is privately owned; Mobile is privately owned; Savannah is privately owned; Baltimore is privately owned. They are all privately owned ports"; but they had us put up $41,000,000 in the State of Louisiana, and today we have built a port down there which is entirely owned by the people of the United States, through the State of Louisiana.

After we have spent our $41,000,000, and we have developed a commerce and we have developed a trade, it is a balanced traffic. A ship comes in loaded. The freight takes the steamboat. It goes to Chicago, it goes to Pittsburgh, it heads to St. Louis, it heads toward Kansas City. You come in there and you say, "Oh, no; we find out that this magnificent port, costing $41,000,000, is worthless." What are you going to do with these great big bins through which we accommodated trainloads and shiploads of wheat? What are you going to do with all these facilities and houses that we erected there to care for cotton and for corn? It is all worthless. You cannot come here with it, because we find that at a certain point your traffic can be diverted either from the water or from the rail lines, and we can always find a port that is a little bit nearer water than coming into your port. Therefore, there we are with $41,000,000 spent for facilities that have developed the port business of the whole world, that have developed the commerce of the United States; there we are with our banks, there we are with our bins, there we are with our ships, and because of the little geographical situation, nothing counts for anything. That is what we are getting into here.

Mr. KING. Mr. President——

Mr. LONG. I yield to the Senator from Utah.

Mr. KING. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MINTON in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Overton
Ashurst	Coolidge	La Follette	Pittman
Bachman	Copeland	Lewis	Pope
Bankhead	Dickinson	Logan	Radcliffe
Barbour	Dieterich	Lonergan	Reynolds
Barkley	Donahey	Long	Robinson
Bilbo	Duffy	McAdoo	Schall
Black	Fletcher	McCarran	Schwellenbach
Bone	George	McGill	Sheppard
Borah	Gerry	McKellar	Shipstead
Brown	Gibson	McNary	Smith
Bulkley	Glass	Maloney	Steiwer
Bulow	Gore	Metcalf	Thomas, Okla.
Burke	Guffey	Minton	Townsend
Byrd	Hale	Moore	Trammell
Byrnes	Harrison	Murphy	Truman
Capper	Hatch	Murray	Tydings
Caraway	Hayden	Neely	Wagner
Carey	Holt	Norbeck	Walsh
Chavez	Johnson	Norris	Wheeler
Clark	Keyes	O'Mahoney	White

The PRESIDING OFFICER. Eighty-four Senators having answered to their names, there is a quorum present.

Mr. LONG. Mr. President, I have before me the decision of the Supreme Court of the United States in the case of Texas & Pacific Railway Co. against Interstate Commerce Commission, decided in 1896. I said it was decided 30 or 40 years ago. On reflection, I came to the conclusion that evidently it could not have been that long ago, but I find that the decision was rendered in 1896. For 40 years this has been the law. I desire to read from the decision. The Court divided 7 to 2. I said the decision was unanimous, and I beg the pardon of the Senate for that error. The decision was by 7 to 2. It was rendered in 1896, as I have stated, Mr. Justice Shiras writing the opinion.

I first read from the statement of the case:

> This was an appeal from a decree of the United States Circuit Court of Appeals of the Second Circuit. * * *
>
> The original bill of complaint was brought by the Interstate Commerce Commission, created by virtue of an act of Congress, entitled "an act to regulate commerce", * * * against the Texas & Pacific Railway Co., a corporation chartered and existing under the laws of the United States, having its principal office at New York City.
>
> The object of the bill was to compel the defendant company to obey an order of the Interstate Commerce Commission, made on January 29, 1891, whereby the said defendant was ordered to "forthwith cease and desist from carrying any article of imported traffic shipped from any foreign port through any port of entry of the United States, or any port of entry in a foreign country adjacent to the United States, upon through bills of lading destined to any place within the United States, at any other than upon the inland tariff covering other freight from such port of entry to such place of destination."

In other words, this case involved an order of the Interstate Commerce Commission which prohibited any railroad from transporting any foreign commerce at other than the scale of rates for domestic commerce.

Now I read the language of the Court on the main point in the case:

We come now to the main question of the case and that is whether the Commission erred in making the order of January 29, 1891, in not taking into consideration the ocean competition as constituting a dissimilar condition, and in holding that no circumstances and conditions which exist beyond the seaboard of the United States could be legitimately regarded by them for the purpose of justifying the difference between imports and domestic traffic.

The answer of the Texas & Pacific Railway Co. to the petition of the New York Board of Trade and Transportation before the Interstate Commerce Commission, and the answer of said company to the petition of the Commission filed in the circuit court, alleged that rates for transportation of commodities from Liverpool and London, England, to San Francisco, Calif., are in effect fixed and controlled by the competition of sailing vessels for the entire distance;

And that is so today.

by steamships and sailing vessels in connection with railroads across the Isthmus of Panama; by steamships and sailing vessels from Europe to New Orleans, connecting these under through arrangements with the Southern Pacific Co. to San Francisco.

That, unless the defendant company charges substantially the rates specified in its answer, it would be prevented, by reason of competition aforesaid, from engaging in the carrying and transportation of property and import traffic from Liverpool and London to San Francisco, and would lose the revenue derived by it therefrom.

In other words, if they were compelled, they said, to charge this scale of rates, they would not get any of the business; and they would not get any of the business under the pending bill. The same question is before us here. It has hardly been colored enough even to make one distinguishable from the other, and after 40 years they have given life to a brand new effort. My friend the Senator from New Jersey is hardly 40 years old. Forty years ago they bred up another generation, which comes here now with this question. We have to fight it out in every generation, and when my friend and myself shall have passed from this body, there will be another man, 40 years from today, to argue this question, which was before the Supreme Court of the United States in 1896. I read further:

Which is considerable and important and valuable to said company: That the rates charged by it are not to the prejudice or disadvantage of New Orleans, and work no injury to that community, because if said company is prevented from participating in said traffic, such traffic would move via the other routes and lines aforesaid without benefit to New Orleans, but on the contrary, to its disadvantage: That the foreign or import traffic is upon orders by persons, firms, and corporations in San Francisco and vicinity buying direct of first hands in London, Liverpool, and other European markets; and if the order of the Commission should be carried into effect it would not result in discontinuance of that practice or in inducing them to buy in New Orleans in any event.

I shall skip the various other reasons given in the answer of the railroad company, and get down to what the court said as its opinion.

These and other uncontroverted facts that appear in this record would seem to constitute "circumstances and conditions" worthy of consideration, when carriers are charged with being guilty of unjust discrimination or of giving unreasonable and undue preference or advantage to any person or locality.

But we understand the view of the Commission to have been that it was not competent for the Commission to consider such facts—that it was shut up by the terms of the act of Congress to consider only such "circumstances and conditions" as pertained to the articles of traffic after they had reached and been delivered at a port of the United States or Canada.

Yet later the Interstate Commerce Commission, under some kind of amendment, took exactly the same position. The Interstate Commerce Commission, which is arguing today for the change in the law, took the position that traffic conditions are to have no effect whatever, but that a mileage scale should apply, and that when there is a difference of a number of miles between one port and another port there must be a differential under any conditions or circumstances.

There were the ships which came into the port of New Orleans, there were the ships which came into the port of Baltimore, and the ships which came into the port of New York, and the ships that came into San Francisco laden with tonnage inbound and found outbound tonnage to take the place of inbound cargo which was unloaded in New Orleans or those other ports for the return trip of the ship to South America or to continental Europe. Notwithstanding that condition, the Interstate Commerce Commission said, "Oh, no; the commerce cannot move to New Orleans; it cannot go there where an empty vessel awaits it."

I continue reading from the Supreme Court decision:

It is proper that we should give the view of the Commission in its own words:

Then it gives the views of the Commission. I am going to skip the views of the Commission, because they are not very good—that is, the Supreme Court did not hold them to be very good. Here is what it said:

It is obvious, therefore, that the Commission, in formulating the order of January 29, 1891, acted upon that view of the meaning of the statute which is expressed in the foregoing passages.

We have, therefore, to deal only with a question of law, and that is: What is the true construction, in respect to the matters involved in the present controversy, of the act to regulate commerce? If the construction put upon the act by the Commission was right, then the order was lawful; otherwise it was not.

Before we consider the phraseology of the statute it may be well to advert to the causes which induced its enactment. They chiefly grew out of the use of railroads as the principal modern instrumentality of commerce. While shippers of merchandise are under no legal necessity to use railroads, they are so practically. The demand for speedy and prompt movement virtually forbids the employment of slow and old-fashioned methods of transportation, at least in the case of the more valuable articles of traffic. At the same time the immense outlay of money required to build and maintain railroads, and the necessity of resorting, in securing the rights-of-way, to the power of eminent domain, in effect disable individual merchants and shippers from themselves providing such means of carriage. From the very nature of the case, therefore, railroads are monopolies, and the evils that usually accompany monopolies soon begin to show themselves, and were the cause of loud complaints.

Now I skip over.

The scope or purpose of the act is, as declared in its title, to regulate commerce. It would, therefore, in advance of an examination of the text of the act, be reasonable to anticipate that the legislation would cover, or have regard to, the entire field of foreign and interstate commerce, and that its scheme of regulation would not be restricted to a partial treatment of the subject. So, too, it could not be readily supposed that Congress intended, when regulating such commerce, to interfere with and interrupt, much less destroy, sources of trade—

I hope that this particular part of the decision of 1896 will receive some notice from some of my colleagues.

So, too, it could not be readily supposed that Congress intended, when regulating such commerce, to interfere with and interrupt, much less destroy, sources of trade and commerce already existing.

Yet, Mr. President, that is just what they did. The Supreme Court of the United States said it could not be supposed that Congress or the Interstate Commerce Commission would have any idea of passing a law or making a decision the effect of which would be to destroy sources of trade and contracts then existing. However, that is what they say they want to do. They assert that Congress ought to amend the Interstate Commerce Act so as to enable every mileage scale of rates to go into effect, and, in spite of the fact that the Supreme Court said that it would not be reasonable to infer that Congress expected to allow them to do any such thing, to destroy that very commerce.

I continue reading:

nor to overlook the property rights of those who had invested money in the railroads of the country, nor to disregard the interests of the consumers, to furnish whom with merchandise is one of the principal objects of all systems of transportation.

Then the Court goes on to say:

Having thus included in its scope the entire commerce of the United States, foreign and interstate, and subjected to its regulations all carriers engaged in the transportation of passengers or property, by whatever instrumentalities of shipment or carriage, the section proceeds to declare that "all charges made for any service rendered or to be rendered, in the transportation of passengers or property as aforesaid or in connection therewith, or for the receiving, delivering, storage, or handling of such property shall be reasonable and just."

Did they do that? Did they undertake to make these rates reasonable and just? On the contrary, notwithstanding the fact that the railroads which were hauling their goods into the port of New Orleans and into the port of Baltimore showed that they made a better return from that

traffic, that their earnings were better because of the fact that they had a balanced cargo to and from that port than did the other railroads going to a port which had no inbound commerce; notwithstanding the fact that New Orleans was making money from that kind of business, and notwithstanding the fact that the other lines serving the other ports were not making money from that kind of business, the Interstate Commerce Commission raised the rate into New Orleans. They did not have any reason at all for doing so. In order to keep the business from going to New Orleans they compelled the increase of the rate to New Orleans. They will do the same thing to Baltimore, they will do the same thing to Norfolk, they will do the same thing to Savannah, and there never will be another export shipment out of a port in Florida so long as time lasts. Remember what I am saying: They will absolutely wipe the lower Atlantic seacoast as clean as a whistle, and they will wipe nearly all the Gulf coast as clean as a whistle.

Mr. President, such legislative monstrosities as this come before Congress for consideration! Senators have sat here on the floor of the Senate and voted for years and years to try to develop, however serpentine the course may be, a route by water from Kansas City and from Pittsburgh down the Mississippi Valley into New Orleans. Yet we have brought in here another bill making provisions to put in effect a spirit level and a compass system of mileage rates.

Mr. President, what has happened? The people of Texas have been among the most bitter opponents of this measure, but notwithstanding the fact that people in some parts of Texas have urged in favor of such legislation at one time or another, until they got caught in their own mess, Galveston was urging the same thing; and, lo and behold, they got the full breath of it against Houston, and then Galveston decided they had picked up a pretty bad thing.

Whoever gets hold of this thing gets burned by it. My friend the Senator from New Jersey [Mr. MOORE] will drop this thing some day like a hot coal when he finds out how it will burn up the very business which he is trying to build up for the great ports of New Jersey. Those behind this measure actually insist on destroying a business which is profitable. They insist that notwithstanding the fact that the railroad makes money on hauling stuff into one port and loses money on hauling it into another port, the railroad should raise the rates to the port in which it is making its money. Such a rate-making schedule as this has never been heard of before on the face of the earth.

Mr. President, wherever traffic wants to go, where it is profitable to go, where it is convenient to go, where it helps everyone by going and where it hurts no one by going, that is where the traffic ought to be allowed to go. But, oh, no! the Supreme Court of the United States is wrong two times in its decisions! Twice the Supreme Court of the United States did not know what it was talking about. Profitable business? That ought not to be allowed to cut any figure at all. The old, moth-eaten decision of the Supreme Court of the United States held that way, and Congress has to do something to hit the Supreme Court in its face. God pity the man who comes to Congress with a United States Supreme Court opinion in his favor! It is a dangerous thing, I tell you right now. When a decision is rendered by the United States Supreme Court there is an element in this country which starts out to see if it cannot pass some law to undo it. It is bound to be a bad business or else the Supreme Court of the United States would not decide in its favor.

How terrible in this particular case that the Supreme Court of the United States laid down a little rule that so long as a business was profitable, and so long as men had their business built up, they should not be disturbed by the ipse dixits and the whims and caprices of various and sundry destructive regulating agencies which somebody might accidentally set up in order to give one an advantage over somebody else. The Supreme Court said in this opinion—I just read it here—that the Interstate Commerce Commission should not be allowed to destroy commercial contacts.

Let me give one illustration. There are the Vaccaros, of the city of New Orleans, if I might mention them. They are Latins. They understand the Latin population of Honduras and of Nicaragua. They understand the Latins. As a result of that fact, those Latins have been induced to join in concerns that try to develop business with Latin Central America and Latin South America. They have their Latin banks; they have their Latin railroads; they have their Latin mercantile stores; they have their Latin-operated railway lines; and they make a perfect contact through the Latin city of New Orleans, where their steamship lines are coordinated with the railroads and with the banks. As a consequence, hundreds of thousands of dollars—yea, millions on top of millions of dollars—of goods from Chicago and New York and Pittsburgh and St. Louis today are sold in Central and South America, due to the fact that there is a perfectly balanced import and export business existing at New Orleans through those Latin contacts.

However, up comes the Interstate Commerce Commission and says, "Oh, no; we cannot allow that to happen; you cannot bring bananas to the port of New Orleans any more, Mr. Vaccaro." He asks why, and says, "If I cannot bring bananas to the port of New Orleans, I cannot bring them in at all." The Interstate Commerce Commission says, "No, no; you have got to take those bananas to Lake Charles or to Galveston." Mr. Vaccaro says, "I cannot do that; it takes 48 or 60 hours to distribute bananas through the gateway of Lake Charles and through the gateway of Galveston, Tex., to the important central points of the West and the Midwest and the Atlantic States, whereas I can distribute them in from 20, 24, or 40 hours out of the port of New Orleans, because arrangements have been built up there, the business is there, contracts are there, the express connections have been established through a constantly building up trade, growing and spreading, to which many men have attached themselves during the course of 25 or 30 years." "Oh, no", the Interstate Commerce Commission says; "we will not let you take those bananas to New Orleans. If you do, you will not have a single thing for your empty ships to haul out of New Orleans when you try to go back to Honduras or Nicaragua or to the other countries to the south."

What has been the result? Bananas have reached such a price that in America today it costs twice to buy bananas compared to what it used to cost, due to the Interstate Commerce Commission, and today every child in America who goes to a fruit stand to buy a banana has got the Interstate Commerce Commission to thank for doubling the price of bananas in the United States. That is what they did.

That is one thing. Is that all? No. Here is a wheat farmer in Kansas or a corn farmer in Iowa. The corn farmer says, "I want to send my corn", or the wheat farmer says, "I want to send my wheat to Argentina. I want to send it down the Mississippi Valley. The railroad gives me a good rate and the boat line gives me a good rate; I will take my choice as to which one I will use, and I will send my product down to New Orleans and there will be a ship there to take my wheat to South America the minute it reaches there, or to continental Europe, or wherever I may want to ship it." What does the Interstate Commerce Commission say? "Oh, no, Mr. Wheat Farmer; we will not let your wheat go to the place where there is a ship waiting to carry it to South America; we will not let your wheat go to a port where there are bins to take care of it and to give it the proper handling in transit; no, we will not do it, because we have looked up the map, and, according to the spirit level and the compass, the rail-route distance to New Orleans is 100 miles farther than it is to Galveston or Houston, Tex., and this time you have got to go there." They did go there; their wheat remained there, with no bins to put it in and no way to handle it. As a result, it sprouted and became absolutely worthless and useless, with the steamships tied up in New Orleans waiting to haul the grain, and the bins there were empty, while Galveston had no way of sending it out because there were no ships coming into Galveston loaded with anything to send out, for it is not feasible to distribute them into inland America out of Galveston, Tex. Yet the Interstate Commerce Commission comes back here with this monstrous, destructive policy and

tries to put it in the law after the Supreme Court of the United States has twice knocked it out.

Mr. President, do you want to know why we lost some of our wheat business? Do you want to know why we lost some of our meat business? I will tell you. The Interstate Commerce Commission destroyed more foreign commerce in 5 or 6 or 7 years' time than all the "good will" emissaries of the United States put together could make up in the same length of time. Foreign countries take their wheat from the country that will sell it to them cheapest and deliver it to them cheapest, and when a 5-cent-a-bushel extra charge was imposed, in order that no wheat might go through a port that could make delivery to them, they found their wheat somewhere else, since that 5-cent additional charge was material to the cost. Therefore America lost the business. That is what we are trying to prevent having done here.

Mr. President, have we not changed enough things? Shall we go back and add to what has already been done to destroy these ports? It seems to me enough of these things have been changed.

Now I read from the decision of the Court:

Proceeding to the second section, we learn that its terms forbid any common carrier, subject to the provisions of the act, from charging, demanding, collecting, or receiving "from any person or persons a greater or less compensation for any service rendered or to be rendered, in the transportation of passengers or property, subject to the provisions of the act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions", and declares that disregard of such prohibition shall be deemed "unjust discrimination", and unlawful.

Here, again, it is observable that this section contemplates that there shall be a tribunal capable of determining whether, in given cases, the services rendered are "like and contemporaneous", whether the respective traffic is of a "like kind", and whether the transportation is under "substantially similar circumstances and conditions."

The third section makes it "unlawful for any common carrier subject to the provisions of the act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage in any respect whatever." It also provides that every such common carrier shall afford "all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their respective lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines."

The fourth section makes it unlawful for any such common carrier to "charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar cicumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier to charge and receive as great compensation for a shorter as for a longer distance."

Let me digress right there to say that the day the Congress provides that the foreign commerce of this country has to be subjected to the long and short haul clause, that very day such arid States of the West as Idaho, Arizona, New Mexico, Nevada, and other expansive States, where one may travel for hundreds of miles, will never be able to sell a copper cent's worth of wheat or of corn or of anything else in a foreign country. They will have to put every one of their farms close to some port. The day we say that the States of this country cannot secure for themselves and for their people and that the railroad lines cannot secure for themselves and for those whom they serve, as the Constitution guarantees, equality of the ports, the day we undertake to establish a condition of that kind, we not only destroy water competition, we not only destroy water intercourse, we not only destroy port after port, but we say to these wide open-spaced States, "You can never expect to sell another dime's worth of goods in foreign commerce." Why? Because only the wheatfield and only the cornfield that is within a few hundred miles distant from a port will escape a mileage differential that will make it impossible for them to engage in any business. As it has been up until this time, transportation advantages have been kept in such shape that the people of the State of my friend from Arizona can send their commerce into a port in Florida and have about as good a rate as could be obtained to a nearby port from a nearer wheat field. The day that we begin to chop this thing up, block by block, inch by inch, and forbid the equality of ports, then that will be the day we ought to send for Jefferson Davis and say, "Come back; we made a mistake; we have got to divide this country up."

Senators need not question the result; they will destroy this country economically as certain as they do such a thing. If they want to get hold of some agency which knows how to destroy things, let them pick the Interstate Commerce Commission, because they have the best record along that line of any agency we have, and they would come nearer doing it than any other instrumentality. The day we do it, the day we say to Florida "You are too far away; you have only a bathing resort; your water is not fit for anything except to wash in"; the day we say to Arizona, "Stay over there; your land is good for nothing but for a man to bathe in the sunlight"; the day we begin to divide this country, inch by inch, and lot by lot, and block by block, so that when a man gets 200 yards away from a port he has got to double up on his charges and when he gets 400 miles away he has got to double up on them again, that day will be ruination. There is a railroad line that says "We are willing to haul this business; we can make money on hauling it; we want to haul the commodities raised on our line"; but, the Commission says, "Oh, no; you cannot do that; we have established a mileage system of rates which affords a preference for those things nearer to ports and only those things nearer to ports."

There will not be anything in the country to develop except what is around the rim of the coast line. That is where the population will have to move and practice intensive cultivation, as Belgium does, in order to survive.

My friends had better be thinking carefully about this kind of measure. It is a serious thing they are attempting to do. The judges of the Supreme Court are not nearly the fossils some Senators think they are. The Supreme Court of the United States has been trying to enforce the Constitution and keep a union of States, and it has done a pretty good job of it.

If Senators look at all the reasons for the distress that has been afflicting this country, they will probably find the other tribunals and the communities chargeable with their part of it, but my opinion is they will find less of it chargeable to the Supreme Court of the United States than to any other agency we have or ever have had. They have tried to point out that this is a Union of 48 States; that the Constitution protects each and every one of those States from having economic isolation foisted upon it by rules and regulations of bureaucrats and commissions which have been created. Constantly proposals have come back to Congress in the effort to have Congress annul what the Supreme Court of the United States has held for the protection of the States, standing as the great bulwark of freedom which unites the 48 sovereign and far-flung States of the Union.

Let me read further to show how sound is this decision. I am sorry the senior Senator from Nebraska [Mr. NORRIS] is not here. We would soon have to abandon Nebraska if this bill should be passed. The people could not stay there very long. They are an inland State. They do not even have mountains in Nebraska. As I said, I am very sorry I have not a map of the United States to display on the wall of the Senate Chamber. If I had a large map of the United States here I should be glad to show my friend from Illinois [Mr. LEWIS], interpreting the law as the Interstate Commerce Commission interpreted it when they claimed it was the law, that it would absolutely knock the existence out of inland ports like Chicago, located as it is at the head of the Mississippi Valley.

The Illinois Central Railroad, I remember as well as if it were yesterday, came down to New Orleans and used every ounce of their power to aid us, much as we had been separated in our fights in the country on the matter of railroad versus waterway. Notwithstanding, when this fight came on,

though it was in one sense a waterway fight against inland railroads, the Illinois Central and the Missouri Pacific Railroads came down there and said that it means practically the laying idle of thousands of miles of profitable railroad lines if this kind of policy were to be adopted.

Who is at the head of this movement? Narrow minds which would kill the goose that lays the golden egg, the foreign interests which have been advocating this kind of proposal during all the years. Narrow minds who want to destroy the tramp steamers because they are independents and rate cutters that keep the foreign commerce rates down.

Then again one little city looks at another city. For instance, here is a little town like Morgan City, La., with 1,000 to 5,000 people. It looks up and sees, by the railway line and by the river route, that it is 100 miles nearer the Gulf of Mexico than is the port of New Orleans and therefore it says, "All the business ought to come our way", and all they would have to do is to apply the Interstate Commerce Commission order and the business would have to go there because it has to be on the mileage system of rates. Then, they would begin to try to build up a little port. About the time Morgan City would get its port built up to "frying size", up would bob Lake Charles and say, "We are 40 miles nearer than Morgan City, so we should have the business." Just about that time they would plow up another little slough of some kind 40 miles farther up the country and it would claim it was 40 miles closer to the interior than Lake Charles and it would take the business. Nobody would ever be able to develop and entrench a foreign commerce business or be able to build up and maintain it in the United States if this kind of thing were allowed to continue.

I call on any Senator here to make denial of my assertion. If I have made an erroneous statement I should like to have a denial. I think the Supreme Court supported my contention in pretty strong language. It said:

> In the present case no complaint seems to have been made.

There was a complaint made later. Some of my friends here have disputed Chief Justice Hughes' logic in the Shreveport case. My friend the Senator from Idaho [Mr. BORAH] does not agree with it, as I understood him to say when he was voting on confirming the nomination of Chief Justice Hughes. I understand that some of the other Senators do not agree with it.

How much further are we going with such proposals as are contained in this bill? The Shreveport rate case did permit the Interstate Commerce Commission to step over State lines. Where it was said that the intrastate rates were a burden upon interstate commerce or a discrimination against interstate commerce, the Interstate Commerce Commission was allowed to go inside of the State and wipe out whatever rates the local public service and railroad commissions had made and put in a rate system of their own. In my opinion the Supreme Court went a long way when it did that. In my heart of hearts I never have believed that decision was correct, but it is the law, and I yield to it, as I must, whether I want to or not.

What did the Commission finally do? The Interstate Commerce Commission is always reaching out and wiping out State lines, always reaching out to destroy the 48 sovereign States. They did not even stop to bother with State boards or commissions, but proceeded to order a State-wide system of rates on the ground that it would be discriminatory to permit anything else. They got to the point where there was actually a case where the Interstate Commerce Commission was fixing rates from a point in one State to points in other States and proceeded to order that the same mileage scale of rates should obtain within the boundaries of some of the States without giving the State commission even the right to look into the matter and say whether it wanted them or not or even to argue about it thereafter.

They have stepped over the State lines until they have about wiped out every vestige of power the State railroad commissions ever had.

When I heard my friend from Illinois [Mr. LEWIS] on the floor of the Senate one day recommending that we abolish the Interstate Commerce Commission, I said "Amen!" I am one of the men who sat right near the Senator from Illinois and said "Amen" to his line of logic urging that we should abolish the Interstate Commerce Commission. If there ever has been an institution that I could challenge any man on the floor of the Senate or anywhere else to show anything good it has ever done, it is the Interstate Commerce Commission.

Mr. COPELAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from New York?

Mr. LONG. I yield.

Mr. COPELAND. There is about to be presented a bill which would largely increase the power of the Interstate Commerce Commission.

Mr. LONG. We have one of them here now which the Senator from New Jersey is trying to have taken up for consideration.

Mr. COPELAND. There is another one proposing to increase the powers of the Interstate Commerce Commission and to give them full authority over fixing the rates of steamship lines, intercoastal rates, and coastal rates.

Mr. LONG. Yes; I understand that.

I served on a State railroad commission for 10 or 11 years of my life. Find for me any good that the Interstate Commerce Commission ever did for anybody! That is a bold statement to make, but I should like to see the man who can tell me any good the Interstate Commerce Commission have ever done for anybody. They have never made a rate reduction in their lives. Time after time we would go before them where there would be a petition against us or where we would have one against somebody else to correct an unjust system of rates. The Interstate Commerce Commission never did reduce our rates. Sometimes they would raise the other man's rates, and the next time they would not reduce the other man's rates, but would raise our rates to correct the discrimination. It has been a constant process of adding increase on increase, and after they have gotten the increases to the point now in existence, they have thrown about the common carriers such impossible regulations, such impossible rules, that there is nothing left of the railroads but rust and wreckage, all due to the work of the Interstate Commerce Commission.

The Interstate Commerce Commission have destroyed the finest network of transportation ever known to the world. Who is responsible for it but the Interstate Commerce Commission? They have had absolutely unlimited control over the railroads, and they have left them there with rust and wreckage and ruin as a relic of what the Interstate Commerce Commission have done; and now they are reaching out to get hold of something else. That is all that the Interstate Commerce Commission ever have done.

I am telling you God's eternal truth. Do you want to save the railroads of the United States today? The first thing you do, you turn them loose from the Interstate Commerce Commission; and they will come nearer coming out than in any other way you ever thought of.

Now I will read further from this decision:

> In the present case no complaint seems to have been made before the Commission—

They finally got them to complain. They finally went out on a foraging expedition, encouraging communities to bring cases before them, like this bill. Here is a bill that is brought at the instance of the Interstate Commerce Commission, so we are given to understand. This is a bill that the Interstate Commerce Commission wants. The Interstate Commerce Commission has been defeated in the courts on two occasions, and therefore it has finally come to Congress asking Congress to empower it with something that is destructive—

> We shall assume, in the disposition of the present case, that a valid complaint may be made before the Commission, by such trade organizations, based on a mode or manner of treating import traffic by a defendant company, without disclosing or containing charges of specific acts of discrimination or undue preference, resulting in loss or damage to individual persons, corporations, or associations.
>
> We do not wish to be understood as implying that it would be competent for the Commission, without a complaint made before it, and without a hearing, to subject common carriers to penalties. It

is also obvious that if the Commission does have the power, of its own motion, to promulgate general decrees or orders which thereby become rules of action to common carriers, such exercise of power must be confined to the obvious purposes and directions of the statute. Congress has not seen fit to grant legislative powers to the Commission.

With these provisions of the act and these general principles in mind, we now come to consider the case in hand.

After an investigation made by the Commission on a complaint against the Texas & Pacific Railway Co. and other companies by the boards of trade above mentioned, the result reached was the order of the Commission made on January 29, 1891, a disregard of which was complained of by the Commission in its bill or petition filed in the circuit court of the United States.

The Texas & Pacific Railway Co., a corporation created by laws of the United States, and also possessed of certain grants from the State of Texas, owns a railroad extending from the city of New Orleans, through the State of Texas, to El Paso, where it connects with the railroad of the Southern Pacific Co., the two roads forming a through route to San Francisco. The Texas & Pacific Railway Co. has likewise connections with other railroads and steamers, forming through freight lines to Memphis, St. Louis, and other points on the Missouri River and elsewhere.

The defendant company admitted that, as a scheme or mode of obtaining foreign traffic, it had agencies by which, and by the use of through bills of lading, it secured shipments of merchandise from Liverpool and London, and other European ports, to San Francisco and to the other inland points named. It alleged that, in order to get this traffic, it was necessary to give through rates from the places of shipment to the places of final destination, and that in fixing said rates it was controlled by an ocean competition by sailing and steam vessels by way of the isthmus and around the Horn, and also to some extent, by a competition through the Canada route to the Pacific coast. These rates, so fixed and controlled, left to the defendant company and to the Southern Pacific Co., as their share of the charges made and collected, less than the local charges of said companies in transporting similar merchandise from New Orleans to San Francisco, and so, too, as to foreign merchandise carried to other inland points.

In other words, foreign commerce was being hauled cheaper than domestic commerce, and always has been and always will be. The carriers always will haul foreign commerce cheaper than they will domestic commerce. Why? Because the Interstate Commerce Commission was not regulating it. That is why. If the Interstate Commerce Commission had been regulating it, foreign commerce would have been paying just as much as domestic commerce.

The defendant further alleged that unless it used said means to get such traffic the merchandise to the Pacific coast would, none of it, reach New Orleans, but would go by the other means of transportation.

In other words, there is your case again. They say, "If you make us take this stuff by the shortest route it means that it will go over the fewest possible miles of steel rails within the United States until it strikes the steamship at San Francisco, and then it will go around through the Panama Canal", or over the Isthmus of Panama, as the case was then, "and use very little American rails."

We have always had it in our minds—and I want my friends just to think of this for a moment—that it was a good idea to give employment to labor; that the more miles of railroad a box car or a train went over, that many more men were given work, that many more men made crossties, that many more men drove spikes, that many more men made the rails out at the steel mills in Pittsburgh, that many more men laid the track, that many more section hands kept it up, that many more trainmen, that many more yard men, engineers, and conductors, and on up to the men in the counting houses, all got more business. The more miles a box cars travels, that many more men are employed and get an opportunity to earn the money to buy something to eat. But "Oh, no," says the Interstate Commerce Commission, "we have got to have something to keep the rail lines from hauling too far. We have got to take these box cars off these rail lines. We have got to make them move just as few miles as possible."

"Why," they said, "do you mind that railroad being used, if, in using it, it lessens the cost of transportation; if, in using it, it gives the farmer a better market; if, in using it, it cheapens the commodities we get from foreign countries? Do you mind that railroad being used?" "Yes; we mind its being used. We do not want anything used except the particular mile of track that is nearest to the place where we can load our commerce on a steamship, where there are just as few men employed as possible. Even though it increases the cost of the goods, even though it lessens the market, even though it destroys the business that has been created, nothing must be hauled if it can possibly be avoided."

In what circles we are traveling in this country! In what circles we are traveling! Here we go and lend money to the Reading Railroad. We go and lend, out of the Treasury of the United States Government, millions and millions of dollars to the Reading Railroad. Why? Because the business of the Reading Railroad is not enough to pay the cost of operating; but today we come and say to the Reading Railroad, "We are going to junk half your line because it is serving a commercial route that is longer than it ought to be if you reach the nearest port with the commerce you are handling." Notwithstanding the fact that it cheapens the commerce, notwithstanding the fact that it lessens the cost of goods, notwithstanding the fact that it employs men, none the less they want to stamp the remaining remnants of life out of the railroad system and the ports that are today commercially profitable, or at least are surviving.

The company that brought this suit said:

That neither the community of New Orleans, nor any merchant or shipper thereof, was injured or made complaint; that the traffic thus secured was remunerative to the railway company and was obviously beneficial to the consumers at the places of destination, who were thus enabled to get their goods at lower rates than would prevail if this custom of through rates was destroyed.

And that is something else. They admitted that it was obviously beneficial to the consumers at the points of destination. Nonetheless, they persisted in their course.

As we have already stated, the Commission did not charge or find that the local rates charged by the defendant company were unreasonable, nor did they find that any complaint was made by the city of New Orleans or by any person or organization there doing business.

They never did. In the last case they did not, either. They did the same thing. We have embarked on a course where the Supreme Court of the United States lays down what is the law, and we go out and build up communities and build up a country and build up thousands of businesses on the faith of what is the law; and then, after we have gone out and built them up, they come back, and the Supreme Court, still a divided court, says it is the law again; and then we come to Congress and tear the shreds loose this time, so that what has been the law for 40 years and longer than 40 years, considerations to which businesses were entitled, which all our courts have said they would guarantee them, and always have, shall nonetheless be no longer existent because the ipse dixit and the quick fancy whim of the changing legislative mind condemns to destruction and to torture and to annihilation, without a hearing, every business which has been built up on the faith and credit of Congress and the lawmakers and the Supreme Court of the United States. No; it does not make any difference, the court says here; the Commission took the position that it did not make any difference whether or not the rate was reasonable. That does not figure. "We are out here to clear up things. We are out here to blow this thing out of the water, and see just where it might land if we were to get our hands on it."

It reminds me of—well, I will not say it, because I desire to be courteous to the Interstate Commerce Commission. I used to practice before it, and I had to allege a feigned respect for it. I might have to go back there to make a living some day, and I wish to be able to speak to them.

These rates, so fixed and controlled, left to the defendant company and to the Southern Pacific Co.—

And, by the way, the Southern Pacific says this thing is a wreckage. This thing was fought by the Southern Pacific Railroad. With all the radicalism of which I have been accused, and with all of our effort to protect the waterway system, in a large part of this fight, nonetheless, we had the Southern Pacific Railroad fighting with us.

It is said this proposal is positively destructive. Notwithstanding the fact that in this particular case the Southern Pacific Railroad Co. served both the port of Galveston and the port of New Orleans, and would have gotten the business either way the goods went, nonetheless the Southern Pacific

Railroad Co. joined in this case, because it meant wreckage to the railroads and transportation and foreign commerce of the United States.

The Commission justified its action wholly upon the construction put by it on the act to regulate commerce, as forbidding the Commission to consider the "circumstances and conditions" attendant upon the foreign traffic as such "circumstances and conditions" as they are directed in the act to consider. The Commission thought it was constrained by the act to regard foreign and domestic traffic as like kinds of traffic under substantially similar circumstances and conditions.

Mr. President, if there ever was a thing on earth that would convince the Senate to kill this bill, this ought to be enough to do it. The Commission says: "No; we have to have the foreign business of America regarded in identically the same light as domestic business."

What if Uruguay were selling to Paraguay or Paraguay were selling to Brazil and an American business man wanted to get the business that Uruguay was going to get or Paraguay was going to get, suppose we had the goods, and needed to dispose of them, and could sell them more profitably than we could keep them.

According to the Interstate Commerce Commission, the verdict would be, "Oh, no; no rail line can make a rate. We do not control the rate that prevails from Paraguay or Uruguay or from Uruguay to Argentina"; but, according to the Interstate Commerce Commission, no rail line or shipping line that is connected with a rail line which receives domestic business can cut the cloth to meet the foreign competition that drove them out of existence, according to the evidence.

What did they mean to do? They sit over there just as complaisant, they sit over there with three or four college professors—I have been before them many times—they sit over there working out a rate schedule.

They take a red pencil, a blue pencil, and a black pencil, and they get behind a board with about two or three pairs of bifocal glasses, they sit around there and mark, they write, and they finally come out with a system of rates that is to regulate all the commerce from China down to Chile. They come out of there with a string of schedules, men who would not know a vanilla bean if they saw one, who would not know a rhinoceros from a horse, they come out ready to regulate every commodity on every mile of every river and stream, foreign and domestic, coastwise, international, interstate, intrastate—nothing on God's living earth is beyond one of those mugwumps of the "brain trust" on the Interstate Commerce Commission. And they were not just created by this administration. They have been there since the year of the foundation of the Commission, wrecking and ruining the transportation system of this country just as fast and just as certainly as it was in their power to do it.

They want more authority. They have been tampering with the old machine. They have been taking out the spark plugs and it does not run very well, so they come back for more authority. They take the engine out and it does not run much better and they come back and say, "We need more power." Now they have come back, after running the railroads with the spark plugs gone, the engine out, the chassis down, and the wheels all off, and they want a little bit more authority over the railroads to see if they cannot complete the job. They have just about done them up, but they want a little more authority to complete the job.

Instead of that I wish my friend the Senator from Illinois [Mr. LEWIS] would offer the bill he has been threatening to introduce ever since I have been here, and abolish this Commission. If he will introduce that bill, he will get my vote, and also the votes of several others I know of. That is what ought to be done instead of talking about giving them authority to complete the wreckage.

I read further:

The Commission justified its action wholly upon the construction put by it on the act to regulate commerce as forbidding the Commission to consider the "circumstances and conditions" attendant upon the foreign traffic as such "circumstances and conditions" as they are directed in the act to consider. The Commission thought it was constrained by the act to regard foreign and domestic traffic as like kinds of traffic under substantially similar circumstances and conditions, and that the action of the defendant company in procuring through traffic that would, except for the through rates, not reach the port of New Orleans, and in taking its pro rata share of such rates, was an act of "unjust discrimination" within the meaning of the act.

In so construing the act we think the Commission erred.

There are not many of my colleagues present, but I hope some of them will read this language of the Supreme Court. They say this again, hoping, I suppose, that the country would notice what they were saying. They say this again:

As we have already said, it could not be supposed that Congress, in regulating commerce, would intend to forbid or destroy an existing branch of commerce, of value to the common carriers and to the consumers within the United States.

The Supreme Court said that they would not for a moment think that the Congress of the United States would intend any such thing. Yet that is exactly what they say they are doing. The Supreme Court of the United States says that Congress is a sensible body; that Congress wants all the business that has been built up preserved; that Congress does not want to destroy anything; that Congress wants to build more business. That is the position they took in the matter.

I continue the reading:

So far from finding such language, we read the act in question to direct the Commission, when asked to find a common carrier guilty of a disregard of the act, to take into consideration all the facts of the given case—among which are to be considered the welfare and advantage of the common carrier and of the great body of the citizens of the United States who constitute the consumers and recipients of the merchandise carried—and that the attention of the Commission is not to be confined to the advantage of shippers and merchants who deal at or near the ports of the United States in articles of domestic production.

In other words, the only way to get foreign commerce is to meet foreign conditions. The only way to cheapen the foreign commodities that come into this country, and the only way to get a price for the export commodities sent out of this country, is to allow the box car that goes to the port loaded with domestic traffic to come back loaded with foreign traffic, so that the box car does not have just a one-way haul but has a two-way haul.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURKE in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Overton
Ashurst	Coolidge	La Follette	Pittman
Bachman	Copeland	Lewis	Pope
Bankhead	Dickinson	Logan	Radcliffe
Barbour	Dieterich	Lonergan	Reynolds
Barkley	Donahey	Long	Robinson
Bilbo	Duffy	McAdoo	Schall
Black	Fletcher	McCarran	Schwellenbach
Bone	George	McGill	Sheppard
Borah	Gerry	McKellar	Shipstead
Brown	Gibson	McNary	Smith
Bulkley	Glass	Maloney	Steiwer
Bulow	Gore	Metcalf	Thomas, Okla.
Burke	Guffey	Minton	Townsend
Byrd	Hale	Moore	Trammell
Byrnes	Harrison	Murphy	Truman
Capper	Hatch	Murray	Tydings
Caraway	Hayden	Neely	Wagner
Carey	Holt	Norbeck	Walsh
Chavez	Johnson	Norris	Wheeler
Clark	Keyes	O'Mahoney	White

Mr. LEWIS. I announce the absence of the Senator from North Carolina [Mr. BAILEY], the Senator from Colorado [Mr. COSTIGAN], and the Senator from Utah [Mr. THOMAS] on important public business.

The PRESIDING OFFICER. Eighty-four Senators having answered to their names, a quorum is present.

Mr. LONG. Mr. President, one or two of my colleagues who were not here before are now in the Senate Chamber. For their benefit, I will state the effect of this bill.

If a merchant or a farmer desiring to ship goods or products out of this country, undertakes to ship them on a railroad which goes to a port where he can ship them by a ship which is equipped to carry them, and can do it cheaply, under the provisions of this bill such farmer or merchant cannot ship his goods in that way, even though the railroad has equalized the rates. He cannot ship by that route; but at whatever point on that railroad line there is another railroad leading to a port which is nearer

than the other port, even though it has no ships coming there, even though it has no facilities, even though it has no banking houses—in spite of all that he has to unload his produce from the particular railroad on which it is going to a port where there is a ready ship, a ship with a low ocean rate, and let it go to whatever other port there is which is nearer, whether there is a ship there or not, whether there is a facility there or not, on the usual mileage scale of rates for the long-and-short haul which the Interstate Commerce Commission prescribes. Even though that destroys the market for the American who raises wheat or corn or meat, even though it wrecks his market, even though he is trying to do business with a man in Brazil and the man in Brazil is about to buy from a man in Argentina or a man in Liverpool, even though the American can undersell him and the American shipper can overtransport him, none the less, under this particular theory of law, claimed by the Interstate Commerce Commission, the American would be helpless and could not meet that competition.

If I may describe the situation further, let me say that formerly there was a great deal of wheat business done from Kansas and Oklahoma with South America. Those States shipped their wheat through New Orleans; it was handled in transit; it was placed in a marketable shape when it reached New Orleans; the railroads had given a very cheap rate to the farmers of the Middle West to the port of New Orleans. Why? Because enough import traffic came to New Orleans so that the railroad box car which hauled the wheat to New Orleans could haul South American products from New Orleans back, and the car being loaded both ways the railroad could haul them for half the cost or but little above half the cost which otherwise would have been possible. But suddenly the Interstate Commerce Commission decided that the railroad ought not to be allowed to haul that foreign commerce so cheaply, and they ordered the railroad to haul the grain to another port or to pay a large penalty for hauling it to the port of New Orleans. As a result the wheat was forced to go to another port which could not handle it. That raised the cost of the wheat; it raised the cost of its transportation. As a result, a large volume of the wheat business formerly done by Oklahoma and Kansas with South America has never come back; and when the depression caught us those States lost a great deal more of it than they had previously lost.

We went to court with this question. The first case was decided in 1896, and the Supreme Court said it was illegal for the Interstate Commerce Commission so to act. Notwithstanding, however, the decision of the Supreme Court, the Commission waited for 30 or 35 years and then issued another such order. Again the Supreme Court of the United States held it to be illegal, and now they are back with a proposed act to Congress trying to undo the two decisions of the Supreme Court of the United States.

If I may mention a particular case, I will take the case, say, of the State of Nevada and the States near to Nevada, Colorado and Idaho, where, I take it, considerable crops of potatoes and some wheat are raised. Those States are situated far away from any port, but due to the fact that the railroads serving that particular territory have been allowed to compete with railroads serving other territory, the potatoes and the wheat from Idaho and Nevada and Colorado are transported at a price which enables the producer in normal years to meet the competition of foreign countries in selling to consumers in South America or England. However, whenever they put this ban up and require that the products of Nevada and Colorado and Idaho be transported on a mileage basis, they double, they treble, and they quadruple the charges for transporting that produce from Idaho, Colorado, and Nevada to a port. Why? Because they place it on a mileage scale of rates which not only takes away from the railroads the business, but takes it into a port where the train that is loaded with wheat will come back empty, and therefore there will be a double cost. Likewise the steamship that ordinarily comes to the port to which the railroad is meant to carry the wheat must come in there empty in order to take back a load; so that the foreign steamship must come in unloaded most of the time, if it has to seek a port where there is no inbound traffic, and the foreign export commerce, intended to meet that from America, must go to a port where a steamship naturally is burdened with a double cost, because it has for two trips a load only one way. The same thing is true in the case of inland commerce.

If I may explain further, all through this country we have always had the competition of the port of Winnipeg, Canada. Canadians have operated to some extent at a disadvantage. There are lands in Canada just as productive for the purposes of planting and harvesting wheat as there are in the United States, but the Canadians never could meet the competition of America, for the American wheat farmer sold his wheat in Central America and South America; but the minute the Interstate Commerce Commission got to tricking and fixing these ports they raised the cost and laid burdens against the traffic until today they are harvesting acre after acre of wheat in Canada that formerly they could not sell at all in competition with the American wheat farmer. The American wheat business has been steadily decreasing; the Canadian wheat business has been steadily increasing ever since the Interstate Commerce Commission have been manipulating the port system and the schedules of rates to be charged for foreign commerce. That is the conclusion one might have expected.

I do not know how many more examples I would have to cite to convince my friends of the soundness of my contention.

However, the great trouble is that in the East some little immediate situation, some little immediate trouble arises; a few people in the East get into a row among themselves. Newark wants what Jersey City has and Jersey City wants what New York has; and they would inflict upon this country a destructive set of laws and rules of this long-and-short haul by which all our vast wide-open spaces would be done an injury from which they could never recover. Why have the waterway system? Why not let us couple with this kind of legislation some provision to do away with the waterways?

I wish to read further from the Supreme Court decision. I have been reading from the decision, but I want my friends to listen again. According to the decision of the Supreme Court of the United States, this bill would still be unconstitutional. According to the Supreme Court of 1896—and its decision was by a vote of 7 to 2—this bill is still illegal. I read from the Court's decision in One Hundred and Sixty-second United States at page 218:

> And as we have already said, it could not be supposed that Congress, in regulating commerce, would intend to forbid or destroy an existing branch of commerce, of value to the common carriers and to the consumers within the United States. Clearly, express language must be used in the act to justify such a supposition.

In other words, said this decision of the Supreme Court of the United States, they would not presume for a moment that the Congress of the United States would ever let the Interstate Commerce Commission destroy the established routes of traffic and of commerce which had been built up between South America and New York or between England and New Orleans or between Central America and New Orleans. The Court said in the San Francisco case that they would not for a moment presume that the Congress of the United States, unless it said so in language from which it could be inferred without the slightest doubt, intended to permit the Interstate Commerce Commission to impose a rate which would destroy commerce existing between one port of this country and a foreign country. They said that; and yet when I travel through this country and see my friends they say, "Look here, I do not understand the situation; we used to get 3 bananas for a nickel; our children used to buy them at fruit stands, 3 bananas for a nickel or 4 bananas for a nickel. What is the reason that today bananas sell all the way from 30 to 50 cents a dozen?" I could not explain to them, but there was only one answer. The transportation costs had been doubled; the coordinated system under which the business was operated from the

time the banana bunch was cut from the tree to the time the banana was sold on the fruit stand had been broken up; there had been a refusal to allow a balanced traffic to go through one port in order that it might meet similar traffic coming from foreign countries. I could not tell them, in language they could understand, that what had been done to disrupt that business was nothing on earth except the particularly unnecessary burden that had been put on it by the Interstate Commerce Commission, whose action the Supreme Court had annulled, and which it is now sought to rewrite into the law.

I might give another example. I cannot explain to the farmer of the West who asks me, "What is the trouble? Why is it that I cannot send my wheat to the countries where it used to go? At the port there always used to be a ship waiting for that wheat; it used to be put in marketable order while in transit; they used to load it on the ship; I never had a care about it; and I got a good price for my wheat down there, but, notwithstanding the good price, I undersold the foreign countries and got the business just the same."

I could not tell him in language he could understand that the reason was that the Interstate Commerce Commission had imposed several cents a bushel excess charges upon the privilege and right of that farmer to send his wheat into and through a port to where there was a ship prepared to handle it. That is what I would have had to tell him if I could make him understand it at all. When the Supreme Court of the United States reversed the Interstate Commerce Commission the second time I thought that ended the matter, but it did not end anything at all. Right back again they came wanting to penalize commerce between the States.

I read on from this decision. This is the decision of the October term 1895:

So far from finding such language—

The Court had said they would not presume there would be language in the act which would allow one branch of the Government to destroy established commerce that was of value to the country. I want the Senate to remember there never was any such commerce until they got to sending it through New Orleans. There has not been any since. There would be if we could stop the Interstate Commerce Commission from tinkering with it. We would be able to get the business back. The other ports did not get it. They ruined our business. They thought they were going to get it, but all they did was to ruin our business. They stopped anybody from selling anything, but they did not get any of it themselves. They ruined the business because the American exporter could not meet the competition. They put him out of business.

The Court said:

We will not suppose that Congress will authorize the Interstate Commerce Commission to do any such thing as that.

Then they continued with this language:

So far from finding such language, we read the act in question to direct the Commission, when asked to find a common carrier guilty of a disregard of the act, to take into consideration all the facts of the given case—among which are to be considered the welfare and advantage of the common carrier—

That is one thing. They said, "Consider what this will do to the railroads. How do you know it will not put the railroad out of business? We are not going to let you do that", said the Court. "We are not going to let you lay these lines of steel rail idle and let them rust. We are not going to have that."

Then the Court continued:

Among the things to be considered are the welfare and advantage of the common carrier, and of the great body of the citizens of the United States who constitute the consumers and recipients of merchandise carried.

In other words, "we are not going to allow you to raise these prices of foods and commodities that may be imported." We import many different kinds of food and commodities from the foreign countries, and the reason they can be imported here so cheaply is that the railroads are allowed to haul them cheaper and the ships are allowed to balance their traffic.

The attention of the Commission is not to be confined to the advantage of shippers and merchants who deal at or near the ports of the United States, in articles of domestic production. A good deal of the latter likewise are entitled to be considered, but we cannot concede that the Commission is shut up by the terms of this act to some meager claims of one class of communities. We think that Congress has here pointed out that, in considering questions of this sort, the Commission is not only to consider the wishes and interests of the shippers and merchants of large cities, but to consider also the desire and advantage of the carriers in securing special forms of traffic, and the interest of the public that the carriers should secure that traffic, rather than abandon it, or not attempt to secure it.

There is the interest the public has in the carriers getting business. The public needs to have the railroads sustained. The public needs to have the railroads serve it at the lowest possible cost. The public needs to have the railroads send its goods to the port which can give them the most expeditious exportation possible. The public needs to have a balanced traffic.

It is self-evident that many cases may and do arise where, although the object of the carriers is to secure the traffic for their own purposes and upon their own lines, yet, nevertheless the fact that they seek, by the charges they make, to secure it, operates in the interest of the public.

That is true in this case as the Court finds in this decision.

Moreover, it must not be overlooked that this legislation is experimental.

Again I say this is still in the field of experiment. There is only one difference between the bill now and the legislation then. The Interstate Commerce Commission, to see what good it could do the railroads, was once an experiment which might turn out to be good or bad, but after 40 years of experimenting the question no longer is in the realm of doubt. No longer future events are necessary to determine what the Interstate Commerce Commission can do with the railroads. The fact is there is not one of them paying its operating costs. The fact is that nearly all of them, with very few exceptions, are in receivership or bankruptcy or near one or the other, and that is another milepost.

The fact that the railroads are today unable to compete with other forms of transportation, the fact that they are bonded and held down and no longer considered a safe investment, is the result of 40 years of experimenting about which the United States Supreme Court speaks. We no longer have to delve into any field of experimentation if our hindsight is as good as our foresight. We know what the Interstate Commerce Commission has done for the railroads and we know what it is apt to do to them in the future.

Now the Commission wants to get their hands on the waterways. Not only do they want to get their hands on the waterways, but they want to be authorized to see that the waterways never get a chance to thrive. They want through this bill to be able to say, "Here are places on the Missouri River and on the Mississippi River and on the Colorado River," if it ever gets to be that kind of a river, "and here are places on the Ohio River." They want to say, "This point in Ohio is only so many miles from New Orleans by water." We will say it is a thousand miles. But they say, "It is true that they can take this freight down the waterway to New Orleans, but the rail lines want to meet the competition so they can take it by rail down to New Orleans for 10 cents a hundred pounds." None the less we find there is a port in Ohio where it costs but 25 cents to take the same traffic by rail. We find that to be a discrimination and therefore we provide and hold that they have to charge 40 cents to carry the freight to New Orleans in order to force it to be carried to some other port."

Do they help the Ohio port? No! They keep the Ohio port from doing business. But whenever they impose upon that freight an extra charge, they make idle thousands of men who would be employed in the business of carrying the commerce, and they destroy the commerce to the other ports without ever reviving it.

Mr. LEWIS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Does the Senator from Louisiana yield to the Senator from Illinois?

Mr. LONG. I yield.

Mr. LEWIS. I should like again to submit to the Senator from Louisiana the interrogatory to which he has not had opportunity to reply, and that is, under the present existing law and the practice of the Interstate Commerce Commission and under the decision read by the able Senator, if a waterway shall be cut through the State of Illinois from the Lakes to the Gulf——

Mr. LONG. There has been.

Mr. LEWIS. We have cut it, but alas, an obstruction has arisen about which the Senator knows because in the matter of this waterway his State has been cooperative. I again put the interrogatory:

Suppose there shall be a port at the city of Chicago, as I trust there shall be, so that vessels from many ports of the world coming across the Atlantic may find their way to my imperial city. Under the present law, if we had a port at Chicago, under present circumstances that port could be ignored and a preference given to Galveston, Tex., or the splendid and what might be called "oriental city" of my friend, New Orleans. There is no way under present conditions by which we can enforce any consideration to the port of Chicago or the port that was created on the waterway cut through the State of Illinois to serve the West.

I ask the able Senator from Louisiana, is it not true that under present conditions a great disadvantage arises to the port of the city of Chicago, while under the amendment to the law tendered by the Senator from New Jersey [Mr. MOORE] it would be promptly remedied and the port of Chicago put on an equality with New Orleans and Galveston?

Mr. LONG. On the contrary, the port of Chicago would never breathe the first breath of life, as I have previously explained. It is a baby that would never utter its first cry.

Mr. LEWIS. Will the Senator state what is the reason?

Mr. LONG. I will give the Senator the reason. It is no trouble at all to give it—because the port of Chicago would be hemmed in in an interior way where it would never get the traffic. To begin with, it would be headed off from the West by Milwaukee, which would be one port which would be on the mileage basis, and it would be nearer to the western traffic than Chicago would be. Chicago would be headed off from the South by St. Louis. It would be headed off from the East by a dozen other ports, and Chicago would never know how to breathe under a mileage system of port rates. But if they are permitted to balance transportation across the ports, Chicago sits at the head of the Mississippi Valley waterway and the Mississippi Valley railroad gateway, and by the balanced traffic which it has to New Orleans, where there is an absolute coordination and equality of imports as against exports, Chicago would blossom like the rose as a port; otherwise, no; and I am not alone in that, as I previously explained to the Senator. I am not alone in that.

When we were having this fight, maintaining it as a waterway fight, notwithstanding the fact that there were Chicago railroads like the Illinois Central, and St. Louis railroads like the Missouri Pacific, that were opposed to our waterway program, nonetheless they saw that the advantages to that valley and to the waterways and to the railways would be destroyed by this kind of legislation on the long and short haul basis, by which you must prefer the nearest port, and they joined in, and they are in this case now, as far as they can be heard, fighting against it. How would Chicago ever get any business? Chicago is not the nearest port to anything. It is an inland port at that, and it is only the fact that it utilizes the natural advantages of the ports on the coast that gives it its place, which will be immense if there is not legislation of this kind to interfere with it.

This question is one upon which even those of us who have attempted to study it are slightly informed. It is a very deep question.

Many, many years ago I used to labor considerably with the authorities of the city of Chicago, and they regarded this kind of a venture with every premonition of destruction with which they could possibly look upon it; but today it has been beaten down for a great many years. The administration of Chicago has changed hands, and other political influences are in control of it that have had only a year or two at the most to study it and know little or nothing about it; but if the administrations were there today that were there during the past 30 years they would be here with arms to fight the kind of legislation proposed in this bill.

Mr. LEWIS. Mr. President, with the consent of the able Senator, I beg that he will allow me to intrude upon him this observation:

It fell to me to be one of those who fought in the State of Illinois for the waterway, $20,000,000 having been voted at the outset, followed with subsequent appropriations, for the purpose of creating a port for the city of Chicago and a waterway leading to the very excellent city of my able friend from Louisiana, New Orleans. I call his attention to the fact that the subject matter had to be discussed and very thoroughly examined, and I deplore to say it was made a political issue in my State, in which I participated.

We are of the opinion, I am of the judgment, that if the Interstate Commerce Commission is to continue to have the power which has been exercised of passing upon rates and practically controlling all avenues of transportation, unless some discretion is vested in them by which the port at Chicago shall be put upon an equality with the ports upon the same sea, those who previously had the privilege and are enjoying the particular advantage would continue it; and we should have no way in the world to announce our rights, to assert them, or to divide the benefits. I ask my friend, is not that the exact situation?

Mr. LONG. No, sir; unfortunately, it is not. I wish what the Senator says could be remotely possible. It is not even within hailing distance of being so.

Here is the fact, if I may divert for just a moment:

I went to Chicago a number of years ago, shortly after Mr. William Hale Thompson, who was quite a waterway man, was mayor. Mr. Thompson had not been mayor there for a year or so. At that time His Honor Mr. Cermak was mayor. I approached Mr. Cermak about one of the waterway problems. Formerly, when I went to Chicago and approached one of the officials there, I was exploring into a field that they knew all about. They could tell you every car and every signal, and our interests were identical. I approached Mr. Cermak. He rather hooted at the idea of talking about a waterway. He not only hooted at the idea but my recollection is that he said to me, "Oh, yes; they have some kind of a ditch around here that somebody has been talking about but I have seen no waterway"; and I did not undertake to broach the waterway matter very much further, along about that time, with Mr. Cermak. Shortly after that I intended to see him again, but, unfortunately, his life had been taken.

We used to work together, however, on this whole matter, Chicago and New Orleans worked together. We held our flood-control conference in Chicago in 1927. We worked hand in hand. We would meet in Chicago one week and we would meet in New Orleans the other week. Several hundred of us would go from city to city. Sometime we would meet in St. Louis. We were all together and we looked upon this kind of long- and short-haul proposition of trying to interject something that would impose a stopgap to ports as being the most destructive kind of a thing; and there was not an interest that I know of in Chicago, private or public, railroad or waterway, or any other kind that did not look upon this with disfavor and help us in the fight.

This is not the first time that we made the fight. We made this fight back in 1926. I was here before the Interstate Commerce Commission at that time. That was 9 years ago. I have been in this fight now for 9 years that I remember, and there was a case here 40 years ago, 30 years before my time, in this matter. This thing has been going on for 40 years.

What did the Interstate Commerce Commission do? Here is what they have done: The only thing the Interstate Commerce Commission can do is to say that port rates must be

on the commodity-mileage basis—the first 5 miles, so many cents for lard, so many cents for oats, so many cents for corn; from 5 to 10 miles, so much; from 10 to 30, 30 to 50, 50 to 75, so much. They put you on a mileage scale of rates; and when you go on a mileage scale of rates you will not have the port of Chicago, you will not have the port of New Orleans; you will have 400 little old ports all up and down the coast.

Mr. LEWIS. Mr. President——

Mr. LONG. I yield to my friend from Illinois.

Mr. LEWIS. I may say to the Senator, if he does not feel it is intruding too much of my own personality, that I was the corporation counsel of Chicago, and for a while its acting mayor, from time to time while this question was very much alive. Subsequently, I had the usual fate that falls to a Democrat in Illinois of running for Governor and being defeated; but one of the issues in that controversy was the very waterway to which my friend alludes. He is quite correct in stating that New Orleans cooperated with Chicago in many instances and in many contests; but I have always understood, and only now am in error, or announced to be in error, if the able Senator is correct—I have always understood, sir, that New Orleans joined with Chicago in her opposition to the privileges granted to two or three different ports to monopolize the privileges, and we were for the opening of ports wherever they were necessary to accommodate the waterway and increase the prospects of the trade of the great West moving out to the Atlantic coast wherever it could find a legitimate port.

Mr. LONG. That is correct. The Senator is like I am. This question, Mr. President, is one you have to keep up with pretty closely. It is like the law; it is a very jealous companion that must be wooed constantly to be understood. I was not anticipating this matter coming up today, or I should have been more prepared with these data; but here is something that we all relied upon all through this waterway development, if I can find it. It is the article of the Constitution which relates to ports, which we have always relied upon to try to keep from being bothered with it. All we have wanted was to be let alone. If we could get the Government's appropriation in the development of the waterway, we would be let alone; but here is our case:

We will take, for instance, Kansas City, Mo. Kansas City, Mo., comes over the Missouri River into an arm, a kind of an L-shape, down to New Orleans. The Missouri River comes into the Mississippi at right angles. Of course, it is elevated going northwest, but it comes from Kansas City into the Mississippi at right angles, and then comes on down to New Orleans. Commerce not only comes by water down there, but the commerce is cheapened by rail, because railroads meet the water competition; but it is many more miles to come from Kansas City by the water route into New Orleans than it is to go from Kansas City by the Kansas City Southern Railroad to Port Arthur, Tex. I should say, just guessing from what I know, that it is probably 100 miles or more shorter from Kansas City to Port Arthur, Tex., by the Kansas City Southern Railroad; or perhaps it is still shorter than that to another port, Lake Charles. It is still shorter to Lake Charles, La., than it is to go from Kansas City to St. Louis and New Orleans.

You would, therefore, kill the waterway route, you would wreck the waterway route, for what reason? Somebody at Galveston would bring a discrimination case, and there would be a mileage system of rates, and you would say, "Hold on! We are being discriminated against. We are one-hundred-and-some-odd miles closer to Kansas City", or, we will say, Port Arthur, or, rather, Lake Charles which brings the case. "We are being discriminated against. It is a hundred miles shorter from Kansas City to Lake Charles than it is from Kansas City around this route to New Orleans. We therefore demand our business. We are being unjustly discriminated against under the long and short haul clause, or under the mileage schedule of rates"; and what would be the result? Kansas City would not send 1 pound of freight for foreign export down the Mississippi and Missouri River Valleys—not a pound. Under the Interstate Commerce order it would have to go all-rail to the nearest port claiming the business. The whole business would therefore be destroyed. So, instead of lowering the cost, the result would be what it always was, it would not lower the cost, it would increase the cost of carrying by the other route, but the other charges would remain the same, and gradually become more burdensome, because there is not a balanced traffic as long as business is taken away from a port which imports somewhere near as much as it exports and that business is given to a port which exports three or four or five or six times as much as it imports. That means that three-fourths or five-sixths of the ships that come there and get business have to come empty because there is not an import business.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. Unless there is two-way traffic from any port, the effect is to impose double freight charges on both exports and imports.

Mr. LONG. That is exactly so. That is what I have been trying to get over to the Senate; unless there is balanced traffic at a port a double charge is imposed, and the measure sought to be taken up was written for no other purpose in the world but to force the transportation through the ports where there was not a balanced traffic. It is necessary to double the cost unless there is a balanced traffic.

Anyone knows that when a ship comes into a port empty it costs just about twice as much to bring that ship into port as it does to bring it in loaded with goods. Anyone knows that it costs about as much to bring an empty box car back from a port as to bring that box car back loaded with goods. Therefore, anyone knows that a system of laws which compels traffic to go to a port where a ship comes empty means double transportation costs on goods sent to foreign countries, and any system of laws that forces box cars on railroads to come out empty forces double inland transportation costs on the commodities which go into the interior of the country.

Mr. President, that is our case. If every Member of the United States Senate understood the case, the fact to which I have just alluded would be enough to defeat the bill to start with. It would never go another step if it were understood by the Members of this body that in the long run, as the Supreme Court of the United States said, the one-hundred-and-twenty-odd millions of consumers have the first demand upon the calls of the Government. They have the first right to be considered, and we put an undue burden on them if we impose upon the commodities which they have to sell a burden which makes them unable to meet foreign competition, when we take out of the price they have to get for their goods something they have a right to take themselves, and when, in consequence of that, we impose upon them an added cost on the tropical or foreign goods they are to use just because of this freight differential which some insist upon imposing. To whom is this action to do any good? Who is to get any benefit from it? Nobody. On the contrary, if a railroad can haul a thousand miles and then haul a thousand miles back, and employ labor and employ mechanics and use coal and use oil, when every mile of that railroad is supporting a train that is moving, more men are hired, and that much more good is done. But it is said: "No; we have to stop the rails from being used. We do not want a thousand-mile haul on a railroad any more. No; we do not longer want a railroad hauling goods a thousand miles. We do not want to hear the locomotives whistling as they pass through town after town and State after State. We do not want to see the flagman on top of the train directing it. No. If they are 50 miles nearer a port or a hundred miles nearer a port, we want the traffic to move the very shortest distance possible."

"Oh, no; you are making us pay more to move it a short distance, when, if you would let us balance the traffic of Uruguay, Paraguay, England, France, Germany, China, Japan, India, Egypt, the Philippines, and everywhere else, it would make goods cheaper."

"No; that is not according to what we want to do. We have to reach in and take every connection and every fiber of commerce and business that has been established, and the more stable it is, the more necessary it is that we tear the sinews away from the bone and the scalp away from the skull and start this thing out with something that suits us. It suits us to do this."

If the business of the American people had to depend upon the changing whims and practices of the Interstate Commerce Commission, there would be very little left of business.

Mr. President, this is the provision of the Constitution with reference to ports which I have been seeking:

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

Yet what is the theory of this bill? We will take as an example a port which has a big business coming through it. The distance to the port is a little bit greater than the distance to another port; but the railroad makes more money hauling into that port than by hauling into some other port. The business is profitable. The railroad wants it. Yet the Interstate Commerce Commission prefers another port on the ground that the distance is shorter by a mile to that other port. Notwithstanding the fact that the rates are not unreasonable, that the rates are not confiscatory, notwithstanding the fact that the business is profitable, that it has been built up for a hundred years or more, they sound the doom of a port of my State.

New Orleans is a port of my State. It has been built at the cost of many millions of dollars. Forty-one million dollars has been spent in building the port of New Orleans with State money. Our bonds are owned by people all over the United States. Our bonds are out, backed by the faith and credit of Louisiana, and when they are backed by the faith and credit of Louisiana, they have on them what is worth something. The State of Louisiana is not only a State which pays its own debts but it makes its subdivisions pay their debts. We do not stand for them going into bankruptcy. So we have forty millions of dollars of bonds outstanding, and we have been carrying them out of earnings of the port. You come along and say, "What is the business of this port?"

We say, "Senator, we get so many bushels of wheat."

"Well, we are not going to let you have that next year. There is a port that is a little closer than you to that wheat field; so we are going to give them that wheat."

But we say, "Senator, that wheat can come down the Mississippi River and the Missouri River, and it can meet tonnage here, and get more expeditious exportation. Certainly you would not destroy that."

"Oh, yes."

"What are you going to leave us?"

"You have so much cotton."

"Yes, we have some cotton."

"We are not going to let you have that. The cotton fields are a hundred miles nearer to Lake Charles than they are to New Orleans, so that is out."

"What is the next business? We have iron and steel which come from Pittsburgh down the Ohio River and down the Mississippi River."

"We are not going to let you have that. We find that by a mileage system of rates we can move that iron and steel from Pittsburgh to Philadelphia by rail, and it is only 200 miles from Pittsburgh to Philadelphia, and therefore you cannot have that. So that is out. What other kind of business have you?"

"About the only other kind of business we have is what we get out of the textile mills. We get certain business out of them, largely through the Mississippi River."

"That is not going to work. There are several little ports down there that are a lot nearer to the sea than you are, and we must impose a burden."

Therefore, if this nefarious, iniquitous bill shall go through Congress now, it is just the same as though you took fire and burned down and destroyed the port of New Orleans, and ravaged the Mississippi Valley while you were doing it. They came down and said to us, "We want you to build bins, large bins, capable of taking care of all the surplus wheat crop that may be sent here for export. Let there be no such thing as a private port. Let it be owned by the people, and have no railroad, have no private interest, owning this port. Let us have New Orleans the one port at the mouth of the Mississippi River, situated on the Gulf, or within close proximity to the Gulf. Let us have one port that not only accommodates the inland-waterway traffic but accommodates the seaboard traffic. Let us have one port here publicly owned."

We did that, at the request of the United States. The port of New Orleans completed what had been recommended by Robert Fulton. Robert Fulton was employed by Mr. Dearborn, Secretary of War, before he built the first steamboat, and was sent down to prospect and to see what ought to be done. Among the things he recommended was that the United States should provide at New Orleans an industrial canal, which he built, joining Lake Pontchartrain with the Mississippi River.

One hundred years later the United States Government, in the stress of war, asked the State of Louisiana to lend her credit and to complete the construction of that port; and the State of Louisiana spent twenty-one and a half million dollars in addition to the nineteen and a half million dollars previously spent, and completed for the use of the people of the United States a publicly owned port. The United States asked Louisiana to build it, and Louisiana built the port. However, the bonds of the United States are not outstanding for that port.

Mr. President, there is only one publicly owned port in the world—or, rather, I will say in America, for there may be some other such ports in the world, but I do not know of any—there is only one port in America today which is publicly owned, accommodating both the interior and exterior commerce by water, and that is the port of New Orleans. However, that can be taken out of the picture. Let us forget it. The harm which is done the port is infinitesimal compared with the harm which is done to the interior.

Did the wheat farmers appear and protest in this case? They appeared here, and they protested against this kind of a bill. The farmers of the midwestern territory protested against it; and they showed in this case, I think, or they showed in others in which I participated, that as the result of this kind of regulation more wheat is being planted in Canada, more wheat is being exported from Canada, and less wheat is being planted and less wheat is being exported from the United States.

When we allowed these ships to come and go, the Canadian wheat fields could not compete with the American wheat fields. There was a time when commerce was so regulated, or rather not regulated, that it flowed evenly out of the western wheat fields, largely through the port of New Orleans, and some through the port of New York and other ports, and was sold in South America and in Europe. With the adoption of these regulations farmers continued year after year to abandon wheat farms in western and northern United States and began to buy land and open up wheat fields in Canada, as a result of which Canada year after year raises more wheat, and year after year exports more wheat, taking the place of the wheat which the United States used to raise and which the United States used to export.

It is a funny thing, Mr. President, when we stop to think about these matters, that land over in Canada on which as good wheat is raised and sometime better wheat than that raised in the United States used to sell for a price so much lower than land in the United States that the prices could not be compared. We began to impose these restraints, and as the result the wheat fields of America have suffered, because of their inability to meet the competition, notwithstanding that—

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

That provision appears in article I of our Constitution.

Mr. President, I have been reading from the first Supreme Court decision. I have only a few pages more of it to read.

There was a dissenting opinion by Mr. Justice Harlan and by Mr. Justice Brown. I shall content myself with trying to finish reading the main decision.

We think that Congress has here pointed out that, in considering questions of this sort, the Commission is not only to consider the wishes and interests of the shippers and merchants of large cities, but to consider also the desire and advantage of the carriers in securing special forms of traffic, and the interest of the public that the carriers should secure that traffic, rather than abandon it, or not attempt to secure it. It is self-evident that many cases may and do arise where, although the object of the carriers is to secure the traffic for their own purposes and upon their own lines, yet, nevertheless, the very fact that they seek, by the charges they make, to secure it, operates in the interests of the public.

And, as I said a minute ago, this is one that did operate in the interest of the public.

Moreover, it must not be overlooked that this legislation is experimental. Even in construing the terms of a statute, courts must take notice of the history of legislation, and, out of different possible constructions, select and apply the one that best comports with the genius of our institutions and, therefore, most likely to have been the construction intended by the law-making power. Commerce, in its largest sense, must be deemed to be one of the most important subjects of legislation, and an intention to promote and facilitate it, and not to hamper or destroy it, is naturally to be attributed to Congress.

That would certainly be the import of what has been done with our waterway development. When we are building intercoastal canals from New Orleans to Houston, Tex., and when we are developing our waterways, even to the extent of the survey which has been made of the gigantic $9,000,000,000 plan recently furnished to this Congress by the War Department, certainly in the light of those developments we should hold this language to be pretty reasonable today.

The very terms of the statute, that charges must be reasonable, that discrimination must not be unjust, and that preference or advantage to any particular person, firm, corporation, or locality must not be undue or unreasonable, necessarily imply that strict uniformity is not to be enforced—

But they did enforce it. Every line of this decision has been set at naught by the efforts for this kind of legislation by the Interstate Commerce Commission, and by an order which they rendered in the teeth of this law 30 years later. Every line of it!—

but that all circumstances and conditions which reasonable men would regard as affecting the welfare of the carrying companies, and of the producers, shippers, and consumers, should be considered by a tribunal appointed to carry into effect and enforce the provisions of the act.

Mr. President, I can read the rest of the decision, and I am very anxious that it should be read. If any Senator objects to the clerk reading it, I shall read it myself. However, I should like to have the clerk read the remaining few pages. I comment as I go along reading it, and therefore take up more time. If there is no objection, I ask that the clerk read the next few pages, down to the beginning of the dissenting opinion.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

The principal purpose of the second section is to prevent unjust discrimination between shippers. It implies that, in deciding whether differences in charges, in given cases, were or were not unjust, there must be a consideration of the several questions whether the services rendered were "like and contemporaneous", whether the kinds of traffic were "like", whether the transportation was effected under "substantially similar circumstances and conditions." To answer such questions, in any case coming before the Commission, requires an investigation into the facts; and we think that Congress must have intended that whatever would be regarded by common carriers, apart from the operation of the statute, as matters which warranted differences in charges, ought to be considered in forming a judgment whether such differences were or were not "unjust." Some charges might be unjust to shippers, others might be unjust to the carriers. The rights and interests of both must, under the terms of the act, be regarded by the Commission.

The third section forbids any undue or unreasonable preference or advantage in favor of any person, company, firm, corporation, or locality; and as there is nothing in the act which defines what shall be held to be due or undue, reasonable or unreasonable, such questions are questions not of law, but of fact. The mere circumstance that there is, in a given case, a preference or an advantage does not of itself show that such perference or advantage is undue or unreasonable within the meaning of the act. Hence it follows that before the Commission can adjudge a common carrier to have acted unlawfully, it must ascertain the facts; and here again we think it evident that those facts and matters which carriers, apart from any question arising under the statute, would treat as calling, in given cases, for a preference or advantage, are facts and matters which must be considered by the Commission in forming its judgment whether such preference or advantage is undue or unreasonable. When the section says that no locality shall be subjected to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, it does not mean that the Commission is to regard only the welfare of the locality or community where the traffic originates, or where the goods are shipped on the cars. The welfare of the locality to which the goods are sent is also, under the terms and spirit of the act, to enter into the question.

The same observations are applicable to the fourth section, or the so-called "long and short haul provision", and it is unnecessary to repeat them.

The only argument, urged in favor of the view of the Commission, that is drawn from the language of the statute, is found in those provisions of the statute that make it obligatory on the common carriers to publish their rates, and to file with the Commission copies of joint tariffs of rates or charges over continuous lines or routes operated by more than one common carrier; and it is said that the place at which it would seem that joint rates should be published for the information of shippers would be at the place of origin of the freight, and that this cannot be done, or be compelled to be done, in foreign ports.

The force of this contention is well perceived. Room is left for the application of these provisions to traffic originating within the limits of the United States, even if, for any reason, they are not practically applicable to traffic originating elsewhere. Nor does it appear that the Commission may not compel all common carriers within the reach of their jurisdiction to publish such rates, and to furnish the Commission with all statements or reports prescribed by the statute. Nor was there any allegation, evidence, or finding, in the present case, that the Texas & Pacific Railway Co. has failed to file with the Commission copies of its joint tariffs, showing the joint rates from English ports to San Francisco, nor that the company has failed to make public such joint rates in such manner as the Commission may have directed.

Another position taken by the Commission in its report, and defended in the briefs of counsel, is that it is the duty of the Commission to so construe the act to regulate commerce as to make it practically cooperate with what is assumed to be the policy of the tariff laws. This view is thus stated in the report:

"One paramount purpose of the act to regulate commerce, manifest in all its provisions, is to give to all dealers and shippers the same rates for similar services rendered by the carrier in transporting similar freight over its line. Now, it is apparent from the evidence in this case that many American manufacturers, dealers, and localities in almost every line of manufacture and business are the competitors of foreign manufacturers, dealers, and localities for supplying the wants of American consumers at interior places in the United States, and that under domestic bills of lading they seek to require from American carriers like service as their foreign competitors in order to place their manufactured goods, property, and merchandise with interior consumers. The act to regulate commerce secures them this right. To deprive them of it by any course of transportation business or device is to violate the statute" (4 I. C. C. Rept. 514, 515).

Our reading of the act does not disclose any purpose or intention, on the part of Congress, to thereby reinforce the provisions of the tariff laws. These laws differ wholly in their objects from the law to regulate commerce. Their main purpose is to collect revenues with which to meet the expenditures of the Government, and those of their provisions, whereby Congress seeks to so adjust rates as to protect American manufacturers and producers from competition by foreign low-priced labor, operate equally in all parts of the country.

The effort of the Commission, by a rigid general order, to deprive the inland consumers of the advantage of through rates, and to thus give an advantage to the traders and manufacturers of the large seaboard cities seems to create the very mischief which it was one of the objects of the act to remedy.

Similar legislation by the Parliament of England may render it profitable to examine some of the decisions of the courts of that country construing its provisions.

In fact, the second section of our act was modeled upon section 90 of the English "Railway Clauses Consolidation Act" of 1845, known as the "equality clause", and the third section of our act was modeled upon the second section of the English "Act for the Better Regulation of the Traffic on Railways and Canals" of July 10, 1854, and the eleventh section of the act of July 21, 1873, entitled "An act to make better provision for the carrying into effect the Railway and Canal Traffic Act, 1854, and for other purposes, connected therewith."

One of the first cases that arose under the act of 1854 was that of *Hozier* v. *The Caledonian Railway* (1 Nev. & Mac. Railway Cases, 27; S. C. 17 Sess. Cas. 302; 24 Law Times, 339), where Hozier filed a petition against the railway company, alleging that he was aggrieved by being charged 9 shillings for traveling between Motherwell and Edinburgh, a distance of 43 miles, while passengers traveling in the same train and in the class of carriage between Glasgow and Edinburgh were charged only 2 shillings, which was

alleged to amount to an undue and unreasonable preference. But the petition was dismissed, and the court, by Lord Curriehill, said: "The only case stated in the petition is that passengers passing from Glasgow to Edinburgh are carried at a cheaper aggregate rate than passengers from Motherwell to either of these places. Now that is an advantage, no doubt, to those passengers traveling between Edinburgh and Glasgow. But is it an unfair advantage over other passengers traveling between intermediate stations? The complainer must satisfy us that there is something unfair or unreasonable in what he complains of, in order to warrant any interference. Now, I have read the statement in the petition and I have listened to the argument in support of it to find what there is unreasonable in giving that advantage to through passengers. What disadvantage do Motherwell passengers suffer by this? I think that no answer was given to this, except that there was none. This petitioner's complaint may be likened to that of the laborer who, having worked all day, complained that others who had worked less received a penny like himself."

The case of *Foreman* v. *Great Eastern Railway Co.* (2 Nev. & Mac. 202) was decided by the English railway commissioners in 1875. The facts were that the complainants imported coal, in their own ships, from points in the north of England to Great Yarmouth, and forwarded the coal to various stations on the defendants' railway, between Great Yarmouth and Peterborough. The complaint was that the defendants' rates for carrying coal from Yarmouth to stations in the interior, at which complainants dealt, were unreasonably greater than the rates charged in the opposite direction, from Peterborough to such stations; and that such difference in rates was made by the defendants for the purpose of favoring the carriage of coal from the interior as against coal brought to Yarmouth by sea, and carried thence into the interior over the defendants' railway. The commissioners found that it was true that the defendants did carry coal from the interior to London, Yarmouth, and other seaports on their line at exceptionally low rates, but that this was done for the purpose of meeting the competition existing at those places. It appeared that the rate from Peterborough to Thetford, 51 miles, was 4 shillings, while the rate from Peterborough to Yarmouth, 100 miles, was only 3 shillings. The commissioners said, "As, however, the complainants do not, as far as their trade in Yarmouth itself is concerned, use the Great Eastern Railway at all, the company cannot be said to prefer other traffic to theirs; nor does the traffic act prevent a railway company from having special rates of charge to a terminus to which traffic can be carried by other routes or other modes of carriage with which theirs is in competition."

In *Harris* v. *Cockermouth Railway* (1 Nev. & Mac. 97; S. C. 3 C. B. (N. S.) 693), the court held it to be an undue preference for a railway company to concede to the owner of a colliery a lower rate than to the owners of other collieries, from the same point of departure to the same point of arrival, merely because the person favored had threatened to build a railway for his coal, and to divert his traffic from defendant's railway. But Chief Justice Cockburn said: "I quite agree that this court has intimated, if not absolutely decided, that a company is entitled to take into consideration any circumstances, either of a general or of a local character, in considering the rate of charge which they will impose upon any particular traffic. * * * As, for instance, in respect of terminal traffic, there might be competition with another railway; and in respect to terminal traffic as distinguished from intermediate traffic, it might well be that they could afford to carry goods over the whole line cheaper, or proportionately so, than they could over an intermediate part of the line."

In the case of *Budd* v. *London & Northwestern Railway Co.* (4 Eng. Ry. and Canal Traffic Cases, 393), and in *London & Northwestern Railway* v. *Evershed* (3 App. Cas. 1029), it was held that it was not competent for the railway company to make discriminations between persons shipping from the same point of departure to the same point of arrival, but, even in those cases, it was conceded that there might be circumstances of competition which might be considered. At any rate, those cases have been much modified, if not fully overruled by the later cases—particularly in *Denaby Main Colliery Co.* v. *Manchester, Sheffield & Lincolnshire Railway Co.* (11 App. Cas. 97), and in *Phipps* v. *London & Northwestern Railway* (2 Q. B. D., 1892, 229, 236).

The latter was the case of an application under the Railway and Canal Traffic Acts for an order enjoining the defendants to desist from giving an undue preference to the owners of Butlins and Islip furnaces, and from subjecting the traffic of the complainants to an undue preference in the matter of the rates charged for the conveyance of coal, coke, and pig-iron traffic; and also for an order enjoining the defendants to desist from giving an unreasonable preference or advantage to the owners of Butlins and Islip furnaces and the traffic therefrom by making an allowance of 4 pence per ton in respect of coal, coke, and pig iron conveyed for them by the defendants. The sidings of the Duston furnaces, belonging to the complainants, were situated on the London & Northwestern Railway, at a distance of about 60 miles from Great Bridge, one of the pig-iron markets to the westward. The sidings of the Butlins and Islip furnaces were situated on the same railway to the east of the Duston furnaces, and a distance from the pig-iron market as to Butlins of about 71 miles and as to Islip of about 82 miles. Duston had only access to the London & Northwestern, but Butlins and Islip had access not only to the London & Northwestern but also to the Midland Railway. The London & Northwestern Co., which carried the Butlins pig iron 11 miles farther and the Islip pig iron 22 miles farther than the Duston pig iron, charged Butlins 0.95 pence per mile and Islip 0.84 pence per mile, while they charged Duston 1.05 pence per mile, so that the total charge per ton of pig iron from Duston to the western markets was 5 shillings 2 pence, while the total charge per ton from either Butlins or Islip was 5 shillings 8 pence.

When the case was before the railway commissioners, it was said by Wills, J.: "It is complained that although along the London & Northwestern Railway every ton of pig iron, every ton of coal, and every ton of coke travels a longer distance in order to reach Islip than in order to reach the applicant's premises, the charge that is put upon it, although greater than the charge which is put upon the traffic which goes to the applicant's premises, is not sufficiently greater to represent the increased distance. * * * I first observe that these are, in my judgment, eminently practical questions; and if this court once attempts the hopeless task of dealing with questions of this kind with any approach to mathematical accuracy, and tries to introduce a precision which is unattainable in commercial and practical matters, it would do infinite mischief and no good. * * * It seems to me that we must take into account the fact that at Butlins and Islip there is an effective competition with the Midland. Although effective competition with another railway company or canal company will not of itself justify a preference, which is otherwise quite beyond the mark, yet still it is not a circumstance that can be thrown out of the question, and I think there is abundance of authority for that. It follows also, I think, from the view which I am disposed to take of these, being eminently practical questions, that you must give due consideration to the commercial necessities of the companies as a matter to be thrown in along with the others. * * * I wish emphatically to be considered as not having attempted to lay down any principles with regard to this question of undue preference or as to the grounds upon which I have decided it. In my judgment, undue preference is a question of fact in each case."

The railway commissioners refused to interfere, and the case was appealed. Lord Herschell stated the case and said:

"This application is made under the second section of the Railway and Canal Traffic Act, 1854, which provides that 'no railway company shall make or give any undue or unreasonable preference or advantage to or in favor of any particular person or company, or any particular description of traffic, in any respect whatever, nor shall any such company subject any particular person or company, or particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatever.'

"The question, therefore, which the tribunal, whether it be the court or the commissioners, before whom such a question comes, has to determine is whether an undue preference or advantage is being given, or whether the one party is being unduly prejudiced or put to a disadvantage as compared with the other. I think it is clear that the section implies that there may be a preference and that it does not make every inequality of charge an undue preference.

"Of course, if the circumstances so differ that the difference of charge is in exact conformity with the difference of circumstances, there would be no preference at all. But, as has been pointed out before, what the section provides is that there shall not be an undue or unreasonable preference or prejudice. And it cannot be doubted that whether in particular instances there has been an undue or unreasonable prejudice or preference is a question of fact. In *Palmer* v. *London & Southwestern Railway Co.* (L. R. 1 C. P. 593), Chief Justice Erle said: 'I beg to say that the argument from authority seems to me to be without conclusive force in guiding the exercise of this jurisdiction; the question whether undue prejudice has been caused being a question of fact depending on the matters proved in each case.'

"In *Denaby Main Colliery Co.* v. *Manchester, etc., Railway Co.* (3 Railway and Canal Traffic Cases, 426), when it was before the court of appeals on an appeal arising out of the proceedings before the railway commissioners, Lord Selborne, then Lord Chancellor, said: 'The defendants gave a decided, distinct, and great advantage, as it appears to me, to the distant collieries. That may be due or undue, reasonable or unreasonable; but, under these circumstances, is not the reasonableness a question of fact? Is it not a question of fact and not of law whether such a preference is due or undue? Unless you can point to some other law which defines what shall be held to be reasonable or unreasonable, it must be and is a mere question not of law but of fact.'

"The Lord Chancellor there points out that the mere circumstance that there is an advantage does not of itself show that it is an undue preference within the meaning of the act, and, further, that whether there be such undue preference or advantage is a question of fact, and of fact alone, of the act of 1854. No rule is given to guide the court or the tribunal in the determination of cases or applications made under this second section. The conclusion is one of fact to be arrived at, looking at the matter broadly and applying common sense to the facts that are proved. I quite agree with Mr. Justice Wills that it is impossible to exercise a jurisdiction, such as is conferred by this section, by any process of mere mathematical or arithmetical calculation. When you have a variety of circumstances differing in the one case from the other, you cannot say that a difference of circumstances represents or is equivalent to such a fraction of a penny difference of charge in the one case as compared with the other.

A much broader view must be taken, and it would be hopeless to attempt to decide a case by any attempted calculation. I should say that the decision must be arrived at broadly and fairly, by looking at all the circumstances of the case, that is, looking at all the circumstances which are proper to be looked at; because, of course, the very question in this case is whether a particular circumstance ought or ought not to be considered; but keeping in view all the circumstances which may legitimately be

taken into consideration, then it becomes a mere question of fact. * * * Now, there is no doubt that in coming to their determination the court below did have regard to competition between the Midland and the Northwestern, and the situation of these two furnaces which rendered such competition inevitable. If the appellants can make out that, in point of law, that is a consideration which cannot be permitted to have any influence at all, that those circumstances must be rigidly excluded from consideration, and that they are not circumstances legitimately to be considered, no doubt they establish that the court below has erred in point of law. But it is necessary for them to go as far as that in order to make any way with this appeal, because once admit that to any extent, for any purpose, the question of competition can be allowed to enter in, whether the court has given too much weight to it or too little, becomes a question of fact and not of law. The point is undoubtedly a very important one. * * *

"As I have already observed, the second section of the act of 1854 does not afford to the tribunal any kind of guide as to what is undue or unreasonable. It is left entirely to the judgment of the court on a review of the circumstances. Can we say that the local situation of one trader as compared with another which enables him, by having two competing routes, to enforce upon the carrier by either of these routes a certain amount of compliance with his demands which would be impossible if he did not enjoy that advantage is not among the circumstances which may be taken into consideration? I am looking at the question now as between trader and trader. It is said that it is unfair to the trader who is nearer the market that he should not enjoy the full benefit of the advantage to be derived from his geographical situation at a point on the railway nearer the market than his fellow trader who trades at a point more distant; but I cannot see, looking at the matter as between the two traders, why the advantageous position of the one trader in having his works so placed that he has two competitive routes is not as much a circumstance to be taken into consideration as the geographical position of the other trader, who, though he has not the advantage of competition, is situated at a point on the line geographically nearer the market. Why the local situation in regard to its proximity to the market is to be the only consideration to be taken into account in dealing with the matter as a matter of what is reasonable and right as between the two traders I cannot understand.

"Of course, if you are to exclude this from consideration altogether, the result must inevitably be to deprive the trader who has the two competing routes of a certain amount of the advantages which he derives from that favorite position of his works. All that I have to say is that I cannot find anything in the act which indicates that when you are left at large, for you are left at large, as to whether as between two traders the company is showing an undue and unreasonable preference to the one as compared with the other, you are to leave out that circumstance any more than any other circumstance which would affect men's minds. * * * One class of cases, unquestionably intended to be covered by the section, is that in which traffic from a distance, of a character that competes with the traffic nearer the market, is charged low rates, because unless such low rates were charged, it would not come into the market at all. It is certain, unless some such principle as that were adopted, a large town would necessarily have its food supply greatly raised in price. So that, although the object of the company is simply to get the traffic, the public have an interest in their getting the traffic and allowing the carriage at a rate which will render that traffic possible, and so bring the goods at a cheaper rate, and one which makes it possible for those at a greater distance to compete with those situate nearer to it. * * * I cannot but think that a lower rate which is charged from a more distant point by reason of a competing route which exists thence is one of the cases which may be taken into account under those provisions, and which would fall within the terms of the enactment.

"Suppose that to insist on absolutely equal rates would practically exclude one of the two railways from the traffic, it is obvious that these members of the public who are in the neighborhood where they can have the benefit of this competition, would be prejudiced by any such proceedings. And further, inasmuch as competition undoubtedly tends to diminution of charges, and the charge of carriage is one which ultimately falls upon the consumer, it is obvious that the public have an interest in the proceedings under this act of Parliament not being so used as to destroy a traffic which can never be secured but by some such reduction of charge, and the destruction of which would be prejudicial to the public by tending to increase prices."

The learned judge then proceeded to discuss the authorities, and pointed out that the case of *Budd* v. *London & Northwestern Railway Co.* and Evershade's case, are no longer law, so far as the second section of the act of 1854 is concerned.

Lindley and Kay, Lord Justices, gave concurring opinions, and the conclusion of the court was that the Commissioners did not err in taking into consideration the fact that there was a competing line together with all the other facts of the case, and in holding that a preference or advantage thence arising was not undue or unreasonable.

The precise question now before us has never been decided in the American cases, but there are several in which somewhat analogous questions have been considered.

Atchison, Topeka & Santa Fe Railroad v. *Denver & New Orleans Railroad* (110 U. S. 667) was a case arising under a provision of the constitution of the State of Colorado which declares "that all individuals, associations, and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or facilities for transportation of freight or passengers within the State, and no railroad company shall give any preference to individuals, associations, or corporations in furnishing cars or motive power." This court held that under this constitutional provision a railroad company which had made provisions with a connecting road for the transaction of joint business at an established union junction was not required to make similar provisions with a rival connecting line at another near point on its line, and that the constitutional provision is not violated by refusing to give to a connecting road the same arrangement as to through rates which are given to another connecting line, unless the conditions as to the service are substantially alike in both cases.

The sixth section of the act of Congress of July 1, 1862, relative to the Union Pacific Railroad Co. provided that the Government shall at all times have the preference in the use of the railroad "at fair and reasonable rates of compensation, not to exceed the amount paid by private parties for the same kind of service." In the case of *Union Pacific Railway* v. *United States* (117 U. S. 355) it was, in effect, held that the service rendered by a railway company in transporting local passengers from one point on its line to another is not identical with the service rendered in transporting through passengers over the same rails.

A petition was filed before the Interstate Commerce Commission by the Pittsburgh, Cincinnati & St. Louis Railway Co. against the Baltimore & Ohio Railroad Co., seeking to compel the latter company to withdraw from its lines of road, upon which business competition with that of the petitioner was transacted, the so-called "party rates", and to decline to give such rates in the future—also for an order requiring said company to discontinue the practice of selling excursion tickets at less than the regular rate. The cause was heard before the Commission, which held the so-called "party rate" tickets, insofar as they were sold for lower rates for each member of a party of 10 or more than contemporaneously charged for the transportation of single passengers between the same points, constituted unjust discrimination and were therefore illegal. The defendant company refusing to obey the mandate of the Commission, the latter filed a bill in the Circuit Court of the United States for the Southern District of Ohio, asking that the defendant be enjoined from continuing in its violation of the order of the Commission. The circuit court dismissed the bill.

Some of the observations made by Jackson, circuit judge, may well be cited. Forty-three Federal Reporter, 37: "Subject to the two leading prohibitions that their charges shall not be unjust or unreasonable, and that they shall not unjustly discriminate, so as to give undue preference or advantage, or subject to undue prejudice or disadvantage persons or traffic similarly circumstanced, the act to regulate commerce leaves common carriers as they were at the common law, free to make special contracts looking to the increase of their business, to classify their traffic, to adjust and apportion their rates so as to meet the necessities of commerce, and generally to manage their important interests upon the same principles which are regarded as sound and adopted in other trades and pursuits. Conceding the same terms of contract to all persons equally, may not the carrier adopt both wholesale and retail rates for its transportation service?" Again: "The English cases establish the rule that, in passing upon the question of undue or unreasonable preference or disadvantage, it is not only legitimate but proper to take into consideration, besides the mere differences in charges, various elements, such as the convenience of the public, the fair interests of the carrier, the relative quantities or volume of the traffic involved, the relative cost of the services and profit to the company, and the situation and circumstances of the respective customers with reference to each other as competitive or otherwise."

The case was brought to this court and the judgment of the circuit court dismissing the bill was affirmed. *Interstate Commerce Commission* v. *Baltimore & Ohio Railroad* (145 U. S. 263). The court, through Mr. Justice Brown, cited with approval passages from the opinion of Judge Jackson in the court below, and among other things said, "It is not all discriminations or preferences that fall within the inhibition of the statute; only such as are unjust and unreasonable."

Again, speaking of the sale of a ticket for a number of passengers at a less rate than for a single passenger, it was said: "It does not operate to the prejudice of the single passenger, who cannot be said to be injured by the fact that another is able, in a particular instance, to travel at a less rate than he. If it operates injuriously to anyone it is to the rival road, which has not adopted corresponding rates, but, as before observed, it was not the design of the act to stifle competition, nor is there any legal injustice in one person procuring a particular service cheaper than another. * * * If these tickets were withdrawn the defendant road would lose a large amount of travel, and the single-trip passenger would gain absolutely nothing."

The conclusions that we draw from the history and language of the act, and from the decisions of our own and the English courts, are mainly these: That the purpose of the act is to promote and facilitate commerce by the adoption of regulations to make charges for transportation just and reasonable, and to forbid undue and unreasonable preferences or discriminations: That, in passing upon questions arising under the act, the tribunal ap-

pointed to enforce its provisions, whether the Commission or the courts, is empowered to fully consider all the circumstances and conditions that reasonably apply to the situation, and that, in the exercise of its jurisdiction, the tribunal may and should consider the legitimate interests as well of the carrying companies as of the traders and shippers, and in considering whether any particular locality is subjected to an undue preference or disadvantage the welfare of the communities occupying the localities where the goods are delivered is to be considered as well as that of the communities which are in the locality of the place of shipment: That among the circumstances and conditions to be considered, as well in the case of traffic originating in foreign ports as in the case of traffic originating within the limits of the United States, competition that affects rates should be considered, and in deciding whether rates and charges made at a low rate to secure foreign freights which would otherwise go by other competitive routes are or are not undue and unjust, the fair interests of the carrier companies and the welfare of the community which is to receive and consume the commodities are to be considered: That if the Commission instead of confining its action to redressing, on complaint made by some particular person, firm, corporation, or locality, some specific disregard by common carriers of provisions of the act, proposes to promulgate general orders, which thereby become rules of action to the carrying companies, the spirit and letter of the act require that such orders should have in view the purpose of promoting and facilitating commerce, and the welfare of all to be affected, as well the carriers as the traders and consumers of the country.

It may be said that it would be impossible for the Commission to frame a general order if it were necessary to enter upon so wide a field of investigation, and if all interests that are liable to be affected were to be considered. This criticism, if well founded, would go to show that such orders are instances of general legislation, requiring an exercise of the law-making power, and that the general orders made by the Commission in March 1889 and January 1891 instead of being regulations calculated to promote commerce and enforce the express provisions of the act, are themselves laws of wide import, destroying some branches of commerce that have long existed, and undertaking to change the laws and customs of transportation in the promotion of what is supposed to be public policy.

This is manifest from the facts furnished us in the report and findings of the Commission, attached as an exhibit to the bill filed in the circuit court.

It is stated in that report that the Illinois Central Railroad Co., one of the respondents in the proceeding before the Commission, averred in its answer that it was constrained, by its obedience to the order of March 1889, to decline to take for shipment any import traffic, and, to its great detriment, to refrain from the business, for the reason that to meet the action of the competing lines it would have to make a less rate on the import than on the domestic traffic.

Upon this disclosure that their order had resulted in depriving that company of a valuable part of its traffic (to say nothing of its necessary effect in increasing the charges to be finally paid by the consumers), the Commission in its report naively remarks: "This lets the Illinois Central Railway Co. out" (4 Interstate Com. Com. Rep. 458).

We also learn from the same source that there was competent evidence adduced before the Commission, on the part of the Pennsylvania Railroad Co., that since that company, in obedience to the order of March 1889, has charged the full inland rate on the import traffic, the road's business in that particular has considerably fallen off—that the steamship lines have never assented to the road's charging its full inland rates, and have been making demands on the road for a proper division of the through rate—that if it were definitely determined that the road was not at liberty to charge less than the full inland rate, the result would be that it would effectually close every steamship line sailing to and from Baltimore and Philadelphia.

The Commission did not find it necessary to consider this evidence, because the Pennsylvania Railroad Co. was before it in the attitude of having obeyed the order.

We do not refer to these matters for the purpose of indicating what conclusions ought to have been reached by the Commission or by the courts below in respect to what were proper rates to be charged by the Texas & Pacific Railway Co. That was a question of fact, and if the inquiry had been conducted on a proper basis we should not have felt inclined to review conclusions so reached. But we mention them to show that there manifestly was error in excluding facts and circumstances that ought to have been considered, and that this error arose out of a misconception of the purpose and meaning of the act.

The circuit court held that the order of January 29, 1891, was a lawful order, and enjoined the defendant company from carrying any article of import traffic shipped from any foreign port through any port of entry in the United States, or any port of entry in a foreign country adjacent to the United States, upon through bills of lading, and destined to any place within the United States, upon any other than the published inland tariff covering the transportation of other freight of like kind over its line from such port of entry to such place of destination, or from charging or accepting for its share of through rates upon imported traffic a lower sum than it charges or receives for domestic traffic of like kind to the same destination from the point at which the imported traffic enters the country.

In treating the facts of the case the court says: "It must be conceded as true, for the purposes of the present case, that the rates for the transportation of traffic from Liverpool and London to San Francisco are, in effect, fixed and controlled by the competition of sailing vessels between these ports, and also by the competition of steamships and sailing vessels in connection with railroads across the Isthmus of Panama, none of which are in any respect subject to the act to regulate commerce. It must also be conceded that the favorable rates given to the foreign traffic are, for reasons to which it is now unnecessary to revert, somewhat remunerative to the defendant; and it must also be conceded that the defendant would lose the foreign traffic, by reason of the competition referred to, and the revenue derived therefrom, unless it carries at the lower rates, and by so doing is enabled to get part of it, which would otherwise go from London and Liverpool to San Francisco around the Horn or by the way of the Isthmus." *Interstate Commerce Commission* v. *Texas & Pacific Railway* (52 Fed. Rep. 187).

The circuit court did not discuss the case at length, either as to its law or facts, but, in effect, approved the order of January 29, 1891, as valid, and enjoined the defendant company from disregarding it.

The circuit court of appeals seems to have disapproved of the construction put on the act by the Commission. The language of the court was as follows: "The Commission contended that the defendant had violated the second section of the act to regulate commerce, which prohibits unjust discrimination in the compensation charged for like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, and had also violated the third section, which prohibits any undue or unreasonable preference or advantage to any particular description of traffic. The defendant insisted that the dissimilar conditions growing out of the ocean competition freed its conduct from the prohibition of the statute. The Commission held that this class of dissimilar conditions was not in the contemplation of the statute, and was not to be regarded in the regulation of inland tariffs of rates." Then, after citing a passage from the report of the Commission, the court proceeds to say: "Its conclusion was that foreign and home merchandise 'under the operation of the statute, when handled and transferred by interstate carriers engaged in carriage in the United States, stand exactly upon the same basis of equality as to tolls, charges, and treatment for similar services rendered.'

"This rule, having been founded upon a construction of the statute, is a very broad one. It is applicable to all the foreign circumstances and conditions which affect rates, and the question whether it must be universally applied without regard to any circumstances which may exist in a foreign country, and whether dissimilarities which have a foreign origin are to be excluded from consideration under the operation of the statute, is an exceedingly important one, the ultimate decision of which may have a wider influence upon the interstate commerce of the country than we can foresee. This legal question was not discussed in the Export Rate case, which was treated 'as one of practical policy.' We are not disposed to pass authoritatively upon this question, except in a case which demands it, and in which the effect of this construction of the statute is naturally the subject of discussion" (20 U. S. App. 6–9).

Having thus intimated its dissent from, or, at least, its distrust of, the view of the Commission, the court proceeded to affirm the decree of the circuit court and the validity of the order of the Commission, upon the ground that, even if ocean competition should be regarded as creating a dissimilar condition, yet that, in the present case, the disparity in rates was too great to be justified by that condition.

This course proceeded, we think, upon an erroneous view of the position of the case. That question was not presented to the consideration of the court. There was no allegation in the Commission's bill or petition that the inland rates charged by the defendant company were unreasonable. That issue was not presented. The defendant company was not called upon to make any allegation on the subject. No testimony was adduced by either party on such an issue. What the Commission complained of was that the defendant refused to recognize the lawfulness of its order; and what the defendant asserted, by way of defense, was that the order was invalid, because the Commission had avowedly declined to consider certain "circumstances and conditions" which, under a proper construction of the act, it ought to have considered.

If the circuit court of appeals was of opinion that the Commission in making its order had misconceived the extent of its powers, and if the circuit court had erred in affirming the validity of an order made under such misconception, the duty of the circuit court of appeals was to reverse the decree, set aside the order, and remand the cause to the Commission, in order that it might, if it saw fit, proceed therein according to law. The defendant was entitled to have its defense considered, in the first instance at least, by the Commission upon a full consideration of all the circumstances and conditions upon which a legitimate order could be founded. The question whether certain charges were reasonable or otherwise, whether certain discriminations were due or undue, were questions of fact, to be passed upon by the Commission in the light of all facts duly alleged and supported by competent evidence, and it did not comport with the true scheme of the statute that the circuit court of appeals should undertake, of its own motion, to find and pass upon such questions of fact, in a case in the position in which the present one was.

We do not, of course, mean to imply that the Commission may not directly institute proceedings in a circuit court of the United

States charging a common carrier with disregard of provisions of the act, and that thus it may become the duty of the court to try the case in the first instance. Nor can it be denied that, even when a petition is filed by the Commission for the purpose of enforcing an order of its own, the court is authorized to "hear and determine the matter as a court of equity", which necessarily implies that the court is not concluded by the findings or conclusions of the Commission; yet as the act provides that, on such hearing, the findings of fact in the report of said Commission shall be prima facie evidence of the matters therein stated, we think it plain that if, in such a case, the Commission has failed in its proceedings to give notice to the alleged offender, or has unduly restricted its inquiries upon a mistaken view of the law, the court ought not to accept the findings of the Commission as a legal basis for its own action but should either inquire into the facts on its own account or send the case back to the Commission to be lawfully proceeded in.

The mere fact that the disparity between the through and the local rates was considerable did not, of itself, warrant the court in finding that such disparity constituted an undue discrimination—much less did it justify the court in finding that the entire difference between the two rates was undue or unreasonable, especially as there was no person, firm, or corporation complaining that he or they had been aggrieved by such disparity.

Mr. LONG. Mr. President, I am going to read over again a little of what the clerk read. I read from page 225:

When the case was before the Railway Commissioners it was said by Wills, J.: "It is complained that, although along the London & Northwestern Railway every ton of pig iron, every ton of coal, and every ton of coke travels a longer distance in order to reach Islip than in order to reach the applicant's premises, the charge that is put upon it, although greater than the charge which is put upon the traffic which goes to the applicant's premises, is not sufficiently greater to represent the increased distance. * * * I first observe that these are, in my judgment, eminently practical questions, and if this court once attempts the hopeless task of dealing with questions of this kind with any approach to mathematical accuracy, and tries to introduce a precision which is unattainable in commercial and practical matters, it would do infinite mischief and no good. * * *

I wish I could get the Senate to take the view which the Supreme Court adopts in this case. The Court says that if ever the Court or the Commission undertakes to estimate the conditions, the advantages, the disadvantages, and various other things, all of which are factors in foreign commerce, it will "do infinite mischief and no good." That is what they say, approving the language which was used here—

It seems to me—

And the Supreme Court is quoting this language with approval—

that we must take into account the fact that at Butlins and Islip there is an effective competition with the Midland—

Just as there is in this country. There is a competition with Argentina on meat; there is a competition with Canada for wheat and corn; there is a competition with Mexico for our own fruits, and everything else—

It seems to me that we must take into account the fact that at Butlins and Islip there is an effective competition with the Midland. Although effective competition with another railway company or canal company will not of itself justify a preference, which is otherwise quite beyond the mark, yet still it is not a circumstance that can be thrown out of the question, and I think there is abundance of authority for that. It follows also, I think, from the view which I am disposed to take of these, being eminently practical questions, that you must give due consideration to the commercial necessities of the companies as a matter to be thrown in along with the others * * *.

We have the same case here, identically the same. I want the Senate to understand that I am reading from a decision involving the very case this bill is put forward to reverse. This is one of the decisions of the Supreme Court of the United States the bill is brought forward to reverse, on the theory that these old "mossbacks" on the Supreme Court did not know what they were talking about. I read:

I wish emphatically to be considered as not having attempted to lay down any principles with regard to this question of undue preference, or as to the grounds upon which I have decided it. In my judgment, undue preference is the question of fact in each case.

The Railway Commissioners refused to interfere, and the case was appealed. On the appeal, the higher Court said this:

On the appeal, the higher Court said this:

Of course, if the circumstances so differ that the difference of charge is in exact conformity with the difference of circumstances, there would be no preference at all. But, as has been pointed out before, what the section provides is that there shall not be an undue or unreasonable preference or prejudice. And it cannot be doubted whether in particular instances there has been an undue or unreasonable prejudice or preference is a question of fact. * * * Chief Justice Erle said: "I beg to say that the argument from authority seems to me to be without conclusive force in guiding the exercise of this jurisdiction; the question whether undue prejudice has been caused being a question of fact proved in each case."

Mr. President, I shall skip a great deal, and try to take up as little time as I can. The Court finally comes down to a decision of its own.

I should like to abbreviate this debate. I hope my friends understand that I am very sorry that I do not attract more attention from some of my colleagues. Perhaps they understand this case better than I think they do.

When we tried this case before the Interstate Commerce Commission I think I was on the witness stand perhaps 2 days testifying in the case for the city of New Orleans at one time. I must have spent almost that much time discussing it with the individual members of the Interstate Commerce Commission, and quite a little while arguing it before the Commission, and I wish to say this, that whenever we could get the Commission to sit down and listen and think this thing over, 99 times out of 100 they would find that they had better let it alone.

One of the men with whom I talked was Commissioner Meyer. I do not know whether he is still with the Interstate Commerce Commission or not. I remember spending a Thanksgiving Day with him. As I remember, he was Chairman of the Commission, and I concluded that if I could get him to listen long enough he would not put this kind of an order into effect. So I got on the train at New Orleans, La., and came to Washington, D. C., for Thanksgiving Day, just to take a chance that perhaps I might be able to get Commissioner Meyer to listen to me on Thanksgiving Day, and perhaps he would not have anyone else bothering him. So I came and, by accident, got him to listen to me on Thanksgiving Day. I think I spent practically all that day with him, and at the conclusion of our conference, as feeble as my efforts may have been, nonetheless the Commissioner gave us the one necessary vote to reverse the order of the Commission. As I remember, his vote finally was that way. I might be mistaken, though I do not think I am, but I distinctly recall that my friend from Kentucky, Mr. Charlie McChord, who was on the Commission, was 100 percent with us, and with the help that we received from him and from a gentleman from Indiana, who came from a State commission, whom I saw here 4 or 5 years ago, we managed to get enough votes to upset that devilish thing, and we kept it upset for about 5 years. They upset it as a whole, and finally a little bit later they inflicted part of it on us, and then later they inflicted the balance of it on us, and that destroyed practically all of that business which had been going from this country to other countries, and no other port got it. They did not give the business to any other port; they destroyed the business in this country.

I now quote from the opinion where the Court was quoting an earlier Supreme Court decision:

Atchison, Topeka & Santa Fe Railroad Co. v. *Denver, New Orleans Railroad* (110 U. S. 667), was a case arising under a provision of the constitution of the State of Colorado which declares "that all individuals, associations, and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or facilities for transportation of freight or passengers within the State, and no railroad company shall give any preference to individuals, associations, or corporations in furnishing cars or motive power." This court held that under this constitutional provision a railroad company which had made provisions with the connecting road for the transaction of joint business at an established union junction was not required to make similar provisions with a rival connecting line at another near point on its line, and that the constitutional provision is not violated by refusing to give to a connecting road the same arrangement as to through rates which are given to another connecting line unless the conditions as to the service are substantially alike in both cases.

The sixth section of act of Congress of July 1, 1862, relative to the Union Pacific Railroad Co. provides that the Government shall at all times have the preference in the use of the railroad "at fair and reasonable rates of compensation, not to exceed the amount paid by private parties for the same kind of service." In the case of *Union Pacific Railway* v. *the United States* (117 U. S.

355) it was, in effect, held that the service rendered by a railroad company in transporting local passengers from one point on its line to another is not identical with the service rendered in transporting through passengers over the same rails.

A petition was filed before the Interstate Commerce Commission by the Pittsburgh, Cincinnati & St. Louis Railway Co. against the Baltimore & Ohio Railroad Co.—

It is a funny thing how some of the people who maintained this very principle are here trying to destroy it. The Baltimore & Ohio had exactly this case once before, but the shoe was on the other foot. In that case they took the other side. They will have their trouble. A route will be found that is shorter than theirs, and then they will have just as much trouble as anybody else is having. It will be found there is a route a little bit shorter than the Baltimore & Ohio. They are one of the great complainants. They are against the Pennsylvania, they are against the New York Central, they are against the Southern Pacific; but we will find that somewhere down the line a port will be discovered that is a few miles more inland than is Baltimore, and then the Baltimore & Ohio will have the fight all over, and they will not get the business in the first place. Things of this kind never have done anything except to destroy commerce since they have been started. They do not move it from one port to another port; they simply, by regulation, destroy the business altogether. They just keep from being carried on the business we have previously been getting.

A petition was filed before the Interstate Commerce Commission by the Pittsburgh, Cincinnati & St. Louis Railway Co. against the Baltimore & Ohio Railroad Co., seeking to compel the latter company to withdraw from its lines of road, upon which business competitive with that of the petitioner was transacted, the so-called "party rates", and to decline to give such rates in the future; also for an order requiring said company to discontinue the practice of selling excursion tickets at less than the regular rate. The cause was heard before the Commission, which held the so-called "party rate" tickets, insofar as they were sold for lower rates for each member of a party of 10 or more than rates contemporaneously charged for the transportation of single passengers between the same points, constituted unjust discrimination and were therefore illegal. The defendant company refusing to obey the mandate of the Commission, the latter filed a bill in the Circuit Court of the United State for the Southern District of Ohio, asking that the defendant be enjoined from continuing in its violation of the order of the Commission. The circuit court dismissed the bill. Some of the observations made by Jackson, circuit judge, may well be cited.

They then cite the decision which he rendered there, in which he said:

Conceding the same terms of contract to all persons equally, may not the carrier adopt both wholesale and retail rates for its transportation service?

And, Mr. President, in this case may not the carrier adopt what is necessary in order to carry on foreign commerce? If he cannot, then the article of the Constitution of the United States purporting to prevent unjust discrimination against any one port might as well not have been written into the Constitution.

I continue reading:

The case was brought to this Court and the judgment of the circuit court dismissing the bill was affirmed (*Interstate Commerce Commission* v. *Baltimore & Ohio Railroad*, 145 U. S. 263).

Notwithstanding the fact that suits before the Supreme Court of the United States involving this principle have been lost in case after case, from 1895 to 1933, and lost on this identical question, and I am now reading one of the decisions, they still come here with this same thing to destroy the foreign commerce of the United States. They have lost this case, and cases upon which this principle depended, year in and year out; and if this bill were passed it would still be unconstitutional, according to the line of argument which has been given here by the Supreme Court of the United States, if I am any judge of it.

I continue reading:

The Court, through Mr. Justice Brown, cited with approval passages from the opinion of Judge Jackson in the court below, and among other things said: "It is not all discriminations or preferences that fall within the inhibition of the statute; only such as are unjust and unreasonable."

Again, speaking of the sale of a ticket for a number of passengers at a less rate than for a single passenger, they quote again from Judge Jackson, which quotation I shall not now read.

The conclusions that we draw from the history and language of the act, and from the decisions of our own and the English courts, are mainly these: That the purpose of the act is to promote and facilitate commerce by the adoption of regulations to make charges for transportation just and reasonable, and to forbid undue and unreasonable preferences or discriminations: That, in passing upon questions arising under the act, the tribunal appointed to enforce its provisions, whether the Commission or the courts, is empowered to fully consider all the circumstances and conditions that reasonably apply to the situation, and that, in the exercise of its jurisdiction, the tribunal may and should consider the legitimate interests as well of the carrying companies as of the traders and shippers, and in considering whether any particular locality is subjected to an undue preference or disadvantage the welfare of the communities occupying the localities where the goods are delivered is to be considered as well as that of the communities which are in the locality of the place of shipment.

In other words, they do not only consider the port that these goods are going through; they consider the place that the goods left. They consider the people who are selling these goods.

That among the circumstances and conditions to be considered, as well in the case of traffic originating in foreign ports as in the case of traffic originating within the limits of the United States, competition that affects rates should be considered, and in deciding whether rates and charges made at a low rate to secure foreign freights which would otherwise go by other competitive routes are or are not undue and unjust, the fair interests of the carrier companies and the welfare of the community which is to receive and consume the commodities are to be considered.

If that is the law, this bill, neither topside nor bottom, would be considered in the Senate today. If it is the law that you are to consider how rates and charges affect the price of the commodity you buy and the price of the commodity you sell, this bill could not stay here long enough for water to get hot.

What is the justification of what the bill proposes? Nobody denies that it lessens the price of the wheat that the farmer gets, because it imposes upon him anywhere from 1 to 7 or 8 cents a bushel that is taken out of the price of his wheat in order to pay the different cost of getting the goods to the port. That is one case; and if he gets it to the port, then that port has been crippled by the fact that the balanced traffic which formerly came from South America to the port where he sends his wheat to ship back to South America has been destroyed, and therefore a steamship no longer comes there loaded, but comes there empty if it hauls the traffic back.

That if the Commission, instead of confining its action to redressing on complaint made by some particular person, firm, corporation, or locality, some specific disregard by common carriers of provisions of the act, proposes to promulgate general orders, which thereby become rules of action to the carrying companies, the spirit and letter of the act require that such orders should have in view the purpose of promoting and facilitating commerce, and the welfare of all to be affected, as well the carriers as the traders and consumers of the country.

There are two decisions of the United States Supreme Court on this case—two decisions. They are both as I am now reading from the first one; and if Members of the Senate, before undertaking to take up for consideration this bill, will do their communities and their country the service to read these two decisions, there will never be any danger of this bill receiving serious consideration from the Congress of the United States.

These decisions may be somewhat lengthy, but anyone who will read the logic behind these two decisions will never stand for the bill's passage. The Court reasons out the harm which is done to the commerce of the country as a whole. It reasons out the increase of the commodity that is brought from a foreign country. It reasons out the lesser price we receive for our own exported product. It shows the balance of traffic. It shows the revenue, and the importance to the country as a whole of a case like this.

We do not have just one little State to keep alive in this country. We have to keep alive 48 States. There sometimes comes a time when the State of California does not see any

use for the existence of the State of Wyoming, and sometimes there comes a time when New York does not see what business Idaho has to inflict itself upon the rest of the country. This is a time of that kind, when little New Jersey, strung up there on the coast, figures that it ought to have an advantage, inasmuch as its goods are raised nearer to a port than the open-field States, such as Idaho, Nevada, Colorado, Wyoming, New Mexico, and Arizona. But there are 48 States in the Union, and the Supreme Court has labored to enforce the articles of the Constitution so that whether the advantages, political or otherwise, are with one of the sparsely populated or with one of the densely populated States, or whether they are with one of the manufacturing States, or with one of the agricultural States, nonetheless there shall be no discrimination imposed which will injure the perpetuity of a State, because, after all, through the course of 150 years, we have found out that 1 State needs the other 47 States. The Supreme Court has labored upon this question, and has reasoned it out. True, it was a 7-to-2 decision the first time, and a 5-to-4 decision the last time. Justice Stone did not understand the case, topside nor bottom. He never did catch the point. I have read his decision. I have presented cases before that Court, and while I have never presented one since Justice Stone has been on the bench, nonetheless I have had the pleasure to have written some of the statutes which he has considered, and I know him to be a learned man; but his decision in this case does not do credit to the intellect and legal mind of Justice Stone.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER (Mr. CHAVEZ in the chair.) Does the Senator from Louisiana yield to the Senator from Florida?

Mr. LONG. Certainly.

Mr. FLETCHER. I have been engaged in sessions of a committee and have not been able to hear the Senator's argument. Probably I should not ask this question if I had heard him; but I should like to have the Senator indicate to me briefly just what would be accomplished by the provisions of the bill. What would be the effect of the bill? It is intended to benefit particularly New Jersey ports, is it not?

Mr. LONG. No; it would not help them a bit. I shall briefly explain it. If the Senator will not feel offended I shall use the State of Florida to demonstrate just what it would mean. I believe I can use the Senator's own State as a means to explain the situation much more clearly.

For example, the State of Florida does a considerable export business. It does an import business. Florida has ports. Florida has created another port through cutting a canal across the peninsula of Florida. The ports of Florida would be dried up as dry as a powder horn if the bill should pass. Why? Because Florida is necessarily removed from the centers of population and the centers of production. The great bulk of tonnage that would go to Florida for export would be out of tune entirely because of the fact that the bill seeks to give the Interstate Commerce Commission authority to impose its mileage structure of rates upon export commerce as well as upon domestic commerce.

Mr. FLETCHER. If I may interrupt the Senator, let me say that I have not looked at the figures of measured distances, but I have had the impression for some time past, and have been so informed, that the ports of Florida—for instance, Jacksonville—are nearer the center of production of most commodities which move in foreign commerce than are the ports of New Jersey and New York. However, those ports have the business, my information is, because the railroads are supported by the large financial interests that furnish the money to take care of the railroads' obligations, and so forth, and they insist that the railroads must carry the products and commodities to their ports in exchange for such financial accommodation. For that reason, although the distance is greater, they get the business, whereas the Gulf and South Atlantic ports are nearer the sources of production than are the ports of New York and New Jersey.

Mr. LONG. No; that is not so. In the Senator's case I do not need to go that far. I can simply say that New Orleans, Mobile, Savannah, Galveston, and Houston alone, if there were no other ports, would almost eliminate Florida immediately, and for this reason: They would be nearer. Products would have to pass by one of those ports to get to Florida. The theory of the bill is that wherever there is a port nearer than Jacksonville, we will say for instance, to whatever product is being shipped, that product shall go through the port which is nearest to the particular place of production. Florida being a peninsula, while it might be nearer to the traffic that passes through New Jersey, yet it would be hedged off a dozen times before the product ever reached a port in Florida. I could take any commodity now shipped out of Florida and demonstrate to the Senator that every bit of it, under this proposed mileage system, would be taken away from Florida.

It is more convenient for foreign ships to land in Florida and unload certain commodities for distribution to the inland country. In other words, for certain things Florida is a good distributing point. We can reach the East with tropical products which are unloaded in Florida more quickly than through the port of New Orleans. But if the Commission says to a ship, "You cannot have outgoing commerce because of the fact that it must go out of a port which, from a mileage standpoint, is nearest the originating point of that commerce", then that ship would have to go out of the Florida port empty, and therefore would have to pay the cost of transportation two ways to bring in one load. I think the Senator understands that very readily.

Florida is a little better off. As a matter of fact, if let alone, the southern ports bid fair to continue to do an increased business, particularly ports such as those of Florida and the port of New Orleans, where they have this accommodation and this advantage. But if this advantage is to be given to New Jersey ports, it means a dozen ports must interfere wherever there is any traffic of any consequence. In New Orleans our business would be scattered to points like Lake Charles and Morgan City, and that system would wreck the port of New Orleans, because its business would be forced to other ports.

This is contrary to the whole theory, the whole genius of the commerce which has been built up from foreign countries and with foreign countries. It is entirely improper to undertake to say that a mileage system of rates must apply. For instance, a carload of traffic starting out of the east on the Seaboard Air Line, which goes to Florida, passes through another port en route. The Seaboard Air Line passes close to Richmond or through Richmond. Under the provisions of the bill they could not carry that commodity through Richmond without paying a penalty for carrying it further. They would have to unload it at the nearest port, and they could never carry it further. Yet it is to the interest of the people that they should carry to the port of Florida where they will find a balanced outgoing tonnage and where the tropical fruits can be brought more advantageously and more readily distributed to the interior, with the lowest cost due to their perishable character. That was shown in the case I have cited, and that is true even of commodities which are not perishable, for example, wheat.

Wheat is shipped out of Oklahoma and Kansas through the port of New Orleans. There was reason why it should be loaded at the port of New Orleans. New Orleans was importing more than it exported. Therefore there was always a ship there which could not only bring in tonnage but could carry out tonnage. A box car loaded from Oklahoma with wheat would be unloaded at New Orleans and reloaded with some other commodity from a foreign country to be carried to the inland. Every car that went in there loaded came out loaded. "But", said the Interstate Commerce Commission, under the law, which the Supreme Court said was not the law, "we want this to go to another port over here." "But", the complaint was, "over here there is no inbound commerce; there is no import commerce." Nonetheless, the Commission said the shipment must come in there in that way.

Mr. CONNALLY rose.

The PRESIDING OFFICER (Mr. McGILL in the chair). Does the Senator from Louisiana yield to the Senator from Texas?

Mr. LONG. I yield.

Mr. CONNALLY. I had not intended to ask the Senator to yield, but since he has been kind enough to do so, let me ask the Senator a question. As I understand the effect of the bill, it is simply to allow representatives of the ports to go into court and have adjudicated the question of whether or not the Interstate Commerce Commission can discriminate as between ports.

Mr. LONG. No; that is not the purpose of the bill. The bill, if it is constitutional—and I do not believe it is——

Mr. CONNALLY. Waive that point.

Mr. LONG. The bill would allow the Interstate Commerce Commission to apply its mileage differential of rates to foreign commerce.

Mr. CONNALLY. But the Interstate Commerce Commission has not always done that; and what we are trying to get around now is that the districts that were claiming that they were discriminated against could not get into the courts in order to have the orders of the Commission corrected.

Mr. LONG. No; it is not the courts but it is the Commission. The courts have decided against the Commission every time. Every time the matter has gotten up to the courts the courts have held that the Interstate Commerce Commission had no right to impose these burdens on account of any mileage set-ups they wanted to make on the ports. The courts have always decided against them, and they have done so twice in this very case I am talking about; but here is the point: Here is Wyoming. Here is Idaho.

Mr. CONNALLY. To direct the Senator's attention to what I have in mind, what is the real objection to allowing the Interstate Commerce Commission to base these rates to the ports according to their natural advantages, for the benefit of the stream of traffic? That is what the Commission is for.

Mr. LONG. But they do not do that. They say, on the contrary, they will not do it according to natural advantages. If they did that, we should be all right; but they undertake to upset the natural advantages.

Mr. CONNALLY. One of the natural advantages is the mileage.

Mr. LONG. That is the only one they know.

Mr. CONNALLY. That goes into the picture.

Mr. LONG. Then we ought to take the waterways out of the country.

Mr. CONNALLY. If a port is nearer to a producing area, why is not that one of the natural advantages which it enjoys? Why should that port be discriminated against, and freight diverted by a longer mileage to another port?

Mr. LONG. If that rule should prevail, the wheat fields of Wyoming and Oklahoma and all the States far removed from ports would sooner or later be swallowed up, because everything would have to be located on the coastline.

Mr. CONNALLY. Oh, no!

Mr. LONG. Oh, yes, it would! That is absolutely correct, and I can demonstrate it.

Mr. CONNALLY. Where would the wheat of the Middle West go under that sort of a rule?

Mr. LONG. I will tell the Senator where some of it did go—to Canada. It would go through the port of Winnipeg. They drove a lot of our wheat business up there.

Mr. CONNALLY. The price did that.

Mr. LONG. It was not merely a question of price. It cost the wheat farmer of Oklahoma 5 cents on a bushel of wheat. It took that much out of his price. It got to the point where he could not compete with the foreign people, and he lost his market; and when he lost the market for one thing, they came in and took it for another thing.

As an example, take the price of bananas. It was materially affected through the destruction they caused to the tropical fruits of South and Central America. The decisions of the courts, well-reasoned and more learned than anything that I could be expected to say, show how this sort of thing destroys the channels of trade, how it prevents businesses in this country from competing with businesses in other countries.

For instance, the Interstate Commerce Commission cannot say a thing in the world to the cattleman in Argentina, nor to the railroad in Argentina.

Mr. CONNALLY. How can they say it to the banana man in Central America, then?

Mr. LONG. Wait a moment, and I will get to that. I am coming to that, and I will show the Senator.

We cannot say a thing to the business man in Argentina. The man in Argentina raises cattle to be shipped into Brazil, and the railroads between Brazil and Argentina, or the steamships, are left free to make whatever rates they want to make for their commerce. But along comes the United States and says to the man in North America, "No; you cannot ship a cow from El Paso, Tex., to New Orleans to be exported to Brazil except on these conditions and for this price." He says, "I cannot meet that price." The railroad wants to haul it cheaper, because the railroad can do it and make money. The United States says, "No; the business must go to Argentina."

If the Interstate Commerce Commission had the right to regulate the foreign commerce with which we compete, that would be different. We can afford to give the Interstate Commerce Commission power to regulate the rate from San Francisco to New Orleans, because it regulates the rate from New York to New Orleans; but we cannot afford to let the Interstate Commerce Commission restrict our own foreign commerce when it has not a right to restrict the competing foreign commerce. That is what the Supreme Court points out, and that has been the result of this case. There is not any question that if there is any such thing as experiment to prove it, this rule never has amounted to anything except to destroy commerce and disrupt the established channels of business.

I will give you a case in Texas. The Texas farmers were shipping their wheat into New Orleans. They want to do that. About 75 percent of the people of Texas today would be hurt by anything except what we are arguing for now.

There is the Texas & Pacific Railroad, which serves the country up there. There is another little railroad line built into that country which has been absorbed by the L. & A. Railroad; I have forgotten what they used to call it. I think the M. K. & T. used to run it into Greenville, Tex. Those railroad lines haul into New Orleans, because it is the only port they serve. They do not go to Galveston, Tex. The Texas & Pacific has only New Orleans to serve. The Commission comes along and says to them, "No; you cannot haul grain into New Orleans. When you get to Fort Worth you must unload it off the Texas & Pacific Railroad and take the T. & B. V. down to Galveston, because it is 100 miles shorter to go there than it is to New Orleans." They did it, and what happened to the wheat? It sprouted down there, because they did not have the facilities to handle it, nor were there ships there to take it to foreign countries, nor markets afforded through that port. That is what it did to them.

The same thing might be explained with many, many other commodities, and as a result of this particular thing, Lake Charles has risen up and has proved to the world that it is a nearer port for cotton than many other ports. It is finally going to wind up with Port Arthur on one side of Galveston, and Corpus Christi and other little ports down there, and Lake Charles and Morgan City in Louisiana and little ports strung out on the coast, and they are going to wreck Galveston and New Orleans and every other port with them, and practically wreck the entire Gulf coast as a practical shipping point for handling foreign commerce, if this kind of thing is permitted. None of the advantages will be retained. They must have a ship that can go from point to point on the whole Gulf coast and pick up 30 bales

here and 10 bales here until it finally makes up a cargo, if we are to have any foreign commerce on the Gulf coast.

We shall have to let a few things alone in this country. We cannot say, "I want the freight to go on this route, and I want it to go on that route", because business is not built up in that way. We were a hundred years, and did not build it up then, trying to get anything like a good business out of South America, until they finally got the contacts and the connections with banks and railroads and mercantile houses and wholesale houses and steamship lines and everything else coordinated to a point where they came in with loaded ships and went out with loaded ships.

Tramp steamers could come from any port to New Orleans and always find a load. They could go to New York and always find a load. We were a hundred years getting the Latin American business built up, and the Commission destroyed a large part of it within a hundredth part of the time it took to build it up. How did they do it? They did just one little thing: They said, "In order for business to go to South America through the port of New Orleans, all the commerce must be made to pay from 1 to 5 cents per hundred pounds more than if the same commerce went through some other port."

What did that mean? It meant that the minute that differential was established, it killed New Orleans as the gateway for that particular kind of commodity. Then what did it mean? It meant that a foreign country down there, like Argentina, raising some of those products, had a competitive advantage, and therefore they took the business, and Galveston did not get the business, and nobody else in this country got the business.

What else did it mean? It meant that the wheat farmer up north who had been shipping his wheat down there through the use to some extent of the Mississippi Valley moved over into Canada, and raised his wheat to be sent through the port of Winnipeg, where they had not imposed any such unjust and unreasonable restrictions; and that is what this whole thing means.

I should think my colleagues in the Senate would take advantage of what experience has taught in matters of this kind and not undertake to force something through here which has been held contrary to the whole American structure and system of things, as this has been held by the Supreme Court of the United States.

Mr. President, it is now 5 o'clock. I have taken more time than I intended to take in discussing this case. I am very sorry that not more of the Members have been in attendance today. I think I understand something more about this case than some of my colleagues do, and I am sorry that more of them have not seen fit to listen today to my attempt to present this case. This is not a sectional question. I talked it over with one of the leading Members of the House from the State of Texas, who was just as much against this bill as I am.

Last year this bill was before the Committee on Interstate and Foreign Commerce of the House, and that committee, with a Texan as chairman, did not report the bill out.

The Committee on Interstate Commerce of the Senate had before it the same bill last year, and would not report it. They did not think the bill justified its being brought to the floor of the Senate, and the same position was taken by the Interstate and Foreign Commerce Committee in the House of Representatives. They did not think they were justified in bringing the bill to the floor of the House.

The bill has been before those committees for a considerable length of time, and neither of them has ever thought it ought to come before the Senate or the House. I was very much surprised when I came into the Senate this afternoon to find it had been proposed that the bill be taken up as the order of business. I thought there was no chance that the bill would ever receive favorable consideration in the Senate. I never thought it would even be considered in the Senate. I never thought the Senate would waste its time with it.

I do not believe the bill would have been reported out if I had had time to present the facts to the committee, as I probably should have done. Last year it was not reported by the committee, as I said a moment ago. There were on the subcommittee last year the Senator from New Mexico [Mr. HATCH] and the Senator from Kentucky [Mr. LOGAN]. My recollection is that those were the two members of the subcommittee last year. Perhaps I am mistaken. I know the Senator from New Mexico [Mr. HATCH] was on the subcommittee, and I think both Senators were, and neither of them would have recommended reporting out the bill. They never considered it of sufficient merit even to bring it onto the floor of the Senate. In the House of Representatives a companion bill never was given sufficient consideration to be seriously considered by the Committee on Interstate and Foreign Commerce.

Mr. President, I had hoped that the bill would not be taken up. I do not want to delay my friend the Senator from New Jersey if he wishes to present any further argument on the matter. I should like to have an opportunity to submit some charts and some schedules to the Members of this body before they vote on this question. I want to submit a chart to the Senators representing the wheat sections of the country. I want to present a chart showing what this bill would cost the wheat farmers if there ever is to be any more export wheat business in the United States. I want to show that the effect on the meat business by the unreasonable discrimination imposed by this kind of legislation would be to keep us from getting the meat business which Argentina has taken away from us.

I should like to show what it would do to the cotton business. I think I have the means, on short notice and a reasonable opportunity, of gathering the information for the Senate. I should like to have an opportunity of presenting these matters to the Senate before it undertakes to take up the bill.

I am sure that if the Members of this body will only consider the matter from even the narrowest, most selfish standpoint none of them will vote to have the bill taken up and considered by the Senate at this time. If there are those whose constituents are affected by waterways, they will see what this would do to them, and they will not vote to take the bill up. So I hope we may not take the time of the Senate to have this bill considered now.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey [Mr. MOORE] that the Senate proceed to consider the bill (S. 1633) to amend the Interstate Commerce Act, as amended, and for other purposes.

Mr. CLARK. If a vote is to be taken on the motion this evening, I suggest the absence of a quorum.

Mr. McNARY. Mr. President, will the Senator withhold the suggestion a moment?

Mr. CLARK. I withhold the suggestion.

Mr. WALSH. Mr. President, will the Senator from Oregon yield to me?

Mr. McNARY. I yield.

Mr. WALSH. Would the Senator from Louisiana be willing to have a vote on this question at 1 o'clock tomorrow?

Mr. LONG. I had understood from the Senator from Arkansas that we were to adjourn over tomorrow.

Mr. ROBINSON. Mr. President, I will state to the Senator from Louisiana that I am not in a position to ask for a recess over until Wednesday, as I had at first thought to do. The recess will be until tomorrow.

Mr. WALSH. Mr. President, I did not hear the statement of the Senator from Arkansas.

Mr. ROBINSON. I stated that it was thought at one time during the day that probably we could take a recess until Wednesday, but on account of the fact that the Committee on Banking and Currency did not report today, as was expected, but probably will report tomorrow, I have decided to ask for a recess until tomorrow, in order to give the committee an opportunity to report at that time. The question now is whether the vote on the motion of the Senator from New Jersey to proceed to the consideration of the bill which has been under discussion shall be taken this afternoon, the

Senator from Missouri having announced that if a vote is to be taken this afternoon a quorum should be summoned.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. CLARK. I should like to ask the Senator from Massachusetts whether his request was for a vote on the motion to take up the bill or on the bill itself. If the request related to the motion to take up the bill, so far as I am concerned, I have no objection, but I should like to have an opportunity to examine the cases submitted by the Senator from Louisiana today.

Mr. LONG. Mr. President, I had hoped to be able to get some exhibits to present to the Senate. I do not want this measure taken up. I want to assemble some exhibits. I thought I had them in my files, but I find I cannot lay my hands on them, and I may have to go to the Interstate Commerce Commission to get them from their files.

Mr. WALSH. Could not the Senator do that after the bill had been taken up?

Mr. LONG. I think I can prevail on the Senate not to take up the bill. I am not so sure that the Senate will take it up. I have not taken much time on the bill, and I think the Senator will agree that I have not spent a minute in filibustering. I have discussed the case as well as I knew how to discuss the merits of any case. This is quite a broad case, much broader than it seems.

Mr. WALSH. The Senator is apparently unwilling to agree to a vote at 1 o'clock.

Mr. LONG. I should not want to have a vote taken at that time.

Mr. WALSH. The Senator has spent a long time in discussing the bill.

Mr. LONG. I testified in the case before the Interstate Commerce Commission for 2 days, and they did not think it was very long. I tried the case before the Interstate Commerce Commission for a considerable time.

Mr. WALSH. Mr. President, I renew my request that the Senate proceed to vote on the pending motion at 1 o'clock tomorrow.

Mr. LONG. Will not the Senator make it 2 o'clock?

Mr. WALSH. I will make the hour 2 o'clock.

The PRESIDING OFFICER. The Senator from Massachusetts asks unanimous consent that the Senate vote on the pending motion at not later than 2 o'clock tomorrow. Is there objection?

Mr. MOORE. I object. I ask for a vote now on the motion to proceed to the consideration of the bill.

Mr. CLARK. I renew my suggestion of the absence of a quorum.

Mr. McNARY. Mr. President, does the Senator from Arkansas desire to move a recess at this time?

Mr. ROBINSON. Mr. President, the Senate may, if it chooses to do so, take a vote on the motion. I do not expect a vote on the bill today. The Senator from New Jersey insists upon a vote on his motion today, and I do not see any objection to that. The debate on the bill may continue. Of course, all the debate today has been on the merits of the bill.

Mr. MOORE. Mr. President, I withdraw the objection.

Mr. CLARK. I withdraw the suggestion of the absence of a quorum.

Mr. ROBINSON. Mr. President, let the request be resubmitted, then.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. WALSH] asks unanimous consent that the Senate vote on the pending motion not later than 2 o'clock tomorrow. Is there objection? The Chair hears none, and it is so ordered.

Mr. WALSH. Mr. President, I give notice that if I can obtain recognition for 10 minutes before 2 o'clock p. m. tomorrow, I desire to discuss the matter pending before the Senate.

Mr. ROBINSON. Mr. President, I suggest that the Senator from Massachusetts now take the floor.

Mr. WALSH. I shall be very glad to do so.

Mr. LONG. Mr. President, I have no objection to the Senator from Massachusetts speaking tomorrow.

EXECUTIVE SESSION

Mr. ROBINSON. If the Senator from Massachusetts, who has the floor, will yield for that purpose, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. McGILL in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

Mr. ASHURST, from the Committee on the Judiciary, reported favorably the nomination of John J. Morris, Jr., of Delaware, to be United States attorney, district of Delaware, vice Leonard E. Wales, resigned.

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of several officers for appointment, by transfer, in the Regular Army.

He also, from the same committee, reported favorably the nominations of sundry persons for appointment as officers in the Air Corps of the Regular Army.

Mr. TRAMMELL, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers in the Navy and the Marine Corps.

Mr. PITTMAN, from the Committee on Foreign Relations, reported favorably Executive P, Seventy-fourth Congress, first session, being an agreement between the United States and Germany terminating part of article VII of the treaty of friendship, commerce, and consular rights, signed December 8, 1923, and in effect since October 14, 1925, and submitted a report (Exec. Rept. No. 13) thereon.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the calendar is in order.

PHILIPPINE ISLANDS HIGH COMMISSIONER

The legislative clerk read the nomination of Frank Murphy, of Michigan, to be United States High Commissioner to the Philippine Islands.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters on the calendar.

Mr. ROBINSON. I ask that the nominations of postmasters on the calendar, with the exception of the one passed over, be confirmed en bloc.

The PRESIDING OFFICER. Without objection, with the exception noted, the nominations of postmasters on the calendar will be confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 12 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Tuesday, July 2, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 1 (legislative day of May 13), 1935

ASSISTANT TO THE ATTORNEY GENERAL

Harold M. Stephens, of Utah, to be Assistant to the Attorney General, vice William Stanley, resigned.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Lester A. Walton, of New York, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Liberia.

CONSUL GENERAL OF THE UNITED STATES

Edwin Carl Kemp, of Florida, now a Foreign Service officer of class 4 and a consul, to be a consul general of the United States of America.

APPOINTMENTS IN THE REGULAR ARMY

MEDICAL CORPS

To be first lieutenants with rank from July 1, 1935

First Lt. David Wanless Clotfelter, Medical Corps Reserve.
First Lt. Charles Henry Bramlitt, Medical Corps Reserve.
First Lt. Ralph Wendell Lewis, Medical Corps Reserve.
First Lt. Frank Dudley Jones, Jr., Medical Corps Reserve.
First Lt. Howard Fletcher Currie, Medical Corps Reserve.
First Lt. George Frederick Baier, 3d, Medical Corps Reserve.
First Lt. Louis Kenneth Mantell, Medical Corps Reserve.
First Lt. John Harry King, Jr., Medical Corps Reserve.

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

TO FIELD ARTILLERY

First Lt. James Julius Winn, Infantry, with rank from December 5, 1934.

PROMOTIONS IN THE REGULAR ARMY

TO BE CAPTAIN

First Lt. Thomas Benoit Hedekin, Field Artillery, from June 21, 1935.

TO BE FIRST LIEUTENANTS

Second Lt. William Charles Dolan, Air Corps, from June 21, 1935.

Second Lt. Ivan Lonsdale Farman, Air Corps, from June 22, 1935.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 1 (legislative day of May 13), 1935

HIGH COMMISSIONER TO THE PHILIPPINE ISLANDS

Frank Murphy to be United States High Commissioner to the Philippine Islands.

POSTMASTERS

ARKANSAS

Samuel J. T. Wynne, Dermott.
Floyd E. Fincher, Waldo.

MICHIGAN

Mabel A. Amspoker, Ashley.
William A. Young, Bellevue.
James McDonnell, Grayling.
Frank R. Moses, Marshall.

NEW JERSEY

John Carey, Glassboro.
Catherine S. E. Cullen, Millington.

PENNSYLVANIA

John H. Baldwin, Atglen.
Charles H. Reisinger, Dallastown.
Reuben S. Lauer, Dover.
Thomas A. Wilson, Ellwood City.
Agnes Ann Flynn, Laporte.
Homer C. Kifer, Manor.
Margaret E. Treacher, Mather.
Donald R. Sheehan, Mehoopany.
W. Frederick Clevenstine, Mingoville.
Thomas A. Howe, Morrisdale.
Lester D. Sedam, Muncy.
Robert M. Graham, Newville.
Joseph M. Gilliland, Snow Shoe.
Thomas M. Shade, Turbotville.

TENNESSEE

Philip T. Young, Baxter.
Willie Ozelle Barnes, Cowan.
Samuel H. Chase, Johnson City.

HOUSE OF REPRESENTATIVES

MONDAY, JULY 1, 1935

The House met at 10 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, before whom the angelic hosts veil their faces and bow down, help us to accept the universe as our Father's house and to realize that we are here to be saved by sacrifice and service; Thou art our strength, and with Thee we overcome the world. Thou who dost call those who are weary and heavy laden, those who feel the burden of their tasks, we beseech Thee to call us. We pray for wisdom, for calm, for peace, for rest of spirit to carry our load of duty. Father of love, be our refuge in weariness; give us the joy of work well done, and bless us with the approval of a living God. To know that we are in the Father's house and near the Father's heart makes living an abiding joy. Glory be unto Thy holy name. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, June 29, was read and approved.

REGULATION OF THE LINE OF THE NAVY

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table H. R. 5599, an act to regulate the strength and distribution of the line of the Navy, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Chair appointed the following conferees: Mr. VINSON of Georgia, Mr. DREWRY, and Mr. DARROW.

MOVEMENT FOR MODERNIZING CONSTITUTION GAINS GROUND

Mr. HILDEBRANDT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. HILDEBRANDT. Mr. Speaker, the movement for modernizing the Constitution is steadily gaining ground.

Even from distinctly conservative sources there comes recognition of the fact that ought to be patent to everyone that the Constitution is a mobile document intended to represent the needs and aspirations of the people of the present age rather than to be a chain to bind us to restrictions of a previous period.

A. Mitchell Palmer, Attorney General under President Wilson, has stated the case in cogent language, and I wish to quote from him.

> The question is whether the Constitution shall be pickled in its original liquor and stubbornly preserved in its pristine form, or whether it shall be preserved in the manner in which its framers intended, to meet the changing needs of the new growth and development of a great country.
>
> To suggest changes in the Constitution is not an attack upon the Constitution.
>
> Those who argue now that the Constitution is sacrosant and * * * must remain always as it was written, are insisting that this people * * * shall be governed not by themselves, but by a dead hand reaching out of the darkness of the eighteenth century.
>
> * * * It seems plain that the wise men who framed the Constitution made certain that it should never die from disease or old age.
>
> * * * those who would restrain the people from exercising their will are not only the would-be destroyers of popular government but they are also the real enemies of the Constitution, for they assert that the Constitution as written, including the power to alter it, shall no longer serve its God-given purpose.

I note that Senator GEORGE W. NORRIS of Nebraska, for whom every socially minded citizen must have the most profound respect because of his lifetime of devotion to the struggle against exploitation, has proposed a constitutional amendment under which the Supreme Court would be denied the power to declare an act of Congress unconstitutional except by a two-thirds vote. He also favors a time

limit under which the court's ruling would have to be made within 6 months after enactment of a statute, else the law would automatically be considered constitutional. And he suggests having test cases taken direct to the Supreme Court instead of going through lower courts first.

Senator NORRIS's plan would, beyond question, be a great improvement over the present state of affairs in which, by a 5-to-4 vote, humanitarian legislation may be knocked into a cocked hat after long-winded litigation in several courts and after a year or even several years have elapsed.

Yet, in my judgment, Senator NORRIS does not strike the ax at the root of the trouble. I have contended, and I still contend, that the Supreme Court usurped the authority of Congress when it began declaring laws unconstitutional. The Constitution itself grants no such power to this highest judicial body. It was 16 years after the adoption of the Constitution before the court arrogated to itself this privilege.

If the Supreme Court has no right to interfere with national legislation, it does not matter whether the interference is the consequence of a 6-to-3 vote or a 5-to-4 vote, or a 9-to-0 vote as was the case when, to the astonishment of most progressive people, the Court tossed both the N. R. A. and the Frazier-Lemke law into the discard. If popular government is to be thrown out of the window, who cares whether nine men vote to throw it out or two-thirds of the nine? The net result is the same.

The point is that the Court was, in all probability, never expected to exercise any such power, and it certainly never ought to exercise it. It is said that the Constitutional Convention four times voted down judicial-review proposals. One proposition was for the President and the judiciary acting together as a council of revision, to veto congressional legislation. This was defeated, along with other suggestions of a like nature.

The preponderance of proof seems strongly on the side of the claim that the Constitution itself did not contemplate the possession by the Supreme Court of the authority to kill a law by ruling it to be unconstitutional. The records of the period indicate that it was expected that the laws of the American Congress, like those of the British Parliament, would become effective without challenge by any court—that the people's will, expressed through the national lawmaking body, would be final.

But if this had not been so, it would nonetheless be our duty to make it so for future generations. We have had enough of the emasculation of wholesome statutes because of some alleged incongruity with a basic law of 150 years ago. It is on this account that I have urged, and still urge, an amendment to the Constitution that will clearly establish the right to pass humanitarian laws, and another amendment that will just as clearly establish that the Supreme Court has no control whatever over legislation.

Before me is a bitter, smashing editorial by Oscar Ameringer in an Oklahoma City labor paper, the American Guardian. There is food for serious thought in his burning words, part of which I quote:

> The other day the custodians of the Constitution of the United States said property cannot be taken, no matter how great the suffering of millions. * * * If I were property, the Constitution of the United States would protect me as it protects ass, ox, bull, and bank account. But, alas, I am not property. My body is not property. The strength of my arms, the skill of my fingers, the cunning of my brain, is not property. It is only life. And life may be taken without due process of law by simply depriving it of access to soil and tools. * * *
>
> All this is very hard on my constitution, but in full accord with the Constitution of the United States, for under it property is all and life is nothing. Yet my constitution will prevail in spite of dungeon, faggots, gallows, and Supreme Court decisions. * * *

Mr. Speaker, in this crucial time in the Nation's history, it is for citizens with conscience and courage to demonstrate, once and for all, that our Constitution is not to be utilized for the cruelty and oppression that Mr. Ameringer describes in such grim and graphic phrases.

LETTER TO HON. BASIL MANLY

Mr. WILSON of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein copy of a letter written by myself in response to one received from Mr. Basil Manley, which has already been placed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WILSON of Pennsylvania. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter written by myself in response to one received from Mr. Basil Manly, which has already been placed in the RECORD:

June 29, 1935.

Hon. BASIL MANLY,
Federal Power Commission,
Washington, D. C.

My Dear Mr. MANLY: I am just in receipt of your letter of the 28th inst., in which you take exception to the remarks made by me on the floor of the House of Representatives on June 27, 1935, insofar as they contained any reference to you.

I can assure you that it never was my intention to make any misstatement either in public or in private concerning any individual, much less anyone connected with the administration of our national affairs.

You will note that during the course of my remarks I stated that my authority was The Red Network, published by Dilling in 1934. I assumed the correctness of the statements contained therein, particularly in view of the fact that there have been four printings of this book, the latest of which was published in January 1935.

I have no personal knowledge of the statements contained therein having been refuted down to the time I made my address before the House of Representatives.

For your convenience, permit me to quote the following from page 259 of The Red Network:

"Names and information in this 'Who's Who' have been taken principally from the official literature and letterheads of the organizations mentioned; from the radicals' own American Labor Year Book and American Labor Who's Who; from the report of the Joint Legislative Committee of the State of New York Investigating Seditious Activities (called the 'Lusk Report') based upon documentary evidence; from United States Report 2290 of the special committee of the House of Representatives to investigate Communist activities in the United States, headed by Hon. HAMILTON FISH; from literature and data sheets of Mr. Fred Marvin, national secretary of the American Coalition of Patriotic Societies, New York City; from reports by Francis Ralston Welsh, of Philadelphia, attorney, long a partiotic research authority on subversive activities; from the documentary files of the Advisory Associates, Chicago; from data furnished by the Better America Federation of California; and from other reliable sources."

On page 304 of the same publication, under the alphabetical listing of the letter "M", appears (their abbreviation):

"Manly, Basil M: Socialist; dir. People's Legis. Serv., 1921–27; was on I. W. W. Defense Com.; Conf. Prog. Pol. Act.; mem. Garland Fund Com. on Am. Imperialism; was contrib. ed. of Inter-Coll. Socialist Society organ; 1933 appointed mem. Fed. Power Commission by Pres. Roosevelt; Nat. Save our Schools Com.; author of publications distri. by Rand Sch.; Nat. Citiz. Com. Rel. Lat. Am. 1927."

In addition thereto, a reference to the index in the same book shows that the Inter-Collegiate Socialist Society is now called "League for Industrial Democracy", and on page 185 the League for Industrial Democracy, inter alia, is described as follows:

"Militant Socialist; headed by Robert Morss Lovett, active in Communist organizations; founded by the revolutionary Jack London in 1905, as the Intercollegiate Socialist Society; changed its name in 1921, after socialism acquired a bad odor owing to the jailing of many Socialists during the war for seditious activities; heavily subsidized by Garland Fund; spreads Socialist-Communist propaganda and literature in colleges; operates chapters of its intercollegiate 'student council' in about 140 colleges, many under the guise of 'student councils', 'social problems', 'radical', or 'socialist' clubs, etc.; in 1933 it claimed: Last year the speakers corps of the L. I. D. reached almost every State in the Union and spoke to some 175,000 people. Norman Thomas, Harry Laidler, Paul Blanshard, Paul Porter, and Karl Borders, reached about 60,000 students in 160 colleges and universities in 40 States. Likewise they spoke to about 100,000 people in noncollege meetings. In addition to these speeches there were innumerable general meetings, political meetings, and radio broadcastings at which L. I. D. speakers appeared'; very closely interlocked by officership with the A. C. L. U.; prepares and widely distributes thousands of Communist and Socialist leaflets, and pamphlets; publishes four publications: Disarm, Unemployed, Revolt (now Student Outlook), and L. I. D.; issues a news service and fortnightly Norman Thomas editorial service to some 250 leading papers throughout the United States; has a national board of directors from 23 States composed mostly of leaders of over 300 other interlocked organizations; conducts student conferences on red revolutionary subjects; drills students in radicalism each summer at Camp Tamiment, Pa.; formed the Federation of Unemployed Workers Leagues of America all over the United States, under joint Communist, Socialist, I. W. W., and Proletarian Party (Communist) control; sponsors the emergency committee for strikers' relief (see), which

aids Communist-Socialist strikes; agitates: For Government ownership (and against individual ownership) of all banking, transportation, insurance, communication, mining, agricultural, and manufacturing enterprises, forests, and oil reserves; for socialization of land and other property, and for social, unemployment, sickness, old-age, and other State doles to the public; its slogan is 'Education toward a new social order, based on production for use and not for profit' (of the individual), which is, of course, the Socialist-Communist tenet; joins the Communists in advocating disarmament of the so-called 'capitalist state' and the arming of the proletarian state and endeavors to convince students and workers that this will bring about prevention of war, claiming the capitalists use the armed forces to fight for markets, etc.—not mentioning how the Socialists use armed forces to rule the workers after the system they advocate has made them paupers and slaves (as in Russia); it calls on youth to help put the War Department out of colleges by stamping out the R. O. T. C., and claims it enlisted 10,000 students in 1931, in 150 colleges, who signed petitions against military training (however, J. B. Mathews, prominent in Communist meetings and an editor of its Student Outlook, says he is not opposed to a war that will end capitalism); it boasts that student members of the L. I. D. have been in the thick of the miners' struggles in Harlan County, Ky., and in West Virginia, and in picketing and making investigations of labor conditions, helping organization work of unions, and other radical agitation; it states of its literature: 'These publications are widely used by college classes and labor, church, and Y. M. C. A. and Y. W. C. A. groups.'"

Notwithstanding the above published statements, I, personally, am satisfied to accept the denials set forth in your communication, and sincerely hope that you will take such steps as are necessary to have the context of The Red Network referring to you corrected.

It was my intention to have your communication addressed to me placed in the CONGRESSIONAL RECORD, but I find that that had already been done, even before I saw your letter or had an opportunity to reply thereto.

I will, therefore, follow it up by having placed in the RECORD a copy of my answer to you.

Yours very truly,

W. H. WILSON.

CALL OF THE HOUSE

Mr. KELLER. Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is no quorum.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 112]

Bankhead	Dies	Kennedy, Md.	Schuetz
Barden	Dirksen	Kerr	Scott
Bland	Dockweiler	Kniffin	Shannon
Brennan	Drewry	Kopplemann	Short
Brewster	Fish	Lamneck	Smith, W. Va.
Brooks	Gasque	Lehlbach	Stack
Buckley, N. Y.	Gehrmann	Lesinski	Stefan
Bulwinkle	Gillette	Lord	Sumners, Tex.
Burdick	Goldsborough	Luckey	Sutphin
Carlson	Greenwood	McLeod	Taylor, S. C.
Carter	Griswold	Marcantonio	Thomason
Celler	Guyer	Oliver	Thompson
Chandler	Gwynne	O'Malley	Underwood
Claiborne	Hancock, N. C.	Palmisano	Utterback
Cochran	Harlan	Perkins	Whelchel
Cole, Md.	Hartley	Peyser	Withrow
Colmer	Healey	Ramsay	Zimmerman
Darden	Hennings	Reilly	
Dempsey	Higgins, Conn.	Russell	
DeRouen	Houston	Ryan	

The SPEAKER. Three hundred and fifty-two gentlemen have answered to their names, a quorum.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

COMMITTEE ON FOREIGN AFFAIRS

Mr. McREYNOLDS. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have permission to sit during the session of the House on tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PUBLIC UTILITY ACT OF 1935

Mr. RAYBURN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating or marketing securities in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2796, with Mr. WARREN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Saturday afternoon the reading of the bill had been completed up to section 11. By agreement, the amendment offered by the gentleman from New York [Mr. WADSWORTH] to section 2 is held to be in order the first thing this morning.

The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WADSWORTH: On page 162, lines 8 and 9, after the word "means", strike out "the Securities and Exchange Commission" and insert in lieu thereof "the Federal Power Commission."

Mr. WADSWORTH. Mr. Chairman, when I offered this amendment on Saturday afternoon I did so having in mind obviating the very serious and extensive duplication of effort and expense, both to the Government and to the persons to be supervised, if this jurisdiction over the utilities field should be divided between the Securities and Exchange Commission and the Federal Power Commission. It was the purpose of my amendment to center the jurisdiction in one commission in order to avoid such duplication.

I find, however, Mr. Chairman, that at the very end of the bill, on page 292, in section 318, provision is made for the avoidance of conflicts in jurisdiction, and in reading that section I have reached the conclusion that a large measure of duplication and overlapping can be, and will be, avoided. It was my failure to recall or to notice that at the last moment this section was added to the bill that accounts for my offering the amendment.

Mr. RANKIN. If the gentleman will permit a question, is there one of those provisions in the Senate bill?

Mr. WADSWORTH. I am not certain whether the equivalent of section 318 is contained in the Senate bill, but as we are considering the House bill, section 318 in large measure meets my objection, and I, therefore, ask unanimous consent to withdraw the amendment which I offered on Saturday afternoon.

The CHAIRMAN. The gentleman from New York asks unanimous consent that he be permitted to withdraw the amendment which he has offered to section 2. Is there objection?

There was no objection.

The CHAIRMAN. Under the agreement, the Committee will now return to section 6, the amendment offered by the gentleman from Wisconsin, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. SAUTHOFF: On page 183, after line 20, add a new subsection, as follows:

"(d) Every registered holding company and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holders of each class of preferred stock, common stock, or any other stock of such company, voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights. Every registered holding company and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holder of each bond or debenture of such company contingent voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights; such voting rights shall be contingent and exercisable upon any default in the payment of interest or principal upon such bond or debenture and shall be effective during the continuance of any such default."

Mr. SAUTHOFF. Mr. Chairman, on January 27 the minority leader of the committee, the gentleman from Ohio [Mr. COOPER] made the statement that this bill would destroy all holding companies. To this statement I take exception. The bill does nothing of the kind. What does this bill do?

It exempts from its provision—and I wish you would note these four classes—first, all operating companies. What does this mean? It means that for every dollar invested in holding-company utilities there are $4 of the public's money invested in operating utilities—$4 to $1. This is the ratio, and all the $4 are exempt, and, therefore, four-fifths of the public's money invested in utilities is entirely exempt from the provisions of this act.

The second class is composed of all operating companies engaged in purely intrastate commerce.

The third class consists of all operating and holding-company systems which are engaged predominantly in the operation of the generation and transmission of gas and electric power, which systems are in contiguous States, even though engaged in interstate commerce; and last, but not least, all holding and operating systems which are geographically and economically integrated, even though engaged in interstate commerce. Those are the four classes that are exempt, constituting 91 percent of the investments that are in holding and operating companies. The only thing this bill touches is the 9 percent of the money that is invested in holding and operating systems; and what does it do as to the 9 percent? Does it destroy them? No; absolutely not. What does it provide about that? It simply provides that they can continue as they are, saying to them that they do not have to change their corporate existence, or to make one single solitary operation as to their bylaws or organization, but that they must surrender control, and that is the one thing on earth that they do not want to do.

What does my amendment provide? My amendment merely provides that those who put their money, the vast investing public, into this business shall have the right to vote as to what is to be done with their money.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. MAVERICK. Mr. Chairman, I ask unanimous consent that his time be extended for 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. Yes.

Mr. COOPER of Ohio. Is the gentleman speaking of the House bill or the Senate bill?

Mr. SAUTHOFF. I am speaking of the Senate bill.

Mr. COOPER of Ohio. That is what I thought.

Mr. SAUTHOFF. And the House bill tries to evade what is in the Senate bill. To get back to my point, all my amendment does is to give to the public that is investing its money in public utilities a right to vote, and I say now that the public bought and paid for every utility in the United States, and why should it not have the right to vote as to what is to be done with its money? They paid for them; it is their money. Why should they be shut out from a voice in what is to be done with their money? All this amendment asks is for you to give the holders of preferred stock a right to vote.

One more provision in my amendment is, that in case there is a default in payment either of interest or principal on the bonds held in the holding company, that the holder of the bonds shall have the right to vote. What is wrong about that? It is his money. The President recently said that this bill inflicted no death sentence. That is a specious phrase used to frighten children. It cannot frighten anyone who analyzes the bill, because it is not true. The President said it does not destroy, it does not pass the death sentence. He made the statement that this bill is an emancipation proclamation for the investor in utility securities. I go a step further than that. There is an earlier American doctrine on which our very existence has been founded, and that is the doctrine enunciated by the immortal Virginian, Patrick Henry, when he said that taxation without representation is tyranny. The public has been taxed in buying the preferred stock and in buying bonds in the entire utility structure. We have been taxed, but we have not been allowed to be represented, and all I ask in this amendment is that those who are taxed be allowed to have representation in the control of these companies.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. Yes.

Mr. MAY. I agree with the gentleman absolutely in the statement that the vast majority of the money that is in the utilities of this country has been put in by the people, including the employees of the company. What does the gentleman think of the provision of the House bill that where 10 percent of the stock in any operating company is owned by a holding company it comes within the domination of the bill?

Mr. SAUTHOFF. I am in favor of it, if thereby the holding company has control.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. RAYBURN. Mr. Chairman, I dislike very much to oppose an amendment that has the intent of the amendment of the gentleman from Wisconsin. I don't think there was anything, with possibly the exception of sections 11 and 13 in the bill, that gave the committee quite as much pause, and over which we worked longer than this very matter of what sort of stock should have voting rights. I think there is enough in the Senate bill, and especially in section 11, which will remain in the Senate bill whether we put it in here or not, and in the House bill also for us to go to conference upon and work out there this matter, in all probability in better fashion than we could here on the floor of this House. The amendment the gentleman from Wisconsin has offered is a highly technical amendment, and since its offering on Saturday I have discussed it with our legislative counsel and they even are not willing to say just how far the amendment may go. They also raise the question of the legality of the amendment that would change the rights of securities issued heretofore and then, further than that, the amendment is rather indefinite and not at all clear, that it applies only to issues of securities in the past and not to issues of securities in the future. Therefore I say it is one question that must be fought out in conference where we will have both the Senate and House legal drafting talent, and I think it would be fortunate if we do not today accept an amendment of this wide range without further consideration.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. DONDERO. Does not the amendment do this? Does it not place the bondholder who usually has a senior lien on all of the physical properties, by virtue of mortgage, in a position of preference over the stockholder and give the bondholder the right to vote equally with the stockholder?

Mr. RAYBURN. That was very clearly brought out and argued in the subcommittee and the full committee and we decided not to do it.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Wisconsin [Mr. SAUTHOFF].

The amendment was rejected.

The Clerk read as follows:

SIMPLIFICATION OF HOLDING-COMPANY SYSTEMS

SEC. 11. (a) It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of one or more integrated public-utility systems.

(b) It shall be the duty of the Commission, after notice and opportunity for hearing, by order to require each registered holding company and each subsidiary company thereof to take such action (either by divesting itself of any interest in or control over property or persons, or otherwise) as the Commission finds necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system; except that if the Commission finds that it is not necessary in the public interest to so limit the operations of such holding-company system, the order of the Commission shall require such company to take only such action (either by divest-

ing itself of any interest in or control over persons or property, or otherwise) as the Commission finds necessary to limit such operations to such number of integrated public-utility systems as it finds may be included in such holding-company system consistently with the public interest. The Commission shall not, under the foregoing provisions of this subsection, require any company to divest itself of any interest in or control over (1) persons or property other than a public-utility company or the utility assets of a public-utility company unless the Commission finds that such interest or control may not be retained consistently with the public interest, or (2) any person doing business exclusively outside the United States, or property located outside the United States.

(c) The Commission may proceed under subsection (b) either upon its own motion or upon application of any registered holding company and all subsidiary companies thereof, but no such proceeding shall be begun upon the Commission's own motion prior to January 1, 1938.

(d) The Commission is authorized, if appointed by the court, to act as trustee or receiver in any proceeding instituted under subsection (f) of section 18 for the enforcement of an order issued under subsection (b) of this section.

(e) Any order under subsection (b) shall be complied with within 1 year from the date of such order; but the Commission shall, upon a showing (made before or after the entry of such order) that the applicant has been or will be unable in the exercise of due diligence to comply with such order within such time, extend such time for an additional period not exceeding 1 year if it finds such extension necessary or appropriate in the public interest or for the protection of investors or consumers.

(f) It shall be unlawful for any person to solicit or permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, authorization, or power of attorney, in respect of any reorganization plan of a registered holding company or any subsidiary company thereof under this section, or otherwise, or in respect of any plan under this section for the divestment of control, securities, or other assets, or for the dissolution of any registered holding company or any subsidiary company thereof, unless—

(1) the plan has been proposed by the Commission, or the plan and such information regarding it and its sponsors as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers has been submitted to the Commission by a person having a bona fide interest (as defined by the rules and regulations of the Commission) in such reorganization;

(2) each such solicitation is accompanied or preceded by a copy of a report on the plan which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it or by an abstract of such report made or approved by the Commission; and

(3) each such solicitation is made not in contravention of such rules and regulations or orders as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers.

Nothing in this subsection or the rules and regulations thereunder shall prevent any person from appearing before the Commission or any court through an attorney or proxy.

Mr. EICHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EICHER: To strike out all of section 11, extending from line 14, page 196, to and including line 3, page 200, and to insert in lieu thereof the following:

"SIMPLIFICATION OF HOLDING-COMPANY STRUCTURES; REORGANIZATIONS

"SEC. 11. (a) It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of a single geographically and economically integrated public-utility system.

"(b) It shall be the duty of the Commission, after notice and opportunity for hearing—

"(1) After January 1, 1938, to require each registered holding company and each subsidiary company thereof to divest itself of any interest in or control over property or persons to the extent that the Commission finds necessary or appropriate to limit the operations of the holding-company system of which such company is a part to a single geographically and economically integrated public-utility system, and such business as is reasonably incidental, or economically necessary or appropriate, to the operations of such system; the Commission may permit as reasonably incidental or economically necessary or appropriate to the operations of such system the retention of an interest in any business (other than the business of a public-utility company as such) in which such registered holding company or any such subsidiary company thereof is engaged or has an interest if the Commission finds (1) that such business is affected with a public interest and its rates or charges are regulated by law, and that the retention of such interest in such business is not detrimental to the proper functioning of a single geographically and economically integrated public-utility system, or (2) that such business is solely that of owning and operating farm lands for agricultural or horticultural purposes and is carrying on experimental or developmental work in agriculture or horticulture, in connection with any State or any political subdivision, or educational institution of such State, for the improvement of agriculture or horticulture in such State;

"(2) After January 1, 1938, to require each registered holding company, and each subsidiary company thereof, to be reorganized or dissolved whenever the Commission finds that the corporate structure or continued existence of such company unduly or unnecessarily complicates the structure of the holding-company system of which it is a part, or unfairly or inequitably distributes voting power among the holders of securities, or is detrimental to the proper functioning of a single geographically and economically integrated public-utility system; and

"(3) Promptly after January 1, 1940, to require each registered holding company to take such steps (either by divesting itself of control, securities, or other assets, or by reorganization or dissolution, or otherwise) as the Commission finds necessary or appropriate to make such company cease to be a holding company: *Provided, however,* That the Commission, upon such terms and conditions as it may find necessary or appropriate in the public interest or for the protection of investors or consumers, shall permit a registered holding company to continue to be a holding company in the first degree if such company has obtained from the Commission a certificate that the continuance of the holding-company relation is necessary, under the applicable State or foreign law, for the operations of a geographically and economically integrated public-utility system serving an economic region in a single State or extending into two or more contiguous States or into a contiguous foreign country.

"(c) In any order under subsection (b), the Commission shall fix the time within which such order shall be complied with, not later than 1 year from the date of such order; but the Commission shall, upon a showing that the applicant has been or will be unable in the exercise of due diligence to comply with such order within the time fixed, extend such time for an additional period not exceeding 1 year if it finds such extension necessary or appropriate in the public interest or for the protection of investors or consumers.

"(d) The Commission may apply to a court, in accordance with the provisions of subsection (f) of section 18, to enforce compliance with any order under this section. Upon any such application the court as a court of equity shall take exclusive jurisdiction and possession, for the purposes of this title, of such assets of the company or companies, wherever located, as may be the subject of such order, or, in the case of any order for reorganization or dissolution, exclusive jurisdiction and possession, for the purposes of this title, of the company or companies and all the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee; and the court may constitute and appoint the Commission as sole trustee to administer under the direction of the courts the assets so possessed and the proceeds thereof as a trust estate for the benefit of the persons interested therein as their interests may appear; and in any such proceeding the court shall not appoint any other person other than the Commission as trustee or receiver without notifying the Commission or giving it an opportunity to be heard before making any such appointment. In any proceeding for the enforcement of an order of the Commission under this section the trustee, with the approval of the Court, shall have power to dispose of any or all of such assets and, subject to such terms and conditions as the court may prescribe, may make such disposition in accordance with a fair and equitable reorganization plan which shall have been approved by the Commission after opportunity for hearing. Such reorganization plan may be proposed in the first instance by the Commission or, subject to such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, by any person having a bona fide interest (as defined by the rules and regulations of the Commission) in the reorganization.

"(e) In accordance with such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers, any registered holding company or any subsidiary company of a registered holding company may, at any time after January 1, 1936, submit a plan to the Commission for the divestment of control, securities, or other assets, or for the reorganization or dissolution, of such company or any subsidiary company thereof for the purpose of enabling such company or any subsidiary company thereof to comply with the provisions of this title and the rules, regulations, and orders thereunder or to make unnecessary the issuance of any order by the Commission in respect of any such company under subsection (b). If, after notice and opportunity for hearing, the Commission shall approve such plan, as submitted or as modified to meet such terms and conditions as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers, as fair and equitable to the persons affected by such plan and as appropriate to effectuate the provisions of this title and the rules, regulations, and orders thereunder, the Commission shall make an order authorizing and directing such company or any subsidiary company thereof to divest itself of control, securities, or other assets or to be reorganized or dis-

solved in accordance with such plan; and the Commission may apply to a court, in accordance with the provisions of subsection (f) of section 18, to enforce compliance with such order. If, upon any such application, the court after notice and opportunity for hearing, shall approve such plan as fair and equitable and as appropriate to effectuate the provisions of this title and the rules, regulations, and orders thereunder, the court shall take exclusive jurisdiction and possession, for the purpose of this title, of such assets of the company or companies, wherever located, as may be the subject of such order, or, in the case of any order for reorganization or dissolution, exclusive jurisdiction and possession, for the purposes of this title, of the company or companies and all the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee to administer, under the direction of the court and in accordance with the plan theretofore approved by the court and the Commission, the assets so possessed and the proceeds thereof as a trust estate for the benefit of the persons interested therein as their interests may appear. It shall be within the authority of the court and the Commission to approve and carry out any plan under this subsection which it would be within their respective authority to approve and carry out under subsection (d) of this section.

"(f) If any proceeding in a court of the United States, whether under this section or otherwise, in which a receiver or trustee is appointed for any registered holding company, or any subsidiary company thereof, the court may constitute and appoint the Commission as sole trustee or receiver, subject to the directions and orders of the court, whether or not a trustee or receiver shall theretofore have been appointed; and in any such proceeding the court shall not appoint any person other than the Commission as trustee or receiver without notifying the Commission and giving it an opportunity to be heard before making any such appointment. In any such proceeding a reorganization plan for a registered holding company or any subsidiary company thereof shall not become effective unless such plan shall have been approved by the Commission after opportunity for hearing prior to its submission to the court. Notwithstanding any other provision of law, any such reorganization plan may be proposed in the first instance by the Commission, or, subject to such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, by any person having a bona fide interest (as defined by the rules and regulations of the Commission) in the reorganization. The Commission may, by such rules and regulations or order as it may deem necessary or appropriate in the public interest or for the protection of the investors or consumers, require that any or all fees, expenses, and remuneration, to whomsoever paid, in connection with any reorganization, dissolution, liquidation, bankruptcy, or receivership of a registered holding company or subsidiary company thereof in any such proceeding shall be subject to approval by the Commission.

"(g) It shall be unlawful for any person to solicit or permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce or otherwise, any proxy, consent, authorization, power of attorney, deposit, or dissent in respect of any reorganization plan under this section, or otherwise, or in respect of any plan under this section for the divestment of control, securities, or other assets, or for the dissolution of any registered holding company or any subsidiary company thereof, unless—

"(1) The plan has been proposed by the Commission, or the plan and such information regarding it and its sponsors as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers has been submitted to the Commission by a person having a bona fide interest (as defined by the rules and regulations of the Commission) in such reorganization;

"(2) Each such solicitation is accompanied or preceded by a copy of a report on the plan, which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it, or by an abstract of such report made or approved by the Commission; and

"(3) Each such solicitation is made not in contravention of such rules and regulations or orders as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers.

"Nothing in this subsection or the rules and regulations thereunder shall prevent any person from appearing before the Commission or any court through an attorney or proxy."

Mr. RAYBURN. Mr. Chairman, this is the part of the bill about which great controversy has raged. It was a remarkable thing to me, of course, and to other members of the committee, that 10 far-reaching sections of this bill were read on Saturday and only two amendments offered. Therefore, we are swallowed up now in a discussion of this bill under the 5-minute rule with reference to the differences between section 11 of the House bill and section 11 of the Senate bill. I had hoped that we might run along under the 5-minute rule for a while and then fix time, but that does not seem to be practical. I spoke to the gentleman from Ohio [Mr. COOPER] about that a while ago, and it has been evident that there would be objection to anyone who spoke under the 5-minute rule proceeding for more than 5 minutes. Therefore, it seems to me the practical thing is to try to fix time in the beginning and that that time may be divided equally between the gentleman from Iowa [Mr. EICHER] and the gentleman from Ohio [Mr. COOPER].

I think debate on this section ought to be liberal. If we do as we did on Saturday, in 2 or 3 hours read 10 sections, when we get over this amendment we will pass over the remainder of the bill, both title I and title II, very fast.

There are a great many Members who want to be heard. I know the gentleman from Iowa [Mr. EICHER] cannot discuss this amendment with any degree of satisfaction to himself and the committee unless he is able to proceed for 15 minutes. Other Members would like time. I think it would be well if we could fix pretty liberal time. I am willing to propose 2 hours. I am willing that it shall run longer than 2 hours, as far as I am individually concerned, because it is only a few minutes after 11 now, and if we could vote on this matter by 2 o'clock or 2:30, I do not think we would lose very much time.

Mr. MAVERICK. Mr. Chairman, in the presentation of the debate the Republicans had one-half the time, all of which they used against what we wanted and what the President wanted. The majority of the time on the Democratic side was against the bill. So 75 or 80 percent of the 8 hours' debate was against the bill.

Mr. HUDDLESTON. Mr. Chairman, I demand the regular order.

Mr. MAVERICK. It seems unfair to give one-half the time to them now.

Mr. HUDDLESTON. Mr. Chairman, regular order.

The CHAIRMAN. The gentleman from Texas has the floor, but so far has submitted no unanimous-consent request.

Mr. HUDDLESTON. Then no one is entitled to the floor.

The CHAIRMAN. The gentleman from Texas is entitled to the floor for 5 minutes.

Mr. RANKIN. Reserving the right to object, I think we ought to run on for a while, Mr. Chairman, under the 5-minute rule and then attempt to fix time later. There are a great many Members on this side of the House who were denied any time to speak under general debate. As everyone knows, this is the crux of the bill. This is the section of the bill the administration is interested in. To allot this time as time under general debate was allotted will shut off many Members who desire to express their views, and for the time being I am going to ask that we proceed under the 5-minute rule.

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent that debate on this amendment be limited to 3 hours, one-half the time to be controlled by the gentleman from Iowa [Mr. EICHER] and one half by the gentleman from Ohio [Mr. COOPER], or anyone whom he may designate.

Mr. MAY. Reserving the right to object, I wish to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MAY. Under the rule under which the bill was brought into the House for consideration, as I understand it, the rule provided that after 8 hours of general debate the bill should be read under the 5-minute rule. Is it proper under the rules that it may be agreed by the gentlemen on different sides of the controversy that they can take so much time and allot it as they please, or do Members have the right under the rule to get such time as they may get under the 5-minute rule by moving to strike out, and so on?

The CHAIRMAN (Mr. WARREN). The Chair will give it as his personal opinion that the proposal made by the gentleman from Texas [Mr. RAYBURN] will be far to the advantage of all of the Members of the House, because under the 5-minute rule only 10 minutes is allowed under the rules of the House for the consideration of any amendment.

The gentleman from Texas [Mr. RAYBURN] asks unanimous consent that all debate on this amendment close in 3 hours, and that one-half of the time be allotted to the gentleman from Iowa [Mr. EICHER] and one-half to the gentleman from Ohio [Mr. COOPER]. Is there objection?

Mr. PIERCE. Mr. Chairman, reserving the right to object, I certainly think we ought to be allowed at least 5 minutes each on a bill so important as this. I have taken very little of the time of the House. I have had some real experience with these matters. I once owned an operating company. It went into a holding company. I was once Governor of a State. I know something about this question. I would like not only 5 minutes but 15 or 30 minutes.

With 300 Members on this side and but an hour and a half between them means that 15 men can speak for 5 minutes each. I must say to the gentleman from Texas that I think we should proceed for an hour or two under the 5-minute rule. I am perfectly willing to cut off debate this afternoon.

The CHAIRMAN. The Chair will state that under the unanimous-consent agreement proposed by the gentleman from Texas the Chair thinks the provisions of the 5-minute rule would be waived. As the Chair understands the request, it is that there be 3 hours of debate on this particular amendment, one-half to be controlled by the gentleman from Iowa and the other half to be controlled by the gentleman from Ohio.

Mr. O'CONNOR. Mr. Chairman, reserving the right to object, this is a most unusual request. I have no concern about it except that during the consideration of a bill in the Committee under the 5-minute rule to give control of the time to somebody other than the Chair is unusual. The usual custom is that when time is fixed for debate on amendments control of the time is in the Chair; the Chair recognizes Members for 5 minutes. It is not usual to give control of the time to other Members. I do not recall ever having seen it done before.

The CHAIRMAN. The Chair is quite sure it has been done in many instances.

Mr. RAYBURN. It has been done many times during my experience here.

Mr. O'CONNOR. I think it is perfectly proper to limit debate if the Committee so desires, with control of the time in the Chair, the Chair to recognize Members to speak for 5 minutes each, but to turn control of the time over to others does not sound right to me.

Mr. SNELL. This is the era of the new deal; everything is in order.

Mr. BLANTON. Mr. Chairman, let me suggest to my colleague from Texas [Mr. RAYBURN] that he amend his request to provide that debate be limited to 3 hours, that the gentleman from Iowa shall have 15 minutes in which to present his amendment, and that the balance of the time shall be in the control of the Chair, who shall recognize Members for 5 minutes each.

Mr. COOPER of Ohio. Mr. Chairman, reserving the right to object, if the gentleman from Iowa [Mr. EICHER] is allowed 15 minutes in which to present his amendment, then someone on this side, a member of the committee, ought to be given 15 minutes in which to oppose the amendment.

Mr. BLANTON. Mr. Chairman, that is fair; let the gentleman from Iowa have 15 minutes, and let the gentleman from Ohio have 15 minutes in which to oppose the amendment, the balance of the time, 2½ hours, to be controlled by the Chair under the 5-minute rule.

Mr. COOPER of Ohio. I do not know that I shall need 15 minutes.

Mr. BLANTON. That would be fair.

Mr. TRUAX. Mr. Chairman, reserving the right to object, as I understand the request——

(The regular order was called for.)

Mr. TRUAX. If the regular order is called for, the request will be objected to.

Mr. Chairman, this request is manifestly unfair to those Members of the House who are opposed to the utility-holding companies. If no one else will object, I will object to this request.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. TRUAX. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Iowa is recognized for 5 minutes.

Mr. MONAGHAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONAGHAN. Is it possible at this stage to make a unanimous-consent request relative to the gentleman who now has the floor?

The CHAIRMAN. If the gentleman from Iowa yields to the gentleman from Montana it would be in order.

Mr. EICHER. Mr. Chairman, I yield to the gentleman from Montana.

Mr. MONAGHAN. Mr. Chairman, I ask unanimous consent that, inasmuch as the gentleman from Iowa [Mr. EICHER] has given much consideration to this particular proposal and has been the outstanding advocate on the committee of this proposal, he be given 15 additional minutes in which to present his argument.

Mr. ANDREWS of New York. Mr. Chairman, I object.

The CHAIRMAN. The Chair has not yet put the request. The gentleman from Montana asks unanimous consent that the gentleman from Iowa be permitted to proceed for 15 minutes. Is there objection?

Mr. MAPES. Mr. Chairman, reserving the right to object, I think it is a perfectly fair request that the gentleman from Iowa may have 15 minutes, but I do not think this should be a one-sided affair.

Mr. MAVERICK. That is right.

Mr. MAPES. There is no reason why the request of the gentleman from Texas [Mr. RAYBURN] should not be granted. Until that is done I do not think these other requests should be granted.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. MAPES. Mr. Chairman, for the reason I have stated, I object.

The CHAIRMAN. The gentleman from Iowa is recognized for 5 minutes.

Mr. MONAGHAN. Mr. Chairman, I wish to amend my unanimous-consent request.

[The regular order was called for.]

The CHAIRMAN. The gentleman from Iowa has the floor.

Mr. MONAGHAN. Mr. Chairman, will the gentleman from Iowa yield?

Mr. EICHER. Mr. Chairman, I yield to the gentleman from Montana.

Mr. MONAGHAN. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa [Mr. EICHER], and the gentleman from Ohio [Mr. COOPER] may each have 15 minutes in addition to the 5 minutes to which they are entitled under the rule in which to present their respective sides on this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. MAPES. Mr. Chairman, reserving the right to object, I think the gentleman from Texas, the chairman of the committee, has charge of this bill and has the right to suggest the procedure and that his request should be respected.

It seems to me that his request was perfectly fair and would give to all sides a fair opportunity to express themselves. Until that request is granted I shall object to these other requests.

The CHAIRMAN. Objection is heard.

Mr. EICHER. Mr. Chairman, I shall do the best I can in the 5 minutes that under the rule I have allotted to me, and which I hope the good nature of the House may later on permit me to extend in order to explain a little something of what this is all about.

I think most of you know that section 11 of the House bill as it was reported by the Committee on Interstate and Foreign Commerce leaves the matter of simplification of holding company system structures entirely within the discretion of the Securities and Exchange Commission. Senate section 11 mandatorily directs that the Commission shall, after 5 years, with a possible extension of 2 years more, compel the simplification of holding-company structures to a point where not more than one holding company remains, and that

only where necessary under applicable State or foreign laws in order to maintain a geographically and economically integrated public-utility system. There is the difference between the two sections.

One leaves it within the discretion of the Commission to require that simplification; the other makes it mandatory on the part of the Commission to compel such simplification. They both depend on the same power of Congress. The authority to confer upon the Commission the right to compel divestment of control or reorganization is dependent upon the existence of constitutional power under the interstate-commerce clause of the Constitution, and so also is the power in Congress to decree this so-called "death sentence" that has been so loudly and so falsely trumpeted.

Destruction is all we have been hearing in the last few days. It would be thought from the discussions of the gentlemen on the opposition that on the day the President signed a bill containing section 11 that very night we would have no electric light to go to bed by because the complete and total destruction of the utility industry would have come to pass.

[Here the gavel fell.]

Mr. PETTENGILL. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. ANDREWS of New York. Mr. Chairman, I object.

Mr. ZIONCHECK. Mr. Chairman, I make the point of order that the objection came from a Member who was not standing when he made the objection.

The CHAIRMAN. The gentleman from New York [Mr. ANDREWS] arose when he addressed the Chair and objected.

Mr. COOPER of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe every Member of the House is familiar with the pending amendment. It substitutes the Senate provision for the House provision. The Senate provision carries the "death sentence."

As I stated on the floor a few days ago, it is my firm conviction that the passage of this legislation as incorporated in the Senate bill will practically destroy private utility holding companies and force Government ownership. I want to read for just a moment from the hearings held before our committee. This is a speech delivered by President Roosevelt on March 2, 1930, over a radio broadcasting system, under the auspices of Collier's Magazine. This is what the President said at that time:

> As a matter of fact and law, the governing rights of the States are all of those which have not been surrendered to the National Government by the Constitution or its amendments. Wisely or unwisely, people know that under the eighteenth amendment Congress has been given the right to legislate on this particular subject, but this is not the case in the matter of a great number of other vital problems of government, such as the conduct of public utilities, or banks, of insurance, of business, of agriculture, of education, of social welfare, and a dozen other important features. In these Washington must not be encouraged to interfere.

That is what Franklin D. Roosevelt, Governor of New York, said in 1930.

Again he said:

> The doctrine of regulation and legislation by "master minds", in whose judgment and will all the people may gladly and quietly acquiesce, has been too glaringly apparent at Washington during these last 10 years. Were it possible to find master minds so unselfish, so willing to decide unhesitatingly against their own personal interests or private prejudices, men almost godlike in their ability to hold the scales of justice with an even hand—such a government might be to the interest of the country, but there are none such on our political horizon, and we cannot expect a complete reversal of all of the teachings of history.

I am reading the words of President Roosevelt as he spoke in 1930, at which time he attacked most viciously the very policy which is being advocated in this House today. [Applause.]

[Here the gavel fell.]

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent to proceed for 2 minutes to make a statement, not on the bill, but in reference to the parliamentary situation.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RAYBURN. Mr. Chairman, I have discussed with the Chairman of the Committee of the Whole that there can be only 10 minutes more of debate on this very important section unless time is fixed. Frankly, I do not think it is fair to the House and fair to the Membership, many of whom did not ask for time under general debate and could not have secured time if they had asked, to close debate on this very important matter in 20 minutes. I, therefore, renew the request I made a moment ago, Mr. Chairman, that there be 3 hours of debate on this amendment, half of the time to be controlled by the gentleman from Iowa [Mr. EICHER] and half of the time by the gentleman from Ohio [Mr. COOPER], or anyone whom he may designate to control the time.

Mr. ANDREWS of New York. Mr. Chairman, reserving the right to object, is this not a Democratic rule that has been brought in?

Mr. RAYBURN. It is not the rule I asked for, because I thought that upon this vital issue men on both sides of it, after the tramping through the corridors and the criminations and recriminations on one side or the other, ought to be given an opportunity by the Rules Committee for a clear vote on this proposition. I did not get it.

Mr. TRUAX. Mr. Chairman, reserving the right to object, I want to make a brief statement. I will withdraw my objection to the request of the gentleman from Texas, provided the gentleman is willing to give 1 hour of the extra 3 hours to be used under the 5-minute rule, by Members here, there, and everywhere, so that others will have an opportunity to xpress themselves on this bill.

So far as I am concerned, together with many other Members, I am ready to vote for this amendment right now, but if the gentleman from Texas will make this agreement, I shall be glad to withdraw my objection.

Mr. O'CONNOR. Mr. Chairman, reserving the right to object, at this moment I am not going to reiterate what I said before that there are five chances to vote on this question, and this was explained to the chairman of the committee; but the usual request would be to permit debate on this amendment to go on under the 5-minute rule and let the Chair recognize Members under the 5-minute rule up until a certain time, before which time it would not be in order to move to close the debate. It would be the usual procedure rather than dividing the time to let the Chair recognize everyone who wants to speak under the 5-minute rule and let him speak in his own right by recognition of the Chair. This is the way the request should be made. [Applause.]

Mr. RANKIN. Mr. Chairman, I hope the request of the gentleman from Ohio, coupled with the request of the gentleman from Texas, will be agreed to and that we may move on with the consideration of this measure.

Mr. RAYBURN. I have no objection, so far as I am individually concerned. I simply want to get some time to debate this amendment.

Mr. MAPES. Mr. Chairman, reserving the right to object, and I shall not object to the request of the gentleman from Texas, the chairman of the committee, personally I think there should be liberal debate on this amendment. I am sorry the situation is such that the gentleman from Iowa [Mr. EICHER] could not have more time to debate his amendment.

I do not agree with the gentleman from New York [Mr. O'CONNOR] that this is an unusual request. The request is not always made in this way, but it is frequently made in the Committee of the Whole, as I recall the procedure, and I should like to ask the Chairman of the Committee this question:

I understood the Chair to put the request, originally, as being unanimous consent for 3 hours' general debate upon the amendment offered by the gentleman from Iowa. Would that permit amendments under the 5-minute rule to this

section after the vote on the amendment offered by the gentleman from Iowa, if it should be voted down?

The CHAIRMAN. The Chair put the unanimous-consent request as applying only to the pending amendment.

Mr. MAPES. Then, if the amendment should be voted down, there would be an opportunity to offer perfecting amendments to section 11 under the 5-minute rule?

The CHAIRMAN. Section 11 would then be open to further amendment as well as debate.

Is there objection to the request of the gentleman from Texas?

Mr. ANDREWS of New York. I object, Mr. Chairman.

Mr. MAY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, may I be permitted to say to my colleagues in the House of Representatives that I do not today, and never have, and I never expect to own a dime's or a dollar's worth of stock in any public utility of any kind, but from the time of my infancy, and particularly from the time I was 16 years of age, I have been a 100-percent stockholder in the Democratic Party. I cast my first vote for William Jennings Bryan in 1896, and from then until now, year after year, I have gone to the polls and voted steadfastly, without hesitation, the straight Democratic ticket. I have stood upon and loyally supported every Democratic platform that was ever adopted in my State or in my Nation, and supported my party, and I am standing today with the President of the United States 100 percent for the Democratic platform of 1932, the greatest document that was ever written since Thomas Jefferson promulgated those cherished principles upon which it was written.

I can remember in June of 1932, when I sat in my humble home down in old Kentucky and I heard the announcement that the Democratic platform of 1932 had been completed and reported to the convention, and I heard the great Chairman Walsh, of Montana, ask that it be read. I sat at the radio and listened to the reading of those great fundamental principles. Then I heard it said that our great President, the nominee of the Democratic Party, was leaving Buffalo, N. Y., in an airplane for Chicago to accept the party's nomination and stand upon that platform. I listened, and when the plane arrived in Chicago I heard the cheering throng greeting the nominee of my party, our present President, and then I heard him come into the hall, and later I heard him open his speech by saying:

I accept this platform and this nomination, and I stand 100 percent upon this platform as the nominee of the Democratic Party.

[Applause.]

There were millions throughout the land who heard him declare that a platform was a pledge to be kept and not to be repudiated. That platform declared for regulation of utilities and not annihilation or destruction.

Today I stand 100 percent for the regulation of public utilities, but I am opposed to my party being led into the destruction of the investments of people who have worked for their money. [Applause.]

I am for the men who have worked winter and summer in order to send heat through the long, cold nights, and in summer's heat, often in great peril, light and power to the people throughout the country. I am standing here today to battle for their protection. I shall vote against this amendment. [Applause.]

They are listening today to hear the voice of their Representatives. They shall know after this ballot on this amendment whether their Representatives propose to go off after strange gods and vote to destroy their savings. The millions of innocent, plain people are listening and anxiously waiting to hear the verdict.

This measure places in the hands and under the control of a Federal bureau the life and existence of every electric and gas company in the United States, and the President, who appoints the board members, says all holding companies must go. He makes no distinction in the good ones and the bad ones. If you think anyone is to be appointed to membership on this board who is not imbued with the same spirit of destruction, you shall find after you have voted to destroy rather than reconstruct, that you are sadly mistaken. No such thing is going to occur. I shall not vote to record my party as the party of destruction. This bill and the motive behind it is foreign to every principle of justice and common honesty and I shall vote against it. [Applause.]

Mr. O'CONNOR. Mr. Chairman, I desire to propound a unanimous-consent request. This is an important matter. I ask unanimous consent that debate on this amendment offered by the gentleman from Iowa continue for 2 hours under the 5-minute rule.

The CHAIRMAN. Is there objection?

Mr. ANDREWS of New York. Mr. Chairman, reserving the right to object, and I shall not object, may I reiterate what I said before, that this is a Democratic rule. In view of the fact that the Chairman of the Rules Committee makes this unanimous-consent request, I do not object. [Cries of "The regular order!"]

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. O'CONNOR]?

Mr. HUDDLESTON. I object.

Mr. WOODRUM. Mr. Chairman and gentlemen of the Committee, with your indulgence I should like to say to my colleagues in the House, if I may, without reference to the particular amendment, that the House of Representatives today is proceeding to consider a grave, important, vital matter. I hope we shall proceed in a dignified, logical, and an orderly manner, giving to the Membership a reasonable opportunity to be heard, that they may deliberately and orderly record their sentiments on this great matter. [Applause.]

It does seem to me, Mr. Chairman—and I do not intend to say how I shall vote, but I shall vote on it when the time comes and am quite willing to be recorded—it does seem to me that we should have proper time for consideration. I have seen this House in a moment of emotionalism take a course that it would not have taken under a more orderly procedure.

I still think, despite what some critics may say, that this is the greatest deliberative body in the world, when we stop to deliberate. When we have made errors in the past it has usually been because we did not stop to deliberate. I appeal to my colleagues. It seems to me that 2 or 3 hours of debate here under control of the chairman of the committee or divided—I care not how you may do it—should be granted. Certainly there is an orderly and logical way to do it. Let us stop for a few moments now and let the gentleman from Texas [Mr. RAYBURN], the chairman of the committee, and the gentleman from Ohio [Mr. COOPER] and other gentlemen who are interested come to some reasonable and orderly conclusion as to how long the debate ought to proceed and how it ought to be controlled, and then let us get down to the business of considering and determining this vital matter.

Mr. Chairman, for the purpose of bringing it to a conclusion, I ask unanimous consent that debate may proceed for 3 hours under the regular 5-minute rule, with the right of the Chairman of the Committee to recognize Members, and under those circumstances may I direct attention to the fact that it is then within the discretion of the Committee whether to permit Members to speak longer than 5 minutes. The Committee itself would still have the right to do that. For instance, the gentleman from Iowa [Mr. EICHER], if he obtains permission to address the House, might ask that he be given 20 minutes or 30 minutes, or whatever time he desires, and it would still be within the discretion of the Committee of the Whole to grant it, and if I addressed the Committee for 5 minutes, as I do not intend to do, it would be within your discretion then to let me have only 5 minutes. The whole matter would be within the discretion of the Committee, and all the Membership would have an opportunity to discuss the matter. I appeal to my colleagues to do that or something else, but at any rate let us proceed in an orderly and dignified manner.

Mr. Chairman, I withdraw my request and yield to the gentleman from Texas.

Mr. RAYBURN. Mr. Chairman, I make one more effort. If that does not go through, then I am hopeless. I ask

unanimous consent that there be allowed 3 hours of debate upon the amendment of the gentleman from Iowa, 1 hour to be controlled by the gentleman from Iowa, 1 hour by the gentleman from Ohio, and 1 hour by the Chairman of the Committee of the Whole.

The CHAIRMAN. Is there objection?

Mr. HOEPPEL. Mr. Chairman, I reserve the right to object.

Mr. MAPES. Mr. Chairman, I reserve the right to object.

Mr. RAYBURN. Mr. Chairman, will the gentleman from Michigan yield?

Mr. MAPES. Yes. First, let me say I think there ought to be 2 or 3 hours of general debate upon this amendment. I am in perfect sympathy with the request that the gentleman from Texas [Mr. RAYBURN] made at the beginning. I see no reason why we should adopt any abnormal procedure, however, for the consideration of this bill, and I do not see any reason why the time should be divided three different ways. That is unusual. I shall not object to the original request of the gentleman from Texas. I have perfect confidence in the gentleman from Iowa and the gentleman from Ohio; I know that they will divide the time equitably and right.

Mr. RAYBURN. Mr. Chairman, if the gentleman will yield, I made the other request twice and did not get by with it.

Mr. MAPES. And the gentleman has been driven into making this request by those who are constantly objecting here on the floor of the House to any procedure that they cannot dictate. And on this bill, for one, I do not think it should be allowed.

Mr. HOEPPEL. Mr. Chairman, I reserve the right to object to make this statement for the information of the gentleman from Texas [Mr. RAYBURN] and the gentleman from Virginia [Mr. WOODRUM]. I am in accord with the ideas which he has expressed, namely, that in a democratic body we ought to have liberal discussion on problems of this nature, but may I call the attention of the Membership of the House to the fact that the gentleman from Virginia, when he put through the Economy Act under an iniquitous gag rule, was apparently not interested in liberal discussion? Other acts of the Congress appropriating billions of dollars in a lump sum to the President were also forced through under a gag. We should have had liberal discussion of such important measures, but some were passed after only 5 minutes of debate on the part of the chairman. [Cries of "Regular order!"]

The CHAIRMAN. Is there objection?

Mr. MAPES. Mr. Chairman, I reserve the right to object. I shall not object to the request, providing time is left within the control of the gentleman from Iowa and the gentleman from Ohio, as first submitted by the gentleman from Texas.

Mr. TRUAX. Mr. Chairman, I shall object to that request.

Mr. O'CONNOR. Mr. Chairman, I desire to submit a unanimous-consent request.

The CHAIRMAN. Does the gentleman from Texas withdraw his unanimous-consent request for the time being?

Mr. RAYBURN. No; I do not.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MAPES. Mr. Chairman, for the reasons already stated, I object to the request.

Mr. RAYBURN. Then I make another request: That the debate continue for 3 hours, half to be controlled by the gentleman from Iowa [Mr. EICHER] and half by the gentleman from Ohio [Mr. COOPER].

The CHAIRMAN. Is there objection?

Mr. TRUAX. Mr. Chairman, I shall be compelled to object to that request.

Mr. O'CONNOR. Mr. Chairman, I submit a unanimous-consent request—and I cannot understand why anybody should object to it—that under the rules of the House the debate on this amendment continue under the 5-minute rule for 2½ hours.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MAPES. Reserving the right to object, I want to say that I have no intention of objecting. I have perfect confidence in the chairman of the committee and this is the regular procedure.

The CHAIRMAN. The Chair twice stated the question and there was no objection heard.

The unanimous-consent request made by the gentleman from New York [Mr. O'CONNOR] provides for 2½ hours' debate under the 5-minute rule on the pending amendment of the gentleman from Iowa [Mr. EICHER].

The gentleman from Alabama [Mr. STARNES] is recognized for 5 minutes.

Mr. STARNES. Mr. Chairman, the Members of this Congress have been subjected to more pressure and more influence in order to dictate their votes on this measure than probably any other measure that has been presented to this or any other Congress. This pressure and this influence did not begin overnight. It did not start yesterday, but it is a part of a deliberate plan that has been pursued by the power and gas companies of this country for more than 15 years. For more than 15 years they have sought to influence public opinion for the following reasons:

First. To foster and retain full security for privately owned utilities, including their organizations, financing service, and rates.

Second. To secure public approval of all their methods and practices in such matters.

Third. To oppose public ownership in all forms.

Fourth. And I want to drive this home—to prevent effective, or any, regulation of utilities for the protection of the public, either of the consumers as to service and rates, or to the investors, about which they prate, as to their character and the bases of the securities issued to them. [Applause.]

In the brief time allotted I want to call attention to some of the methods by which they have organized their propaganda in this country. They have made use of the newspapers, radios, schools and churches, college professors, and have organized their own victims, namely, their stockholders and the consuming public.

Freedom of the press is one of our cherished institutions. A free press is as essential to a democracy as the freedom of speech. The newspaper is the most important agency that we have in molding adult opinion in this country. We must at all times, and at any cost, maintain the press as an institution wherein facts can be recited, and open and fearless presentation of the truth be made to the public.

The utility interests in this country threaten the freedom of the press because with the vast expenditures of huge sums of money for newspaper advertising and publicity they have influenced editorial opinions. They have been able to get "canned" editorials published. They have been able to get free news items under the names of prominent citizens in this country, which have been written by their own ghost writers. I charge them with the expenditure of more than a quarter billion dollars for newspaper advertising and for publicity items during the past 15 years.

No one denies these interests or any legitimate business concern the right to present their case to the public, to advertise their wares, and to present the facts, but when those facts are distorted and information becomes misinformation and the publicity becomes propaganda, it is time that the law-making bodies of this country call a halt on their activities.

They have subsidized the press to a certain extent, and the gentleman from Ohio and the gentleman from Alabama have been beneficiaries, to a certain extent, of this enlightening program. I call attention to the fact that on an average more than 70,000 column-inches of newspaper space are used in the State of Ohio every year; that in 1926, 150, and in 1927, 200 editorials favorable to the power interests were published. Down in the State of Alabama they were unable to get a friendly press, and they resorted to the expediency of financing the capital structure of the Mobile Press, and in 1929 contributed the sum of $26,000 in the first year of

the history of that newspaper in publicity and advertising features alone.

Mr. MAY. Will the gentleman yield?

Mr. STARNES. I do not have time. They take the baby as soon as it leaves the mother's breast and starts to kindergarten and submit it to propaganda in the form of story books, The Ohm Princess, of which more than a half million copies have been furnished to the children. They take upon themselves the unction and right to edit the school books presented to your boy and your girl and my boys, to see that nothing unfavorable to their interest is published in those books.

As proof of that fact I have here two geographies, one published in 1927, used in the public schools of this country, and the other one published in 1929. I read from the one published in 1927:

> The importance of the conservation of water power and the retention of power sites in the State cannot be overestimated. Timber must not be taken off the watersheds too rapidly, and great care must be taken that large companies do not secure a monopoly of our water sites.

That was in 1927, before that schoolbook had been properly edited.

I now read from the 1929 edition of the same book with reference to this paragraph:

> The importance of the conservation of water power and the retention of power sites in the State cannot be overestimated. Timber must not be taken off the watersheds too rapidly, and great care must be taken from now on so that the watersheds shall be developed only in the manner which shall secure to the State the greatest and most lasting benefits possible.

Note the significant change in the last sentence. This shows how far-reaching and effective the campaign of these utilities has become. The quotations above have been made from page 22 in each instance of the Washington State Supplement in Advanced Geography, McMurray and Parkins, and published by the Macmillan Co., a textbook used in the public-school systems of this Nation.

Members of the faculty of practically all the leading colleges and universities may be found on the pay roll of the National Electric Light Association or its affiliates. They are paid for making economic surveys or studies and reports. Many of these faculty members teach classes or edit textbooks dealing with the development of power and the use of natural resources. Schools and colleges have been endowed with special chairs or special courses dealing with the development of power and the holding-company systems by the utility interests. Do you suppose for one moment that any theory or doctrine with reference to these questions is taught to the young manhood and womanhood of our Nation which does not meet with the approval of the interests concerned?

Not content with attempting to subsidize the press and edit the textbooks of our public schools and colleges, the electric and gas utilities have not hesitated to attempt the spread of their theories and practices by the clergy of our country. They have entered the portals of temples of worship in an effort to put over their program. They have employed ministers charged with carrying the message of the crucified Christ to carry power propaganda which seeks to create monopolistic control of God-given natural resources for exploitation and unlimited power.

Finally we find the power and gas propagandist at every State capitol in the Nation when legislative bodies of the various States are in session, seeking to prevent or control legislation which would tend toward effective regulation of their activities in the public interest. They even dare to enter the Capitol here at Washington and by cajolery, flattery, intimidation, and innuendo attempt to proselyte and prostitute Members of the Congress to their views. They want no regulation. They brook no interference with their designs to monopolize the natural resources of our Nation.

As a Member of this body, conscious of my responsibilities and mindful of my oath, I do not propose to be dictated to by any special group. I propose to follow the dictates of my conscience. The issue is clear. Shall I listen to the voice of privilege or shall I heed the voice of the people? On one hand stands a united Republican Party and the power interests; on the other stands the leader of democracy and the people. I propose to follow the leader and heed the voice of the people I serve. [Applause.]

The CHAIRMAN. The time of the gentleman from Alabama [Mr. STARNES] has expired.

Mr. STARNES. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection?

Mr. BOLTON. Mr. Chairman, I object.

Mr. CONNERY. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. RANKIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RANKIN. Do not all Members who speak on this bill have the right to revise and extend their remarks? I made that request on Saturday and understood it was granted.

The CHAIRMAN. The Chair understands that that request was made and was granted.

Mr. CONNERY. Mr. Chairman, I have read the report of the gentleman from Iowa [Mr. EICHER] and am in thorough accord with it. The reason I am taking the floor at this time is because many Members have asked me to ascertain for them the position of organized labor on this bill.

May I inform my colleagues that after conversation with Mr. Green, the president of the American Federation of Labor, he informed me that organized labor, through the American Federation of Labor, is standing for the Senate bill 100 percent behind Franklin D. Roosevelt, the President of the United States. [Applause.] That is as clear as anything I know of.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I have only 5 minutes, but I am pleased to yield to the gentleman from New York.

Mr. WADSWORTH. Does the gentleman know whether or not Mr. Green has made inquiry of Mr. Joseph Ryan, of the International Longshoremen's Association, with respect to this bill?

Mr. CONNERY. No; I do not know that.

Mr. WADSWORTH. I advise that he do so.

Mr. CONNERY. I know only that the American Federation of Labor at every convention for the past 20 years has iterated, reiterated, and reiterated their stand against monopolies and, particularly, the Power Trust. [Applause.] So he does not have to see Mr. Ryan to state a position.

I know of nothing which President Roosevelt has done which showed greater courage, which showed greater statesmanship or a greater knowledge of the needs of the American people than his fight against the Power Trust, which has had a stranglehold on the throats of the American people. Through these holding companies they have almost told you what you were going to eat for breakfast tomorrow morning and whether or not they would let you eat it.

My only thought in taking the floor at this time was to make clear the position of labor. I do not want to take any more of the time of the House. I am for the amendment of the gentleman from Iowa [Mr. EICHER]. I hope the House will accept the Senate bill, which is in the real interest of the great majority of the American people.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I yield.

Mr. MAY. Does the gentleman know or understand that the largest capitalized holding company in America is the T. V. A., a Federal agency?

Mr. CONNERY. All right; that is all right; but it is a Federal agency and can be controlled by the Federal Government, and I still maintain that the Senate bill is a bill for the American people, and I hope it will pass the House.

[Here the gavel fell.]

Mr. PIERCE. Mr. Chairman, I do not yield to the gentleman from Kentucky in allegiance to the Democratic Party. I, too, sat in the Chicago convention and heard the great address of the present President. I do not feel that I am in any way departing from the Democratic platform in sup-

porting the Senate bill dealing with this question. [Applause.]

Mr. Chairman, some half century ago Edison divided the electric current that made it possible to have electricity in our villages and homes. There then sprang up all over this country large numbers of electric plants in villages and cities. I became the chief owner and manager of one of those electric power plants. I can remember the meetings held with the electric managers of that time, many of whom found they had a very fine investment. One question was what to do with the dividends. The holding company was born to siphon off the profits of the operating company. [Applause.] Allow me to give you a real case.

In Portland, Oreg., we had an electric-power operating company. Portland is a fine location for electric-power companies, a great big city, active people, good spenders, water power everywhere around the city. The operating electric-power company has been robbed by holding companies. A few years ago the operating company, known then as the "Pepco", but changing its name on orders from Wall Street, fell into the hands of a holding company, the Central Public Service. The first demand made by the holding company was to exchange $15,000,000 of stock in the operating company for $10,000,000 stock in the holding company. The next thing we knew orders came from the boss in Wall Street to purchase 29,994 shares of the Seattle Gas Co., which were then selling on the market at $15 a share, and to pay therefor $225 a share, 15 times its market value. The Pepco operating company, a solvent company, was ordered to insert in its books, undoubtedly by orders from the overlord, that it had "invested" $6,753,748 in equipment and plant when there had been no additions made except these shares of Seattle Gas, a company which was practically bankrupt. Then they put on a selling campaign for Central Public Service stock with all the gilded promises usually made. They sold millions of dollars of that stock in Portland and vicinity; over 11,675 persons were victimized.

[Here the gavel fell.]

HOLDING COMPANIES (REMARKS ON S. 2796)

Mr. PIERCE. I am deeply interested in this problem for several reasons. The reasons which motivate my very unusual interest are my personal experience as a builder and operator of an electric-power line, and the experience of thousands of investors in my State, Oregon, who were defrauded and lost their life earnings through the manipulations of a holding company.

MY PERSONAL EXPERIENCE AS A UTILITY OPERATOR

About 30 years ago I built a power plant in the State of Oregon and owned and operated the distributing system. I bought out other plants until I was the principal factor in a company that furnished electric light and power to a city of about 8,000 people, and several smaller villages. We had 100 miles of high-voltage transmission lines. I frequently attended the meetings of the managers of electric-power plants and became very well acquainted with the methods of operation. I sat in the councils and heard the various problems discussed. "What will the traffic bear?", "How much can we charge?", "What should a consumer pay for readiness to serve?", "How many bonds shall we issue on our plant?", "How much stock?", "What interest?", "What dividends?", I clearly remember the attitude of the managers, which may be expressed somewhat in these words: "Issue a bond every time you build a mile of transmission line. Issue a bond every time you install a new transformer. In other words, build up the bond issues. If you cannot sell your bonds, carry them in your own safe. They are good collateral at the bank. The courts can always be depended upon to respect our bond issues. We will always be able to fix our rates so we can earn interest on the bond issues and perhaps dividends upon our stock. Never cut down bond issues, build them higher and higher. Stock issues, both common and preferred, should always be water."

I was invited to put the company I controlled into the combination that they were then planning for eastern Oregon and Washington. I was to be given so much stock and bonds, and, when I called the promoters' attention to the fact that one of my original partners had passed away and that the other one of them was bankrupt and that I must have money to settle with their estates, the way was pointed out by which I could legally pay them off with stocks and bonds of the company and still retain control. Needless to say, I declined to follow the advice. I ate dinners and smoked cigars with those who in after years became rich and famous as public-utility magnates. I am sure the users of current in that territory are still paying for those dinners, as users everywhere will pay, in higher rates, for the dinners and lavish entertainment and the costly lobby here in Washington this session, if we do not eliminate the holding companies. When the time arrived I sold my interests because I became convinced that I was not fitted for the game, although I must say that it was the best paying business I ever had. The mountain streams of water performed most of the work that made the electric energy which brought us an income of more than $5,000 a month with a very slender pay roll. My experience in building, operating, and selling this electric power company convinced me beyond the shadow of a doubt that there was but one honest solution of the electric power problem in America, and that was public ownership. This experience was before the days of so-called "regulation."

The holding company, as we know it today, was not in existence, but we were already dreaming about it. We had already started to combine, to pyramid, to crush out, to wreck the weaker units, and to absorb into the financially stronger companies those failures resulting from bad location, or other controlling factors. Managers often resorted to devious methods to secure franchises in the villages and cities, as well as the right to build transmission lines along public highways. To the utility group the end always justified the means.

PUBLIC OWNERSHIP THE ONLY PERMANENT SOLUTION

Our famous Oregon system of direct legislation, including the initiative, referendum, recall, and the direct election of Senators, was brought into existence very largely through the interest and efforts of ex-United States Senator Jonathan Bourne, now living in this city. Recently he said to me:

> I saw at close hand the political corruption that surrounded the election of United States Senators and the passing of laws by State legislatures. I became convinced that the only possible method of saving our Government was to put the political power into the hands of the people. For that reason, I devoted my time and money to the enactment of the Oregon system of popular government.

So I can truthfully say that the system of electric-power operation and of holding companies, which I saw in the making, fixed most firmly my belief in public ownership and operation of utilities. I, too, saw at first hand the corruption, the immense profit, and the antisocial methods. The only cure lies in ultimate Government ownership. This is true of the electric-power company because it is a natural monopoly. The steps toward that end are adequate regulation by the Federal Government and absolute prohibition of the holding companies with their evil practices and malign influences.

When I speak of my convictions in regard to public ownership, I realize that it is somewhat remote. I would betray the trust and confidence of my people did I not make every effort in the meantime to protect their interests as investors and as consumers of light and power. Public-service corporations have abused the confidence of the people more than any other group of business men. Not only because of their financial operations and cost padding in reports but because of their inordinate demands in rates and cost of extensions and the entire refusal to make the utilities available to people who would be served without an immense profit or possibly at a loss. They have been short-sighted and they have been corrupt, and that corruption has spread throughout the Nation, to the schools and through the press. We all know the story and need not recite it. We all know that holding companies were evolved not for service but solely for

gain, and that they wrecked many good operating companies. Quoting a recent writer:

Under these holding-company schemes the big money has been in the manipulation of securities and the inflation of capital structures, not in legitimate operations—the supplying of utility service to the consumer.

MY EXPERIENCE AS STATE SENATOR AND AS GOVERNOR

When I became a State senator, I took an active interest in enacting laws to regulate the public utilities of Oregon. Upon becoming Governor of that State, in January 1923, I did my best to enforce these laws and asked for amendments which experience had proven essential to control utilities so the public interest might be served. In the executive office of that State I soon learned that the utilities regulated the regulators. I demanded of the legislature the right to appoint the public-service commission, so that I might be able to select men who would enforce the law. That power the legislature refused me. I then asked the legislature for the right to erect a State-owned plant on a mountain stream near Salem for the purpose of generating power for the public buildings. I again failed, owing to the strength of the power companies.

We secured an appropriation to construct a generating plant at one of our public institutions. Immediately the exorbitant rates which the power company had been charging were reduced one-half, and it was never necessary to use the appropriation. That has been the game from the very first; lower rates have always been compelled and never granted without compulsion. Regulation by States has generally been feeble and somewhat futile, especially as the operating companies have become absorbed by holding companies.

As ex-officio chairman of the State tax commission in 1923, I found that the company which furnished electric power to Portland was, through the public-service commission, asking that rates be so fixed that they could earn dividends upon a valuation of more than seven times their assessment for taxation purposes. Based upon the New York market, the company was worth the amount upon which it wanted to earn dividends. I will not enter into the details of the fight that was made to force that assessment up to twenty millions, but it was a real fight. As for bringing the taxes up to the same proportion that farmers paid upon their farms, it was simply an impossibility. Suffice it to say that I did, during my term as Governor, more than double their annual contribution. I might add, as a bit of Oregon political history, that these companies helped to return me to the cattle ranch, but the valuation of their properties for tax purposes, while never made adequate, was greatly increased.

THE SPREAD OF UTILITY STOCK IN OREGON

When an operating company which furnished light and power for the most populous section of Oregon began to see the need of public support through good or ill, and to take a hand in politics, its first move was to spread the sale of its stock. It advertised extensively in the newspapers, offering a substantial and unusually high rate of interest with "absolute security" of investment and a plea for patriotism through investing money in local enterprise. The officers and clerks in small banks were enlisted in the campaign and any widow with insurance money, or any bank client left with a little windfall or a little ready money, was usually advised to invest in the stock of that company. It was, of course, calculated to spread the stock in small parcels in order to enlist public interest in warding off unfavorable legislation. Even farmers became owners of small parcels of utility stocks, enough to control sentiment and stir emotions when legislatures or Governors undertook to protect them as to rates or investments.

When I was a candidate for governor a friend sitting at a bootblack stand in Portland talked about me to the Greek boy who was shining his shoes, and the boy said, "Oh, I can't vote for Senator PIERCE for governor because our company thinks he would not be right and they told me not to do it." Investigation showed that he owned $100 worth of stock in "our company", but it was enough to enlist his sympathy for the company against any legislation in the interest of the consumers of utility services.

Yes, we had a State regulatory body, but nothing is more simple and more easily accomplished than the appointment and regulation of regulatory bodies in States. This spread of stock paved the way for the tremendous propaganda which floods our offices today. These people holding the worthless paper of holding companies are made to believe that their rights and interests are in jeopardy. It certainly seems amazing that they do not yet understand that they have been outrageously defrauded by the very people who called upon them for aid in this crisis. When the inevitable crash comes, the holding companies will shield themselves by claiming Government interference leading to ruin. They are preparing for this alibi.

OREGON'S EXPERIENCE WITH HOLDING COMPANIES

My Oregon colleagues from the First and Third Districts have, by their speeches on this floor, led you to believe the people of Oregon are satisfied with their regulation of power companies, and have little complaint to make of holding companies. My observation and experience do not lead me to that conclusion, and I cannot let that impression stand unchallenged on the records of this House. My colleague from Mississippi, one of the best power authorities on the floor, Hon. JOHN RANKIN, has pointed out to you the fact that Oregon has an annual overcharge on its electric power bill of more than $6,000,000.

It is beyond my understanding how any informed citizen of Oregon can object to proposed legislation to protect our utilities and our citizens from such companies. I am amazed to learn that a Congressman representing those investors can raise his voice in defense of the type of financial pirates who robbed us. Let me recite briefly some of the facts which are common knowledge in Oregon.

The operating company to which I referred has had several names, but is generally known in Oregon as the "Pepco." There were three other major companies doing business in the State, but for the purposes of illustration I will confine myself to this company, servicing nearly half the citizens of the State. Its stock should have been a safe investment and its service should have been extended rapidly, but it was wrecked by a holding company and thousands of our citizens lost their life's savings.

In 1927 the Central Public Service, an Albert E. Peirce holding company, took over Portland Pepco, a solvent operating company. Central Public Service exchanged its stock for Pepco stock at the rate of $10,000,000 of holding company stock to $15,000,000 of operating company stock. Within a few months the holding company went into bankruptcy.

The floating of Central Public Service stock under gilded promises and the victimizing of 11,675 persons in Oregon is one of the greatest financial scandals in our State history. Worse still, Pepco, under orders from Central Public Service, bought 29,994 shares of Seattle Gas, worth $15 a share and paid for it $225 a share, or 15 times its market value. Central Public Service at the time being the owner of Seattle Gas, as well as Pepco, paid itself through this deal 15 times the market price for Seattle Gas. The celebrated holding company sat on both sides of the table giving the operating company no choice, and swindling it out of $6,753,748. Reporting the deal to its stockholders, Pepco, the Portland operating company, described it as $6,753,748 "added to plant and equipment."

By that and other like deals Central Public Service, a holding company, as owner of Portland Pepco, increased the indebtedness of that corporation from $45,000,000 to $71,000,000, an increase of $26,000,000 in only 1 year and 4 months, without any increase in tangible assets. These facts have been set forth time and again by the Oregon Journal, a newspaper of Portland, and the figures I have quoted are directly from a recent editorial in that paper.

This is one illustration of the purpose to which holding companies are devoted, and it happened in Oregon. It was plunder, and all the propaganda they are now using to revictimize their former victims cannot alter this history nor

wipe out the scandal. No whitewash applied in Congress or elsewhere can cover the stain.

With this experience fresh in our minds is it any wonder that I am amazed to hear my colleagues from Oregon defend on this floor the same kind of holding companies which have robbed and plundered our people? These holding companies have found an Oregon defender on this floor who advocates the House bill instead of the Senate bill, because he fears the "death sentence" for those companies. My colleague of the first district lives in the capital city of the State, a city with a population of 25,000 people which, until within a few months, had not owned even its own water system, and has had to bring in barrels of water when the legislature assembled, all because it is so utility-controlled that it has not been allowed to supply its people decent and palatable drinking water. My colleagues evidently have not gone through the experiences which have made me understand these things and see them in a different light.

HOLDING COMPANIES SHOULD BE OUTLAWED

I realize that our Oregon experience is but a sample of what has gone on all over this Nation. I believe there has been no group of men in business more ruthless and more regardless of the public interest in putting over their plans and schemes which have wrecked what might have been a stable industry.

John T. Flynn, writing in the last New Republic, says:

> There may be good holding companies, in the sense that the individuals who run them are decent men and do not use them to foster abuses. But economically they are all bad, and, moreover, there is no way to discriminate between the worst and the others. As for regulating holding companies, that is utterly impossible, as we shall find out. The utility bill, however, is a step in the right direction. It will enable us to get all the facts first. Then it will tend toward simplification of capital structure. This will be a gain. When this is attained, we shall learn that we still have the holding-company problem on our hands. We can then proceed to the next step: The complete abolition of all holding companies.

I wish there were some way of ascertaining what this campaign waged for the holding companies has cost the utilities. Yes; ever since January they have had this National Capitol full of lobbyists of all sorts and descriptions, they have resorted to every method known to high-powered lobbyists. They have scores and scores of people working for them, not only in Washington, but in every home town, trying to influence Congressmen and Senators to help them to retain their stranglehold. Hundreds of letters and telegrams have come to the desk of every Congressman, many of them from almost destitute men and women pleading with us to save the life of the holding companies so their little investments will not be wrecked. No investor will lose a sound investment because of this legislation or anything that we can pass at this session. Much of the stock of these holding companies never had any value, it was simply a shadowy equity. The holding companies had only a fictitious boom value on their stocks and bonds before the crash of 1929. Just think of estimating their securities at twenty-nine billions, 29 times the assessed value of the State of Oregon! No wonder the values went down to three billions, and that is probably too much.

Some of my constituents who write or telegraph me the propaganda furnished by the holding companies appear to think the Congress proposes to cut off the electric current, to ruin the operating companies and to make worthless what they consider a secure investment. They do not always realize that the holding company is a speculative enterprise, buying the stock of operating companies for purposes of manipulation and immense and unjustifiable profits. There is no interest in security or service and no pride in business development. There is only the greedy desire to squeeze out profits which they let drip by tiny drops into the hands of so-called "investors" in order to use their funds and command their influence in times like these. An honest investment company or investor is, on the contrary, interested in well-managed operating companies, giving satisfactory service.

OPERATING COMPANIES MUST SERVE THE PEOPLE

Operating companies collect from their patrons more than they should collect, and they refuse to extend their wires without unreasonable charges. They have refused to reduce rates to the consumers or to pay off bond issues, the profits have been absorbed by the holding company, or the overlord, controlling the stock in the operating company. The statement has been made on this floor that the people of America are paying today a thousand millions more annually than they should pay for electric power and electric energy, largely because of holding companies. I believe that this is an underestimate instead of an overestimate.

The brilliant ex-Senator, who is now our colleague from New York, makes much of the fact that the average family in America buys less than $35 worth of electricity each year. True it is not a large item, neither should it be. Electric energy is not a luxury in a home, it is a necessity and should be as cheap as water. No holding company, no group of men are good enough to own, control, and be able to fix the price of a home necessity.

The Congress is not at present considering abolishing operating companies nor reducing the excellent wages paid skilled employees. We are attempting to make it possible for customers to pay only for current consumed, and not to be required to include in every bill an overhead charge for holding-company profits and propaganda.

Yes; electric rates can be reduced, but not while there are holding companies which must get a rake-off.

Yes; we can make utility investments safe for the public if holding companies are not in control demanding financial returns for no service rendered, plundering the industry.

Yes; the T. V. A. yardstick will help to decide what are just and reasonable rates, if holding companies are eliminated.

ADMINISTRATION'S POWER POLICY ADVANTAGEOUS

Without prophesying what may be the verdict of history on this administration, I am saying to you that President Roosevelt will be remembered by coming generations as the first man in the White House who had the strength of character, the courage, and the determination to start the most effective method of regulating the utilities. He is using the only method that will ever be found successful, by backing the T. V. A. in the Southeast and the construction of the great power dams across the Columbia at Bonneville and Grand Coulee in the Northwest. When he earmarked the millions for the construction of these two great dams for the creation of electric power in the States of Oregon and Washington, he built for himself and his days a monument more enduring than the marble shaft to Washington in this Capital City.

A few months ago I stood in the glory-hole at Bonneville. They were just starting to pour the concrete, and I thought of what that marvelous development will mean in the years to come, that mighty stream 60 feet deep, hundreds of feet wide, unceasingly flowing from the glacial streams of the Rockies. I thought of the wheels that it would turn, the tremendous power it would develop, the homes it will light and heat, the farms it will operate. If we are able to develop that power on the Columbia as our President intends, it can be sold at a rate that will pay off the original investment in a generation, at less than the T. V. A. rate.

Think of the population and the activities that will come to that country favored by climate and soil when in the States of Washington and Oregon we can get one horsepower or a thousand to turn the wheels and perform the drudgery that man formerly did with his hands! Then imagine, if you can, what that is going to mean to the next generation. The debt will be paid off. What is the electric energy then going to cost? The dam will be there for generations. The copper wire is not going to wear out, barring accident. We may have to rebuild a few pole lines. Nobody will shovel coal or oil under the boilers. The forces of nature in the snow and the rain will furnish power. Then, when this power is all in use from these dams, there are many more power locations on that same river, The Dalles, Umatilla, the Snake River Canyon, where power almost beyond the comprehension of

man can and will be developed for the benefit of millions yet unborn. We must not fail in our duty at this time in backing up our President, not only in developing the T. V. A. and Columbia River projects but by passing at this time his requested legislation on holding companies. No wonder the vultures have even tried to block Congress, are trying to do everything in their power to get control of this mighty resource that belongs to all of the people.

I am for the Senate bill because it will mean, if it can be passed and enforced, that ultimately all holding companies must disappear beyond the first degree.

I am against the House bill because it is not a reasonable attempt even to control the utilities that have bled white the operating companies.

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD and to include therein some data to which I shall refer.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BLANTON. Mr. Chairman, holding companies are unknown to the local people of our districts. The people are not served by holding companies. The people do not come in contact with holding companies. The people at home are not familiar with and do not understand the machinations of holding companies. Our local people back home do not know anything about the tremendous, outrageous, unearned, unconscionable, high salaries that are being paid high officials of holding companies. They do not know about the watered stock of holding companies. The people do not know about the stock manipulations of holding companies.

Our home people come in contact only with a subsidiary company, with its local manager, its local officials, and local employees, all neighbors of the people, all living together in our district. The local manager is always a fine fellow. Everybody likes him. The other local officials are affable citizens, popular with the people, and have a host of friends. The local employees are our neighbors and friends, and very naturally we are interested in their welfare, and would not want to do anything that would hurt their interests. They have a host of friends, who are our constituents, and these friends naturally stand ready and willing to respond, when they are called upon, whenever anything menaces the welfare of their neighbors.

Some of our constituents here and there in our district own some stock in this subsidiary company. Usually it is about a thousand dollars. It sometimes represents the savings of self-denial and sacrifice and means much to them. While for 4 or 5 years they have not received any dividends on this stock, that fact makes them just that much more apprehensive when it is represented to them that they are about to lose the stock itself. They are ready to respond when call is made on them to protest.

So, Mr. Chairman, it is not strange that we have been deluged lately with telegrams and letters from practically every town and city in our district, protesting against this Wheeler-Rayburn bill, that proposes to stop greedy holding companies from robbing the people. These holding companies have broadcast to all subsidiary officials the misrepresentation that Congress is about to destroy their business, that this is a destructive measure, that the subsidiary company that serves the people will have to move, that its officers will lose their jobs, that its employees will lose their jobs, that the people who own $1,000 of stock will lose it, and that everything is going to the bow-wows. Naturally the local manager and his local officials and his local employees all get busy and call on their friends and neighbors for help, for protests to save them. And very naturally the protests are forthcoming. Good neighbors do not allow their friends to suffer without taking action to help them.

I have just been furnished with a statement of one of my good friends and constituents, Hon. Price Campbell, who is president of the West Texas Utilities Co., which serves my home city of Abilene, and much of my district, giving his views on this bill. It shows he is overly apprehensive. He has had mutual friends send me their views. They are entitled to be heard by this Congress. I want to quote from a few of them:

STATEMENT OF PRICE CAMPBELL, PRESIDENT OF WEST TEXAS UTILITIES CO., OF ABILENE, TEX.

We have had Judge Wagstaff, along with other able legal talent, interpret what the bill actually means to this local operating company and west Texas.

It is not a recovery measure and it is not a regulatory measure. It is a reform measure that goes further than reform; actually provides the machinery for confiscation and use of private property; takes actual control of policies and management, including extensions, betterments, operation, etc., away from the local directors and executives, all of whom reside in west Texas. The machinery of this bill makes it possible for a Government bureau in Washington to say when we shall do any advertising, whether we shall be a member of any local chamber of commerce, or contribute to any community enterprise, schools or industrial development, how and when we can make extensions and betterments to our service. In fact, provides machinery to take away the company's citizenship in its various communities in west Texas and moves it to one major holding company, and in turn a Government bureau to be established and possibly controlled by those in Washington who are in sympathy with socializing industry.

All the administration propaganda and publicity has been directed for this bill as if it were merely regulating holding companies on whom much propaganda has been built up in various ways and put out against during the past 2 years.

There would be no West Texas Utilities Co. (a Texas corporation manned and operated by Texans) had it not been for holding companies' assistance.

Such legislation, if passed, provides the way for a Federal Government bureau at Washington to take over and operate the property of the West Texas Utilities Co., or they can use the transmission lines to transmit power of the Government-owned projects of municipal plants to and from. They can terminate on this next January 1 a large, profitable power contract this operating company has with a customer across the State line in Oklahoma which brings this company in more than $20,000 a month. Other ways are provided to weaken operating companies financially and thus take them over under ways provided in the bill as submitted. Further, they can cause consolidation of these properties with other State properties into a regional holding company through the clause forbidding diversity of holding-company ownership; that is, the holding companies would have to be reorganized and consist of properties located in the same territory only, which, of course, would mean that many of the operating companies in this State would go under one or more local holding companies with headquarters in one or two of the larger cities, Dallas, Houston, or San Antonio. The loss to Abilene or San Angelo on local purchases, contributions, general and district pay roll, etc., would amount to more than the taxes assessed by these cities for their entire bonded indebtedness; and if actually taken over under Government ownership, the properties would be tax-exempt and the people would have to make it up in their other taxes. West Texas Utilities Co. alone contributes more than $1,200 every day to the various governing bodies in taxes. No benefits could be secured because of the fact that the holding company is not actually costing West Texas Utilities Co. one thin dime; but on the other hand has brought actual cash into this country and invested it in common stock of this Texas corporation which, in turn, went to provide adequate facilities to serve west Texans and at rates below the national average and far below the average rates of all municipal plants in the State of Texas.

While this memorandum is not intended as an argument for utility holding companies, as I said before, yet you, of course, realize there are very few holding companies in the utilities business compared with the holding companies in the other essential businesses and industries in the United States. There are many times more holding companies in transportation, petroleum, and even the newspaper business; Scripps-Howard and Hearst newspapers have more pyramided holding companies. Every town in west Texas has supplies—food, clothing, financing, etc., from holding companies. Every partnership that has joint ownership in two or more holdings is a holding company.

In the present proposed legislation, this qualification of "unnecessary holding companies" means all utility holding companies at the end of 5 years that have any territory diversity, and all others under many different ways or excuses that can be taken advantage of by some dictator or bureaucrat in office of the bureau, which, of course, would mean in the case of newspaper holding-company legislation that the newspapers would have to play ball as they are making the majority of banks do at this time, all of which furthers the program to build up a national Tammany machine to perpetuate those in power and rapidly scrap the Constitution and the American principles of freedom and private initiative in business.

While we, of course, are only interested in the situation from a selfish standpoint, I believe that it is everyone's duty to fight this legislation on purely American grounds. This type of legislation concentrates too much power in the hands of the Federal Government, and if it should pass, unquestionably other businesses would be faced with similar attempts of Federal control. So, I strongly urge you to read the bill, look into the matter, and if you are in accord with the above, you can address a personal letter to our Senators and Congressmen, protesting against such a measure and recommending that it not be confiscatory, and

that it not empower the Federal Government to go into the utility business.

Yours very truly,

PRICE CAMPBELL.

FOUR CLOSE PERSONAL FRIENDS

Judge Robert W. Haynie, Henry James, H. O. Wooten, and Bernard Hanks are four of my good friends and neighbors in Abilene. There is nothing personally that I would not do for all of them. Bob Haynie has been one of my intimate "pals" for years. He has been my campaign manager in a number of heated campaigns. We have hunted together. We have fished together. I love him as a brother. He could get anything I possess. He is the attorney for the West Texas Utilities Co. and is seated in the gallery listening to me. He has come up here hoping to see the Senate bill defeated. It pains me exceedingly to go against his wishes. I regret that I cannot vote as he prefers. But he is such a good friend that he expects me to vote only my real sentiments and judgment on this bill.

Mr. Henry James is the president of the Farmers and Merchants National Bank, of Abilene, Tex. He is one of the finest, ablest bankers in the United States. He and his bank have loaned me money when I needed it to pay expenses in every campaign I have made for 25 years. He is my personal friend. He is entitled to have his views before this Congress:

ABILENE, TEX., *June 28, 1935.*

Hon. THOMAS L. BLANTON,
Washington, D. C.

DEAR JUDGE BLANTON: This letter will be presented to you by our mutual friend, R. W. Haynie, who will explain to you in person the object of his visit.

I have previously explained to you my objections to the Rayburn-Wheeler holding-company bill, and I think I also stated to you at that time that I was in favor of strict regulation of holding companies, and that I thought that unnecessary companies of this kind or companies that were not run on the proper basis should be eliminated in some way that would not work a hardship on their shareholders. I am still of the opinion that strict regulation and orderly elimination of unnecessary holding companies is right and proper. But the matter that I am much concerned about at present is the situation of our local company, the West Texas Utilities Co., as I fear that in the pressure to pass the bill quickly that some provision may be included that would be adverse to our local company and result in its being consolidated with some other corporation and the removal of the company's headquarters from Abilene.

I know that you are familiar with the value of the corporation to Abilene and its close relations with the people of Abilene and the territory which it serves, and I am sure that you realize that it would be a calamity from a local business standpoint for a situation of this kind to arise. And I am asking that you keep this in mind and that you keep watch on the progress of the bill and do all that you can to prevent any provision getting into the bill that might bring about the situation mentioned and destroy the independence and individuality of our local company. Thanking you for anything you may do to get them this needed protection.

I am, with personal regards and all good wishes,

Yours truly,

HENRY JAMES.

H. O. Wooten is the president of the H. O. Wooten Grocer Co. and maintains his headquarters' wholesale house in my home city of Abilene, Tex., and also runs branch wholesale houses in Stamford, Sweetwater, Big Spring, San Angelo, Wichita Falls, Snyder, Coleman, Lubbock, Memphis, Quanah, and Spur, Tex., and in Frederick, Okla. He, too, from what he has heard, is apprehensive about this bill hurting our home service company, the West Texas Utilities Co. He is entitled to have his views considered:

ABILENE, TEX., *June 28, 1935.*

Hon. THOMAS L. BLANTON,
Congressman, Washington, D. C.

DEAR MR. BLANTON: This letter will be handed you in person by our mutual friend, R. W. Haynie, so that he can explain fully the attitude of your friends in Abilene.

Quoting Will Rogers, "About all I know is what I read in the newspapers", about the proposed Rayburn-Wheeler bill, I feel that we have a capable and patriotic representative on the grounds in Washington and I hesitate to express my opinion on matters about which I am not fully informed. However, I am extremely interested in the welfare of the West Texas Utilities Co., who are our home folks. Their welfare means much to the city of Abilene and to the whole of west Texas. I have read the letter of Mr. Price Campbell to the Abilene Reporter under date of June 20 setting out the dangers of this bill. I am sure that after this matter is called to your attention that you will do all that is possible to avoid legislation that has a tendency toward socialism and Government ownership of public utilities or bureaucratic supervision. I am in favor of eliminating unnecessary holding companies and reasonable regulation of them as a whole.

Yours truly,

H. O. WOOTEN.

Mr. Bernard Hanks is the publisher of the Abilene Morning News and the Abilene Daily Reporter. He is one of my best friends. He is one of the substantial business men of my home city. He is entitled to have his views known:

ABILENE, TEX., *June 28, 1935.*

Congressman THOMAS L. BLANTON,
Washington, D. C.

DEAR JUDGE: My experience has been, in discussing pending legislation with you, that your information and knowledge as to just what pending legislation actually will do, if enacted, makes me hesitate in suggesting an amendment or your vote for or against any bill.

I have a letter from Price Campbell, president of the West Texas Utilities Co., in reference to the Rayburn-Wheeler holding-company bill, a portion of which reads:

"I have come to the conclusion that it is a trick bill, conceived many years ago and sponsored at this time by those connected with the present administration, whose main purpose is to socialize industry. It is not a recovery measure and it is not a regulatory measure. It is a reform measure that goes further than reform, actually provides the machinery for confiscation and use of private property, takes actual control of policies and management, including extensions, betterments, operation, etc., away from the local directors and executives, all of whom reside in west Texas."

I am 100 percent opposed to such drastic legislation.

I am just as strong for abolishing the pyramiding of securities, on which holding companies that do not operate are built, but to confiscate all privately owned utility-operating companies is unreasonable, and a proper plank for a Huey Long platform.

If this bill is a step toward giving the Government ownership through administrative powers of all utilities, perhaps railroads and telephones, and probably Government ownership of all minerals, including oil and gas, and the ultimate goal is to have all rates of every kind fixed in Washington rather than locally or by State boards, then it should certainly be amended to what the average American citizen believes it to be, and that is a regulatory holding-company measure.

Thanking you in advance for your consideration, and with kind personal regards, I remain,

Sincerely yours,

BERNARD HANKS.

These communications I have quoted show that these gentlemen are apprehensive about something that this bill will not bring about. This is not a destructive bill. The intent and purpose of this bill is not to destroy a legitimate service company that is properly serving the people. Its intent and purpose is to stop holding companies from robbing the people. Its intent and purpose is to stop holding companies from improperly manipulating stocks to the detriment of the people. Its intent and purpose is to stop holding companies from diverting income that should reduce service charges and pay dividends on stocks held by the people, to paying enormous unearned salaries to high officials. Its intent and purpose is to stop holding companies from diverting income to watered stocks and bonds that should go as dividends to the people holding common stock, and which also should be used in reducing service rates.

These communications I have quoted are a fair cross section of the hundreds of telegrams and letters I have received from my district, and the hundreds of telegrams and letters I have received from all over Texas, and of many received from other States.

Mr. Chairman, the people of this country are entitled to be served with all utilities at the lowest reasonable cost. Through the manipulation of holding companies they have been robbed long enough. The people will never be secure in proper service of utilities at reasonable cost until all utilities are properly regulated and controlled.

The President of the United States, as the Chief Executive of this Nation, has asked the Congress to pass such a measure as this, to properly control all utilities. He administers the law of the land. He cannot properly control utilities unless and until the Congress passes a proper law authorizing it. Are we going to back the President in his efforts to protect the people? It is the people back home whom we represent the President is wanting to protect. He wants to protect our constituents. He wants to see that they are

not robbed. He wants to see that they get a square deal. He wants to see that they are furnished with all utilities at the lowest reasonable cost.

The question resolves itself into whether we think more of holding companies than we do of all the people we represent. This effort on the part of our President is not a lust for power. He is seeking nothing for himself. He wants no personal benefit. He is thinking only of the 125,000,000 people who are citizens of the United States, whose interests and welfare he has deeply at heart. I cannot turn him down in this crisis. I cannot forsake him. I cannot desert him. In casting my vote for the measure he wants, I feel that I am helping to hold up his hands in behalf of the people of our Nation.

The vote I shall cast on this measure vitally affects every man, woman, and child in my district. It means much to them all. It means whether they are going to have needed utilities at reasonable cost or whether they are going to be robbed and charged outrageous prices for all utilities. Poor people must have utilities. When poor people cannot pay for electricity, they are cut off, and must go without. When poor people cannot pay their gas bills, their gas is cut off, and they must do without. I am thinking of them. I represent them in my district. They are the salt of the earth. Am I to forsake them? They are in the mind of the President. Their interest is weighing heavily upon his heart. Am I to say by my vote that it is more important for big holding companies to continue reaping their millions through manipulation of stocks than it is for the rights of the whole people to be safeguarded? Am I to say by my vote that it is more important for holding companies to use earnings and income that should pay dividends and reduce service rates to paying unearned salaries of $50,000, $75,000, $100,000, and $150,000 to pampered high officials, who render nothing of value to the people, than it is to protect the rights of the people and see to it that they are furnished utilities at reasonable cost? That is the question before us. That is the issue. It is the case of the people of the United States versus the holding companies. My verdict is that we back the President in his efforts to protect the people. My verdict is for the people of the United States.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. COOPER].

Mr. COOPER of Ohio. Mr. Chairman, I do not believe that any fair-minded person can accuse me of being the enemy of organized labor. I come from the ranks of toil. I was a member of a labor organization for 33 years. I recall that in 1916 I stood on the floor of this House, almost as the lone Republican, and fought for the Adamson 8-hour railroad labor law. I fought for the child-labor amendment. I was the coauthor of the Hawes-Cooper prison goods bill. I made a report to this House on the Railroad Labor Board Act, and when the $4,880,000,000 relief bill was before us for consideration I was one of the few Republicans who stood here and advocated the prevailing-wage amendment for the working classes of this country. I stood right alongside of my friend from Massachusetts [Mr. CONNERY] and supported this policy. The bill went to the Senate, and there, through the influence of the President of the United States—and let us be honest about this, because we knew who did it—the prevailing-wage amendment was stricken from the bill. I stood my ground and fought for it and when the bill came back to the House I could not accept the changes, but the gentleman from Massachusetts [Mr. CONNERY] did accept the Senate amendments.

Mr. Chairman, the gentleman from Massachusetts [Mr. CONNERY] made a statement a few moments ago that William Green, president of the American Federation of Labor, a leader who has my profound admiration, was for the Senate bill containing the "death sentence"; or at least he left that impression. I stand here today and say that I doubt if Mr. William Green speaks for the working men and women in the utility industries. I have received from my district many letters, not from utility managers, but from the employees of that industry, protesting against the passage of this bill.

Now, let us see what Mr. Green said a short time ago:

> The initiative of those who ventured in the field of industry has been rewarded by the success of their endeavors. They have been fortunate in that they have been permitted to carry on their business in a land which guaranteed them the right to own and possess property and to enjoy all the benefits which come from private undertaking and private enterprise. Both employers and employees have been free from the domination of autocratic control and governmental dictation, such as prevails in some of the other lands. This condition creates a feeling of security and assurance and encourages private initiative and private enterprise. It inspires a feeling of independence and satisfaction among the millions of working people who make up a large part of our citizenship. They prize freedom, liberty, and justice very highly.

There is a statement made by Mr. William Green a few years ago in direct opposition to some of the provisions that are in this bill before us.

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. PATMAN].

CUTTING DOWN SO CAN REGULATE

Mr. PATMAN. Mr. Chairman, it is true that the Democratic Party platform says that the holding companies must be regulated. This bill provides that the holding companies shall be cut down so that they can be regulated. [Applause.] You cannot regulate holding companies if you permit them to exist as they are now, and remember that they are not in existence by reason of a law. They were not created by law. No law has authorized the creation of such a holding company as the administration bill will abolish. However, they are in existence by virtue of loopholes and technicalities in the law. This is why they are now in existence. Therefore, they do not come into court with clean hands.

MISNOMER

The term "death sentence" is a powerful one. Did you know that in this country where the people read headlines and pay attention to catch phrases and terms that are coined to mislead people, one catch phrase will have more influence than logic or reason?

There is no death sentence in this bill. It is not a "death sentence" bill, but they call it that to try to mislead the people, and the way they are doing it is through this superlobby system they have.

FOR BILL ON ITS MERITS

I am for this bill on its merits. I have given it careful consideration. I think it is a good bill as the administration wants it. The issue is well defined. On one side there is the Republican Party that has always stood for special privilege for a few, and with the Republican Party there is the Power Trust standing up with the Republican Party. This is the group on one side, and on the other side are the President of the United States, the Democratic Party, and the people of this country. [Applause.] It has been said that lobbying has been going on here for the administration and for the people on this bill. This bill is in the public interest. If so, I want to commend the administration for sending somebody up here—I do not know that they have—to work in the interest of the people.

Under Harding you had nobody here working for the people or lobbying in their interest. Under Coolidge you did not have anyone lobbying against the Power Trust, and under Hoover you did not have anyone. The fact of the business is you had one man running this country during the administration of Harding, Coolidge, and Hoover, and that was Andrew W. Mellon [applause], who really had three Presidents serve under him.

So if you want to please Mellon, if you want to please Morgan, who benefit the most by reason of the activities of the holding companies that will be abolished by this bill, you should vote against the administration's proposal.

POWER TRUST PROPAGANDA

I hold in my hand a statement by Dr. Hugh S. Magill, president of the American Federation of Utility Investors, which was for release to the morning papers of Sunday, June 30. It says:

> The issues of this fight are clear. Let there be no misunderstanding. Millions of free citizens, their backs to the wall, are

fighting to save their property from the ruthless and spiteful destruction of an autocrat who is using his almost unlimited powers to force Members of Congress to bow subserviently to his will.

There is no misunderstanding, the Republican Party which has always favored special privilege and the power trusts, including Andrew W. Mellon and J. Pierpont Morgan, are on Dr. Magill's side, and the President of the United States, the Democratic Party, and the people are on the other side. Instead of millions of free citizens fighting against the holding company bill, there are less than a half hundred Wall Street bankers really responsible for waging the opposition. These Wall Street bankers are accustomed to using the Nation's credit free; owning a little stock worth a few dollars and controlling industries worth hundreds of millions; controlling all the labor and purchases of corporations and everything else in connection with the affairs of the industry. If the backbone of the opposition to the Rayburn-Wheeler bill could be traced, I believe it would go back to not more than 50 men who are really parasites on the country.

They are the ones who have their backs to the wall and they are not entitled to any sympathy. They are the ones who call the President an autocrat. They do not want him to have the power. They want the power as they have always had it. They are complaining because the President is taking unlimited powers away from them. They want the people to be subservient to their will.

Another paragraph in this statement says:

We thank God for those brave Democrats of the House who have dared defend their party pledges and to defy the unjust and autocratic usurpation of the President. Whether or not this death sentence passes depends on whether a majority of the Members of Congress are free men or mere tools of the Executive who is attempting to usurp the powers of Congress.

In reply to the President * * * we shall continue to fight * * * to save our beloved country from dictatorship.

TOOL OF WALL STREET OR TOOL OF PRESIDENT

This statement indicates that Members of Congress will be the tools of someone on this vote. If I must be the tool of the Republican Party, the Power Trust, the Morgans, Mellons, and others who are dissipating and ruining this country on the one hand, or the tool of the President of the United States, who is making the greatest effort any President on earth has ever made to save our country and benefit the people generally, I am willing to be called the tool of the Executive on this vote. As far as dictatorship is concerned, before President Roosevelt came in, we were under the dictatorship of Andrew W. Mellon. Three Presidents served under him. This dictatorship was satisfactory to the half-hundred Wall Street parasites who robbed and plundered this country during the regimes of Harding, Coolidge, and Hoover. As between the dictatorship of President Roosevelt and the dictatorship for 12 years preceding this time, I am willing to follow the dictatorship of our President.

BILL STEP IN RIGHT DIRECTION

The passage of this bill like the administration wants it is a step in the direction of taking special privileges and rights away from the big, powerful bankers of Wall Street. They have been controlling too much of the business of this country. This will take some of the business away from them and give it back to the people. If they should succeed in defeating this bill and perpetuate holding companies, such as are expected to be prohibited under this bill, they will not only control electricity, gas, water, telephone, railroads, and utilities of this nature but they will enlarge in the retail merchandising field, and it will not be long before we will not have a single independent merchant in this country.

INDEPENDENT MERCHANTS

I am chairman of a committee that has been investigating, and is investigating, the American Retail Federation, a superlobby here in Washington headed by C. O. Sherrill, the hired hand of A. H. Morrill, president of the Kroger Grocery & Baking Co. of "corn-stalk brigade" fame. This investigation discloses that there is real danger of the independent merchants of this country being wiped out in a very few months; that during the year 1933, 44 percent of the food and grocery business was done by chain stores for cash. The other 56 percent of the business was done by voluntaries, such as the Piggly-Wiggly and other concerns that are cooperating in making their purchases, and the independent merchants. The independent merchants in 1933 handled only 18 percent of the cash business in the food and grocery line. Therefore, the independent merchant is not only having to compete with the chain-store competitor, who is getting secret rebates, special discounts, special commissions, and even bonuses, but he has to sell his goods on credit and run a risk of getting his money, or not be privileged to do business at all. The chain stores can sell their goods at the same prices that the independent merchant pays for his goods of the same kind and quality and make enormous profits and pay enormous salaries. Some manufacturers sell to the chain at such a low price, which is below cost, that they must make the independents pay a higher price in order to make up for the loss.

SHOULD HAVE SAME PRICE TO ALL RETAILERS

Chain stores and mail-order houses have as much right to do business as any local or independent retailer or wholesaler. No one is attempting to deny them the same rights and privileges as independents; however, chain stores and mail-order houses should not be given special privileges, secret rebates, and other benefits by manufacturers and wholesalers that are not given to independent retailers. In other words, the independents should have the same right and opportunity of obtaining goods at the same price, and on the same terms, as the larger concerns in America.

ALL PRICES WILL BE FIXED

Such holding companies as will be liquidated under the administration's bill will, if permitted to continue to exist and operate, eventually take over the business of this country. Then our country will be operated directly from Wall Street; all employees hired or fired at the will of a few Wall Street executives; all products of the farm, the ranch, and the orchard will have to be sold at a price fixed by these Wall Street parasites and the consumer will have to pay the price that they declare must be paid.

BATTLE OF THE CENTURY IS ON

The battle of the century is here. We must dislodge this special interest group from power now or our Nation is sunk. The people who built this country in time of peace, and who have saved it in time of war, are entitled to the privileges and rights which should not be usurped by a few Wall Street bankers through the use of the Nation's credit.

POWER OF THE PRESS

They have tremendous powers through newspapers, radio, screen, stage, movietone, and all other mediums of communication. A lie has no legs and cannot stand, but it has wings and can fly far and wide. Through their means of communication they can disseminate all kinds of false and misleading propaganda. The people's representatives are not in a position to disseminate the truth so quickly or so effectively. The tremendous advertising bills that the utilities pay will certainly cause all newspapers to be absolutely fair with them and in some cases it is well known it influences the opinions of editorial writers. Therefore, these Wall Street parasites with their enormous power and unlimited money and credit, through the control of at least a part of the press and other means of communication have every advantage over the people.

As for me, I expect to stand with President Roosevelt, and if the people of this country desire independent business locally owned, and owner operated, opportunities for the young boys and young girls in business and professional pursuits, monopolies and trusts broken up to the end that there will be more jobs and fewer million-dollar-a-year salaries, and a more equitable distribution of the wealth, privileges, and benefits, I believe that opportunity will be afforded them only through the support of President Roosevelt's program along this line.

I received the following telegram from the Honorable Jesse Jones, Chairman of the Reconstruction Finance Corporation, today, in regard to the holding company bill:

WASHINGTON, D. C., *June 30, 1935.*

WRIGHT PATMAN,
Member of Congress, House Office Building,
Washington, D. C.:

The purposes of the holding company bill will be defeated if the amendment restoring section 11 does not carry. This amendment, I am informed, gives holding companies that are far removed from the properties, 5 years in which to adjust their affairs and distribute their assets to their stockholders. In my opinion holding company security holders will be much better off owning the securities of the operating utility companies directly rather than through a maze of holding companies. Most of these utility companies operate at a fair profit, and if this profit can go direct to the security holders without too many intermediate take-offs by unnecessary holding companies, the security holders and the consuming public will benefit. As I understand, the holding company bill allows one holding company, and that is quite sufficient for all legitimate purposes. Public-utility holding companies have been among the worst offenders against the investing public, and against the householder, and the industry, who must meet the monthly light and power bill. My observation of the manipulation of public-utility companies by multiplied holding companies convinces me that most of these holding companies are unnecessary and should be outlawed. I am sending you this message because of my deep feeling on the subject and in the hope that the bill, with the amendment, may be enacted.

JESSE H. JONES.

[Here the gavel fell.]

Mr. WITHROW. Mr. Chairman, I am constrained to discuss the bill providing for the regulation of utility companies because this subject is of such vast importance to every citizen of the United States. In my opinion there are three major interests which should be considered in the determination of action on this legislation: The interest of the consuming public, the interest of investors in utilities securities, and the social and economic welfare of the Nation. If the interests of the consuming public and the utilities investors are observed it follows that the social and economic welfare of the Nation is secure.

I shall attempt to limit my discussion of this measure to fundamental and incontrovertible facts because the people of the United States have been flooded with deliberately misleading propaganda and false statements regarding the contents and purposes of this legislation.

This bill does only two things. It provides for Federal regulation of public utilities and it provides for the dissolving of certain holding companies by 1942.

There has been no objection from any source against Federal regulation of utility companies. Even the utility companies themselves dare not object to Federal regulation because there is no valid objection to such regulation. The consuming public and utility stockholders know that in every State where State regulation has been possible such regulation has always worked to the interest and profit of both the public and the stockholders.

Not daring to oppose the regulatory features of the bill, utility executives have turned their attack to the feature which dissolves holding companies. So let us examine the holding company issue and see if there is valid complaint against the dissolving of holding companies.

A holding company is a corporation which owns enough stock in other companies to control their management. There are about 20 big holding companies in the gas and electric industry, and they control the bulk of the industry. Some of them are amazing organizations. There is one system in which there are nine holding companies piled on top of the operating companies, with the result that $50,000 of stock in the top holding company controls the management of a billion dollars of book value in operating companies down below. In another system $23,000 of stock at the top controls the operation of another billion of property down below. In still another the structure is so complicated that one man is secretary or officer in about 200 corporations within the system.

The only argument which can be advanced in favor of such complex organization is that it achieves economy and that it promotes the development of the industry by making it easier to raise capital because the risk is spread over a number of companies. This argument is fully met by the Senate bill in that it permits the continuation of holding companies of the first degree, which would, therefore, permit the continuation of all of the above-mentioned benefits, but, by preventing further complexity of organization, makes it possible for the investor to know exactly what he owns and what he is buying when he invests in utility securities.

Actual cost studies do not support the argument that operating companies are operated more economically under holding company control.

Now let us see just how the utility stockholder will be affected by this legislation. In the first place, although investors may not realize it, over three-fourths of all utility stocks are stocks in operating companies. Owners of operating company stocks will obviously suffer no loss with the dissolution of holding companies, because the only way they will be affected is that they will receive a larger measure of control over their property because of the dissolving of the controlling stocks with which their investment is blanketed. It is obvious that power rates remaining stationary, holding company stockholders will receive a larger dividend if their operating property is not required to support and pay tribute to 3 or 4 or 9 holding companies which are piled on top of their operating company. It should be remembered that all income and, therefore, all profit and dividends is created by the operating company. Not one penny of income is created by the holding companies, which in fact only divert earnings from the holders of operating company stocks.

Owners of operating company stocks need fear no loss on the basis that it will be more difficult to adequately finance operating companies than would be encountered in financing holding companies, because the facts show that during the past several trying years stocks in operating companies have retained their value to a greater extent than have holding company stocks. In other words, it has been easier to finance operating companies than holding companies—just the contrary of what the utility executives would have us believe.

What would happen to the one-fourth of stockholders who own stock in holding companies? Holding company stocks represent ownership of stock in operating companies. Let us assume a very simple case for the purpose of illustration. Suppose that a holding company has issued a total of 10 shares of stock against 100 shares of stock which it holds in an operating company. The law says that the holding company must be dissolved. Obviously the only way in which the dissolution can be accomplished is to distribute to the holding company stockholder the operating company stock which his holding company stock is supposed to represent. Mr. A., who owns 1 share of holding company stock, therefore receives 10 shares of operating company stock. Is that not exactly what he owned before? How, then, has he suffered any loss? Has he not, in fact, gained because he now receives the full dividend on the operating company stock and no longer contributes to the salaries and other extravagant expenses of the officers of the holding company?

The holders of operating and holding company stocks do not realize the magnitude of the tribute they pay to holding companies. A thousand examples could be cited, perhaps the most startling of which is the fact that salaries to holding company executives of $200,000 per year plus huge bonuses and dividends are not at all unusual in the utility industry.

When it is remembered that the holding companies perform no actual economic service and create no earnings, it is impossible to justify such salaries, especially in view of the fact that they must be paid entirely by the public in the form of higher power rates and by the stockholders in the form of reduced dividends.

The facts and figures of the indictment against the complex holding companies are overwhelming. I shall not attempt to go into them in the short time allotted to me. They have been very ably presented heretofore by the able Senator from Montana [Mr. WHEELER], and also by my colleagues from Texas [Mr. RAYBURN] and from Mississippi [Mr. RANKIN] and others. I would urge that every Member of this body and every citizen of the United States study carefully the material which these gentlemen have prepared on this subject as well as the mass of evidence which has been col-

lected by the Federal Trade Commission and various other agencies.

I do want to mention, however, the writing-up or watering of values which has been accomplished under holding-company control of the utility industry. Holding companies which have been guilty of this practice should be abolished on this indictment alone. The Federal Trade Commission's investigation of 91 operating companies in holding-company control having combined capital assets of nearly $3,307,000,000 revealed write-ups and other improperly capitalized items of $842,995,000 or a write-up of 34.2 percent.

Let us again assume a simple example for the purpose of illustration. The assumptions in this case are justified by the foregoing findings of the Federal Trade Commission, which have never been challanged even by the utility companies. Suppose a utility operating company has been purchased by a holding company for $100,000. The holding company then sells stock to the public in the amount of $150,000 (as has often been the case). It follows that in order to continue the payment of the dividend rate which operating-company stocks formerly paid, it is necessary for the holding company to increase power rates by 50 percent. If power rates remain stationary it is obvious that the dividend to stockholders must be decreased by 33 percent because the transfer of the control over the operating company to the holding company has in no way increased the income or earnings of the operating company and the holding company itself has added no earnings.

If the power rates are raised there is a grave injustice to the consuming public or if the dividend rate is reduced there is a grave injustice to the bona fide investor who has invested for income. In either case it is simply a matter of legalized robbery.

In the meantime what has happened to the $50,000 write-up or water which has been added to the capital structure of the utility? The $50,000 has gone into the pockets of the financial wizards who engineered the deal. In the great majority of cases not one penny has been returned to the physical property of the utility.

It is inconceivable that either the consuming public or utility stockholders should permit these conditions to continue. The consuming public is now thoroughly aroused over this situation and if this legislation is adopted in effective form the stockholder will also soon see the light.

I do not deny that this legislation will be extremely detrimental to speculators in utility stocks. In fact one of the intentions of this bill is that the flagrant speculative aspects of utility financing shall be prevented, and rightfully so. Such action is in the interest of the stockholder who has invested for income and security and in the interest of the consuming public.

I have no sympathy whatever for the speculator. I am, however, considering the rights and welfare of the small investor who has invested savings in utility securities for income. His rights are protected by this legislation.

If, however, it should appear that the property rights of small investors will be impaired or in any way injured by the dissolution of holding companies in 1942 then surely Congress, in one of its many sessions prior to that date, can and will make whatever adjustments or modifications may be necessary for the protection of the small investor for income.

As far as the consumer of electricity or gas is concerned, it is entirely in his interest that stock watering and financial manipulating tactics of the holding companies be discontinued. The direct result will be reduced rates to the consumer. This is of direct interest to those who do not now enjoy the benefits of electricity in their homes. Additional millions of our citizens, especially in rural communities, could enjoy the God-given benefits of light and power if the yoke of holding company rates could be removed.

I do not wish to inject the issue of public ownership into this discussion, as it is not in any way concerned with this bill. I do wish to mention, however, a rate comparison in the State of Wisconsin, which is very enlightening. The city of Kaukauna operates a hydroelectric generating plant which, even though it is none too modern, is able to supply power at exactly one-half the rate as the power supplied by the Byllesby utility in the same territory, in spite of the fact that the Byllesby plant has the most modern of equipment. The city of Kaukauna supplies the power at half rate, after paying all operating expenses, and so forth, because they pay no tribute to holding companies. They pay no dividends on watered stocks; they pay no enormous salaries or bonuses to financiers; they pay no high-priced lobbyists and spend no huge sums for propaganda purposes—therefore, they can concentrate their efforts on the power business, and they can sell power to the consumer at a reasonable price.

Similar results can be obtained when private utilities cease their financial and stock-manipulation activities and return to the business of producing and selling power.

The people of the United States should know that this legislation to regulate public utilities is not a proposal which has been hastily drafted or ill considered. This subject has been under investigation by the Federal Trade Commission for over 5 years, at a cost of $2,000,000. The subject has been studied by various congressional committees and private organizations for many years. Although many of the facts now being brought to light have been carefully suppressed for years by utility-serving newspapers, the facts have long been known to those who have been interested in this subject.

For years the holding companies have been milking the operating companies and robbing not only the consuming public but also the stockholders of the operating companies. What we want to do is take the blood-sucking holding companies from the backs of the operating companies so that the operating companies can resume the power producing and selling business on an honest and clean basis.

The private electric and gas utilities, like the railroads, have fallen into the hands of the wolves of Wall Street. The control of both has fallen into the hands of speculators and financial wizards to the great detriment of the consuming and investing public. The railroads are already paying a heavy toll in bankruptcies and the gas and electric utilities will follow in their footsteps if present conditions are permitted to continue.

Utility holding companies beyond the first degree are, except in a few isolated instances, mere devices for exploiting and robbing both utility investors and the public. Any legislation which does not recognize that fact and correct that evil is worse than useless because it would give a sense of security and assurance which is entirely false. The issue must be met squarely. We must either protect the interests of bona fide investors for income, and the interests of the consuming public, or we must surrender to the speculators and financial wizards and permit the abuses of the past to continue and perhaps precipitate the Nation into another great depression when they crash.

The utility bill, as passed by the Senate, is a sound and fair way of meeting and solving this problem with fairness and safety to the bona fide investor and with justice to the consuming public. I urge that the Senate bill be adopted intact and that no concession be made to the speculating wolves of Wall Street who seek only to continue their legalized thievery. [Applause.]

[Here the gavel fell.]

Mr. BOILEAU. Mr. Chairman, it has been said on the floor that the employees of the utility companies have expressed their disapproval of this legislation. I know that to be true because I, with other Members of the House, have received numerous requests from men and women in my district who are employees of the utility companies urging that the Senate bill be defeated.

They have gone so far as to say that unless the bill is defeated they are in great danger of losing their jobs. The gentleman from Ohio [Mr. COOPER] stated that most of the employees in the utility field were in favor of the House provision rather than the Senate provision.

Mr. COOPER of Ohio. Will the gentleman yield? I did not make that statement. I said I had received many protests from employees of the utility companies in my district against the passage of the bill.

Mr. BOILEAU. I am glad the gentleman has corrected me; I did not intend to misquote the gentleman. The point I am trying to make—and many employees have written me as they have the gentleman from Ohio—is that they will not be affected at all by this legislation. They are working for utility operating companies and not for the holding companies. There are very few employees working for the holding companies. If we wipe out all of the holding companies, there would still be as many employees working for the utility operating companies as are now working for them. [Applause.] There would be no jobs lost.

Mr. COOPER of Ohio. Will the gentleman yield?

Mr. BOILEAU. Yes.

Mr. COOPER of Ohio. I want to say that it is my firm opinion, after going through 4 months and 20 days' examination, that if this dissolution takes place, there will not be many utility companies able to stand up—they will be in bankruptcy.

Mr. BOILEAU. There is going to be just as great a demand for electric light and power as there is now. There will be just as many wage earners, and there will be just as many people wanting light and power as there are at the present time. If the utilities do not want to play ball unless they can make the rules, I for one am willing to let them close down. If the public utilities do not want to operate unless they can have a free hand to do as they wish, then I advocate public ownership of public utilities in the interest of the people of this country. [Applause.]

But I do not believe that this bill will bring that about. If the utility companies want to take the attitude expressed by the gentleman from Ohio, I, for one, am willing to accept the challenge and let them get out of business. If they consider that they are greater than the Government, and that their selfish interests should be given greater consideration than the interests of the small investors and the consumers, it seems to me that it is about time that we let them know that they overestimate their importance.

As far as this bill is concerned, it affects only the holding companies, only that small group who have never performed any really valuable service except from the standpoint of financing. There is no other good that they have done. They have not performed any other service. It is true they have rendered some service in the matter of financing, but even though the Senate bill be approved, they can still perform that useful service if there is any need for it, because they can be turned into investment trusts. This bill does not kill any useful holding companies, but it does reform them, and they are certainly in need of a lot of reformation. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SWEENEY. Mr. Chairman, when the Democratic Convention met in Chicago to nominate Franklin D. Roosevelt, the same lobby that you are confronted with now was found at Chicago in an effort to nominate a Wall Street candidate, and favorite of the Power Trust, namely, Mr. Newton D. Baker. They failed in that mission. I was a delegate to that convention. I was attracted to the candidacy of Mr. Roosevelt because of his fight against the power trusts in the Empire State. He minced no words in indicting the unscrupulous utility companies when he was Governor of that State. He conserved for generations yet unborn the great natural waterways of that State, and now we find the same element fighting him here again—I am surprised at the "liberals" that I knew some time back in this Congress, like JOHN COOPER of Ohio and my friend GEORGE HUDDLESTON from Alabama. What my friend from Ohio [Mr. COOPER] said is true. He is the friend of labor. I have supported him in the Ohio Legislature on labor measures and also on the floor of this House, but the question is: Where do you stand today, John? That is the question. [Applause.] Mr. HUDDLESTON I knew before I came to Congress, by reputation. He used to go through the length and breadth of this land expounding liberal doctrines, but where do you stand today, George?

Mr. Chairman, the Pecora investigation is enough to open your eyes, when they had Mr. J. Pierpont Morgan over there, when it was developed by the testimony that Mr. Morgan and his outfit controlled over 2,000 corporations in this Nation, holding companies, subsidiaries, controlling the sale and purchase of the very clothes you wear, the food you eat, the picture shows you go to, the banks and insurance companies you patronize, the casket you are buried in—all controlled by Morgan and men like him in this day of monopoly. The late Tom L. Johnson, former mayor of Cleveland, Ohio, one of the leading exponents of municipal ownership in this country, 30 years ago in the city of Cleveland said that "unless you destroy public utilities they will corrupt your politics, they will destroy your liberties." That was a prophecy. The Morgan episode to which I referred proves that. What are we going to do about it? Are we going to be a lot of "yes" men, carried away by the smoke screen of the widow and the orphan? Why, it is comparable to men like Al Capone and Dillinger holding a widow or an orphan in front of them against the G-men who came after them. You have your opportunity today. You are making history today. You will never cast a more important vote in your life if you stay here for 25 years, and the people of this Nation will watch the vote. I respect the right you may have to your own opinion, but I believe the Eicher amendment is a proper amendment.

If I had my way, I would take the bill without the Borah amendment. I have seen so much of this corruption in my city. I see a subsidiary of a public-utility holding company connected with the North American Co., the Cleveland Electric Illuminating Co., charging my people 4 cents a kilowatt-hour for electric use for domestic purposes, that our friends from Alabama and Mississippi and other States get for less than 1 cent per kilowatt-hour. It is time to change the system. If you do not do it, the people will. We are living in a day now when we must break up monopolies or they will destroy our liberties. Every day we are increasing the advocates of public ownership, because we see, as our friend JOHN RANKIN showed us in figures he inserted in the RECORD, the millions, yes, the billions that these giant corporations, these holding companies, these operating companies, are taking from the people of your State and my State every year. This vote is a vote in favor of Franklin Roosevelt's policies or it is a vote for the Power Trust. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KELLER. Mr. Chairman, the biggest big business of the future will be that of making and distributing electrical power. We are going to decentralize industry, and we cannot do that if we permit the monopolization of any of the necessary requisites, and the first requisite is that we shall have reasonably priced electrical power. Let us get that perfectly clear. The combination of the holding companies undoubtedly at the present time do constitute a monopoly, not only of what business we are doing today in the production and distribution of electrical power but they limit, if they do not control, our future, and will continue to do that until we break them loose from that monopoly and brush them aside. The holding company was formed originally for the purpose only of getting the economic value out of contiguous operating companies in adjoining States, where the laws of the two States would not permit that. That is entirely acceptable at the present time. Section 11 of the Senate bill, which is now before us for our consideration, permits just exactly that thing, as it ought to do. But the abuse arose when the holding companies were recognized as a convenient means of getting control of this great industry by the few who have so long exploited and robbed the people of this country.

This greedy, grasping few who have for so long had no business honor, proceeded to commit every fraud and deception in the calendar to grab and control a great industry and strangle its growth to their own profit. Holding companies began piling one on top of another until we have one instance where nine holding companies are piled up on

top of the operating companies, sucking their blood without return service.

Holding companies are made for the purpose of getting larger profit than they can get through operating companies. If they do not do that, they do not fulfill their promises. If they do it, they take every dollar of that extra money out of the pockets of the people who use electric current. There are two leading facts that this body ought to consider on this question. The first one is, Shall we permit this to go on as we are at the present time? If we do, we will permit these holding companies to go back into the stock market and resell these "insecurities" to the people of this country as they did back in 1926, 1927, 1928, and 1929.

These holding-company stocks were sold on a basis of $19,000,000,000 and somebody paid that for them on the stock market. Those stocks are quoted on the market today at about $3,000,000,000. The people of this country have therefore already taken a loss of $16,000,000,000 on these "hold-up" companies, and they are "hold-up" companies.

Mr. KVALE. Did the gentleman say "insecurities"?

Mr. KELLER. Yes, sir; I did say "insecurities" and I thank the gentleman for accentuating that expression. The men who did those things, who piled up these holding companies on the backs of the legitimate operating companies and committed the frauds and abuses, a good example of which Governor Pierce from Oregon told us about out of his own rich experience, ought every one to be in jail. Every one ought to be doing time. That is where they belong, every one of them. Men who stand here and support their plea to have a free hand as they have had heretofore are simply going to be responsible for the resale of these "insecurities" to other innocent people of this country if this House bill becomes the law.

The second question principally involved is the privilege of continuing the present unconscionable rates for electric current.

The holding company does absolutely nothing that an effective operating company cannot do itself.

Not a single man who has spoken for the holding companies has discussed the rates people must pay.

Not one of these dares to discuss this question on the floor of this House.

Not a one of these dares to go before his constituents at home and try to justify the rates people are paying all over this country.

No man can defend the holding companies' outrageous rates and come back here by the people's vote.

I want to illustrate what this rate business means. In 40 southern Illinois counties, in the heart of the Insull empire, where we have the best-developed soft-coal field in the world, where we can produce electric current through a properly equipped steam plant under 3 mills per kilowatt-hour—over this entire region counting all power, lights, cooking, and heating—we are paying on an average over the whole field 7$\frac{1}{17}$ cents per kilowatt-hour for what costs 3 mills.

Industry cannot exist under such rates. Just in proportion as rates for current are lowered the use of electricity will be increased. We must not only revive industry that has been killed by exploitation, but we must establish and maintain vastly greater new industry; to create vastly greater wealth than ever before and distribute it according to the service rendered by the men who create the wealth.

This producing and distributing of electric power becomes a matter of national concern. If we are to progress we must take control of this great industry away from the exploiters and make it of the greatest possible use to all our people. We must frankly recognize that industry can in itself unhampered meet every need which our progressive civilization may demand. But we must also recognize that industry cannot carry the robberies which we refer to as exploitation and meet its other vital requirement of providing ever-increasing division of the wealth created in favor of the man whose thought and labor creates that wealth. We must do away with all exploitation, or we must continue the enormous inequality under our present customs and laws. We cannot at the same time exploit labor and reward labor according to the service rendered. Whatever renders no service shall receive no reward.

I am for actual public utilities. Every dollar put into a public utility honestly, intelligently, and in actual cash ought to receive a fair return for that investment. It is the exploiters of our utilities that I am against. Let us get the facts. Ninety-one percent of the actual cash investment in the production and distribution of electric power is in the operating companies, or wholly within given States and therefore under State law alone, and only 9 percent in the holding companies subject to our consideration here today. It is this 9 percent which dominates the 91 percent that we are seeking to control. Every man of wide experience in the attempts to regulate these outlaw companies knows that it simply cannot be done. It is only through law that will compel dissolution of those that cannot show their right to continue as matters of service can be reached, and that is exactly what the Senate bill provides for, but for which the House bill does not provide. If we replace sections 11 and 13 of the House bill with sections 11 and 13 of the Senate bill the rest of the House bill may fairly meet our requirements. But without these the House bill, should it become the law, would be a national license to the "hold-up" company conspirators who have already robbed the people of sixteen billion dollars, to go ahead and rob them again.

The holding companies taken together constitute a trust calculated only to suck the blood of industry. Those which cannot justify their existence by their service must go. That is exactly what the Senate bill provides. Section 2 of the Senate bill, referred to often as the "death sentence", is in fact a liberal method of liquidating losses that have already occurred.

The only "death sentence" in it is the sentence against future robberies. That is not only a justifiable but a necessary sentence.

We can no longer submit to the exploitation of industry. We must free industry. Here is our opportunity to fire the first shot in that fight. We are going to declare our faith by our recorded votes that all men may see whom we serve—God or mammon.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. KELLER] has expired.

Mr. MOTT. Mr. Chairman, I ask unanimous consent that the gentleman may have 1 additional minute that I may ask him a question.

Mr. KELLER. I shall be glad to have the time to answer your question.

Mr. MILLARD. Mr. Chairman, I object. There are so many who want to speak.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota [Mr. KVALE] for 5 minutes.

Mr. KVALE. Mr. Chairman, I do not know that I can contribute anything to the debate that has already transpired. I do not know that this debate is particularly fruitful. I believe the minds of the members of the committee and of the House are pretty well set as to how they intend to vote, but I do want to thank the Scripps-Howard newspapers and the Washington News for trying to break down the effort which is being made to throttle expression in this House, through this rule, by means of publishing the list of those who pass through tellers and identifying them by name rather than by number.

I want to call the attention of the Membership of the House to the fact that today's copy of this little tabloid newspaper states that it is going to make a sincere and serious effort to publish the names of those who pass through tellers. [Applause.]

Mr. Chairman, I think we have gone backward in our procedure during this session. Last week we passed the labor-disputes bill without a record vote. Time and again we have brought controversial and important major measures before this House and we have passed them without a record vote or we have defeated them without a record

vote. Today we are witnessing the identical experience. I, for one, protest against that procedure in this body. Time was when it would not be considered proper to bring a major measure before this body without providing for a record vote. Today's Washington News carries a biting criticism of the House of Representatives for its evasive tactics in dodging roll-call votes upon major items, and it is a well-merited criticism.

So, instead of discussing the merits of this measure, it can be assumed I am going to support the Senate provision, section 11, as originally in the bill. There is no secret about that. I want to see the entire Membership of this House go on record, and I hope and trust that a roll call will be made possible through the adoption of the Senate amendment, so that subsequently, in the later stages of the consideration of this bill, we may have that roll call, which will not be possible unless we adopt the amendment in committee.

Mr. Chairman, I think this debate is futile. I do not have anything more to contribute, and I yield back the balance of my time. [Applause.]

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. KVALE] has expired.

The Chair recognizes the gentleman from New Hampshire [Mr. ROGERS].

Mr. ROGERS of New Hampshire. Mr. Chairman, I know of no way in which I can better express my attitude toward this proposed measure than by calling your attention to the words of Hon. FRED H. BROWN, the junior Senator from New Hampshire, delivered on Wednesday, June 5, at the other end of this Capitol. He is a man who had 7 years' experience on the public service commission of the Old Granite State, and he knows the situation from top to bottom. As a result of his connection with it, he told that august body at the other end of the Capitol in his concluding remarks on the subject as follows:

> Those of us who have had to deal with this holding-company evil know that it is very real, and not a phantom affliction. We know that the legislation proposed is neither punitive nor vindictive. It is a practical measure to meet practical realities. I have seldom been accused of being an extremist in words or in action, but if we fail to destroy this holding-company menace, I say it will ruin us in the end.
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> The pending bill takes the greatest care to preserve every element of legitimate value for the investor. I think it will give the ordinary investor much more protection than if his property were left to the uncontrolled whim of the holding-company managers, who have taken away the savings of the people and given them next to nothing in return. The holding-company managers are not fighting for the investor, they are not fighting for the consumer, they are fighting only for power over other people's money, other people's business, and other people's lives.

It now becomes our duty to decide whether or not we will support the changes made by the House Committee on Interstate and Foreign Commerce in section 11 of title I. In other words, do we feel that the bill as presented to us by the House committee insures full regulation of holding companies? The Democratic Party in its splendid and progressive platform adopted in 1932 charged itself with the following solemn responsibility:

> We advocate regulation to the full extent of Federal power of holding companies which sell securities in interstate commerce.

This pledge is not a promise to wipe out all holding companies, but it is a real obligation to enact into law a measure which will make impossible a recurrence of the unfair, unjust, immoral, and evil actions of the holding companies with which our generation has come in contact. In other words, we must pursue not a policy of destruction but a high code of regulation and organization for the welfare of town, city, county, State, and Nation. To hang a boy because he is a bad boy does not and cannot make such a boy grow to become an honest man. By the same logic the abolition of a bad holding company will not be necessary if such company hereafter respects and obeys the law. If the passage of this law does not eliminate the holding company abuses, I hope I may be the first man to cast my vote to put the companies out of business.

It is stated in this morning's Washington Post that the President himself may take a hand in the situation now confronting the House for the purpose, I suppose, of obtaining our approval of the so-called "death sentence" in the bill as passed by the Senate. If the President is correctly quoted, I fear that it must be because he has not been fully advised as to the ultimate effect of the bill as reported to the House. No Member of this body will go further than I to uphold the hand of our great President. I desire at this time, however, to remind you that we can successfully restore this great Nation to peace, happiness, employment, and prosperity without becoming in any way panic stricken over our present ills.

Let me here adopt as my own the words of a great American statesman, Henry Clay, uttered by him as a Member of this great body 111 years ago on March 30, 1824. In speaking to his fellow Members of this House in a time of a great depression, this man, famous for his remark that he "would rather be right than be President", used these words:

> In casting our eyes around us, the most prominent circumstance which fixes our attention and challenges our deepest regret is the general distress that pervades the whole country. It is forced upon us by numerous facts of the most incontestable character. It is indicated by the diminished exports of native produce; by the depressed state of our foreign navigation; by our diminished commerce; by successive unthreshed crops of grain perishing in our barns and barnyards for the want of a market; by the alarming diminution of our circulating medium; by the numerous bankruptcies, not limited to the trading classes but extending to all classes of society; by a universal complaint of the want of employment and a consequent reduction of the wages of labor; by the ravenous pursuit after public situations, not for the sake of their honors and the performance of their public duties but as a means of private subsistence; by the reluctant resort to the perilous use of paper money; by the intervention of legislation in the delicate relation between debtor and creditor; and, above all, by the low and depressed state of the value of almost every description of the whole mass of the property of the Nation, which has, on an average, sunk not less than about 50 percent within a few years. This distress pervades every part of the Union, every class of society; all feel it, though it may be felt at different places in different degrees.
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> It is like the atmosphere which surrounds us—all must inhale it and none can escape it. In some places it has burst upon our people without a single mitigating circumstance to temper its severity. In others, more fortunate, slight alleviations have been experienced in the expenditure of the public revenue and in favoring causes. A few years ago the planting interest consoled itself with its happy exemption; but it has now reached this interest also, which experiences, though with less severity, the general suffering. It is most painful to me to sketch or to dwell on the gloom of this picture. But I have exaggerated nothing. Perfect fidelity to the original would have authorized me to have thrown on deeper and darker hues. And it is the duty of the statesman, no less than that of the physician, to survey with a penetrating, steady, and undismayed eye the actual condition of the subject on which he would operate; to probe to the bottom the disease of the body politic if he would apply efficacious remedies.

Just one word further. I do want to call attention, if I have a moment, to the fact that as a result of the service rendered by the junior Senator from New Hampshire on the public service commission of our State, we, for a long time, have had a public service commission which properly protects the rights of the citizens as against these damnable curses; but the Senate bill as originally drawn would deprive certain States, I think five in all, of certain rights which they have over the exportation of hydroelectric energy which is transmitted across the State line. This situation has been taken care of by the House committee, and I hope when you come to it, section 201 of part II, that you will grant us the privilege to continue, as we have been for 22 years, to exercise our State right over the exportation of hydroelectric energy transmitted across State lines but produced up there in the granite hills of old New Hampshire. [Applause.]

[Here the gavel fell.]

Mr. MORITZ. Mr. Chairman, Pennsylvania, of all the great States is surely the one infested with great utility and holding companies. Attempt after attempt has been made to get them on record as to their doings and undertakings. Some years ago this was brought about very forcibly and an opportunity was had to put them under oath for the purpose of taxation. The result showed that they evaluated their property one way for the purpose of taxation and another way entirely for the purpose of paying dividends, showing just plain fraud.

Much has been said about this "death sentence" clause. I represent the district (downtown of Pittsburgh), in which Mr. Mellon has many holdings. Mr. Mellon probably has

never heard of me, and I do not care whether he has or not. After today, after we have substituted the Senate bill and passed the "death sentence" on these monopolistic gougers, the utilities, he will know that there is a Democratic Congressman from Pittsburgh representing the masses and not the privileged few.

This progressive legislation is sponsored by President Roosevelt, who, in his own right, as I understand, is a wealthy man, but not afraid to fight the vested interests. I hope the Democratic Party will give this great leader opportunity to break up also the monopolistic holdings of land so as to give the people a chance of getting back to the land. This is only the first step, Mr. Chairman, but it is a great step; and I am glad to be able to do my share in giving the "death sentence" to the monopolistic holding companies that have been cheating widows and orphans for many years, but who are now trying to hide behind the widows' skirts.

Members of Congress have been bombarded with a barrage of letters and telegrams from the owners of securities and from employees of public-utility holding companies. Most of these communications come from persons sincerely terrified by the flood of circulars and newspaper advertising put out by the holding companies themselves. Is this fear warranted by the provisions of the bill advocated by President Roosevelt and containing a section calling for the elimination of most holding companies? I think not.

To be sure, the present market value of the securities of holding companies is far less in most cases than the purchase price. But to a great extent the shrinkage has been due, not to any real loss which may be suffered on account of the enactment of this salutary law. Owing to the unsound pyramiding of securities upon securities—of debentures upon class B stock upon class A stock upon prior preferred stock upon preferred stock upon common stock—many of these securities never had any substantial earning power and thus were chiefly "dated." Under such financial practices, coupled with the "milking" processes, which I shall mention hereafter, there never was any possibility of continuing dividends on much of the stock of the holding companies except by the imposition of consumer-rate charges entirely out of reason.

It appears to me that by the changes in financial structure to be brought about through the proposed elimination of holding companies no present security holder will suffer if his security now has any real honest value behind it.

As for the employees of the operating companies, it is certain that whether the holding companies continue or not, generating stations still will be running, lines must be repaired, meters must be read, bills must be prepared and submitted. So it seems that, with the exception of a relatively few highly paid holding-company officials, there will be no reduction in employment. The probability is that, with the elimination of a few overpaid sinecures, there may be more funds to pay wages to those who really do the work of supplying electric current.

Now, what kind of organizations is it that this elimination provision seeks to outlaw? Picture to yourself an organization such as Electric Bond & Share, with 150 or more subsidiaries, conducting electric, natural gas, artificial gas, public water supply, ice manufacture, motor-vehicle and street-railway transport, coal, and other businesses in 27 different States and several foreign countries. Or one like Associated Gas & Electric, with 160 or more subsidiaries, doing business in 18 States and several foreign countries.

Many people—even some Members of this body—advocate regulation and not elimination. Witnesses before the committee at the hearings on this bill in some cases were unable to tell the name of the corporation for whom they were working or even the official position of the person to whom they were responsible. How can any governmental commission, no matter with how much authority, no matter how energetic, hope to regulate such sprawling, loosely connected, will-o'-the-wisp combinations?

The Federal Trade Commission spent about 7 years, with a numerous and efficient force of examiners, trying to dig out the facts about 91 holding companies. Their findings cover more than 75 volumes of reports. I quote part of one paragraph from chapter IV of the final report, dealing with United Corporation:

> Drexel & Co. (Philadelphia), affiliate of J. P. Morgan & Co., in 1927 held common stocks of United Gas Improvement Co. and Public Service Co. of New Jersey * * * of a market value of about $10,562,400, representing an investment of about $5,970,000. * * * J. P. Morgan & Co. apparently decided to establish an investment trust, and between May 3 and June 20, 1928, acquired 81,800 shares of common stock of United Gas Improvement Co. and 25,000 shares of Public Service Corporation of New Jersey at a total cost of $13,335,427.75. Also J. P. Morgan & Co. obtained from General Electric Co. in June 1928 an option to purchase the latter company's holding of Mohawk-Hudson Power Co. at a cost of $23,034,120, and exercised that option on January 10, 1929. J. P. Morgan & Co. also arranged with Bonbright & Co. to cause the American Superpower Corporation to participate * * * by putting in 800,000 shares of Public Service Corporation of New Jersey and 53,000 shares of United Gas Improvement and $25 cash at a total valuation of $72,480,025.

In this short part of a paragraph there are named eight different corporations: Drexel & Co., J. P. Morgan & Co., United Gas Improvement Co., Public Service Corporation of New Jersey, General Electric Co., Mohawk-Hudson Power Co., Bonbright & Co., and American Superpower Corporation, not to mention the $25 in cash, which is scrupulously taken into the picture. Since this is the only cash mentioned, one wonders whether it was included so that there might be a slight solid foundation to all that column of water. The whole thing makes one dizzy even to read, to say nothing of attempting to regulate.

And how do these holding companies operate? I referred a while ago to a "milking" process. In one case brought to my attention—an Associated Gas & Electric operating subsidiary, there was—

First. A management contract, under which another subsidiary of the holding company received 2½ percent of the gross earnings of the operating company, payable monthly, with interest monthly at the rate of 8 percent per annum on deferred payments; and the holding company, handling all the funds of the operating company, saw to it that payments were regularly delayed for months;

Second. A construction contract, whereby another subsidiary of the holding company carried on all construction for the operating company, at prices fixed by the former, receiving 7½-percent commission on all such expenditures, payable monthly, also with interest on deferred payments;

Third. A purchasing contract, through which another subsidiary of the holding company made all purchases for the operating company, receiving 1½-percent commission;

Fourth. An appliance contract, under which the operating company furnished space and attendance for the sale of appliances for another subsidiary of the operating company without remuneration, the appliance subsidiary retaining all profits from their sale;

Fifth. An advertising contract, which obligated the operating company to place all its advertising through another holding company subsidiary in amounts and at prices fixed by the latter.

On top of this, employees of the operating company were expected to sell securities of the holding company to themselves, their relatives, and friends, on pain of losing their jobs.

And yet, with all this unprincipled graft, the holding company had issued such a volume of foundationless securities that long before the pending bill was even contemplated, shares costing $100 each were selling on the market at $1 and $2.

To be sure, thousands of innocent investors—widows, orphans, churches, and hospitals—have lost millions of dollars to the unprincipled promoters of these holding companies; but there is no way in which that already lost can be regained, and all we can do is to enact such laws as will make it impossible for such a Nation-wide catastrophe to happen again.

The holding companies tell in their circulars and advertising about the wonderful assistance they have rendered to operating companies in the way of financing expansions and interconnections and in supplying management advice. Undoubtedly much advantage has been afforded in these

directions, but at what a price. But there is nothing in this bill to preclude the continuance of such assistance.

The Public Utility Holding Company Act of 1935, with the elimination provision, provides for the continuance of systems lying wholly within a State, or even of those systems crossing State lines when the integration is such as to indicate economical operation. Under its provision I venture to say that there is not a section in the whole United States where the demand for service warrants its supply which will not be within the sphere of an operating company of sufficient financial stability to warrant the furnishing of every dollar required. And when the shadow of gigantic menace—the holding company—has been dissipated, I make bold to predict that in any case where the size of the operating company fails to warrant the employment of competent full-time management, independent advisory management organizations will spring up, which, for a moderate fee, will afford even the small company the benefit of the latest and most efficient developments of the industry.

Consider for a moment the local situation. All local utilities—the Potomac Electric Power Co., the Capital Traction Co., and even Glen Echo Amusement Park—with some 150 other public utilities scattered over 15 or more States, are under the benevolent control of the North American Co. Can there be any question in the mind of anyone that these local utility operating companies could obtain all necessary financing themselves? Is there any doubt but that their activities are of such scope as to warrant employment of the best managerial talent? What function, then, does the North American Co. perform, aside from abstracting funds from the pockets of Washington residents through the medium of excessive rates, fares, and other charges for its own benefit?

Some uninformed people suggest that power is in the hands of State regulatory commissions to curb these excesses and unsound practices. I need only call attention to the fact that the National Association of Public Utility Commissioners repeatedly has pointed out their inability to control these interstate holding companies. More than that, certain energetic State commissions have sought to accomplish this, only to find themselves face to face with court decisions curtailing their authority over interstate holding companies.

So after the most careful study and reflection on this bill, I have come to the conclusion that its enactment with the elimination provision is absolutely essential for the preservation of the rights of the people of the whole country; and that its passage in that form will not interfere with any honest and necessary interest now in existence. [Applause.]

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Chairman, I ask unanimous consent to extend my remarks and to include therein two short letters and a part of a report made by a committee appointed by Mr. Roper.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROBSION of Kentucky. Mr. Chairman and ladies and gentlemen of the Committee, I am happy to have an opportunity to talk to you awhile on the so-called "Wheeler-Rayburn utility bill." Permit me, however, to say in the outset that neither I nor any of my close relatives now own or have ever owned any stock or securities in any utility company. I have at no time in my life been the agent or attorney for any utility company, but have at various times represented clients in their suits against utility companies. I have had no connection throughout my life with any utility company except as a consumer. I feel that I can approach this subject without any bias, favoritism, or partiality, one way or the other.

HEAT, LIGHT, AND POWER

Heat, light, and power—the three mightiest forces of our twentieth-century civilization, the three great handmaidens of the home, the school, the church, and of science, industry, and commerce—represent an investment of $12,500,000,000. These stocks and securities are owned by more than 12,000,000 American citizens and institutions. You find them in all walks and conditions of life—among the workers in the mills, shops, mines, factories, stores, and office, on the railroads and farms, among doctors, lawyers, merchants, teachers, preachers, insurance companies, banks, schools, universities, fraternal organizations, and others, and included among these are widows, orphans, the aged, the poor, the rich, and the powerful, and this great industry provides employment for hundreds of thousands of men and women and livelihoods through wages, interest, and dividends to millions of American citizens, contributing about $300,000,000 annually in taxes to the support of the Government and provides light or heat or both to nearly 25,000,000 homes and service to approximately 100,000,000 Americans.

Webster defines "utility" as "usefulness" and "intrinsic value." We speak of these mighty forces of heat, light, and power as "utilities" because of their intrinsic value and universal use to mankind. It is impossible for us to appreciate fully what these great forces have meant to our civilization. They have turned the darkness of the city into the bright light of day; they have removed the drudgery from the home; they have brought the cooling breezes of the seashore to the scorched and humid sections of the interior; they have become the tried and true friend of the physician and surgeon; they carry the stream-lined trains across the country at lightning speed; operate the street-car systems, and over the telephone and telegraph wires they have brought together 125,000,000 Americans as neighbors. They turn the wheels of industry, and contribute in countless ways to the health, happiness, and prosperity of our Nation.

We shudder to contemplate the result if these mighty forces—heat, light, and power—should be taken away from us but for a short time, in inconvenience and the destruction of life and property.

The welfare of the American people and the rights of millions of investors and those who depend upon this industry for a livelihood make this one of the biggest, most complicated, and most interesting problems that has been up before Congress in many years.

The President and many of his friends in and out of Congress have declared that unless Congress accepts the President's death-penalty provision, this will be the great political issue of 1936. I deeply deplore this attitude on the part of the President and his friends. This problem must not be approached in a spirit of partisanship or favoritism. We should not be swayed from a just and proper course because, forsooth, some company or companies or some individuals connected therewith have in the past been guilty of frauds or even crimes. This great industry and the millions of honest American investors and the great army of those employed by these enterprises and American consumers of utility service should not and must not become the football of partisan politics. It is a great economic problem. I have no interest to serve and I am sure you have none except to do the right thing and the best thing to protect the public interest, the honest business concern, the honest investor, those dependent upon this industry for their support, and at the same time restrain that small group which no doubt is found in this industry as it is found in almost every industry who have no regard for the public welfare or for the rights of the people.

SENATE BILL—HOUSE BILL

The so-called "Wheeler-Rayburn bills" are companion bills and were introduced in the Senate by Senator WHEELER, of Montana, and in the House by Congressman RAYBURN, of Texas. They were not written by Senator WHEELER or by Congressman RAYBURN; neither were they written or prepared by any Member of the House or Senate or by the President. It is admitted that the President had Mr. Cohen and Mr. Corcoran, two young men from New York, to come here to plan and write the so-called "Wheeler-Rayburn bills." These young men were not elected by the people to serve this Government in any capacity. You do not know, and I do not know, who or what is behind these men. Their

motives may be of the highest, while on the other hand they may be serving their own special interest or the special interest of some group or groups. They may be nursing some grievance against this great utility industry or some persons connected with it. Anyhow, they did write this legislation, and handed it to the President, and he handed it to the Senate and House, and demanded that we, the chosen and sworn Representatives of the people of 435 congressional districts and the Senators of the 48 States, pass the Cohen-Corcoran bill without the crossing of a "t" or the dotting of an "i."

There are many, many great lawyers, many men and women not only of wide legal training and experience and wide business experience, and who have served their country with fidelity and distinction for many years in the House and Senate. Who ever before heard of Cohen or Corcoran? I am unwilling to say by my action and vote on this bill that these two young New Yorkers possess greater fidelity, greater zeal for the welfare of our country, or superior legal knowledge, business ability, or statesmanship than the 435 Members of the House and the 96 Members of the Senate. What have Cohen or Corcoran ever done that would justify us to accept their bill proposing to destroy scores and scores of honest business concerns and the stocks and securities of millions of honest American investors, taking from them billions of dollars, in preference to the House bill?

A lot of us have been told that we could not be reelected unless we do so. I for one refuse to be intimidated. I refuse to make this great question political or partisan. I have received thousands of letters from the people of my own State denouncing the Wheeler-Rayburn bills with the President's "death penalty" clause, and not one person has urged me to support any such measure. I have made a long, painstaking, and earnest study of this question, and I am unwilling to ignore the suggestions and information received from thousands of Kentuckians and the knowledge I have gathered on this matter and accept the opinion of Cohen and Corcoran.

The Seventy-third Congress will go down in history as the "rubber stamp" Congress, and this, the Seventy-fourth Congress, has done little to wipe out that stigma. It did refuse to follow the President on the soldiers' bonus.

The bill now before us is what is known as the "House bill." After months of investigation, the House committee reported favorably the bill that is now before us and which does not contain a "death penalty" clause. I am advised that every Democrat on the House committee except one voted in favor of reporting the House bill without the "death penalty" clause.

Early in January the President demanded that Congress, without amendment, adopt the so-called "works-relief bill", granting him a lump sum of nearly $5,000,000,000 with dictatorial powers even greater than those granted to Hitler of Germany or Mussolini of Italy. The President and his close advisers admitted that they had no program on which they proposed to spend this huge sum of money. They urged that it must be passed forthwith in order to provide jobs for the unemployed. The bill was forced through. Six months have gone by. No jobs have been provided to amount to anything except to give thousands and thousands of offices to the faithful Democratic office seekers. They cannot agree and they admit that they do not now have a program.

I believed at the time that this huge sum of money would be used to browbeat and club Congress to do the President's will and a lot of it would be used to promote his political ambitions. I made a speech against it and voted against it, and warned my Democratic friends that it would be used as a club against them and they would have to continue to be a "rubber stamp" Congress. I was unwilling then and I am still unwilling to give to any President such a huge lump sum of money to be expended according to the whims of the President and a lot of bureaucrats, be the President and the bureaucrats Democrats or Republicans. This procedure disregards the duties of Congress, the rights of the taxpayer, the liberties of our people, and common sense and honesty in government and business.

An amendment was offered by a Democratic Senator to take the "death penalty" clause out of the President's utility bill when it was up for consideration in the Senate. The President and Farley sent their special representatives and others and set about to compel the Senate to reject this amendment. Rumors flew thick and fast as to the "big stick" that was being used, the withholding of allotments for projects, Federal appointments, and so forth, and on a roll call the amendment to take out the "death penalty" clause was defeated by one vote.

I understand the administration undertook to browbeat and force the great Committee of the House on Interstate and Foreign Commerce to bring out the bill passed by the Senate with the "death penalty" clause, but this great committee, to its everlasting credit, refused to do so, even though certain influential Senators and the President, according to press reports, have declared that they would kill the bill unless the House bowed to them and passed the Cohen-Corcoran bill. This independence on the part of the House committee and what I have seen here among outstanding Democrats indicate that the House will not accept the President's "death penalty", and that it will be defeated by an overwhelming majority. This is a most wholesome sign. The great House of Representatives has decided to legislate and no longer abdicate.

I am advised that a terrific effort will be made to put the "death penalty" clause back into the House bill. The President has demanded that this be done. I am anxious to know if the House will be intimidated, cajoled, and bulldozed into doing that which I am sure a great majority know and believe is not the right course or best thing.

"DEATH PENALTY" OR CONTROL

What does the President mean by the "death penalty" provision of the Wheeler-Rayburn bill? It is that provision that provides that a lot of utility-holding companies the President says are not geographically integrated—meaning their lines and wires are not immediately connected; they have a plant or two or more in one State and other plants in other States. In other words, the President wants Congress to pass a law to automatically and arbitrarily put out of business these companies by a certain date—that is, inflict the "death penalty" and destroy these companies. The President does not claim to know, and Congress does not know, what companies would be destroyed. This will mean that scores of utility companies will be put out of business and the stocks and securities of millions of American investors will be either destroyed or greatly reduced in value.

I am unable to understand the apparent attitude of the President toward these companies. What is back of it all? I have never seen a public official apparently so anxious to destroy a lot of business concerns as is the President. He says that some utility concerns and some individuals have put out a lot of worthless stocks and securities, and the consumers of heat, light, and power are imposed on. In his tirades he speaks of the Insulls. However, he does not name any particular concern except the Insulls. It is generally agreed by those who have made an investigation of this subject that some utility companies and some persons connected with some utility concerns, including the Insulls, have committed frauds and perhaps crimes. No one condemns more severely the conduct of the Insulls or any other concern or individual imposing upon the American people either by the sale of stocks or worthless securities or by oppression than I do. No honest man or woman would uphold any such conduct as that.

There is nothing in the President's "death penalty" provision or any other bill that Congress could pass to punish these guilty persons for things they have already done or restore the money wrongfully taken from the American people. This would be an ex post facto law—that is, passing a law making a certain act a crime after the act has been committed. The Federal Constitution expressly prohibits Congress passing any ex post facto law.

Like the Insulls, many of the persons who sold these worthless stocks and securities or committed these wrongs are either dead or out of business but the stocks and securi-

ties sold by these individuals are now in the hands of American investors. There is nothing in the Wheeler-Rayburn bill to punish the Insulls or other wrongdoers or to restore any money wrongfully taken. We can, however, do something to protect and save something that is left to these investors. These investors put their money into these concerns in good faith. Under the continued threats of the President and other administration leaders, the market values of these stocks and securities have been forced down and they have already lost approximately $3,000,000,000. These innocent investors certainly have been punished enough. The President's "death penalty" cannot and will not punish the Insulls or other crooks who have operated in the utility business in the past—it can punish one group and one group only and that is the investors. The President demands that we destroy what little these investors have left, by putting his "death penalty" into the law and wiping out scores and scores of utility companies and thereby destroying or reducing the value of the stocks and securities held by these millions of American investors, representing billions of dollars and without giving them a hearing or their "day in court."

GIVE THEM A TRIAL

The Seventy-third Congress passed what is known as the "Securities and Exchange Act", which requires all concerns that propose to sell stocks or securities using the instrumentalities and facilities of interstate commerce to submit their proposal to this Commission. They can sell no stock or securities without the approval of this Commission.

Who appointed this Commission? President Roosevelt appointed it. If he has named able and honest men on this Commission, there cannot be in the future any more Insull frauds, the sale of worthless stocks or securities, or the exploitation of the American people. There cannot be established in the future any utility concern unless it shall appear that its operation will be in the public interest and its stocks and securities are backed by real values.

We now have that law and that Commission. What sense is there in the President hallooing "Insull"? A great many of these utility concerns, and some of them complained of, were projected during the 8 years of President Wilson's administration.

Now, what does the House bill provide in lieu of the "death penalty" of the President? It provides that this same Securities and Exchange Commission may investigate every interstate utility-holding company in this land—of course, Congress cannot pass a law that will operate against a concern engaged in purely intrastate business—and if this Commission shall find that there is any interstate utility company in this land whose operations are inimical to the public interest, oppressing the people, or engaged in any of the evil practices about which the President complains, this Commission may, after a hearing in which the company investigated and its stockholders and security holders may appear and present their side of the case, dissolve such company and put it out of business.

In this way, the rights of honest utility concerns and its stockholders and security holders will be protected, and they will be permitted to continue their business, while the useless, dishonest concerns and crooks will be put out of business.

If Congress should pass the President's "death penalty" provision, scores and scores of utility companies will be put out of business. Some of these, no doubt, ought to go out of business, while others should not. In other words, the House bill gives all of these concerns their day in court—an opportunity to be heard. And to be heard before whom? Before the Commission appointed by the President himself. In other words, the President selects the jury. What more does he want? If he wants to do the right thing by honest utility concerns and their honest investors in stocks and securities, it seems to us he ought to agree readily to this provision. If a lawyer is permitted to select the jury to try his case—and had as wide a field to select from as the President—125,000,000 American people—he ought not to have any fears about winning his case. If he lost, there must be something wrong with his case.

The fact that the President is unwilling to let these utility concerns have a hearing before a jury—Commission—of his own selection raises the question in my mind, "What is in the President's mind?" It certainly is not to correct or regulate. Is it in the interest of justice or fairness? What is it? Is it prejudice or political considerations, or is it that he desires Government ownership for the utility industry?

Some of his champions in the House and Senate favor Government ownership. Others of his spokesmen have urged that this measure should be and assert that it will be the great campaign issue in 1936.

If the President wants to put out of business utility concerns whose existence is unnecessary and who are not operating in the public interest, the House bill would most effectively carry out that idea. It would eliminate all unnecessary and vicious utility concerns, and it would do it according to law. We have a law in Kentucky that provides that a sheep-killing dog may be put to death, but it also provides that the dog must be given a trial and his guilt established.

In the first place, I doubt if there is any Member of Congress who will claim that he knows the names of the utility companies that will be put out of business by the President's "death penalty" clause. Whatever concern it is, it is entitled to a trial. The House bill gives it a hearing—gives it its day in court. The President's "death penalty" provision does not; and for that reason many able lawyers say that there is no doubt as to the unconstitutionality of the President's "death penalty" provision.

Let us put the vicious, useless utility concerns and crooks out of business, after they have had a full and impartial hearing. We must all be deeply concerned in protecting all honest concerns and the millions of holders of the stocks and securities of these concerns. I could not think of destroying a lot of honest business concerns and their stockholders and security holders in order that I might destroy some concern that should be put out of business. I never was willing to knock down five or six of my friends or innocent people in order to hit my enemy.

The President demands that Congress decree the "death penalty" for many utility concerns and destroy the stocks and securities of their holders without a trial. We cannot put a sheep-killing dog to death in Kentucky without giving him a trial and establishing his guilt. The House bill provides for a trial by a commission appointed by President Roosevelt himself. Has the time come when we are unwilling to give to a great industry and its millions of investors at least as much consideration as is given to sheep-killing dogs in every State of the Union?

Let this great commission separate the sheep from the goats, protect the innocent, and punish the guilty.

The House bill likewise regulates all interstate utility concerns. Every interstate utility concern, whether big or little, must, under the House bill, operate with due regard to the public interest, to the rights of the people, and to the protection of the investing public of our country.

DO NOT GIVE THE CROOKS AN ALIBI

If we should pass the President's bill and put out of business utility concerns without a hearing, we would at the same time give these crooks an alibi. They could say to the persons to whom they sold these stocks and securities that these stocks and securities were all right—it was Congress and the President that destroyed them.

However, if these concerns are given a hearing, as provided in the House bill, and it is established by evidence that they are useless, oppressive, and crooked concerns and have sold and issued a lot of worthless stocks and securities, these purchasers of stocks and securities will know who is responsible.

Furthermore, these crooks may use this act of Congress to avoid punishment or to avoid restitution to those who have been defrauded.

However, without a hearing many honest concerns and their investors would be put out of business and destroyed along with the fraudulent concerns and the crooks.

ONE HUNDRED THOUSAND KENTUCKIANS DIRECTLY INTERESTED

More than 80,000 Kentuckians have invested in and are the owners of stocks and securities, or both, in various utility concerns, representing an investment of more than $140,000,000, and providing employment for more than 10,000 men and women.

The utility concerns of the United States consume about 43,000,000 tons of coal annually and a great quantity of natural gas. Kentucky is a large producer of coal and natural gas. It can be seen that Kentucky and Kentuckians are vitally concerned in the important question before us. I have received more than 2,000 letters from Kentuckians in all walks of life—Democrats and Republicans—and I have interviewed scores and scores of others on this important subject. All of these have expressed opposition and sincere alarm over the President's "death penalty" provision. A very great majority of these is entirely willing that there be necessary and proper regulation of utilities.

The President has been very active in giving out statements, other great agencies of the Government have given out more than 300 newspaper releases, and the administration has spent perhaps over $2,000,000 in investigating and putting out reports to uphold the "death penalty" as advocated by the President. Mr. RAYBURN, Senator WHEELER, and others have spoken over Nation-wide radio hook-ups along the same line and have tried to get it over to the people that the salvation of the American consumers of heat, light, and power depends upon the President's "death penalty" provision; yet I have not up to this time received a single letter or telegram or personal request urging me or advising me to support the President's "death penalty" provision. In fact I have received no such letter or telegram or request from anybody in the United States, and I have heard many Members of the House say this is true as to them. It seems to me if the President's "death penalty" provision meant so much to the general public and to the welfare of the people generally, in the several months that this matter has been up and given such wide publicity that some person would have seen the advisability of this and urged me to support the President's plan for destruction.

The President has from time to time denounced people for writing to the White House and to Members of the House and Senate protesting against his bill. It seems to me in view of all the President and the agencies of government under him and Members of the House and Senate backing him have said, he would recognize the right of these millions of honest American investors to write their Congressmen and Senators and protest against this vicious legislation. Must they sit supinely while their stocks and securities, in tens of thousands of cases representing their earnings and saving for a lifetime, are detroyed by Cohen and Corcoran? I have always been under the impression that the Constitution gave the people the right to petition Congress and the President for a redress of grievances; and so far as I am concerned I have encouraged the people to give me their views. I wanted to know all that was possible for me to know about this important question, and I am quite sure none of us now know as much as we ought to know to arrive at the best solution of this problem.

The administration has been maintaining at 1133 House Office Building an office. Who were there? The representatives of the President and Postmaster General Farley. According to what we have heard on the floor of the House and in the cloakrooms and have seen in the press, Members of the House who were unfavorable to this legislation were called there and various methods used in the attempt to bring them to the support of the "death penalty." Yes; it was all right to talk about appointments, allotments from the five-billion fund, and so on, to force support of the President's bill, but it is all wrong when some widow or other citizen whose all is invested in utility stock writes her or his Congressman or Senator and protests against the "death penalty."

The President talks about the Power Trust lobby. If there is such a lobby in Washington, I am not aware of its presence. I am glad to say that my public record has been such that in all my years of service here I have never been improperly approached by any human being.

No doubt there are some utility concerns that are against the House bill that are opposed to being regulated. I do not agree with them. I am concerned in legislating in the public interest, to protect honest business concerns and honest investors and those depending upon this great industry for their livelihood, and I am interested in restraining the vicious and corrupt business concerns and crooks connected with them. I refuse to be intimidated by the President and his power or to be turned from what I consider my honest duty by any power concern.

The following is a sample of some of the letters I have received:

BARBOURVILLE, KY., *March 10, 1935.*

Hon. JOHN M. ROBSION, M. C.,
Washington, D. C.

MY DEAR CONGRESSMAN: My husband and I spent most of our lives on a small mountain farm. We worked and toiled in order to save something. We invested in utility stocks so as to have an income in our old days. My husband is now dead. I have nothing to look to except this utility stock.

It seems to me that Congress is trying to destroy my savings. I guess it is true that some companies and some men in some companies have done wrong. I am not upholding any of them in their wrongs. On the farm when the weeds grew up in the garden, we pulled up the weeds but we did not destroy the garden. If weeds have grown up in this business, Congress ought to take out the weeds, but not destroy the garden.

———— ————.

This is a simple, poor, humble woman in the hills of Kentucky. This letter is written in her own handwriting with a lead pencil and it comes from her very heart.

We have received scores and scores of similar letters from other widows and other persons in the State of Kentucky appealing to me and to Congress to safeguard their just rights. I will not disregard their appeals. Let us take out the weeds but save the garden.

The majority of the letters I have received are from Democrats. The following comes from what I consider the ablest and most influential Democrat in my whole district. He has always been a "simon-pure" Democrat. I suspect he could truthfully say he has never voted for a Republican. This distinguished Democrat does not operate a utility, factory, coal mine, other industrial plant, or brokerage office. In my opinion, there is no man in my district who is more able or who stands higher or is more influential as a citizen and as a Democrat.

Hon. J. M. ROBSION, ————, KY., *May 24, 1935.*
House Office Building, Washington, D. C.

DEAR SIR: I write solely for the purpose of protesting against the passage of the Wheeler-Rayburn public-utility bill. Yes; I own a few shares of preferred stock in Louisville Gas & Electric Co., but I stand in no danger of losing one cent on my investment. It does seem to me that the Democratic Party can find more ways of acting the fool at critical times than would seem to be expedient or necessary. We are already overburdened with bureaucratic control at Washington. Local self-government has always been a Democratic tenet and datum post.

After making quite a number of other strong statements, he continues:

These things being true, just where can we look for Democratic votes in the next campaign?

This is not the ravings of a disappointed officeholder or office seeker. I have no grievance whatever. I am a loyal Democrat and have been making campaign speeches in behalf of my party for more than 40 years. These are not only my thoughts, but I hear the same sentiment on all hands from true-blue Democrats, and the sentiment is spreading like wildfire. Mark my prediction that prosperity will never return so long as Congress continues to haggle and harass and hamper the legitimate industries and enterprises of this country.

He says further:

Quit trying to regulate the universe * * *. Balance the Budget so as to meet the expenses of Government economically administered, and then come on home.

Please do not consider this as impertinent or as dogmatic, for these sincere suggestions are given in the very kindest spirit and come from one who is close enough to the great body of common people to hear their very heart beat. Think ye on these things.

Yours very respectfully,

PRESIDENT CHANGES POSITION

The Democratic platform of 1932 opposed this character of legislation. President Roosevelt, as Governor of New York and as a candidate for President in 1932, expressed strong opposition in principle to this proposal.

At the instigation of President Roosevelt himself, the Department of Commerce appointed the Business Advisory and Planning Council, made up of some 50 outstanding men of the United States. They were requested to investigate and make a report on the President's Wheeler-Rayburn bill. They did file a most illuminating report. They expressly advised against this "death penalty." They urged regulation and opposed destruction. The House bill is in line with that report. It provides that we regulate and not destroy.

Mr. David E. Lilienthal, a director and counsel for the T. V. A., who is now doing what he can to promote the President's program of the "death penalty" and, I think, bring about Government ownership, in 1929 said in regard to utility-holding companies:

> The holding and management company has come upon the field, demonstrated its prowess, and in a relatively few years changed the entire economic nature of the public-utility industry. Isolated plants have given way to great systems whose lines span several States and serve hundreds of communities, all operated under unified managerial and financial supervision. The spread of rural electrification, the amazing advances in telephony * * * these and many other technological developments so intimately related to the public welfare are directly attributable to the efforts of the holding company. Perhaps most important of all, to the holding company must go the credit for the unprecedented flow of capital into the public-utility industry, making possible extensions and improvements of service.

The National Electrical Manufacturers' Association, American Institute of Steel Construction, National Coal Association, Durable Goods Industries, and many national labor organizations have gone on record as opposed to the President's "death penalty" policy.

WONDERFUL DEVELOPMENT

It cannot be denied that some utility concerns and those controlling them have engaged in fraudulent practices and shady deals. They merit the condemnation of all honest people. This character of concern and of people is not confined to the utility business, but they have been present in the oil, the coal, the insurance, the banks, and mercantile establishments and in practically every other form of enterprise and industry. I am unwilling to condemn any great industry or any great group of people because of the wrongful acts of some one or more of them. The utility industry has developed phenomenally in the last 30 years.

The investment in utilities in 1902 amounted to about $500,000,000. Today it represents an invested capital of $12,500,000,000, with more than 12,000,000 holders of its stocks and securities, and provides a livelihood for millions of American citizens in wages, interest, and dividends, and contributes approximately $300,000,000 to the cost of Government, and furnishes service to approximately 100,000,000 Americans. It had an output last year of 1,787,926,000 kilowatt-hours, an increase of 6,000,000 kilowatt-hours in the year of 1934, and it increased its number of customers in that year—1934—by more than 600,000; for 3 years of the depression it expended annually for construction more than $750,000,000, and for the fourth year the sum of $1,000,000,000. This remarkable growth indicates to me that while this industry no doubt has had some crooks, on the other hand it must have had in directing its affairs many men and women of honesty, outstanding ability, and integrity.

THE RECORD SHOWS

It is most interesting to study the record as to the cost to the consumers of electricity in comparison to the cost of other commodities and service, wages paid, and so forth.

Price history of domestic electric service in the United States—average cost in cents per kilowatt-hour

Year:	
1882	25.00
1902	16.20
1912	9.10
1922	7.38
1927	6.82
1930	6.03
1931	5.78
1932	5.58
1933	5.49
1934	5.30
June 1935	5.20

It will be observed that the average cost in cents per kilowatt-hour in 1882 was 25 cents; the average cost per kilowatt-hour in June 1935 was 5.2 cents. There has been a pronounced reduction in the cost to the consumers from 1882 down to the present time. For the last 2 years there has been a general increase in the cost of other commodities—food, clothing, and rent have risen in price from 25 percent and in some cases to more than 100 percent. The cost of living has greatly increased right in the middle of this great depression, while the cost of heat, light, and power have shown a steady decrease.

If we take 1929, the peak year of high wages and high prices, and fix 100 as the unit spent for labor in the iron and steel industries, you will find that labor has been reduced 54 percent; in other metal mills the reduction is 51 percent; and in bituminous-coal mines it has dropped 46 percent; in the crude-petroleum industry it is down 43 percent; in the lumber industry it is down 64 percent; but the utility industry tells another story—labor has dropped less than 15 percent.

Now let us examine the number of people employed. Unemployment in the iron and steel industries is 32 percent compared with the peak year of 1929, other metals 30 percent; bituminous coal, 23 percent; crude petroleum, 22 percent; other metal mines, 59 percent; paper and printing, 14 percent; lumber industry, 49 percent; the electrical industry, 9 percent. In other words, the utility industry has paid the best wages and laid off less of its workers than any other one of the major industries of this country. The average wage today under the utility industries is $30 per week, or $120 per month, twice the average fixed by N. R. A. The code did not fix this wage. These utility people were receiving this wage before N. R. A. and since it has gone out of business.

Summing up the record, we find the utility business for the past year increased its number of consumers by more than 600,000, the number of kilowatt-hours by more than 6,000,000, the cost of service to its consumers showing a steady decline, while the cost of many necessaries of life has doubled and all the others have greatly increased. We also see less decline in employment and the best wages paid during this depression of any of the Nation's industries, and the greatest sum paid out for construction.

Inasmuch as under the provisions of the House bill before us, the Securities and Exchange Commission has the power to eliminate all useless, oppressive, and fraudulent utility concerns and put the crooks out of business and at the same time provide for the necessary, reasonable, and proper regulation of all interstate utility concerns, and in view of the record as disclosed by more than 50 years of experience, I cannot see that any good purpose would be served in the Government owning, operating, and controlling the utility industry. In fact, experience has taught us the contrary.

IS GOVERNMENT OWNERSHIP GOOD FOR THE PEOPLE?

As I have heretofore pointed out, some of the advocates of the present "death penalty" openly and earnestly favor Government ownership of utilities. Some of the President's other friends insist that the "death penalty" bill should be the paramount issue of the 1936 campaign, with the President as its chief exponent. Under the policies of the President the Tugwells, Wallaces, and others, labor industry, and agriculture have been regimented and the pending banking bill, as it passed the House, will enable the President to regiment the banks and the money of this country, and I sincerely

believe that the purpose of the President in urging the "death penalty" clause is to get control and regiment the utilities of the country. All of these are the doctrines of socialism, paternalism, and communism, and they are in direct conflict with Americanism. I have served under five Presidents, President Roosevelt is the only one of the five who has shown such great anxiety and determination to have dictatorial powers. He and many of those close to him appear willing to set their sails for any wind and embrace any policies, however wild or fantastic, that they think will promote his reelection next year. Will it help the American people to have Government ownership of utilities? I own no interest in any of these great industries. My only desire is to see that policy pursued that would do the greatest good to the greatest number of our people. Up to this time I have never seen any industry owned and operated by the Government that was carried on as efficiently and economically as it has been under private ownership and control. On the average it always cost more and is less efficient. In order for the Government to own and control the utilities of the country it would be necessary for the Government to buy or confiscate these properties.

The question arises, Would the consumers under Government control pay more or less for the services, and would it be more or less efficient than under private control? Let us look into the records. Within the last 50 years about 3,900 cities and towns in the United States have owned and operated their own plants. The records show that more than half of these plants have been abandoned and only about 1,800 remain and are operated as municipal plants. Between 1920 and 1930 there were established in this country 430 municipal utility plants. However, 323 of these plants by 1932 had been sold or abandoned. Think of it. Seventy-four percent of these Government-owned plants sold or abandoned. We must bear in mind that the municipal plant throughout this whole period has been the favored child. They have been free from taxation and enjoyed many other privileges that privately owned plants did not enjoy. The records further show that the cost to the consumer of these municipal plants has been approximately 15 percent higher than the cost to the consumers of the privately owned plants. The average tax rate in the United States, where there are municipal plants, is $2.69 per hundred dollars, and the average tax rate for the cities with privately owned utility plants is $2.19 on the hundred dollars. We see that the private utility industry has grown by leaps and bounds, carrying its burden of taxes, and so forth, while the municipal plants have deteriorated, being free of taxes and other burdens. The cost to the consumer of the private plants is 15 percent less than the municipal plants. The tax rate in the cities and towns with private plants is 50 cents less on the hundred dollars than in cities and towns with municipal plants. We can see that Government ownership, with 50 years of trial, has not benefited the taxpayers or the consumers. I certainly have no objection to any city or town whose people desire trying this experiment, but as experience has shown that Government ownership does not benefit the taxpayers or the consumers and does not make for efficiency, I see no good reason why the Government should take over this great industry and make it the football of partisan politics and give the bureaucrats of Washington a greater stranglehold on the people of this country. You cannot keep politics out of anything that the Government owns, controls, and operates.

DOES PRESIDENT AND TUGWELL SEEK REFORM OR RECOVERY?

The American people elected Mr. Roosevelt on the declaration of his party platform and his repeated pledges in his campaign speeches of 1932 that if he were elected he would bring about recovery. To accomplish this, he pointed out that it was necessary to economize and reduce the cost of government at least 25 percent, to do away with useless commissions, bureaus, and officeholders, to quit going in debt, stop the deficits, reduce taxes and the burden of government, encourage production rather than curtail it, encourage business, but not be its competitor. The American people accepted his promises and gave him a tremendous majority. They are beginning to find out that Mr. Roosevelt has violated each and every pledge made by his party and every pledge made by him. Instead of doing away with commissions and bureaus he has created more commissions and bureaus than all of the Presidents from the days of George Washington in 1789 down to 1933. He has created more offices and officeholders than any other President in peace time. There are now nearly 103,000 officeholders in the city of Washington alone. The Government's pay rolls for its officeholders now is about $110,000,000 per month, and about $1,100,000,000 per year. Did he quit going in debt? Did he cut out the deficits? He certainly did not. He has been in office a little over 2 years and has built up a deficit of nearly $10,000,000,000, and this does not take into account the billions and billions of bonds issued by the various agencies of the Government behind which is pledged the credit of the Government, and on which there is bound to be tremendous losses to the Government. The Government, during the past fiscal year, collected $685,000,000 more in taxes than that collected the fiscal year before, yet the deficit amounts to over $4,000,000,000. With the miscellaneous emergency taxes continued and other taxes that the President is urging this Congress to impose will add in taxes this year approximately $2,000,000,000, yet it is admitted that there will be a deficit for the fiscal year beginning July 1, 1935, and ending July 1, 1936, of more than $4,500,000,000. and there is apparently no end in sight.

There will be a like deficit or more for each of the 4 years of the Roosevelt administration, so that during the 4 years his administration will create a direct deficit of approximately $19,000,000,000. In other words, the administration will spend $19,000,000,000 more in 4 years than it takes in, not taking into account these billions in bonds issued by the various agencies of the Government that have been sold and the money spent, and for which the credit of this Government is pledged.

The United States Government from George Washington to Woodrow Wilson—from 1789 to 1913, a total of 124 years—expended $24,521,845,000. The Roosevelt administration as actually and as estimated by President Roosevelt himself will have spent at the end of his first 3 years $24,206,535,000, not counting the pledge of the credit of this Government in these billions of other bonds. This is how the President kept his promise to reduce and cut down the cost of Government. He pledged that private industry would be encouraged and would not have to meet the Federal Government in competition. In violation of that pledge, he has regimented labor, industry, and agriculture, and now is attempting to regiment the banks, the money, and the great utilities. He insists upon the Government putting its finger into everybody's eye and poking its nose into everybody's business. Instead of building up confidence and encouraging the American people, his socialistic and paternalistic policies have created fear, broken down confidence, and is retarding recovery. What is he up to? They are seeking reform or revolution, and not recovery. The Constitution and the Supreme Court irk the President, the Tugwells, and the Wallaces. These stand in the way of their desire for autocratic and dictatorial power. No doubt there are wrongs that need to be righted and practices that need to be corrected, but we maintain that recovery can be had in this country more quickly and more fully through observance of the rights of the States, upholding the Constitution and recognized American policies and principles that have made this country the richest, finest, and most powerful country on earth.

Instead of reducing taxes, he has increased the tax burden. He has soaked the poor more than he has the rich. The processing taxes on meat and bread, clothing, and other necessaries of life bear most heavily upon the humble, poor, and needy. In 1932 he opposed any policy to curtail production. In direct violation of that promise, he and his associates have killed, burned, or destroyed nearly 7,000,000 hogs and pigs, millions of acres of cotton, millions of bushels of wheat and corn, while countless millions of American citizens cry for meat and bread, and shiver with cold.

He has paid out hundreds of millions of dollars to take 41,000,000 acres of productive land out of production, and is spending and planning to spend hundreds of millions of dollars for irrigation and reclamation projects to bring hundreds of millions of acres of unproductive land into production.

Since the President favored the destruction or burning of pigs, the cotton, wheat, and corn, we can in a way appreciate the fact that it may not mean so much to his political viewpoint to urge the "death penalty" in the utility bill and to destroy the stocks and securities of American investors.

One of these days the Democratic Party and the Democratic leadership will have to reassert themselves and turn their backs upon these so-called "socialistic, paternalistic, and communistic" fantastic ideas of reform and revolution and adopt a sane and tried American policy.

FAILURE OR SUCCESS

The President, the Tugwells, and the Wallaces have now had 2 years and 4 months to try out their policies, and coupled with this they have had dictatorial powers and the greatest sum of money of any President or any ruler of any country in all the history of the world in peace time, together with an almost unanimous backing of Congress and the American people. He has had cooperation, the power, and the money. It seems to me that it would not be unfair to make an appraisal of what has or has not been accomplished.

In the first place, he has increased taxes, he has created a deficit of approximately ten billions of dollars, and when the obligations of the Government are met at the end of this fiscal year the national debt will have reached at least thirty-five billions of dollars.

Why were these powers and these tremendous sums of money granted and expended by the administration? To restore employment and bring about recovery. What does the record of the administration show? On April 1, 1935, there were 305,000 more men and women unemployed in industry than there were on April 1, 1934; 25,000 more miners were unemployed on April 1, 1935, than on April 1, 1934.

The new deal has not solved the unemployment problem.

The Association of American Railroads, in their report for the week ending June 22, 1935, shows the loadings of revenue freight were 85,245 cars below the preceding week, 55,475 cars below the corresponding week in 1934, and 41,780 cars below the corresponding week in 1933.

This administration has messed up the cotton business. The Department of Commerce records show that for 10 months of 1933 there were exported 8,353,449 bales of cotton. For the corresponding 10 months in 1934, and after the cotton-processing tax had been put into effect, we exported only 5,753,644 bales, and the records show that our export cotton is going down every day. We are killing the American cotton business. For the same period the foreign production of cotton has increased more than 3,000,000 bales. In other words, the countries that were using American cotton are now being supplied by the increase in cotton acreage and production in other countries.

Our foreign trade has decreased along practically every line. Steel output is down, coal output is down, we have less food products than at any time in 40 years.

The darkest and most significant part of this picture of failure, however, appears to be that recently the Government reports showed that there were more than 20,000,000 people in this country on relief. This is an increase of many millions over 1933 and over 1934. Millions of thoughtful Americans are beginning to wonder what is the end of all of this.

This administration has encouraged waste, graft, indolence, and dependency. It has scorned economy, thrift, self-reliance, and old-fashined honesty. It has overrun the rights of the States and the freedom of the people, ignored the Constitution, and repudiated our country's sacred obligations. It is no wonder that taxes, deficits, and debts have increased; that unemployment and relief rolls far surpass the record in 1933 and 1934; and that agriculture, industry and commerce are stagnant under these socialistic, paternalistic, and communistic policies.

May we urge our good Democratic friends of the House to continue to assert the right and duty to legislate? When did you hear the President, the Tugwells, the Wallaces, the Ickeses, or the Hopkinses speak of the Democrat Party? They have all ignored the fundamental and traditional policies of your party as well as your platform of 1932. They have gone far enough to prove to you that these wild, socialistic, paternalistic, communistic policies being advocated by the President, the Tugwells, the Hopkinses, and the Wallaces are not the answer to the great problem of depression.

Let us again exalt the Constitution of our country, restore the Government to the people and the rights to the States, and again commend the sane, substantial American doctrines and policies, encourage industry, protect labor, counsel thrift, self-reliance, and individual accomplishments, insist upon the Government confining its activities to public enterprises, stop the Government's becoming the competitor of its own taxpayers, provide adequate relief for the aged and those who cannot help themselves, but at the same time insist upon thrift, industry, and self-reliance for those who can provide for themselves.

We have overcome many depressions and we have successfully conducted many great wars observing the mandates of our Constitution as well as the good old American policies, and I sincerely believe that if they are adhered to we will, in due course of time, conquer this depression and come out more than victorious.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. PETTENGILL].

Mr. PETTENGILL. Mr. Chairman, the other day the gentleman from Iowa [Mr. EICHER], in his remarks, made a very gracious reference to me, paying me a compliment beyond my deserts. I reciprocate at this time by returning the compliment to him with interest and appreciation. He is one of the most sincere and patriotic men of my acquaintance in this House, and while I do not agree with him on the amendment which he has offered, I recognize that he has offered it only because he believes it is in the public interest. I oppose the amendment for the same reason.

The long weeks of discussion that we had in our committee were painstaking and wearing. We met afternoons and mornings for eight long weeks. Positions were taken and stubbornly maintained, but there never was an unkind word between any of the members of the committee, and I therefore very much regret that on the floor of the House the patriotism and the motives of the Members of this House are constantly being impugned if they take a position against the "death sentence" as carried in the Senate bill.

The most illuminating discussion of the effect of the Senate "death sentence" that I read during the hearings was contained in a protest which was filed by the National Association of Mutual Savings Banks. For some reason it did not get incorporated in the hearings, and I therefore ask unanimous consent, Mr. Chairman, to include this as a part of my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The matter referred to follows:

NEW YORK, N. Y., *April 5, 1935.*

To the COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.:

This memorandum is submitted on behalf of the National Association of Mutual Savings Banks to direct attention to certain features of the Wheeler-Rayburn bill (H. R. 5423), which, in our opinion, directly or indirectly may impair the value of mutual savings banks' investments in mortgage bonds of operating electric light, power, and gas companies.

For your information, the National Association of Mutual Savings Banks includes in its membership 97 percent of all mutual savings banks operating in 18 States of the Union. The aggregate deposits of these institutions are $10,000,000,000, approximately 25 percent of active bank deposits. These deposits represented the balances in 13,836,975 accounts last January 1, or an average for each account of slightly more than $700. The aggregate assets of mutual savings banks are in excess of $11,000,000,000.

Our banks have no capital stock and profit is not their primary purpose. In effect, depositors are the owners of these institutions.

It is the duty of the trustees, who serve without compensation, and of the management of such institutions, to safeguard the deposits entrusted to our care by these millions of Americans, the typical men and women whose labor and frugality are vital contributions to the welfare of the Nation. Since each account in our banks probably reflects the welfare of at least two persons, it may be said that this great accumulation of small capital is the first and often the last line of defense for upward of 30,000,000 people, or about a quarter of our population. We consider the protection of these funds a sacred trust.

Mutual savings banks of the United States hold approximately $700,000,000 of utility bonds, all—or practically all—of which are mortgages upon the property of operating companies. These mortgages constitute the premier type of underlying utility securities approved by the laws of the various States governing savings bank investments and by the banking superintendents of those States. Of these bonds the major part consists of bonds of gas and electric corporations.

Our utility investments were made in full confidence that they would receive fair treatment at the hands of governmental agencies. In general, their rank as high-grade investments was justified by the essential character and quality of the services they rendered, and, in our opinion there has been no failure either in service or management of the operating companies sufficient to warrant action threatening loss of their standing.

The mutual savings banks have no interest in legislation pertaining to holding companies except as such legislation may affect—

First. The financial stability of the operating companies whose bonds we own and which may be subsidiary corporations of holding companies.

Second. The financial strength of the equity owners of the properties whose bonds we own and the ability of such owners to carry on the business and supply sufficient funds from time to time in the future maintaining a substantial cushion in value and in investment to support the mortgage debt.

Third. The credit standing of the particular companies whose bonds they own, the market price and marketability of those bonds, and the general standing in the public mind of the industry as a medium for investment, capable of continuously attracting funds to provide for the expansion and development of the industry.

Let us repeat again that the mutual savings banks have no financial interest in the stocks or other securities of holding companies, but only in the mortgage bonds of operating companies. To make this statement technically correct, it should be added that most of the operating companies in fact are holding companies as defined in the Wheeler-Rayburn bill, since they actually have their own subsidiary corporations, even though their size and activities are relatively of minor importance.

Before discussing certain provisions of the bill it may be well to state that the association is in favor of any legislation or regulation which will properly prevent for all time abuses which may have existed in some of the holding company situations, causing tremendous losses to innocent investors.

We believe that any present abuses can be terminated and the danger of future abuses prevented without impairing the soundness or the value of securities issued by conservatively capitalized and well-managed operating companies. It seems to us that the evils in the public-utility field have arisen largely in connection with the securities of pyramided holding companies, together with improper intercompany transactions with affiliates.

Without professing superior knowledge of the technicalities of the power business, the economic factors involved in the generation and distribution of electricity, or of the financial structure of holding companies we are convinced that the Wheeler-Rayburn bill goes beyond what is necessary to correct existing or threatened evils. Its passage would injuriously affect our institutions and their depositors.

A large number of experts already have appeared before this committee, who have testified as to their opinions of the wisdom or error of many provisions of this bill. If we reiterate points already covered, it should be remembered that our views are those of an investor or a group of investors whose only financial interest is in one type of security, the mortgage bonds of the operating companies.

We will not attempt to point out the effect of each provision of the bill, but confine our remarks to those provisions which, in our judgment, have primary bearing upon our investments. We first direct attention to section 10 of title I, which aims at the eventual dissolution of holding companies, with certain qualifications.

Most of the operating properties which secure the bonds held by savings banks are owned by holding companies, subject, of course, to the mortgages which secure our bonds. Specifically, we may not be directly interested in those provisions of the bill relating to holding companies, but we are vitally interested in any legislation which destroys existing or potential values—and especially are we interested in legislation which may destroy or weaken the financial strength of the owner or owners of the equity.

The general financial strength of a borrower and his ability to provide additional security to protect his own junior investment, is of no small importance in the security and safety of any loan, whether it be a collateral loan, a mortgage upon a home, or an issue of mortgage bonds upon the properties of a utility corporation. To decree the early demise of the owners of the companies which are our immediate debtors could not fail to injure or perhaps destroy the credit of scores of operating companies. It would convert a field of active enterprises into a moribund industry, would injure savings depositors, and other investors, and limit the chances this business has to assist in relieving unemployment.

Unquestionably—and without attempting to differentiate between good or bad holding companies—a very substantial amount of equity money was supplied during the years 1925 to 1929, through the agency of the holding company in the sale to the public of preferred and common stocks. In this way, the bond structure of the operating companies was materially strengthened.

If these stocks are to be wiped out with heavy losses to investors, it is likely that the psychological effect upon the investing public will be to destroy confidence in all equity securities of public utilities, even of the best operating companies, and these operating companies would be forced to provide funds for extensions exclusively by the sale of mortgage or fixed interest-charge obligations. The safe and necessary cushion of junior money would be diminished and mortgage bonds be less well secured and less suitable for investment by savings banks and others serving in a fiduciary capacity.

If the legislation finally results either in the distribution to security owners of holding companies of the stocks or other securities of operating companies, or if it forces the sale to the public of very large blocks of securities of these operating companies, it would be difficult if not impossible to find buyers except at large sacrifices. It likewise would be difficult for an operating company to obtain a market for additional new securities in order to raise equity funds for the extension of its property while such blocks of securities were overhanging the market.

Another phase of the dissolution of holding companies which should be considered is the fact that many subsidiary operating companies are indebted in substantial amounts to such holding companies, and it is questionable whether such subsidiary companies would be in position to liquidate that indebtedness. Liquidation probably would be inevitable in the dissolution of many holding-company structures.

Section 10 (3) also directly affects operating companies. It specifically provides that the commission may reorganize a public-utility holding company or its subsidiaries. This apparently would delegate to the commission power not only to reorganize a holding company but an operating subsidiary of the holding company.

This feature is disturbing in that any dismemberment of the properties owned by an operating company or any reorganization of the financial structure of the operating company would influence the securities held by mutual savings banks. There is some question as to the constitutionality of a provision permitting an administrative commission of the Government to reorganize the capital structure (unless in the case of insolvency) of any operating company, and the same constitutional question arises concerning its power to separate the physical properties of such an operating company.

Our next objection relates to section 6 (c) (3), which provides that as to holding companies or a subsidiary thereof the commission shall not permit the sale of a security to become effective unless such security is (a) common stock or (b) a first-lien bond. Apparently this provision restricts the issuance of securities of operating subsidiaries of holding companies in the future to common stock or first-mortgage bonds. It seems to us that this is an unduly restrictive provision and may be damaging.

In many instances the first mortgage already existing upon an operating public utility property is a closed mortgage and additional money cannot be realized from new bonds under this provision of the bill unless this old first mortgage should be called and paid off and a new first mortgage placed upon the properties, or unless common stock could be sold. Conditions might be such as to make it impossible or impracticable to adopt either alternative and thus, if an operating subsidiary should need money for extensions or other purposes, the earning power or the value of the property as a whole might suffer because of inability of the operating company to raise funds through either of these two forms of security.

Furthermore, in those instances where the first mortgage is not a closed mortgage and in future cases where new first-mortgage bonds are issued, the tendency probably would be to increase the ratio of first-mortgage debt to the value of the property, as distinguished from the present practice in the better and stronger companies of issuing nonfixed charge securities to a substantial degree. This, of course, would render the first-mortgage issues less attractive to our institutions which are concerned with safety and stability. An examination of the provisions in a subsequent title of the bill relating to interstate operating companies (not necessarily subsidiaries of any holding company), discloses that no such restriction is imposed in the case of security issues of operating companies in general. We do not understand the reason for the imposition of this severe restriction on operating subsidiaries as against independent operating companies.

There are two or three features of title II which may seriously affect our investments. Under section 203, paragraph (a), the Commission is empowered and directed to divide the country into regional districts for the control of the production and transmission of electric energy, including interchange, interconnection of facilities, and the determination of the uses to be made of facilities. It is stated that as far as practicable such control shall be by voluntary coordination (under the supervision of the Commission) of the privately and publicly owned electric facilities in and between the several districts so established.

Paragraph (b) gives the Commission authority to require additions, extensions, or changes in facilities, to establish physical connections with other facilities, "to permit the use of its facilities by one or more other persons or to utilize the facilities of, sell energy to, purchase energy from, transmit energy for, or exchange energy with one or more other persons."

The apparent intent of the act is to give power to the Commission to arrange eventually the various utility companies into regional districts and to limit or extend the territory in which such utility company might operate, and consequently to have a very important bearing upon the investment value of that utility. Here, again, arises the question as to whether, under the specific language of the act, the Commission might not require a privately owned utility to establish physical connections with the facilities of a publicly owned electric utility or to permit the latter to utilize the facilities of the privately owned electric utility, or make any other arrangement in connection with the use of the facilities that the Commission might deem proper. It seems to us that the potentialities of this particular provision are far reaching from the standpoint of possible danger to our investments.

Section 202 of the act makes a common carrier out of a public utility engaged in transmitting energy and charges it with the duty of furnishing or exchanging or transmitting energy for any person upon reasonable request. This language apparently would require a public-utility company engaged in the transmission business to exchange and transmit energy offered to it by a competing production and transmission company, as part of its duty as a common carrier, even to the extent of permitting this competitor to require it to transmit energy in competition with it for sale to a local distribution company.

It would seem entirely reasonable that a public utility engaged as a common carrier in transmitting energy should be required to furnish its own energy to a local distribution company, as obviously the public interest would not sanction any interruption in service because of some disagreement as to contractual relationship, but the proposition that the transmission company must transmit for competitors electrical energy for sale to its own retail distributors seems to us to be somewhat far reaching in its effect and might damage the securities of the operating companies.

There is another angle in connection with the declaration that a transmission company is a common carrier which it is important to consider. If we are correct in our understanding of this language it would seem possible that a governmental enterprise such as the Tennessee Valley Authority might require a transmission carrier to exchange electrical energy with and transmit the energy for it to local distribution companies or to local municipal plants.

We also should like to call attention to one feature of the proposed amendments to the Federal Power Act relating to licenses. Sections 205 and 206 provide, among other things, that in issuing permits for the development of power and in the utilization of natural resources for this purpose the Federal Power Commission must give preference to the applications therefor on behalf of States and municipalities, and, furthermore, that States and municipalities under certain conditions shall enjoy the use of such power without the payment of the license fees assessed against private companies.

This might offer opportunities for serious damage to existing privately owned operating utilities, where such power is to be brought into a district and distributed in competition with privately owned companies. In other words, a State or a municipality is to be given the preference in the utilization of a particular water-power site without the attendant license expense imposed upon private companies, and without any condition that the State or the municipality make satisfactory arrangements with the local privately owned utility already in existence and distributing electrical energy, or requiring the purchase of the local facilities at a fair value rather than to compete directly with an existing property.

This requirement in conjunction with the provision making common carriers out of transmission companies would permit publicly owned properties to compete on an unfair basis and could result in the impairment of the bonds of private utilities.

It is our belief that the provisions of the proposed bill will reduce unduly and unnecessarily the purchasing power of millions of people, will defer activities in the way of extensions and improvements which would be of great assistance in solving the problem of unemployment. Also that it will exert a restraining influence upon the employment of idle capital and prove a distinctly retarding influence upon recovery. We believe that such evils as remain to be corrected should be accomplished in such manner as will give assurance that investments made in good faith with the savings of the people will receive fair and well considered treatment.

The electric light, power, and gas industry represents an investment exceeding $17,000,000,000, employing and supporting directly or indirectly millions of people, contributing almost half a billion dollars in taxes annually, and performs an important part in the economic wealth and life of this Nation. The financial strength of these industries should be preserved and help and encouragement extended to their further development and continued prosperity.

Upon behalf of 14,000,000 depositors, represented by this association in a fiduciary capacity, we respectfully urge that any legislation be in such form as duly to safeguard the interest of the people's savings.

Respectfully submitted.

NATIONAL ASSOCIATION OF MUTUAL SAVINGS BANKS.

Mr. PETTENGILL. Mr. Chairman, the National Association of Mutual Savings Banks has $10,000,000,000 on deposit, with 14,000,000 accounts, averaging about $700 each. They have no capital stock; they do not operate for profit; their depositors are the owners of the institution. So far as I know these mutual savings banks have no connection with the big banks of the Nation. I think it is only fair to the House that before the Members come to a final judgment in this matter that they should at least consider the protest of the National Association of Mutual Savings Banks, which has $700,000,000 invested in the bonds of operating companies. They show, as it seems to me conclusively, that the "death sentence" is not merely against the holding company, but will adversely affect the operating companies and the bonds of the operating companies which the mutual savings banks of the United States, permitted by State law, have invested the deposits of their customers in.

The mutual savings banks have no financial interest in the stocks or other securities of holding companies, but only in the mortgage bonds or preferred stocks of the operating companies.

We believe that present abuses can be terminated and the danger of future abuses prevented without impairing the soundness or the value of securities owned by conservatively capitalized and well-managed operating companies.

I am sure there is no one here who wants to do damage to the operating companies of this Nation.

If the "death sentence" is defeated I shall give my support to the bill as reported by our committee. It calls for strict, even drastic regulation, but not for the destruction of companies lawfully conducted in the public interest.

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. STACK].

Mr. STACK. Mr. Chairman, in 1917 and 1918 this country was at war. We went to war for the principles of democracy. Today we are at war. There is a direct cleavage between the Hamiltonian philosophy of government and the Jeffersonian philosophy of government. The moneyed interests representing the Hamiltonian philosophy of government have declared war against the Jeffersonian, the new deal, or the people's philosophy of government.

Mr. Chairman, in 1917 and 1918 I recognized President Wilson as my Commander in Chief. I went overseas; I plowed through the mud of France, and I suffered the enemy's fire. When my commanding officer, whether he be captain, sergeant, or corporal, asked me to do something, I did not question his leadership. Today Franklin Delano Roosevelt is asking you and me to do something. He is asking you and me to vote for the "death sentence", so-called; that is to say, to entirely eliminate the holding companies by 1940. I am going to vote for it, and if that is treason, bring on the firing squad. [Applause.] The gentleman from Pennsylvania, the Honorable Mr. WILSON, in his remarks the other day, among other things, said that his district—the Second District of Pennsylvania—was no better off than a year ago. I grant that, but is it because of the new deal? No. It is because of the Republican controlled council in Philadelphia, which will not cooperate with the public-works program to allow worth-while projects into Philadelphia; in other words, the Republican Party in Philadelphia does not want to cooperate with the new deal, but to obstruct it.

The lords and masters of the Republican Party in Pennsylvania—that is, the Mellons, the Grundys, and the Atterburys—do not want any part of the new deal in Philadelphia.

Mr. KNUTSON. Mr. Chairman, I make the point of order that the gentleman is not discussing the amendment under consideration. Grundy has nothing to do with this amendment.

The CHAIRMAN. The gentleman from Pennsylvania will proceed in order.

Mr. STACK. Mr. Chairman, Mr. Grundy is one of the biggest holders of utility stocks in the State of Pennsylvania and because of his control of the press of the State,

through his connection with the Manufacturers Association, he is doing everything by way of propaganda to have pressure brought to bear on Members of Congress to vote against the new deal. I for one will not do it. [Applause.]

I was elected in a district in which I promised to serve my constituents to the best of my ability. I ran on the Roosevelt ticket. I was elected with the avowed understanding of supporting Roosevelt, and this I mean to do by voting for the utility bill.

Grundy and all his paid propagandists cannot stop me. I am here to vote for the so-called "death sentence". Next November we are going to vote for mayor in Philadelphia. We are going to elect John B. (Jack) Kelly, Democratic mayor of Philadelphia. He is a new-deal follower of Roosevelt's policies. A Democratic council will be elected along with him and then the different Public Works projects will come into Philadelphia. Then Congressman WILSON's district and my district will partake of the new deal and will benefit from the $4,000,000,000 public-works program.

Right at this particular moment, I am trying to get the present powers that be in Philadelphia to cooperate with me toward having built at Sixty-third and Spruce Streets, a much-needed stadium and playground where the children, 22,000 of high-school age, can enjoy the God-given free air of West Philadelphia in a suitable place to play.

If the powers that be in the present city government of Philadelphia will only say the word, within 30 days laborers and mechanics of all kinds will be enjoying the benefits of the new deal through a weekly pay envelop. [Applause.]

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I was very much interested in the remarks of the last gentleman [Mr. STACK] in which he stated he had received his orders from the White House, and, like a good soldier and a good rubber-stamp Member of Congress, he was going to carry out those orders.

I want to say to the Members of the House on the Democratic side that I happen to represent in Congress the congressional district from which the President comes, and I have received from the people of my district, thousands of letters of protest against the "death sentence" clause aimed at the utility holding companies. Not a single millionaire has written me. These communications come from good, honest, loyal, decent, patriotic American citizens whose earnings are at stake. They are the middle class Americans who are the backbone of this country, men and women who believe in the American system.

I have received from them 2,000 letters and 600 telegrams and all from the President's own district, asking me not to vote for the "death sentence" clause, because it means the death sentence to them and to their earnings. If this be treason, make the most of it; as for me, I propose to uphold and defend their right to petition Congress and to have their views presented on the floor of the House. The President is the last person to denounce them as propagandists, surrounded as he is by hundreds of paid publicity agents, paid out of the Treasury of the United States to spread propaganda over the entire country in behalf of the new-deal measures and State socialism. We are in the midst of a government of propaganda and ballyhoo, yet when free American citizens dare to differ with the divine rights of the autocrat in the White House, it becomes propaganda and treason.

Mr. STACK. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will not yield.

Mr. STACK. You are a rubber stamp to your people back home.

Mr. FISH. Yes; I am glad to represent the sound, honorable, honest views of my constituents for regulation of public utilities, but not for their destruction. As a candidate for reelection to Congress I told my people that if they want a rubber stamp to vote for somebody else, that I do not propose to come down here and obey anybody's orders or to be a rubber stamp for any man, the President or anybody else. [Applause.]

I do not own a single share of utility stock. But these constituents of mine who do are just as good citizens as the President in every way, and are entitled to be heard without being called names. They are American citizens and they have the right to petition Members of Congress and to ask you and me to vote the way they think best. They have used this right, the sacred right of petition, and what are they called? They are called propagandists, witch burners, traitors, pirates, and liars, and opposed to liberal and forward-looking legislation.

I stand here representing that district and the people of my district who have the same right as any others to be heard upon the floor of the House and to petition their Member of Congress not to be crucified by a lot of little "brain trusters", the Cochrans and the Cohens, Socialists at heart who like termites seek to undermine and pull down the public utilities upon the heads of the American investors, upon the American public, to destroy them, and for what purpose? For the purpose of substituting government ownership and State socialism. This is the crux of the vote before the House. The "death sentence" clause crucifies not only millions of American investors but beyond that public and business confidence is being likewise crucified which prolongs the depression, retards recovery, and increases unemployment. I say to every one of you, you who favor Government ownership and State socialism with Senator WHEELER, should vote for the death sentence, and the Members of the House, Democrats and Republicans, who are opposed to Government ownership and to State socialism, should vote against the "death sentence" clause that the President is trying to insert in this bill with the help and advice of a few little "brain trusters" in the Government service who were never elected to any public office. [Applause.]

[Here the gavel fell.]

Mr. McFARLANE. Mr. Chairman, you have just listened to the speech of the gentleman from New York [Mr. FISH], one of the bright hopes of the Power Trust as the next candidate for the Presidency of the United States. No doubt those who believe in that line of thought will vote for him, but the millions of people in this country who are daily being robbed by this Power Trust in excessive rates and who are being charged from two to four times as much as would be a fair rate in this country, are going to vote against that kind of talk. They are going to vote for Franklin D. Roosevelt. [Applause.]

The galleries are full of Power Trust lobbyists.

Mrs. KAHN. Where?

Mr. McFARLANE. I can point them out to you. Some of them are from my own State and I can give you the names of some of them who have been here in opposition to this legislation. Bob Hanger, of Fort Worth, W. A. Vinson, of Houston, W. P. Hamblen, of Houston, W. H. Radcliffe, of Dallas, J. M. Harris, of Snyder, Joe Worsham, of Fort Worth, and J. W. Carpenter, of Dallas, to say nothing of the lesser lights they have brought with them.

This is the same Power Trust lobby that has kept Texas all these years from passing any kind of law to regulate the electric-light and gas rates by a proper regulatory commission. This is the same kind of crowd, Nation-wide, that has done the bidding of the Power Trust that has yearly, according to the undisputed evidence before you—and none of these Power Trust boys will attempt, when they speak to you, to justify it—the Power Trust has annually robbed the American people out of about $1,000,000,000 a year in excessive rates they have charged the consuming public beyond what has been considered a fair rate.

Are you going to sit here and vote with this crowd and vote for this line of thought that has robbed the widows and orphans, both through sale of worthless securities and through excessive rates, during all these years, year after year? They do not want regulation. They want to emasculate this bill in any and every way they can. They have never wanted regulation. They have always fought any and all kinds of regulation, yet they come in here now and do the baby act and through fraud and false propaganda have

all their stock and bond holders write and wire us to defeat this bill on the plea that it will ruin their investment, when this crowd of pirates know these stocks and bonds were not worth 10 percent of their investment on March 4, 1933.

They know that as long as they can lull this Congress to sleep, as long as they can, through their propaganda running into millions of dollars annually; keep this legislation from being enacted that just so long can they continue to extract excessive rates from the consumers, as long as they can keep from having any adequate national regulation, they know, as you know, that no State regulatory commission has the power or the authority to reach this question and regulate their rates. They know, as every Member of Congress knows, that they use these very holding companies that this bill abolishes as the very method of escaping the jurisdiction of the State regulatory commissions when the State commissions try to force them to give the consuming public a fair rate.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. McFARLANE. I yield.

Mr. RANKIN. What they want is to continue to regulate the States and then they want to regulate the Federal Government, and if the gentleman who spoke a moment ago has his way and they can elect a Republican President and turn the Government over to them, they will be satisfied.

Mr. McFARLANE. The gentleman is correct; the Republican Party has always been very satisfactory to the Power Trust. The question is whether a progressive democracy or the progressive thought in this country is going to be dominated by the Power Trust, the reactionary interests that have always controlled Congress throughout the years, and this control has been more complete through the years until now these moneyed interests practically control the political and economic thought of the Nation.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. McFARLANE. I cannot yield.

I have served my State for 8 years in the House and Senate of Texas before coming to Congress, and I have viewed with alarm their continued expanding and far-reaching power. I have seen, year after year, in that body, the rights of the common people go down, just because such gentlemen as these Power Trust lobbyists here are controlling that body, and it is well known today that we cannot have any kind of adequate electric light and gas regulatory commission in Texas and, of course, we are being charged about $25,000,000 a year in excessive rates in Texas beyond what would be considered a fair rate based on information disclosed by the Federal Trade Commission. The gentleman from Mississippi, on June 6, placed in the RECORD the excessive rates each State in the Union is paying, which shows the people of the Nation are paying about $1,000,000,000 per pear beyond what is considered a fair price for this service. [Applause.]

[Here the gavel fell.]

Mr. SISSON. Mr. Chairman and ladies and gentlemen of the Committee, I am speaking here today in the interest, if you please, of the investors in utility companies, I am speaking for the widows and orphans, and for those in the twilight of their lives, and I am speaking for millions of consumers of electricity and gas in this country.

I have noticed that every man who has got up here to make a defense of the holding companies, whether feeble or otherwise, started off by saying that he did not own a dollar of utility stock. I will say frankly that I do own a little. There is no virtue in not owning it or in owning it. [Laughter and applause.]

I speak after an experience of many years in dealing with the Power Trust, and I hope my words will reach my Democratic colleagues, both in New York and other States, I want to state to you that do not you be fooled—if you want to be an ex-Democrat, if you want to be an ex-office holder—you line up here today with the Power Trust and the Republican Party.

At the last election I had the opposition of the Niagara-Hudson Power Trust. I never had them with me, as you may well understand. There were three Democratic senators of the Legislature of the State of New York who deserted Governor Lehman last year in his fight against the Power Trust, and to secure proper utility regulation. One of those three Democratic senators who ran out on Governor Lehman had the support of the Power Trust for reelection last fall. He lost the same county by 1,500 votes that I carried by 1,500 votes. The Democratic member of assembly from my county, who supported Governor Lehman in that fight, had the Power Trust against him, and he was elected by 3,000 votes.

I have never seen a man who had the stamp of the Power Trust on him as a candidate, where the people knew it, who did not go down to the defeat he deserved, and I have never known a man who was a candidate who had the Power Trust against him, and it was known by the people, but that he received the majority votes of the American people. [Applause.]

In 1929 there were $29,000,000,000 in securities of the holding companies invested in by the American people, and today it is valued at $3,000,000,000.

I want to say that the people who are holding these securities are not going to be affected by this bill. They have already lost all they can lose. The holders of the stock of the operating companies are going to be benefited by releasing those companies from the grip of the holding companies.

Mr. MARCANTONIO. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Yes.

Mr. MARCANTONIO. The gentleman is familiar with what happened the other day with the employees of the Associated Gas. They were cut 10 percent, and with that 10 percent they were forced to purchase a share of the parent company.

Mr. SISSON. Yes; I thank the gentleman for his contribution. Here is another instance of the benevolence of these holding companies.

The Niagara Hudson Power Corporation, as I have already said, controls and operates in my congressional district and generally throughout the up-State of New York. It controls, through a small stock ownership, many of the operating companies in the up-State. The city of Watertown, N. Y., has for a great many years owned a splendid hydro-electric power plant. They are able to generate electric power at an unusually low rate. Under the New York State law, until recently, they could not, however, even furnish the domestic consumers of electricity current to light their houses and cook their meals and perform the many other services which electric power can be used to perform with such benefit to the housewife and the family pocketbook where power is as cheap as it ought to be. They could not sell their surplus power to private power users in the city of Watertown. They could only use that power to light the public streets and to light the public buildings of the city of Watertown. I know something about the power business. I have been through it from cellar to attic. I know what power can be generated for where there is a fairly good power load, either by steam or by hydro, and power can be generated in a great majority of the places in New York State and elsewhere for around about half a cent a kilowatt hour if the consumption and the power load is sufficiently constant and is great enough. The city of Watertown, however, in the hydro plant, could generate power even cheaper than that. Why were they not able to furnish juice to the houses and to private power users? Because this benevolent holding company, the Niagara Hudson Power Corporation, has a subsidiary company up there which had a franchise, and they did not want to be subjected to the yardstick of the public competition, so they kept their dead hand on the municipally owned plant so that it was never able, during all of those years, to get consent to distribute juice to the people of the city of Watertown and to sell its surplus power to private power users.

What did it do, my friends, with its surplus power? Bear in mind, they were operating the plant without cost to the

city. They had even piled up a surplus to enable them to help pay the taxes; but their surplus power they had to sell to the Power Trust, the Niagara Hudson Power Corporation, which paid them from 2 mills to 4 mills a kilowatt-hour, depending upon the time of day, and so forth. And how much do you suppose this benevolent holding company, the Niagara Hudson Power Corporation—this company which at the peak marketed its own securities for around 29 and sold millions of dollars of them to the public, and whose stock today is worth 6, and has been below that even before the Roosevelt administration ever came in—sold this power for? Why, the Niagara Hudson Power Corporation sold this same "juice" which it purchased from the hydro plant for from 2 to 4 mills a kilowatt-hour to the people of the city of Watertown for 9 cents a kilowatt-hour.

Now, the holders of the stock of the Niagara Hudson Power Corporation are not affected by this bill—either the House bill or the Senate bill or the bill either with or without the elimination or so-called "death penalty" provision clause. Its business is purely intrastate. But what we are hoping is that when we get the holding companies in a position where they can be properly regulated, as they can be by only sections 11 and 13 of the Senate bill in this legislation, that we may then look to the States for proper regulation of the operating companies. Of course, the people who purchased the securities of the Niagara Hudson Power Corporation have lost, if they purchased them at anywhere near the peak at which they were sold, because they were sold at an inflated value and for more than they represented of the value of the physical properties of the underlying operating companies. And if the people want to know where they lost their money and who got it, let them go to the head of the Niagara Hudson Power Corporation and ask him where it went.

The measure of the value of the stock of a public utility is by the fair value of the used and useful property of that utility. That is the way that rates to be charged to the consumer are measured and regulated under the laws of the States, and that is the way that the value of the securities should be determined.

A great many people come in here and complain because they already lost on utility stock that they have purchased, and when we inquire why they have already lost, it is because of a lack of effective, proper regulation by any of the Governments, either State or Federal, as to the issuance of the securities by these holding companies. The holding companies come in with a plea of avoidance and say, in effect, that there was no one to stop them from issuing their securities. There was no one to stop them from loading their worthless securities upon the public and robbing the public. Why? It is because, in many instances, they have gone beyond State lines, and the States were helpless and impotent to regulate them, either as to the issuance of securities or otherwise. That is what this bill is designed to cure. It is designed to relieve the operating companies from the burden of the racket and it is designed to protect the public against again being looted by the holding companies of this country by the sale of securities of inflated value.

Others may do what they choose, but as for me, I am in this fight to stay unless the power company is able to retire me from public life, and I am going down the line with the President of the United States and with the others who are fighting to keep this Government free from the control of the Power Trust.

The CHAIRMAN. The time of the gentleman from New York has expired.

THE FORGOTTEN MAN IS SENTENCED WITHOUT TRIAL

Mr. FENERTY. Mr. Chairman, during the long hours of this debate, it has become increasingly apparent that the fundamental danger underlying the enactment of this proposed legislation is the thinly disguised purpose and intent of the administration to dominate and regulate the business of the Nation regardless of the loss that must inevitably ensue to the small depositor and overburdened taxpayer. The flaming zeal with which the advocates of the "death sentence" for utility companies insist upon destroying the life savings of poor people has about it the alarming aspect of an obsession. It is governmental domination in its complete intoxication; it is unblushing dictatorship, government gone mad.

I venture to say, Mr. Chairman, that if the Democratic Members of this House were not goaded by Presidential decree, there would be scarcely a single man on the majority side who would dare to vote for the wanton destruction of the meager savings of the people of the Nation. It is no secret that the President possesses a consuming hatred for these ocmpanies in which are concerned so many millions of poor people. To make certain that his animosity may take full effect he asks us to destroy without mercy the investments which these thrifty, hard-working people have made over a period of years, as their safeguard against the rainy day of old age and physical disability. These forgotten people are not only to remain forgotten; they are to be robbed of the little they possess in order to vindicate one man's opinion. This is not republican government, Mr. Chairman. It is tyranny in its worst form; it is the entire deprivation of the right to the pursuit of happiness and the maintenance of liberty and life guaranteed to us by the Declaration of Independence and upheld by our Constitution.

WHITE HOUSE ORDERS

Who is there here, Mr. Chairman, who, without orders from the President, would demand the so-called "death sentence" for American industry? Is there anyone here who, in his own unfettered conscience, desires the enactment of such legislation? Who is it who instigates such a deadly thrust at recovery? The death sentence is favored only by the President and a motley assortment of industry baiters in and out of Congress.

And who are those who oppose any such destructive measure? They are the business organizations to which your constituents look for economic recovery, the savings banks and mutual savings associations in which 14,000,000 of your fellow citizens have deposited the little they have been able to save; they are the insurance companies in which your constituents invest that they may be protected from loss by fire or hazard or death; they are virtually all the reliable businesses in the country; they are the chambers of commerce; they are the fraternal organizations which have invested their members' payments in the companies whose destruction is now advocated; they are the religious societies, like the Catholic Church Extension Society of the United States, the Baptists, the Methodists, and others, who will lose the investments by which religion and education are supported in numerous mission fields. Likewise, opposed to destruction of the companies are State public-service commissioners and a majority of the editors of the American press.

It has been suggested many times that the reason for the President's determination that these groups must be ignored and their investments ruthlessly wiped out is a personal and a family one. It is well known, as the news reports have disclosed, that the President overruled his more sagacious legislative counselors in demanding that we Members of the House adopt the Wheeler-Rayburn bill in the annihilatory form approved by the Senate. Suggestions that the measure's death sentence be commuted to drastic regulation were peremptorily and sternly repulsed. Totally unmoved by the millions of pleas from Americans who thus see their little savings destroyed, the White House has actually demanded of us that we enact the most outrageously confiscatory bill ever forced through Senate or House, a bill that violates every known principle of moral and economic law and with one gesture, without compensation, destroys rights and property, preparing the path for Government ownership and radical socialism.

ADMINISTRATION PROPAGANDA

While condemning the little investor's protests as propaganda, the administration has unbarred the floodgates of its own propaganda to a mighty stream that, if unchecked here, will sweep away the savings of the people. Never before in history have the people of this country been subjected to such a deluge of propaganda as that which pours out of Washington daily. And nowhere is this more in evidence

than in the campaign of the Government to discredit the utility industry in order that it may smooth the ways for its pending legislation. The Federal Trade Commission, for example, has issued no less than 16 news releases on its hearings of some 2 years ago in the operation of the utilities, most of them carefully timed so that they will do the most good. On another front, down in the Tennessee Valley, the T. V. A. has flooded the countryside with elaborate and extravagant rotogravure releases rivaling in their pretentiousness the inspired releases of the Soviet Government. Backing up this campaign some 3,600 news releases have come out of Washington plugging the T. V. A. When an administration depends, itself, in an overwhelming measure, for its popularity on a colossal system of high-powered propaganda it might at least have the grace and judgment to overlook such tactics on the part of others.

THE PRESIDENT BEFORE HIS ELECTION

It is difficult to understand the motives behind the President's hostility to business. Certainly his attitude was not such before he attained to high office. I hold in my hand this prospectus of the Consolidated Automatic Merchandising Corporation, issued in 1928. At that time the President had no apparent idea of becoming President. This prospectus reveals the corporation to be incorporated under the laws of Delaware on May 29, 1928, under the auspices of the United Cigar Stores Co. of America and prominent parties interested in the Sanitary Postage Service Corporation, with a view to merging several large companies. In the consolidation of these companies are included the General Vending Corporation which, through its subsidiary company, holds, according to the prospectus, the exclusive contract with the Wm. Wrigley, Jr., Co., the chewing-gum concern, and also an exclusive contract for the automatic vending of the Life Saver products. Another of the companies mentioned in the merger is the Automatic Merchandising Corporation of America; a third is the Sanitary Postage Service Corporation, producers of a machine which sells stamps in various combinations and in book form, a machine which, the prospectus adds, does the work of a clerk at the cost of a dollar a day, thus "releasing human labor for more constructive purposes."

A fourth company is the Schermach Corporation of America, pioneer in the automatic postage field, and a fifth is the Remington Service Machines, Inc., a subsidiary of Remington Arms Co. The Remington Arms Co., according to this statement, is to serve as the principal manufacturing end of the consolidated company and has an important financial interest.

Why do I mention all this? Simply, Mr. Chairman, to point out that on the front page of this prospectus is a list of officers and directors which will interest and surprise you. Listen to this:

Albert C. Allen, New York, executive vice president and director United Cigar Stores Co. of America.

Robert E. Allen, New York, vice president Central Union Trust Co. of New York, director General Vending Corporation.

Albert M. Chambers, New York, F. J. Lisman & Co.

A. Granat, New York, vice president United Cigar Stores Co. of America.

F. J. Lisman, New York, F. J. Lisman & Co.; chairman General Vending Corporation.

Saunders Norvell, New York, president Remington Arms Co.

Stanley Nowak, New York, director General Vending Corporation.

Franklin D. Roosevelt, New York, vice president Fidelity & Deposit Co. of Maryland.

A. J. Sack, New York, chairman Automatic Merchandising Corporation of America.

Joseph J. Schermack, New York, president Schermack Corporation of America.

Nathan A. Smyth, New York, vice president and general counsel Smyth, Wise & O'Connell, attorneys.

Robert P. Sniffen, New York, formerly director Sears, Roebuck & Co.

And here are the voting trustees:

Robert E. Allen, New York, vice president Central Union Trust Co. of New York.

A. E. Bates, New York, vice president Equitable Trust Co., New York.

John Gaston, New York, Hirsch, Lilienthal & Co.

A. Granat, New York, vice president United Cigar Stores Co. of America.

F. J. Lisman, New York, F. J. Lisman & Co.

A. J. Sack, New York, chairman Consolidated Automatic Merchandising Corporation.

E. S. Steinam, banker, 52 William Street, New York.

So far as I know, all of these are reliable concerns and upright men. But is the eighth officer and director on this list the same Franklin D. Roosevelt who, in 1932, became President of the United States and inaugurated the war upon business? If so, does this explain his attitude in sponsoring legislation that sets aside the antitrust laws? Or his securities measure? Or his present stand toward industry? Perhaps some of you over there can tell the people the anwser to that.

I am not here to defend utility holding companies. They are a fact, not a theory. I never owned a share in any of them. As an attorney, I never represented one. But they represent the savings of millions of Americans. If there have been abuses, there should be correction, but correction does not demand annihilation.

PROHIBITION COMES BACK

Let us not again confuse use with abuse and prohibition with regulation. The Indian council which tried and convicted a bad tomahawk because it killed a good man was no more illogical than an administration which condemns a good industry without trial simply because some bad men have gone into it. It is at least foolhardy to administer a dose of potassium cyanide as a cure for indigestion.

THE POOR INVESTORS MUST PAY

My own city of Philadelphia has long had a soundly managed holding company called the "U. G. I." I have no interest in it in any way and never had. Now, what is the tyrannical power behind holding companies, which the President denounces, as applied to the U. G. I.? Is it the 100,000 citizens who, as stockholders, own the company? Is it the almost 40,000 women who are its shareholders? Is it the insurance companies which own nearly 185,000 shares of its common stock, or the educational, charitable, fraternal, and religious organizations which own thousands of shares? The holding companies, as well as the operating companies, are owned by the plain people. It is for these little investors that I speak—for the clerk and stenographer, the laborer and telegraph operator, the school teacher, the clergyman, the doctor—the poor people who have nothing else and who, if the Presidential edict be enforced, will find themselves robbed of even the tiny accumulation they had laboriously set aside through the long years.

PRESIDENT'S ADVISERS OPPOSE HIM

Some time ago, Mr. Chairman, at the President's suggestion, the Department of Commerce formed a Business Advisory Council composed of some 50 leading business men throughout the country. These men were to advise the Department of Commerce especially on legislative matters affecting American industry. They were asked to consider the public-utilities bill and to make a report. That report was for some time kept from publication at the request of the President and was finally introduced into the CONGRESSIONAL RECORD only on June 6. It was opposed to the public-utilities bill. The Council stated that the holding company was one of two principal causes in reducing the cost of electricity to the public. It said that the holding company, by owning properties in different territories, made possible a diversity of financial risk which "is one of the strongest points in favor of the holding company, making for the stability of its securities and consequently contributing to the

reduction of rates to consumers." Despite this report from the President's own economic advisers, the Democratic sponsors of this bill forced its passage through the Senate with provisions which would dissolve the utility holding company.

HIGHER PRICES IF DEATH SENTENCE PASSES

Passage of such a bill, Mr. Chairman, will very seriously affect the service which the people are receiving for lighting the house, running the radio, the refrigerator, the electric iron, the toaster, the washing machine. It will make that service less efficient and higher priced. Moreover, it will reverse the dial of progress and hurl back the great utility industry by a quarter of a century. Of all the industries, the public utilities today are probably the most important from the standpoint of recovery. Their program for expansion, which has been curtailed by the Government's attacks upon them, would require the employment of a large number of men and the purchase of huge quantities of materials. In halting this activity, this bill places another staggering burden upon the stooping shoulders of American business and, therefore, upon the taxpayer.

But, Mr. Chairman and my colleagues, there is another factor in this situation which will contribute to the impoverishment of the American people. I have alluded to the fact that there are millions of individuals—mostly men and women of small means—who have invested their savings in public-utility securities. For the most part, these people have an investment of only a few hundred dollars, a few shares; but this investment, especially in these evil days, is of vital importance to their welfare and to their desire to be independent of charity or relief.

ADMINISTRATION PURPOSELY DEPRESSED SECURITIES

The sponsors of this bill have issued many statements designed to allay the well-founded public alarm in regard to the safety of this investment. They have indicated, for example, that from the peak of 1929 the value of utility securities has very materially declined. That is true. But it is equally true of the securities in every other industry. The period from 1920 to 1929 was, as all now realize, a period of wild inflation when securities soared to fantastic heights. In the existing depression the prices of all securities are at a considerably lower level.

But there is an additional fact which the sponsors of this bill have sedulously refrained from mentioning. From the high point of September 1929 to the low point of July 1932 the price of the common stock of industrial companies and that of utility holding and operating companies declined in almost exactly the same degree. After July 1932 these two groups rose and fell in substantial unison until the spring of 1933. With the inauguration of President Roosevelt there began the major political attacks against the utilities and the value of utility securities precipitously declined, so that within the period of 2 years from March 1933, while industrial stocks increased more than 100 percent in value, the decline in the value of utility stocks amounted to about $3,000,000,000.

Is it not clear beyond a shadow of a doubt, Mr. Chairman, that there was some special factor depressing the value of utility securities while the value of other securities was moving upward? That special factor was the Government's assault upon the public utilities, finally resulting in the introduction into Congress of this bill, now passed by the Senate and awaiting consideration here today.

THE LITTLE FELLOW MUST SUFFER

The people who have suffered from this attack are the millions of small investors scattered throughout the country. In his testimony before the Senate Interstate Commerce Committee, the economist, Dr. David Friday, stated:

> That loss to the millions of innocent holders of utility stocks is staggering, and its effect in holding back the pace of general recovery has undoubtedly been very great. You cannot strike down the market value of securities of the second largest industry in the United States without seriously retarding the process of recovery. And if these attacks are continued and intensified by the enactment of the pending bill, which will throw the entire utility industry into a chaos of liquidation and receiverships, the loss to the holders of utility stocks will be practically complete and the process of recovery will be set back for many years.

In order to prevent the people from realizing what this bill will do to utility securities its proponents have thrown up a smoke screen of complicated devices whereby they aver that the dissolution of the utility holding company can be accomplished with only a minimum of loss to the investor. But, Mr. Chairman, there is no method whereby you can dissolve a holding company without largely destroying the value of its securities. There are 5,000,000 people who own these securities. Another 5,000,000 own the securities of operating utilities. The proponents of the bill have pretended that at least the owners of securities in operating companies will not be injuriously affected by this bill. In this they are in disagreement with those who are most concerned with the safety of investments, insurance companies and the mutual savings banks. There are, as I stated, 14,000,000 depositors in the 560 mutual savings banks of the Nation, and these banks hold $700,000,000 of utility bonds. The representatives of these banks stated before the House and Senate committees:

> Enactment of the proposed bill will injuriously affect the 560 mutual savings banks throughout the country and thus impair the investments of nearly 14,000,000 depositors.
>
> To decree the early demise of the owners of the companies which are our immediate debtors could not fail to injure or perhaps destroy the credit of scores of operating companies. It would convert a field of active enterprise into a moribund industry; it would injure savings depositors and other investors and limit the chances this business has to assist in relieving unemployment.

Similarly, the representative of some 23 insurance companies stated:

> From the standpoint of effective management, diversification in territorial risk, and economy in financing the holding company properly used for these purposes should not, in our opinion, be discontinued. Holding company control and management in which the investor has confidence may well be an added factor, in our opinion, in the rating of a sub-company security.
>
> We are directly concerned about this bill for the following reasons:
>
> First, it will result in drying up one of the most important and satisfactory outlets for further investment of institutional trust funds.
>
> Second, it will cause a serious shrinkage in market value of substantially all public-utility securities in greater or lesser degree.

In the difficult days that are before us, if this bill pass with a "death sentence" included, those who hold insurance policies, those who have savings accounts, those who have a few shares of utility securities, will rightly call to judgment the sponsors of this bill, to answer for the destruction which it will cause to the people's economic welfare.

The abuses that have occurred in certain utility holding companies upon occasion in the past have largely had to do with the flotation of unsound securities issues on the part of a few companies. To prevent that in the utility industry and, indeed, in all industry, the Congress of the United States passed the Securities Act of 1933 and the Securities and Exchange Act of 1934 whereby the issuance of and dealing in securities are regulated. If there are other abuses they should be regulated as well.

But destruction is not honest regulation. I am opposed to the principle of destruction in this bill. I think that the position of all of us—of the great majority of the people in this country—is well stated in the report by the Business Advisory Council for the Department of Commerce opposing this bill, to which I referred a few moments ago. This report set forth 15 regulatory principles for the holding companies which—and I quote from the words of the report itself:

> Will insure the abolition of the abuses that have been identified with them without destroying their enormous capacity for service, without destroying or impairing the value of their securities, now so widely held by institutions serving the public and by individual investors throughout the country.

UN-AMERICAN AND INDEFENSIBLE

Entirely apart from the unexplored fields into which investors may be led, if this bill be passed and later held to be unconstitutional as to the exercise of the power of Congress, under the commerce and due process clauses as interpreted in decisions of the Supreme Court, old and recent, and as to the fundamental question as to whether or not Congress has power to require the disintegration of these companies, the

administration's uncontrolled wrath against the utility companies is driving it upon a course which, devoid of the principles of justice and Americanism, is a threat to all industry, to all business, to all investors. It is un-American and indefensible from any aspect of common ethics and governmental integrity.

The inevitable result of the administration's desire for power to destroy one industry by arbitrary action is the extension on the same illogical grounds of that destroying power to any or all industries. Is it any wonder, Mr. Chairman, that millions of Americans find their courage shaken by the thought of the devastation which this death sentence will bring upon them and upon an enormous industry with almost $12,000,000,000 of investors' money at stake? For, garbed in the pious disguise of regulation, the pending "death measure" proposes not only to exterminate all holding companies, whether of utilities or not, but to fasten iron-clad Government dictation upon all operating utility companies down to every last crossroad where the "commerce" clause can be stretched to extend.

ARE ALL POLITICIANS HONEST?

Such a theory assumes that men elected to office who have never built or managed a business are better able to do so than the man who organized and promoted it. It follows the common fallacy of the "mis-dealers" that business must be taken away from business men and put into the hands of politicians who, of course, will manage and regulate it with infallible honesty and unerring wisdom. It assumes that all politicians are honest, sincere, efficient, and above reproach.

What we need today, Mr. Chairman, both in our consideration of this bill and in all our deliberations in this House is a return to the old idea of better business in government and less government in business. The founders of this Republic were keen students of human nature in its relation to property and realized that the man who, to uphold his opinion, is careless of property rights will be equally careless of other rights if expediency seems to him to demand it. Did you ever hear of an incendiary ready to apply a torch to a building who took the trouble to ascertain whether there was a human being in the structure whose life might be destroyed by his act? The fathers of the Nation knew that to make the citizen safe, his property rights must be made secure. Under this doctrine, our country built up the most remarkable industrial institutions the world had ever known and, while there were errors and there were evils, I think I can unqualifiedly assert that the worst day for labor in America was incomparably better and brighter than the best day for labor in any other land.

LINCOLN VERSUS ROOSEVELT

Not without reason did Abraham Lincoln state the true American attitude toward individual property rights when he said:

> Property is the fruit of labor. Property is desirable; it is a positive good in the world. That some should be rich shows that others may become rich and hence it is a just encouragement to enterprise. Let not him that is houseless pull down the house of another, but let him work diligently and build one for himself; thus, by example, assuring that his own shall be safe from violence when built.

KEEP AMERICA AMERICAN

Mr. Chairman, let us not bid defiance to the lessons of the past or to the promptings of present justice and reason. If, by a timid obeisance to the theories of the totalitarian state, new in America, though discarded by the ages, we destroy individual rights and make the citizen and his affairs the creature of the paternalistic government; if we follow the dark road that other nations and peoples have trodden to dictatorship and oppression and ruin, then the only lamp that today guides the groping footsteps of humanity, the light of American constitutional liberty shall be extinguished forever from the eyes of man. Civilization, as Edmund Burke has said, is a contract between the great dead, the living, and the unborn. Deep calleth unto deep. Let us not consign ourselves to the obloquy that must inevitably be ours if we fail to preserve untarnished the political heritage we have received from our patriotic ancestors and which our posterity has a right to receive unimpaired from us. Property rights are also human rights and are considered sacred by all just men. Let us not violate them in the interest of party expediency or to sustain a spirit of personal vindictiveness. In these dark days, let us not be destroyers and obstructionists; but, "with malice toward none and charity for all", let us stoop down and bind up the wounds of industry, of the individual, of the Nation, and thus assist America to become truly American once again. [Applause.]

Mr. UTTERBACK. Mr. Chairman, I rise in support of the amendment to substitute section 11 of the Senate bill. I want to make my position a matter of record.

In my State, the State of Iowa, we have 82 municipally owned electric light plants, all serving the people of their respective communities in a satisfactory manner.

We have 50 privately owned, independent electric light plants. These municipal plants and these independent private companies furnish approximately 35 percent of the electric light and power produced and used in Iowa.

The balance of electric light and power produced and used in Iowa, approximately 65 percent, is furnished by 26 operating companies that are in turn owned or controlled by 32 intermediate holding companies and 9 top holding companies.

Clearly, the operating companies are supported by the consumers of electricity, to wit, the public, that has no other place it can buy electric light, power, and gas.

Obviously, the public is not only supporting the operating companies, but must also be supporting the series of overhead holding companies. Otherwise, these holding companies would not exist.

In my home city, Des Moines, Iowa, our electric service is furnished by the Des Moines Electric Light Co., which is serviced by the Iowa Power & Light Co., which in turn is controlled by the Mills County Power Co., which is a holding company.

The Des Moines Electric Light Co. is controlled and owned by the Illinois Power & Light Co., which in turn is controlled and owned by the Illinois Traction Co., which in turn is controlled and owned by the North American Light & Power Co., which in turn is controlled and owned by the North American Co., so that there are three intermediate holding companies and one top holding company or, all told, four holding companies superimposed upon this one operating company.

The same situation exists as to the utility furnishing gas to Des Moines, Iowa, to wit, the Des Moines Gas Co., except as to the names of some of the corporate structures involved.

I assert and maintain that this is a tremendous and indefensible burden to be placed upon and carried by this operating company and other operating companies similarly situated and burdened.

All the common stock of the Des Moines Electric Light Co. is owned by the Illinois Power & Light Co., and is pledged under that company's first- and refunding-mortgage bonds, likewise is all of the common stock of the Illinois Traction Co. owned and pledged by the Illinois Power & Light Co., and so on, up to the top holding corporation, the North American Co.

This represents directly and indirectly four controlling interests, ownership and possible management of and over one operating company, with, however, the common stock, the voting power of the latter pledged as collateral under security to mortgage bonds and intermediate holding companies.

These various holding companies have bonds, debentures, notes, preferred and common stocks outstanding, on which interest and dividends have to be paid.

From whence must come the money to meet these payments? Why, of course, from the operating company, the very foundation and creator of wealth for the holding companies.

This money is derived mostly from so-called "service charges" which are levied on the operating subsidiary of the holding company by the holding company and from dividends on the common stock of the subsidiary. So it is not surprising to learn, for example, in the case of the

Des Moines Electric Light Co., which, in effect, is a subsidiary of four holding companies, that for the past few years it has been paying yearly dividends of 15½ percent on its stated value of no par, common stock.

In addition to the North American Co. seven other top holding companies are operating in Iowa. Through ownership of common stock they either own or control the cream of the public-utility business in Iowa.

These companies are the (1) American Electric Power Corporation; (2) American Power & Light Co., which is a subsidiary of Electric Bond & Share Corporation; (3) Standard Power & Light Corporation; (4) United Light & Power Co.; (5) Utilities Power & Light Corporation; (6) Iowa Southern Utilities Co.; (7) I. B. Smith Properties.

In Iowa we have all the evils of holding-company domination in the electric light and power and gas industries. None have been omitted.

These holding companies have acquired the common stock, the voting power, of our Iowa operating companies, only in turn to pledge and use this common stock as collateral or security for issues of bonds, notes, or debentures which have been sold to the general public to raise additional money to buy the common stocks of other operating companies. Through this method, and on this basis, with the public furnishing the money, these holding companies, intermediate and top ones, have pursued their activities until they have become so strongly entrenched, so large and so powerful that they resent, oppose, and fight reasonable reorganization and regulation.

We need the protection in Iowa that this bill, with Senate sections 11 and 13 substituted for the House sections, will give the consuming public and investors.

Propaganda campaigns have been carried on in Iowa in an attempt to influence Iowa Congressmen against this bill. These campaigns have been carried on not only by the intermediate and top holding companies that own and control Iowa operating companies, but by all the other powerful holding companies who have stock or bond holders in Iowa.

Apparently nothing has been left undone that could possibly have been done. By creating fear, uncertainty, and dismay in the hearts and minds of their investors and stockholders these companies have influenced and impelled investors to protest to Members of Congress against this bill.

These companies, through their propaganda campaigns, have unwittingly paid a real compliment to the Membership of this Congress. They have thereby admitted that they do not and cannot control our Membership. They have had to beg and urge their employees and the stock and bond holders of companies, which in many cases they have exploited, to write letters or send telegrams to each Member of this Congress in an attempt to prevent the passage of this bill. Never in recent years prior to this administration was it apparently necessary for these powerful public-utility companies to do that.

I sincerely hope that no Member will permit this propaganda to influence his honest judgment or deter him from voting the way he believes to be right, having in mind the general welfare of all our people. If the Members of this House do that, I believe they will vote for the substitution of Senate sections 11 and 13 in this bill. [Applause.]

Mr. FISH. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FISH. Mr. Chairman, I introduced last week a bill authorizing the expenditure of $500,000 for the acquisition of a site, erection of buildings, and the furnishing thereof for the use of the diplomatic and consular establishments of the United States at Warsaw, Poland. The bill is known as "H. R. 8696."

During the Revolutionary War two great Polish patriots rendered distinguished service under Washington. One, Casimir Pulaski, gave his life in the Battle of Savannah, and the other, Thaddeus Kosciusko, a Polish engineer, helped lay out the fortification at West Point.

These Polish patriots who aided in establishing the independence of the United States have created a bond of sympathy and friendship between the American people and the Polish people that has lasted for 160 years. The American delegates to the peace conference supported the claims of Poland to become a free and independent nation.

Poland, with 33,000,000 people, stands fifth in population among the European nations. It not only has a greater population but is larger in size than most countries where diplomatic and consular buildings have been erected by our Government.

Why appropriate $1,200,000 to erect an embassy at Moscow, in Soviet Russia, and ignore Poland, a friendly nation with a republican form of government?

General Pilsudski, who died recently, was one of the most courageous, ablest, and best-loved leaders in any nation in modern times. It was Field Marshal Pilsudski who saved Poland and eastern Europe from the onrush of the Bolshevik armies in 1920. Many Americans of Polish origin served under him in both the World War and against the Communists. There are several million honest, industrious, patriotic American citizens of Polish descent who are in favor of cementing the bonds of friendship between the two republics, and who will support this proposal unanimously.

The building of proper diplomatic and consular buildings at Warsaw amounts to an act of friendship and accords to Poland the same recognition, dignity, and diplomatic service already provided other nations of equal size and importance.

Mr. MAPES. Mr. Chairman, at a time like this, when the atmosphere is surcharged with charges and countercharges, it is difficult to consider legislation temperately, but it is important that the House at such a time be careful not to allow itself to be driven through prejudice or otherwise into an impossible position. I think the agitation for this legislation in itself will have a very beneficial effect, whether any bill is finally enacted into law or not. I agree fully with the statement of our very able friend the gentleman from Indiana [Mr. PETTENGILL] in the report filed by him on this bill when he says that holding companies as they have been known are "on their way out", regardless of whether the Senate bill or the committee substitute bill is passed. But there is no reason why Congress should take an utterly indefensible and impossible position on the question.

What is the difference between section 11 of the Senate bill, which the gentleman from Iowa has moved to substitute, and section 11 of the House bill? It has been said that the Senate bill does not eliminate holding companies. Technically and in a very narrow sense, that statement may be correct, but at best it is correct in a very limited sense only. Section 11 of the Senate bill provides that promptly after January 1, 1940, it shall be the duty of the Commission, in the language of the bill—

> To require every registered holding company to take such steps as the Commission finds necessary or appropriate to make such company cease to be a holding company.

Up to that point there is absolutely no limitation upon the requirements that holding companies must cease to be holding companies, but there is a proviso that if the Commission finds it is necessary under applicable State laws in order to allow integrated systems to operate, then the holding company in the first degree may be allowed. What does that mean?

First, it means that holding companies must get rid of all of their nonutility properties or holdings. Second, it means that holding companies as we know them, that operate integrated systems in different States, must get rid of all separately integrated systems, and for all practical purposes it means that all holding companies as they are now known must be eliminated.

What does the House bill provide? It provides in substance that existing holding companies may continue as they are, whether they own public-utility properties or other properties, unless the Commission finds, according to the purposes of the act, that it is necessary in the public interest for those holding companies to divest themselves of some

of their properties, or all of them, for that matter, and that all future acquisition of utility or nonutility properties must be approved by the Commission.

How in reason can anybody contend that the Congress of the United States should go any further than that? As for myself, I should be glad to eliminate all of section 11, both from the committee substitute and the Senate bill. Then we would have an almost perfect regulatory bill. I do not believe that holding companies are bigger than the Government. I do not believe we should destroy legitimate investment. I think that a good regulatory bill, as this legislation would be without section 11 of either bill, would answer the purpose, but I shall vote for the committee substitute bill on final passage, with section 11 in it, as reported by the committee, in order to get a regulatory bill, but I shall vote against the bill if section 11 of the Senate bill is written into it.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. MAPES] has expired.

The Chair recognizes the gentleman from Indiana [Mr. GRAY].

Mr. GRAY of Indiana. Mr. Chairman, I want to take myself out of the shadow of this unrecorded vote. I want my position on this issue to stand out as clear as the noonday sun.

I do not want my stand on this question to be left to surmise and conjecture, subject to doubt or question in the future. And it is my purpose to state my position so plain, clear, and unequivocal that nothing will remain for intendment.

I realize that each Member of Congress must solve this problem and take his position on this issue, each from his own viewpoint, his viewpoint of natural rights, his viewpoint of the object and purpose of corporations and the service for which created to perform, together with the proper province of government and its relation to our industrial system.

I believe that the world was created for all people and not for a certain special few. I believe that every child born into the world inherits a part and portion of it—enough upon which to live, move, and have being, and which it takes by a natural and higher superior title over man-made laws and rules, with the right to labor upon the earth to live and the rights to enjoy the fruits of that labor.

I believe that the natural resources, the forces and powers of nature, the rivers, streams, and falling waters to furnish, provide, and carry light, heat, power, and water are a part of this inheritance and have become as vital and necessary today as the air we breathe in our everyday life, and which the people are entitled to take, use, and enjoy, free without restrictions, without burden for profits and at the lowest cost of production. And I believe that the proper province of government is to guarantee, safeguard, and defend this inheritance, title, and birthright for every man, woman, and child in such equitable share and portion as may be necessary for their interests and welfare.

The great natural resources of the world, the power and forces of the elements to produce light, heat, and power and the vital necessaries required to live have been and are being usurped and seized upon to hold for ransom and tribute, to take and exact from the people.

And now the power and forces of the resistless tides of the sea, following in the course of the moon and the revolutions of the earth, are to be harnessed and used to produce light, heat, and power for the use and service of men. But already the certain crafty few, the great power-holding corporations, are organizing a lunar monopoly to corner the moon and the forces of attraction of gravitation to take and exact even further tribute from the people.

Industry is a system grown up under which the earth and its fruits and the necessaries and comforts of life are apportioned out among the people according as they may be willing to toil and labor to live.

To better provide for the conduct of industry and to aid the people in their labors to live, the State has created artificial persons, which, under the law, are known as "corporations", and given great and multiplied powers over individual men or natural persons. In creating these artificial persons or corporations, it was the purpose under the law that the States, the power creating them, should always hold and maintain full and complete power to regulate and control the operations of the corporations created to safeguard the rights of natural persons; and during the early development of our system of specialized industry this power to regulate and control corporations was maintained full and supreme by the States and the rights of natural persons were safeguarded against imposition and encroachment from corporations and their greater force and power.

Corporations have been made or have become a part of our economic and industrial system and through which the people conduct many of their important business affairs and upon which they have come to rely for organized and concerted effort in commerce, industry, and trade.

But under new and changed conditions, such as the invention of the automatic machine, the concentration of great wealth in the hands of the few, these corporations exercising superpowers, have come to challenge the State creating them and to defy the Federal Government itself while the people are left helpless, powerless to resist, and at their mercy. Under the law creating corporations, corporations have been organized for purposes never contemplated or intended and instead of being in aid of legitimate industry, commerce, and trade, are being used to prey upon industry and through them to exact from the people.

And following the growth of corporations, a new form of corporations has been developed, the holding corporations, to usurp and take from the State its powers to control and regulate the course and operations of corporations, and to combine and organize such corporations for its own domination and control. Through the organization of holding companies, the power of control and direction has been taken away from the State and the purposes of the law defeated and annulled, by confusing and mystifying corporate operations until evils and abuses of holding companies have perverted the purpose for which corporations were originally created to serve.

The system of holding corporations organized over the operating corporations in effect creates a supergovernment, usurping and taking from the State its power to control corporations, and under which the State creating them is left helpless and at their dictation. But these great superpowered corporations, asserting their power in defiance of the State, are not only claiming the right to control their corporations and others, but they are assuming the sovereign power to exact charges and levy tribute and compel their underservient corporations to make and enforce collection from the people.

This is the industrial condition with which we are confronted today, and these are the corporation evils and abuses which brought on a great Nation-wide investigation of public-utility holding companies in 1928, and which has prompted this legislation to recover State control of corporations.

Operating public-utility corporations are corporations producing, furnishing, distributing light, heat, power, gas, and water for the use of the people of the country. They are a part of our local business affairs and of the different communities served or where they are operated and are carried on.

Holding-utility corporations produce nothing, furnish and distribute nothing. They are organized to manipulate and control the operating and producing companies, and to lay, levy, and exact tribute upon the operating and producing companies and compel its collection from the people.

A man who was caring for a turtle and feeding it for some of his friends was asked if the turtle required much food. "Yes", he says, "more than you would think, and I can show you why this is." Then he pulled the turtle out of the barrel and, holding it up with the tail, he pointed to several leeches which were clinging to the turtle's legs, saying, "The turtle must also eat for these." Then taking out a glass and holding it over a leech, he pointed to some parasites upon the

leech, saying, "The turtle must eat and digest not only for himself but for these leeches and parasites, and this is why it takes more food than you would think."

When this public-utility bill came up for consideration before the House, I recalled the man feeding the turtle. And it occurred to me at once that the turtle was a fair illustration of the public-utility industry. The man feeding the turtle would correspond to the people and patrons paying for light, heat, power, and water. His friends owning the turtle would correspond to the little stockholders who had been induced to become the owner; the turtle being cared for and fed would correspond to the operating companies. The leeches sucking its blood would correspond to the holding companies all pyramided upon the operating or producing companies. Then I must find a place for the parasites feeding off the blood of the leeches. And I placed them as the manipulating bankers using the holding companies for speculative investments and with which to gamble on the stock exchange.

Then, looking still further for the solution of the public-utility problem, I pondered, considered, and soliloquized: If these leeches on the turtle could speak like the holding companies speak through their lobby tools and puppets and their organized stock-buying victims are instructed and led to speak; if these leeches on the turtle could only subsidize the press with $28,000,000 a year, which has been shown by the Federal Trade Commission to have been paid out for publicity; if these leeches could finance and pay college professors and economic students for addressing the people in every State and to teach leech necessities in the schools, they could persuade the supporting turtle that leeches are a necessary evil and persuade them to raise the hue and cry against taking them off the turtle as a cold, cruel "death sentence" and a plea for regulation which they have ignored and defied.

The trouble with industry today, under great and powerful corporations grown up in violation of the intent of the laws, is there are too many leeches, there are too many blood suckers, there are too many parasites, there are too many hangers-on, who are performing no duty or service, but which the people must support and pay.

The pyramiding of holding corporations, piling up corporations one after another, sometimes as many as 10 deep, over and upon operating companies, with as many intermediate layers and strata, creates an intricate, confusing structure, a complex, bewildering legal entanglement. Through the meshes of such a maze and mass no responsibility can be fixed for control, no power can be exerted or directed for regulation. Earnings and income from the operating companies below cannot be traced up through the overlapping intricacies, nor can the benefits claimed furnished from above be followed down through the confusing strata.

Holding companies pyramiding above upon servient companies below have become a confusing legal monstrosity, a profiteering camouflage or smoke screen for the exploitation of helpless consumers of gas and electricity, for light and power, and through which stockholders cannot pierce the veil to claim dividends or make assets available to them. The one and only hope of regulation and control is the simplification of the corporate structure, confining them to one system, or organization, and making them directly subject and responsible to the regulatory powers of the State. All forms of supercorporations which exist only to exercise and usurp the sovereign powers of the State for the control and regulation of other corporations, to safeguard the rights of natural persons against corporate imposition and encroachment, should be outlawed and dissolved.

Here are a few items or examples taken from the hearings and reports showing how the holding companies milk the operating companies and through the operating companies profiteer upon the bona fide stockholders, impair and impoverish the service to the people, and exploit the consumers of gas and electricity. I first call attention to some of the salaries which have been paid and are still being paid to the presidents and high officers of these holding companies during the trying years of the depression by compelling the underoperating companies to raise their rates and charges to the consumers.

In 1925 a Mr. Foshay, as president of his holding company, received a salary concealed as a bonus of $306,000. These huge salaries were taken annually from the operating and producing companies secretly under holding-company manipulation and without any service performed to the consumers.

In the Electric Bond & Share Co., a holding company performing no service to the operating company or consumers, C. E. Groesbeck, president and director, received in 1929, $228,000, and in 1930, $251,260 as salary. S. C. Mitchell, chairman of the board of directors, received in 1929, $251,910, and in 1930, $276,560.

In 1929 H. C. Couch, as director of the Electric Bond & Share, a holding company, received $59,060, and in 1931 received $67,413 as salary. And this same director in the year of 1932, during the crisis of the panic and depression, claimed and took as his salary $67,883.

In 1929 P. G. Gossler, as president of the Columbia Gas & Electric Co., a holding company, received $251,335 and in 1930 received $233,383 salary. F. W. Crawford, vice president of this company, took $112,315 and in 1930, $106,903 as salary. In 1931 B. C. Cobb, chairman of the board of directors of the Commonwealth & Southern, a holding company, received $97,700 and in 1932, $110,200 salary. This was in the lowest depth and crisis of the panic.

In 1931 P. W. Martin, president of the Commonwealth & Southern, a public-utility holding company, received $72,600 and in 1932, $130,140 as salary. The Northern American Utility Co. is a holding company performing no service to the consumers, or is afraid to make such showing. In 1930 this company paid F. L. Dame as president $110,440 and in 1931 the sum of $106,506 as salary. This same company paid Edwin Gruhl, vice president, at the same time paid to Dame, in 1930, $91,468 and in 1931, $87,624 as salary.

In 1931 the Associated Gas & Electric Co., a holding company, paid its president, J. I. Mange, $60,156 and in 1932, $58,140 as salary. During these same years these same presidents and directors were acting as presidents and directors of other companies and from which other holding companies were drawing like salaries and pay.

These huge salaries were forced upon the bona fide operating and distributing companies, which companies were compelled to withhold from stockholders their full dividends due them and to raise the rates of service to the consumers.

In 1929, the Commonwealth & Southern Co., a public-utility holding company, was organized in the Southern States. The salary of the president was fixed at $43,000. From this time, the panic beginning and continuing, lowered all values, prices and wages, decreased all earnings and income of the people and their ability to pay for light and electric service. Yet in the face of this depression and the crisis of reduced earnings and income and the ability of the people to pay, this company steadily increased salaries until in 1932, the low crisis of the panic, the president's salary was raised to $139,000 with other salaries raised in proportion.

The Central Public Utility Group has collected so-called "management fees" from the operating and producing companies, and for which they can show no service, of more than a million dollars and all of which came off stockholders and consumers (Committee hearings, p. 213).

The Associated Gas & Electric Co. has been shown to have charged the operating and producing companies under it, interest at the rate of 8 percent per annum, compounded monthly in advance which the operating and producing companies were compelled to charge up against the consumers (Committee hearings, pp. 150–151).

The Byllesby Engineering & Management Corporation, for the Standard Gas & Electric Co., a holding company, collected so-called "legal fees" from 1919 to 1929 of $3,359,884, which, after paying the lawyers their fees, netted that company in profits $2,078,872. These fees were collected from the operating companies and came off the stockholders and consumers (Committee hearings, pp. 380–381).

Another means of the holding companies, perched upon the operating and producing companies, used to take huge profits from the people is by compelling the underoperating companies to buy from them all their material and equipment, and for which they charge double and extortionate prices.

The hearings and report upon this measure show that in 1926 the Appalachian Electric Power Co. took over the American Gas & Electric Co. at the book value of $72,000,000 and which was immediately revalued at $159,000,000. Under this double revaluation stock was issued and sold out to the unsuspecting public at a profit over the purchasing value of $66,000,000, and under which the new stockholders were exploited exactly to that amount.

These are the public-utility holding companies who are sending their representatives to Washington, objecting and making protest to Congress against the provisions of the Senate bill giving them 7 years' time in which to show that they are performing some necessary service, and that this requirement will mean a "death sentence" to them. Many good people of the country will be unable to understand why, if these corporations are performing such necessary service, they cannot show it to the Securities Commission in 7 years and why, if they are performing such service, this provision of the Senate bill would mean a "death sentence."

The Tacoma Electric Power Co. of Washington State is purely an operating and distributing company, free from the leech holding companies, and where the operating company cannot be forced to increase rates upon the people to make them pay dividends and high salaries for holding companies. Comparing the Tacoma service rates or charges, where the charges are $10.60 for 1,000-kilowatt hours, with the public-utility companies now operating in Indiana and carrying the pyramid of holding companies, the people of Indiana are being overcharged every year by the sum of $19,189,000.

The people of the State of Ohio are being overcharged over $47,000,000. The people of Illinois are being overcharged over $50,000,000. The people of Michigan are being overcharged over $33,000,000, all to pay salaries and dividends to useless holding companies.

The people of the United States, to support the holding-company octopus riding on the backs of the operating companies, are paying an overcharge of almost a billion dollars, which is being taken from them annually.

But a more important and significant part of this great propaganda-publicity program is explained, beginning at page 278 of the Federal Trade Commission report, showing the organization for a purpose of a great army of utility employees.

Looking ahead for the last 25 years to the developments of electricity seen coming, the public-utility holding company interests have been organizing to monopolize and control the production and distribution of electric power and have been building up their defense behind unsuspecting individual stockholders. Under this investigation it was found the policy carried out through an army of utility employees to sell and scatter a certain amount of their stock among single individual stock investors and then have their employees frequently contact or keep in touch with these small stockholders to urge the importance of upholding their companies to maintain the value of their shares of stock.

Classified lists have been made and kept of all persons to whom stock was sold, not only for the purpose of frequent contracts and to receive holding-company literature but for the purpose of prompting and calling them to aid in their defense against any unfavorable legislation. This system of creating scattered stockholders to be held ready and in waiting in every legislative and congressional district was known as the "Illinois plan", and was first perfected and sponsored by the Insull public-utility corporations.

As before explained, this plan was later adopted as the model plan and system by the National Utility Association, which completed its organization in 1927 to oppose "unfriendly legislation" in Congress, at that time for a trial of public ownership. This policy of public-utility corporations, using the employees to sell stock and to scatter shares among individual men, is all set forth in the Summary Report of the Federal Trade Commission, under Senate Resolution No. 83, and explains by whom and the system under which Congress is being bombarded on this bill at this time.

It was from behind the breastworks of these small public-utility stockholders that Samuel and Martin J. Insull joined the electric-power monopoly in its fight in Congress in 1927 against the development of Muscle Shoals as a step to try out public ownership. But the small stockholders of the Insull Public Utility Corporation must be exonerated from opposition to this bill. They have been busy keeping trace of Samuel Insull in his wanderings in Europe and over the seven seas, trying to escape trial in America, and only to be extradited and returned to trial and found "guilty but not proven" under the technicalities of corporate law.

Realizing the swift-coming developments in the production and distribution of electricity for use as light, heat, and power and its universal use coming as a vital necessity and its control as a power and vantage ground from which to take and exact from the people as a power greater than the taxing power, these powerful public-utility corporations have organized and carried on since 1919 a great Nation-wide propaganda campaign employing every form of publicity and secret aid to oppose single and independent power plants as well as all forms of public ownership. The policy observed and carried out has been to prevent and forestall the organization and construction of local power plants and to buy out all independent plants looking to one unified system of ownership and to complete an absolute monopoly of the production and distribution of electricity.

I call the attention of every Member of Congress and of every reader of the CONGRESSIONAL RECORD to the summary report of the Federal Trade Commission under Senate Resolution 83 for a better and more complete understanding of the means and methods employed to create and control public opinion in favor of public-utility holding companies; and I earnestly urge every Member of Congress to call for and read this summary report; and I likewise call upon the readers of the CONGRESSIONAL RECORD to write to the Federal Trade Commission, directed to Washington, D. C., and request a copy of this summary report no. 71–A.

The Dollings Co., a corporation organized under the laws of Ohio and operating largely in Ohio and Indiana, was not an operating or producing company. Like the Insull holding companies, it owned no property or tangible assets. It produced nothing and distributed nothing. Its sole and only purpose was to sell and manipulate the stock issued by other corporations. Like the utility-holding company, it was a leech and parasite upon industry, without serving any real useful purpose, but through which thousands of people have lost their entire life savings. And yet the day before its fall, the company was defended and upheld as a necessary agency of industry.

The Insull public-utility holding companies were not operating or distributing companies. They were great holding companies. They produced nothing and performed no service. They only held and manipulated the stocks of other companies, the same as the Dollings Co. held and sold other stocks. These Insull, nonservice, manipulating companies have brought loss to millions of people, millions of innocent, unsuspecting people as investors.

But such a hold did the Insull companies have upon the people of the country under its propaganda-publicity programs that any suggestion for restraint upon them, upon their operations and stock-selling manipulations, would have been resented by the very people deluded and now suffering great loss from them.

And there are many holding companies remaining, now holding and selling stock for manipulation, or for the control of operating companies which are following in the same course of the defunct Dollings and Insull companies. But before these companies can be restrained or controlled and the people protected from their abuses, millions more will have suffered loss and deprived of their life savings and earnings.

It is estimated that an average of $5,000 has been taken from the confiding and unsuspecting people of every county in the State of Indiana by the sale of Dollings, Insull, and like stocks, all operating in gross violation of the purpose and intent of corporation laws. But this is not all of the loss which has been suffered from these companies by the people of the State of Indiana. It has been shown that by reason of these holding companies, all claiming incomes from the earnings of the operating companies, the people of Indiana are and have been overcharged for gas and electric service $20,000,000 annually.

With the shadows of the Dollings and Insull companies and their movements, manipulations, and final failures hanging low in the investment horizon, the duty of this Congress is plain if the common people are to be protected from exploitation. There is only one hope remaining for the small, individual stock investor holding shares in great corporations. There must be intervention by the State and Nation to stay the hands of speculation and high finance and to compel open operations and administration and observance of honesty among corporations. Gambling and stock manipulation, watered- and diluted-stock issues, thrown upon the market without supporting assets, confiscatory salaries, and fees are incompatible with security and a stable basis for investments.

It is a most remarkable and very extraordinary coincidence that, coming simultaneously, the newspapers from coast to coast and from the Lakes of the North to the Gulf on the South, began a great hue and cry, all using the exact identical words or phrase without variation—"the death sentence"; and then, at the same identical time, in concert with this newspaper-propaganda campaign, many thousands or millions of small stockholders, widely separated and from every part of the country, began writing letters to their Congressman, all following the exact phrase of the newspapers and all alike protesting against "the death sentence."

This most mysterious and remarkable coincidence of the use of the phrase "the death sentence" and at the same time by thousands of newspapers and coming from millions of small stockholders shows a centrally organized campaign prompting the newspaper articles and editorials and the letters from the small stockholders. The use of the phrase, "the death sentence", in thousands of newspaper editorials and in millions of letters from small stockholders, coming all at one and the same time, shows something more than a mere coincidence. It shows a carefully prepared plan and system, carefully completed in advance, held in readiness to be used to meet an emergency apprehended to be met.

This is all the more significant when we read from the hearings of the Federal Trade report showing that these same utility-holding companies were paying newspaper editors over twenty-eight millions of dollars annually for prepared articles and editorials to be carried as their own editorials. And further showing the sale of public-utility stock to millions of unsuspecting individual investors and deliberately scattered throughout the country through and in whose name to make their appeal and behind whom to shield themselves to make their defense.

This measure does not eliminate or take away a single necessary or useful utility company, whether holding or separate operating company. It does not retire or take away a single laboring man, clerk, or officer necessary or required to carry on efficient service, nor retire a single dollar of investment, nor reduce the corporations actually engaged. This measure does not require a single holding company to retire and get off the backs of the operating company, or stop drawing upon or taking from the operating and producing companies its earnings and income from the people if the holding company can show in 7 years' time that it is performing any necessary service in producing or distributing gas or electricity, or any necessary or useful purpose to the people in exchange for the money that it is taking from the earnings of the operating companies paid in by the people using the service.

This is not destruction nor disorganization. This is in fact a house cleaning in the interest of bona fide stockholders, in the interest of the patrons paying for the service. This is to strike off the leeches. This is to sterilize the parasites and to relieve the people of their burden. This is only to take the evils and abuses out of the public-utility business. This is only to take the gambling operations out of the public-utility business. This is only to take the manipulation and high finance out of the public-utility business. This is to conserve the earnings and income of the legitimate public-utility business for the use and benefit of the bona fide stockholders and to maintain the value of their stock and to exempt the patrons from excessive charges for high excess salaries without benefit or service performed.

It is found that the investigation leading up to the preparation of this bill began back under the Coolidge Administration, on the 15th day of February 1928, when the Senate passed Senate Resolution No. 83. This resolution was prompted by the ever-growing evils and abuses of public-utility and holding companies, but more immediately and directly by the public-utility companies' lobby appearing in Washington in 1927 to oppose the enactment of legislation looking to a trial of public ownership. Under this Senate Resolution No. 83 the Federal Trade Commission was authorized and directed to make inquiry regarding the service performed by holding companies and the value and prices for such service and the activities of holding companies to control public opinion and legislation.

The Federal Trade Commission promptly entered upon this investigation under the powers and authorities of the resolution and continued its hearings and inquiry until sometime during 1934, in all a period of over 6 years. The report of this Commission was filed December 12, 1934; and on the convening of Congress in 1935 the matters were called before Congress by a special message of the President recommending that action be taken to remedy the evils and abuses of holding companies as shown to exist by this report. It was this inquiry and investigation of the Federal Trade Commission, authorized under Senate Resolution No. 83 in 1928, that brought out the evils and abuses of public-utility holding companies and their evil practices and made this legislation imperative to safeguard bona fide stockholders and the consuming public from their impositions.

But holding companies do not only use their confusing and bewildering strata to take from unsuspecting stockholders and to exact and take from the people, but to cover and conceal their property from taxation, with other evils and abuses.

Early in 1933, when Congress was called in special session, the vacant condition of the Treasury prompted a Senate inquiry of the causes. And it was found that the great financial interests had not been and were not paying taxes on their earnings and incomes for more than 3 years. And it was further found and disclosed under the inquiry of the Senate committee that incomes of many corporations were being hidden, covered, and concealed, and taxes due upon these incomes evaded by manipulation and jugglery through the means of holding companies. But at that time the Senate investigation under Resolution No. 83 was not complete and no report was made and the matter was postponed and further continued awaiting the completion of the hearing and the report of the facts found.

The Summary Report of the Federal Trade Commission, among other matters brought to light, shows that a publicity-utility association was organized prior to 1927, following after the Insull plan, and referred to in the hearings as the "Illinois plan", for the control of public opinion and legislation, in the interests of holding companies. Up to 1927 over $28,000,000 had been spent by this association annually, paid for expenses in obtaining personal contacts, with thousands of editors of the country. Another means of publicity shown followed was by financing a great army of local, State, and National speakers to present their facts to the public favorable to public holding companies, and this extended to great public meetings, to churches, school, and college audiences.

The following from page 391 of the Federal Trade Commission report referred to is included to show the general character of the investigation conducted and reported upon by the Commission:

The record in this investigation establishes conclusively that the electric and gas utilities since about 1919 have carried on an aggressive country-wide propaganda campaign. In it they have made use not only of their own agencies but have enlisted outside organizations in active, and often secret, aid. In it they have literally employed all forms of publicity except sky-writing, and frequently engaged in efforts to block full expression of opposing views.

The record shows that this propaganda had for its objective the disparagement of all forms of public ownership and operation of utilities and the preachment of the economy, sufficiency, and general excellence of the privately owned utilities.

The record establishes that, measured by quantity, extent, and cost, this was probably the greatest peace-time propaganda campaign ever conducted by private interests in this country. The record establishes that the activities were carefully considered and planned by responsible heads of the industries.

Numerous declarations and excerpts from minutes and committee reports show clearly that the character and objective of these activities were fully recognized by the sponsors and planners and the director of National Electric Light Association, the leading propaganda organization, boasted that the "public pays" the expense.

Often methods of indirect approach were employed and injunctions of secrecy given. All of these facts are established by the records of the utilities themselves. They are drawn not from adverse or conflicting testimony but from their own documents and declarations.

The CHAIRMAN. The gentleman from West Virginia [Mr. RANDOLPH] is recognized.

Mr. RANDOLPH. Mr. Chairman, I realize that I can add no contribution to the discussion of section 11 as it relates to the Senate bill and the House bill. However, because of the so-called "misunderstandings" which have been aroused as to how the Membership of this House stands on this question, I want to take the floor and say that as for myself I shall vote against section 11 as contained in the Senate measure. [Applause.] I do that well realizing the conditions which exist here this afternoon. I, as one member of the Committee on Labor of this House, am certain that I speak not alone for myself but others upon that committee when we shall soon vote on section 11. There are thousands of workers in my district who labor in this industry and they are to be considered.

A great deal has been said about pressure from those who are in favor of section 11 of the Senate measure and those who are against it.

As for me, I shall decide upon the question from the pressure which comes from within my own being. For me there is a solemn duty to be fair and just. I am certain that my record so far in the Congress of the United States has been liberal and progressive. I do not intend this afternoon on this question to add the word "destroyer" to the other two. I do not own a penny's worth of public-utility stock but I do owe a duty to those who have invested their funds.

To the Membership of this Committee let me say I have been in my own district 2 days this past week-end. I have a cross section of the country. I find the people knowing the conditions under which this legislation is being discussed. I am very certain that I speak for the majority of the people of my State when I say that regardless of the influences which are being brought to bear, they realize full well that the enactment of section 11 of the Senate bill will bring about the destruction of this industry in the United States. [Applause.]

I want to say just this before I yield the floor, that I realize, of course, the responsibility which is mine above all others on this question. I believe that here and now, this afternoon, we must determine that not as Democrats, not as Republicans, not as Progressives, not as members of any party, should we vote because of influences which are brought to bear upon us, but we should vote solely upon the question as it relates to our own sense of right.

By my stand I am not against the administration. I am for returning to the common-sense program upon which we came into national leadership.

I reiterate to the Membership of this Committee, that I have been a liberal, I have been a progressive. I shall never be a destroyer, if I know it. [Applause.]

Mr. WEARIN. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. WEARIN. The statement has been made by some of the opponents of the Senate bill, including the gentleman from Alabama, that it is a deflationary measure. The same individuals, I believe, voted against the bonus. They should, therefore, have no hesitation to follow the President and vote for the pending measure. They would be doing only that which they admitted upon a previous occasion to be advisable.

On the other hand, can anyone imagine a more deflationary situation than the one that exists today as a result of the doings of utility companies in the field of their excessive charges for electrical energy? The very fact that the per capita consumption of electrical power is so small is occasioned in part by the fact that the price charged for it is so excessively large. If the charges were to be reduced to somewhere near the T. V. A. yardstick rates, not only the consumption of the product would increase but the market for appliances such as refrigerators, irons, washing machines, pumps, and innumerable other articles would go up.

We have before us an excellent example of how high rates paid by every consumer for electricity that include charges for the services, salaries, and stock dividends that find their way into holding companies act as a pronounced deflationary tendency in the American market.

In our congressional district farmers are paying as much as $12 to $18 per month for a meager allowance of current—not to exceed 140 hours in some instances. Householders pay a correspondingly high rate. Under such circumstances they do not feel that they can afford many of the appliances they would like to use because of what it costs to operate them. Obviously the result is a continued curtailment of purchases in the equipment field that can be nothing else but deflationary.

If the Congress can, as President Roosevelt advises, eliminate unnecessary expense in the production of electricity, which is no more than fair to the consumer, when such a reduction should be reflected in his monthly light bill as well as increased revenue to the holders of stocks and bonds in parent companies, the result can be none other than advantageous.

The public might reasonably expect to witness a marked decrease in rates, because a percentage of every monthly light bill goes to the payment of expenses involved in the operation of pyramided companies, and such tribute would no longer be extracted.

An increase in equipment sales would naturally follow in the footsteps of a rate reduction, thus occasioning a condition in the market that not even a pessimist would dare to brand as deflationary.

Coupled with a decrease in rates to the consumer and an increase in the volume of electrical equipment in use would be an inevitable rise in the consumption of energy. Surely such a situation would be most satisfactory and profitable to the general public that pays the bill and the owners of operating companies, who constitute by far the largest percentage of investors in utility securities and who are entitled both to consideration and protection.

Mr. RANDOLPH. I have this to say to the gentleman from Iowa, that the rates charged for electricity in my district are fair and just in most cases.

Mr. PETTENGILL. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. PETTENGILL. Does the gentleman not know that as a matter of fact the consumption of electric energy has been increasing constantly for the past 3 months?

Mr. RANDOLPH. That is correct. I thank the gentleman.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. RANKIN. That has been brought about, I will advise the gentleman, since the T. V. A. put on its yardstick. Rates have been reduced all over the country.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi [Mr. RANKIN].

Mr. RANKIN. Mr. Chairman, I was very much interested in the remarks of the two gentlemen from Kentucky [Mr. ROBSION and Mr. MAY] who presume to represent the coal interests.

The gentleman from Kentucky said he was with the President on the Democratic platform. This section 11 is exactly what that platform provides; it provides for regulation of these utilities. They can never be regulated until they are cut down to where the Government can regulate them.

Do not mislead yourselves! This is a political issue and will be from now on. Every man who votes against this amendment votes with the Power Trust, with the Republican Party, against the administration, and against the American people. [Applause.]

But I want to answer these two gentlemen who presume to represent the coal operators, the coal people of this country. I know that there is an unholy alliance between the coal operators and the Power Trust on this bill.

I say to the gentlemen from Kentucky that the people of Kentucky are overcharged $8,300,000 a year for electric lights and power.

But in Kentucky where these gentlemen live, those poor struggling people who go down into the depths of the earth and work all day long—and we have the same condition in Pennsylvania and other coal States—those poor people are sweltering in their homes at night because electric-power rates are so high they cannot even run fans, much less refrigerators. Notwithstanding this, coal is piled up at the mouth of the mine, coal that could be burned and turned into electrical energy and furnish these people at reasonable rates this current they so badly need and which could do so much for them. But the coal operators and the power interests will not do that.

Their policy is to get all the money the traffic will bear. They raise their rates. These companies are pyramided so high and have loaded the American people today with so much superstructure that the operating company is unable to charge a fair rate. As I said in the State of Kentucky, the people are overcharged $8,300,000 a year. Where does that money go? It goes into the pockets of these great overlords, these superholding companies that are bleeding the little companies to death. They in turn are forced to bleed the consumers of electric light and power. The only place on earth they can get any money is from the consumer, the ultimate consumer, the man who turns the switch, the man who switches on the light.

This is a supreme issue now and will be for the next 5 years. It is greater than any issue we have had in the last 25 years. You can take your stand, if you want to go along and join the old-line Republicans and receive the "kiss of death"; but I want to tell you it means that every one of you who vote against the administration on this proposition and vote for the Power Trust, for that superoctopus, that is bleeding the consumers of electric light and power to death, you are going to pay the penalty at the hands of the American people who are paying the bills. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The gentleman from Michigan [Mr. MICHENER] is recognized for 5 minutes.

Mr. MICHENER. Mr. Chairman, we have had 8 hours of general debate on this bill. We are now operating under the 5-minute rule and it is very difficult to get recognition, and it is more difficult to say anything pertinent and worthwhile in the time available. I refuse to get "het up" about this whole matter. It is important. We have been told innumerable times that it is the most important legislation that has come before this body in a generation. It is distressing to observe the small amount of relevant matter covered in the debate. The speech just made by my good friend, the gentleman from Mississippi [Mr. RANKIN], is a patent illustration. The House has been discussing politics, lobbyists, the Power Trust, and kindred general subjects, in themselves worthy of discussion, but not germane to the real issues before us.

The gentleman from Mississippi [Mr. RANKIN] is a believer in public ownership of utilities and many other things. He is one of the few freetraders left in the House and you can always depend upon his speaking fearlessly and conscientiously and without concealment of his real purpose. If he had his say, the T. V. A. would extend over the United States, the Government would own and operate all public utilities, and I am sure he would not support any legislation affecting utilities that he did not believe would tend in that direction. I admire him for his candor and sincerity, even though I do not agree with him.

It has been repeated time and again in this debate, especially by the gentleman from Mississippi [Mr. RANKIN], that President Franklin D. Roosevelt desires this legislation with the "death sentence" included, and that it is our duty to support the legislation for that reason. We are even threatened by Mr. RANKIN and others that we will be held accountable on election day if we do not do the bidding and answer the beck and call of the President in this particular. My view is that the President of the United States should always be given consideration when public questions are before the Congress. His views should have weight, but they should in no case be controlling unless they coincide with the judgment of the direct representatives of the people in the legislative branch. I have attempted to support the President when I thought his views were correct and, at the same time, I have been perfectly free to oppose him when I felt otherwise. It seems to me that this is the proper function of a Representative in Congress.

More time throughout this debate has been devoted to the question of lobbying than to any other one thing. There has been lobbying on both sides, and of that there is no doubt. Personally, I cannot conceive of the President and the public-ownership group being permitted to use the radio night after night; to issue official newspaper releases day after day; to call in and confer with Members of Congress; to have the representatives of the administration in the galleries of the House and even on the floor of the House, buttonholing, persuading, and otherwise attempting to influence the Congress and, at the same time, denying to the owners, operators, security holders, and stockholders of public utilities the right to call attention to their views in reference to the subject matter.

It is true that I have received thousands of letters from constituents protesting against any public-utility legislation that would destroy or injure the securities held by the people writing to me. These letters come from the "average" man and woman, not from the wealthy. I have no extremely wealthy people in my district. Most of them are just common folks—the kind of people who believe in owning their own homes and sending their children to college. These folks cannot understand why Congress should pass legislation the result of which will be to wipe out their investments and life savings, without any chance or opportunity to come back after the depression—the same chance that other investors have. These investments were made in good faith and these people are honest people.

Personally, I believe thoroughly that holding companies should be regulated as well as utility companies and corporations of all kinds. If the State gives to a group of its citizens extraordinary powers to transact business, then those to whom this power is granted should submit to decent regulation and control. This bill, however, does not seek to control. Its very purpose is to destroy. There are many bad holding companies. Irregularities amounting to crimes have been committed by some of these organizations. This, however, does not condemn them all. There are good corporations and bad corporations, and we would not under any condition think of destroying all corporations because of misconduct of a few. The necessity of holding companies has been fully demonstrated within the last few months under the regime of the new deal. Under the guidance under the direction, and under the command, if you please, of President Roosevelt, we have established some of the greatest holding companies ever conceived in the mind of

man. I challenge anyone to question this statement. Take the T. V. A., for instance.

Mr. PETTENGILL. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Indiana.

Mr. PETTENGILL. Does the gentleman know that the men who participated in drawing this bill also participated in drawing the charter of the company which the gentleman has just mentioned?

Mr. MICHENER. I understand that to be the case. It has been stated by two or three members of the Committee on Interstate and Foreign Commerce that this bill was not prepared by Members of Congress but was drawn by Mr. Ben Cohen and Mr. Thomas Cochran. I do know that these gentlemen have been in the galleries, that they were in attendance upon the committee during the consideration of the bill, and that they are vitally interested in the adoption of the bill as passed by the Senate.

The bill as it passed the Senate contained what is commonly called the "death sentence" for holding companies. The House committee refused to favorably report to the House this plan and the House bill does not absolutely eliminate all holding companies. In short, it gives the holding companies a hearing before the "death sentence" is pronounced. This is some help, but in view of the attitude of the proponents of this legislation it must be conceded that the House bill is merely a gesture, a route used to bring the whole matter before the House, through the House, and into the conference committee, where the believers in the "death sentence" will predominate and control.

We were advised by the press on yesterday that the President would veto the bill if it did not contain the Senate provision. The same authority advised us that Senator WHEELER, the proponent of the Senate bill, would permit the bill to die rather than to see it enacted without the "death sentence." Let us face the facts and realize just what we are doing. The chairman of the committee, Mr. RAYBURN, reported the House bill, yet he has taken the floor and condemned the House bill and advocated the Senate bill. He will be the leading conferee on the part of the House. And, with Senator WHEELER, the leading conferee on the part of the Senate, one does not have to be a clairvoyant to guess what will happen.

I believe that these holding companies should be regulated the same as public utilities must be regulated. Most of the States have regulatory laws. But if Mississippi and Texas do not have proper regulatory laws, it would seem that those Commonwealths believing in State rights should put their own houses in order rather than ask for another commission or bureau in Washington to look after their State affairs. I will go as far as any man in this body in passing legislation to regulate holding companies that cannot be regulated by State regulation. I will not, however, destroy the life earnings of over 5,000,000 honest people when this is not necessary for the common good. We can pick out Insull and other holding companies that were extremely bad. No one justifies these evils, yet there are many splendid holding companies serving well in their respective communities.

Of course, that school of thought believing in public ownership and operation of all public utilities is for this legislation to a man. I do not criticize them for their belief. They are entitled to their judgment the same as I am entitled to mine; and if this legislation would bring their cherished Government ownership closer to consummation, then they may be justified in supporting this bill. I am opposed to the Government going into business in opposition to private capital and industry. I want our industries to continue to be owned by the people as individuals and not collectively as the State. I am thoroughly convinced that the enactment of this legislation will not only destroy the value of many securities but will be an advanced step in the setting up of more bureaus and commissions in Washington; and the turning over by the local communities to agents from Washington the conduct of the affairs which belong to the folks at home.

Many people do not understand just what is meant by "holding companies." I think it is fair to say that such an organization is a corporation primarily organized to own securities issued by other corporations. It has been aptly defined as follows:

> Any company, which by virtue of its ownership of securities, is in a position to control or substantially influence the management of one or more companies.

Holding companies are not of recent origin. They were legalized more than 50 years ago. The Baltimore & Ohio Railroad, the Pennsylvania Railroad, and many great corporations could not have functioned had it not been for the legality of holding-company provisions.

Shrewd lawyers have found ways whereby holding companies may be used for unholy purposes. This is not the fault of the law permitting holding companies, and should be cured by proper regulatory legislation. This bill could be made a proper regulatory bill, and I am convinced that such a bill would come nearer meeting the personal wishes of the Members of this body. The powers back of the bill, however, are determined to rule or ruin. They want no regulation. They want extinction. If this legislation is enacted and utility holding companies are destroyed, the next step will be public ownership and operation of all utilities and then will follow laws destroying holding companies for banks, for food production, insurance companies, for the steel and coal industries, newspapers, automobile manufactures, and many others.

This will mean State socialism and let there be no mistake about it. Is it consistent to condemn public-utility holding companies and point out the evil possibilities in one breath and at the same time organize, foster, and give life to the Electric Home and Farm Authority, the Tennessee Valley Authority, and other companies of a similar nature recently set up under the new deal? Oh, yes; holding companies are all right when they serve the purposes of the promoters of this new philosophy of government which is being foisted upon an apparently helpless people. It is not difficult to determine which way the wind is blowing when we realize that the P. W. A. has prepared legislation for the 48 States, creating power districts and announcing that the P. W. A. is ready to assist in financing publicly owned electric-power plants by contributing outright 30 percent of the construction cost and loaning 70 percent on long-time loans at a low rate of interest.

The President has said, and it has been said on the floor of the House, that the enactment of this legislation will destroy no values; that the interest of the investors which will be eliminated is worthless. It is true that worthless stock has been sold in many lines, and this naturally applies to utilities, but as business gets better and conditions improve there is every reason to believe that some of these stocks will regain at least a part of their former value. Would it be fair to make every investor in every security in the country cash in today at present values? This kind of legislation is a rank discrimination against the honest, though possibly the misguided, investor who bought public-utility securities.

Yes; these securities are owned by widows and orphans, but you must not forget that the hearings before the committee show that 560 savings banks with 14,000,000 depositors as well as religious organizations, churches, endowment funds, schools, colleges, insurance companies, and other investors owning these securities protest this legislation. None of them condone Insull and his kind. They do ask to be given an opportunity to protect their life savings, and it seems to me that this Congress, representing as it does the most of our people, would be doing much less than its duty if it did not heed these cries.

Lately we have been paying too much attention to what groups and blocs want. There are those among us who, apparently, are satisfied with any legislation that has the approval of the American Federation of Labor, and the same is undoubtedly true with reference to the Manufacturers' Association, the chamber of commerce, the farm bloc, and

other minorities. There are also those among us who treat lightly any suggestion with reference to the constitutionality of a law. Of course, these blocs and groups are speaking for their respective blocs and groups, and too often have the group or bloc view rather than the interest of all the people at heart.

It therefore becomes the duty of the Representatives of the people in this body to act for the people and not be demagogues. It has been pointed out on numerous occasions during this debate that those who exercise their judgment and vote as they conscientiously believe in this matter will be defeated in the next election unless they follow the direction of the President. I do not happen to be one of those who was elected to come down here to pull a lever indicating "yes" or "no" as directed by the President, by the Democratic National Committee, or by any other outside influence. I am sure that the people whom I represent do not want anything of that kind.

So far as the constitutionality of the so-called "death sentence" clause is concerned, I am firmly convinced that this provision, if enacted into law, will be held unconstitutional by the Supreme Court. Without extended discussion, I concur in the opinion of the distinguished, capable, and fearless gentleman from Indiana, which opinion is found on page 9787 of the current CONGRESSIONAL RECORD. In passing I want to observe that this Congress needs more men with SAM PETTENGILL'S backbone. A man may have ability but if he lacks courage he has no place in Congress. The gentleman from Indiana is abundantly endowed with each.

I think most Members have given careful study to this bill and, unlike many other important pieces of legislation, the bill has been printed and we have had time to study it. The most apt description of the bill, I think, was given by the gentleman from Alabama [Mr. HUDDLESTON] in his argument before the House. Now, we may not agree with the gentleman from Alabama, but no one in this body would question his ability, his sincerity, and his discernment. In reference to the bill he says:

> The bill is a mystic maze. A man of average intelligence wandering into it will soon find himself hopelessly lost, without knowing east from west, or top from bottom. After weeks of study, the most intelligent man will still remain in doubt as to what the bill means. * * * It seems to me to be designed to baffle, to harass, to ensnare, to enmesh, to confuse, to produce a situation beyond the wit of anybody to get through with.

When a member of the committee, and a good lawyer, who has spent more than 10 weeks of constant study in the consideration of this bill, does not know what it is all about, what can be expected of the Members of the House who have been devoting their time to other committees? No wonder the proponents of the bill prefer to talk about Wall Street, Andrew Mellon, big business, the Power Trust, and even old man Grundy, of Pennsylvania. I learned long ago that when the Members have little to talk about on the merits of a bill, it is easy to take up some topic that may appeal to the prejudice of the unthinking, and that surely has been done in this debate.

The passage of this measure will not determine utility rates to the consumer. In most of the States of the Union that matter is now handled through efficient utility commissions, and it seems to me that in my State of Michigan, for instance, a utility commission, familiar with Michigan, with its conditions, its people, with its needs and its possibilities, is in better shape to make rulings in behalf of these people than would be some commission set up by the President of the United States down in Washington. I am sure that our people are against more bureaus and more commissions, as well as more Federal taxation and expense.

I shall vote against the pending amendment, which is the "death clause" in the Senate bill. If that amendment is adopted, of course I shall vote against the bill. On the other hand, if the amendment is not adopted, I shall still vote against the bill, because I do not believe that it is for the best interest of the country, reserving at all times, however, the right, and looking forward to the day when we may pass regulatory legislation, to be administered by those favoring regulation and not by those advocating extermination.

The CHAIRMAN. There are 20 minutes remaining. The Chair recognizes the gentleman from Iowa [Mr. EICHER].

Mr. EICHER. Mr. Chairman, I think I am revealing no improper secrets when I admit, from the knowledge that has come to me as a member of the full committee and of the subcommittee that considered title I, that this bill originally introduced as the Wheeler-Rayburn bill was prepared by Messrs. Cohen and Corcoran at the request and direction of the President of the United States for the purpose of carrying out the pledges of the Democratic platform. My good friend, the gentleman from Alabama [Mr. HUDDLESTON], in his speech last Friday stressed the point that he could go along with the administration so long as it would regulate, but could not go along with it to the point of destruction. He read an extract from the Democratic platform of 1932, but he did not emphasize the part of it that referred to "regulation of holding companies to the full extent of Federal power." That is in the Democratic platform, and the gentleman from Alabama [Mr. HUDDLESTON] did not emphasize the latter part of that phrase.

He tried to leave the impression with the House that regulation never could include prohibition, if it should be necessary to accomplish effective regulation. All lawyers know that the interstate-commerce clause of the Constitution confers only the power to regulate, and that this has repeatedly been interpreted and enforced by the courts to permit prohibition, when necessary to make regulation effective.

Mr. Chairman, since 1932 we have had the benefit of the Splawn report made to the House committee. We have had the benefit of the Federal Trade Commission report made to the Senate, and we have had the benefit of the National Power and Policy Committee report, all of them disclosing facts that the public had suspected, but did not positively know. Dr. Splawn appeared before our committee at its hearings and presented his written report, stating that in his judgment, after his years of investigation, he had reached the considered conclusion that no effective regulation will be possible unless preceded by compulsory simplification of the topheavy holding-company systems. During the hearings Dr. Splawn was subjected to the most exhaustive and critical examination by members of the committee opposed to all kinds of regulation, but Dr. Splawn stood up under the fire. I cite you to the record of his examination on the last day of the hearing. He gave convincing answer to every opposing claim, demonstrating to the satisfaction of any impartial mind that we could not hope to bring about effective regulation of the holding-company monstrosity without compulsory simplification to start with. Many of the systems have 50 to 250 companies in the pyramid. The Commission may ask them for a report. They will give a report to the Commission, furnishing such information as they please, but the information will be inadequate. Such orders as the Commission may make will in all likelihood be upset in the first court to which they are carried for lack of sufficient or accurate information preliminary to the making of the orders.

Dr. Splawn was employed by our Committee on Interstate and Foreign Commerce because he is regarded as a competent, impartial, and disinterested investigator. The majority of our committee, including the Republican membership, saw fit to reject his conclusions. One-half or more of the Democrats on the committee have been disfranchised so far as the committee report is concerned. Is this the kind of committee report that the Membership feels bound to follow, even to the extent of repudiating the President's leadership?

The repeated insistence that the issue is regulation versus destruction is utterly without foundation and is deliberately misleading. Forty percent of the total fixed capital of all public-utility holding and operating companies will not be affected by the act, and this is shown by the following table:

EXHIBIT A

Preliminary and partial list of public-utility holding and operating companies which are exempt as to dissolution under the provisions of the Public Utility Act of 1935

Company	State	Book value, fixed capital
Bangor Hydro-Electric Co	Maine	$17,437,180
Commonwealth Edison Co	Illinois	294,246,042
Connecticut Power Co	Connecticut	22,813,177
Consolidated Gas, Electric Light & Power Co. of Baltimore.	Maryland	133,108,538
Consolidated Gas Co	New York City	1,249,967,500
Detroit Edison Co	Michigan	289,605,836
Duke Power Co	North Carolina	188,961,390
Edison Electric Illuminating Co	Massachusetts	167,833,938
Hartford Electric Light Co	Connecticut	27,372,370
Long Island Lighting Co	Long Island, N. Y.	118,668,759
Nevada-California Electric Corporation	California-Nevada	44,436,721
Niagara-Hudson Power Corporation	New York	571,824,908
Pacific Gas & Electric Co	California	660,146,704
Pacific Lighting Co	do	227,728,686
Pennsylvania Water & Power Co	Pennsylvania	28,938,066
Public Service Corporation of New Jersey	New Jersey	626,504,062
Public Service Co. of northern Illinois	Illinois	172,718,692
Southern California Edison Co., Ltd	Southern California	346,035,490
Tampa Electric Co	Florida	16,961,259
Total as of Dec. 31, 1934		5,207,309,318

[1] The above $5,207,309,318 fixed capital in itself amounts to and represents over 40 percent of total fixed capital, of public-utility holding and operating companies, as reported by the Electrical World and Moody's Public Utilities, 1934-35.
Source: Moody's Public Utilities, 1934.

Furthermore, all physical assets devoted to the industry remain intact and the bill strikes at nothing except the holding-company control thereof. After relinquishment of control all outstanding securities will still be supported by the same asset and earning power values.

Considerable discussion has been pointed toward creating fear in investment circles. The gentleman from Indiana [Mr. PETTENGILL] made reference to a statement by the Association of Mutual Savings Banks. Following is some interesting statistical information as to the attitude of life-insurance companies toward public-utility investments since the introduction of the Wheeler-Rayburn bill:

EXHIBIT B

STATEMENT OF INVESTMENTS MADE BY LEADING LIFE-INSURANCE COMPANIES IN BONDS OF PUBLIC UTILITIES

Investment made since the introduction into Congress of the Wheeler-Rayburn bill and up to June 1 (last date reported)	$108,737,505
Investment made since Jan. 1, 1935, to June 1	116,791,673
Investment made for same period last year (1934)	36,650,075
Investment made for entire year 1934	129,065,248
Investment made for entire year 1933	51,812,852
Investment made for entire year 1932	50,052,092

Referring to the foregoing statement of investments, it is hardly possible that any of the bonds purchased were or are those of public-utility holding companies.

The laws of the many States prescribing what are legal and safe investments for life-insurance companies and savings banks, practically exclude holding-company bonds.

The latter are really nothing more than debenture bonds or debentures; in effect, only a direct obligation of the issuing company.

Some debenture bonds may be secured by deposit, with the trustee of same, of the common stock of the subsidiary operating company, but this does not qualify them as legal or safe investments for life-insurance companies.

There may be a few holding-company bonds secured by deposit with the trustee of the bonds of the operating company—usually known as "first lien" or "collateral" bonds—but they are not entirely acceptable as legal investments or purchased by the larger and more conservative life-insurance companies.

Altogether it is reasonably certain that the bonds referred to on the accompanying sheet are those of operating electric and gas companies.

I wish to emphasize the purchase by these leading life-insurance companies of over $100,000,000 worth ($108,737,505) of public-utility bonds since the introduction of the Wheeler-Rayburn bill, or in a period of about 3½ months, and as against $129,065,248 purchase of similar bonds for the entire year of 1934, when no public-utility bill was pending.

This large investment by life-insurance companies at such a time, i. e., since the introduction and fight against the Wheeler-Rayburn bill, should certainly outweigh in the minds and judgment of fair-minded people the direful predictions of opponents of the bill as to what will happen to public utilities, operating electric and gas, should the pending measure be passed.

Life-insurance companies are not investing over a hundred million dollars in bonds of public utilities that they are in any way apprehensive about or whose future stability and earning power they question or feel that they have any real cause to question.

Mr. SISSON. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

The CHAIRMAN. Before the gentleman submits that request the Chair will state that there are only 15 minutes remaining. The Chair has agreed to recognize three other Members, two of whom are members of the committee, within that 15 minutes.

Mr. SISSON. Mr. Chairman, I ask unanimous consent that the time may be extended 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WADSWORTH. Mr. Chairman, I object.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland [Mr. COLE].

Mr. COLE of Maryland. Mr. Chairman, as a member of the Committee on Interstate and Foreign Commerce and as a Member of this House, I have tried from the outset, during the serious and lengthy consideration of the bill by the committee, to approach this legislation and come to a final decision solely upon the basis of fact, and not have my decision dictated by debate involving a lot of personalities or by statements that the rates in one section of the country were high as compared with the low rates of another section of the country, as though because a cow in one section of the country milks 2 gallons that all cows should do the same.

I want the members of the Committee, before they vote in a few minutes, to understand this. Seven or eight years ago Congress ordered an investigation of the utility companies, including the holding companies thereof. Judge Healy was one of the principal men conducting that investigation, serving as attorney for the Federal Trade Commission. He is today a member of the Securities and Exchange Commission, appointed to that office by President Roosevelt. He will therefore assist in the administration of title I of this act if you leave it as the committee has reported it to this House. It took 78 volumes—more volumes than you could stack on that table—to report the results of the investigation of the Federal Trade Commission. Judge Healy, in addition to this, appeared before the committee, and in his testimony recommended the regulation of these companies and not the abolition of them. This comes from a member of the Commission which you favor in the future, whether you are for the Senate bill or the House bill, to administer this act. The written report from Dr. Splawn, acting for our committee in investigating the Federal Policy Committee report or that of any other investigation, has not recommended legislation of this character. In the testimony before the committee there was some testimony by gentlemen associated with the various investigations endorsing the bill. I conclude, Mr. Chairman, with this thought: In my address on this subject and the bill in general last Friday I pointed out that the briefs prepared as part of the reports by the Federal Trade and so-called "Splawn investigation" by nationally known attorneys did not in the remotest manner address themselves to anything of this character. I see no occasion for the Members of Congress to shoulder, as they face their constituents, the responsibility of defending the present low value of the stock they own and the failure of that stock to enhance in value. On the contrary, I ask you to return to those constituents from whom you have heard so much in recent months and take the formula or the standards we lay down in the House bill, a standard which defines what is detrimental in the public interest, and when you are talking to a real man he will say to you, "If my company in which my savings are invested cannot live under that standard, then I am willing for it to die."

Why reverse this problem? Why should we take this responsibility? I have heard no one answer this on a basis of merit and I know that in the remaining short time no one will. Let us maintain our decision on this most important bill and by all means vote against what I am certain you will find an unconstitutional law should section 11 of the Senate bill be inserted as an amendment. [Applause.]

[Here the gavel fell.]

Mr. DONDERO. Mr. Chairman, like many other Members of this House, I have been flooded with letters, telegrams, and petitions from a district including 330,000 people, in which the people of my district have expressed their opinion upon the bill now before the House seeking the destruction of public-utility holding companies. I want them to know my stand on this important question.

If this Congress is solicitous about doing something for the American people, may I respectfully suggest that somebody in the administration bring in a bill to this House which shall include the "death sentence", not for private business of the country, but the "death sentence" against the excessive cost and expense of government to the American people. [Applause.] I say that it is known that since 1913 the cost of electrical current in America has gone down 38 percent and the cost of government has gone up 830 percent. Electricity that cost $54.20 in 1913 cost but $33.48 in 1934. The burden of local, State, and Federal taxes in 1913 was $48.40 per family, and has increased to $455 per family in 1934. May I respectfully submit that the Government of the United States ought to put its own house in order, bring in a bill that would mean death immediately to every unnecessary bureau, commission, and board in our Government, with their topheavy personnel that takes the money from the taxpayers of the country and places a burden upon their shoulders which today is one of the things impoverishing the American people, and not the cost of electrical current and the cost of gas.

In my judgment, to say on the floor of this House, Mr. Chairman, that utilities cannot be regulated, simply means to say to the American Nation that the Government of the United States is futile, that it is unable to cope with the situation. If that is so, how is it we can regulate the railroads and not regulate public utilities.

As between the two measures before the House and the amendment of the gentleman from Iowa [Mr. EICHER], one means compulsory death, and the other means permissive death of public utility holding companies and I am not willing to place in the hands of any bureau or board in Washington the right to destroy the investment and savings of millions of our people, whose only offense seems to be that they have invested their money in public utilities.

Oh, Mr. Chairman, 5 minutes is not a sufficient length of time in which to discuss this measure. Is it necessary because the steering gear might be loose on the automobile that you should abandon the entire car? Is it necessary, Mr. Chairman, to tear down the whole house because the porch needs repairing? The same question is before the House now. You either vote to destroy or you vote simply to permit a bureau or board here in Washington to dispose of the investments of the people as they may see fit.

I am not opposed to regulation, and, to that extent, I go along with the Democratic platform of 1932, Republican though I may be. I am willing that they should be regulated to the fullest extent under any law that might be passed by the Congress of the United States, but I am not willing they should be destroyed. There is nothing before the House to justify it.

There is no demand on the part of the millions of Americans who have their money invested in holding companies for their destruction nor is there an appeal from the millions of American people who are consumers of the product and service furnished by holding companies. The destruction of these companies would mean the pauperization of many of them.

This bill would destroy big business and make the Government big business.

Who is best trained to carry on this service to the public of public utilities such as gas, light, and power? The people who have conducted the work and service for nearly three-quarters of a century or a bureaucratic commission or board here in Washington which may or may not have had any experience whatever?

I am not willing that we should go backward, but I am willing that we should go forward, and I hope that the compulsory death amendment may be defeated by the vote of the House this afternoon. [Applause.]

[Here the gavel fell.]

Mr. RAYBURN. Mr. Chairman and members of the Committee, for some of us this is the day we long have sought and mourned because we found it not. [Laughter and applause.] This has been to us members of the committee a long and in many instances a bitter struggle. For some of us, out in our district next year—I know it will be for me—a long and a bitter struggle, because I know I am one of those marked for disfavor.

I know the power, political and financial, of the people with whom we deal. But as far as I am concerned, I want to say today to them in closing this debate that for the propaganda, for misrepresentation, for the falsehoods that have been circulated in my section of the country, I despise their methods and defy them. [Applause.]

We are faced here at this hour with the question of whom we will follow and with whom we will serve.

Some say this business of holding companies has been one racket. I have never called it that. There are some men in the United States who have been using the consumers and the investors as the basis for a racket, and one of them is named Magill. He looked around and saw men in what he thought was a racket and he got into it and was generous enough to ask the millions of security holders in the United States for a dollar or more. He has taken it, and that is the money that he is using. He is the man that is castigating the President of the United States.

Whom will you stand by today, the chosen leader of the American people, the President, or follow the man who has fleeced the American people in this business?

You talk about investments. What we claim is this: The holding companies make money in three ways. One is by the holding companies manipulating stocks. Another way is out of the operating companies, and therefore out of the investors in utility companies.

I want to say to this House that what we want to do is what we did to the security bill, what we did in the stock-exchange bill. When these people came to talk to me, I said, I am not an enemy of your business, but I want to get the desperadoes out of it who are disgracing it. [Applause.]

Since the passage of that security bill you have heard no more talk over the country of the issue of securities not justified, and you have heard no more talk about the Stock Exchange of New York bringing about the panic of 1929 and being ready to bring about another because it is controlled. What I want to do with this great, this fine, this growing business is to take from its back these leeches, these blood suckers, these milkers, and let it stand alone, free from these influences that have made the very name of utility an anathema in the minds of many American people. [Applause.]

The CHAIRMAN. All time has expired.

Mr. MONAGHAN. Mr. Chairman, I rise to propound a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONAGHAN. Did not the Chairman agree to recognize me as a member of the committee for 5 minutes on this bill?

[A demand was made for the regular order.]

The CHAIRMAN. The Chair would prefer to answer that inquiry. The gentleman from Montana approached the Chair this morning, as did others. The Chair took down the name of the gentleman from Montana and all other members of the committee. When they desired recognition they rose, and the Chair took it that the gentleman from Montana, by not rising, as in the case of several other members of the committee, did not desire to speak on this amendment. Therefore, the Chair did not call upon him. After this amendment is disposed of the Chair will be very glad to recognize the gentleman from Montana.

The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and Mr. DUNN of Pennsylvania demanded a division.

Mr. KVALE. Mr. Chairman, I demand tellers.

Tellers were ordered and Mr. EICHER and Mr. COOPER of Ohio were appointed to act as tellers.

The committee again divided; and the tellers reported—ayes 146, noes 216.

So the amendment was rejected.

Mr. NICHOLS. Mr. Chairman, ladies and gentlemen of the Committee, in but a few short minutes the membership of the House of Representatives will vote, and by their vote will be determined whether or not section 11, as contained in the bill known as the "Wheeler-Rayburn public utility holding company bill", as passed in the Senate or as passed in the House, shall become section 11 of the bill under consideration. If section 11 as contained in the Senate bill is adopted and finally enacted into law, it will provide for what is commonly referred to as the "death sentence" to public utility holding companies. If section 11 as contained in the House bill, is adopted and finally enacted into law, this section will provide for regulation of the operations of public utility holding companies by some commission of the Government.

While the vote that will be taken in just a few minutes will not be a record vote, I am ready at this time to make known to my constituents what my vote will be, and I am ready to state to them frankly my reasons for casting that vote.

In the first place, I think there is no one who is at all familiar with the facts but who will agree that for the most part public utility holding companies, and truly most other holding companies, have been guilty of practices which have worked gross injustices to both the public and to the holders of the securities offered by said companies.

This bill has been under consideration on the floor of the House for the past week, and I have been making every effort to ascertain which one of these sections would best do the thing which most everyone agrees should be done. That is, to completely regulate, and in the end to abolish, illegitimate and blood-sucking holding companies.

My consideration of this bill has not been directed to whether or not the holding companies should be protected, but it has been directed to the proposition of how best to protect the holders of the stock of these companies, and the public generally.

I am not one of those who believe that if the "death sentence" were enacted into law that it would destroy the investment of the small investors in public-utility securities; and on the other hand I do not believe that by the enactment of the regulatory measure that those small investors who hold these securities will see their investment enhance in value. My opinion is simply this:

That public-utility holding companies are on the toboggan and are fading rapidly out of the picture. Their stock will not advance in price, regardless of what legislation is enacted, because the purchasing public has lost confidence in holding-company securities—not by reason of the securities themselves, but by reason of the unwarranted pyramiding of the capital structure of the parent corporation by the holding company. For this reason I feel sure that holding-company securities will not advance in price. If this be true, then this legislation will have no effect upon the value of the securities held by the investors in the United States.

This being my opinion, you would naturally think that I would probably support the "death sentence." My reasons for not doing so are these:

If the "death sentence" were enacted into law, you would give the crooks, the profiteers, and the blood suckers of these companies a perfect alibi to more completely rob and pilfer the holders of these securities during the interim between the enactment of this legislation and their final abolishment; and the blame for the losses sustained by these small investors would then be laid at the door of the present Democratic administration, instead of remaining the responsibility of the directors of these holding companies, who have by their own actions robbed and pilfered the purchasers of their securities.

Certainly I favor regulation. I favor regulation to the point that when these holding companies fail to comply with the regulations as laid down by the regulatory body, that they be refused license to operate their business. That thing over which you have regulatory power, you also have the power to destroy. Thus it is my opinion that section 11, as contained in the House bill, in the final analysis is a stronger measure for the protection of the public and the investor than is section 11 contained in the Senate bill.

I think that one of the great evils of our modern business era has been the practice of first setting up a parent corporation which acquires property of value, and then transferring that property after its value had been pyramided several times upon purely fictional basis to another corporation as a holding company, and many times repeating this operation until you find several holding companies holding portions of the stock of but a single parent corporation. This practice cannot continue, and is bound to be, now that the matter has been called to the attention of the American public, discontinued. Therefore, knowing that it must be discontinued, I for one am not willing to give this bunch of crooks an out by offering them an alibi whereby they can say to the investors whom they have already robbed that had it not been for the action of the Congress of the United States in passing a "death sentence" against their business we would have come out of the hole. I would rather place strict regulation on them so that they cannot repeat in the future what they have done in the past, and then when the holders of these securities have failed to realize an enhancement of value of their stock, the blame for their not realizing an enhancement in its value can and will remain where it belongs—at the feet and on the doorstep of these public-utility holding companies who first sold to the innocent and unsuspecting public these overwatered, inflated, and pyramided stocks.

In most instances where public-utility companies were organized, had they been permitted to operate as a parent company independent in themselves and not be forced to pay tribute to and become a part of a holding-company group, they probably would have delivered to the consumer their service at a very much reduced rate, and the earnings which they made from the sale of said service would have paid to the holders of their securities, in the form of dividends rather than to high salaried officials of the holding companies who became their overlords.

In the event the House of Representatives should by its vote adopt the regulatory section contained in the House bill, it will then probably on final passage of the bill by this body be adopted containing this regulatory section. But this does not mean that it will become the law, because the Senate adopted the Senate section, which is known as the "death sentence."

Therefore, there is a difference of opinion between the two Houses, which will necessitate that the bill as is finally adopted by the House will have to be agreed to by the Senate. This will call for a conference between the two Houses. What those conferees will do with these two bills is entirely problematical. They might agree to adopt either the "death sentence" or the regulatory measure. In either event, both branches of Congress might adopt and agree to their conference report, in which event, after the President had signed the bill so agreed to, that bill would become law.

Realizing the possibility that the conferees might agree on the section contained in the Senate bill, and that the two Houses might agree to said conferees' report, and that the President might sign said bill, which would even, despite the action of the House of Representatives, enact into the law the so-called "death sentence", I want to warn you holders of holding-company securities that even though these holding companies use this as an excuse for your not realizing more on your investment, you would not have realized more on your investment had the so-called "death sentence" not been enacted into law, because the public-utility companies,

through their holding companies, have so conducted themselves that there is not now a chance, regardless of what legislation comes from the Congress, that you can ever get back anything like the amount of money that you put in your original investment in public-utility securities.

Let the outcome of the pending legislation be what it may, the people of the United States have surely by now come to the same conclusion that I have. That is, that they will ever be against octopuslike corporations, who by deceit and misrepresentation of the value of the securities they offer, dupe an unsuspecting public into purchasing at an inflated and exorbitant value their offerings of securities, which, by reason of the manipulation of the very company who offers them, is falsely enhanced to many, many times its real value.

If anyone should say to you that by my vote I am deserting that group of men who are fighting the condition above portrayed, you may state to them for me that they are entirely wrong and that I will ever be found on the side of the fight which is lined up against special interest and the privileged few, and those who are guilty of dishonest dealing with the public at large.

Through honest and efficient regulation I am of the opinion that we can more rapidly reach the point of destroying the evils caused by the operation of holding companies with the least pain to the holders of their securities than we can by at this time enacting legislation to abolish them at a time 5 years from now, during which interim they can through manipulation fatten their already overstuffed purses at the continued expense of the holders of their securities.

Mr. FORD of California. Mr. Chairman, if I understand the purpose of a utility company, and I believe I do, it is a corporation, operating under a charter, primarily for the purpose of generating or manufacturing and distributing either electric energy or gas, unless it be natural gas, in which case it takes its product from the earth and distributes it to communities for domestic and industrial use.

Section 11 of the Senate bill, which we intend to substitute for section 11 of the House bill, does not in any way interfere with the legitimate operations of utility corporations engaged in that class of business.

No proponent of section 11 of the House bill has had the hardihood to stand before this Committee and assert that section 11 of the Senate bill will in any way interfere with or put out of business any utility so engaged.

It is beyond my comprehension that Members of this House, who have time and again shown their opposition to permitting monopoly to exist, should at this time advocate the retention of holding companies as such, for the very essence of the holding company's existence is dependent on its monopolistic control of operating companies.

In upholding this type of company you sanction absentee ownership. You uphold the hands of a group who have, and if the House bill prevails without amendment, depended for their very life on monopoly and absentee control.

Much has been said about the "death sentence." That is just plain, arrant nonsense.

What the Senate amendment does do is to divest these holding companies of control.

What does that mean? It merely means that these leeches will be forced to get off the backs of the operating companies, whose revenues they have been siphoning off—not for the benefit of the holding company stockholders, nor for the benefit of the operating company stockholders, but for the benefit of a little group of insiders, who, fine respectable gentlemen that they are personally, have been for years engaged in a species of legalized robbery that surpasses any form of thievery as yet devised by the best legal minds of the Nation.

Now section 11 does not confiscate their holdings at all. It gives them the privilege of converting their corporations into legal investment trusts.

If the assets they hold are valuable, and if the returns they receive are legitimate, based on their stock ownership in operating companies, then they are not in the least hurt by this section.

But this section, by denying them control; by denying them the right to levy tribute, to which they are not entitled, on stock for which they as individuals paid not a dime, restores to the owners of genuine utility operating company stock, the dividends to which they are entitled, because of their actual investment of real hard-earned money. Those dividends should be theirs, but the insiders of the holding-company racketeers have stolen them.

That, my friends, is the question you are called upon to decide.

If you adopt the House bill, these pirates will continue to suck the lifeblood of honest investors.

If you adopt the Senate amendment, they will be forever estopped from robbing honest investors.

The choice is yours—I for one am for the Senate amendment.

Mr. LEWIS of Maryland. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of Maryland: Page 197, line 1, after the word "one", strike out the words "or more."

Mr. LEWIS of Maryland. Mr. Chairman, I have just voted for section 11 of the House bill in preference to section 11 of the Senate bill, but I voted with the reservation which is now presented in the form of this amendment. The ruling object of this legislation is to secure single, integrated operating organizations. Under House section 11 in the last line of paragraph (a) are found the words, "one or more integrated public-utility systems", which would be allowable under the House section 11. My amendment proposes to strike out the words "or more" so that only one integrated system may be allowed to a single holding company.

I regret that I cannot approach you this afternoon with the feeling that I am an expert in this subject matter or offer the opinions of an authority, because my energies have had to be devoted to other subjects.

Therefore, I submit only my own thought. Just one sentence in explanation of my objection to section 11 of the Senate bill. If it should happen that some of the holding companies have not voluntarily reorganized, and the Commission has not yet proceeded against them effectually in the courts, then by a legislative decree in the Senate section, at a given moment, they will be deprived of their corporate lives without their day in court as prescribed in the Constitution. The veriest criminal is assured his day in court. I do not believe that the case of company or individual should be tried by a legislative tribunal. Ours, as lawmakers, to lay down the rules that should be applied, and the duty of the courts to apply those rules. And I trust the courts may find it their duty a little more in the future to apply the rules provided here in the public interest rather than to nullify them at the instance of private litigants.

Now, with regard to my amendment providing that not more than one integrated system be allowed under House section 11: I do not see any reason why two different integrated systems in different parts of the country need be operated by the same president, or the same board of directors. I sense only a dream of power. Must these power presidents have castles everywhere like the King of England?

Today he is at his castle in Scotland, tomorrow in his castle in England, and next week to another castle in Wales. In the ancient days a castle in Ireland was reserved to him, but its hinges are rusty now.

I have said all I can in the way of argument. To allow two integrated systems in a holding company is to defeat the ruling objective of this bill, a bill which I think should commend itself to us in view of the unhappy history of this subject matter in the past. [Applause.]

The CHAIRMAN. The time of the gentleman from Maryland [Mr. LEWIS] has expired.

The question is on the amendment offered by the gentleman from Maryland.

The question was taken; and on a division (demanded by Mr. KVALE) there were—ayes 36 and noes 61.

So the amendment was rejected.

The Clerk read as follows:

INTERCOMPANY LOANS; DIVIDENDS; SECURITY TRANSACTIONS; SALE OF UTILITY ASSETS; PROXIES; OTHER TRANSACTIONS

SEC. 12. (a) It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to borrow, or to receive any extension of credit or indemnity, from any public-utility company in the same holding-company system or from any subsidiary company of such holding company, but it shall not be unlawful under this subsection to renew, or extend the time of, any loan, credit, or indemnity outstanding on the date of the enactment of this title.

(b) It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to lend or in any manner extend its credit to or indemnify any company in the same holding-company system in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(c) It shall be unlawful for any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to declare or pay any dividend on any security of such company or to acquire, retire, or redeem any security of such company, in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate to protect the financial integrity of companies in holding-company systems, to safeguard the working capital of public-utility companies, to prevent the payment of dividends out of capital or unearned surplus, or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(d) It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to sell any security which it owns of any public-utility company, or any utility assets, in contravention of such rules and regulations or orders regarding the consideration to be received for such sale, competitive bidding, fees and commissions, accounts, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(e) It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding the voting of any security of a registered holding company or a subsidiary company thereof in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(f) It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any transaction not otherwise unlawful under this title, with any company in the same holding-company system or with any affiliate of a company in such holding-company system in contravention of such rules and regulations or orders regarding reports, accounts, costs, competitive bidding, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provision of this title or the rules and regulations thereunder.

Mr. MONAGHAN. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. MONAGHAN: On page 203, after line 2, at the end of section 12, insert two new subsections, as follows:

"(g) It shall be unlawful for any registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly—

"(1) To make any contribution whatsoever in connection with the candidacy, nomination, election, or appointment of any person for or to any office or position in the Government of the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing; or

"(2) To make any contribution to or in support of any political party or any committee or agency thereof.

"The term 'contribution' as used in this subsection includes any gift, subscription, loan, advance, or deposit of money or anything of value, and includes any contract, agreement, or promise, whether or not legally enforceable, to make a contribution.

"It shall be unlawful for any person employed or retained by any registered holding company, or any subsidiary company thereof, to present, advocate, or oppose any matter affecting any registered holding company or any subsidiary company thereof, before the Congress or any Member or committee thereof, or before the Commission or Federal Power Commission, or any member, officer, or employee of either such Commission, unless such person shall file with the Commission in such form and detail and at such time as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the subject matter in respect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received by such person, directly or indirectly, in connection therewith. It shall be the duty of every such person so employed or retained to file with the Commission within 10 days after the close of each calendar month during such retainer or employment, in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the expenses incurred and the compensation received by such person during such month in connection with such retainer or employment."

Mr. SNELL. Mr. Chairman, I make a point of order against the amendment. I could hear only a small part of it, but from what I could hear it is not germane to this section of the bill.

Mr. BLANTON. Will the gentleman yield?

Mr. MONAGHAN. I yield to the gentleman from Texas.

Mr. BLANTON. I would vote for the amendment if it provided a penalty for violations specified in it. Suppose the gentleman's amendment should be passed, and suppose every feature of it were to be violated, what is the punishment? There is no punishment for any of these violations provided in his amendment. It would be futile to pass such an amendment without a penalty for violations.

Mr. MONAGHAN. I would say there is a general punishment section in the bill which would cover that.

Mr. SNELL. Mr. Chairman, I insist on the point of order.

Mr. MONAGHAN. Section 29 of the bill provides the punishment, if the gentleman is worried about that at all. As to the germaneness of this provision, I do not believe it is necessary to even submit an argument on it. The very statement of the amendment should be sufficient to convince that it is within the scope of this bill.

We are trying to regulate. We are trying to control. We are trying to destroy the economic and political control of the holding companies and operating companies and large utility companies; and judging by the vote this afternoon, there is no better way to destroy that control than to prevent contributions to political candidates in the future. [Applause.]

The CHAIRMAN (Mr. MCMILLAN). The pending section of the bill deals with several matters which are made unlawful, and the amendment offered by the gentleman from Montana, it seems to the Chair, is sufficiently related to the propositions contained in the section to be in order. The Chair feels, in view of that, that the amendment is in order, and therefore overrules the point of order.

The gentleman from Montana is recognized.

Mr. MONAGHAN. Mr. Chairman, the argument that has impressed me throughout this whole debate has been one which I have heard echoed, as one of the youngest legislators in the State of Montana, and which I have heard reechoed since I came to the National Congress. The cry of all corporate interests, the cry of big business and Wall Street has ever been, "If you regulate us, you will destroy us." Further, their threat has always been, which I pray God was not the reason for the vote cast against the meritorious strong section 11 of this bill, "If you, Mr. Politician, dare oppose us, we will defeat you." I say in answer, "I would rather go down to defeat fighting for the right than be a willing slave."

In 1928 I was in Great Falls, Mont., speaking for Alfred E. Smith for the Presidency of the United States when Dr. Shanley, who was ably handling his campaign in Montana, came to me and stated, "We have received word from the headquarters of the Democratic National Committee that they were compelled to curtail the expenses of conducting the campaign by at least $2,000,000, because those who indirectly were interested in the election of Alfred E. Smith to the Presidency of the United States withdrew that sum in pledges and refused to contribute further to his election fund for the Presidency of the United States because he made the famous Denver water-power speech, wherein he said, "If I

am elected to the Presidency of the United States, I will see to it that the power sites of this country are returned to the people, their rightful owners." Al Smith was right when he said that. The power sites are the people's property and should be returned to them by law.

I say to you the trouble with this measure is not that it goes too far, but that it is too weak. The House bill is weak. It has been emasculated. It has been torn to shreds in the committee, of which I am a member. I only wish the measure were really strong. The only semblance of a strong bill is the Wheeler Senate measure. I hope when it comes to the final vote as between the people of the United States and the Power Trust of this country, that the Membership of this House will go on record nobly as standing in support of the President of the United States in his great fight for the people of this country and against the vested interests. I hope they will vote down the committee amendment to the Senate bill and thereby restore not only section 11 but all semblance of control and regulation and gain back for the people of this country their right to control the natural-power sites of this country which should belong, and do belong, to them and not to the small chosen crowd which controls the power interests of our country.

There is only one issue in this, and that is the issue of the people against the Power Trust. Anyone who does not vote down the committee substitute, the amendment to the Senate bill, is in effect voting for the Power Trust of this country.

Mr. Roosevelt is leader of the Democratic Party. A true leader leads and is no camp follower. He is responsible for the progressive development of the principles of his party and intelligent application to the facts that change from day to day.

But no one can fairly charge that Mr. Roosevelt's policy is more than a realistic and practical application of the principles that underlie the Democratic platform of 1932. Since 1932 we have had the completion of the Federal Trade Commission's report on utility-holding companies, the report of Dr. Splawn to the Committee on Interstate and Foreign Commerce, and the report of the National Power Policy Committee to the President, which was submitted to the Congress with his message of March 12. From those reports we know far more about the actual ways and means of carrying out that regulation of holding companies demanded in the platform of 1932 than we knew in 1932. And a party platform in favor of "regulation" means "effective regulation" and "regulation" that accords with the best knowledge of the subject. Mr. Roosevelt's policy is the Democratic platform of 1932 interpreted in the light of knowledge of 1935. And that is why Mr. Roosevelt's power policy will be the Democratic platform of 1936. Because Franklin D. Roosevelt follows not the letter that killeth but the spirit that giveth life.

Those who are opposing the amendment before the House are contending that regulation of utility holding companies as advocated in the Democratic platform of 1932 is a matter where form should govern and principle should abdicate. Franklin D. Roosevelt does look beyond the form to the substance of living issues. The essence of the Democratic platform was that the use of the holding company should be controlled in the public interest. The National Power Policy Committee, acting under the directions of the President, made a careful study of how the use of the holding company could be controlled in the public interest. That committee came to the conclusion that the use of the holding company for financial purposes unrelated to the sober operating problems of a local region was found to be not only unnecessary but productive of evils far outweighing any possible good. The recommendations of the National Power Policy Committee were corroborated and supported by the conclusions reached by Dr. Walter M. W. Splawn, special counsel for the House Committee on Interstate and Foreign Commerce as a result of independent investigation carried out by him under the directions of that committee. It makes little difference in the substance whether you want to call the only effective method of controlling the public utility holding companies the elimination of unnecessary holding companies or the effective regulation of holding companies. The indisputable fact is that the utility-holding company with its present powers leads inevitably to an undue concentration of economic power which defies and discredits any attempt at regulation.

There are men who will speak boldly against the undue concentration of economic power, who will cry out against the evils of absentee management but who protest against any effective action to eliminate those evils. I would warn all true Democrats against associating themselves with such protests. Such an attitude does not represent the attitude of the rank and file of the Democratic Party nor does it represent the attitude of the recognized and responsible leadership of the Democratic Party. Let Democrats who vote against this amendment ponder how they will explain to their constituents their repudiation of the President's message of March 12, which certainly conforms with the best Jeffersonian tradition.

Let those who denounce the Senate bill as the work of demagogues beware that their words are not turned against them. This bill represents the considered policy of Franklin D. Roosevelt, the recognized leader of the Democratic Party, and those who denounce this amendment may find that they are denouncing the Democratic Party. All good Democrats profess to follow Thomas Jefferson. But the issues of today must be applied to the facts of today. Let us not forget that Thomas Jefferson was accused of being a demagogue in his time. The Democratic Party must be judged today not by the stand that it took upon the vital issues in the days of Jefferson but upon the stand it takes on vital issues today, just as the Republican Party cannot be judged by the stand it took upon the issues in the days of Abraham Lincoln but must be judged upon the stand it takes on issues today.

But I venture to assert that the stand taken by Franklin D. Roosevelt on the power issue conforms more nearly and more truly with the spirit of Thomas Jefferson than the stand taken by those who oppose his views on this subject. Can any good Democrat have any doubt as to the abhorrence with which Thomas Jefferson would have viewed the growing concentration and centralization of economic power in this country? Can any good Democrat believe that Thomas Jefferson would resist the effort of Government to break down that concentration and centralization of economic power in face of the unquestioned inability of the States to break down that concentration and centralization or even stand up against it? If Thomas Jefferson were living today, he would be fighting the battle of Franklin D. Roosevelt to break down that concentration and centralization of economic power before it destroyed the effective powers of the States and of their governments. State rights with Jefferson was not a fetish but a reality. The giant utility holding company, with powers greater than any State, has proved in practice to be beyond the control of the State. And Democrats who view with alarm the growing impotence of our State governments know that the only way to restore the vitality of State and local government is to use the national political power to break down that concentration and centralization of economic power until the State and local governments can once more control the economic power within their borders.

Mr. HUDDLESTON. Mr. Chairman, we could not hear the reading of the amendment offered by the gentleman from Montana [Mr. MONAGHAN]. We have no fair idea of its significance. The gentleman from Montana did not choose to explain it in his remarks; he did not choose to tell us what its significance was. He chose, rather, to devote himself to the discussion of section 11, the subject which has just been voted upon by the House. To accept his amendment under these conditions would be farcical and would make of the House a laughing stock. The thing for us to do is to bear in mind where these amendments come from and the purpose of those who present them, and to beware of Greeks bearing gifts. [Applause.]

As I said at the beginning, I support this bill in toto.

Mr. MONAGHAN. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. No; I cannot yield.

Mr. Chairman, I am against any amendment to the bill whatsoever. Let us protect it. We have the majority in this House. [Applause]. Let us show our will by protecting this vote throughout these proceedings.

The single contribution made by the convention which adapted the Constitution of the United States to the science of government was that we should have three separate and independent branches of government, the executive, the judicial, and the legislative. This House, by a splendid majority, has just shown that it is its will that this system of government shall be preserved and made perpetual. [Applause].

We have taken back into our hands the right to legislate for the United States. We have shown that we are unwilling to submit to the dictation of outside influences, even of the Chief Executive or his spokesmen. [Applause.]

Again has the House of Representatives shown that it is worthy and worth while. Again we have shown our loyalty to our institutions. Let us preserve this bill and vote down these amendments that come from those who, having been defeated in an open, fair fight, now seek to snipe us from the rear. [Applause.]

Mr. McFARLANE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I favor this amendment.

For the benefit of any who were listening when it was read, as I understood the amendment it says in effect that we will try to insure that the legislative branch of the Government, which the gentleman from Alabama seems to be so interested in preserving, shall, in fact and in truth, prevail. We want to clip the wings of the Power Trust to the extent of prohibiting them from contributing in any way to the campaign funds of any candidate for office. If we do this it is my opinion that we will stop this iniquitous practice; we will stop the racket they have carried on, lo these many years, in backing candidates for office who do their bidding. This will prevent the Power Trust from in any way contributing to their campaign as far as it is possible.

The Power Trust always back every candidate for office who will let them, and, of course, they back the ones under the circumstances who they believe have the best chances of success, then they win regardless of who wins whenever you accept aid from them or permit them to pay any of your campaign expenses, directly or indirectly. This is a wholesome amendment. It ought to pass without a single vote against it.

(There were cries of "Louder.")

Some of you fellows who are hollering "louder" were very deaf when it came to voting for sections 11 and 13 of the Senate bill. There ought not to be a single vote against this amendment, especially if you believe in honest government, if you believe that the corporations of this country, the trusts of this country, should not be allowed to contribute directly or indirectly to any campaign fund, and in this way control all legislation in which they may be interested. If you believe in this principle, my friends, you should go down the line and vote for this amendment.

Mr. Chairman, at the time I served in the Senate of Texas we had this same battle trying to get an adequate regulatory commission to regulate the utilities in Texas. We had the Power Trust, the same group that is up here now lobbying, trying to defeat any measure of this kind. The same bunch was down there. I offered in the Senate of Texas a measure similar to the one I offered here, seeking to put these gentlemen on record, trying to force these lobbyists to register, seeking to compel them to disclose how much money they were being paid, whom they were entertaining, and all about it. I wanted the background.

On February 25, 1930, I offered a resolution in the Senate of Texas, which would have required full and complete information of all paid lobbyists, their name, age, address, occupation, the person, firm, or corporation they represent, the pay or fee received, and whether or not contingent, together with other necessary data, to be filled out on a questionnaire provided for that purpose. The resolution provided full publicity to be given the information thus received. This resolution created quite a stir on the floor of the senate at the time it was offered, and I was threatened with impeachment because of offering it.

I have always favored the fullest kind of publicity for all lobbying activities and trust that the House Judiciary Committee will soon hold hearings on S. 2512 calling for complete information on all lobbying activities before Congress. This resolution passed the Senate May 28.

The common people, the taxpayer, whom we too often forget, is the person paying this bill. He is entitled to know what is going on up here. This is a good, wholesome amendment. It ought to be adopted in the interest of fair play, in the interest of the country, in the interest of the people back home knowing the kind and character of the men they are to vote and are voting for. The men sent here to represent the people should not be hindered in any way in casting an untrammeled vote on any subject. And the people should know the complete background of all candidates before they are asked to cast their vote. No man can serve two masters, and the people should have all light possible, to aid in deciding whom he will probably serve.

Mr. Chairman, I hope this amendment will be adopted. [Applause.]

[Here the gavel fell.]

Mr. RANKIN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. HUDDLESTON. Mr. Chairman, I move that all debate on this amendment do now close.

Mr. RANKIN. Mr. Chairman, I rose in opposition to the amendment, and I was recognized by the Chair. The gentleman from Alabama has no right to interrupt.

The CHAIRMAN. The Chair had already recognized the gentleman from Mississippi.

Mr. RANKIN. Mr. Chairman, the gentleman from Alabama [Mr. HUDDLESTON] is not running this Congress. [Applause.] The gentleman from Alabama contemptuously refers to the "President and his minions"——

Mr. HUDDLESTON. Mr. Chairman, I rise to a point of order. The gentleman is not discussing the amendment.

Mr. RANKIN. Mr. Chairman, the gentleman from Alabama just a moment ago discussed this amendment.

The CHAIRMAN. The gentleman from Mississippi will proceed in order.

Mr. RANKIN. I am making a reply to what the gentleman from Alabama said in reference to this amendment.

The CHAIRMAN. The gentleman from Mississippi will proceed in order.

Mr. RANKIN. Mr. Chairman, the gentleman from Alabama [Mr. HUDDLESTON] spoke on this amendment. I want to know if I have the right to answer the gentleman?

The CHAIRMAN. The Chair will state that the amendment offered by the gentleman from Montana is pending.

Mr. HUDDLESTON. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman will state his point of order.

Mr. HUDDLESTON. The matter pending before the House is the motion of the gentleman from Texas to strike out the last word. The gentleman from Mississippi rises. Debate is exhausted upon the original motion, which has been debated on both sides under the 5-minute rule.

Mr. RANKIN. Mr. Chairman, the last word is "thereunder."

The CHAIRMAN. The motion of the gentleman from Texas was to strike out the last word, which is the last word of the pending amendment of the gentleman from Montana. The gentleman from Mississippi has risen in opposition to the pro forma amendment and is recognized for 5 minutes.

Mr. RANKIN. Mr. Chairman, the last word is "thereunder", which covers as much ground as the speech of the gentleman from Alabama. So I presume it will cover and touch just about as much as his speech covered or touched.

Tomorrow when we go back into the House, this House bill has to be adopted as a whole as an amendment to the Senate bill. We are going to vote against adopting the House bill as an amendment. Then when we call the roll we will see who votes for this measure. We will see whether or not the Power Trust is going to continue to dominate the Congress of the United States. All of you be here tomorrow and vote. We will have a roll call on this matter, because it is going to be a campaign issue from now on until the people win. [Applause.]

Mr. HUDDLESTON. Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

The CHAIRMAN (Mr. WARREN). The gentleman from Alabama moves that all debate on this section and all amendments thereto do now close.

The question was taken, and on a division (demanded by Mr. MONAGHAN) there are ayes 142, noes 51.

So the motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana, Mr. MONAGHAN.

The question was taken, and on division (demanded by Mr. MONAGHAN) there were ayes 54, noes 114.

Mr. O'MALLEY. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed Mr. HUDDLESTON and Mr. MONAGHAN to act as tellers.

Mr. SWEENEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SWEENEY. May we have the pending amendment read?

The CHAIRMAN. The gentleman's request comes too late. The Committee has divided.

The Committee again divided; and the tellers reported that there were—ayes 114, noes 104.

So the amendment was agreed to.

The Clerk read as follows:

SERVICE, SALES, AND CONSTRUCTION CONTRACTS

SEC. 13. (a) After April 1, 1936, it shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof which is a public-utility company.

(b) The provisions of subsection (a) shall not apply to such transactions, involving special or unusual circumstances or not in the ordinary course of business, as the Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) It shall be unlawful for any subsidiary company of a registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any service, sales, or construction contract with any other company in the same holding-company system, in contravention of such rules and regulations or orders regarding the consideration to be paid and other terms of such contracts, accounts, reports, costs, competitive bidding, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(d) It shall be unlawful for any person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, by use of the mails or any means or instrumentality of interstate commerce to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company, or for any such person, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company engaged in interstate commerce, or with any registered holding company or any subsidiary company of a registered holding company, in contravention of such rules and regulations or orders regarding reports, accounts, costs, competive bidding, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(e) The Commission, in order to obtain information to serve as a basis for recommending further legislation, shall from time to time conduct investigations regarding the making, performance, and costs of service, sales, and construction contracts with holding companies and subsidiary companies thereof and with public-utility companies, the economies resulting therefrom, and the desirability thereof. The Commission shall report to Congress, from time to time, the results of such investigations, together with such recommendations for legislation as it deems advisable. On the basis of such investigations the Commission shall classify the different types of such contracts and the work done thereunder, and shall make recommendations from time to time regarding the standards and scope of such contracts in relation to public-utility companies of different kinds and sizes and the costs incurred thereunder and economies resulting therefrom. Such recommendations shall be made available to State commissions, public-utility companies, and to the public in such form and at such reasonable charge as the Commission may prescribe.

Mr. EICHER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. EICHER: Strike out all of section 13 extending from line 3 on page 203 to and including line 20 on page 205 and insert in lieu thereof the following:

"SERVICE, SALES, AND CONSTRUCTION CONTRACTS

"SEC. 13. (a) After April 1, 1936, it shall be unlawful—

"(1) for any registered holding company, or subsidiary company thereof (other than a mutual service company), by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof which is a public-utility or mutual service company;

"(2) for any registered holding company or subsidiary company thereof, which is a public-utility company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract, by which such company undertakes to receive services, buy goods, or accept construction work from any person (other than a mutual service company) engaged in the business of performing service, sales, or construction contracts for public-utility or holding companies if such business is, or purports to be, carried on by such persons for such company as a cooperative, mutual or nonprofit enterprise.

"(b) The provisions of subsection (a) shall not apply to such transactions, involving special or unusual circumstances or not in the ordinary course of business, as the Federal Power Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers.

"(c) It shall be unlawful for any affiliate of any public-utility company, by use of the mails or any means or instrumentality of interstate commerce, or for an affiliate of any public-utility company engaged in interstate commerce, or of any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of, any service, sales, or construction contract, by which such affiliate undertakes to perform services or construction work for, or sell goods to, any such company of which it is an affiliate, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters, as the Federal Power Commission finds necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

"(d) It shall be unlawful for any person, a substantial part of whose business is the performance of service, sales, or construction contracts for public-utility or holding companies, by use of the mails or any means or instrumentality of interstate commerce, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company, or for any such person, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company engaged in interstate commerce, or any registered holding company or any subsidiary company thereof, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest. duration of contracts, and similar matters as the Federal Power Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder. Such rules and regulations shall require any such person engaged in interstate commerce in the business of performing service, sales, or construction contracts for public-utility or holding companies on a cooperative, mutual, or nonprofit basis to be approved under this section as a mutual service company.

"(e) A person may apply to be approved as a mutual service company for the purpose of making and performing service, sales, or construction contracts with public-utility or holding companies by filing with the Federal Power Commission an application in such form and containing such information, classified and in such detail, and accompanied by such documents, as the Federal Power Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, in respect of—

"(1) the articles of incorporation, agreement, association, or cooperation under which the applicant will do business and its

bylaws or rules or instruments, whatever the name, corresponding thereto;

"(2) the ownership of the applicant, whether by ownership of securities or otherwise, and the relations and agreements between the applicant and its owner or owners;

"(3) the identity of the member companies of the applicant, and the agreement or agreements under which such member companies are to share in its expenses and revenues and the method by which such shares are determined and to be maintained or adjusted;

"(4) the kinds of service, sales, or construction contracts to be performed by the applicant; and

"(5) the business, if any, other than the performance of service, sales, or construction contracts with member companies, in which the applicant purposes to engage.

"(f) Within such reasonable time after the filing of an application as the Federal Power Commission shall fix by rules or regulations or order, the Federal Power Commission shall enter an order either approving or, after notice and opportunity for hearing, disapproving the applicant as a mutual service company, unless the applicant shall withdraw its application. Amendments to an application may be made upon such terms and conditions as the Federal Power Commission may prescribe.

"(g) The Federal Power Commission shall not approve, or continue the approval of, the applicant as a mutual service company unless (1) in the judgment of the Federal Power Commission the applicant is so organized as to ownership, costs, revenues, and the sharing thereof as reasonably to insure the efficient and economical performance of service, sales, or construction contracts by the applicant for member companies, at cost fairly and equitably allocated among such member companies, at a reasonable saving to member companies over the cost to such companies of comparable contracts performed by independent persons, and (2) membership of the applicant is to be open on substantially similar terms to all public-utility companies similarly situated, except for such limitation on membership, in cases where an increase therein would result in a disproportionate increase in cost, as the Federal Power Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

"(h) The Federal Power Commission, in any order approving a company as a mutual service company, may prescribe such terms and conditions regarding the continuance of such approval, the nature and enforcement of the agreements of such mutual service company for the sharing of expenses and the distributing of revenues among member companies, and matters relating to such agreements, and the nature, character, and extent of the business which may be carried on by such mutual service company as the Federal Power Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this section or the rules and regulations thereunder.

"(i) Every mutual service company shall file with the Federal Power Commission such information and documents in respect of its service, sales, and construction contracts, the composition of its membership, the manner and method of sharing expenses and distributing revenues, and similar matters, as the Federal Power Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

"(j) It shall be unlawful for any mutual service company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to engage in any business, or enter into or perform any transaction, in contravention of such rules and regulations or orders regarding the nature and types of businesses and transactions in which such companies may engage, the manner of engaging therein, the limitation of membership in such companies for one or more purposes to specified classes of member companies or to member companies carrying on business in a limited region, maintenance of competitive conditions, costs disclosure of interest, relations with member companies and affiliates, and similar matters, as the Federal Power Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this section or the rules, regulations, or orders thereunder.

"(k) The Federal Power Commission, after notice and opportunity for hearing, may revoke, suspend, or modify the approval given any mutual service company if it finds that such company has violated any provision of this title or any rule, regulation, or order thereunder, or that such company is not operated efficiently, economically, and in good faith, solely in the interest of its member companies. The Federal Power Commission, upon its own motion or at the request of a member company or a State commission, may, after notice and opportunity for hearing, require a reallocation or reapportionment of costs among member companies of a mutual service company if it finds the existing allocation inequitable and may require the elimination of a service or services to a member company which does not bear its fair proportion of costs or which, by reason of its size or other circumstances, does not require such service or services.

"(l) The Federal Power Commission shall from time to time conduct investigations regarding the making, performance, and costs of service, sales, and construction contracts, the economies resulting therefrom, and the desirability thereof. On the basis of such investigations the Federal Power Commission shall classify the different types of such contracts and the work done thereunder, and shall make recommendations from time to time regarding the standards and scope of such contracts in relation to public-utility companies of different kinds and sizes and the costs incurred thereunder and economies resulting therefrom. Such recommendations shall be made available to State commissions, public-utility companies, and to the public in such form and at such reasonable charge as the Federal Power Commission may prescribe."

Mr. EICHER. Mr. Chairman, this amendment assumes particular significance in view of the fact that so far section 11 of the House bill remains.

The difference between section 13 of the House bill and section 13 of the Senate bill is that in the House bill the formation of mutual service companies is not required. The Senate bill contains a mandatory requirement that all intercompany services shall be furnished by a mutual, nonprofit, at-cost service company to the operating company. This provision is changed in the House bill; and although top holding companies are prevented from rendering service to operating companies, yet subsidiaries may render these services under the approval of the Commission.

Now, if this Congress does not have the courage to say what holding companies shall remain in existence and what holding companies shall not, we may expect that little will be accomplished in the years to come by the Commission in the reduction of the existing pyramided holding-company systems.

Therefore it is all the more vital that we have in this bill a specific interdiction against the continuance of intercompany relationships where the top holding company and its management are on both sides of the bargaining table. It is from profits of this kind that the holding-company system has thrived. It is from sources of this kind that it has been able to obtain its income, which has been the milk upon which it has fed, taken away, without consideration, from the consumers and the investors of the country.

Therefore, I want to emphasize the importance, in view of the emasculated section 11 that we have left in the bill, which leaves it discretionary with the Commission to permit the continuance of any number of systems of pyramided holding companies, that there be inserted a direct, mandatory provision by the Congress that no contracts may be entered into between a management company and the controlled operating company without conditions of competition and with no independent yardstick for measuring the fair values and compensation provided for in the contracts.

We will have a repetition of instances such as were disclosed before our committee where, in one case, a top holding company charged its operating companies $2,000,000 for legal services rendered to the operating companies, but the report of the holding company showed that it paid the lawyers who actually did the work only $1,000,000 and put the other $1,000,000 in its pockets. This is the sort of practice we are driving at and it can only be eliminated by compelling the organization of independent, nonprofit, mutual service companies.

I therefore urge the adoption of this amendment to substitute for section 13 of the House bill, section 13 of the Senate bill.

[Here the gavel fell.]

Mr. HUDDLESTON. Mr. Chairman, the House bill requires that all intercompany contracts be subject to the approval of the Commission, which is given the power to see to it that all such contracts are absolutely fair and that all unjust charges and exactions are eliminated.

As a concession to the chairman and to obtain his support for the rewritten section, those of us who favored it conceded to him the provision that the holding company should make no contracts with any subsidiary, and section 13 (a) forbids all such contracts upon the part of holding companies.

The point is amply covered. It is covered in the best possible way. There is no excuse for offering any change in the bill on this point.

Again, Mr. Chairman, I rise in my capacity as a substitute for a sort of orphan asylum. The chairman has seen proper to walk out on this bill. It is not my job to defend the bill, but it is necessary that some member of the majority stand up and defend this bill as reported by the House committee.

I ask the House, Is it your purpose to put through this bill as the committee has reported it, or do you propose to have comprehensive changes made without any proper consideration by anybody who chooses to make them? Such procedure would be preposterous. I ask you gentlemen to stand by the committee's bill.

Mr. HOOK. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. I do not want to yield.

[Here the gavel fell.]

Mr. HUDDLESTON. Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

The question was taken; and on a division (demanded by Mr. HOOK) there were—119 ayes, 69 noes.

So the motion was agreed to.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Iowa.

Mr. DUNN of Pennsylvania. Mr. Chairman, I demand tellers.

Tellers were ordered.

The Chair appointed as tellers Mr. EICHER and Mr. HUDDLESTON.

The Committee again divided; and the tellers reported that there were 101 ayes and 163 noes.

So the amendment was rejected.

Mr. ROBERTSON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 204, line 6 and 7, strike out the word "principal" and insert in lieu thereof the word "sole."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. ROBERTSON) there were—15 ayes, 61 noes.

So the amendment was rejected.

Mr. ROBERTSON. Mr. Chairman, I offer a further amendment.

The Clerk read as follows:

On page 205, after the last word in line 20, add the following new paragraph:

"(f) Any holding company, or any subsidiary company thereof, desiring to simplify its corporate structure, or to remove complexities therefrom, or to reduce the number of corporations constituting a system of which any such corporation may form a part, or to dissolve, reorganize, or to eliminate interlocking directorates or to distribute voting power, shall, pending such operations or proceedings and in furtherance thereof, be eligible for loans from the Reconstruction Finance Corporation, provided adequate security is furnished for such loans, and the applications for such loans are approved by the Commission."

Mr. HUDDLESTON. Mr. Chairman, I make the point of order that the amendment is not germane. There was so much confusion that back here we could not hear the whole reading of the amendment. Therefore, I ask a ruling of the Chair whether it is germane or not.

The CHAIRMAN. The Chair will hear the gentleman from Virginia on the point of order.

Mr. ROBERTSON. Mr. Chairman, under this bill it is contemplated that certain holding companies will be dissolved, broken up into the component parts. It has been suggested that in that process stockholders may suffer a great loss. Certainly occasions will arise when the small stockholders will need financing if they are to be able to preserve their investment. The purpose of this amendment is to protect them and permit them to go to the R. F. C. and get financed. I think the amendment is in accord with the general purpose of the bill to protect the small stockholder when holding companies are dissolved even though not germane to the principal purpose of utility company regulations.

The CHAIRMAN. The Chair is ready to rule. The Chair sustains the point of order on the ground that the amendment is not germane, certainly to this section of the bill.

The Clerk will read.

The Clerk read as follows:

ACCOUNTS AND RECORDS

SEC. 15. (a) Every registered holding company and every subsidiary company thereof shall make, keep, and preserve for such periods such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules, regulations, or orders thereunder.

(b) Every affiliate of a registered holding company or of any subsidiary company thereof, or of any public-utility company engaged in interstate commerce or not so engaged, shall make, keep, and preserve for such periods such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records relating to any transaction of such affiliate which is subject to any provision of this title or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules, regulations, or orders thereunder.

(c) Every person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies shall make, keep, and preserve for such periods such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records relating to any transaction by such person which is subject to any provision of this title or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules and regulations thereunder.

(d) After the Commission has prescribed the form and manner of making and keeping accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records to be kept by any person hereunder, it shall be unlawful for any such person to keep any accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records other than those prescribed or such as may be approved by the Commission, or to keep his or its accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records in any manner other than that prescribed or approved by the Commission.

(e) All accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records kept or required to be kept by persons subject to any provision of this section shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. The Commission, after notice and opportunity for hearing, may prescribe the account or accounts in which particular outlays, receipts, and other transactions shall be entered, charged, or credited and the manner in which such entry, charge, or credit shall be made, and may require an entry to be modified or supplemented so as properly to show the cost of any asset or any other cost.

(f) It shall be the duty of every registered holding company and of every subsidiary company thereof and of every affiliate of a company insofar as such affiliate is subject to any provision of this title or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such holding company, subsidiary company, or affiliate, as the case may be, to such examinations, in person or by duly appointed attorney, by the holder of any security of such holding company, subsidiary company, or affiliate, as the case may be, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(g) It shall be the duty of any person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, insofar as such person is subject to any provision of this title or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such person to such examinations, in person or by duly appointed attorney, by any public-utility or holding company for which such person performs service, sales, or construction contracts, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

Mr. ROBERTSON. Mr. Chairman, I move to strike out the last five words. The last five words I moved to strike out are "protection of investors or consumers", in which connection I desire to call to the attention of the House section 13 (d) that we have just read, and the amendment that I offered to it, to protect investors in small private companies whose principal business is the furnishing of supplies to utility companies. My amendment was voted down, but I want here to register a protest against and to go on record as opposing any subterfuge to take jurisdiction over a purely State matter by coming in the back door of the interstate-commerce clause or of the power to regulate the mail.

We have seen that tried at this session all too frequently. The favorite language to take jurisdiction under the commerce clause has been "in any way affect interstate commerce." The Post Office Committee had a bill sponsored by certain insurance companies that wanted to regulate the companies doing business by mail and to say, "You cannot use the mails unless you submit to Federal regulations." The Post Office Committee refused to report that bill. Now, in this power bill, in section 13 (d), we say to a lumber com-

pany engaged in a purely State operation, viz, furnishing cross arms or poles to a utility company, "You cannot use the mails unless you submit to Federal regulations, unless you come to Washington for the examination of your books, and of your contracts, and of all things pertaining to your dealings with a utility company." The lumber company might say, "We want $5 apiece for our poles", and the Commission might answer, "We think $3.50 is a fair price. If we are going to cut down the rate of these utility companies they must not pay more than $3.50 for poles. And should the lumber company ask, "Why are we subject to your regulation?" the reply is, "You have written letters to a power company that crossed a State line, and therefore we have jurisdiction over you under the Federal power to regulate the mails."

Everybody knows that that is not a proper principle on which to legislate, and when we write that principle into this bill it will rise to confront us for many years to come. I say to the Cohens and the Corcorans and all others who want to wipe out all vestige of State rights, Come in the front door of the Constitution with an amendment to that effect, and not through the back door of the commerce clause or the power to regulate the mails. [Applause.]

While there are no decisions of the United States Supreme Court which set a limit to the power of Congress to regulate the mails the cases cited below are the ones most often cited and referred to.

The power vested in Congress "to establish post offices and post roads" has been practically construed, since the foundation of the Government, to authorize not merely the designation of the routes over which the mail shall be carried, and the offices where letters and other documents shall be received to be distributed or forwarded, but the carriage of the mail, and all measures necessary to secure its safe and speedy transit, and the prompt delivery of its contents. The validity of legislation prescribing what should be carried, and its weight and form, and the charges to which it should be subjected, has never been questioned * * *. The power possessed by Congress embraces the regulation of the entire postal system of the country. The right to designate what shall be carried necessarily involves the right to determine what shall be excluded" (*Ex parte Jackson*, 96 U. S. 727, 732).

"It is insisted that the express powers of Congress are limited in their exercise to the objects for which they were intrusted, and that in order to justify Congress in exercising any incidental or implied powers to carry into effect its express authority, it must appear that there is some relation between the means employed and the legitimate end. This is true, but while the legitimate end of the exercise of the power in question is to furnish mail facilities for the people of the United States, it is also true that mail facilities are not required to be furnished for every purpose. When the power to establish post offices and post roads was surrendered to the Congress it was as a complete power, and the grant carried with it the right to exercise all the powers which made that power effective. It is not necessary that Congress should have the power to deal with crime or immorality within the States in order to maintain that it possesses the power to forbid the use of the mails in aid of the perpetration of crime or immorality" (*In re Rapier*, 143 U. S. 110, 133, 134).

"While it may be assumed, for the purpose of this case, that Congress would have no right to extend to one the benefit of its Postal Service and deny it to another person in the same class and standing in the same relation to the Government, it does not follow that under its power to classify mailable matter, applying different rates of postage to different articles, and prohibiting some altogether, it may not also classify the recipients of such matter, and forbid the delivery of letters to such persons or corporations as in its judgment are making use of the mails for the purpose of fraud or deception or the dissemination among its citizens of information of a character calculated to debauch the public morality" (*Public Clearing House* v. *Coyne*, 194 U. S. 497, 507, 508).

Milwaukee Pub. Co. v. *Burleson* (255 U. S. 407, at 411) upheld the section of the espionage act prohibiting the mailing of any newspaper published in violation of that act.

There are many small lumber and other companies doing a purely State business but whose principal business is the furnishing of supplies to utility companies. Every lawyer in this House is bound to recognize that the decisions of the Court quoted above do not indicate that the Court would uphold the right of the Federal Government to take jurisdiction over these intrastate transactions through prohibiting to the companies so engaged the use of the mails in the transaction of their business. If the Congress has the right to acquire jurisdiction over purely State transactions in that manner, there is no limit to the Federal encroachment upon the rights of the States and upon the rights of the individual to use the mails for any legitimate purpose. I contend that to acquire jurisdiction in this manner is a subterfuge to which we should not resort, however strongly we may believe that not only should utility companies, but likewise those who do business with them, be regulated by the Federal Government.

Mr. ZIONCHECK. Mr. Chairman, I rise in opposition to the pro forma amendment. I have no specific reason to speak at this time, because the particular section to which I wanted to direct my attention was section 13. That, in my opinion, is one of the most important sections of the bill, and the amendment offered by the gentleman from Iowa [Mr. EICHER] providing for mutual service nonprofit corporations was allowed 10 more minutes on this floor, and that was an amendment that would thoroughly protect these investors in subsidiary holding companies that you gentlemen have been shedding crocodile tears over as well as the consumer.

The amendment of the gentleman from Iowa would have done away with the racket of the holding company having its service company come in and build a dam for one of their subsidiaries that would cost them $5,000,000 on the open market and charge fifteen or twenty million dollars for it, and then demand a reasonable return on that and at the same time deprive these poor little stockholders you gentlemen have been crying about from getting any interest or any return on the common stock as it went on up.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. ZIONCHECK. Yes.

Mr. MOTT. Does not the gentleman know that neither in the gentleman's State, the State of Washington, nor in my State, the State of Oregon, can any rate be based on property acquired by a holding company to increase its holdings? The rate in my State and in the gentleman's State is based entirely on the useful use of the property of the utility company and nothing else.

Mr. ZIONCHECK. In the State of Washington the only way that we can regulate a utility company is by public ownership. You can talk about regulations until the end of time, but the only way to regulate them is by public ownership, because as soon as you undertake to regulate these companies, with their various ramifications, very soon they are regulating the regulators.

I make this comment on the vote had today. Tell me what kind of bread a man eats and from whom he gets it and I will tell you the title of his song. This vote today on the death sentence of the utility companies shows that there is no fundamental difference between a reactionary Republican and a reactionary Democrat. When it comes to the issue of power companies, party lines do not mean anything.

Mr. HOEPPEL. Mr. Chairman, will the gentleman yield?

Mr. ZIONCHECK. Yes.

Mr. HOEPPEL. In order to remark that in my opinion the vote cast today is a testimonial to the intelligence of the Democrats who voted with the Republicans.

Mr. ZIONCHECK. The gentleman from California has a right to his own guess, but in my opinion those on this side that voted with the Republicans today voted against the best interests and welfare of the consuming and investing public, as well as the administration.

Now, Mr. Chairman, I want to get back to a discussion of the amendment to section XIII that would have substituted the Senate section providing for nonprofit mutual service companies for the House section which does not so provide.

To start with, it is conceded by all that the operating companies are the only ones which have any tangible assets and that three-fourths of the investment held by the public in utility companies is in operating company bonds, debentures, and preferred stock. The holding companies and the subsidiary holding companies merely own the common stock or the majority stock of the operating company. The subsidiary holding company in turn will issue bonds and preferred stock and common stock on its holdings in the securities of the operating companies of which common stock the next sub-

sidiary company or holding company will own this common stock or the controlling interest for the purpose of control and management.

The top holding company of a pyramided structure, under the present set-ups, have sales, financial, engineering, and construction service companies which render service to their operating subsidiaries. The fact of the matter is the only justification that the proponents for holding companies have for the holding-company structure is the service rendered by the holding companies to their subsidiaries.

If the charge of the holding company for this service of its service corporation to its subsidiaries is exorbitant, one can readily see that not only the consumer of the electrical energy will be penalized by increased costs but the holders of the common stock of the subsidiary operating companies will receive a smaller return. When the holders of the common stock of the subsidiary operating companies receive a smaller return, it is logical that the holders of bonds, debentures, preferred stock, and common stock of the subsidiary holding companies, who hold the common stock of the operating companies, will receive a smaller return on their investment. Everyone with a bowing acquaintance with the financial structure of the utility corporations knows that the bondholders have a senior lien upon the physical property and assets of the corporation and receive a relatively small return because of their secure position. The preferred stockholders' lien upon the physical assets of the operating company is junior to that of the bondholders, and, therefore, pays a larger return, while the common stock of such a corporation is junior to both the bonds and preferred stock so far as the physical assets are concerned and receive a dividend only after the bondholders and preferred stockholders are first paid. We have had numerous examples of the holding companies charging exorbitant fees for services of their service companies to their operating companies without any check whatsoever of open competition from independent concerns.

Let us take a very simple example: The operating company files upon a power site for a nominal sum and immediately puts it upon their books at a value of $10,000,000. By contract they must allow the engineering corporation of the holding company to perform all the engineering services without competition. Let us say that an outside engineering concern could have rendered the service for $1,000,000. The holding company, instead of charging $1,000,000, can and has in many instances charged five times its worth, or $5,000,000.

When it comes to the construction of a dam, power house, and transmission lines the holding company has its own construction corporation do the work without competitive bidding and builds the dam, power house, and distributing lines with approximately $5,000,000 and charges the operating company fifteen or twenty million dollars. Upon these excessive costs the rates charged to the consumer are determined and the value to the owners of the stock and bonds in the subsidiary-holding companies is thereby diluted.

The further service rendered by the service corporation to the operating companies by way of sales, finance, legal and technical advice is a drain upon the profits of the operating companies and leaves less to be distributed to the holders of the common stock. Thus, both the investors and the consumers are penalized by the tribute that is exacted by the holding company from the operating companies for such service, as well as by construction contracts.

The Senate provision would make it necessary for the holding companies to render this service to their subsidiaries without profit, except as it might derive a profit through increased dividends which would come from the increased efficiency and economies of their operating subsidiaries, and thus the investors as well as the consumers would be beneficiaries.

To think that the gentleman from Alabama would move that all debate on such a vital amendment and section should close after 5 minutes' discussion, 5 for and 5 against, shows the attitude of the proponents of the House measure. To my mind it is a conclusive demonstration that it is the intention of the Republicans and a large bloc of Democrats, who are in favor of the emasculated House bill in preference to the Senate bill, to ruthlessly stop all discussion on these vital issues and railroad a measure through which they know to be but a weak attempt to regulate, which the utility companies have never feared, for their past experience with the State regulatory bodies has demonstrated to them that they have no difficulty in controlling the actions of such parties.

It is my hope that we will be able to obtain a roll call on these amendments so that the Members of the House will be put on record as to their attitudes on this vital measure, so that their constituents in turn might know how their representatives are representing them in the Congress of the United States.

Mr. SAUTHOFF. Mr. Chairman, I offer the following amendment, which I send to the desk:

The Clerk read as follows:

Amendment by Mr. SAUTHOFF: On page 210, line 3, after the word "consumers" and the period, add the following:

"(h) The Federal Power Commission and the Securities Exchange Commission shall examine and make copies for their files of all Federal income-tax returns of registered holding companies and all subsidiary companies thereof, together with the returns of the officers of such companies."

Mr. RAYBURN. Mr. Chairman, I think the gentleman's amendment is clearly subject to a point of order. The amendment is not germane.

Mr. SAUTHOFF. Does the gentleman wish to urge the point of order?

Mr. RAYBURN. I will reserve the point of order if the gentleman desires to discuss the matter.

Mr. SAUTHOFF. I thank the gentleman.

Mr. Chairman, the point I want to make is this: A majority of this House has declared itself, in the debate, as being in favor of regulation. Inasmuch as that is the will of the majority, that prevails. One of the most effective ways of ascertaining facts upon which to regulate is an examination of income-tax reports. I have offered this amendment adding this section solely for the purpose of giving both the Federal Power Commission and the Securities Exchange Commission the right to go in and examine Federal income-tax reports of both the companies and their subsidiaries, and also of those men and women who are registered as officers of those companies. I think this would be of material assistance to both commissions, to gather facts upon which to base their findings.

Mr. WADSWORTH. Will the gentleman yield for a question?

Mr. SAUTHOFF. I yield.

Mr. WADSWORTH. I am asking this question for information. Does the gentleman's amendment propose that the Federal Power Commission shall have the right to examine income-tax reports of registered holding companies?

Mr. SAUTHOFF. Certainly.

Mr. WADSWORTH. Would it not be sufficient to permit the Securities Exchange Commission to do that, as they have exclusive jurisdiction over registered holding companies?

Mr. SAUTHOFF. I think that is correct, but let me add this: The Federal Power Commission makes its reports, of which we have copies. In order that those reports may be as broad and comprehensive as possible, I want them to have this information also.

Mr. WADSWORTH. Will the gentleman yield for another question?

Mr. SAUTHOFF. Certainly.

Mr. WADSWORTH. It seems to me that if we are to be consistent in this matter we should follow the set-up of this bill, which draws a sharp distinction as to jurisdiction. The Securities Exchange Commission has charge of the regulation of registered holding companies and not of the operating companies engaged in interstate transportation of electrical energy. The Federal Power Commission has that jurisdiction given to it under title II of this bill. If we are to have income returns of the registered holding companies open to any other Federal agency, they should be open to

the agency which alone regulates them. If the income-tax returns of the operating companies are to be open for examination, they should be open to the Federal Power Commission alone. Why duplicate?

Mr. SAUTHOFF. But the gentleman from New York fails to make this one distinction: The operating companies are not set up over here and the holding companies over here, separate and distinct from one another. They are interlocked and they should be kept together where they belong.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. SAUTHOFF] has expired.

Mr. RAYBURN. Mr. Chairman, I make the point of order that the amendment is not germane. It brings in the Federal Power Commission which is not mentioned in title I.

The CHAIRMAN (Mr. WARREN). The Chair sustains the point on the ground that it certainly could not be germane to this particular section of the bill.

Mr. HOFFMAN. Mr. Chairman, I move to strike out the last word.

The gentleman who just preceded the last speaker said there was no difference between a reactionary Republican and a reactionary Democrat. That raises the question as to whether there is any difference between those gentlemen who, under the banner of one party or the other, slipped into office under the banner and on the platform of one or the other, now follow neither the platform of the one or the other, or any other recognized platform, but seem to have a roving commission and vote just as they please on every question, apparently, without responsibility to any party.

The gentleman from Mississippi [Mr. RANKIN], after the vote was taken, told us that there would be a day of reckoning and he named the day—tomorrow. I am wondering if he has forgotten that the celebration of the Declaration of Independence comes pretty soon—just 3 days from today—and that the House is not subject to that criticism so often made by the gentlemen of the press that we are slow and do not know what we are doing. They should advise their readers that you have today, for once at least, exercised your right to defy the orders of the administration. After 6 long months this House, under the leadership of the gentlemen on the committee, has finally been induced to cast aside that rubber stamp and declare its independence. [Applause.] From the gentleman from Mississippi let me inquire whether we should wait until tomorrow to get our orders or stray over into room 1333, New House Building, and see what we can learn there from those who may have been sent down to give us our orders. If he has any information on that, those who desire to follow those orders I am sure will be glad to have it.

But this question comes to my mind: Here you are intending to give some commission power over business, to not only regulate but to destroy.

Is there any reason in the world why we should intrust this power to the same administration which selected those gentlemen who are fooling around with the triple A, who hatched, may I say, raised to maturity, perhaps, then buried the Blue Eagle? Is there any reason why business should be placed under the regulation of an administration which has made so many failures? Which retarded recovery with the N. R. A. I fail to find it.

Mr. KELLER. Mr. Chairman, will the gentleman yield for a question?

Mr. HOFFMAN. Yes; if it is about fishing. [Laughter.]

Mr. KELLER. Did the gentleman say "fishing"?

Mr. HOFFMAN. Yes; because I know something about fishing.

Mr. KELLER. Has the gentleman seen the vote of caucus on the A. A. A.?

Mr. HOFFMAN. Yes; and the farmers in my district voted down hog contract because they said some of their neighbors in adjoining districts were cheating the A. A. A.

Mr. KELLER. The gentleman's is the only district in the United States which voted that way.

Mr. HOFFMAN. It is regrettable that the discussion of the merits of the proposed legislation could not be undertaken and carried on without charges that improper pressure had been used to influence Congressmen and improper motives entertained by them in their consideration of this subject.

A portion of the press has repeatedly and persistently charged that gentlemen in the employ of the Power Trust have held out improper inducements to Congressmen who would oppose this or the Senate bill. Human nature is weak and it may be that such instances exist. Individuals may yield to temptation; there is no assurance that Government officials are immune. It may be equally true that Congressmen are seeking personal advantage through the authority given them to pass upon this question, but the record so far is barren of any evidence justifying either proposition.

Gentlemen of the press who make these charges might well exercise that Christian virtue known as "charity" to the extent of conceding that the percentage of honest Congressmen is as great as is the percentage of honest reporters, journalists, and editorial writers. No Congressman has yet suggested that, because some newspaperman receives compensation based upon the length of the story printed and the length of that story often depends upon its sensationalism, therefore, the reporter is influenced to make unsubstantiated charges of graft and corruption by hope of financial gain.

This morning's Washington Post reports the President as saying that "the power lobby is spreading propaganda against the 'death sentence' that is frightening some persons", but that such propaganda "was not deceiving anybody." If correctly quoted, his statement carries its own refutation, for propaganda of the nature suggested, if known to be untrue, cannot be "frightening" to anyone, if no one is deceived thereby.

We may assume that holding companies and utility interests have exerted every legitimate, and, perhaps, some questionable, methods to defeat this legislation. Such action on their part is no more than that which would be taken by any person influenced by self-preservation and interested in the subject matter.

It is matched, on the other side, by the statements of the Chief Executive and his supporters, in favor of this legislation. It is not a violent presumption to say that the expressed wishes of the Chief Executive, controlling as he does, $4,000,000,000, soon to be expended, having, through his subordinates, at his command, the disposal of thousands of positions, are more potent than all the efforts of the Power Trust.

It is not necessary to attribute improper motives to any of the parties to this controversy. Their efforts may be explained on the ground that much is fair in politics, which would otherwise be reprehensible; that each is deeply, and sometimes vitally, interested in the issue. No doubt, the Executive and his supporters find ample reason in their own minds for their conduct in their expressed conviction, justified or not, that the purpose is good, and they offer the excuse that the end justifies the means.

Doubtless, there is much of pretense on each side, as so eloquently pointed out by the gentleman from Alabama, who entertained and instructed the House on that momentous occasion of yesterday morning. The group that is raising the battle cry that the common people are exploited by the wicked, by the vicious and unconscionable Power Trust, as he said, assumes the mantle of defenders of the masses, and so struts the stage demanding publicity, while, on the other hand, it may be true that some are opposing the legislation because they or their friends are interested financially in these companies.

In considering this legislation, it may be assumed, for the purpose of the discussion, that some holding companies have robbed the people, that their successors will continue so to do. It is equally true that other holding companies have rendered great public service.

Perhaps few in the House have a more intimate personal experience with the methods of one of the operating companies than has the speaker. For more than 8 long years, the little city of Allegan, my home town, has been attempting to establish a municipal hydroelectric plant to supple-

ment the one it already owns. With the Kalamazoo River flowing through it, with power unharnessed, it sought to avail itself of this natural resource, the gift of the gods.

Consumers Power Co., a subsidiary of the Commonwealth & Southern, if my information is correct, owns one dam site, undeveloped, within the city. It owns another, undeveloped, just below the city. According to the sworn testimony of its general manager, it owns between 25 and 30 undeveloped power sites in the State of Michigan, none of which, according to his testimony, that company intends to develop.

Yet, like the dog in the manger, it sits astride the rivers of our State, prevents development, holds for itself these natural resources, which the people might otherwise use, creates a monopoly and is enabled, through its manipulation of its bookkeeping, to raise the price of current far beyond what it otherwise might equitably be.

When our city first considered the establishment of this plant, the officials of the Consumers Power Co. were consulted and they gave their statement, the general manager and its general counsel and its attorney, to me personally that, if the people of our city voted in favor of municipal ownership, they would gladly leave the local field open to us. A gracious concession that we, the city, might serve ourselves, exercise the right they enjoyed, a promise they repudiated.

Acting upon that assumption, an election was held and the project was endorsed by the taxpayers, who mortgaged their city and their individual property to secure the repayment of the bonds issued to build such a plant. Five times through the circuit court, four times through the Supreme Court of the State of Michigan, through the district Federal court, through the Federal circuit court of appeals; yes, to the United States Supreme Court, the Consumers Power Co. carried its fight to deprive the people of their right to develop the river which flowed through the city, to enjoy the same privileges enjoyed by Consumers Power Co.

Through election after election, where it attempted, by fair means and foul, to thwart the will of the people, that company fought this little city and it is fighting it today. Seven years ago, before the Federal Power Commission, it almost succeeded in blocking the project. Before the R. F. C. it opposed us. Before the P. W. A. its friends employed disreputable methods in their opposition. But thanks to the integrity and the vigilance of the Secretary of the Interior, Harold L. Ickes, its efforts were defeated and, today, that municipality is far on the road toward the accomplishment of its object, the construction and the operation of its own hydroelectric plant.

So, you will see that there is every personal reason why there should be no love on my part for that or like companies when this matter is under consideration. There is, however, another side to the picture, and it is the contemplation of that picture, in connection with my lack of faith in the operation of this law, which leads to the views I hold and which will cause me to vote against this destructive legislation.

Throughout my district there are hundreds of stockholders of the Consumers Power Co.; and if this bill becomes law and be administered in the manner in which we have reason to believe it will be administered, those stockholders will be deprived of the savings of a lifetime; and be they rich or poor, they stand before the law entitled to justice, to the privilege of keeping for themselves that which they have earned, that which by thrift and self-denial they have accumulated.

Legislation should be understandable; it should be workable. This bill is neither. It is admitted by the gentleman from Alabama, who evidently knows as much about it as anyone, to be a bad bill. He expressed grave doubts of its constitutionality; in fact, from his argument many of us gained the impression that it was unconstitutional. Many of us were convinced by his argument that it was, to use a common expression, a "rotten bill."

It would be presumptuous for me to question his statement of the facts. During his argument the gentleman from Alabama expressed distrust of those in authority and doubt as to the constitutionality of the bill, apprehension as to its workability, and yet his conclusion was that, being the best he could now hope for, he would support it.

If his conclusion that the bill is unconstitutional be correct—and it apparently is—why pass legislation which the courts will declare void? If the bill be unworkable, why accept the domination of those who sponsor it? Why let our respect, our admiration for old friends, determine the decision which must be made? Why should not Congress once more assert itself and insist that legislation must pass the test, first, of constitutionality; second, the test of whether it will, if enacted, accomplish the purposes for which it was drafted; and, third, whether those charged with its enforcement can be trusted to carry it out in the spirit in which it was enacted?

As judged by these tests, the gentleman's conclusion is erroneous, and the result of application of each of the three tests, if his statements be accurate—and no doubt they are—condemns the bill.

The gentleman from Alabama left nothing to be said in opposition to this bill. He covered the ground completely and thoroughly. But, at the risk of repetition, let me again say that he condemned it as being unconstitutional, also as being a bad bill in its practical aspects. Then why vote for it?

Let me go one step further. The present administration has deserted the principles of the party which it enumerated in order to secure an election. The party platform has been scrapped; the pledges of the party candidates have been repudiated. No need to again recite the evidence of this. It is an accepted fact.

Within the past 10 days, sad, sad spectacle, we have seen the loyal, the faithful, hard-working, and self-sacrificing Democratic leaders march up the hill to the White House, receive and repeat their orders, start the legislative machinery in motion to carry them out, and then learn through the morning papers that they were given no orders. It may be one thing to repudiate a party platform and campaign promises. It is something else again to desert unselfish, self-effacing party leaders, who are personal friends, and place them in a position where they would be ridiculous were it not for the fact that their comrades and associates—yes, even those of the opposition—know of their integrity and their loyalty to the party they serve.

The Democratic Party is no longer in authority. A new group holds the helm, steers the ship, and the course it follows leads only to destruction, is as far from that of the stanch, patriotic, and honorable Democrats as is Hell from Heaven. It acknowledges no guiding star of principle. It has respect neither for the principles of the Constitution nor for the rights of the governed. It makes its rules as it proceeds, and its every act, its every policy, and all its methods of carrying those policies into effect indicate but one goal, and that the gathering into its hands of all the power of government, to the end that in the final analysis it will be found that the citizen has surrendered his liberty and is but the subject of a tyrant.

By the making of loans, by the collecting of taxes from one group and giving of those taxes to another, the process of "robbing Peter to pay Paul", which the President, in his Wisconsin speech, so justly condemned; by its distribution of relief and public-works money; by its policy of creating discontent and a demand for and a reliance upon public funds for private advantage, a practice which the President stated would, if continued, sap the "vitality of our people", it has become and continues to be the first great governmental vote-buying agency in the history of this country, and, through that agency, their acts indicate that those in power now hope to increase and perpetuate their authority until it becomes all-inclusive and permanent, so long as they may live.

A peaceful revolution they have termed it; a revolution in truth. A revolution which as effectively and completely subjects a free people to the domination of bureaucrats as though it were accomplished on the fields of battle.

For me, admitting that those in charge of some holding companies have stolen the public funds, that others, if in-

trusted with these great accumulations of wealth and power, will do likewise, I cannot forget the Tweed ring, the corruption of Tammany Hall, our own Albert Fall and Harry Doherty, our Teapot Dome, and the other scandals which have been connected with the administration of our Government. But, if I must choose between individuals who steal, who rob, who oppress, on the one hand, and Government authorities who, by virtue of their official position, steal and rob and oppress in no lesser degree, and with it all grasp the power of arbitrary government, then I choose to leave that corruption in private hands, where it is far easier to try, convict, and punish than in the hands of a group of high Government officials who, by their own misdeeds, may not only destroy the rights of individuals, but perpetuate themselves in power by the very spoils so unlawfully wrested from the citizen, and some of whom are already seeking to evade the decisions of the Supreme Court and to destroy that safeguard of the people.

If it be said that there is an inconsistency in favoring the ownership by municipalities of public utilities while opposing Government ownership, the answer is that, in the former case, the ownership is by a small group, under the eye of those to whom the operators are responsible, where they can be easily and quickly reached, prosecuted and punished for any misdeeds, while in the latter case, that of Government ownership, the very size, the scope of the project is so vast, the number of those involved so great, their authority so high that responsibility may be easily shifted and the guilty, because of their political power, escape prosecution.

The Clerk read as follows:

VALIDITY OF CONTRACTS

SEC. 26. (a) Any condition, stipulation, or provision binding any person to waive compliance with any provision of this title or with any rule, regulation, or order thereunder shall be void.

(b) Every contract made in violation of any provision of this title or for any rule, regulation, or order thereunder, and every contract heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this title, or any rule, regulation, or order thereunder, shall be void (1) as regards the rights of any person who, in violation of any such provision, rule, regulation, or order, shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule, regulation, or order.

Mr. RAYBURN. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. RAYBURN:

AMENDMENT TO SECTION 26

Page 225, after line 15, insert the following new subsection:

"(c) Nothing in this title shall be construed (1) to affect the validity of any loan or extension of credit (or any extension or renewal thereof) made or of any lien created prior or subsequent to the enactment of this title, unless at the time of the making of such loan or extension of credit (or extension or renewal thereof) or the creating of such lien, the person making such loan or extension of credit (or extension or renewal thereof) or acquiring such lien shall have actual knowledge of facts by reason of which the making of such loan or extension of credit (or extension or renewal thereof) or the acquisition of such lien is a violation of the provisions of this title or any rule or regulation thereunder, or (2) to afford a defense to the collection of any debt or obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation, or lien in good faith for value and without actual knowledge of the violation of any provision of this title or any rule or regulation thereunder affecting the legality of such debt, obligation, or lien."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 202. Section 4 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 4. The Commission is hereby authorized and empowered—

"(a) To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water-power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the Commission may deem necessary or useful for the purposes of this Act.

"(b) To determine the actual legitimate reasonable original cost of and the net investment in a licensed project, and to aid the Commission in such determinations, each licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission in such detail as the Commission may require, a statement in duplicate showing the actual legitimate original cost of construction of such project, addition, or betterment, and of the price paid for water rights, rights-of-way, lands, or interest in lands. The licensee shall grant to the Commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto. The statement of actual legitimate reasonable original cost of said project, and revisions thereof as determined by the Commission, shall be filed with the Secretary of the Treasury.

"(c) To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the Commission to furnish such records, papers, and information in their possession as may be requested by the Commission, and temporarily to detail to the Commission such officers or experts as may be necessary in such investigations.

"(d) To make public from time to time the information secured hereunder and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The Commission, on or before the 3d day of January of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this part, and in each case the parties thereto, the terms prescribed, and the moneys received if any, or account thereof. Such report shall contain the names and show the compensation of the persons employed by the Commission.

"(e) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: *Provided*, That licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation: *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War. Whenever the contemplated improvement is, in the judgment of the Commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the Commission and shall become a part of the records of the Commission: *Provided further*, That in case the Commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until 2 years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June 10, 1920: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection.

"(f) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 9 hereof: *Provided, however*, That upon the filing of any application for a preliminary permit by any person, association, or corporation the Commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application once each week for 4 weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

"(g) Upon its own motion to order an investigation of any occupancy of or evidenced intention to occupy public lands, reservations, or streams or other bodies of water over which Congress has

jurisdiction under its authority to regulate commerce with foreign nations and among the several States by any person, corporation, State, or municipality, and to issue such order as it may find appropriate, expedient, and in the public interest to conserve and utilize the water resources of the region."

Mr. REECE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REECE: Page 235, line 5, after the word "the", strike out the remainder of the line and all of lines 6 and 7 and insert in lieu thereof the following: "navigable waters of the United States."

Mr. REECE. Mr. Chairman, the effect of the amendment which I have proposed is to leave the power of the Federal Power Commission to issue licenses as is now provided in the present Federal Water Power Act. Section 4 of the Water Power Act provides that the Federal Power Commission shall have licensing jurisdiction over all navigable waters of the United States. The present bill proposes to change this and instead of using the phrase "navigable waters of the United States" use the following: "the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States."

Mr. KELLER. To what page is the gentleman referring?

Mr. REECE. Page 235, line 5.

Mr. Chairman, under the act of 1899 the War Department was given jurisdiction over all streams which affected the navigability of streams further down. No one challenges or disputes the propriety of the War Department exercising that jurisdiction. Under my amendment the War Department would continue to have this jurisdiction.

When the Federal Water Power Act was enacted in 1920, there was purposely inserted the provision that the Federal Power Commission should have the licensing jurisdiction only on the navigable waters of the United States, although the War Department's power to regulate navigation was not interfered with. When that bill was under consideration in the Senate, Senator KING, during the debate, expressed apprehension that the Federal Power Commission might try to exercise licensing jurisdiction over nonnavigable streams. The apprehension doubtless grew out of the fact that the War Department—and likewise section 23 of the Federal Power Act—continues to give nonlicensing jurisdiction over nonnavigable streams.

The present Water Power Act does not give licensing power to the Federal Power Commission over nonnavigable streams, and if the language now incorporated in the pending bill should be enacted into law, the Federal Water Power Commission will be given a licensing jurisdiction over all streams, because in some degree at least the upstreams do affect the navigability of the streams below. The Commission now has power to regulate the upstreams if the flow is interfered with in such a way as to affect the navigability of the down streams. But it does not have licensing power over nonnavigable streams; that jurisdiction belongs to the States.

The Federal Government, in the first place, does not have authority to interfere with the authority of the States in this respect and it ought not to exercise it if it does have authority to do so.

Mr. RANDOLPH. Will the gentleman yield?

Mr. REECE. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. May I say that I am in agreement with the gentleman. The Attorney General of West Virginia has so ruled and we believe that in West Virginia.

[Here the gavel fell.]

Mr. CROSSER of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the language contained in this amendment simply clarifies what is already the law of the land. What the opposition would like to do is to limit the authority of the Power Commission to the navigable waters and to only those parts of the streams that are actually navigable. This gives the Power Commission the right to regulate not only the waters that are actually navigable but other waters over which Congress has jurisdiction by virtue of its right to regulate interstate commerce.

Mr. Chairman, I think it would be a great mistake and would do great harm if this amendment were to be adopted. There can be no possible doubt that those who are interested in real regulation of water power desire to vote down this amendment, and I urge them to defeat it overwhelmingly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. REECE].

The amendment was rejected.

Mr. RANKIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, may I propound an inquiry of the gentleman from Texas, Chairman of the Interstate and Foreign Commerce Committee? I would like to find out, if I can, how far we are going to read this bill this evening and whether or not there will be a vote on the bill tonight?

Mr. RAYBURN. It is not the intention of the Committee to have a vote tonight.

Mr. RANKIN. If the reading of the bill should be completed this evening, the vote will be postponed until tomorrow?

Mr. SNELL. Mr. Chairman, I cannot hear the gentleman.

Mr. RANKIN. I was asking the gentleman from Texas, Chairman of the Interstate and Foreign Commerce Committee, whether there would be a vote on this bill tonight if the reading of the bill should be concluded, and he said there would not be.

Mr. SNELL. Is that definite?

Mr. RAYBURN. Yes. I have already told several gentlemen we would not have a vote on it this evening. I do not think we will get through reading the bill tonight.

Mr. CONNERY. Right along that line, when we finish the reading of the bill, then in the Committee of the Whole House, comes the question of substituting the House bill for the Senate bill?

Mr. RAYBURN. Yes.

Mr. CONNERY. Does the Chairman of the Interstate and Foreign Commerce Committee intend to have a vote on that proposition tonight?

Mr. RAYBURN. No.

Mr. KNUTE HILL. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I want to speak on the subject of regulation, which is in this bill. We have been fighting this proposition in our State for the last 25 years. We have about one-sixth of the potential water power of the entire United States in our State and we are vitally interested in that question. Our people understand the public-utility question very thoroughly, and to show you how they understand it, may I say that when 3 years ago the senior Senator from our State, Mr. BONE, was a candidate for election, he had the Power Trust against him, as he had had for 15 years, yet he received a larger majority in 1932 than did President Roosevelt. That is the way the people in our State stand. In fact, in our State of Washington, if you have the Power Trust and the big daily newspapers against you, you are sure to win. It should be noticed that our Senators voted for the Wheeler-Rayburn bill in the Senate. In our House delegation, consisting of six, five voted for the Wheeler-Rayburn bill. So it may be seen by that just how our people stand and how their Representatives vote.

The question of taxation came up about 2 days ago, and I would like to spend just a minute on that matter. The utilities say that they pay a lot of taxes. In a little city in our State, called Puyallup, the question of condemnation came up. They were going to condemn the power site and take it over. An official of the power company under oath said that the valuation of the site and their equipment was $450,000 and that they were receiving good dividends on that valuation. Senator BONE went to the courthouse to find out on what valuation they were paying taxes. Now get this: Whereas under oath it was testified the site was worth $450,000, they were actually paying taxes on a valuation of

$15,000, or one-thirtieth of the valuation placed upon it by an official of the company. The court records show the first statement and the county records show the second statement.

In our State in 1924 the Bone power bill came up. The Northwest Electric & Power Association put out a poster to the effect that if the Bone power bill carried, $300,000,000 worth of valuation would be taken off the tax rolls. In 1929 the average levy in our State was 70 mills. We found that all the utilities in the State, 22 of them, were paying only $661,568. At the rate of 70 mills they were paying on a valuation of $9,450,000. In other words, they were paying on one thirty-first of the valuation claimed by the Northwest Electric & Power Association. When they said they had a valuation of $300,000,000 they were paying taxes on only $9,450,000. And so I could go on down the line and show that they do not pay taxes on the valuation which they place on their properties for rate-making purposes.

May I go a step further? They do not pay the taxes. The consumer, every time he turns on a switch, pays the taxes. I had a letter from one of the men in Washington saying, "That is true, but the wheat farmer passes it on, too, to the consumer." Of course, that is not true of the wheat farmer. He takes what he can get and in the past few years he has not even received the cost of production. But the power companies have a minimum rate in our State and in every other State, and we have to pay that minimum rate and that includes all overhead expenses, including taxes. If we had the Massingale cost-of-production bill, then the wheat farmer might include his overhead expenses also.

As my colleague from Washington [Mr. ZIONCHECK] stated just a few minutes ago, the only way you can regulate the utility companies is by competition from municipally owned utilities. This has been our experience during the past 20 years in Tacoma and Seattle. Rates have come down from 20 cents per kilowatt hour to below 2 cents per kilowatt hour in those cities. Every time the city light has reduced its rates the private companies have followed. And they are still earning profits, otherwise they would go out of business. Squeezing out watered stock and greatly increased volume of business (on account of lowered rates) has made this possible. But in the Yakima Valley and the Inland Empire (Spokane) there is no competition and we pay about four times as high a rate.

We find also that every time there is a threat of public ownership there is a corresponding decrease in rates. This was true in 1924 when the Bone power bill was advocated; again in 1934, when we passed the Bone bill by an overwhelming majority. The substantial decrease in power rates throughout the country mentioned by those supporting the House bill is due alone to the T. V. A. and the Wheeler bill advocated by the President. It is the same old story:

When the devil was sick, the devil a saint would be
When the devil was well, the devil a saint was he!

Two years ago big business and the United States Chamber of Commerce were down here in Washington on their knees begging and pleading with the President and the Congress to save them from ruin. Now, due to our aid, they are on the road to recovery and they are doing their best to prevent a reform that will forever preclude a recurrence of this depression which has so vitally affected every man, woman, and child.

Who pays the bill for the expensive lobbyists here in Washington? The consumer. Who pays for the special-delivery letters to us? The consumer. Who pays for the telegrams, costing hundreds of thousands of dollars? The consumer. I have here an immense post card, 14 inches by 22 inches, similar to others sent to all the Members. It is from a banker in Miami, Fla. But who pays the bill for the printing and stamps to send this propaganda? The consumer.

The only way to stop this propaganda and regulate these operating companies throughout the United States is to carry out the plan of the President by developing Muscle Shoals as a yardstick for southeastern United States; the St. Lawrence-Great Lakes project as a yardstick for northeastern United States; Boulder Dam—and, mark you, it is Boulder Dam—as a yardstick for southwestern United States; and Coulee Dam as a yardstick for northwestern United States. With the development of this water power at reasonable rates 10 times as much power will be used, and both private companies and Government-owned utilities can prosper and serve the people of the United States.

To show the advantage to the people of my State, I quote from a speech by Hon. JOHN RANKIN, of Mississippi, on Friday, May 24, 1935:

WASHINGTON

The people of the State of Washington used 1,576,070,000 kilowatt-hours of electric energy last year, for which they paid the sum of $24,615,571.

Under the T. V. A. rates the cost would have been $12,427,571, a saving of $12,188,000 a year.

Under the Tacoma rates the cost would have been $12,954,571, a saving of $11,661,000 a year.

Under the Ontario rates the cost would have been $9,825,735, a saving of $14,789,836 a year.

Under the Winnipeg rates the cost would have been $10,406,571, a saving of $14,209,000 a year.

The Clerk read as follows:

SEC. 208. Section 17 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 17. (a) All proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder, except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of this part, shall be paid into the Treasury of the United States, subject to the following distribution: 12½ percent thereof is hereby appropriated to be paid into the Treasury of the United States and credited to 'Miscellaneous receipts'; 50 percent of the charges arising from licenses hereunder for the occupancy and use of public lands, national monuments, national forests, and national parks shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the act of Congress known as the "Reclamation Act", approved June 17, 1902; and 37½ percent of the charges arising from licenses hereunder for the occupancy and use of national forests, national parks, public lands, and national monuments, from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 percent of the charges arising from all other licenses hereunder is hereby reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States. The proceeds of charges made by the Commission for the purpose of reimbursing the United States for the costs of the administration of this part shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

"(b) In case of delinquency on the part of any licensee in the payment of annual charges for a period of 30 days a penalty of 5 percent of the total amount so delinquent may be added to the total charges which shall apply for the first month or part of month so delinquent, with an additional penalty of 3 percent for each subsequent month, until the total of the charges and penalties are paid or until the license is canceled and the charges and penalties satisfied in accordance with law."

Mr. CROSSER of Ohio. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. CROSSER: Page 247, line 11, after the word "lands", strike out the comma.

Page 247, line 12, strike out the words "national monuments" and insert the word "and"; and after the word "forests" strike out the comma and the words "and national parks."

Page 247, line 17, after the word "forests", strike out the comma and the words "national parks" and insert the word "and."

Page 247, line 18, after the word "lands", strike out the comma and the words "and national monuments."

The committee amendment was agreed to.

The Clerk read as follows:

ISSUANCE OF SECURITIES; ASSUMPTION OF LIABILITIES

SEC. 204. (a) No public utility shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorizes such issue or assumption of liability. The Commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes. The provisions of this section shall be effective 6 months after this part takes effect.

(b) The Commission, after opportunity for hearing, may grant any application under this section in whole or in part, and with such modifications and upon such terms and conditions as it may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any security so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of subsection (a) of this section.

(c) No public utility shall, without the consent of the Commission, apply any security or any proceeds thereof to any purpose not specified in the Commission's order, or supplemental order, or to any purpose in excess of the amount allowed for such purpose in such order, or otherwise in contravention of such order.

(d) The Commission shall not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract.

(e) Subsection (a) shall not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing not more than 1 year after the date of such issue, renewal, or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of 1 year or less on which such public utility is primarily or secondarily liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issue. Within 10 days after any such issue, renewal, or assumption of liability, the public utility shall file with the Commission a certificate of notification, in such form as may be prescribed by the Commission, setting forth such matters as the Commission shall by regulation require.

(f) The jurisdiction of the Commission granted in this section with respect to securities shall not extend to a public utility organized and operating in a State under the laws of which its security issues are regulated by a State commission.

(g) Nothing in this section shall be construed to imply any guaranty or obligation on the part of the United States in respect of any securities to which the provisions of this section relate.

(h) The provisions of the Securities Act of 1933, as amended, shall not apply to any security issue which is subject to the jurisdiction of the Commission under this section; and any public utility whose security issues are approved by the Commission under this section may file with the Securities and Exchange Commission duplicate copies of reports filed with the Federal Power Commission in lieu of the reports, information, and documents required under sections 12 and 13 of the Securities and Exchange Act of 1934.

Mr. LEA of California. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. LEA of California: On page 262, lines 8 and 9, strike out the words "The jurisdiction of the Commission granted in this section with respect to securities" and insert the words "The provisions in this section."

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 206. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

(b) The Commission upon its own motion, or upon the request of any State commission, whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy.

Mr. MASSINGALE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I seek this opportunity to say just a word about this bill due to two or three reasons. I know what the disposition of the bill is going to be, but unusual conditions have prevailed during this hearing to which I wish to call attention; and it occurs to me that the people of the country ought to know the exact attitude of every Member of the Congress on this bill.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. MASSINGALE. Yes.

Mr. McFARLANE. If the gentleman and all the other Members of the House will help us to get a record vote tomorrow when we vote on the question of whether or not we will substitute the House bill for the Senate bill we can get a record vote on that question, and I hope the gentleman and other Members will do this. Those favoring adequate legislation should vote for the Senate bill.

Mr. MASSINGALE. I shall do that; and here is my attitude on the matter: I never saw a condition existing such as we have had during the debate on this bill. Members of this House have got up and abused the President of the United States because of his activities in pushing this matter before the Congress. On the other hand, in the newspapers of Washington, the representatives of the Power Trust or the holding companies have openly assailed him and said they had a right to come before the Congress and give their views without any interference from him.

Now, another thing has occurred. I have the very highest regard for the gentleman from Alabama. I am not censuring him, but I never saw such a turn-over in the Republican Party in my life as that man has caused on the floor of this House. Why, he took a broadside shot into the Republican bunch over there and he winged every darned one of them in his assault on the Democratic attitude on this bill, and I want to condole the Republican Members of this House on the loss of their leader. They deserted the gentleman from New York [Mr. SNELL], and even the Republican candidate for President did not seem able to rally them around himself, and they are now following the leadership of the distinguished and brilliant gentleman from Alabama [applause], and I congratulate them on showing good enough judgment to come to a Democratic leader to see if he cannot help them pull their scheme to bring defeat to the President of the United States in his effort to bring about the passage of this bill.

You know this is a serious matter down in my part of the world. It is a serious matter and it is going to be serious to all of us. I do not give a darn about the political consequences of it. I have lived in the United States for over 60 years and this Congress has been able to get along without me, and I imagine you can get along for another 60 years without me, but I will tell you something. Whenever you reckon on the people of the United States being darn fools, you are badly mistaken. They know what is going on here in Congress and they know the inspiration behind this bill. I am not impugning the motives of anybody, but they know where the power and the pressure is coming from, and I want it understood, whether there is a record vote or not, I am for the Senate provision. [Applause.]

THE PEOPLE'S ENEMY IN AMBUSH

Mr. SABATH. Mr. Chairman, I rise in opposition to the pro forma amendment. I know the gentleman from Oklahoma means well, that he is able, honest, and sincere; but he is wrong when he says that the gentleman from Alabama [Mr. HUDDLESTON], my old friend, whom I loved to hear in years gone by when he worked so earnestly and appealingly against certain great corporations, is today the leader of the Republican Party. I do not think the gentleman from New York [Mr. SNELL] has yielded his leadership.

What has actually happened is that for the time being the Republicans have succeeded in securing the cooperation of the gentleman from Alabama [Mr. HUDDLESTON]. [Applause.]

I regret exceedingly that that able Democrat, who, in the past, has rendered such valuable services to the people of his State and to the country, should not be with us now when we really need him so badly. Well do I remember when he opposed in the most strenuous fashion and with much ability the holding corporations that were then by no means as vicious and powerful as those of the present. I recollect when he, only 2 years ago, bitterly assailed the withdrawal

by foreign corporations of large sums of money from his city, which money found a resting place in Wall Street, the self-same Wall Street that, in the hour of need, has never contributed a single penny to the needy of his large city.

Mr. Chairman, the gentleman from Alabama [Mr. HUDDLESTON], on December 9, 1931, giving his views on President Hoover's policies, stated:

HOW MAY ABSENTEE OWNERS BE CALLED TO DUTY?

The President insists that the Federal Government owes no duty to those who are suffering for food. Then I ask, How are communities which have been exploited by those who reside in distant States, and who have derived the profits out of labor and resources of such communities—how are they to get at these absentee owners and make them do their duty by their idle workers whom they have abandoned to starvation? [Applause.]

Again that same day the gentleman from Alabama expressing his view as to what the thoughtful American would do to remedy conditions, stated:

He would destroy the monopolies which you have fostered. He would strike down the trade barriers which you have built up. He would scatter by lawful and legitimate means the vast concentrations of wealth which it has been your pride to encourage. He would return to a time when real individualism and real democracy would have opportunity.

The gentleman from Alabama, with his usual zeal and persuasiveness, has laid great stress upon the fact that our Government is built upon the theory of checks and balances by and between the legislative, the executive, and the judicial branches; but he failed to mention that at this very time there is a fourth power, a superpower, unanticipated and unprovided for in the Constitution, and that such superpower seems to be fast becoming far more powerful than all the other forces of the great vested interests.

This fourth estate is usurping and exerting, slowly but surely, if I read the times aright, a greater power than the three branches of the Government provided for by the Constitution.

The annual salaries and bonuses of the officials of this supergovernment, salaries ranging from $100,000 to $1,000,000 each a year, each far exceed the compensation of our Chief Executive or each of the Members of our national legislative and judicial branches of government.

Up to a few years ago all these corporations condemned any effort toward governmental regulation. Today, faced by realities and the claims of potential justice, they plead for regulation. Fortunately or unfortunately, experience has proven that we cannot effectively ameliorate or regulate such dishonesty, but not only that they cannot be regulated but that they feel that the House provision which they advocate may be held unconstitutional. That is the underlying reason why they have forced this legislation through the committee and the House. I cannot understand how that important constitutional question has not received consideration by the able gentleman from Alabama [Mr. HUDDLESTON].

Let us tomorrow substitute the Senate bill and demonstrate that we have confidence in our President.

The only way that we can force the release of the iron grasp of these monsters is by elimination. Let us have elimination.

I hear hoorays and cheers on the Republican side. I hear a few Republicans, and especially do I notice the gentleman from Minnesota [Mr. KNUTSON], cheering vociferously behind the rear railing. Why not do so in the open?

Mr. Chairman, I had not intended to take the floor at this time; but in view of the vote taken and the many unwarranted attacks upon the President and those faithfully cooperating with him in the interest of the Nation, I feel that it is my bounden duty, in my humble way, to help to bring about, if possible, a reversal of the vote taken earlier this afternoon. [Applause.]

I feel that the vote to be taken tomorrow is to be of greater importance, save one, than any other vote taken during my long service in this House.

DICTATORSHIP OF PLUTOCRACY

Tomorrow we shall be called upon to say whether we should follow the dictatorship of one of the most destructive and avaricious groups of financiers, whose manipulations from behind the scenes of a previous administration brought ruin to our Nation and despair to the American people generally, or whether we will stand by the most courageous and the most humane President who has ever headed this great Republic. That question faces each and every Member of this House, and he will be called upon to decide it on the morrow. The issue is plain; the responsibility is ours.

Familiar as I am with the heartless, dishonest, corrupt, conspiring, monopolistic, tax-dodging Wall Street financiers on the one hand and the praiseworthy achievements and the great desire of America's greatest humanitarian to save the Nation from the further vile machinations of these avaricious and destructive forces, I shall unhesitatingly cast my vote in favor of the understanding one who has the welfare of the whole people of this country at heart.

I STAND BY THE PRESIDENT

I am 100 percent with President Roosevelt and I do hope that tomorrow I may be able to cast one of the votes whereby the action of the Committee late this afternoon will be reversed and the Senate bill adopted in lieu of the House bill.

Regardless of what some of our misguided Democratic colleagues, and the Republican leaders, who, in and out of season, for years, have been the servants of the special and vested interests that would trip us today, may say, I am satisfied that the intelligent American people will continue to believe in and follow President Roosevelt.

Mr. Chairman, it is to be regretted that this all-powerful corrupt propaganda and lobby have been able to mislead so many Members of the House who in former years consistently remained true to the cause of democracy and the best interests of our people. Some of those Democrats, under the pretense and excuse that they are following the Democratic platform and the principles of the father of democracy, Thomas Jefferson, have seen fit to attack President Roosevelt and his sincere aims and honest efforts to release the suffering people from the clutches of these unscrupulous financiers who, in the first place, devised the scheme of holding companies and who have, through that nefarious plotting, been able to destroy hundreds and hundreds of small companies and corporations and to rob millions upon millions of worthy investors by unloading upon them through clever manipulation and unimaginable conspiracies millions upon millions of worthless shares and bonds of their own controlled corporations and holding companies.

I am sure that if Thomas Jefferson, if Andrew Jackson, if Abraham Lincoln, if Woodrow Wilson were here today, they would join hands with President Roosevelt and march in regular step with him in breaking down these destructive and powerful plunderers.

The pretext of some of those who are allegedly standing by Jeffersonian democracy, judging by a half a century of close observation, will not avail anything. I am impelled to say that their lack of fealty to the President and the humane policies he is advocating will surely come back to plague them in after years.

THE PAST RISES BEFORE US

Mr. Chairman, I recollect the Sixty-first Congress, 25 years ago, when 23 Democrats were misled by the Republicans in the fight against Cannonism, and those Democrats, swayed by a selfish group of special interests then protected by iron rule of Cannonism, voted against the Democratic leadership of Champ Clark, Claude Kitchin, Henry T. Rainey, and others, and, although strong in their districts, they thereafter properly suffered defeat at the hands of outraged constituencies; and I feel that the same fate will befall many of those who now yield to the prevailing temptation and are being led astray by the threats, cajolery, promises, and false representations of the greatest and most powerful lobby that has ever infested our National Capital. I know that most of the gentlemen here are sincere, but, unfortunately, many cannot, apparently, resist these powerful influences at work against the most important features of the pending bill.

Most of you gentlemen are old enough to remember the crash of 1893, the destructive panic of 1907, and all know

what the money-changers did in 1920 and what these men who are here represented by more than 1,500 lobbyists did to the country in shameful fashion in 1929. They are parasites; they are without honor or conscience. They have black hearts and guilty consciences.

They have destroyed many outstanding worthy public men; they have debauched our State officials and legislatures; yes, they have in many instances debauched even our judiciary; they have reduced millions of thrifty, provident, deserving Americans, including widows and orphans, to unjustifiable want; and they are trying to destroy the effectiveness of the greatest deliberative legislative body in the world, namely, the House of Representatives. Did not this self-same group buy two seats in the Senate of the United States for citizens of my own State and of Pennsylvania? That same group is here in full force, and are endeavoring by every conceivable and inconceivable method to have us do their bidding; that is to say, prevent the adoption of pending legislation that aims to eliminate the holding companies. They are even using thousands of unfortunate stockholders whom they have robbed and betrayed to influence us under the pretext that by the abolishing of holding companies they may suffer a loss.

It is unbelievable to what extent they will go and how brazen they are in their efforts. During the consideration of this bill I have received thousands of letters and telegrams, in one instance, the 18th of June, I received 186 telegrams against the Senate bill—all sent from one office, at the same hour, yes, the same minute, under fictitious names, and bearing no addresses. I wonder whether these imposed upon, defrauded stockholders and bondholders, whose interests they claim to be protecting, paid any part of this cost of propaganda.

Mr. Chairman, I have listened with great attention to these advocates for the salvation of these indefensible holding companies, yet I did not hear one make bold enough to defend the nefarious, dishonest practices of the object of their solicitude.

As in every such campaign, in this campaign an epigrammatic phrase has been coined in the headquarters of the utilities companies to impart another unwarranted shudder to the unfortunate. That phrase is, of course, "death sentence." Now we of experience at once identify that phrase as the product of a highly paid rhetorician in the headquarters of the utilities companies.

THE "DEATH SENTENCE"

How about the "death sentence" that many worthy men and women were meted out when they were swindled out of their life savings by these self-same pleaders that are here today? Memory of the many suicides attendant upon the dastardly manipulations of these special advocates before us today is still green.

The truth is that shareholders and bondholders will not suffer by the adoption of the Senate bill, which will prevent the holding companies from continuing their reprehensive, dishonest operations. I am convinced, after mature consideration, that the adoption of the Senate bill would be a real benefit to the shareholders and bondholders.

I recollect the time the Supreme Court of the United States forced the Standard Oil Co. to dissolve; when the packing interests were forced to divorce themselves from certain activities; when railroads were required to divest themselves of certain property. The allegation then, as now, was that the dissolutions would cause loss and ruin to shareholders and bondholders; but that is exactly what did not happen. In no instances did a shareholder or a bondholder suffer by reason of those dissolutions.

Some Republican Members claim that the State commissions and the "blue sky" laws can and will provide reasonable rates and regulations for utility companies. I want to call to their attention that in a majority of the States these all-powerful men controlling the holding companies have been able to prevent, through bribery and tremendously large campaign contributions, proper action by State commissions and other regulatory bodies.

Nobody has yet given and nobody can give an honest and fair reason why these holding companies should continue to mulct and rob millions of consumers and investors.

Therefore, I ask what reason any Member will be able to give to his constituents when asked why he voted to perpetuate the holding companies in their grasp of the absolute necessities of the Nation? I repeat, I wish I possessed the power and the force of language to bring home to all of you the transcendent seriousness and importance of the impending vote.

The line of demarcation, ladies and gentlemen, is clearly drawn. Shall we follow these avaricious, heartless, soulless financiers and bankers or follow the one who really and unselfishly has the best interests of all the people at heart, and whose duty it is, as it is also our duty, to promote and maintain the common welfare of the whole people, the President of the United States?

SHALL CONGRESS BE FREE?

Again, shall the Congress of the United States remain an independent, virile body or shall it be placed under the control and domination of these special interests who have been responsible in such a very large degree for the country's unhappiness and misery? Many governments have suffered bloodshed in efforts to effect a betterment of their peoples, yet we have, under the leadership of our great, fearless President, fortunately worked out our plans for the common welfare without bloodshed; but what the result might be, with millions of willing workers deprived of labor, if the long-suffering people of this Nation should in large numbers conclude that we have yielded to the pressure and the power at this crucial moment of the designing Wall Street manipulators and malefactors, nobody can tell.

Regardless of the continuous and combined attacks of the vested interests and the Republican leaders, aided by the erstwhile Democratic leaders who originally opposed President Roosevelt's candidacy and who have opposed every constructive and helpful measure advocated by him, I am satisfied that the vast majority of the American people do appreciate the President's courageous, honest, and unselfish efforts to improve conditions; that they will continue to aid and trust him and will again by an overwhelming vote, as in 1934, prove that confidence in him. [Applause.]

The Clerk read as follows:

USE OF JOINT BOARDS; COOPERATION WITH STATE COMMISSIONS

SEC. 209. (a) The Commission may refer any matter arising in the administration of this part to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The board shall be appointed by the Commission from persons nominated by the State commission of each State affected, or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient reason exists therefor, revoke any reference to such a board.

(b) The Commission may confer with any State commission regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of public utilities subject to the jurisdiction of such State commission and of the Commission; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this act to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

(c) The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of public utilities. Whenever the Commission can do so without prejudice to the efficient and proper conduct of its affairs, it may upon request from a State make available to such State as witnesses any of its trained rate, valuation, or

other experts, subject to reimbursement to the Commission by such State of the compensation and traveling expenses of such witnesses.

Mr. COLE of Maryland. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment by Mr. COLE of Maryland: Page 269, after line 23, add the following: "All sums collected hereunder shall be credited to the appropriation from which the amounts were expended in carrying out the provisions of this subsection."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

RATES OF DEPRECIATION

SEC. 302. (a) The Commission may, after hearing, require licensees and public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may, from time to time, ascertain and determine, and by order fix, the proper and adequate rates of depreciation of the several classes of property of each licensee and public utility. Each licensee and public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed. The licensees and public utilities subject to the jurisdiction of the Commission shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such licensee or public utility shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any public utility, the percentage rate of depreciation to be allowed, as to any class of property of such public utility, or the composite depreciation rate, for the purpose of determining rates or charges.

(b) The Commission, before prescribing any rules or requirements as to accounts, records, or memoranda, or as to depreciation rates, shall notify each State commission having jurisdiction with respect to any public utility involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

Mr. PETTENGILL. Mr. Chairman, I move to strike out the last word. I take this opportunity to pay my personal compliment to the chairman of our committee, the gentleman from Texas, Mr. RAYBURN, and the other members of the committee.

This bill, with the exception of a tariff bill, has received longer and more painstaking attention than any bill before Congress during the experience of our legislative counsel, which covers a great many years. The hearings lasted 9 weeks. We went into executive session on the 2d of May. We had executive sessions, meeting morning and afternoons for 8 weeks more.

I rise to say in his presence, that the chairman of our committee has proved himself through these long, wearisome, and painstaking sessions a gentleman of the finest quality. [Applause.] Working under terrific pressure as he did day after day, worn out as he was, he never in the deliberations of the committee permitted anything to escape his lips which was unkind or unfair to those who disagreed with him, and that is the kind of man I like to work with. It must be a source of lifelong satisfaction to him to remember that as the Chairman of the Interstate and Foreign Commerce Committee he has engineered three great bills through this House in the last 2 years, the stock-exchange bill, the securities bill, and the present bill, without, in respect to any one of them, an important change being made which was not recommended by the committee itself. [Applause.]

The Clerk read as follows:

SEC. 305. (a) It shall be unlawful for any officer or director of any public utility to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by such public utility of any security issued or to be issued by such public utility, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.

(b) After 6 months from the date on which this part takes effect, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant any such authorization in respect of such positions held on the date on which this part takes effect, unless application for such authorization is filed with the Commission within 60 days after that date.

Mr. BURDICK. Mr. Chairman, I regret that I have to take advantage of a parliamentary situation in order to express my views on this subject. I am a poor prophet, but I say right now that this, in my opinion, is the last Congress when the time is going to be equally divided between the two parties, because it has been demonstrated in this Congress so far, and especially in this last vote, that there is no difference between the two parties when it comes to a great question affecting the American people. Under the rules of this House if I were to get any time at all, being classified as a Republican, I must go to the committee that has the time in charge. I have gone repeatedly to get time and to the Chairman of the Committee of the Whole, but I have not been given any time. When the next Congress convenes, in my humble judgment, there will be a party in this Congress that will be entitled to time of its own.

Here is all that I wanted to say. I wanted to ask a few questions, because I belong to no party, to no organization that compels me to vote for or against this bill. I wanted to inform myself upon the matters in the bill, that is all. I wanted to ask these questions and at this time I ask permission to print in the RECORD these questions as a part of my remarks.

The CHAIRMAN. Without objection it is so ordered.

There was no objection.

Mr. BURDICK. I have been questioned here as to whether I want to stand as a Republican with the President or against the President. Reporters have called me up and asked how I voted this afternoon. I am not ashamed of the way I voted. I voted my convictions, and as a Republican I voted to support the President of the United States on this question. [Applause.]

Here is what I wanted to ask. Is it not true that there has been enormous shrinkage in the value of utility stocks generally since 1929 and that this shrinkage has amounted to almost $14,000,000,000? The investment in this stock is practically gone. How in the name of God can this Congress destroy property when it is already gone? Who is responsible for losing it? Nobody is responsible for it except the holding companies themselves. High salaries, unconscionable prices paid for utilities, attorneys' fees have sapped the vitality of these companies and lost the investment of these people. I do not care whether you adopt this amendment of the Senate or any other amendment. I say to you that the property of these men and women who own this stock in America has gone, regardless of what this Congress does. Why send telegrams to me from New York by the hundreds? What for? When we wanted a bill in this Congress to support and finance the farmers, with 45 Members from New York, how many of them tried to help the farmers' organization? Only 4 out of 45.

But when this utility bill came up I received telegrams by the hundreds from New York. That in itself ought to be sufficient evidence that the thing is wrong. We cannot save the losses to innocent investors in utility stock from what has been done, but we can prevent a repetition of the same thing in the future.

The questions to which I referred are as follows:

First. Is it not true that there has been an enormous shrinkage in the value of utility stock, generally, since 1929, and that this shrinkage amounts approximately to $14,000,000,000 on an investment of sixteen billion?

Second. Regardless of whether this Congress adopts what is termed the "death-sentence clause" adopted by the Senate, or whether it does not, is there any assurance that the present holders of stock will ever be paid more than the mere trifle represented by its present market value? In other words, are those holders not already doomed to a complete loss, without any congressional action?

Third. How can we prevent holding companies in the future from repeating what they have already done, unless you make a holding company unlawful? In other words, if we do not adopt the "death sentence" clause, how can we prevent these companies from continuing to pay unconscionable salaries and other expenses and thus making the stock not only unprofitable but finally valueless?

Fourth. If we pass the Senate amendment to section 11, will we injure a few people by making their property interest in the holding companies of less value? If we do not pass the Senate amendment will we not be contributing to the injury of all the people by permitting further sales of utility stock?

Fifth. Is 7 years too short a time in which present holding companies may wind up their business and cease operations?

Sixth. If, as has been repeatedly stated here on the floor, common stock, generally, is now of no particular value, as evidenced by market quotations, how can it be said that any action by Congress will destroy property?

Seventh. Has not that property already been destroyed by the holding companies themselves, in paying out unconscionable salaries, unwarranted considerations for private plants, and unnecessary and lavish general expenditures?

Eighth. Is not this situation that which the Congress is now trying to prevent in the future?

Ninth. Can we properly safeguard the American people by mere regulation?

The Clerk read as follows:

SEC. 318. If, with respect to the issue, sale, or guaranty of a security, or assumption of obligation or liability in respect of a security, the method of keeping accounts, the filing of reports or the acquisition or disposition of any security, capital assets, or facilities, any person is subject both to a requirement of the Public Utility Holding Company Act of 1935 or of a rule, regulation, or order thereunder and to a requirement of this act or of a rule, regulation, or order thereunder, the requirement of the Public Utility Holding Company Act of 1935 shall apply to such person, and such person shall not be subject to the requirement of this act, or of any rule, regulation, or order thereunder, with respect to the same subject matter, unless the Securities and Exchange Commission has exempted such person from such requirement of the Public Utility Holding Company Act of 1935, in which case the requirements of this act shall apply to such person.

Mr. WOODRUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment by Mr. WOODRUM: At page 292, title II, line 15, amend section 318 by inserting between section 318 and the word "If" "a", and add after line 6, page 293, subsection (b) to read as follows:

"(b) If, with respect to the issue, sale, or guaranty of a security, the method of keeping accounts, the filing of reports, or the valuation, acquisition, or disposition of any security, capital assets, or facilities, or any other requirement of this part or the next preceding part, or of any rule, regulation, or order thereunder, any person is subject to the law of any State or regulation by a State commission, such person shall not be subject to the requirements of this part or the next preceding part, or of any rule, regulation, or order thereunder with respect to the same subject matter."

Mr. WOODRUM. Mr. Chairman, I think this amendment is merely a clarifying amendment, but I think it is absolutely necessary that it should be adopted.

It has been repeatedly stated by sponsors of this legislation—and I mean by "this legislation" either the committee amendment or the Senate bill—that the bill is not intended to interfere with the right of any State to regulate business within its borders, but simply to supplement State regulation where it is necessary. In fact, it is stated in the declaration of policy in part II of the bill that its purpose is to extend only to those matters which are not subject to regulation by the States.

Now, if that is the clear intent and policy of the bill, it is not thought by many students of this legislation that the bill does protect State jurisdiction to that extent. The Association of State Utility Commissioners has made quite a careful study of the matter and I think I may say without contradiction that every State utility commission, practically, feels that unless this amendment is adopted, their jurisdiction over matters purely within their own borders is going to be seriously affected and interfered with.

I do not want to consume unnecessarily the time of the House. The amendment has been printed in the RECORD and I hope the committee will feel it can agree with the amendment. It will strengthen the bill and, in my judgment, will gain support for its ultimate passage in the House. Many Members have expressed interest in this amendment. I want to express very earnest hope that the committee will see fit to adopt and write it into the bill.

Mr. LEA of California. Mr. Chairman, I most sincerely hope this amendment will not be adopted. It would largely destroy the usefulness of the Federal regulation this bill gives to the Federal Power Commission. We cannot have effective regulation unless we give that Commission the power to get information and give it control over accounts and valuations. The amendment offered by the gentleman from Virginia [Mr. WOODRUM] would destroy effective control over the accounts and over depreciation accounts in particular of these utility companies. It would compel the Federal Government to accept State valuations, made in some instances without adequate information and sometimes in total disregard of the rights of the people of other States whose interests, rates, investors, and consumers are involved.

One of the main difficulties in regulatory control from which we have suffered in the last few years has been lack of an accounting system that was faithful to the facts. A vote for this amendment will be against improving this deplorable situation. A common practice has been to use depreciation accounts to conceal profits, to conceal losses, and to entirely misrepresent the status of a company to people who might be interested. This committee has been more than kind to the State commissions in the provisions of this bill.

I hold in my hand a communication from the solicitor general of the National Association of Railroad and Utility Commissioners of the United States, of which I understand every State public utility in the United States is a member. This is the group to which the gentleman from Virginia just referred. After a review of what this bill does, speaking for this association of State utility commissioners, their solicitor, Mr. Benton, says:

As a result, this bill, which may have been destructive to State powers, will, if passed with the provisions affecting State regulation unchanged in the form in which reported by the committee, fortify and strengthen State regulation and afford State commissions valuable aid in their regulatory powers.

I believe that no bill in recent years has been presented to the House which gives greater consideration to State utility commissions in the performance of their duties.

Mr. COLE of Maryland. Will the gentleman yield?

Mr. LEA of California. I yield.

Mr. COLE of Maryland. Is it not a fact that this very amendment was offered in the main committee and also in the subcommittee and was fully considered and rejected? Is it not also true that, aside from requiring a uniform accounting and depreciation system by public utilities subject to this bill, every right of the States had been fully preserved by this bill?

Mr. LEA of California. That is true. No rights are taken away from State commissions to exercise their control of intrastate utilities. This bill simply gives the Federal power commission authority to require compliance with a uniform

accounting system and one which will give a full and faithful report of the facts. The amendment of the gentleman from Virginia would make that impossible. I should like to call attention to this fact, which may have been confusing to Members: Wherever there is a generating plant, it is in a State; if it is a transmission line, it is in two or more States. Every facility involved is in some State. If all control in each State is left to the State alone, then we can have no effective Federal regulation.

We have quite a variety of laws and regulations in the States, some good, some bad, some utterly indifferent, some applying to certain subjects and not to others. So if we adopt the amendment offered by the gentleman from Virginia, the effect will be that for the purposes of Federal regulation we will adopt the poorest standards in the United States for valuation, for instance, for control of accounts, and for reports on which the commission must depend as a basis for its action.

So I sincerely hope the Members of the House who are about to pass a bill that will tend greatly to remedy the evils that have been inflicted upon the country in recent years will not in the closing sections of this bill adopt an amendment which will cripple the usefulness of the Federal power commission in attempting to carry on the important work we are about to assign it.

[Here the gavel fell.]

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. MOTT)—there were ayes 96, noes 43.

Mr. LEA of California. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. WOODRUM and Mr. LEA of California.

The committee again divided, and the tellers reported that there were—ayes 98, noes 42.

So the amendment was agreed to.

The Clerk read as follows:

SHORT TITLE

SEC. 320. This act may be cited as the "Federal Power Act."

Mr. CROSSER of Ohio. Mr. Chairman, I ask unanimous consent to return to page 229 for the purpose of offering an amendment.

The Clerk read as follows:

Mr. CROSSER of Ohio offers the following amendment: Page 229, line 11, after the word "person", add a comma and the following: "State or municipality."

Page 229, line 13, strike out the words "of such person" and insert the word "thereof" in lieu thereof.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WOLFENDEN. Mr. Chairman, I object.

Mr. CROSSER of Ohio. Will not the gentleman reserve his objection?

Mr. WOLFENDEN. Mr. Chairman, I reserve my objection for the time being.

Mr. COOPER of Ohio. Mr. Chairman, may I ask the gentleman from Ohio the purpose of his amendment?

Mr. CROSSER of Ohio. There was a change in the definition of the term "licensee" which left out the words "State or municipality." The law at the present time covers this very situation, but the change is suggested in order to simplify it. As for the second amendment, the language of the bill reads "of such person." My amendment substitutes for this the word "thereof", in order to refer back; that is all there is to it.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WOLFENDEN. Mr. Chairman, I object.

Mr. CROSSER of Ohio. Mr. Chairman, I ask unanimous consent to return to page 253, line 10, for the purpose of offering an amendment.

The Clerk reads as follows:

Amendment offered by Mr. CROSSER of Ohio: Page 253, line 10, after the word "repealed" change the period to a colon and add the following: "*Provided*, That nothing in that act, as amended, shall be construed to repeal or amend the provisions of the amendment to the Federal Water Power Act approved March 3, 1921 (41 Stat. 1353), or the provisions of any other act relating to national parks and national monuments."

Mr. WOLFENDEN. Mr. Chairman, I object.

Mr. CROSSER of Ohio. Will not the gentleman withhold his objection?

Mr. WOLFENDEN. Mr. Chairman, I reserve my objection, to permit the gentleman to make an explanation.

Mr. CROSSER of Ohio. The purpose of this amendment is to clarify the language of the bill; and this is the law now. The national parks organization wants to make sure that the bill does not infringe upon their preserve, so to speak. We are offering this at their request. This is not anything at all technical. The national parks organization thinks it would be helpful to have a provision in the bill distinguishing between the national parks and the Federal power commissions.

Mr. WOLFENDEN. Mr. Chairman, I withdraw my objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The amendment was agreed to.

Mr. RAYBURN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose, and the Speaker having resumed the chair, Mr. WARREN, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill S. 2796, the Public Utility Act of 1935, had come to no resolution thereon.

WATERWAY DEVELOPMENT IN FLORIDA

Mr. GREEN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GREEN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include at this point statements on waterways development in Florida.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GREEN. Mr. Speaker and Members of the House, the most worthy and most important waterways development in our country today is the construction of a steamship canal across northern Florida. I have recently addressed my constituents on this subject as follows:

To the citizens of Clay and Duval Counties:

We extend to Clay and Duval Counties a hearty welcome into the Second Congressional District. Jacksonville is our great State's metropolis and affords a market for hundreds of thousands of dollars' worth of the farm products from the other counties of our new Second Congressional District. It also furnishes a wholesale and retail distribution center and purchasing center for the rural counties. A splendid common interest exists between each of the 16 counties comprising our new district. I shall do all within my power to efficiently represent every person and economic interest in our new district. My actions will be guided by the expression of your views. Your suggestions on all questions are invited. We regret extremely to lose Marion and Jefferson Counties from our district. Our friends in these countries have been faithful and loyal and have cooperated for the best interest of the district and the State of Florida.

STEAMSHIP CANAL ACROSS NORTHERN FLORIDA

I am convinced that a steamship canal across northern Florida is the most important project now under consideration by the Roosevelt administration. I have labored incessantly for this project ever since my first election to Congress more than 11 years ago. Very recently I have held a final series of conferences with the White House, the Secretary of the Interior—who is the Public Works Administrator—the Federal Relief Administrator, members of the Board of United States Army Engineers, and also members of the National Emergency Council. I now have no hesitancy in predicting that actual construction will begin on this great

artery of commerce within the very near future. It will mean more to the States of the lower Mississippi Valley, the States of the Southeast, and surely to Florida, than any public improvement which has ever been accomplished in these regions. It will cut in half the transportation costs now paid by Florida producers and consumers and at the same time it will more than double tonnage which is now being hauled by all common carriers in the Southeast. It will cause general prosperity in Florida, which will go on without serious interruption for a half century. It will go down in history as the outstanding achievement of the Franklin D. Roosevelt administration. The canal will be named for President Roosevelt. I am indeed happy to have been placed in a position by my constituents where I could effectively work during the past 10 years for a public improvement of such great magnitude and general importance. I credit my faithful and loyal constituents with such progress as has been thus far made on the project. I quote from editorial appearing in the Fort Myers News-Press under date of July 10, 1935. Needless for me to advise that this paper has been consistently and adversely critical of me and my efforts. It is as follows:

Except for Congressman GREEN, who has waxed himself hot for the canal across Florida because the proposed route touches a couple of counties in his district, the Florida delegation in Washington has never given this project more than superficial lip service. Congressman PETERSON favored it with an occasional nod for the benefit of Citrus County, and Congressman WILCOX, with Jacksonville in his district, had to have a kind word for it. Congressman SEARS, representing the State at large, has been for all kinds of waterways, here, there, and everywhere, leaving out Congressman CALDWELL, of the west Florida district, without a direct interest.

However, this interest has been somewhat changed by the recent redistricting. Citrus County is gone from Congressman PETERSON'S list, leaving him free to devote himself to the objections which agricultural central Florida now raises. Jacksonville has been cut off from Congressman WILCOX, so that he no longer has to act as though he believed the up-State canal was more than a lot of bunk. GREEN and SEARS will probably continue to sound off because they will both have to run in counties having canal votes. However, the fifth, where SEARS may land, is the area principally alarmed by the possible effect on agriculture and this doubt, as expressed at the Sanford meeting, is enough to calm down candidates for Congress from that region.

Neither United States Senator has been particularly enthusiastic for the canal, though both have gone through the motions of supporting it. In view of this apathy, it is surprising that the project has gained as much support in Washington as it appears to have. The promoters frequently quote President Roosevelt as actively interested, and that may be true. If so, it explains the only reason why such a crazy idea as a ship canal through that part of Florida should find a place in the realm of possibility.

The following is taken from a story written by the Washington correspondent of the Atlanta Journal and carried in the Journal during May 1935. It shows growth of canal sentiment as follows:

Congressman GREEN, active, alert, energetic, has just about "stolen" the play from Georgia in the matter of the oft-discussed canal, from the Atlantic to the Gulf.

Originally, you remember, and from time immemorial, the projected route of this canal was via the St. Mary's River, the Okefenokee Swamp and the Suwannee River. Most of it in Georgia, see?

Well, Congressman GREEN has worked out a new route, all of it in Florida, and you'd be surprised at the strength he has developed in Congress for the all-Florida Canal. He is, indeed, regarded as the best authority in Washington on the canal, and has made one or two speeches in the House on the subject—speeches illustrated with charts and graphs and maps that make the enterprise look astonishingly simple.

There appeared in the Ocala Star recently a very kind editorial relative to the canal, as follows:

NEW FIFTH DISTRICT

"Creation of the new Fifth Congressional District, to be composed of 16 counties in the north-central portion of the State, places Marion County in the new grouping and severs relations, in a congressional sense, between Marion and those counties in the former Second District represented by Congressman R. A. GREEN.

While sentiment here has largely favored creation of the new district along the lines laid down in the Ward-Banks bill, which was enacted into law, many expressions of regret have been heard that the new enactment throws Congressman GREEN into the new district composed of a group of northeast counties, including Duval.

Congressman GREEN has many friends in Marion County, as was attested by his flattering victory over two opponents in the 1934 election. They regret that the new congressional grouping will sever the pleasant, helpful associations of the past; they are not unmindful that their Congressman has been a persistent, consistent, and unfaltering advocate of the cross-State canal project, which now seems so near fulfillment, and accord him all the credit his services in advancing the waterway project merit. Mr. GREEN'S friends in the old Second District can only hope that his constituents in the new Second District will show full appreciation of his efforts in behalf of the canal when the time again comes for him to put his political fortunes to the test.

For your further information, only as part of the canal's history, there is included herewith an editorial carried in the St. Augustine News, under date of May 25, 1935. The Honorable Tom W. Little is owner and publisher of this paper. The editorial follows:

CONGRESSMAN R. A. GREEN SEES A GREAT BENEFIT TO FLORIDA AND THIS COUNTRY IN BUILDING FLORIDA CROSS-STATE CANAL

The people of Florida certainly should feel more than kind toward Representative R. A. GREEN, of Starke, who never permits an opportunity to go by when he can do something good for his State.

Take the matter of the cross-State canal; no other person has been so persistent and insistent upon gaining the approval of the Government for ultimate building of this much-needed water route for speeding up commerce and communications between the different parts of the Nation.

It was Congressman GREEN who introduced the bill to construct a canal across Florida, and he has been zealous in his efforts to push on to completion this important piece of legislation.

Hundreds of times the Congressman has traveled miles to put in a word or make an address to different gatherings, official and unofficial, and it is not being done for any individual gain or thought of any accruing prosperity to any group—the State of Florida and the Nation are its sole benefactors.

There is little more that can be said upon the merits of the canal, because it has been given such wide publicity and has been given endorsements by commercial and public bodies and individuals; it has almost become a byword in official circles. Wherever one may travel east of the Mississippi River, the proposed Florida cross-State canal is a familiar subject.

Mr. GREEN is continually giving every angle of the canal to his constituents, and he has unbounded faith in its early construction.

Aside from the good accruing to commerce there is an urgent local need for its construction as a relief measure.

It is estimated that 25,000 men would be given work at good pay for a period of 5 to 6 years through the building of the canal.

This one project would be the means of providing food and clothing for many thousands of people in this and adjoining States. A benefit that would be lasting and meritorious.

The finished canal would enable a quickening of ocean commerce that would mean saving in time and money that is hard to estimate.

The completed canal ready to carry the battle squadrons of this Nation, could easily be the saving in the element of time to defeat an enemy and save the Nation.

The price of constructing the canal is estimated from $125,000,000 to $200,000,000, which is a mere pittance in fighting against time in repelling attacks that are certain to come to our country from hostile people, because of our continued growth in wealth and power and last, but by no means least, is our ever tightening of the immigration laws.

Not being immune from attacks it should behoove our national authorities to assume the role of benefactors and cut loose from prevailing practices and build the canal as a line of defense.

The world may be growing better much faster than we expect but the greatest factor in peace is to be prepared to demolish an enemy instantly.

The path to peace since time began is strewn with the dead and dying and when we are prepared and ever-ready to deal a telling blow instantly no nation or group of nations would care to feel our wrath.

Congressman GREEN may rightly be termed "the Lone Wolf" on watch along the Florida front which is today the easiest point of attack in approaching the United States.

The cross State canal will become first line of defense.

The Democratic membership of the House has been kind enough to assign me on the powerful Committee on Rivers and Harbors, also on the Committee on Flood Control, and also as Chairman of the Committee on Territories. The latter is the only House chairmanship which Florida holds.

I trust you will take time to read a speech which I made, on the subject of the canal, before the House of Representa-

tives on February 14, 1935. It outlines in part the history of the development of this great project.

ADDITIONAL CIRCUIT JUDGE FOR NINTH JUDICIAL CIRCUIT

Mr. MONTAGUE submitted a conference report on the bill (H. R. 5917), to appoint an additional circuit judge for the ninth judicial district.

OBSOLETE PUBLICATIONS

Mr. LAMBETH. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate Concurrent Resolution 17.

The Clerk read the resolution, as follows:

Concurrent resolution

Resolved by the Senate (the House of Representatives concurring), That a statement of certain noncurrent and obsolete publications now in the folding rooms of the Senate and House of Representatives, respectively, shall be prepared by the Sergeant at Arms of the Senate and Doorkeeper of the House of Representatives, respectively, and submitted to the Joint Committee on Printing, which is hereby authorized to dispose of the same in the following manner:

First. A printed statement of such publications shall be submitted to each Senator, Representative, Delegate, Resident Commissioner, and officer of the Senate and House of Representatives, and any Member or officer of either House having any of such publications to his credit may dispose of the same in the usual manner at any time before September 1, 1935.

Second. Upon the expiration of the aforesaid time the Joint Committee on Printing shall furnish to all members of the Senate and House of Representatives, respectively, as promptly as practicable, a list of the publications herein referred to then remaining in the folding rooms, and thereupon such publications shall be subject to the order of any Senator, Representative, Delegate, or Resident Commissioner, in the order in which they are applied for, for a period of 30 days after the day when such list shall be furnished by the Joint Committee on Printing, but no application for the transfer of these publications may be honored.

Third. The Joint Committee on Printing shall furnish a list of all such publications remaining in the folding room at the expiration of the last-named period to the various departments, independent offices, and establishments of the Government at Washington, including the Superintendent of Documents, Smithsonian Institution, Library of Congress, National Archives Establishment, Bureau of American Republics, and the Commissioners of the District of Columbia, and such publications shall be turned over to any department, independent office, or establishment making written request therefor and shall be allocated in the order in which their application is made, and all such publications which shall remain in the folding rooms for a period of 10 days after such list shall have been furnished to the departments, independent offices, or establishments aforesaid shall be delivered to the Superintendent of Documents, Government Printing Office, for such disposition as he may deem to be to the best interests of the Government.

Fourth. No publication which is described in the list aforesaid shall thereafter be returned to the folding rooms from any source.

The SPEAKER. Is there objection to the consideration of the resolution?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE DEATH SENTENCE ON UTILITY HOLDING COMPANIES

Mr. DITTER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. DITTER. Mr. Speaker—

The more democratic a people is, the more is it necessary that the individual be strong and his property sacred. We are a nation of sovereigns, and everything that weakens the individual tends toward demagogy; that is, toward disorder and ruin. A free country is a country where each citizen is absolute master of his conscience, his person, and his goods. If the day ever comes when individual rights are swallowed up by those of the general interest, that day will see the end of Washington's handiwork; we will be a mob and we will have a master.

This quotation from Laboulays has peculiar significance today. They are solemn words of warning to which all of us should give heed. The issue before us is not confined to the question of destroying or not destroying utility-holding companies. It far transcends that question. The issue is whether the right of private property shall continue to be a personal right or whether that personal right can be ruthlessly, arbitrarily, and wantonly confiscated and destroyed by governmental agencies.

Personally I can see no difference between the act of a governmental agency destroying and making worthless the shares of stock of a holding company purchased by a resident of my district as an investment and looked upon by the owner as his or her property, and the act of a governmental agency in seizing the homestead of another resident and destroying it without just compensation. Will those in the House who today are advocating the annihilation of the holding companies with the inevitable loss to the common stockholders of their savings and investments sponsor the further extension of power to include the seizure and destruction of other forms of property rights enjoyed by our people?

If the act in the one case is justifiable, then the second act follows as a natural sequence. I cannot subscribe to this doctrine as an American principle. I cannot reconcile it with that which I have always considered as a fundamental of Anglo-Saxon liberty. I cannot support it as a program for the future well-being of constitutional democracy.

No one has attempted to defend the abuses which have crept into the utility-holding company field. They should be corrected. We should have regulation, but we shall not get far toward a solution of our problem by a policy of ruthless destruction. We should be engaged today in building—not demolishing. There have been critics in all fields of endeavor whose chief purpose has seemed to be to inventory evils and ills and whose chief delight has seemed to be to parade before the populace in a spirit of hypocritical righteousness the sins of omission and commission of others. "He that is without sin among you, let him first cast a stone" were the words which silenced the tirade of fault finders in days gone by. What we should be most interested in and concerned about is trying to find a common meeting ground, a place where a spirit of understanding and tolerance can prevail, a place where mistakes will be acknowledged and corrections required, a place where improvements can be anticipated and expected, and that place can surely be found under a regulatory system. It will never be found among the torn and dismembered remains of a traditional American ideal—the inviolate right of private property.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. BROWN of Michigan, for 1 week, on account of illness in family.

TOWARD AN ABUNDANT ECONOMY—NATIONAL SURVEY OF POTENTIAL PRODUCT CAPACITY SHOWS AN AVERAGE INCOME OF $4,370 PER FAMILY NOW POSSIBLE IN THE UNITED STATES

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. SCOTT. Mr. Speaker, a Government survey completed recently has such important implications for our people and civilization that I shall risk your indulgence by summarizing its content.

It is called the National Survey of Potential Product Capacity and was set up over a year ago by the Civil Works Administration under the sponsorship of the New York Housing Authority. The engineers and economists who are in charge recently published The Chart of Plenty (Viking Press), which Charles Beard, America's eminent historian, called the "most important book of the twentieth century." This same group is about to release the official report of which I have had the good fortune to read the galley proofs. It is so pertinent to the problems before this body that it deserves our attention and deep consideration.

For some time it has been realized that contemporary society does not produce all it can produce. This is an essential difference from primitive societies where actual production tends to approach capacity production; nor is it in

accord with economic theory which assumes that actual production will be a fair measure of our ability to create wealth.

However, the fact of nonproduction of plants running part time and of men unable to find work, has become so conspicuous that considerable interest has developed in the possibilities of capacity or full production during the last decade or two. In fact the United States Government recognized this interest in 1921 and 1923 by including in the Census of manufacturers the following inquiry:

What is your estimate of the percentage of your output compared with your possible output if you had had such a demand as to require full running time?

The average of the replies was 57.1 percent for 1921, and 72.4 percent for 1933.

MOST EXTRAVAGANT NONPRODUCTION IN HISTORY

Nothing else I believe was done along these lines—though much attention was devoted to the problem of waste, quite a different problem from that of nonproduction—until the business depression following the Wall Street panic of 1929. In the subsequent years—years of the most extravagant nonproduction ever seen on earth—the question of capacity operation became a subject of general interest. Guesses were hazarded, estimates were risked and widely divergent opinions received much publicity.

Finally, Brookings Institution, some months after the National Survey had begun its studies, published a book called "America's Capacity to Produce." This was the first serious statistical survey of the problem. Brookings had attempted to discover the practical capacity of our productive plant within the limitations inherent in our current or capitalist economic system.

Now, the basic limitation on production in the capitalist system is the rule that no wealth (except certain inconsequential items) will be produced that cannot be exchanged at a profit for money. Since producers naturally produce all they can sell, practical capacity, if this limitation be accepted, is identical with actual production. Consequently, if consistent reasoning had been exercised, Brookings would have had their answer before they began their work. And the answer would have been zero. The American people in 1929, as well as in every other year, produced all they could produce within the limitations of their economic system.

I. Brookings conclusions not significant

But the Brookings group were not satisfied so easily. They attempted to average specific unused capacities after modifying the legitimate limitations—time out for maintenance and repairs, breakdowns, and so forth—by irrelevant factors—irrelevant from the engineering viewpoint—deriving from the convention mentioned above. Thus we find that the seasonal nature of demand is considered a limitation on our ability to make automobiles, and so forth.

Thus Brookings mingled the two worlds, the physical and the institutional, and came out, after a study notable for its painstaking research and scintillating scholarship, with the answer that we could, in 1929, have produced 19 percent more goods and services than we did produce if we had, in 1929, produced 19 percent more goods and services than we could have produced.

The answer does not seem to me very significant.

The National Survey did not attempt any such straddle of the two divergent worlds, the physical and the institutional. It concentrated on the physical world and put the problem as follows:

What could the American people expect, in the way of goods and services, if productive resources were devoted to satisfying their needs and reasonable wants and was limited by physical factors only?

Furthermore, the directors decided that a summation and averaging of all unused capacities such as that of Brookings and the census would result in a collection of figures bearing little relation to the problems of society. For instance, the result of averaging the potential increase in producer goods and consumer goods together cannot be translated into an increase in national income. An unused capacity to produce flour may or may not mean an unused capacity to produce bread. Or an unused capacity in the production of raw materials, tools, machinery, and so forth, does not necessarily mean a similar unused capacity for the production of finished goods.

HUMAN NEEDS ARE THE FIRST CONSIDERATION

Also, the concept of capacity is meaningless in respect to many important categories of production. Lard, for example, could easily be supplied in ridiculous excess since the supply depends largely on the fecundity of swine. The national survey decided that our economy must be surveyed as a whole, since its parts are interrelated and that estimates of capacity, in order to have any significance, must be checked against a reasonable budget of actual human requirements.

In order to make visible our total economy in its capacity to satisfy our needs and wants, they constructed a flow sheet, starting with raw materials on the left, and following through the processing of these until they arrived at the final column on the right which consisted only of consumer goods, the finished goods being allocated in accordance with a budget based upon a decent American standard of living.

The budget was based upon several studies. In food, it was taken from a pamphlet sponsored by the Department of Agriculture dealing with various standard diets. The best, called the "liberal diet", was adopted as the food budget. In clothing, the budget was based on the items bought by the professional classes in the San Francisco area. In housing, it was assumed that the American family would like to live in a modern, well-equipped five or six room house, or its equivalent, and that the single individual in the city would continue using smaller apartments. For medical care, the advice of the medical authorities was taken as to what was needed to properly care for the American people. In education, a study by the faculty of Teachers College, Columbia University, was used.

ONE HUNDRED AND FIFTY PERCENT INCREASE IN TRAVEL POSSIBLE

In recreation and personal expenses, the budget was governed by the consuming habits of the people. In transportation, it was based on the capacity of our automobile makers to assemble cars, insofar as the makers of parts could keep up with them, also considering the supply of gasoline and the congestion of city traffic. A purely arbitrary allowance for a 50-percent increase in railroad transportation was made, railroads being able to carry any prospective increase in passengers if physical factors alone controlled their carrying capacity.

This gives a general idea of the method pursued in establishing a budget of reasonable needs and wants.

How it was determined whether or not this budget could be met by the existing American plant can be made clear by a simple analogy. Let us suppose that we desired to discover General Motors' capacity to produce cars. We would not estimate the capacity of our iron mines, our blast furnaces, our steel mills, glass foundaries, tire and carburetor factories, the assembly plant, and so forth, put the various answers in the form of percentages and average the lot: We could do this, but it would not tell us how many motor cars General Motors could turn out. Instead we would choose the bottle neck—that process which seemed most definitely to limit the production of cars—estimate its capacity and then check through all the other processes to discover if any further limitation other than the one we had chosen, existed on the production of cars.

If no other limitation could be found, and enough men were available to perform the operations required to keep the entire process operating at full speed, and if enough tires and all the other materials and mechanisms that go into a car were available, we would then study the bottle neck—it might be the assembly plant itself or it might be certain

factories assigned to making important parts—and we would base our total automobile fabricating capacity on the specific capacity of the bottle neck to perform its function.

II. National survey points to standard of $4,000 per family in United States as possible

The National Survey followed a similar procedure in studying our total economy. The four limiting factors, which they accepted, were (1) natural resources—as modified by foreign trade—(2) existing equipment, (3) existing technology, and (4) man power. Obviously, none of these are fixed quantities, but they change in time. However, to give an irrefutable base to their study they accepted existing equipment and existing knowledge as limiting factors, even though much of our obsolete plant could easily be brought up to date and much of our latest knowledge is not yet in general use. Consequently, their final results are markedly conservative.

To make clear the procedure let me define more exactly their title, for the three words, " potential product capacity ", seem to have been carefully selected. The word " potential " must not be misunderstood; it does not imply a possible advancement in technology nor the replacement of older machinery by equipment of modern design; the word " potential " is used merely to express what the existing American plant could produce if limited only by physical factors with the supplies of materials now available, and with the present labor and managerial force to operate it.

STUDY ALL FACTORS IN PRODUCTION

The word " product " was chosen instead of " productive ", because unlike previous studies this survey was not directed toward obtaining the percentage of all unused capacities. The word " product " was chosen instead of " productive " since it was intended to present the answer in terms of consumer goods and services.

The word " capacity " also requires defining. The capacity of a piece of equipment is easily determinable. In giving the capacity of a freight car an engineer would disregard the question of whether or not freight would be available to fill the car and men available to run it, but this cannot be done in estimating the capacity of our economy considered as a whole. We cannot estimate the capacity of our steel industry unless we first discover that iron ore, coke, and so forth, will be available for the blast furnaces, and men on hand to conduct the various operations.

In other words, the capacity of the equipment is only one of three factors that must be considered. The other two are supplies of materials and labor. The word " capacity " is therefore used to indicate the possible productivity of the American plant as a whole, if limited by available supplies and man power in terms of actual finished goods in such quantities as could be usefully consumed by the present population.

NATIONAL INCOME NINETY-THREE BILLIONS IN 1929; ONE HUNDRED AND THIRTY-FIVE BILLIONS POSSIBLE

After almost a year of research the survey was completed. Each item was listed under three separate headings: The actual output in 1929, the possible output, and the required output or budget. The total actual output of consumer goods and services produced in 1929 was valued at $96,000,000,000. This includes not only goods and services produced for sale, but also food produced and consumed on farms, and rent imputed on owned homes. From this total of $96,000,000,000, two deductions were made; first, for increase in inventory in 1929; and secondly, for excess of exports over imports, bringing the total to $93,000,000,000, which checks closely with other estimates of our national income.

No total was given of the specific plant capacities since neither supplies nor labor are available to run every plant in the United States at full speed. Nor would such operation be desirable even if it were possible, since we would have no use for many of the products. The specific plant capacities were utilized merely as limitations on the budgeted production.

THE ANSWER

Finally a figure was given of the total of desired goods and services which the American people might enjoy if production were limited by physical factors only. At 1929 prices this amounts to $135,000,000,000 worth of desired goods and services, approximately $4,400 worth per family. This income is exclusive of the cost of security and other items which would inevitably accrue if our production were released, and includes a production of hand-made luxuries equal to those distributed in 1929.

Translated into actual standards of living and consumption of the average American, these figures might be stated as follows:

	Actual average consumption, 1929	Possible annual consumption today
Wages	$1,337	$4,370
Housing ... per family	$800	$990
Men's suits ... suit	0.5	1.4
Men's shirts ... shirts	3.0	6.9
Shoes ... pairs	2.8	4.4
Food	$207	$236

These figures are cited as an example of what is possible in America as compared with what is.

III. Future possibilities nearly unlimited

This is the first statistical indication we have of what the power age could do if allowed to serve the needs of a given population. And this is not a theoretical or maximum figure; it is a conservative reckoning based on the existing plant and the labor and materials at present available. Raw materials not available today could be made available; existing equipment could be replaced by better equipment; knowledge is far from static; many new inventions are withheld from the market; the labor force is capable of considerable expansion; yet the survey took into account none of these potential improvements and based its conclusions entirely upon existing conditions so as to place these conclusions beyond the realm of controversy.

They have also disregarded the fact that cheapness has become the prime requirement of the market. Every penny saved in costs is likely to expedite sales. But using cheap materials is seldom true economy. The use of better materials is likely to add a small percentage to the cost of an item, but it also adds a large percentage to its life. However the survey estimated the product capacity of goods as they are made now, even though the quality of goods could be increased almost as conspicuously as their quantity.

Let us examine, then, this difference between the $96,000,000,000 actually produced in 1929, the year of maximum production, and the $135,000,000,000 which could be produced with the existing plant. This constitutes a difference of $42,000,000,000 in desired goods and services which the people of the United States could produce but do not produce. It measures lost or uncreated wealth.

EIGHTY PERCENT OF OUR PEOPLE LIVE IN POVERTY

America is called the richest country in the world. This is undoubtedly true. Let us see how rich the population of this country actually was in 1929. In this year some 19,000,000 families in America had less than $2,500 and some 11,000,000 families had less than $1,500 a year.

In general, it can be stated that 40 percent of our people had incomes which provided a living beneath the accepted level of health and decency, and another 40 percent existed close to poverty. Only some 9 percent possessed incomes over $5,000 a year, and only some 2 percent had incomes over $10,000 a year. In 1932, the year of maximum nonproduction, goods and services to the value of $69,000,000,000 were produced, and sixty-six billion more, or nearly again as much, could have been produced. From 1929 to 1933 the total loss to the consumer through the noncreation of wealth

was close to $300,000,000,000. It is evident that this period represents an orgy of extravagance without precedent in the history of the world.

PRICE, THE BOTTLE NECK

The group of engineers and economists who made this survey do not stop here. They present a thesis to explain this remarkable situation in which the behavior of the American people seems to be so far removed from common sense and efficiency as to resemble the strange and fantastic behavior of certain creatures in Gulliver's Travels. Their thesis is based on the fact that in this survey they accepted the present physical set-up of the American plant, but they did not accept its present institutional set-up. If they had, their answer, as I suggested earlier, would have been zero.

It is obvious that America produces each year everything it can produce under the existing system, or in other words, everything it can sell at a profit. This situation in which we withhold the creation of wealth can be explained best by drawing the distinction between real wealth, which consists of goods and services belonging to the physical world, and monetary wealth. It is obvious that our failure to create the wealth which could be created is due to the discrepancy between the possible production of the American plant, at asked prices, and the buying power of the American people, since under the existing system, real income, income in goods and services, is governed by money income.

It thus comes about that modern man has solved the problem of production by means of science, and could thereby banish poverty; but he has not learned how to take advantage of his knowledge and provide goods in sufficient quantities to satisfy his needs. Poverty, when the needed goods can be provided, is stupid; indeed it seems criminal. Poverty has always been a horror. But men can be induced to bear it when they know it is necessary.

IT IS STUPID TO SABOTAGE PRODUCTION

Formerly when the rain failed to fall and the corn shriveled men went hungry. And they had to endure it and to suffer. But today we ask men to go hungry when they know that farmers are being paid to grow less food. This is stupid, as well as dangerous. It may imperil our civilization. It is breeding a sullen resentment which sooner or later will flare into hate. In the light of this survey the American people will become aware that there is enough food for all. They could have all the clothes they could wear out, new houses at the rate of a million and a half a year, a doubled personal expenditure, more than double the accustomed recreation, adequate medical care, a car to a family, a huge increase in education. This would mean a new kind of world, in which everyone could possess the advantages now enjoyed by that 9 percent of the population possessing $5,000 a year or more.

That man, by means of science, has finally solved the problem of production, may be the most momentous event in the long history of the human race, as important as the domestication of animals and the planting of seeds, the discovery credited to Adam's sons in the Bible. The fight with nature to obtain from the earth and the waters what we need for our life, has been the main concern of mankind since the beginning. Up till recently it remained unsolved. Goods were always scarce. There was not enough for all. When the weather was favorable everyone, or nearly everyone, ate; when the rain did not fall everyone, or nearly everyone, starved. Here and there small classes obtained for themselves, by enslaving through force or superstition the underlying population, a temporary security and plenty. The slaves which made this possible were too busy to think or to create, too busy, and too miserable, during most of history, even to dream.

POVERTY IN AMERICA IS STUPID

All this has changed in the last hundred years. By harnessing the forces of nature and substituting natural energy for human energy, goods of nearly every kind can be produced in desired quantities. Today in America our farmers could produce food for all; our factories could produce enough clothes, automobiles, radios; our builders could produce enough houses. Our technical proficiency might mean that everyone could enjoy the security and abundance that since the beginning has been the boon of but a chosen, privileged few. It could mean that for the first time in the world a nation might, as a whole, pursue those elusive values, products of leisure and thought, which alone tend to make life on earth worth while.

The belief that many of us have had that poverty is stupid, has now been verified. What we used to feel merely emotionally has now been proved by statistical measurements. When blind conservatives dispute the thesis that poverty cannot be abolished, the contrary can be proved. There is nothing left for them but to assert that they do not want it abolished.

It is necessary to scrutinize the economic system which had been so conducive to the development of the means of production, but which now denies us its benefits. This system is called the free- or open-market system. It came into being with the establishment of the open market. Its legal expression is freedom of contract between individuals, and between States, which later tended to develop into free world trade. The establishment of the free market necessitated breaking the absolute power of Rome, as well as the power of the feudal landowners, and it necessitated the freeing of serfs. Under feudalism men did not live by buying and selling.

Then methods of agriculture began to be rationalized, roads improved, and navigation made a sudden great advance. The ancient system of feudalism became obsolete and for 400 years Europe waged constant bloody warfare to overthrow it. The free market came into being when the production and transportation of goods in great quantities became possible. This market, or exchange of commodities on a large scale, had been hitherto impractical.

THE DRIVE AGAINST HIGH WAGES

Transport of most commodities, even for short distances, was difficult and the method of production was simple handicraft. Technological advances established a condition whereby whole communities could subsist on goods brought from another part of the world, and exchanged possibly for some manufactured product. This system, while it functioned, seems to have been ideally suited to a period of history in which new worlds were being discovered and developed, during a period of expanding populations and expanding territories, and above all it encouraged the further development of technology.

Three main tendencies were inherent in this system from the beginning, and have slowly become accentuated, until finally these tendencies, encountering a condition of potential abundance, have brought the system to a grave crisis.

I. Under this system labor is generally accepted to be a commodity. It is the main factor in costs. Furthermore, it is the only flexible factor in costs. Therefore, as profit depends necessarily on the difference between the cost of production and the selling price, the system by its nature, constantly exerts a downward pressure on wages. During the period of its vigor and its growth, the open-market system, for the most part—at least in the United States—provided a subsistence wage for its workers, for if there was a glut in one field of enterprise, and prices dropped and men were disemployed, these men could find employment in some other field, or in a new enterprise where expansion was taking place.

In fact, wages have risen in the past 100 years proportionately more than the per capita income from all sources. The amount of surplus profit made by industry in periods of prosperity was largely invested in new enterprises which not only reemployed the men discharged from those enterprises which had reached a point of saturation, but also, by exerting a healthy demand for labor, helped to keep the price of labor, as a commodity, up. The primary law of

the open-market system is the law of supply and demand, which constitutes an automatic, self-regulatory adjustment between available supplies and buying power, and the health of the system has always depended upon its functioning. Since labor is a commodity, wages, too, were controlled by this law, and still are to a large extent. Improved technological methods greatly reduced the need for human labor, and this threw men out of employment when the period of maximum expansion had run its course. Finally, a surplus was created in this commodity. As a result and in spite of the fact that labor unions, Government agencies, and various liberal institutions attempt to arrest this calamity, wages are with difficulty kept up to a decent standard, and millions of men are disemployed.

DEBT STRUCTURE OPPOSED TO ABUNDANCE

The second tendency inherent in the system is debt. The accumulation of masses of goods and their transportation implies enterprises of a scale so vast that great quantities of new capital are constantly necessary. Traders engaging in new enterprises usually need to hire money. Therefore from the beginning there was a tendency to borrow; to contract debt and interest charges. At the close of the feudal period the charging of interest on money was contrary to the teachings of the Church of Rome and was considered usury, but as the free market gained mastery the practice nevertheless grew. This tendency to borrow money in order to launch enterprises has finally built up a debt structure so vast and so elaborate that in our day it has destroyed the flexibility of the market and nullified its primary law of supply and demand.

This debt structure, encountering a condition of potential plenty, cannot permit the dropping of prices necessary to meet buying power, because, though prices are flexible, interest, or the fixed charges on debt, are not flexible, and must be met in fixed dollars. So that today even the amount of deflation which took place in 1932 brought bankruptcy to our enterprises. This means that prices which, according to the primary law of the system, should be allowed to drop in order to meet the inadequate buying power of the population, cannot be dropped beyond a certain point without destroying the financial structure of the Nation.

IV. Monopoly is inherent in capitalism

The third tendency is toward the formation of monopolies. This seems strange, as it is a direct contradiction of the free market system, and its deadly enemy; yet a tendency toward monopoly was inherent from the beginning. Individual enterprisers might at any time run into a glut in their particular field of production. With this sword of Damocles over their heads there was a natural tendency to combine by association and agreement in order to save themselves from possible bankruptcy. As capital was accumulated and the means of production became more and more under the control of a few, the stakes became higher, and the risks of loss, staggering. For the last hundred years the tendency to monopoly, especially in the heavy industries, has reached great proportions.

The Sherman antitrust laws were designed to arrest this growth, but the tendency is so deeply imbedded in the system, and has become so much a matter of essential self-preservation in recent times, that it seems unlikely any law can be devised which will disentangle the incredibly complicated interlocking of our big banks, finance houses, and corporations. In such things as gas, electricity, and railroads, there have long been monopolies in almost all countries.

It is clear that this tendency to monopoly is not an evil conspiracy on the part of the great industrialists, but a measure of self-preservation which has become increasingly necessary as a condition of abundance began to be established. Previously, an enterpriser might run into a glut in his particular field, but he still had the opportunity to enter some other where a condition of scarcity prevailed, but now that there is a potential glut in all fields, his only recourse is to combine and to limit production. Recently the State has recognized this necessity of the failing system and has restricted production, particularly in the field of agriculture where the great number of small individual enterprisers makes monopolistic control impossible.

FOREIGN MARKETS CANNOT BE A DUMP FOR OUR SURPLUS

Another feature of the system must be considered—foreign trade. Foreign countries have hitherto constituted a market for the surplus of goods which the buying power of the Nation was unable to command, and this surplus was disposed of in exchange for other needed goods. But today what can Europe or Africa or China pay us with? In a country as self-sufficient in natural resources as America, and with a potential abundance of goods in all fields, we no longer need additional goods from these countries, and therefore cannot sell more of them than we do.

Thus we see that all along the line the technological advance in the means of production which makes possible a condition of abundance has destroyed the flexibility of the open-market system and thereby the functioning of the primary law of supply and demand, so that now the system seems to lie in a state of rigor mortis.

CAN THE SYSTEM BE REVIVED?

However, let us examine whether it is possible or probable to revive the working of this system. Our premise, which cannot be questioned after this survey, is that technical development has established a condition of potential abundance whereby the American plant could provide a sufficient flow of the essential goods of life to satisfy needs and reasonable desires. The question then is whether the buying power of this Nation can be so increased under the present system as to command the requisite production of the American plant.

Theoretically a discrepancy between buying power and possible production is automatically corrected by deflation, by dropping prices. But as we have just shown, deflation has been arrested; and since deflation would bankrupt the country, extraordinary measures are used when necessary to prevent it. There does not seem to be any chance that this policy will be reversed by any political party. Uncontrolled deflation may be definitely ruled out as a curative measure.

That leaves us with only two possibilities: First, to increase wages until they make up the shortage; secondly, to multiply profits until buying power is adequate to command a satisfactory production. Let us first take up wages.

WAGES INSUFFICIENT TO BUY OUR PRODUCTS

Wages and salaries in 1929 amounted to some $53,000,000,000, which sum was distributed among slightly over 35,000,000 individuals. This averages less than $1,475 a year for each full-time earner. One thousand four hundred and seventy-five dollars was not and is not enough to command the goods and services needed to provide a comfortable standard of life at 1929 prices, nor even at the 1932 level. When it is remembered that $1,475 is not the income of unmarried individuals, but must, except for the few working individuals who have no dependents, cover the living expenses of families of various sizes, the insufficiency of a family budget based on this amount of buying power becomes apparent. This is why some 42 percent of our population were, even in the golden days of 1929, unable to enjoy the goods and services sufficient to provide a decent or healthy standard of life.

As has already been stated, under the open-market system, labor is a commodity to be hired or bought at the lowest possible price. That is the natural law of the free market. So long as a multitude of unemployed exists, anxious for any job at any pay, it is extremely doubtful if the combined powers of labor organizations and governmental influence can succeed in appreciably raising the wage scale without raising prices at the same time and thus nullifying the benefit. Technology has not only created a body of unemployed but continues to add to its size. Since technology also creates wealth by increasing productivity, modern industrial States, under the free-market system, are faced with the unpleasant

alternatives of restricting technology and so impoverishing society as a whole by producing less goods per man than it could produce, or releasing technology and so increasing the number of unemployed, thereby impoverishing a section of society. At present we seem to attempt to indulge, crablike, in both alternatives.

TECHNOLOGY FORCES DOWN WAGES

Thus we see that under the existing system the share of the national income which is obtained by labor cannot increase. In fact with every advance in technology it tends to decrease. Since there is little hope of an increase in real wages, and labor income in 1929 amounted to $53,000,000,000, there was then a slack to be made up between the income of labor and the $135,000,000,000 which would command the necessary production of the plant even in 1929.

V. The gap between actual buying power and potential productivity continues to increase

Since 1929 labor income has been reduced by releasing men, and property and enterprisal income has dropped even as radically, thus increasing the gap between buying power and possible production. Under the present system, will that part of income which can be described as profit, or the share allotted to the enterpriser, in the future make up the formidable difference between 53 or more billion dollars and $135,000,000,000, a difference which must be made up if production is to be released and the needs of the people satisfied?

It would mean a rate of profit more than double the receipts from this source in 1929. It is difficult to conceive of such an increase. Since profit is the difference between cost and price, profit depends upon a price being obtained higher than the cost, and this in turn depends upon demand being equal to or exceeding the supply. This survey demonstrates that the technical development of our plant has solved the problem of producing the essential goods needed to satisfy the needs of all the people. Therefore, at present these goods are potentially available in ample supply. But when goods are in supply, prices drop and profits tend to disappear, whereas it is necessary, if income is to be increased by way of profits, that they be greatly expanded. It is evident we cannot expect an expansion of profit sufficient to correct the maladjustment.

PROFITS DISAPPEAR

Profits not only tended to disappear after 1929, but net profit actually disappeared and was replaced in 1932 by a net loss for the enterpriser which attained ruinous proportions. Not only farmers but many of our great corporations have been persistently reporting a net loss. When an article is produced in such abundance that the available supply exceeds the effective demand, the difference between cost and price tends to become zero or a minus quantity. The article therefore sells at cost or less. This has been the case during recent years with basic commodities such as wheat, corn, and cotton, where monopolistic control of prices did not operate.

When this condition occurs in the industrial world, noneconomic and political forces are called in to save the situation. Even the Government helps enterprises to cooperate in restricting production. It also compels, or persuades by money payments, farmers to reduce their output. This is economic Fascism. It is clear that restriction of production, so long as all needs are not satisfied, results in an impoverishment of society; people as a whole have so much less.

BLESSED STATE OF POVERTY

It is a most curious spectacle. The American people, through their elected Government, are using their power to preserve the blessed state of poverty when there is possible abundance all around them. It is a novelty in history.

Many ingenious devices are used in order to keep the production of wealth down to the quantity which can be procured by the money income or buying power of the public. Workers are disemployed; sometimes as many as a third of the working population; factories are closed; doctors cannot attend the sick; rich land is left fallow; mines are allowed to flood, and desired commodities destroyed. Even so, production tends to outrun purchasing power.

Consequently a few misguided individuals are advocating the use of force, dictatorship, and military power, and the suppression of civil liberties in order better to curtail wealth production, believing that nothing is more important than to preserve our traditional economic system and everlastingly to perpetuate the differential between buying power and product capacity.

OPEN MARKET HAS DESTROYED ITSELF

It is quite obvious by now that any proposal to abolish the open-market system is superfluous. The open market has destroyed itself. We have for all practical purposes a closed market. Prices no longer slide up or down to meet buying power. Instead, when buying power fails production is curtailed until a balance between the two quantities is approached. The result is a fairly stable price structure. It is probable prices will not be allowed to drop below the 1932 level. Even the 1932 level bankrupted, at least on paper, a large number of enterprises.

Many banks and insurance companies were kept in a liquid condition only by the extension of loans from the Federal Government, and an attempt is being made to avert the repetition of such a disaster by stabilizing prices, profits, and poverty.

Of course the fixing of prices is not intended to perpetuate poverty. On the contrary it is designed to restore prosperity. With fixed charges on debt, a general price drop is disastrous to the enterpriser. It is not realized that saving the enterpriser by this device costs the people the value of the desired goods which are not produced, goods worth nearly $300,000,000,000 in the last 5 years. The cost of saving the enterpriser seems exhorbitant.

The reason that the open-market system has been discarded is that fundamental conditions have changed. So long as the great majority of commodities could not, in the nature of things, be provided in sufficient quantities to satisfy the needs of a total population, any temporary glut in any commodity could be corrected by transferring money and labor to the production of other commodities whose supply was still insufficient. Now that we are equipped to produce the great majority of commodities in desired quantities, no outlet exists into which the man-power and money not required for the production of the potentially plentiful goods can be directed.

VI. The choice of America lies between poverty and plenty

In this situation a nation equipped to produce goods and services along modern technological lines can, according to the National Survey, either create an artificial scarcity by restricting production, and thereby maintaining poverty, or such a nation can create an unprecedented plenty by putting to work its idle men and more or less idle equipment. To accept the latter alternative, the commodity theory of labor would have to be abandoned for the following reason: The income of some 80 percent of our population consists largely of wages.

Under the existing system every employer is compelled, under penalty of bankruptcy, to keep costs to a minimum, and wages are the most flexible factor in costs. This compulsion, inherent in the system, forces every employer to hold the dollar wage of his employees to a minimum and to reduce the number of his employees whenever possible. Since prices are no longer permitted to drop beneath a certain level, reducing the wage bill reduces also the buying power of the wage earner. A lowered buying power on the part of the majority of the population reduces the consumption of goods. Reducing the consumption of goods reduces the profits of the enterpriser. Thus a lowered wage bill is not in practice translated into greater profits. With prices fixed, a lowered wage bill usually results in a reduced rate of production which nullifies the gain.

The net result is a reduction in the national income. Thus with the price range fixed, technological improvements result in a lowered buying power. Despite the various forces working to the contrary, the compulsion to reduce costs has prevented the standard of living rising much above subsistence level for the majority of our citizens.

NEAR POVERTY INEVITABLE UNDER CAPITALISM

This compulsion to hold down the buying power of the nonproperty-owning citizens cannot be effectively counteracted within the frame of the existing system. And our people cannot enjoy the adequate quota of goods and services which could be provided them, unless the compulsion to reduce wage costs now operative among all enterprisers is reversed, and, instead of paying the least possible to the majority of the population, we pay them the most possible; that is, distribute to them the maximum flow of goods which the American productive plant can provide.

There is one more important consideration: In the actual world one man may be allotted a million dollars per year; another man $1; one man might be allotted a thousand acres of land a year, another man 1 acre. But this is not true of eggs, shoes, coats, milk, bread, beds, houses, doctor's service hours, and so forth. Although deliberate waste may enable one man to consume somewhat more than the average of certain commodities, and thus increase the turnover in some kinds of goods—such as women's wear—this has not an important effect on the general consumption.

In fact, much of this is not actual waste, but the donation, before it is worn out, of a no-longer-desired gadget or garment to some other member of society who may still find use for it. Since those who indulge in deliberate and conspicuous waste are few, and since the rich man eats, if anything, less than the day laborer, and wears his clothes out more slowly, no method for distributing the basic commodities listed in the budget of the national survey is practical—except to distribute them to those who need them. This does not mean equality in possessions. One man may possess rare goods, such as antique furniture, beautiful rugs, and first editions of all the best authors, and another man none of these things. But it is impossible to distribute goods which can be produced in desired quantities, without distributing them to everyone.

UNPRECEDENTED ECONOMIC SECURITY POSSIBLE

Since the quantities that could be produced are sufficient, in nearly all items, to satisfy the requirements of the existing population, the distribution of these goods and services to the individuals who need them, and can use them, would provide for a degree of economic security unprecedented in history. Destitution would be abolished and the fear of destitution would no longer haunt our people.

Each family would foresee a guaranty of future income equivalent to that provided by having $100,000 in the postal savings bank or secured by an insurance policy costing over $1,000 a year. This would mean that liberty would be enjoyed by most people. Today over 80 percent of our people have their freedom constricted by material necessities. The releasing of production and the resulting abundance would enormously expand their freedom of choice in respect to the consumption of goods, to occupation, and to recreation. Liberty to sell would be restricted to the scarce or rare goods, since other goods would be abundant. Liberty to buy would be extended to include that 90 percent of the population now restricted in its enjoyment of this privilege. Those goods and services which have not been produced in the last years, and could have been produced, would have been sufficient to remove destitution and the fear of destitution from every citizen without taking anything away in the form of consumer satisfactions from the fortunate few possessing in 1929 incomes of $5,000 or more per family. In fact, these fortunate few could have enjoyed, as well as comfort, a sense of security which at present is nonexistent.

It is evident that the open-market, or profit system does not and cannot function satisfactorily under the present conditions; that is to say, it cannot function when goods are potentially plentiful. Our recent efforts to restrict production, that is, to reduce our real wealth, and to create an artificial scarcity, are an acknowledgement of this. We thereby tacitly admitted that scarcity is essential to the functioning of the profit system, and furthermore that scarcity no longer exists.

THE PROBLEM OF DISTRIBUTION

The group of engineers who made the survey of product capacity propose that the scientific methods should be applied to the distribution as well as to the production of goods. By coordinating these two agencies, an even steady flow of raw materials through the processing industries to the consumer could be assured.

For this it would be necessary according to the survey engineers—leaving intrinsically scarce goods to the higgling of the market—to list, price, and total the desired goods and services that the American people could produce—according to the survey the total worth of these at 1929 prices is $135,000,000,000—then to issue an equivalent purchasing power so that the American people could obtain the commodities made available by their skill and energy.

This purchasing power could be based directly on the goods and services made available in 1 year. In that case, it should be good only for the year during which it is issued and should be canceled when used for purchases. It should be issued to every individual on the condition that each individual serves society in the capacity in which he is now functioning, or if he is out of work, in the trade for which he is trained excluding children, old people, and invalids who ought to be provided for without conditions. Under this system of distribution, the production of any desired commodity can be increased from year to year as new facilities are added and the wants of the people are made manifest.

Public taste, expressing itself in buying trends, would dictate changes in the volume of production of given commodities. Allowances could thus be made for a changing and ever-increasing range of consumer satisfactions.

FULL EMPLOYMENT WOULD BE NEEDED

Of still greater importance would be the full utilization of man power. Whereas at present millions of men are prevented from producing, under the proposed system their efforts would be needed to meet the increased demand for consumer satisfactions. The flow of goods from raw material to finished products would be continuous. Interruptions, or sabotage, due to the "stop" and "go" signals of private owners (depending on whether or not profit can be made) would no longer exist.

Instead of a host of competing, duplicating, and conflicting private enterprises, an integrated national productive plant would be established, the units of which could be set up in all sections of the country. Materials for production could be transferred by interdepartmental requisition, as is the present practice in large corporations.

As for saving, so-called "investments" are now governed largely by the desire for profit and often fail to provide either security or profit. Under such a system the Nation's saving would be accomplished by the upkeep and enlargement of its productive facilities. This would insure for the future a satisfactory production of consumer goods, thereby guaranteeing the maintenance, or increase, of all incomes. Existing saving schemes aim to do this for individuals, but often fail to do so. All possible choice pertaining to the type of service he wished to perform could be allowed each individual. Certainly a far wider range of productive and service vocations would be open to men and women under this plan than they enjoy today.

Under this plan, the farmer would receive his purchasing power in the same manner that other producers received theirs. He would no longer be penalized for crop failure due to bad weather, insect pests, and lack of knowledge any more than the factory worker would be were the machinery in the plant to break down due to faulty design. In order

to bring about this condition of abundance, the means of production would have to be requisitioned by the Government under the power of eminent domain, and purchased from their present owners by the issuance and payment of currency, and the title in them vested in the American people.

VII. The American way—social ownership

This solution is in accord with the customs of this country and the recent trends in Western civilization. Waging war, keeping the peace, instructing the young, the transmitting of mail, the distributing of water, and the maintaining of highways have been successfully removed from private control and the restrictive effect of the profit motive. This survey indicates that the remaining utilities and the providing of food, clothing, shelter, and such other goods as can be produced in desired quantities could with equal benefit be owned by the people.

This is best made manifest by an analogy. For instance, the distribution of water requires labor, supplies, equipment, and knowledge. If it were judged advisable to return the distribution of water to private competitive enterprise, two steps would have to be taken—outlets for water would have to be padlocked or metered and the release of water would have to be restricted to fit the buying power of the public. The result would inevitably be a marked reduction in the consumption of water. It would seem just as unnecessary to restrict such supplies as can be provided in desired quantities as it is to restrict water. Yet our economic system, under the new conditions of potential plenty, compels governments, owners, and even workers, driven by the necessity of self-preservation, to conspire to restrict production and thereby to impoverish society.

Production is dependent on factors in the physical world. Buying power is a human institution subject to control. Nevertheless, production is cut to fit an inadequate buying power instead of buying power, which can be raised or lowered at will, being raised to fit production. This procedure can only be likened to that of the ancient Greek innkeeper Procrustes, who cut off the legs of his guests when they were too long for his beds.

It is evident that this approach is different from that of any other reformist or radical body. It rests upon no philosophic premise; no theory of what constitutes value. It rests upon a given condition which is proven to exist. Yet it is obvious that no person can examine this premise, supported by Government figures, that poverty can be abolished in America, without drawing the conclusion that it is then criminal not to do so. These pages of figures arrived at by disinterested engineers engaged in accomplishing their job, may launch the greatest crusade in history, the crusade to abolish poverty for 125,000,000 people, to free them from economic bondage, and that basest of all slavery which is the fear of starvation. America alone has made possible the new era of abundance. This is what we have striven for; opened the frontier, built our railroads, our magnificent roads, our factories, and power plants. America's technical plant is its pride before all the nations of the world, and if its operation is applied to general human welfare, we may put into effect the ideal held by the founders of this country that all men are entitled to life, liberty, and the pursuit of happiness.

AMERICA CAN LEAD

America, young, energetic, the land of a new race bred from the mingled strains of all the world, will be the fit nation to take this step. Fate has indicated its election, because only America is truly self-sufficient not only in material resources but in technical skill. Once again her people are challenged by the opportunity to pioneer.

It is evident that man, impelled toward his destiny by the Divine Will, attempts to solve the problem of the production and distribution of wealth through the specific forms of various economic conventions which in themselves are man made, and therefore experimental and fallible. It is evident that no given form, including the existing so-called "system", is ordained by God, nor is it the natural order of things. And now it appears that the old vessel can no longer hold the new wine of abundance.

Once before in our history, in 1776, we led the world when we made the declaration of a new concept of human government. We may do so again and fulfill our great destiny as a nation. Other ideals of humanity may be greater than that of providing the necessities of life to all the people, but surely this should precede all others. That is what the American plant can do. That seems to be practical Christianity.

ELECTRICITY HAS GENERATED A NEW ERA

The first spark of electricity which an American drew forth from the skies has generated the power age in which we now live. That spark has been another Promethean secret disclosed to the human race, and, like that of fire, must establish a new era. A great fanfare was made about the exposition of the Century of Progress. Truly, this exposition revealed miraculous advances in the sciences and in technology, but are we, like children with a toy, to hold these levers of power in our hands merely to set off sparks, and hold penny side shows, or shall we apply these powers to the welfare of our people?

It is evident that we would be acting irresponsibly if we abandoned our children to the fate in store for them under a system in its last desperate throes. The cycles of depressions will become continuous, if they have not already; currency and trade wars will inevitably lead to murder wars; the standard of living will become still further degraded, and a greater and greater number of our people will be forced to find subsistence on a dole. The system, in its death throes, will have to resort to dictators who will conceal economic distress by intoxicating the people with false nationalism, racial hatreds, and military show.

WHAT WILL THE PEOPLE SAY?

The American people may now choose between running their magnificent plant, the greatest technical triumph of civilization, which can provide security and a decent standard of life as the natural birthright of every American citizen, and the only other alternative: Economic fascism, the restriction of production, fixed prices, fixed wages, and a dole. The demoralization of the western world proceeds at an accelerating pace. From far and wide comes news of violence; violence which serves to conceal the failure of the traditional system. It seems that we must choose, or blind forces will do the choosing for us. This survey of product capacity seems to offer the most evolved and realistic approach to the American situation today; and constitutes the most powerful challenge to an obsolete system which survives only by the criminal noncreation of wealth. The American people do not as yet know the results of this survey. What will they say when they do? They will observe that misery and defeat is fast spreading over this land in which there is potential abundance such as has never been seen in the history of the world. A new enlightenment may spread, and those in power may tremble, for the anger of the people can be a just and terrible anger. They may ask if it is to preserve the profit system that is no longer even profitable, that our forefathers turned a wilderness into a garden, sowed the soil, mined the earth, fought the Revolution, and the bloody struggle to preserve the Union; whether they did all this to preserve a system which limits production in an age and a land of potential plenty.

COOPERATION IS BETTER THAN COMPETITION

As for those who claim that competitive greed, and pleasure in possessing that which his neighbor cannot possess, is inherent in man, they attempt to debase human nature. Men have been so conditioned but not created. It is known that the earlier primitive races formed communal societies which may well be nearer to man's true nature. Now we have an opportunity to return to such harmonious conditions on a conscious, and more scientific plane. The survey does not speak of the benefit to all human relationships which would be derived from abolishing the savagery of the economic jungle, nor of the benefits to the home, marriage, and the rearing of children. Life is not worth living unless it has a purpose, unless we feel that we are building for our

children, and our children's children. For this we must build our house on a rock foundation of security and justice.

These figures of the survey are not dead figures. They mean a pair of good shoes for the boy on his way to school; good milk for the infant; a decent dress for the young girl going to her first party; an automobile to carry the family to the nearest lake or forest. Poverty is terrible in this highly industrialized Nation. The people quite rightfully lack that philosophy of life which makes the natives of warmer lands accept their poverty as part of the nature of things.

A decent standard of living has become the symbol of self-respect to the American. He cowers under poverty and is ashamed. Poverty means to the American frustration and defeat. The rate of insanity and depressive mania is rising at an appalling rate in our country. It is true the Government has been dispensing a dole, but Americans have not been trained to resignation; they are not servile members of a caste system; they do not welcome being paid to keep alive and not to work.

AMERICA MUST LEAD

What does America stand for before the world? We have no gothic cathedrals; no Rembrandt or Shakespeare. We do not stand for art and culture, but we stand rather for the greatest experiment ever made in government, and the distribution of wealth, and a high standard of living for the mass of the people. If we ever have our place in history along with Greece and Rome, and the Italy of the Middle Ages, it will be for this contribution to history.

There are many sincere people in the country today who talk of rugged individualism, the Constitution and 100 percent Americanism. Unless these noble and resounding words are made to accord with certain facts, and a given situation at hand, it will become apparent to the people that these leaders are under the hypnotic spell of their own words, which they repeat like the mumbo-jumbo of an Indian medicine man. Words can be mere charms or fetishes, without actual meaning unless they are applied to realities. These words must now be applied to a given situation in that spirit with which the founders of this Republic met a given situation in their time and age.

And these same defenders of the pioneering virtues warn us of the evils of regimentation. What of the regimentation now established for the millions who are driven from one corner of the land to the other searching for work; what of the regimentation of the great majority of our population lucky to find any work at any price, and each year increasingly haunted by the fear of poverty in their old age? Can the human race be more bitterly regimented than it is in an industrial country where poverty prevails?

It has been the great destiny of these United States to free all people from religious oppression and the caste system of older countries. It is the further destiny of this country to emancipate all men from economic bondage and no longer to tolerate a system which has outlived its period of usefulness, as did the feudal system, which our forefathers recognized in due time to be obsolete, and which they fought and bled to overthrow.

ABUNDANCE VERSUS SCARCITY

It has been our fortunate destiny and our genius as a people to carry the technical achievements of the race to a point where abundance of the essential goods of life can be enjoyed by all men, and where the dark fear of starvation, resulting from the misfortunes of life, and the capricious turns of an unstable financial system, can be forever abolished. Has this greatest of all technical achievements brought us happiness and harmony? No, it has brought us misery. That is because we have shut our eyes to the human and ethical implications of our achievement. Of what avail are our technical genius, or our machines, unless they create security and leisure for the humblest of our people? A culture and a civilization is doomed which can feed and clothe its people, and will not do so. Such wantonness cannot be found in the histories of the most savage tribes. It seems contrary to all conceptions, both religious and ethical, to tolerate this condition in order to preserve the prerogative of ownership of the few who control the means of production, and thereby the bread of the many. It seems humanly unjust, and contrary to the spirit and the letter of the Declaration of Independence, to create artificially a condition of scarcity in a land where abundance is at hand.

HOUR OF MEETING TOMORROW

Mr. TAYLOR of Colorado. Mr. Speaker, in view of the fact that many Members desire to leave early tomorrow afternoon, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

ENROLLED BILLS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 3012. An act to authorize the transfer of certain lands in Hopkins County, Ky., to the Commonwealth of Kentucky; and

H. R. 6464. An act to provide means by which certain Filipinos can emigrate from the United States.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1958. An act to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes;

S. 2074. An act to create a National Park Trust Fund Board, and for other purposes; and

S. 2642. An act to incorporate The American National Theater and Academy.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 34 minutes p. m.) the House, in accordance with its previous order, adjourned until tomorrow, Tuesday, July 2, 1935, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. McCORMACK: Committee on Ways and Means. H. R. 8624. A bill to provide for the disposal of smuggled merchandise, to authorize the Secretary of the Treasury to require imported articles to be marked in order that smuggled merchandise may be identified, and for other purposes; without amendment (Rept. No. 1411). Referred to the Committee of the Whole House on the state of the Union.

Mr. GEHRMANN: Committee on Indian Affairs. H. R. 8165. A bill to refer the claim of the Menominee Tribe of Indians to the Court of Claims with the absolute right of appeal to the Supreme Court of the United States; with amendment (Rept. No. 1412). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 6818. A bill conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claim which the Kiowa, Comanche, and Apache Tribes of Indians may have against the United States, and for other purposes; with amendment (Rept. No. 1413). Referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 6101) for the relief of D. W. F. Maloy; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 8505) directing the Court of Claims to reopen the case of John W. Parish, trustee (John H. Baxten, substitute), against the United States (no. 34450), and to correct the errors therein, if any, by an additional judgment against the United States; Committee on Claims discharged, and referred to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GUYER: A bill (H. R. 8739) to prohibit, within the District of Columbia, the manufacture, importation, exportation, transportation, sale, gift, purchase, or possession of any spirituous, vinous, malt, fermented, and all alcoholic liquors whatsoever, which may be used as beverages, excepting natural wine for religious services, and ethyl alcohol for compounding or manufacturing medicines for internal use and as a disinfectant by physicians, surgeons, and dentists, in their professions, prescribing penalties for the violation thereof, and for other purposes; to the Committee on the District of Columbia.

By Mr. McSWAIN: A bill (H. R. 8740) granting pensions to former members of the military service who were discharged for disability incurred in line of duty, their widows, and dependents; to the Committee on Pensions.

By Mr. WILCOX: A bill (H. R. 8741) to amend an act entitled "An act to provide for the establishment of the Everglades National Park in the State of Florida and for other purposes", approved May 30, 1934; to the Committee on the Public Lands.

By Mr. MITCHELL of Tennessee: A bill (H. R. 8742) to amend the Packers and Stockyard Act; to the Committee on Agriculture.

By Mr. LEMKE: A bill (H. R. 8743) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto; to the Committee on the Judiciary.

By Mr. RUSSELL: A bill (H. R. 8744) to protect the public against fraud by prohibiting the sale or shipment in interstate or foreign commerce of misbranded articles, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MARCANTONIO: Resolution (H. Res. 281) to authorize the appointment of a committee to investigate the propaganda of public-utility holding companies; to the Committee on Rules.

By Mr. HIGGINS of Massachusetts: Resolution (H. Res. 282) asking an inquiry with reference to the facilities for divine worship available for American citizens resident in or visiting particularly in 14 States of the Republic of Mexico; to the Committee on Foreign Affairs.

By Mr. SHANLEY: Resolution (H. Res. 283) concerning religious persecution in Mexico; to the Committee on Foreign Affairs.

By Mr. EATON: Joint resolution (H. J. Res. 342) memorializing the President of the United States on the seriousness of broken promises; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOUTRICH: A bill (H. R. 8745) granting an increase of pension to Lovina Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8746) granting an increase of pension to Emma Snyder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8747) for the relief of E. M. Heisey; to the Committee on Claims.

By Mr. ROMJUE: A bill (H. R. 8748) authorizing a preliminary examination of Weldon River in Mercer County, Mo., with a view to the controlling of floods; to the Committee on Flood Control.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9047. By Mr. BLOOM: Petition of the Assembly of the State of New York, urging the immediate passage of House bill 6, authorizing the Postmaster General to construct underground pneumatic tubes for the transmission of mail between the general post office in Brooklyn and the Floyd Bennett Field, Barren Island, Brooklyn, and the five postal stations lying parallel to Flatbush Avenue between these two points, namely, Stations Times Plaza, B, Flatbush, Kensington, and Vanderveer; to the Committee on the Post Office and Post Roads.

9048. Also, memorial of the Assembly of the State of New York, urging the enactment of such measures as may be necessary to provide for the observance of October 12 as a national holiday to be known as "Columbus Day"; to the Committee on the Judiciary.

9049. Also, petition of the Assembly of the State of New York, urging the repeal of the charter of the North River Bridge Co. which was granted by act of Congress of the United States (ch. 669, 1889–90, 51st Cong., and Public Act No. 350, 67th Cong., 1922); to the Committee on Interstate and Foreign Commerce.

9049a. Also, petition of the Assembly of the State of New York, favoring the enactment of legislation to provide a suitable pension to George S. Ward for his great courage and self-sacrifice in the cause of public health; to the Committee on Pensions.

9049b. Also, petition of the Assembly of the State of New York, urging the enactment of such legislation as may be necessary to humanize the immigration laws of the United States and to provide for the reuniting of such persons and their families; to the Committee on Immigration and Naturalization.

9049c. Also, petition of the Assembly of the State of New York, favoring the immediate enactment of such legislation as may be necessary to abolish the Federal gasoline sales tax and to surrender to the States exclusively the power to tax such sales in the future; to the Committee on Ways and Means.

9050. Also, petition of the Assembly of the State of New York, urging the passage of the General Pulaski Memorial Day resolution now pending in the Congress of the United States; to the Committee on the Judiciary.

9050a. Also, petition of the Assembly of the State of New York, favoring the enactment with all convenient speed of such legislation as may be necessary to provide suitable and adequate regulation of the transportation of persons and property in interstate and foreign commerce by motor carriers operating motor vehicles for compensation, by charter or by contract, on the public highways in interstate or foreign commerce; to the Committee on Interstate and Foreign Commerce.

9051. Also, petition of the Assembly of the State of New York, urging the enactment with all convenient speed of the Costigan antilynching bill or other like legislation which will prevent the punishment or destruction of persons accused or suspected of crime in any other way or by any other authority than by due process of law and by a duly constituted court of justice; to the Committee on the Judiciary.

9052. Also, petition of the Assembly of the State of New York, requesting, in behalf of New York State and other States producing milk and dairy products in large quantities, that legislative action be taken by the Congress of the United States, for the public welfare, protection of industry, and proper regulation of interstate commerce in milk to that end; to the Committee on Interstate and Foreign Commerce.

9053. By Mr. FENERTY: Petition of 1,000 citizens of the city of Philadelphia, Pa., praying for passage of House Joint Resolution 193, directing the President to proclaim July 9 of this year 1935, Commodore John Barry Memorial Day, for the observance and commemoration of the one hundred and fiftieth anniversary of the completion of Commodore John Barry's service in the American Navy of the Revolution and

authorizing the Postmaster General to issue a special series of postage stamps; to the Committee on the Judiciary.

9054. Also, petition of 500 citizens of the State of New Jersey, urging passage of House Joint Resolution 193, authorizing the Postmaster General to issue a special series of postage stamps in commemoration of the one hundred and fiftieth anniversary of the completion of Commodore John Barry's service in the American Navy of the Revolution; to the Committee on the Judiciary.

9055. Also, petition of the Catholic Daughters of America in Pennsylvania, numbering 20,000, endorsing House Joint Resolution 193, directing the President to proclaim July 9 of this year Commodore John Barry Memorial Day and authorizing the Postmaster General to issue a special series of postage stamps; to the Committee on the Judiciary.

9056. Also, petition of 25,000 citizens of the city of Chicago, Ill., praying for passage of House Joint Resolution 193, directing the President to proclaim July 9 of this year 1935 Commodore John Barry Memorial Day for the observance and commemoration of the one hundred and fiftieth anniversary of the completion of Commodore John Barry's service in the American Navy of the Revolution, and authorizing the Postmaster General to issue a special series of postage stamps; to the Committee on the Judiciary.

9057. By Mr. LAMNECK: Petition of the undersigned employees of the Federal Glass Co. of Columbus, Ohio, proposing a line of procedure to eliminate the importation of glass products from Japan at the ruinous prices now prevailing because their jobs are in jeopardy; to the Committee on Ways and Means.

9058. By Mr. LORD: Petition of Emma Willmer, county director of movies, Bainbridge, N. Y., and 69 residents of Chenango County, urging enactment of House bills 4757 and 6472; to the Committee on Interstate and Foreign Commerce.

9059. By Mr. ROMJUE: Petition of citizens of Hannibal, Mo., requesting the full House Committee on Interstate and Foreign Commerce to reject the subcommittee report on Senate bill 1629, and that the measure as it passed the Senate, or its equivalent, be substituted for the bill reported by the subcommittee; to the Committee on Interstate and Foreign Commerce.

SENATE

TUESDAY, JULY 2, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, July 1, 1935, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its enrolling clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 1958. An act to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes;

S. 2074. An act to create a National Park Trust Fund Board, and for other purposes;

S. 2642. An act to incorporate The American National Theater and Academy;

H. R. 3012. An act to authorize the transfer of certain lands in Hopkins County, Ky., to the Commonwealth of Kentucky; and

H. R. 6464. An act to provide means by which certain Filipinos can emigrate from the United States.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	Lewis	Radcliffe
Ashurst	Copeland	Logan	Reynolds
Bachman	Dickinson	Lonergan	Robinson
Bankhead	Dieterich	Long	Schall
Barbour	Donahey	McAdoo	Schwellenbach
Barkley	Duffy	McCarran	Sheppard
Bilbo	Fletcher	McGill	Shipstead
Black	George	McKellar	Smith
Bone	Gibson	McNary	Steiwer
Borah	Glass	Maloney	Thomas, Okla.
Brown	Gore	Metcalf	Townsend
Bulkley	Guffey	Minton	Trammell
Bulow	Hale	Moore	Truman
Burke	Harrison	Murphy	Tydings
Byrd	Hastings	Murray	Van Nuys
Byrnes	Hatch	Neely	Wagner
Capper	Hayden	Norbeck	Walsh
Caraway	Holt	Norris	Wheeler
Carey	Johnson	O'Mahoney	White
Chavez	Keyes	Overton	
Clark	King	Pittman	
Connally	La Follette	Pope	

Mr. LEWIS. I announce that the Senator from Colorado [Mr. COSTIGAN], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], the Senator from North Carolina [Mr. BAILEY], and the Senator from Rhode Island [Mr. GERRY] are detained from the Senate on important public business. I request that this announcement stand for the day.

Mr. MCNARY. I wish to announce that the senior Senator from Michigan [Mr. COUZENS] is absent on account of illness, and that the Senator from Vermont [Mr. AUSTIN], the Senator from Pennsylvania [Mr. DAVIS], the senior Senator from North Dakota [Mr. FRAZIER], the junior Senator from North Dakota [Mr. NYE], and the junior Senator from Michigan [Mr. VANDENBERG] are necessarily detained from the Senate. I ask that this announcement stand for the day.

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

SELECT COMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE VIRGIN ISLANDS

The VICE PRESIDENT laid before the Senate a letter from the Senator from Maine [Mr. WHITE], which was read, as follows:

UNITED STATES SENATE,
June 28, 1935.

The VICE PRESIDENT,
The United States Senate, Washington, D. C.

MY DEAR MR. VICE PRESIDENT: I hereby tender my resignation as a member of the Select Committee to Investigate the Administration of the Virgin Islands.

I am, very sincerely yours,

WALLACE H. WHITE, JR.

The VICE PRESIDENT appointed Mr. GIBSON a member of the Select Committee to Investigate the Administration of the Virgin Islands in place of Mr. WHITE.

LAWS AND RESOLUTIONS OF LEGISLATURE OF PUERTO RICO

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying document, referred to the Committee on Territories and Insular Affairs, as follows:

To the Congress of the United States:

As required by section 23 of the act of Congress approved March 2, 1917, entitled "An act to provide a civil government for Puerto Rico, and for other purposes", I transmit herewith certified copies of laws and resolutions enacted by the Thirteenth Legislature of Puerto Rico during its third regular session, February 11 to April 14, 1935.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *July 2, 1935.*

RULES AND REGULATIONS, BUREAU OF NAVIGATION AND STEAMBOAT INSPECTION

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Commerce, transmitting copies of the Fifty-first Supplement, General Rules and Regulations, January 1, 1935, covering the new boiler rules, and also copies of the Fifty-second Supplement to General Rules and Regulations, containing the latest amendments adopted by the Board of Supervising Inspectors, Bureau of Navigation and Steamboat Inspection, which, with the accompanying documents, was referred to the Committee on Commerce.

REPORT OF THE FEDERAL RESERVE BOARD

The VICE PRESIDENT laid before the Senate a letter from the Governor of the Federal Reserve Board, transmitting a copy of the annual report of the Board, covering operations during the calendar year 1934, made to the Speaker of the House of Representatives pursuant to law, which, with the accompanying report, was referred to the Committee on Banking and Currency.

ELECTRIC-RATE SURVEY IN WEST VIRGINIA

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Federal Power Commission, transmitting, pursuant to law, a compilation completed through the electric-rate survey of the domestic and residential rates in effect in the State of West Virginia on January 1, 1935, which, with the accompanying paper, was referred to the Committee on Interstate Commerce.

PETITION AND MEMORIAL

The VICE PRESIDENT laid before the Senate a resolution adopted by the Board of Commissioners of San Juan, P. R., favoring the enactment of House bill 7931, to establish the San Juan National Monument, P. R., and for other purposes, which was referred to the Committee on Territories and Insular Affairs.

Mr. LA FOLLETTE presented the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on Finance:

Joint resolution memorializing Wisconsin Members of the Congress of the United States to introduce legislation to increase the tariff on foreign fats and oils used in the manufacture of oleomargarine

Whereas the unwarranted importation of foreign fats and oils used for the manufacture of oleomargarine is not only a detriment to manufacturers of oleomargarine who use only domestic fats and oils in their products, but to the dairy industry of Wisconsin and the agricultural industry of the country as well; and

Whereas butter represents more than 35 percent of the annual milk production in the United States; and

Whereas Wisconsin, as a large producer of butter and milk, is seriously affected by the importation of such foreign fats and oils: Now, therefore, be it

Resolved by the assembly (the senate concurring), That the Legislature of Wisconsin respectfully memorializes the Wisconsin Members of the Congress of the United States to take immediate steps to introduce legislation raising such tariff on imported fats and oils as will properly and adequately protect the dairy farmer of the State of Wisconsin, and the manufacturers of oleomargarine who use only domestic fats and oils in their product; be it further

Resolved, That properly attested copies of this resolution be sent to each Member of the Congress of the United States.

ELEVATED RAILWAYS AND SUBWAYS IN BOSTON, MASS.

Mr. WALSH. Mr. President, I present and ask to have printed in full in the RECORD and appropriately referred resolutions adopted by the Massachusetts General Court in favor of the granting of funds by the Federal Government for the immediate removal of elevated railway structures in the city of Boston and the construction of subways in substitution therefor.

The resolutions were referred to the Committee on Education and Labor, as follows:

Resolutions in favor of the granting of funds by the Federal Government for the immediate removal of elevated railway structures in the city of Boston and the construction of subways in substitution therefor

Resolved, That the House of Representatives of the General Court of Massachusetts hereby urges the Federal Government to grant Federal money to meet the cost of removing all elevated railway structures in the city of Boston included in the main rapid-transit line of the Boston Elevated Railway Co. between the Forest Hills station and the Sullivan Square station and of constructing subways in substitution for the elevated structure so removed, and to place the said projects among the first Public Works projects to be included in the program of public works in this Commonwealth to be financed by grants of Federal money; and be it further

Resolved, That the secretary of the Commonwealth forthwith forward copies of these resolutions to the Federal Public Works Administrator at Washington and to the Members of Congress from this Commonwealth.

REPORTS OF COMMITTEES

Mr. ADAMS, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 3019) to amend sections 1, 3, and 15 of "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes", approved June 28, 1934 (48 Stat. 1269), reported it with an amendment and submitted a report (No. 1005) thereon.

Mr. CAREY, from the Committee on Military Affairs, to which was referred the bill (S. 2564) to grant an honorable discharge to Charles L. Wymore, reported it with amendments and submitted a report (No. 1006) thereon.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 3077. A bill for the relief of Constantin Gilia (Rept. No. 1008); and

S. 3078. A bill for the relief of C. R. Whitlock (Rept. No. 1009).

Mr. BARKLEY, from the Committee on the Library, to which was referred the joint resolution (H. J. Res. 208) to provide for the observance and celebration of the one hundred and fiftieth anniversary of the adoption of the Ordinance of 1787 and the settlement of the Northwest Territory, reported it without amendment.

THE BANKING SYSTEM

Mr. GLASS. From the Committee on Banking and Currency I report favorably with an amendment the bill (H. R. 7617) to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes, and I submit a report (No. 1007) thereon. The report of the committee is unanimous.

The VICE PRESIDENT. The bill will be placed on the calendar.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred, as follows:

By Mr. McNARY:

A bill (S. 3189) granting a pension to Carrie Gibbon (with accompanying papers); to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 3190) granting a pension to Lucy A. Rose (with accompanying papers); to the Committee on Pensions.

By Mr. SHEPPARD:

A bill (S. 3191) for the relief of John C. Crossman; to the Committee on Claims.

By Mr. COPELAND:

A bill (S. 3192) to increase the limit of cost for the Department of Agriculture Extensible Building; to the Committee on Public Buildings and Grounds.

(By request.) A bill (S. 3193) authorizing the Secretary of the Treasury of the United States to purchase a bust made by J. Antoine Houdon in 1796 in Paris, France, of James Monroe, fifth President of the United States and father of the Monroe Doctrine, while Mr. Monroe was Ambassador to France; to the Committee on the Library.

By Mr. HARRISON:

A bill (S. 3194) to amend section 10A of the Federal Food and Drugs Act of June 30, 1906, as amended; to the Committee on Commerce.

By Mr. NEELY (for Mr. COSTIGAN):

A bill (S. 3195) for the relief of Guiry Bros. Wall Paper & Paint Co.; to the Committee on Claims.

By Mr. NEELY:

A bill (S. 3196) for the relief of Charles Flanagan; to the Committee on Finance.

By Mr. FLETCHER:

A bill (S. 3197) to repeal a provision of section 3 of the act entitled "An act to provide for the establishment of the Everglades National Park in the State of Florida, and for other purposes", approved May 30, 1934; to the Committee on Public Lands and Surveys.

By Mr. DIETERICH:

A bill (S. 3198) to amend subsection (c) of section 15 of the Agricultural Adjustment Act, as amended; to the Committee on Agriculture and Forestry.

By Mr. BYRD:

A bill (S. 3199) for the relief of the estate of Hattie M. Dunford; to the Committee on Claims.

By Mr. COPELAND:

A bill (S. 3200) to create the Office of Publications; to the Committee on Printing.

A bill (S. 3201) to equalize the practice in the marine bureaus; to raise the standard of the personnel and secure continuity of service by providing for the retirement for age of certain employees of the Bureau of Navigation and Steamboat Inspection of the Department of Commerce; to the Committee on Commerce.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. GORE (by request) submitted an amendment relative to suits now pending for trial or hereafter filed, in the Court of Claims, brought by any Indian tribe or band, etc., intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

LOBBYING ACTIVITIES IN CONNECTION WITH HOLDING COMPANY BILL

Mr. BLACK. I submit a short resolution, and ask unanimous consent that it be referred to the Committee on Interstate Commerce.

There being no objection, the resolution (S. Res. 165) was read and referred to the Committee on Interstate Commerce, as follows:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of the lobbying activities in connection with the so-called "holding-company bill". The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendations.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth and succeeding Congresses, to employ such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $150,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman.

VOTE IN THE HOUSE OF REPRESENTATIVES ON UTILITIES BILL AMENDMENT

Mr. BLACK. Mr. President, I ask unanimous consent to insert in the RECORD some very interesting information appearing on the first page of this afternoon's News. I am sure it will be of interest to the Senate and should be included in the RECORD. It is under the heading "Secret Vote on Utilities Recorded in Full by the News."

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

[From the Washington Daily News of July 2, 1935]

FINAL VOTE ON UTILITIES TODAY—SECRET VOTE ON UTILITIES RECORDED IN FULL BY NEWS

Following is the vote of the House, as nearly accurate as the News and Scripps-Howard newspapers' Washington staffs could obtain it, on the rejection yesterday of the so-called "death sentence" amendment to the utility holding company bill.

This is the first time on record that the names of the Congressmen participating in a teller vote have been published.

Oddly, the News and Scripps-Howard staff recorded more votes both for and against than did the tellers. Tellers have been known to err. Otherwise either the correspondents, or Congressmen whom they questioned about their votes, were mistaken. The News will be glad to correct any error noted by a Congressman.

YES (FOR THE "DEATH SENTENCE")

The tellers counted 146 ayes; Scripps-Howard identified 152.

Democrats (135): Arnold (Ill.), Ayers (Mont.), Barden (N. C.), Beam (Ill.), Beiter (N. Y.), Biermann (Iowa), Binderup (Nebr.), Blanton (Tex.), Brown (Mich.), Buckley (N. Y.), Byrns (Tenn.), Caldwell (Fla.), Cannon (Mo.), Cartwright (Okla.), Castellow (Ga.), Chandler (Tenn.), Citron (Conn.), Colden (Calif.), Colmer (Miss), Cooley (N. C.), Cooper (Tenn.), Cox (Ga.), Cravens (Ark.), Cross (Tex.), Crosser (Ohio), Crowe (Ind.), Cummings (Colo.), Daly (Pa.), Dear (La.), Deen (Ga.), Dingell (Mich.), Disney (Okla.), Dockweiler (Calif.), Doughton (N. C.), Doxey (Miss.), Driscoll (Pa.), Driver (Ark.), Dunn (Pa.), Eckert (Pa.), Eicher (Iowa) Ellenbogen (Pa.), Flannagan (Va.), Fletcher (Ohio), Ford (Calif.), Ford (Miss.), Gildea (Pa.), Gillette (Iowa), Goldsborough (Md.), Gray (Ind.), Green (Fla.), Gregory (Ky.), Hamlin (Maine), Healey (Mass.), Hildebrandt (S. Dak.), Hill (Ala.), Hill, K. (Wash.), Hill, S. B. (Wash.), Hobbs (Ala.), Hook (Mich.), Jacobsen (Iowa), Jones (Tex.), Keller (Ill.), Kniffin (Ohio), Kocialkowski (Ill.), Kramer (Calif.), Larrabee (Ind.), Lea (Calif.), Lee (Okla.), Luckey (Nebr.), McClellan (Ark.), McFarlane (Tex.), McGrath (Calif.), McReynolds (Tenn.), Mahon (Tex.), Martin (Colo.), Massingale (Okla.), Maverick (Tex.), Mead (N. Y.), Miller (Ark.), Mitchell (Tenn.), Monaghan (Mont.), Moran (Maine), Moritz (Pa.), Murdock (Utah), Nelson, (Mo.), O'Day (N. Y.), O'Malley (Wis.), Owen (Ga.), Parks (Ark.), Patman (Tex.), Patterson (Kans.), Pearson (Tenn.), Pfeifer (N. Y.), Pierce (Oreg.), Quinn (Pa.), Rabaut (Mich.), Ramsay (W. Va.), Rankin (Miss.), Rayburn (Tex.), Romjue (Mo.), Sadowski (Mich.), Sanders (La.), Sandlin (La.), Schulte (Ind.), Scott (Calif.), Sears (Fla.), Secrest (Ohio), Sirovich (N. Y.), Sisson (N. Y.), Smith (Wash.), Snyder (Pa.), South (Tex.), Stack (Pa.), Starnes (Ala.), Steagall (Ala.), Stubbs (Calif.), Sumners (Tex.), Sweeney (Ohio), Terry (Ark.), Thomason (Tex.), Truax (Ohio), Turner (Tenn.), Utterback (Iowa), Vinson (Ky.), Wallgren (Wash.), Warren (N. C.), Wearin (Iowa), Werner (S. Dak.), West (Tex.), White (Idaho), Whittington (Miss.), Williams (Mo.), Wood (Mo.), Zimmerman (Mo.), and Zioncheck (Wash.).

Republicans (7): Burdick (N. Dak.), Gearhart (Calif.), Gilchrist (Iowa), Lambertson (Kans.), Lemke (N. Dak.), Marcantonio (N. Y.), and Welch (Calif.).

Progressives (7)—Amlie (Wis.), Boileau (Wis.), Gehrmann (Wis.), Hull (Wis.), Sauthoff (Wis.), Schneider (Wis.), Withrow (Wis.).

Farmer-Labor (3)—Buckler (Minn.), Kvale (Minn.), Lundeen (Minn.).

NO (AGAINST THE "DEATH SENTENCE")

The tellers counted 216 who voted "no"; Scripps-Howard identified 225.

Democrats (132)—Adair (Ill.), Bell (Mo.), Berlin (Pa.), Bland (Va.), Bloom (N. Y.), Boehne (Ind.), Boland (Pa.), Boylan (N. Y.), Brennan (Ill.), Brown (Ga.), Brunner (N. Y.), Buck (Calif.), Burch (Va.), Cannon (Wis.), Carmichael (Ala.), Carpenter (Kans.), Cary (Ky.), Casey (Mass.), Celler (N. Y.), Chapman (Ky.), Claiborne (Mo.), Clark (Idaho), Clark (N. C.), Coffee (Nebr.), Cole (Md.), Corning (N. Y.), Costello (Calif), Crosby (Pa.), Cullen (N. Y.), Darden (Va.), DeRouen (La.), Dietrich (Pa.), Dobbins (Ill.), Drewry (Va.), Duffey (Ohio), Duffy (N. Y.), Duncan (Mo.), Eagle (Tex.), Edmiston (W. Va.), Faddis (Pa.), Farley (Ind.), Ferguson (Okla.), Fernandez (La.), Fiesinger (Ohio), Fitzpatrick (N. Y.), Frey (Pa.), Gambrill (Md.), Gasque (La.), Gassaway (Okla.), Gingery (Pa.), Granfield (Mass.), Gray (Pa.), Greever (Wyo.), Griswold (Ind.), Haines (Pa.), Hancock (N. C.), Harlan (Ohio), Hart (N. J.), Harter (Ohio), Hennings (Mo.), Higgins (Mass.), Hoeppel (Calif.), Houston (Kans.), Huddleston (Ala.), Imhoff (Ohio), Jenckes (Ind.), Johnson (W. Va.), Kee (W. Va.), Kelly (Ill.), Kerr (N. C.), Kleberg (Tex.), Kloeb (Ohio), Kopplemann (Conn.), Lambeth (N. C.), Lamneck (Ohio), Lewis (Colo.), Lewis (Md.), Lloyd (Wash.), Lucas (Ill.), Ludlow (Ind.), McAndrews (Ill.), McCormack (Mass.), McGroarty (Calif.), McKeough (Ill.), McLaughlin (Nebr.), McMillan (S. C.), McSwain (S. C.), Mason (Ill.), May (Ky.), Merrittt (N. Y.), Montague (Va.), Nichols (Okla.), Norton (N. J.), O'Brien (Ill.), O'Neal (Ky.), Palmisano (Md.), Parsons (Ill.), Patton (Tex.), Peterson (Fla.), Peterson (Ga.), Pettengill (Ind.), Polk (Ohio), Ramspeck (Ga.), Randolph (W. Va.), Reilly (Wis.), Richardson (Pa.), Robertson (Va.), Robinson (Utah), Rogers (Okla.), Rudd (N. Y.), Russell (Mass.), Schaefer (Ill.), Schuetz (Ill.), Shanley (Conn.), Smith (Conn.), Smith (Va.), Spence (Ky.), Sullivan (N. Y.), Sutphin (N. J.), Tarver (Ga.), Thom (Ohio), Thompson (Ill.), Tolan (Calif.), Tonry (N. Y.), Umstead (N. C.), Vinson (Ga.), Walter (Pa.), Whelchel (Ga.), Wilcox (Fla.), Wilson (La.), Woodrum (Va.).

Republicans (93)—Allen (Ill.), Andresen (Minn.), Andrew (Mass.), Andrews (N. Y.), Arends (Ill.), Bacharach (N. J.), Bacon (N. Y.), Blackney (Mich.), Bolton (Ohio), Brewster (Maine), Buckbee (Ill.), Carlson (Kans.), Cavicchia (N. J.), Christianson (Minn.), Church (Ill.), Cole (N. Y.), Collins (Calif.), Cooper (Ohio), Crawford (Mich.), Crowther (N. Y.), Culkin (N. Y.), Darrow (Pa.), Ditter (Pa.), Dondero (Mich.), Doutrich (Pa.), Eaton (N. J.), Ekwall (Oreg.), Engel (Mich.), Englebright (Calif.), Fenerty (Pa.), Fish (N. Y.), Focht (Pa.), Gifford (Mass.), Goodwin (N. Y.), Guyer (Kans.), Gwynne (Iowa), Halleck (Ind.), Hancock (N. Y.), Hartley (N. J.), Hess

(Ohio), Hoffman (Mich.), Hollister (Ohio), Holmes (Mass.), Hope (Kans.), Jenkins (Ohio), Kahn (Calif.), Kimball (Mich.), Kinzer (Pa.), Knutson (Minn.), Lehlbach (N. J.), Lord (N. Y.), McLean (N. J.), McLeod (Mich), Maas (Minn.), Mapes (Mich.), Marshall (Ohio), Martin (Mass.), Merritt (Conn.), Michener (Mich.), Millard (N. Y.), Mott (Oreg.), Perkins (N. J.), Pittenger (Minn.), Plumley (Vt.), Powers (N. J.), Ransley (Pa.), Reece (Tenn.), Reed (Ill.), Reed (N. Y.), Rich (Pa.), Robsion (Ky.), Rogers (Mass.), Rogers (N. H.), Seger (N. J.), Short (Mo.), Snell (N. Y.), Stefan (Nebr.), Stewart (Del.), Taber (N. Y.), Taylor (Tenn.), Thomas (N. Y.), Thurston (Iowa), Tinkham (Mass.), Tobey (N. H.), Treadway (Mass.), Turpin (Pa.), Wadsworth (N. Y.), Wigglesworth (Mass.), Wilson (Pa.), Wolcott (Mich.), Wolfenden (Pa.), Wolverton (N. J.), Woodruff (Mich.).

Absent (21)—Ashbrook (D., Ohio), Bankhead (D., Ala.), Brooks (D., Pa.), Bulwinkle (D., N. C.), Carter (R., Calif.), Cochran (D., Mo.), Dempsey (D., N. Mex.), Dies (D., Tex.), Dirksen (R., Ill.), Fuller (D., Ark.), Greenwood (D., Ind.), Higgins (R., Conn.), Johnson (D., Okla.), Kennedy (D., Md.), Lesinski (D., Mich.), Oliver (D., Ala.), Peyser (D., N. Y.), Ryan (D., Minn.), Shannon (D., Mo.), Taylor (D., S. C.), Underwood (D., Ohio), Young (D., Ohio).

Either not voting or unaccounted for (28)—Buchanan (D., Tex.), Burnham (R., Calif.), Connery (D., Mass.), Delaney (D., N. Y.), Dickstein (D., N. Y.), Dorsey (D., Pa.), Dunn (D., Miss.), Evans (D., N. Y.), Gavagan (D., N. Y.), Greenway (D., Ariz.), Johnson (D., Tex.), Kennedy (D., N. Y.), Kenney (D., N. J.), Lanham (D., Tex.), McGehee (D., Miss.), Mansfield (D., Tex.), Mitchell (D., Ill.), Montet (D., La.), O'Connell (D., R. I.), O'Connor (D., N. Y.), O'Leary (D., N. Y.), Sabath (D., Ill.), Sanders (D., Tex.), Scrugham (D., Nev.), Smith (D., W. Va.), Somers (D., N. Y.), Taylor (D., Colo.), Weaver (D., N. C.).

Refused to state position (4)—Fulmer (D., S. C.), Maloney (D., La.), Meeks (D., Ill.), Richards (D., S. C.).

There are five vacancies.

FOREIGN-TRADE POLICY—ADDRESS BY FRANCIS B. SAYRE

Mr. HARRISON. Mr. President, I ask unanimous consent to have printed in the RECORD a very able and illuminating address delivered by Hon. Francis B. Sayre, Assistant Secretary of State, before the national convention of the United States Junior Chamber of Commerce at Columbus, Ohio, on June 28, 1935, on the subject of the Most-Favored-Nation Policy and the Trade Agreements Program.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE MOST-FAVORED-NATION POLICY AND THE TRADE AGREEMENTS PROGRAM

For the past year this Government has been actively engaged on a program designed to protect and restore our foreign commerce. The Trade Agreements Act of June 12, 1934, authorized the President to enter into trade agreements with foreign countries for the reciprocal reduction of trade barriers. Within the year trade agreements have been concluded with five countries—namely, Cuba, Brazil, Haiti, Belgium, and Sweden. Negotiations are under way with 13 other countries, and as these progress it is expected that additional countries will be added to the list.

Parenthetically, perhaps I should explain that the trade agreement recently concluded with Cuba, which I presume my friend, Ambassador Patterson, will discuss, in one respect stands somewhat apart. The ties of close association between Cuba and the United States, due to historical considerations and geographical propinquity, are so strong that the United States ever since 1898 has felt justified in treating it, so to speak, as a member of the family in granting to it and receiving from it frankly preferential treatment; and to this end special provisions have been inserted in our most-favored-nation treaties and agreements with other nations exempting Cuba from their operation. The recent trade agreement with Cuba, therefore, has continued the special preferential tariff arrangement adopted in the commercial convention of 1902, and is in that one respect not typical of the other trade agreements now being negotiated.

This program of trade recovery through the negotiation of trade agreements has a twofold objective—namely, the reciprocal reduction in trade barriers and the removal or prevention of discriminations against American commerce.

The biting need of scaling down trade barriers if we are to regain prosperity is clear. The calamitous decline of foreign trade since 1929, following the erection of newly devised forms of injurious trade barriers, such as quota restrictions, exchange control, compensation agreements, and the like, is common knowledge to all. Unless and until we succeed in tearing down these trade barriers, foreign trade must languish, and price demoralization, domestic unemployment, and financial instability must continue. It is of the second objective, that is, the removal or prevention of discrimination against American commerce, that I want to speak to you quite simply this afternoon, and particularly of the importance and significance of the most-favored-nation policy in the accomplishment of this objective. I cannot but believe that much of the controversy which has raged around this policy is due in large measure to genuine misunderstanding. Once the issues are clearly stated and understood, I can see scant room for controversy, political or otherwise.

First, let me make clear that the most-favored-nation policy is in no sense a novel policy, formulated as part of the new deal. It goes back a century at least; in a sense it is as old as trade itself. If a nation is to trade at all it must base its commercial policy upon one of two alternatives: It must give and seek trading privileges and concessions either (a) upon a basis of preferences extended to special favored nations, or (b) upon a basis of equality to all nations which accord the same treatment to it.

Historically, it is the second of these two alternatives—the equality-of-treatment policy—which has formed the basis of most of the trading of the past hundred years. This is the policy which has taken form in the most-favored-nation clause, woven into a network of hundreds of treaties all over the world, whereby each party agrees to give to the other the same commercial treatment as that accorded to the most-favored-nation. Innumerable of these treaties are still in force, and are still operative and effective so far as tariff rates are concerned. The United States today is a party to treaties of agreements containing the most-favored-nation clause with some 45 different nations. From the beginning we have maintained a "single-column tariff", with rates applicable uniformly to all nations.

But of late years a contrary movement has been gaining force. A few countries, such as France and Spain, adopted a policy based upon the first of the two alternatives, namely, preferential bargaining. These countries proceeded to denounce their most-favored-nation treaties and to enter into a system of special tariff arrangements under which lower rates were accorded to some nations and higher rates were imposed against others. Under this policy there is a constant tendency, as experience has shown, to boost higher and higher the maximum rates in order to gain greater trading advantage in seeking special concessions from other nations.

Following the economic breakdown of 1929, the policy of preferential bargaining has become increasingly evident as one of the manifestations of the growing spirit of economic nationalism. New weapons have been introduced to enforce economic nationalism, such as quota restrictions, exchange regulation, import controls, Government trading monopolies and the like; and these have been extensively utilized to defeat equality of treatment and the most-favored-nation policy. Thus, the question presents itself today whether the United States, the great trading Nation of the western world, will similarly abandon the traditional commercial policy which it and other nations have successfully followed for over a century and become engulfed instead in the new tide of preferential bargaining.

Of the two alternative policies, that of preferential bargaining will readily win the popular approval of the unthinking. To superficial observers it has many advantages in its favor. The United States, under such a policy, would give exclusive advantages in return for exclusive advantages. In other words, reductions in duty by each country would apply only to products of the other, like products of third countries being subject to higher rates. Thereby we would seem to afford protection to domestic producers against competing imports from other nations, to secure American exporters against competition in foreign markets from exporters in third countries, and at the same time to increase the inducement to other nations to make concessions to us by giving their exporters corresponding protection in our market. We would trade special privilege for special privilege, and thus it might be supposed we could bargain away the foreign-trade barriers which hamper the free flow of American exports.

But the difficulty is that each preference given exclusively to a single nation constitutes a discrimination against over 50 other nations. There can be no preference without discrimination. A policy of preferential bargaining means in its very essence a policy of wide-spread discrimination. And discrimination gives rise to counter-measures—commonly referred to as "retaliation"—since no nation can afford to see its exports, on which it may depend for its economic existence, displaced by the exports of third countries. Retaliation spells new and still higher trade barriers. A nation which seeks increased outlets in foreign markets for its domestic surpluses cannot afford to follow a policy of bargaining in preferences.

On the other hand, just as preferential bargaining leads to economic conflict, so the system of equal treatment under the most-favored-nation policy leads to economic peace and stability. It prevents the grant to favored nations of exclusive preferences which enable nations to undercut the prices of their competitors in foreign markets and thus to shift the currents of world trade and cause untold injury. In its essence it means the rule of minimum disturbance in international trade and economic peace.

No one has expressed this thought more aptly than George Washington in his famous farewell address. "Harmony, liberal intercourse with all nations", he said, "are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing."

Ever since the days of George Washington, the policy of equality of treatment to all, tested and proved by years of experience, has constituted the very cornerstone of American commercial policy. It is foundationed upon justice and fairness, and therefore it will be enduring. On it rests our "open-door" policy, which for a generation we have insisted upon in the Far East. It lies at the foundation of innumerable claims and protests which the State Department makes whenever discrimination can be proved against American commerce. It fundamentally underlies our position toward European debtor countries. It

shapes our basic policy in dealing with problems of quota restrictions and exchange control. It has been the guiding star of American commercial policy.

Those who, swept along in the present-day currents of economic nationalism, now advocate replacing it with a plausible policy of preferential bargaining, do not stop to count the consequences or the cost. The policy of preferential bargaining means the shifting and adjustment of the currents of world trade, not in response to the operation of the fundamental economic laws of supply and demand, but in accordance with the arbitrary and political decisions of governmental officials. It means the placing of the economic life of every nation at the mercy of the bargains and political manipulations made, sometimes by its own officials and sometimes by those of other nations over whom it has no control. It means the strait-jacketing of world trade and a growing economic nationalism with mounting costs to domestic consumers and a decreasing standard of living. For each nation which follows the policy it means growing regimentation and strangulation of individual enterprise; for preferential bargaining leads logically and almost inescapably to a selective system of exports and imports, and thus places domestic trade and industry under the domination and, sooner or later, if the policy is consistently pursued, under the arbitrary direction of governmental officialdom.

Once governments embark on the policy of preferential bargaining, the political abuses and indefensible practices connected with lobbying for high protectionist favors will be extended from the legislative halls of the nation to the chancelleries of the world. When nation is pitted against nation in the effort to secure and retain protective preferences in world markets, each seeking to undercut and outsell the other, commercial stability and the security of established business go out of the window.

In the light of the peculiar commercial needs of the United States, no policy seems more short-sighted or disastrous than that of preferential bargaining. The foreign trade of the United States from its very nature must be essentially triangular. Speaking in a general way, most of the European industrial countries produce goods competitive with our own. They need large quantities of our raw materials, such as cotton, wheat, hog products, and the like, whereas the United States, being a manufacturing as well as an agricultural nation, naturally and almost necessarily buys less from these countries than it sells to them. In 1934 our exports to the United Kingdom, France, Germany, Italy, Belgium, and the Netherlands amounted to some $775,000,000, whereas our imports from the same countries were but slightly over $335,000,000. In other words, our export balance to this group of nations amounted to some $440,000,000.

On the other hand, our trade with the principal tropical countries is exactly the converse. From them we buy products, such as coffee, tea, rubber, etc., of far greater value than we can sell to them. To Cuba, Brazil, Colombia, Venezuela, British Malaya, Dutch East Indies, British India, and Ceylon our total exports in 1934 amounted to no more than $225,000,000, in contrast to our imports of some $500,000,000. Our trade with this group of countries, in other words, showed an unfavorable balance of some $275,000,000.

Again, there is a third group of countries, primarily agricultural, competing with our own agricultural production, from which, as is quite natural, we can import considerably less than we export to them. In 1934 our total exports to the British Dominions and Argentina were about $400,000,000 and our imports $250,000,000, showing a balance in our favor of some $150,000,00.

From this it must be clear that any policy which proves destructive of triangular trade strikes at the very heart of American commercial interests. We have large export surpluses with Europe and the British Dominions. We have substantial import surpluses with the tropical countries. Our foreign trade is strikingly triangular. Preferential bargaining, as actual experience is proving, leads inescapably to the effort to equalize the value of exports and imports between each two countries; and bilateral balancing perforce kills triangular trade. Triangular trade cannot survive under a system of bargaining for special preference. Its very existence depends upon most-favored-nation treatment and freedom from discriminatory practices in the movement of goods. So far as the United States is concerned, we must fight the system of preferential bargaining and bilateral balancing or lose a great part of our trade. To American agriculture, which depends vitally upon the maintenance of a large volume of triangular trade, the movement in these directions is particularly menacing. The only realistic commercial policy which meets practical American needs is one which aims to keep open the channels of trade to all countries upon equal terms.

Much of the current opposition to the most-favored-nation policy is, I suspect, based largely upon misunderstanding. It is assumed that such a policy requires the United States to grant favors and concessions to other nations for no return and thus to inure to our own material disadvantage. It is condemned as a "Santa Claus policy", initiated by "international idealists." In fact, it is nothing of the kind. It does not mean giving away something for nothing. We get quite as much as we give. No one proposes to generalize our concessions to countries which are in fact discriminating against American trade. The most-favored-nation policy means simply that we extend most-favored-nation treatment to every country which does the same to us. We receive a very real quid pro quo. What strikes injury to every business is discrimination in favor of others. It is when favored competitors are enabled to sell at lower prices than ourselves that bankruptcy begins. Genuine protection comes with equality of treatment. Under a policy of most-favored-nation treatment, for every group of concessions which we grant to third states we receive in return the groups of concessions which they, under other treaties, have granted to other nations. Thus, our trade is protected against discrimination. If, on making a trade agreement, we grant the same concessions generally to third states which are not discriminating against us, we are assured thereby of the benefits of the lowered rates which those third states have already made or may in the future make to other countries. And, as experience has proved through the years, these benefits and assurances against discrimination are of enormous value in dollars and cents to American trade. It is a policy dictated by experience and by hard-headed common sense.

At the same time, by refusing to extend the benefits of such concessions to countries which are discriminating against our own trade, we gain a force and leverage of substantial power to compel other nations to cease unfair practices and discriminations against our trade. The policy becomes, as recent events prove, a positive program of great effectiveness.

It was in the light of considerations such as these that Congress passed the Trade Agreements Act of June 12, 1934, empowering the President to enter into trade agreements with other nations to increase American trade abroad. The act itself prescribes adherence to the traditional American policy of most-favored-nation treatment by providing that concessions granted under trade agreements shall be extended to the products of other nations so long as these do not discriminate against American commerce. This provision has been seized upon in some quarters to excite and stir up needless fears on the part of our domestic producers. Numerous manufacturers, while subscribing to the general outlines of the administration's policy and while willing to face the competition of imports from the particular country with which a trade agreement is made, fear that as a result of the most-favored-nation policy of generalization imports from a host of other countries will drive them out of business. In other words, it is not the imports from the country making the trade agreement but from a host of third countries which they fear.

It is in order to protect our domestic producers from dangers of this kind and also to preserve our own bargaining power that those charged with the making of trade agreements have followed as one of the cardinal principles of our policy the general rule of limiting the tariff concessions granted to each country to those commodities of which such country constitutes the chief or an important source of supply. Not a concession is discussed or considered without the most painstaking study of the effects which would result from a generalization of such concession to third states. For this reason, indeed, before the undertaking of any negotiations, even before the passage of the Trade Agreements Act a year ago, a program was carefully mapped out for confining the granting of concessions to commodities of which each nation constituted the chief or an important source of supply. After a careful study it was found that each of some 29 nations was the leading supplier to the United States of at least one and in most cases of numerous important commodities. By restricting our concessions in the main to such commodities in the case of each country we can both restrict any injurious effects upon American producers resulting from generalizations to relatively minor importance and at the same time retain sufficient bargaining advantage so that the twenty-ninth country will still desire a trade agreement with the United States after the concessions granted to 28 other countries have been generalized to it.

In thus consciously choosing not to depart from its traditional equality-of-treatment policy in favor of preferential bargaining, the United States is not unmindful of the actual experience of nations experimenting in the latter direction. The diversion of trade occasioned by special preferential arrangements, whether by means of quotas, exchange control, or compensation arrangements, tends to force trade into uneconomic channels and thereby materially to raise the cost of goods to the importing country. The increased cost of imported and domestic goods in turn makes it difficult for such countries to export on advantageous terms. Unexpected and unforeseen difficulties arise in the economic life of the Nation. Thus France, Switzerland, Germany, and Italy, which have employed such methods, have suffered heavily in their export trade.

According to the Review of World Trade issued by the League of Nations in 1934, the previous export surpluses of these countries in their trade with others has almost disappeared. The same report points out that exports from Czechoslovakia, Denmark, and Hungary have been severely limited by quotas imposed by themselves and others, and that the share of triangular trade enjoyed by these countries declined to almost half of its previous level. On the other hand, those countries which have resorted least to these economic weapons have best succeeded in maintaining their export surpluses and in retaining the previous high level of triangularity in their trade. The actual experience of countries with clearing agreements is summed up in the words of their own representatives in the recent League of Nations report entitled "Enquiry into Clearing Agreements" (1935). Their conclusions state that the system of private compensation "is, in effect, a reversion to the primitive system of barter. * * * The general tendency of clearing agreements is constantly to reduce the volume and value of international trade and to subject it to forms of restraint that necessarily hamper its development."

Between 1932 and 1934, when world trade was beginning to revive, our trade with that group of countries resorting most freely to preferential devices, such as clearing and compensation agreements, quota restrictions, and the like, increased only 3

percent, whereas our trade with the countries in the "sterling area", which have been relatively free from such practices, increased during the same period 47 percent.

As proven by actual experience the policy of bargaining preference for preference leads to quota restrictions, exchange control, licensing of imports, Government monopolies, and other devices which can result only in the shackling of international trade and the strangulation of individual effort. Preferential bargaining points the way to economic disaster. It is the way of defeatism.

The equality-of-treatment policy, on the other hand, points the way to economic salvation. It spells increased international trade and it leads to economic stability, which must be the foundation of any permanent business recovery. The American trade-agreements program stands out today as the most constructive single effort to achieve the liberalization of world trade. That is why the program is of extreme consequence not only to the United States but to other nations as well. What matters is not selfish trade advantages gained by individual nations over their competitors but the gradual liberalization of world trade through the adoption of similar programs by other nations.

The issues at stake are momentous. If nations can find no practicable method to turn aside from present practices which make for increasing economic nationalism, uneconomic diversions of world trade, arbitrary and injurious restraints, there can be but one result. Such measures inescapably lead to economic chaos and world-wide conflict, and economic conflict sets the stage for war. The world today is in too perilous a state to risk further conflict. It is for peace-loving America, with its incomparable natural resources, its intelligent population, and its economic strength to lead the way in a program of economic liberalization and deliverance; and upon no other policy than that of equality of treatment can such a liberalizing program be based. America could not be true to her traditions and follow any other course.

VETERANS' CAMPS—ARTICLE BY PAUL J. M'GAHAN

Mr. HASTINGS. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the Philadelphia Inquirer of Sunday, June 23, 1935, by Paul J. McGahan headed "Veterans' Camps Prove Expensive Headache to F. E. R. A."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer of June 23, 1935]

VETERANS' CAMPS PROVE EXPENSIVE HEADACHE TO F. E. R. A.—$1,000,000 SPENT KEEPING DISGRUNTLED BONUS SEEKERS BUSY IN FLORIDA

By Paul J. McGahan

WASHINGTON, June 22.—The Federal Emergency Relief Administration stated today that it has already cost about a million dollars and no end of trouble to administer the affairs of approximately 3,000 soldier bonus army marchers, who have been transplanted from the Capital to tropical surroundings in Florida and South Carolina.

And a $12,000,000 highway-bridge project along the Florida Keys between Miami and Key West, which had been rejected as unfeasible by the Public Works Administration, is in part being undertaken under F. E. R. A. auspices with the occupants of these veteran rehabilitation camps.

Almost 3,500 bonus-seeking veterans who "marched" on Washington have, under American auspices, been persuaded to go south to be rehabilitated at monthly pay rates ranging from $30 to $45, thus getting them out from under foot in the lobbies of the White House and the Capitol where Congress labors. More than 500, however, have withdrawn from both scenes.

SEEN AS PERMANENT

From all indications, the F. E. R. A. regards the Veterans' rehabilitation camp activity as relatively permanent. In Florida reports indicate that it is regarded with considerable apprehension. This past spring it was necessary to order out the Florida National Guard to restore order in the vicinity of several of the camps.

And with much of Key West on the dole—its entire affairs being administered by the F. E. R. A., many are questioning the bridge construction that is under way as of any particular value, since the Florida East Coast Railroad already provides a connecting link between Miami and Key West, and it is in the hands of receivers. There are also steamship connections.

This Florida situation had its inception last winter, when a second bonus army began to descend upon Washington. President Roosevelt did not want a repetition of the incidents that took place in 1932, when, in the Hoover regime, the first bonus army was evacuated by Regular Army soldiers.

CONVENTION HELD

So, it was first decided that the bonus-seeking veterans should be housed at Fort Hunt on the Washington Memorial Highway between here and Mount Vernon, where a C. C. C. contingent had been quartered. Then a meeting place for a convention was provided, and employment under the F. E. R. A. was offered.

Florida was picked as the scene of this rehabilitation effort. The veterans were offered transportation there and monthly wages in return for labor. Congress was engaged in a row over the bonus issue and was showing no inclination to act speedily. The veterans were "broke." Washington did not want them around. So away they went to the sunny South.

Since then every time a so-called "bonus marching veteran" turns up in Washington the Transient Bureau, operated by the F. E. R. A., "sells" him on the Florida camp idea. The sustaining of President Roosevelt's veto of the Patman bonus bill caused a hurrying up of the veteran exile movement.

WORK A PROBLEM

How to give these veterans now in Florida camps something tangible to work upon has been a problem and has resulted in the undertaking by the F. E. R. A. of at least one phase of the $12,000,000 bridge project.

There is the highway, but there are two points in that highway where ferries have to be used.

In August of 1933 the Miami Key West Toll Bridge Co. asked Public Works Administrator Harold L. Ickes for a loan and grant of $12,000,000 to build bridges between the several keys from Lower Matacumbe to No Name and including Grassy Key. The request was disapproved by the Technical Board of Review of P. W. A. and finally rejected in January 1934.

But, meanwhile, Julius Stone, Jr., F. E. R. A. administrator for Florida, as a consequence of the break-down of the municipal administration at Key West, had taken over the task of caring for the 11,600 persons, of whom 80 percent were on the relief rolls. This unusual experiment is still being carried on with Mr. Treadway in command.

SEVEN CAMPS IN STATE

Then came the veterans from Washington. And now there are seven veterans' rehabilitation camps in Florida. Three of these are at Islamorado, 1 at Mullett Key, 1 at Clearwater, 1 at Welaka, and 1 at Lessburg. There are also four small ones in South Carolina. Clearwater is the conditioning camp. Negro veterans are together at Mullett Key.

But the major activity is at Islamorado, for it is at that point that the veterans of the three camps are engaged in activities upon the first of the series of bridges, the construction of which the Public Works Administration engineers rejected as nonessential and nonfeasible.

Federal Relief Administrator Hopkins and his associates, however, are determined to keep the bonus-seeking veterans far away from the Presidential doorstep, so at Camp no. 1 the men are sawing stone from an adjacent quarry. Then the stone is hauled to Camp no. 3, where are located the veterans who are actually helping to construct the bridge.

VETERANS DISGRUNTLED

From the beginning these Florida camps have constituted a problem. The veterans are obviously disgruntled because of the nonpayment of their bonus. The natives are somewhat alarmed because of their robustness, which back in February took on the nature of a rampage, resulting in the Florida National Guard being called out to disperse moonshiners and bootleggers and maintain law and order.

By degrees programs of activity have been arranged along rehabilitation lines. And what started out as temporary quarters have now taken the shape of very permanent structures, indicating the administration's intention to maintain the bonus seekers in Florida for a long time.

JUSTICE—ADDRESS BY ATTORNEY GENERAL CUMMINGS

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address by Hon. Homer Cummings, Attorney General of the United States, at John Marshall College of Law, Jersey City, N. J., June 19, 1935, on the subject "Justice."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In the western elevation of the Department of Justice Building in Washington are inscribed these words of Daniel Webster: "Justice is the great interest of man on earth. Wherever her temple stands * * * there is a foundation for social security, general happiness, and the improvement and progress of our race."

Numberless words have been written about justice, its nature and its functions, but this we know: It is the bedrock on which every sound social system rests.

No problem of government is so difficult or so fascinating as the attempt to establish a true balance among the rights and duties, both individual and collective, which in the end determine the scope and the operation of justice.

In this imperfect world we cannot hope for perfect justice nor can we know precisely what it is. Yet if reason fails to tell us what justice is, we realize, by a certain sort of intuition, what injustice is and are moved accordingly. If today society is experiencing a sense of moral frustration, if the springs of needed faith run low, it is because men feel that somehow common justice is not functioning as it should. For the moment society has become more aware of its weaknesses than of its strength, more conscious of its outgrowths of human injustice than of its lasting foundations of organic truth.

Let us not be disturbed because men are resentful of wrongs and inequalities or sometime seek to redress them by futile or fantastic means. If justice is to thrive and find itself, these are necessary ferments. One can be tolerant even of the mistaken efforts of those who yearn for a tabula rasa and a world remade. Living

institutions are never at rest. Always we are in periods of flux and flow.

Nearly a hundred years ago a well-beloved poet said:

"The old order changeth, yielding place to new,
And God fulfills Himself in many ways,
Lest one good custom should corrupt the world."

If today men everywhere are questioning their traditional theories of government, and are exploring for new canons of right, new ethical criteria of distribution and cooperation, new standards of social values and economic controls, who shall say that these are not manifestations which should inspire all lovers of justice with hope instead of fear?

Justice in the modern state is a fabric of intricate pattern. To realize this, one need but note its adjectival classifications. We are inclined to think of justice as a simple absolute, but actually we distinguish many forms—legal, executive, legislative, political, economic, social, criminal, preventive, retributive, commutative, substantial, relative. All these terms, and many others, we apply to justice in an attempt to grasp or define its elusive significance and its complex manifestations.

In our fault-findings we are disposed to think of injustice as due largely to defects of legal justice. "There ought to be a law" is the cry that follows the discovery or exposure of every wrong. The truth is that while legal justice may be imperfect, its operation is, in fact, more practical and more effective than that of many other institutions within the range of our social system. Its principles, standards, and techniques are well established. These are the priceless fruits of endless years of trial and error, and, moreover, offer dependable guaranties of substantial fairness. So in our Government, under its wise division of powers into legislative, executive, and judicial, the technical standards and rules of action are well defined. But the vast and ever-continuing changes which the years have wrought in the nature of human society have disclosed many areas of our common life in which something more than mere legal justice must function. It is especially in these areas that justice takes on new and various aspects. It is here that government, in its wider sense, must often guide by canons summoned from deeper sources than the letter of the law.

The primary purposes and obligations of government are, of course, to preserve peace, to maintain order, to secure harmony, to establish security, and to promote liberty and happiness. In its definitions and applications of power, and in its interpretations and enforcements of rights and obligations, it is bound by the provisions of its constitutions, its laws, and its bills of rights. Manifestly, however, most forms of justice are not self-executing and the affirmative use of governmental power thus becomes both necessary and inescapable. While Alexander Hamilton's dictum is true that the first duty of government is to control the governed and its next duty is to control itself, nevertheless, the ultimate source of guidance must be sought, not merely in the written word but in even deeper fountains of right. Somehow, in some fashion, it should be the function of government not alone to fulfill its primary duties but to bring into just balance the rights and obligations which constitute the spirit and body of our political faith. In the presence of chaos, disaster, or economic break-down, justice will not tolerate the futile plea "it cannot be done." Government must be guided, to be sure, by established principles of procedure, but it must act.

If it is the duty of government to strive for justice and not merely to execute the law as it finds it, may I not carry the argument further and say that it would be strange, indeed, if all the marvelous advancements in human thought and living, all the striving and planning, all the lavish spending for public education had not brought into being new ideas and new alinements, as well as more enlightened ideals of social relationships, social betterment, and social needs, which must be taken into account? All the progress in the arts and sciences, in business and industry, has come from the courage to make experiments and substitute the new for the old. Must not this, too, be the spirit of modern government? Where time, as it inevitably will, brings into the social order the unexpected discords springing from human frailty and the accretions of ignorance and greed, is it not a duty of government, seeking to do justice, to seek also for new definitions of justice?

While, I imagine, we all agree as to the existence of this duty, we are not so apt to concur as to the method of its discharge. There are those who would let unhampered nature work the cure. Others seems to believe that our ancient definitions of legal and political rights and of so-called "economic laws" have proved such infallible guides in the past that to question them now is subversive of sound government. Such persons visualize rights and principles and economic laws as static or unchangeable; and think of the betterment of human society by governmental effort as essentially impossible, because, it is asserted, human relationships do not change. They refuse to recognize that the primal law of life is change—that human nature itself changes. There is no fallacy more pathetic or more misleading than that which assumes the unchangeableness of living things. It is barely more than 300 generations back to our savage ancestors, who lived in caves and fought with clubs, and scarcely knew how to light a fire. In the equation of social life we cannot afford to think of humanity as unchangeable, or of legal and political principles as absolute, any more than we can think of justice as something static.

Imagine justice as absolute and logic carries us to impossible utopias; think of human nature as unchangeable and our hope of progress is lost in a stagnant pool of ultraconservatism.

No living institution is ever finished; nor is there any limit to knowledge nor any law of progress which says "thus far shalt thou go and no farther." The teachings of history repeatedly admonish us that what one period regards as radical another comes to consider as conservative. The equity stirring today becomes the law of tomorrow. Justice in the modern state, if it becomes set in fixed formulas, terminates in injustice.

No little of our confusion of thought is due to mistaken notions as to the inherent nature of rights per se. Since at least as long ago as the Greek philosophers, legal and political thought has wrestled with the idea that back of all human law is a natural law giving birth to natural rights. This idea still persists in juristic science and, to a greater degree, in common thought. It is the major premise in that recalcitrant individualism which resists so many promising efforts to further what is called "social justice." It explains many of our difficulties in reconciling liberty with responsibility and power with justice. If it is true in the spiritual world that "he that loseth his life shall find it", it is equally true that for individualism to find itself the individual must give that he may get. This, it seems to me, is of the essence of both liberty and justice, and lies at the heart of all rights.

In our industrialized civilization we are, I imagine, more acutely conscious of the play of justice and injustice in the domain of economics than in the realm of law and politics. When we come to balance rights, and especially economic ones, we discover that every individual right is, in truth, a bundle of relative rights, and that there are no absolutes to guide us.

To add to our confusion of thought we attempt to fit into our patterns of economic justice various concepts from our political ideology, like those of equality, impartiality, individualism, government of laws instead of men, freedom of enterprise and initiative and the like—concepts which do not always, in terms of practical justice, have the same validity in the economic realm that they had in the political.

What is the duty of Government in the premises? If it is bound to be functional and to serve the common good, must it not endeavor to balance and reconcile these discordant forces and ideas? Can it sit as audience at an academic debate as to what is too great or too little a use of its powers? The legal boundaries within which it must operate, to be sure, are well defined, but within these limitations must it not see itself as an indispensable agent of justice in every field of human activity? The courts protect and vindicate legal rights, and strive, by established rule and technique, to do justice in man's conflicts with his fellows and with society; but must not Government, seen as a whole, strive to protect and vindicate justice in the wider terms of the common good? Even legal justice tries to do as much. "Is it not the duty," says the Supreme Court, "* * * to decide in accordance with present-day standards of wisdom and justice rather than in accordance with some outworn and antiquated rule of the past?" For it was over "a characteristic principle of the common law," to quote the Supreme Court once more, "to draw its inspiration from every fountain of justice."

These considerations have intrigued the world's greatest thinkers from the beginning of history, though probably no one ever penetrated deeper into the mystery of what justice is than did the humble Carpenter of Nazareth whose Divine teachings so many of us venerate and so few of us follow. I dare say there is truth in all the various theories that have been formulated as to the nature and origin of justice—from Divine revelation to categorical imperatives, utilitarianism, hedonism, harmony, the greatest good of the greatest number, and, perhaps, even in the concept that justice is an ethical and social convention born more of custom and experience than of reason or revelation. Practical government, however, is empirical in approach and must leave such speculations to the philosophers.

Nevertheless, it seems reasonable to believe that if a theory of justice must be formulated, the most dependable one, at least from the viewpoint of government, is that which takes for its major and minor premises the public welfare and the common good. Justice, implicitly and actually, puts every assertion of individual right and every act of government to this acid test. What other unifying principle can justice in the modern state set up, or on what other theory should it proceed? Within what other framework can a free state work out permissible programs of governmental relief and economic planning, or find sanctions for necessary controls and enforceable social cooperations? The vital spark in human progress unquestionably is individual liberty, with all that means in the way of free initiative and the right to pursue our happiness and our adventures in our own way; but liberty without subordination to the rights of others and to the common welfare can be either anarchy or tyranny, or both. All sound criteria of justice are human. Even economic justice must root and flower in the prevailing spirit of common justice and in the willingness of the individual to do as he would be done by. No man can live to himself alone. The origin of his rights and the measure of his duties are found in the complex mechanisms and relationships of society. Its welfare is his, and the same justice which gives him the right to share in it imposes the duty to contribute to it.

The natural impulse is to allocate the blame for injustice to bad laws, or to the want of laws, or to defects of administration. We complain bitterly of our wrongs and act as if we thought that justice emanates from government. Believe me, my friends, it does not. It springs from the hearts of men. Government should, indeed, be an agency of justice, but the essential cure for most of the wrongs of which we complain must be sought in

the simple, elemental working of justice in the life of the individual and the soul of the people.

The exigent need of the present hour, therefore, lies more in the stimulation of a nobler spirit of right in the individual than in the improvement of legal institutions or in the most enlightened social or economic planning of which government is capable. We might say that to know justice one must feel it. Certainly we cannot regard it merely as a symbol. It must become a vital and moving impulse in our lives. Talk as we may of the instrumentalities of justice and their deficiencies, or about the manifest inequities of our social and economic order, the search for cause and cure should begin with the individual. He is the unit of our common life.

This sounds like saying nothing, yet it says all. Debate as we may of change, of the old and the new, of legal or political or economic principles, the basis of justice must be sought in the inner and the better life of man, in his common honesty, goodwill, and forbearance; in his saner conceptions of social and individual values, in clearer thinking and in loftier purposes. These attributes of human character are more powerful than the most imperative statute, for without them justice must remain an ideal which the wisest government cannot hope to realize.

PIONEERS—ADDRESS BY ATTORNEY GENERAL CUMMINGS

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address by Hon. Homer Cummings, Attorney General of the United States, at Lincoln Memorial University, Cumberland Gap, Tenn., June 3, 1935, on the subject "Pioneers."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I congratulate the members of the graduating class of this university upon the completion of their work, and I bid them Godspeed on the commencement day which sends them forth as pioneers into the life ahead. To youth the golden age always lies ahead; but every age is the product of its pioneers and of their spirit; and while there are many places in this Nation of ours sacred to the memory of our venturing forefathers, I know of no spot in which it is more appropriate than right here in Cumberland Gap, to ask ourselves what inspiration we can draw from their lives.

I ask you today to imagine a spring morning 166 years ago, and to vision a little group of four men with Daniel Boone beating their way up through the pathless woods from Powells Valley and entering this gap. Or move forward a brief 4 years and see his first small colonizing group following him into the hills beyond. Think of their meager material equipment! But think also of their superb spiritual equipment as they halted here and laid their plans to go forward; and think, too, of the fine faith, courage, and self-reliance with which they faced their unknown destinations and their unknown destinies. Beyond them lay a wilderness full of hazard and uncertainty.

True, one or two of them had been beyond the gap, but only as hunters. It was Boone, then a young farmer, who looked across the ranges and had visions of empire and who had the courage to leave wife and child and ease and to devote his life to make a dream come true. History has never dealt quite justly with Boone as one of its great pathfinders and leaders. Our boyish idealizations of hunters and Indian fighters have hindered us from seeing him in his true perspective as perhaps one of the noblest and certainly as one of the most typical of American pioneers. Hunter and Indian fighter to be sure he was; but he was more. With all his limitations he was also builder and statesman. The "wilderness road" which he blazed through this gap became a national path over which thousands trod to the making of this Nation. It was not the hunter's zeal nor the mere urge for adventure, and even less the search for material gain that carried Boone forward. He pushed onward not in the spirit of the conqueror or as a seeker for gold. He had something of that divine vision which inspires and sustains all natural leaders of men.

Before Boone left his farm on the Yadkin, stimulated no doubt by what Finley and McBride, the hunters, had told him of rich lands that lay beyond these mountains, he brooded long over the possibilities of pushing the seaboard settlements westward. As he said later, he felt that he was a divine instrument to settle the wilderness. As his path lengthened, his faith in the building of a great State grew stronger. In all truth he, as much as any one person, may be said to have laid the fountain stones of our great States of the West; and if it were possible to say that one path more than any other led to the opening of that mighty region I should say it was this old wilderness road of Boone's which began in this very valley where we now are.

In 1770 Boone was probably the only white man in Kentucky; yet in a few years thousands of settlers followed him. Some, of course, came as traders and hunters, but, for the most part, they were not adventurers nor conquistadors with an El Dorado complex. They went forth as home lovers and home builders. It was an inner vision that led them on—a vision of human freedom and of self-realization. Their individualism was, indeed, rugged, but it was shot through with a stern sense of man-to-man justice. They respected each other's rights, they were imbued with the spirit of mutual aid, they helped build each other's cabins and harvest each other's crops. It is interesting to note how in a wilderness that knew no law the first thing that Boone did, after he succeeded in establishing his first little group of log-cabin settlers, was to set up the machinery of law and of government, crude though it may have been. In those days they did not eternally talk of law enforcement; they practiced law observance. Law was something very real to them. For example, before there were more than a corporal's guard of pioneers in all Kentucky, 17 of them met at Boonsboro in 1775 and laid the political foundations of that State. If you think that the passion for political and parliamentary disputation is a characteristic of our day, I commend you to a reading of the proceedings of that first pioneer convention.

They were not supermen, but brave men and women proceeding upon their great adventure. Self-reliant, self-respecting, independent, alert, resourceful, optimistic—asking charity from no one; ready to face "the diet hard and the blanket on the ground"; willing to hoe their own row; full of the spirit of initiative and enterprise; prepared to face sacrifices and to render them: These were our ancestors. This is the inspiration and the example they hand us who are now asked to "take up the task eternal, the burden and the lesson." Are we keeping faith?

I think we are. In spite of all the gospels of despair and all the prophets of gloom and disaster, I am confident that the pioneer spirit is not dead.

We still have many frontiers to cross and to explore. What is all education but a pioneer crossing of new frontiers—a crossing by old trails into new and unexplored and still pathless areas to a better and more complete life? This great adventure known as "life" goes on to new climaxes, and, if one looks at the matter properly, it is a vastly interesting and constantly unfolding drama in which the most obscure individual may take a vital part.

You may say the world into which you are to go forth on the morrow is vastly changed from that of the early days. And that is so. Or you may say that this era into which you are born is one of such changed conditions that the ancient virtues and the spirit of the pioneers are outmoded or will not function. That is not so. Never before was the need for this old spirit and these old virtues so urgent nor its rewards so certain. Your own opportunities are all the greater precisely because it is a changed and ever-changing world. Tested from every angle these changes are sources of strength and not weakness, if the spirit of man is equal to them. Do not be disheartened or misled by all the talk about revolutionary transitions, chaos, crisis, and collapse. We talk too much about being in the midst of a crisis. Every era is one of crisis and transition just as every era is and ever has been one of change. Continuous change marks not only our celestial system and organic world but it inheres in every form of life from polyps to politicians. Ideals change. Beliefs change. What was heterodox in one period becomes orthodox in another. Time plays havoc with dogmas and, also, with institutions. We build up to tear down and tear down to build up. Only in a static world could it be otherwise. Science reveals to us that from the infintie heavens to the finite atom everything is constantly moving from somewhere to somewhere else; and in the world of man's own making the same is true. All economic life, as John Stuart Mill pointed out, is largely a matter of taking something from somewhere and putting it somewhere else. Ceaseless activity and ceaseless change is a law of life and of progress. To exist is to change; to change is to mature, says Bergson. When you no longer change you are dead. The same is true of nations.

You go forth indeed into a world of amazing complexities and conflicts, but I bid you face it with the faith and courage of your pioneer fathers. Remember it is a big world and also an old world. Don't get into your heads, after the apparent manner of so many radicals and reformers, that the world starts de novo with your day and your entry into it. Youth often acts as if the dead past could, indeed, bury its dead. It cannot, and the future would be in desperate straits if it could. I regard reverence for the past—for its traditions, its lessons and its experiences—as your greatest source of strength.

I spoke of changes and confusions. Don't let them frighten you. If the times seem a little out of joint, yours is the glorious opportunity to help set them right. Civilization is not doomed. The sanity of man will see to that. All that is happening is that some of those obvious and curable defects which time has revealed are awaiting your pioneer attentions. The fields of initiative and enterprise are as great as ever or greater—only they are new fields—and this is exactly what you should want.

You have inherited the richest Nation on earth in which to make your way to success and the good life. The increasing complexities of modern civilization demand some pioneer to find the path to necessary simplifications. Is it absurd, for example, to hope that some day the spirit of America will find a means of eliminating the causes of war, or that, with all that pioneers in science and industry have done to create wealth, others may not find efficient means of dealing with undeserved poverty? Is it too much to hope that this spirit can find some way of restoring agriculture and bringing the urban and the rural into equilibrium, or of protecting the weak from the strong without devitalizing society? Surely there is a call for pioneers to master the terrors of dependent old age, of unemployment, of crime, of injustice. Like the pathfinders of old, blazing their way through the wilderness, it is now your opportunity to master a man-made world, and to explore the fields of science, of art, of beauty, of life.

And of these I put life first. When I graduated from college we talked much of success. We were the children of a materialistic era and perhaps helped to create a spirit of materialism which it is now your duty to remold to better uses. I think, or at all events I hope, that the youth of today regard success

more in terms of life as life, and riches as wealth accumulated more within than without. Of course, you cannot neglect the so-called "practical aspects of success", but as pioneers you will find new ways of life and attach new values to new vocations. Industrialism has taught us the need of the expert and the specialist and has rewarded them handsomely. Government and the social order, in an endless variety of aspects, has equal need of them. Its rewards in material wealth may be relatively small, but in real wealth its recompense will be great.

Every social and political problem resolves itself into one of the individual. If democracy is to succeed it will be because you and I as individuals have the spirit of democracy in our hearts. If justice is to prevail, it is because you and I truly love justice and do justice. If liberty is to thrive it is because we truly love liberty. If government is to be free, it will be because you and I first govern ourselves.

I believe passionately in individualism and I believe we shall see it develop into new and more vital forms. The antidote to all the failures of former government, as Emerson years ago pointed out, is in "the growth and strength of the individual"—in the substance of his character, his ideals, his will. To develop the individual the state exists—and as he is, so is the state.

A few days ago I ran across a curious passage in an ancient book, attributed to a Chinese sage talking 25 centuries ago. Even then he was drawing a lesson from the misty past. "The ancients", he says, "ordered well their own states. Wishing to order well their states, they first regulated their families. Wishing to regulate their families, they first cultivated their persons. Wishing to cultivate their persons, they first rectified their hearts. Wishing to rectify their hearts, they first sought to be sincere in their thoughts. Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge. Such extension of knowledge lay in the investigation of things. Things being investigated, knowledge became complete. Their knowledge being complete, their thoughts were sincere. Their thoughts being sincere, their hearts were rectified. Their hearts being rectified, their persons were cultivated. Their persons being cultivated, their families were regulated. The families being regulated, their states were rightly governed. Their states being rightly governed, the whole kingdom was made tranquil and happy."

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had concurred in the concurrent resolution (S. Con. Res. 17) providing for the disposition of certain obsolete Government publications stored in the folding rooms of Congress.

REMOVAL OF PREFERENCES AND PREJUDICES AGAINST PORTS

The VICE PRESIDENT. The question is on the motion of the Senator from New Jersey [Mr. MOORE] that the Senate proceed to the consideration of the bill (S. 1633) to amend the Interstate Commerce Act, as amended, and for other purposes.

Mr. WALSH. Mr. President, I can express my views on this bill in a very brief period of time. The issue is a very simple one, and if I may have the attention of Senators present I shall appreciate it.

First of all, who brought this bill here and why is it here? The Interstate Commerce Commission filed this bill and asked that the Congress enact it into law. It is supported by the Interstate Commerce Commission, and one of the chief witnesses in favor of it was the Federal Coordinator of Transportation, Mr. Eastman, who has been a leader in the protection of the public interest where it conflicts with the demands of common carriers. It is also supported, so far as the evidence presented to the committee goes, by the public officials and authorities of every port of the country, except one. So much for the support of this bill.

What does the bill propose to do? We have to go back to the purposes in creating the Interstate Commerce Commission to understand the scope of this bill. It was not monopoly upon the part of the common carriers that led to the Interstate Commerce Commission being created; it was competitive abuses; it was discrimination; it was preferences given by common carriers which led to the enactment of the Interstate Commerce Commission law.

Mr. President, I wish to read the law with respect to a carrier being prevented from discriminating in its schedule of rates. Here is the language:

> It shall be unlawful for any common carrier, subject to the provisions of this act, to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, etc.

When it appears that a schedule of rates made by a common carrier is prejudicial to a person, a firm, a corporation, or a locality, the Interstate Commerce Commission has jurisdiction. From 1887 to 1929 the Commission assumed that the word "locality" included "any place", and this included, naturally, a port. A decision of the Supreme Court in 1929 held that the word "locality" did not include the word "port", though the Interstate Commerce Commission had assumed it was the intent of Congress, and tried case after case and decided case after case, holding that the word "locality" did include the word "port."

There is no tribunal anywhere in the Government which can prevent a common carrier from making a schedule of rates which will injure one port as against another.

Mr. LONG. Mr. President, will the Senator yield?

Mr. WALSH. No; I decline to yield.

Mr. LONG. I do not want the Senator to make——

Mr. WALSH. I decline to yield. I prefer to finish my argument before yielding.

The sole issue is, Do we want to broaden the word "locality" to include the word "port", so that the Interstate Commerce Commission may hear complaints presented alleging that discrimination is being practiced in the rate schedule of a common carrier to the advantage of one port against another? This is the whole issue. We may talk all day long about principles of rate making, but that is the point at issue. Do we want the Interstate Commerce Commission given the right to try a case of rate discrimination between ports?

I shall conclude what I have to say by reading two quotations. I have quoted from the original act. I am going to quote what Mr. Eastman said about the bill:

> All this bill undertakes to do is to enable a port to complain when it is unjustly treated by a railroad, and that a port can be unjustly treated by a railroad is perfectly clear and ought to have a right to complain when that situation exists.

What did Mr. Eastman say further in his testimony? He said:

> We are now doing what has been done many, many times. When the Supreme Court has found some flaw in the construction of a statute, and after it has pointed that flaw, Congress corrects it.

The flaw is that the word "locality" does not include "port."

> We were asking Congress to correct it, because my belief is that there never was any intention on the part of Congress that the word "locality" should not include "port." As a matter of fact, I never heard of that contention until the case came before the Supreme Court, and when our general counsel came to me one night and said, "The question has come up whether a port is a locality", I said, "I would not spend much time on that." I was wrong about that.

That is what Mr. Eastman said.

Now I am going to quote from the minority opinion, written by Mr. Justice Stone, in which he gave his conception of the public interest involved in the right to have a trial as to whether discrimination exists as between ports. He said:

> A rate structure—

We are dealing with rate structures, understand, and whether there is going to be a tribunal to decide whether or not there is discrimination—

> A rate structure which diverts from one port to another a portion of the ocean-borne traffic, which would otherwise naturally pass through the former, sufficient to destroy the business of banks, marine-insurance companies, freight forwarders, freight and ship brokers, stevedores, tonnage companies, pilots, drydocks, ship supply and bunker-coal merchants, customs brokers, export and import commission houses centered there, would seem to have an effect upon the commerce and general welfare of the country of precisely the kind which the act was intended to prohibit and the Commission empowered to prevent.

I repeat, the issue is not whether the Interstate Commerce Commission may violate their trust and obligation if we give them this power. When common carriers make a rate schedule which is unfair, which is discriminatory, which is prejudicial to one port or another, the question is whether we shall have a tribunal where a port may go and have

that issue decided and determined. Do we want to include the word "port" as well as the words "person", "firm", "corporation", and "locality"? That is the sole issue.

Mr. LONG. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Louisiana?

Mr. WALSH. I yield.

Mr. LONG. Does the Senator understand that no one can take a schedule of rates to the Interstate Commerce Commission where that schedule of rates involves foreign commerce? Is that his understanding of the law?

Mr. WALSH. I understand the Supreme Court decided that the clause which defines what the Interstate Commerce Commission may treat in matters relating to unfair practices and prejudices, is limited to firms, persons, corporations, and localities, and that it does not include ports, unfortunately, though the Interstate Commerce Commission for 30 years construed it to include ports.

Mr. LONG. The Senator does not answer my question. I do not know whether he understands my point. Does the Senator understand that a person who wishes to ship goods from Indiana to Liverpool through whatever port he wants to send them has not the right to complain about a rate through any particular port or all the ports? Is that his understanding of the law?

Mr. WALSH. It may be that a shipper, if he claims to be hurt, has a right to make complaint, but the port itself cannot raise the question of discrimination.

Mr. LONG. The shipper has such a right.

Mr. WALSH. Then why does the Senator object to the word "port" being included? Is it now covered by law?

Mr. LONG. Yes.

Mr. WALSH. The Senator claims that "port" is now included in the law?

Mr. LONG. A shipper can bring a complaint.

Mr. WALSH. Does the Senator claim that the word "port" is now embraced within the law?

Mr. LONG. Yes.

Mr. WALSH. Very well. Then why does the Senator object to being doubly certain by having the word "port" actually written in the law?

Mr. LONG. The reason is this: A farmer or merchant in Indiana, Idaho, or Nebraska, who is shipping through Baltimore or Norfolk or New Orleans or San Francisco, has a right to go before the Interstate Commerce Commission and say that he is a party affected, and demand a readjustment of that rate; but the law is that neither San Francisco nor New Orleans nor Norfolk nor Baltimore, as a port, has a right to come before the Commission and make an issue out of that matter.

Mr. WALSH. I wish the Senator would speak in his own time and not mine.

Mr. LONG. Very well; I shall do so.

Mr. WALSH. I yield the floor.

Mr. LONG. Mr. President, I desire to take just a moment to answer the Senator from Massachusetts, because the Senator does not understand the situation.

Mr. BORAH. Mr. President, before the Senator from Louisiana proceeds, I should like to ask the Senator from Massachusetts a question.

The PRESIDING OFFICER (Mr. CAPPER in the chair). Does the Senator from Louisiana yield to the Senator from Idaho?

Mr. LONG. I yield.

Mr. BORAH. It was contended yesterday, I thought with some force, that the Interstate Commerce Commission would be compelled in fixing rates to disregard the facilities of the port in the shipment of commodities abroad. That is to say, it was contended that under the law as it would be established by this amendment the rates would be adjusted, say, to Dallas, although the ships would not be there to take care of the commerce; still the Interstate Commerce Commission would have to make the adjustment just the same and send the freight to Dallas. Is there anything in that contention?

Mr. WALSH. I am quite sure that there is nothing in it. There is no change in the yardstick. The same yardstick or the same method of reaching a decision by the Interstate Commerce Commission will exist with the word "port" in the law that now exists with the words "person, firm, corporation, or locality" in the law. It is simply an extension of the jurisdiction, where discrimination exists, to include "port" and embrace it within the word "locality."

Mr. BORAH. I understand the simple issue; it seemed to me to be a simple issue; but can the Interstate Commerce Commission take into consideration in adjusting this rate anything except the rate itself?

Mr. WALSH. I think they could take into consideration distance and other factors.

Mr. LONG. That is all. The measure of distance is all they can consider.

Mr. WALSH. That is not my understanding. I will say to the Senator from Idaho that the question of the long-and-short haul is in no way at all involved in this issue. That is covered by a different section of the Interstate Commerce Act and in no way relates to the question of a hearing and complaints where other than long-and-short-haul discrimination is alleged between persons, corporations, firms, and localities.

Mr. LONG. Mr. President, if I can have this case understood, I think the Senator from Massachusetts will have all the reason in the world to desist from the endeavor to press this measure.

Here is the law: The Interstate Commerce Commission has complete authority to hear a case whenever any party who has an interest in it desires to bring it before the Interstate Commerce Commission. The person receiving the freight has a right to complain about the rate, or the shipper who is sending the freight has a right to complain about the rate, whatever port it may be destined to, or through whichever port the shipper wishes to have the traffic go. But the court says, and rightfully says—and it has been the law of this country ever since there has been a court—that the particular locality through which the freight may pass, or through which the port desires it to pass, has no business to bottle up the farmers and say to them, "No, no; you cannot ship except through the port that happens to be, from a mileage standpoint, the nearest."

The Interstate Commerce Commission has jurisdiction of the matter, but I will read you from the farmers' representative in just a minute. The farmers, however, have maintained, and still maintain, their right to pick the port that can accommodate their business, and there has been a wide diversity. In order that I may illustrate, let me read just what the figures are on some of them. Do not take my port; do not take your own port; take Indiana as an example. I will show you an exhibit here. I wish to show just what this means. I will take Indiana as a typical farm State:

> Taking scattered representative points in the State of Indiana as origins, it will be found that the average haul to New York is 762 miles, with 1,012 to Portland and 1,226 to St. John. Portland is 132 percent of the New York distance and the St. John distance is 160 percent of the New York distance.

But the Indiana farmer can pick his port wherever there is the best accommodation and the best market for his crop. He can pick Portland, he can pick New York, he can pick St. John. If the Indiana farmer thinks the rate is too high to Portland, or too high to New York, he has a right, or the chamber of commerce representing him has a right, to go before the Interstate Commerce Commission and there to demand a hearing; but the port of New York has not a right to say, under the law, that the Indiana farmer cannot take his choice between ports. That is the case before you. They want to have it so that the nearest port can say, "You will have to make the rate to Portland double what it is to New York, and give that farmer one outlet instead of three."

Mr. WALSH. Mr. President——

Mr. LONG. I yield to the Senator from Massachusetts.

Mr. WALSH. Does the Senator admit that where a city claims that the schedule of rates by the common carrier for

that city is unfair and prejudicial to it, and to the advantage of another city, it has the right to be heard before the Interstate Commerce Commission?

Mr. LONG. If it is either the point of origin or the point of destination; yes.

Mr. WALSH. But if it happens to be a port, it cannot?

Mr. LONG. That is the point.

Now may I have the Senator's attention? There is just as much reason for every transit point on the rail lines to insist that the trains shall come through it as there is for a port to claim that the foreign commerce shall go through it.

For instance, I start in New Orleans to go to New York with a trainload of products. St. Louis says, "That freight ought to come over these rail lines and go through St. Louis." Indiana says, "It ought to come over these rail lines and go through Indianapolis." We reach another railroad, and they say, "We are all interior ports. We have transit rights that this commerce should pass through here." But the shipper says, "No; I do not want that done. I can move my goods more expeditiously, and I can find a better market and a quicker market through another route." But on this very rule you would say, "No; each transit point has the right to have the freight come through it." And so, in this case, the only argument you are making is that here is a port, whichever one you want to take—because you will not have many ports left—here is a port which is willing to destroy all water transportation because it is necessarily circuitous, and involves a longer route of travel. Here is one that says, "All right; we want this port to get all this business from Oklahoma." "Why?" "Because Oklahoma is a hundred miles nearer to this port than it is to another port."

There is an immense demand on the Pacific coast for Oklahoma wheat to go to China. There is a demand in New York for Oklahoma wheat to go to Liverpool. There is no demand, there are no facilities, perhaps, at another port, no ships to take it; but, none the less, the freight has to be penalized 5 cents a bushel if it goes to any port except the one where there is no business for it; and that happened. It happened right in our own midst. It happened in the Galveston case, where they had the wheat sprouting, no market for it, and ships lying over in New Orleans and Mobile desiring to carry that wheat, and unable to carry it.

Mr. BORAH. Right there, Mr. President, let me ask was it not within the power of the Interstate Commerce Commission to take into consideration the fact that Galveston had no means by which to take care of that wheat after it got there?

Mr. LONG. I do not know. All I can tell the Senator is that the Interstate Commerce Commission considers it its duty, apparently, to place everything on a mileage basis. Now, I do not know; if I were on the Interstate Commerce Commission I might take a different view. I can only tell the Senator what happens—that they take the view that the shorter route has a lower rate and the longer route has a higher rate in each and every case.

Mr. BORAH. If the Interstate Commerce Commission, considering those facts and those facts alone, has done what the Senator says with reference to sending grain to a point from which it could not be shipped, it seems to me the need of legislation is somewhere else than here.

Mr. LONG. Not only that, but I want to show the Senator what the Supreme Court said. The Supreme Court said it would not presume that Congress would do such a foolish thing as to vest in the Interstate Commerce Commission any such power as that to wreck all the established trade that had been built up with foreign commerce. I will show you what the Supreme Court said on that point. The Supreme Court looked upon it as being something as to which they did not think Congress would exercise any such judgment as that. They never thought Congress would go in such interminable circles. Here is what they said——

Mr. ROBINSON. Mr. President, from what case is the Senator reading?

Mr. LONG. I am reading from a case that was decided 40 years ago—the case of Texas & Pacific Railroad against Interstate Commerce Commission. This is the first case deciding this question, in 1896. This case is 40 years old. For 40 years we have been improving rivers and harbors and establishing waterways under the law that we thought Congress could not change, or at least would not change, and they brought the same case back to the court, and the Supreme Court decided it again the same way last year, or year before last.

Now let me read from this decision in One Hundred and Sixty-second United States Reports. I am reading at page 218.

> As we have already said, it could not be supposed that Congress—

They say "Congress"—

> in regulating commerce, would intend to forbid or destroy an existing branch of commerce, of value to the common carriers and to the consumers within the United States. Clearly, express language must be used in the act to justify such a supposition.

Just before this, as the Senator will note, they say, "As we have already said."

Turning back a few pages, they point out that a man in South America makes a contact with a merchant in North America, or a banker in Liverpool makes a contact with some merchant handling grain in Idaho or Indiana or Nebraska, or perhaps in Canada, and they point out that those banking contacts and those routes and those methods of distribution are built up over a course of 100 years, that it is the work of centuries, and that they would not presume that a Congress would ever authorize an Interstate Commerce Commission to break down those established routes and contacts that had been built up through all those lengths of time, and the Supreme Court said:

> It will take express language from Congress to convince us that they will ever empower a body to destroy all that has been built up through these many hundreds of years of contacts with some countries, and at least 100 or so years with this country.

Now, I should like to give an illustration to the Senator from Idaho and to the Senator from Massachusetts.

This is what happens: As a result there is one port that is known to be a distributing point for perishable products out of New Orleans, La. A carload of bananas comes in from Honduras, and that carload of bananas can be distributed to the central points of the United States in a day, but if the same carload of bananas landing at another port on the Gulf of Mexico, it makes no difference what the port may be—Galveston, Mobile, or Savannah, or New York on the other coast—the bananas will absolutely perish before they can be distributed throughout the United States.

It would take 50 years to build up anything like the present condition. The maps show that the train service of the United States has been built up, not in a day's time, not in a year, not in 10 years, but in the course of 100 years it has been so built that trains coming out of New Orleans with perishable products meet the trains which have been coordinated for service throughout the entire United States, and it means that the perishable products are distributed in a short length of time.

As a result that port receives as much in the way of imports coming to the United States as it receives in the way of exports going from the United States, so that a ship coming to New Orleans can return loaded. But when the Interstate Commerce Commission said, "No; we are not going to let this traffic of the United States go to New Orleans", what was the result? It meant that the box car which went to New Orleans loaded had to leave there empty.

Mr. BORAH. Mr. President, did the Commission say that the freight should not go to New Orleans?

Mr. LONG. Yes; it did.

Mr. BORAH. Under what authority did it say that?

Mr. LONG. Under no authority. The Supreme Court held that they had no authority. The Supreme Court reversed them on that, and it did what was right. They would have absolutely laid waste many hundreds of miles of railroad track.

Mr. BORAH. What the Senator desires to obviate is the right of a port itself to bring this type of litigation?

Mr. LONG. The right of a port to require any such differential in favor of a port. The shipper should have the right to select any port he chooses.

Mr. BORAH. Suppose this amendment should be agreed to, and one port had the right to bring action, with reference to the rate; would the Interstate Commerce Commission, in deciding the question, be bound to disregard the fact that New Orleans, for instance, had the facilities for taking care of the products which would be shipped to it, and that another port, to which the rate might be cheaper, did not have such facilities?

Mr. LONG. They never have done it. I was for 10 years engaged in this kind of work, and I can only tell the Senator that the farther away the port the higher was the rate. Notwithstanding the fact that in the Galveston rate case it was shown that they exported several times the amount they imported—I may not be exactly correct in the figures, to an exact point of arithmetic, but I am approximately accurate—notwithstanding the fact that Galveston had no import traffic to speak of, so that ships could take back tonnage that was being flooded in there, nonetheless the Commission forced them to double that business in there, and the wheat sprouted there that summer, the farmers lost the wheat, it went to ruin. It never was shipped out of there. Yet New Orleans was available with the ships ready to carry that wheat to South America.

Mr. BORAH. And the Interstate Commerce Commission felt compelled, under the law, to do that thing?

Mr. LONG. Yes; and it made the rate 5 cents a hundred higher. They said they had to do it. They not only permitted it but they compelled it.

To go a little bit further, the perishable products in this country have been moving always with a balanced traffic. There are some things which the United States does not raise. We do not raise bananas in the United States, for illustration. The banana boats come in; they are a very fine vehicle for South American business, because if a banana boat comes into the port of New Orleans, naturally it is looking for a cargo to take back.

Here is the Texas & Pacific Railroad, which the Government built. The Government put up the money and built the Texas & Pacific Railroad so that it might accommodate the farmers who were seeking an outlet for the things they raised to go to foreign countries.

Lo and behold, in comes the Interstate Commerce Commission. The Texas & Pacific Railroad starts with a load of grain at El Paso, destined to South America, and there is a ship at New Orleans waiting to take the grain to South America, but the Interstate Commerce Commission says, "No; when you get to Fort Worth you have to unload it off the train of the Texas & Pacific Railroad; we will not let the Texas & Pacific Railroad"—which the Government built with Government money, and a land grant—"take it to this other port. You have to unload and pay 5 cents a hundred more because there is another route to another port, Corpus Christi, or Galveston, or some other port; therefore it has to go there."

That has been what has happened in exactly this particular case under a ruling which the Supreme Court of the United States has twice annulled. The Commission have come back to Congress twice in the effort to have this authority restored to its jurisdiction.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MINTON. Bearing upon the question of the Senator from Idaho as to what the Interstate Commerce Commission may consider in determining whether a rate or practice is unreasonable or unjust, what would the Senator's idea be about this provision of the statute, the Interstate Commerce Commission Act, section 15 (a), which reads?—

> In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management, to provide such service.

Mr. LONG. Mr. President, I can only tell the Senator that it was shown in the Galveston rate case that because of a balanced tonnage the Texas & Pacific Railroad was making a good deal more money hauling its freight into the port of New Orleans and back than it would have made had it hauled it a shorter distance to another port. Notwithstanding that, the Interstate Commerce Commission said, "We are committed to a mileage differential in rates. The only system of rates that will ever work in this country is a mileage system."

I went before the Interstate Commerce Commission for 10 years, and I know of no case, nor does anyone else know of a case, that has ever been adjudicated when they did not prescribe a higher rate for a longer distance.

Mr. MINTON. Mr. President, I should like to have the Senator's view as to whether or not this provision of the statute——

Mr. LONG. Mr. President, will the Senator let me respond a little further? I always like to give a Senator an illustration from his own State. I will tell the Senator what would happen to Indiana under the order heretofore made by the Interstate Commerce Commission if this bill should be enacted into law, and the rule were to apply to his State as it is said it would apply to all.

The Senator represents a State that takes its choice, on an equality, of rates; it can have a very low rate for its commerce. In Indiana the shipper can ship to New York for export, 762 miles, or, if he does not want to ship to New York, he can ship a thousand miles to Portland, or 1,226 miles to St. John. Under the proposed legislation the shipper could no longer ship to San Francisco or to St. John out of Indiana. It would mean that the rate would not be lowered to New York, but that it would be raised to the other ports. That is what it would mean.

Mr. TYDINGS and Mr. PITTMAN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana yield; and if so, to whom?

Mr. LONG. I yield first to the Senator from Maryland, who rose first. Then I shall be pleased to yield to the distinguished Senator from Nevada.

Mr. TYDINGS. Taking the case which the Senator has cited, namely, where the car had to be detached and put into another freight train going to Corpus Christi, as against going to New Orleans——

Mr. LONG. I used that merely as an illustration.

Mr. TYDINGS. Is it not a fact that it would cost the shipper more to send the freight to New Orleans?

Mr. LONG. On the contrary, it would cost the shipper less.

Mr. TYDINGS. What would be the advantage?

Mr. LONG. What I mean is that, while it would cost him the same, it would cost the railroad less. The rate would be the same, but the railroad would make more money taking the freight to New Orleans.

Mr. TYDINGS. Where the point of detachment came, the road is longer to New Orleans than to Corpus Christi.

Mr. LONG. That is true.

Mr. TYDINGS. Therefore, even if the shipper pays the same amount, the railroad makes less profit.

Mr. LONG. No. Let me explain. When the box car reaches Corpus Christi, it has to come back empty; but when it gets to New Orleans, there is a load for it to bring back. In other words, there is a two-way haul.

Mr. TYDINGS. There may be or there may not be.

Mr. LONG. Oh, yes; there is.

Mr. TYDINGS. That is only an assertion. Just because the port receives imports does not mean that that box car is going to be loaded and go right back to where the grain originated.

Mr. LONG. As a general rule, 99 times out of 100 that happens; or it will go to some other place loaded.

Mr. TYDINGS. In Baltimore, for instance, and San Francisco——

Mr. LONG. I will take up the case of Baltimore.

Mr. TYDINGS. The imports and exports of Baltimore more or less offset each other. They vary a little in favor of exports at the present time. If the rule advocated by the Senator were ever to be followed, no port would ever have a chance to develop. The ports which already handle imports and exports would have all the business, including Baltimore and San Francisco.

Mr. LONG. I do not blame the Senator from Baltimore for looking on this question in a little different light.

Mr. TYDINGS. I am trying to look at it in a little bigger way than from the standpoint of New Orleans or Baltimore. A shipper is entitled to ship his products at the lowest possible cost, and if he ships them so that it costs the railroad more to haul them than it would cost over another line, it lays the foundation for an increase in freight rates.

Mr. LONG. That is just what happened in this case. The Texas & Pacific Railroad showed that if they were to move from Fort Worth, Tex., to New Orleans, La., there was 400 miles of their railway line that was the same as though it never had been built.

Mr. TYDINGS. The Senator's argument would likewise apply if all this traffic were taken off the Corpus Christi line and shipped to New Orleans.

Mr. LONG. I will give the Senator the Baltimore illustration, if he will listen.

If the carload of goods has to go to Corpus Christi, where they have not been handling any grain, where they have not any return tonnage, the train going down there loaded comes back empty. Not only that, but do not forget that the farmer has not a market through Corpus Christi. There is no ship there which has come in from Honduras and is ready to take a load back, but there is a ship over at some other port which came in loaded and will go back empty, but it could haul that grain back for much less than it would cost if the grain were shipped to a port where the boat came in empty and the grain were shipped from that port. Let me get to the Baltimore illustration.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LONG. Not right now, Mr. President.

Mr. TYDINGS. Let us take the case of the port of Corpus Christi.

Mr. LONG. Just a moment, Mr. President. I do not wish to yield right now.

Mr. TYDINGS. How old is the port of Corpus Christi?

Mr. LONG. It is about as old as any of the ports. They have all been in existence about the same length of time. God created them all.

Mr. TYDINGS. I think the Senator will find—I happen to have been to Corpus Christi—that the port of Corpus Christi is new.

Mr. LONG. I am using that port as an example. Corpus Christi has been there since God made them all. It has always been there.

Mr. TYDINGS. But it has not been developed as a port until comparatively recently.

Mr. LONG. It never will be.

Mr. TYDINGS. Yes; it will be.

Mr. LONG. No, Mr. President; it never will be.

Mr. TYDINGS. There has been considerable dredging and harbor development there during the last 10 or 15 years.

Mr. LONG. If it were developed into a port, it would take away the business of the port of Galveston and the business of the port of Port Arthur. Now, if the Senator from Maryland will wait a moment we will come to the case of Baltimore. This is what happened in Baltimore City, and this is why Baltimore is in this case. Shipments destined to Liverpool were coming from the West and going through the port of New York. They were going to foreign countries through New York. The Baltimore & Ohio Railroad wanted the business. The New York Central and the Pennsylvania Railroads had their connections. The shipper in the West had a right to send his traffic to New York or to send his traffic perhaps to Boston—I do not know about that rate—or to send it to Baltimore, or to send it to Norfolk, or to send it to any other port. Up jumps Baltimore. It is not satisfied with an equality of rates.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LONG. No; I will not yield right now. As I said, Baltimore is not satisfied with an equality of rates. Baltimore does not want to have the farmers' wheat going through New York for the same rate at which it goes through Baltimore, and so, although there are more ships coming to New York, there are more ships coming to the harbors of the New Jersey ports, perhaps, Baltimore gets a rate of about 1½ cents a bushel under what New York gets.

Mr. TYDINGS. Mr. President, will the Senator now yield?

Mr. LONG. No, Mr. President; I do not wish to yield just yet. Baltimore did not get a rate of 1½ cents under New York, but had the Interstate Commerce Commission raise the rate to New York 1½ cents over the Baltimore rate, so that the farmer could not have a right to pick his port. He had to go through Baltimore in order to accommodate the Interstate Commerce Commission.

I now yield to the Senator from Maryland for a question.

Mr. TYDINGS. The Senator from Louisiana has presented a specific case with reference to Baltimore. If the Senator knows what he is talking about——

Mr. LONG. I do.

Mr. TYDINGS. If he knows what he is talking about, he will know that Baltimore is closer to the grain-producing centers than is New York.

Mr. LONG. Yes, sir.

Mr. TYDINGS. And therefore the farmer can get his wheat hauled at less expense to a nearby port than he can to a far-off port.

Mr. LONG. Is that a question?

Mr. TYDINGS. Therefore if both ports are given the same rate for hauling different distances, all the advantage which Baltimore naturally has is by law given to New York. Further than that, the farmer who should advocate giving the same rate to Baltimore as is given to New York, for example, would only be laying the foundation for an increase in freight rates, because it is the policy of the Interstate Commerce Commission to have a ton of cargo hauled at the lowest possible expense to the common carrier.

One more point. As a matter of fact, Buffalo, in the State of New York, is closer to the port of Baltimore than it is to the port of New York, and all the West is closer to the port of Baltimore than it is to the port of New York.

Further than that, they can get all the ships they want at Baltimore, either going or coming, to handle all the traffic, and what the Senator is doing is indirectly to penalize the western grain shipper by making him pay more eventually to have his grain hauled to a port.

Mr. LONG. Now let me answer the Senator, not on what he is prophesying, but on what has happened. The settlement of this question will take hindsight and not prophecy. Here is what happened. Baltimore had the same rate as New York, the same rate as Norfolk, and of other ports on the Atlantic.

Mr. TYDINGS. Which was wrong.

Mr. LONG. Wait a minute and we will see. It was wrong, because the Senator from Maryland did not get some of the pie, or, rather, I will say that Maryland did not get its part of the pie. I will put it in that way.

Mr. TYDINGS. Let me say to the Senator from Louisiana, in order to keep the RECORD straight, that he ought to state facts.

Mr. LONG. Let me get through with the question which we are now discussing, if the Senator will permit me.

Mr. TYDINGS. The Senator from Louisiana should say that Baltimore's rate ought to be less than New York's, because it is closer to the interior market.

Mr. LONG. Mr. President, let me get through with this part of the discussion. I wish to answer the Senator.

Mr. TYDINGS. The Senator from Louisiana does not say that, but he ought to say that.

Mr. LONG. The Senator from Maryland will not wait for me to tell the facts. The Senator still wants to keep out of that field, because I am going to tell him what has happened, and he is going to worm and squirm here for several

minutes. Here is what happened: The shipper of grain from Indiana, the shipper of grain from Kansas, the shipper of grain from Illinois, the shipper of grain from Idaho, and from all other States of the West had a right to go through either one of these ports. They ship through Baltimore to Liverpool, or they could ship through New York. Wherever the farmers could get the best price for their wheat they had the right to ship it for export.

Along comes Baltimore, and does it bring a suit to reduce the rate for the farmer's wheat to Baltimore? Is that what it does? No. It brings a suit to raise the rate for the farmer's wheat shipped to New York, and to raise the rate for farmer's wheat to Norfolk on the ground that Baltimore City is up the Chesapeake Bay, a little bit inland. What did the Interstate Commerce Commission do? It raised the rate to New York a cent and a half or two cents and a half over the rate to Baltimore. It did not reduce the rate to Baltimore. But what did that do? It diverted the grain tonnage, and it cost the farmers of the United States, as we showed, millions and hundreds of millions of dollars by preventing the farmer having a choice of ports. Why? Because no banking connections had been made at Baltimore, and banking connections at Baltimore to enable the distribution of any such amount of commerce could not be made, because there was not a balanced tonnage at that port, and there never will be.

Mr. President, Baltimore is not as large a place as New Orleans, La., was [laughter], and, for that particular reason, Baltimore came in later on and prevented a choice of ports to the farmers. Did it give anybody a rate reduction? No; but what did it cost the farmers? American farmers moved into Canada so that they would get away from this discriminatory ruling, and the Canadians began to raise wheat in southern Canada which went through the port of Winnipeg, and New York never saw it, and Baltimore never saw it. The farmers who had been raising wheat in America had to move to Canada on account of the heavier burden which had been placed upon their commerce, and sent the grain through a foreign port. As the result of such discriminatory rulings farmers who formerly planted wheat in America have been planting wheat in Canada ever since.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TYDINGS. As I understand, Mr. President, we vote at 2 o'clock this afternoon.

Mr. LONG. Yes; on whether or not we shall take up this bill.

Mr. TYDINGS. Yes. The Senator has had a great deal of time to discuss the question, and I only ventured to ask him some questions because 2 o'clock is getting closer all the time. I ask the Senator if he proposes to give those who have views contrary to the views which he has expressed an opportunity to present their side to the Senate before the hour of 2 o'clock shall arrive?

Mr. LONG. I think the Senator will agree that I have used very little of my time. The Senator from Maryland has had about half of it.

Mr. TYDINGS. Does the Senator intend to talk until 2 o'clock?

Mr. LONG. No; I do not. If the Senator from Maryland does not take all my time, there will be considerable time left.

Mr. TYDINGS. The Senator from Maryland has not taken 5 minutes of the time of the Senator from Louisiana. The Senator from Louisiana has already spoken for nearly an hour this morning, but I do not desire to interrupt the Senator if I am to have a chance to reply.

Mr. MINTON rose.

Mr. LONG. If the Senator from Maryland wishes to speak, I will not interrupt him. I will now yield to the Senator from Indiana [Mr. MINTON].

Mr. TYDINGS. Just one moment. Of course, the Senator spoke all day yesterday, and he has spoken for nearly an hour today. If his case is so very strong, he ought not to be afraid to let the opposition have a chance to be heard.

Mr. LONG. Oh, no; I hope the Senator from Maryland will not take that view. I am willing to extend the time.

I now yield to the Senator from Indiana.

Mr. MINTON. Mr. President, I should like to recur to the question asked by the Senator from Idaho [Mr. BORAH] a while ago. In an effort to throw some light on the question he asked, I read the Senator from Louisiana a provision of the existing statute and asked him if he did not think that provision might change the situation, and he replied to me by citing the T. & P. case decided in 1895.

Mr. LONG. And the Baltimore case.

Mr. MINTON. And the Baltimore case. When was that case decided?

Mr. LONG. About 1924 or 1926.

Mr. MINTON. However, the statute which I called to the Senator's attention, and which I read, was not enacted until 1933.

Mr. LONG. Is that section supposed to affect foreign as well as interstate commerce? I presume it would, but I do not know.

Mr. MINTON. I think so.

Mr. LONG. I do not know. I have not read the transportation statute for some years.

Mr. MINTON. Assuming that the statute was enacted after those cases were decided, does the Senator still think that it would not affect the ruling of the Interstate Commerce Commission?

Mr. LONG. No; it would not affect the Interstate Commerce Commission's ruling. The Interstate Commerce Commission is bound to a system of mileage rates. The Senator from Indiana was on a public-service commission himself and should be acquainted with the matter. However, those of us who have been before the Interstate Commerce Commission know, and every transportation man will tell us, that the Interstate Commerce Commission acts on a mileage system of rates for foreign commerce and interstate commerce, and they cannot get away from that, and they never will get away from it.

Mr. MINTON. Does the Senator from Louisiana think that this statute might be directed toward broadening the base of their consideration?

Mr. LONG. Oh, no; on the contrary, what Mr. Eastman said in his testimony was that the Commission prescribed a mileage differential as between ports. I hope the Senator from Indiana gets this. Mr. Eastman says that the Interstate Commerce Commission is asking for this bill because they prescribed a mileage differential as between ports, and the Supreme Court knocked it out. That is what he complained about. The Supreme Court knocked it out on the ground that the Commission prescribed a mileage differential in which they said that if the cargo went 100 miles farther—100 miles, now mind you—the rates should be somewhere around 5 cents a hundred higher. Mr. Eastman said, "We have been prevented from putting into effect that differential in rates on account of distance."

Mr. MINTON. If I am correct in my construction of the statute, would not the Interstate Commerce Commission have the right to consider something other than the mere distance. Would it not, for instance, have the right to consider the port facilities and all other facilities for handling cargo at New Orleans, we will say, as against Corpus Christi?

Mr. LONG. I can only say that, with the exception of the reading which the Senator has given of that particular part of the statute which would apply to all commerce, I have never heard of it except in connection with justifying the mileage differential of rates, and that has been the ruling of the Interstate Commerce Commission and courts on the statute ever since the statute has been in existence. I should like to read a little bit more of the statute to show what it provides.

Mr. MOORE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MOORE. With reference to the case of New York and New Jersey ports, did the mileage factor settle the case of the New Jersey ports?

Mr. LONG. Mr. President, may I have the attention of the Senator from New York? The Senator from New Jersey is now propounding a question about New York. May I ask the Senator from New Jersey to repeat the question? I did not hear all of it.

Mr. MOORE. Was the factor of mileage the settling factor in the case? Did that settle the case of the New Jersey ports?

Mr. LONG. No, Mr. President. Here is what the situation was——

Mr. MOORE. I know what the situation was. I am asking the Senator a question. The Senator from Louisiana made the statement that if anyone would show him a case where anything else but mileage figured in he wanted to know it.

Mr. LONG. Yes.

Mr. MOORE. The Senator said that he had never heard of anything else but mileage figuring in a case.

Mr. LONG. Yes.

Mr. MOORE. And now the Senator from Louisiana says that this case was not decided on mileage. That is all I wish to know.

Mr. LONG. New York and the New Jersey ports are the same distance from the interior, they have the same harbor. There is no difference in distance.

Mr. MOORE. Trenton is not the same distance, and why should the Senator say so? He knows it is 50 miles from New York, the mileage did not enter into it, and yet a moment ago the Senator said the mileage did enter into it.

Mr. LONG. Very well, let us take the case of Trenton. I am willing to stand on that. That may be an exception, but the other ports of New Jersey are not.

Mr. MOORE. That is but one case.

Mr. LONG. That is but one, but let us see as to Trenton. I will refer to the case of Trenton. Now, we are getting down to whether we want this proposed law or not. I thank my friend. He has enabled me to illustrate this case. Do we want the interior of the whole United States to stop their traffic at Trenton? That is what this bill means.

Mr. MOORE. Mr. President, if the Senator will yield, it does not mean anything of the kind, and the Senator knows it.

Mr. TYDINGS. Mr. President, I thought Baltimore was going to get some of this.

Mr. LONG. Just a moment; they will get some of Baltimore; these fellows will take it from one another before they get through. Here is what it means, and if my two illustrious friends will listen to me for a moment I will have them fighting at one another if they will look at the map and see which is the farthest inland point. If my friend from New Jersey or my friend from Maryland will take a little time out and go look at the map, whichever one discovers that his town is miles farther inland is going to come back at the other in 5 minutes.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TYDINGS. The Senator from Louisiana must not assume that the Senator from New Jersey and the Senator from Maryland take only the provincial viewpoint which the Senator from Louisiana himself takes.

Mr. LONG. Oh, no; far be it from such, but it just happens that the men from Trenton and Baltimore are right here together.

Mr. MOORE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MOORE. Are we going to have a chance to have any time?

Mr. LONG. If I can get the Senator from Maryland and the Senator from New Jersey to give me a minute now, I will yield to the Senator from New York [Mr. COPELAND].

Mr. MOORE. The Senator from Louisiana had 6 hours yesterday.

Mr. LONG. Oh, no; 4½ hours.

Mr. COPELAND. Mr. President, I want to take advantage of the privilege given me by the Senator from Louisiana to ask the Senator from New Jersey does the famous lighterage case have anything to do with this matter?

Mr. MOORE. It has nothing whatever to do with it. This affects Albany; I have here the case of Albany.

Mr. COPELAND. I know the Senator has the case of Albany, but he has not anything about New York.

Mr. MOORE. New York has no interest in the matter, because, in the first place, the bill does not affect New York, but there is a city which is opposite New York which has no port, for it is owned by the railroads, as the Senator knows.

Mr. COPELAND. I want to be sure about this. Has the Senator had any communications or any contacts with the Port Authority or with the Merchants' Association of New York about this matter?

Mr. MOORE. Yes; and they have no objection.

Mr. COPELAND. What do they say?

Mr. MOORE. They have no objection to it whatever. I do not wish to make a speech, but I will say it is only a question of fair play.

Mr. COPELAND. It is certainly beclouded, so far as I am concerned.

Mr. MOORE. The Senator may call up New York or the shipping department there and ascertain the accuracy of the statement.

Mr. LONG. Mr. President, the Senator from New Jersey nearly told the Senator from New York all about it a moment ago, unless he is going to take backwater on it. The Senator asked what about the case of Trenton and Jersey ports against New York. Here is what happened.

Mr. MOORE. The Senator will find that mileage does not enter into the case of Trenton or New York. The Senator made the statement that no case had been decided on anything else except mileage, but I proved he was wrong, and he admitted that he was wrong.

Mr. LONG. I admitted that there was one case where mileage did not come in, but now let me give the Trenton case. Here is why the case is here. This case is here because New Jersey ports are trying to compel a decision against the New York ports. That is why the case is here. Let me read the Senator's letter.

Mr. MOORE. Mr. President——

Mr. LONG. Just a moment. I will read a letter written by the Senator from New Jersey when he was Governor, and I was a Governor about that time, too. I know the Senator had written some letters; I saw one of his letters here this morning when I was running through some papers.

Mr. MOORE. I will say to the Senator that as Governor I did all that I could in the lighterage case. Why should I not?

Mr. LONG. The Governor of New Jersey was trying to get some business certainly; let us all be honest about it. The Governor of New Jersey was trying to get some business away from somebody else.

Mr. MOORE. No, indeed; I was not.

Mr. LONG. And the Senator from Maryland was trying to get some business for Maryland, and the Senator from Louisiana is trying to save some business for Louisiana and to look after the other 47 States at the same time. [Laughter in the galleries.]

Mr. CONNALLY. Mr. President, I make the point of order that the occupants of the galleries are not in order and we cannot hear back here what is going on. I insist that the Chair enforce the rule. This is not a vaudeville show, in theory at least, and I insist that the occupants of the galleries be made to behave themselves or retire.

The PRESIDING OFFICER. The point of order is well taken. The occupants of the galleries must maintain order.

Mr. LONG. Here is a letter from my friend from New Jersey. I will not read it, but it is addressed to Hon. C. C. Dill and complains that there is discrimination against the Jersey ports. What had the Jersey ports contended for? They appeared here and testified in this case. I was one of the members of the committee listening to the testimony of New Jersey. The New Jersey people contended that New York was getting business that belonged to New Jersey ports. That is what they were contending. That is what

the case was about. They contended that advantages were being given to New York that New Jersey ports were entitled to; and, if this case is carried out to its logical conclusion, Trenton, N. J., being farther inland than New York—and it may be farther inland than some of the Baltimore local points—will claim the business on the ground that when a cargo reaches the nearest port it ought to be unloaded, and they would be entitled to the business under the Galveston rate case, as the shipper ought to unload and ship from the nearest port. Never mind about that harbor at New York, never mind about those banks up there.

Mr. MOORE. Where is it said that they must go to the nearest port?

Mr. LONG. That was the decision rendered in the New Orleans rate case.

Mr. MOORE. But not in this particular case.

Mr. LONG. No, a little later; they are coming a little better.

Mr. MOORE. They are coming much better. The Senator will find that there are other elements and factors which enter into the equation besides mileage.

Mr. LONG. No.

Mr. MOORE. The Senator has already admitted it. There are many factors such as—

Length of haul.

Cost of transportation service.

Value of the service to the shipper.

Density and volume of the tonnage.

Sporadic or steady movement of freight and general transportation conditions.

Susceptibility of the freight to loss or damage.

Value and price of the articles transported.

Raw materials versus manufactured products—

And so forth.

The Senator as a lawyer knows that all these things must be brought into the case for the Interstate Commerce Commission to consider in determining what the rate shall be.

Mr. LONG. I do not care what they consider. I will cite the Senator to the order. The order read that whenever the distance to one port was farther than 100 miles as compared to another port there must be a differential established of from 5 to 7 cents a hundred pounds. You can put all the reasons you want to in it, but the rulings of the Interstate Commerce Commission and the order of the Interstate Commerce Commission were that whenever a farmer was 100 miles farther away from New York than he was from Baltimore or 100 miles farther away from New Orleans than he was from Corpus Christi or a hundred miles farther away from San Francisco than he was from Tillamook—if he happened to be out there in the woods—that there had to be a differential established under the Galveston order.

Mr. MOORE. Why did they not apply it in this particular instance?

Mr. LONG. I do not know. They did apply it in the other case.

Mr. MOORE. There is a hundred miles difference in distance, and they did not apply it.

Mr. LONG. When was this? To what year does the Senator refer?

Mr. MOORE. To 1933.

Mr. LONG. The reason they did not do it that year was because the Supreme Court of the United States had annulled the order. I did not understand the Senator. Now I understand what he is talking about. He is talking about something that could not have been done.

Now, let me go a little further and give another example. These examples are pretty tough. One who appreciates them almost has to hold his nose if he votes for this bill. I would have to hide my head to vote for this proposition:

Taking scattered representative points in the State of Indiana as origins, it will be found that the average haul to New York is 762 miles, with 1,012 to Portland, and 1,226 to St. John. Portland is 132 percent of the New York distance and the St. John distance is 160 percent of the New York distance.

Map B covers port equalization as applied to export traffic moving under commodity rates. Here, again, New York is used as the base point, and taking scattered origin points in the State of Ohio, it will be found that average distances to the ports located north of New York range from 150 percent at Portland to 231 percent at St. John of the New York mileage.

Now, this witness says as to map C:

Now, as to map C, traffic moving under import commodity rates, the base port is changed from New York to Baltimore and the Baltimore rates are applied from Portland, from the Canadian ports as well as St. John and Halifax. Assume that Cincinnati is the destination: Distances in miles are 567 from Baltimore, 1,067 from Portland, 1,285 from St. John, and 1,560 from Halifax, and even those differences in distance are disregarded and port equalization voluntarily applied by carriers.

Even sacred Baltimore itself has got this kind of a thing and it is still complaining, wanting the law changed. Why did they not kick about these other ports? Because the other ports did not have the business. We are willing to say we want the carrier to be allowed to equalize the ports.

I ask my friends of the Senate to listen to me read this. I want Senators to hear it. Here is Baltimore, Md., and Cincinnati, Ohio, today has a choice of ports:

Distances in miles are 567 from Baltimore, 1,067 from Portland, 1,285 from St. John, and 1,560 from Halifax.

From all of those points there is an equality of rates for the carriers. They have the same equality of rates from 760 miles to 1,560 miles, and even those differences are disregarded. This witness said, and nothing has been said here to dispute it:

What I have said is representative with respect to voluntary port equalization. The North Atlantic situation is not an isolated one, as port equalization to the extent of voluntary action by carriers exists at the South Atlantic ports and those located on the Pacific coast. The same is true at Texas gateways on Mexican traffic.

For instance, there is the same rate to apply from Galveston or from Houston or from other Texas ports on business moving through them to Mexico and to some South and Central American countries.

When mileage is ignored in the making of domestic rates, the resulting adjustments may control either the origin or destination of goods handled by the carrier, to the hurt of a particular producer or consumer. Such is not the case, however, when distance is disregarded in export and import adjustments, the only effect of such disregard being that several routes instead of only one are made available to the shipping public, just as a similar disregard of distance in the making of proportional rates opens up several routes.

Mr. President, I want to give the opposition part of the time that is left to make any reply they may wish to make. My time has been greatly taken up by interruptions.

I have here the testimony of a witness who appeared for the shippers of the State of Texas. I want to read what the farmers and merchants of Texas had to say about this.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CONNALLY. The Senator said the witness represented whom?

Mr. LONG. Texas. I will read a list of those whom he said he represented.

Mr. CONNALLY. Whom did he purport to represent?

Mr. LONG. I will read what he said. His name is Calloway. Does the Senator from Texas know Mr. Calloway? He said:

I represent, among others, what is known as the "Interior Protective and Development Association of Texas." I think it important for you gentlemen to know who that is. * * *

In addition to that organization I represent about 25 chambers of commerce who have not only asked me to represent them through the organization but have asked me to represent them individually—such towns as Marshall, Sherman, Greenville, Waco.

Also I might add that Dallas, Tex., has the same view, and I understand Fort Worth, Tex., holds the same view, and that east Texas holds the same view. This man was employed by these interests to protect the interior shipper. He said:

One of the greatest objections is that the shippers are not so organized as properly to protect themselves against somebody that has no interest in it.

This is one of the cases. These ports have no interest in this business. The shipper is trying to get some way to send

his goods to somebody who wants to buy them. The farmer is trying to sell his products, and up bobs one of these little 2-by-4 port representatives and sticks up his flag and says, "No, no; you cannot ship unless you come this way and give me a little something out of it." What has he to do with it? He ought to keep his mouth out of it. If the farmers want to ship his way, that is all right, but a farmer ought to have the right to ship wherever he can get his goods the quickest and at the best price and where he can get the best accommodation. The farmers are in this case asking the Congress not to interrupt this business—the farmers of Texas, and plenty of them, too.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CONNALLY. I have no objection to the Senator quoting, but he is assuming to represent east Texas and Dallas, Tex.

Mr. LONG. No; I say the witness claimed that.

Mr. CONNALLY. I think the Senator ought to state just whom the witness is supposed to represent.

Mr. LONG. I named the places he represented and gave his name. His name is Calloway.

Mr. CONNALLY. The Senator interlards his own testimony with testimony of the witness, so that no one can tell when the Senator from Louisiana is testifying and when the witness before the committee is testifying.

Mr. LONG. I shall read another line.

Mr. CONNALLY. I suggest that when the Senator is quoting he should hold up his hand so we may know when he is quoting and when he is merely asserting.

Mr. LONG. I am not given to experimenting with language like my friend from Texas and do not even know how to do as he suggests. His mind is groping with the situation, and I shall read another line so he will understand I am not overstating the case.

Mr. CONNALLY. The Senator from Texas is not groping with the situation, but the Senator from Texas insists that when the Senator from Louisiana is assuming to quote testimony from a hearing he shall quote the testimony and not fill it up with his own comments. If he were not assuming to quote my own constituents and assuming to say what the people of my State desire, I should not be so much concerned about it, but I do insist on some degree of accuracy.

Mr. LONG. Very well. I shall quote him now. I shall make the Senator from Texas perfectly complacent about the whole thing when I get through. Here is the testimony of the witness:

I think it important for you gentlemen to know who that is.

He was referring to the "Interior Protective and Development Association of Texas."

About 2 years ago, because of questions similar to this and because of the fact that the interior farmers and merchants, the business men of the interior, had no organization to speak for them, no agency to fight their battles, a little town in Texas by the name of Greenville, the chamber of commerce there conceived the idea of forming just such an agency. The secretary of that chamber of commerce and its president visited about 150 communities in Texas, interior communities, and pointed out to them the need of such an agency, and as a result of that this Interior Protective and Development Association was formed.

He said further that he represented about 25 chambers of commerce of interior Texas cities, and then said:

One of the greatest objections is that the shippers are not so organized as properly to protect themselves against somebody that has no interest in it, and if they were, it is so expensive. Litigation is expensive, and of all litigation this character of litigation is the most expensive.

Mr. President, they want to be left alone. They want to be allowed to sell their goods and to be left alone. That is what they are trying to get.

The witness continued:

Let me tell you what will happen under this, Senator—and I am putting the last of my argument first because of your question. If this bill passes, this is what will happen: You are not only going to make a port a locality; you are going to make, according to some of these amendments, a transit point or a gateway a locality. Here will be a shipment of grain originating up here, say, in the Panhandle of Texas.

I am sorry my friend the Senator from Texas has left the Chamber. I wanted him to hear what his constituents had to say about the matter.

It can go either through New Orleans or through Galveston. Also it can go either through Dallas or Fort Worth. Certain shippers up there own that grain, and they want to send it to South America. It can be sent to South America, say, over the Texas & Pacific through New Orleans at a rate that is compensatory to the Texas & Pacific. If it goes through New Orleans and it just passes through there, and those shippers can make satisfactory arrangements to have it done, they do make those arrangements.

Then this happens: Nobody in Houston is hurt, because they have got a right to do that; but Houston as a locality steps in and says, "Oh, no; we don't want that to go through New Orleans. We want it to go through Houston." Then Dallas says, "Dallas is interested here." The Dallas Chamber of Commerce steps in and says, "We don't care whether it goes through New Orleans or Houston, but we want it to go through Dallas." Then the latest organizations for the protection of Fort Worth step in and say, "We don't care whether it goes through Houston or Galveston, but it ought to go through Fort Worth instead of Dallas." Galveston has got all the lawyers in the world. So has Houston. Mr. Fulbright doesn't do much else. He is one of the best friends I have got, and is one of the finest commercial lawyers in the United States.

Galveston has got her attorneys and Dallas has hers and Fort Worth has hers and New Orleans has hers, and they start the ball rolling, and the case is not decided for 4 or 5 years, and in the meantime these shippers up here haven't got much but a little grain that they want to ship. They finally attend a hearing, and then they attend another one, and then another one, and finally the thing gets up to be argued before the Interstate Commerce Commission, and somebody says: "Well, we have heard from everybody but these shippers." The chairman says, "All right, we will hear from them." Then somebody gets up over in the far corner of the room and says, "Mr. Chairman, I am not sure, but I think the shippers have run out of money and gone home."

That is what these interior farmers have to say about the matter and they are asking that this bill be not passed.

Mr. BARBOUR. Mr. President, will the Senator yield to me for a question?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from New Jersey?

Mr. LONG. I yield.

Mr. BARBOUR. As a sporting proposition, I should like to ask the Senator from Louisiana if he will be good enough to desist from talking any further at this time.

Mr. LONG. I am going to stop right now. I am just fixing to quit.

Mr. BARBOUR. The Senator, without regard to anyone or anything, consumed all of yesterday on this bill; and in justice to my colleague [Mr. MOORE], who has waited patiently to discuss his own motion, I think the time has certainly come, to put it very mildly, when the Senator from Louisiana should sit down and give someone else a chance to say something. Will the Senator concede that?

Mr. LONG. If my friend from New Jersey were not the strongest and largest Member of this body I might be tempted not to do it; but I believe the suggestion is a good one, coming from the source that it does. [Laughter.] So I yield to my friend.

Mr. BARBOUR. I thank the Senator.

Mr. MOORE obtained the floor.

Mr. LONG. Mr. President, would the Senator like to have me call a quorum?

Mr. MOORE. The Senator can do that before the vote is taken. Other Senators may wish to speak.

Mr. LONG. Very well, if the Senator does not yield for that purpose.

Mr. MOORE. I am perfectly willing to yield for that purpose.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Barkley	Brown	Byrnes
Ashurst	Bilbo	Bulkley	Capper
Bachman	Black	Bulow	Caraway
Bankhead	Bone	Burke	Carey
Barbour	Borah	Byrd	Chavez

Clark	Hatch	Metcalf	Sheppard
Connally	Hayden	Minton	Shipstead
Coolidge	Holt	Moore	Smith
Copeland	Johnson	Murphy	Steiwer
Dickinson	Keyes	Murray	Thomas, Okla.
Dieterich	King	Neely	Townsend
Donahey	La Follette	Norbeck	Trammell
Duffy	Lewis	Norris	Truman
Fletcher	Logan	O'Mahoney	Tydings
George	Lonergan	Overton	Van Nuys
Gibson	Long	Pittman	Wagner
Glass	McAdoo	Pope	Walsh
Gore	McCarran	Radcliffe	Wheeler
Guffey	McGill	Reynolds	White
Hale	McKellar	Robinson	
Harrison	McNary	Schall	
Hastings	Maloney	Schwellenbach	

The PRESIDING OFFICER. Eighty-five Senators have answered to their names. A quorum is present.

Mr. MOORE. Mr. President, the Senator from Louisiana [Mr. LONG] has taken 4½ hours to tell what might happen if this bill should become a law. I am afraid he has built up a straw man, a terrible thing to behold, and, in his best style, has wrestled with it, torn it apart straw by straw, and kicked it under his desk; but it means nothing to this bill. Very little that the Senator from Louisiana has said appertains in any way to the bill we are considering.

The Senator has screamed about his love for America; and yet America, as he knows it, is bounded on the north by Arkansas, on the west by Texas, on the east by Mississippi, and on the south by the Gulf of Mexico.

We do not blame the Senator for this. Every one of us, to a great degree, sees in his own little State, America; but we admit it. The Senator does not. That is the only difference. The Senator talks of America, and thinks only in terms of Louisiana. We are trying to train him so that he will get a broad view of this great Nation.

The Senator from Louisiana believes that there is no port but New Orleans. We do not blame the Senator for trying to hog all the business in the United States, but we ask him to be honest about it; to say to the Members on this floor, "Yes; we want the business for America", meaning Louisiana.

The Senator, as a matter of fact, would say to the other 47 States of the United States, "You do not dare pass this bill which will affect Louisiana." Think of that. Think of this man who would share the wealth of the Nation, except Louisiana, saying such a thing to 47 other States. Are the representatives of 47 States going to sit here and let their States be robbed of their birthright, of their right under the Constitution of the United States?

I had a long answer to the Senator prepared, but I do not need it, I am quite sure, because you are all intelligent men. He has beclouded the issue. The Senator is an expert at that. He has made it appear as though there were something hidden behind all this. There is not anything hidden except what the Senator is hiding from us in the port of New Orleans.

Let me, as a sample, remind you that the Senator said the farmers of the Midwest made great objection to this bill; that they appeared before the committee. Nothing is further from the fact. There was one gentleman there who said he was the secretary of the Interior Protective and Development Association of the State of Texas, and his objection was this:

> The bill is, in effect, a mandate to the Interstate Commerce Commission to reverse a decision of the Supreme Court.

All that the Court held, Mr. President, all that the Court said, was that Congress had not passed any legislation which prohibited unjust discrimination against ports or transit points, and all that the bill does is to supply that deficiency. It is simple enough. There is nothing mysterious about that; is there? Anyone can understand that. On the other hand, State officials came from Washington, Oregon, Boston, Albany, Philadelphia, Norfolk, Baltimore, Newark, Chicago, and Houston urging the passage of this bill.

Mr. President, not one port in the United States outside of New Orleans has objected to this bill. That in itself, it seems to me, should indicate how the ports of the States of our Nation feel about it.

The Senator said that New Orleans was the only publicly owned port in the world.

Mr. LONG. No; in the United States.

Mr. MOORE. Of course the Senator did not mean that. New York owns its own docks. New York has just finished building a great, magnificent pier for the new *Normandie*. There was no other pier large enough, and they had to build one to suit it, which they did because of their efficiency and of their desire to hold their business.

Newark, N. J., has spent $75,000,000 on a port. The Senator is afraid the people of his State may not be able to pay the interest on the bonds for the port of New Orleans. What about poor Newark, with $75,000,000 stuck there in their port without any redress? They have no right to appear before any tribunal in this Nation unless this bill can be gotten through. All they ask is fair consideration, not for Newark alone.

The Senator told you that the freight rate to Jersey City, my home town, is greater than the freight rate to New York, and therefore that I am in favor of this bill. Nothing could be farther from the truth than that. The freight rate is the same; and Jersey City has not any port. Our port was filched from us 100 years ago by the railroads. The whole water front of Jersey City is owned by the railroads. Jersey City has not any port at all, so the bill means nothing so far as Jersey City, my home city, is concerned.

Then the Senator wanders a bit, and talks about the subcommittee, and he says that we hurried the bill through.

The Senator knows better than that. The Senator from Maine [Mr. WHITE] and I attended every session. The Senator from Louisiana attended one.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MOORE. No; I desire to conclude.

Mr. LONG. I did not say the Senator hurried it through. I said I was sorry I did not attend.

Mr. MOORE. We gave the Senator 2 months to add to the report before we brought it in.

I must not take too much time. Briefly, let us see what the bill is all about. It is very simple. The bill was introduced at the request of the Interstate Commerce Commission. The Senator from Louisiana thinks they should be legislated out of office, but in the meantime they are in office and they are doing their work, and I am sure doing it very well.

Let me quote Mr. Eastman in the Senator's case. I think all Senators will agree that Mr. Eastman has no ax to grind. He stated:

> So far as this amendment is concerned, all that it undertakes to do is to include in the act the words "port and gateway", so that there will be no question as to ports being included. And so far as your case—

Then, referring to the Senator from Louisiana, he said:

> And so far as your case of Galveston and New Orleans is concerned, that amendment would not in any way affect the second point made by the Court with respect to the Texas & Pacific.

The Senator has spoken of the rate. Let me state what the second part of the decision was. In the first instance they referred to the particular port, and said they could not consider the case from that angle. The second point is that the Texas & Pacific has no substantial interest in the Galveston business and that they could not control the rate to Galveston. So the Senator does not have to worry; there is the second part of the decision, which protects him completely.

Mr. Eastman went on to say that he was in favor of the bill, and he read the paragraph of the Interstate Commerce Act which is to be amended, as follows:

> It shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic in any respect whatsoever—

And so forth.

He said further:

> This section in substantially that same form has been part of the law ever since 1887, and from 1887 until the end of 1929, so far as the Commission was concerned, no doubt was entertained that the word "locality" used in that section was broad enough to include any place, including a port.

It is interesting to note that the counsel for New Orleans did not raise the question of whether a port was a locality or a locality a port. The Court raised the question itself, and decided the case on that point. There was no other point on which to decide it.

Just to prove this, I may state that Mr. Walter was the counsel for New Orleans, and he was asked this question:

I would like to ask Mr. Walter if that contention, that ports are not localities within the meaning of section 3, was raised by counsel in the Supreme Court until the Supreme Court raised it itself?

Mr. WALTER. Certainly we did not.

So even New Orleans considered that ports were comprehended in the term "locality."

Let me read briefly one or two statements from witnesses representing different localities. First I quote Mr. Henry E. Foley, corporation counsel of the city of Boston, who stated:

The city of Boston recommends that section 3, paragraph (1), be amended as suggested in Senate bill 1633 to provide what commission and port lawyers had generally assumed was the law until the Galveston decision. In other words, we ask that the railroads be barred from unduly prejudicing or giving advantages to ports and gateways. On its face that seems almost an obvious proposition that railroad discrimination against ports should not be permitted.

Mr. W. D. B. Dodson, executive vice president of the Portland Chamber of Commerce, of Portland, Oreg., made this statement:

We believe that it is absolutely essential that the ports, the ports areas, the business that revolves around ports, and is some of it produced in the ports, and shipped through ports, must have the protection of nondiscrimination, which is all that is asked in this bill.

There is just one more statement which I will use out of the many others, which answers, I think, one of the claims of the Senator from Louisiana.

Mr. W. W. Weller, of the Weyerhouser Timber Co., of Newark, N. J., made this statement:

Mr. Chairman, we are manufacturers and distributors of lumber and forest products and avail ourselves of distribution through most of the ports, particularly the north Atlantic ports.

We feel that for that purpose, I might say, flexibility is in the interest of economic distribution of the products not only from the standpoint of the shipper and manufacturer but also from the standpoint of the consumer. That, likewise, applies to transit points, through which we occasionally ship lumber by rail.

We handle wood pulp through the port of Boston in substantial quantity for both local distribution and inland distribution. By "inland" I mean the more distant points, such as the central territory, the Michigan paper mills, and Ohio paper mills. The rates from Boston at that time to those points were the same as from Portland, Maine, to Baltimore, Md., and Newport News, Va.

The railroads, out of a clear sky, increased the Boston rate, as was indicated by Mr. Fitzgerald, and we as shippers in connection with receivers at Kalamazoo, Mich., protested to the Interstate Commerce Commission this increase in rate, and those rates were suspended and we had hearings, and briefs were filed, and so forth, with the result as indicated.

Senator LONG. What result?

Mr. WELLER. By Mr. Fitzgerald, namely, that the Interstate Commerce Commission stated that these rates applied on export traffic, the increased rates, and because of this so-called "Galveston case" they said they had no authority or jurisdiction to require the railroads, whether the rates were reasonable or not, to maintain that level.

This is the case of an individual shipper—one of the poor little men about whom the Senator from Louisiana speaks. There he is, being put into bankruptcy because he has no redress; coming from the port of Newark, sending his goods to one place where they are to be shipped to another.

Do not Senators know that if wheat is being shipped, and it is sent to Kansas City, there to be milled, and then to be passed on to Europe, the railroads can charge any rate they please to Kansas City, and Kansas City cannot object? It has no redress. They can close every warehouse in that city, because only under the bill about which we are talking would they have the right to appear and demand their rights.

I shall not take more time. I only wish to say that if this bill should be defeated we would be untrue to all those principles of fair play for which America stands. When we say to the little shipper with his pile of lumber, "You cannot have any redress", we are saying to him that the Constitution of the United States means nothing. We are saying to him that it applies only to the Senator from Louisiana. If we follow what the Senator from Louisiana has asked us to follow, we are saying that our flag is only the symbol of privilege and of monopoly. I know Senators are not the kind of men to take such a position as that.

Mr. BARBOUR obtained the floor.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BARBOUR. I yield for a question.

Mr. LONG. Did I understand the junior Senator from New Jersey to say he thought that the shipper could not bring a case? I thought I had made that clear, and that everybody understood that shippers could bring cases. It is only the port which cannot bring a case. The shippers have the right to bring a case.

Mr. MOORE. Not when the traffic is passing through.

Mr. LONG. Oh, yes; the shippers have the right to bring any case.

Mr. MOORE. The Senator is mistaken.

Mr. LONG. Oh, no.

Mr. BARBOUR. Mr. President, the time left for discussion of the motion of my colleague, the junior Senator from New Jersey [Mr. MOORE], to take up the bill which we have been discussing is very short, and I have just been informed also that the Senator from Maryland [Mr. TYDINGS] desires very much to add some remarks of his own before 2 o'clock—the hour when we must vote.

As a matter of fact, even if I had an unlimited length of time I do not feel that I could add very much, if anything, to what has been so ably disclosed by my colleague the junior Senator from New Jersey [Mr. MOORE] and the senior Senator from Massachusetts [Mr. WALSH], and others.

We have had to listen for hours to the senior Senator from Louisiana [Mr. LONG]. We all know that there is what can be termed a monopoly of certain shipping, so far as New Orleans is concerned. As my colleague has said, we have no quarrel with any Senator for putting up as sturdy a fight as he possibly can in behalf of his own State. If we are honest enough and frank enough to admit it, we would all do the same thing ourselves.

The only quarrel—and perhaps it should be called a complaint—which I have with the Senator from Louisiana is that I think he was selfish and inconsiderate in the matter of the time he consumed, and could have said all he needed to say, or all he could say, in a very much shorter time. He has purposely, as he has done so often, consumed and wasted just as much time as he possibly could.

Mr. President, in a word this bill has no other purpose than simply to give to a port what is given under the law to shippers, localities, and so forth. It simply gives a port its day in court and the protection it undoubtedly was originally intended ports should have. In other words, because of the decisions that have been mentioned which declared the law faulty in a technical sense, so far as certain definitions are concerned, a port today cannot go before the Interstate Commerce Commission if it feels that some injustice has been done it, unfairness has been shown it, or it has been discriminated against.

I feel that ninety-nine one-hundredths of all the Senator from Louisiana has said, and said very skillfully, I might add, is a smoke screen. It is an effort, on his part, to prevent a vote being taken. Now, I myself am not going to add to that delay, for I feel that a great majority of Senators understand the true facts. The facts are clear, and they are very simple. I desired to say what I have just said simply to show that, so far as I am concerned, I am anxious to have the Senate take up the bill and pass it; and, so far as I know—although I do not profess to speak for others—the vast majority of the Senators on this side of the aisle are anxious to take up the bill, and, I believe, will vote for it.

Mr. TYDINGS. Mr. President, the pending bill makes provision for the benefit of the country as a whole, and presumably we are making laws for the benefit of the country

as a whole. It would be natural, in a controversy of this kind, for the railroads to divide on one side or the other, accordingly as they supposed their interests would better be served. It would be natural, likewise, for Senators to consider the interests of their own States in this matter. I shall not discuss that phase of the subject at all. I should like to dwell on the national significance of this proposal.

Let me start out with the taxicabs in Washington. Most of the cabs in Washington operate on a four-zone system. When a person rides to the end of one zone he has to pay more fare to cross the second zone, and more still to pass the third zone, and more still to pass into the fourth zone. If a person rides as a passenger on a railroad system, it costs more to go from here to Chicago than it costs to go from here to Pittsburgh.

The philosophy is that the service rendered must to a large extent reflect itself in the rates charged for the transportation of the person or the commodity. I think that rule is basically sound and fundamental and that any attempt to depart from it on a wide scale would lead to confusion which would complicate very greatly rather than serve the purposes of transportation systems.

What is the proposal of this bill? Let us assume that it costs no more to ship a carload of cotton from Jackson, Miss., to Portland, Oreg., than it does to ship that carload to Los Angeles, Calif., notwithstanding, we will assume, that Portland, Oreg., is 1,000 miles farther removed from Jackson, Miss., than is Los Angeles. Under the philosophy expressed by the opponents of this bill, the rates should be the same. But does not the cotton farmer know that the railroad, by virtue of the fact that it has to haul his cotton 1,000 miles farther for the same rate, must get a commensurate return which will permit it to meet its carrying charges and return some interest on the investment, whereas if the same cargo were shipped to the closer port obviously the railroad could haul it there at less expense?

Stripped of all the arguments there is only one question involved in this bill, and that is: Are the shipper, the producer, and the consumer entitled to ship and to receive shipments at the lowest possible cost? If Senators believe in that fundamental philosophy, then they should be in favor of taking up this bill. If they believe that regardless of the service rendered, the rate should be the same, then they should vote not to take up this bill. When they vote to make all the rates the same, in the illustration I used, they vote to penalize every shipper, every producer, and every consumer of commodities, because railroads are not hauling persons or commodities for nothing; and if, for a certain rate, one railroad can haul a commodity a thousand miles farther than the line of another railroad extends and make a profit, then the shorter line railroad could haul the same commodity 1,000 miles less distance to its destination and charge the producer, the shipper, and the consumer less.

As the Senator from New Jersey [Mr. MOORE] has pointed out, the issue here is whether the great agricultural States, the great internal basin, the great West, the great South, are to be deprived of their natural port advantages and compelled to ship in such a way so that it will be no more expensive to ship a product from Charleston, S. C., to Portland, Maine, than it would to ship it from Columbia, S. C., to Charleston, S. C.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. TYDINGS. No, Mr. President; I cannot yield now. I have only 5 minutes. I shall try to yield before I conclude, but now I wish to develop my argument.

As a matter of fact, the evidence shows that on one occasion it cost no more to ship a carload of cotton from Columbia, S. C., to New York than it did to ship a carload of cotton from Columbia, S. C., to Charleston, S. C., the seaport. If Senators think a railroad can haul a carload of cotton all the way to New York at no greater expense than to haul a carload of cotton from Columbia, S. C., to Charleston, S. C., then there is no use to argue.

As a matter of fact, we all know it cannot be done; and if the railroad is permitted to haul at greater expense to itself, but at a rate equal to that made by a shorter line railroad, that in turn must reflect itself in increased freight rates to justify the disparity of distance between the two places and the two lines I have mentioned.

The fundamental problem involved is: Shall the producer of manufactured goods or agricultural commodities be permitted to have and to be protected in having the lowest possible freight rates for the marketing of his goods, and shall the consumer of those goods be protected in having the lowest possible freight rates in having them transported from the producer to the consumer; or shall the rate be made regardless of the natural transportation advantages, and an extra burden placed upon the shoulders of every producer and consumer in the country? That is all that is involved in this question.

The question of terminal facilities and all that, of course, enters into the equation, but what I am attempting to bring out is the broad line of demarcation. There are certain railroads which, regardless of the extra distance they would have to haul freight, if the freight were given to them, would charge no higher rate than would be charged by a shorter line hauling the same freight between two places; but if the longer-line railroad is put to more expense in transporting those goods than the shorter railroad would be put to, then that increase in expense is reflected in the rate structure and in the operating expense of the longer railroad.

Any shipper or any producer who wishes to destroy his marketing advantage for cheap and economical transportation of the goods he produces ought not to be in favor of this bill; but any shipper who wishes to get his product to its ultimate destination in the least expensive way ought to be in favor of the bill. That is the broad, fundamental question, and the Senator from Louisiana [Mr. LONG] knows it just as all of us know it.

Mr. President, what the Senator from Louisiana is contending for is that, notwithstanding the fact that two railroads haul freight between two sections, and one of them may have to carry the freight 1,000 miles farther than the other, the shorter railroad should be required to charge as much to carry the freight as the longer railroad is required to charge in order to continue operating. If that system were carried to its ultimate conclusion it would destroy the whole philosophy of cheap transportation. There would not be "any such animal." Bear in mind that this is all happening when the railroads of the country in many cases are threatened with financial difficulty, and many of them are in bankruptcy or receivership.

The only way in which the railroads can stand on a firm foundation is by making the freight rates so attractive that people may market their products for more than it costs to produce them.

Mr. LONG. Mr. President, will the Senator yield?

Mr. TYDINGS. One more minute, and I will yield.

For a long while I have heard it said on the floor of this body that the freight rates often are greater than the amount the farmer receives for his produce. I have heard Senators give illustration after illustration showing that the net return on a crop was not sufficient to pay the freight rate. Does the Senate propose to inaugurate a system which will make the freight rate still higher than it would be under a system whereby the natural advantages of transportation are utilized?

Mr. LONG. Mr. President, will the Senator yield?

Mr. TYDINGS. I now yield to the Senator from Louisiana.

Mr. LONG. Does not the Senator know that there never has been anything but increases in rates imposed on the shipper under existing law?

Mr. TYDINGS. Yes; and under the policy which the Senator from Louisiana advocates the increase would go up in an almost vertical line, because the little railroad, the shorter railroad, forsooth, would have to charge as much to transport a ton of produce as a railroad which went 1,000 miles farther to the ultimate destination.

I do not think such a policy is sound. It is not sound for the transportation of passengers. It has never been sound; and I hope the Senate will vote to take up the bill so that we may end that practice.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, under the unanimous-consent agreement, a vote is now to be taken on the pending question, which is the motion of the Senator from New Jersey [Mr. MOORE] that the Senate proceed to the consideration of Senate bill 1633.

Mr. WALSH. I ask for the yeas and nays.

Mr. CLARK. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	Lewis	Radcliffe
Ashurst	Copeland	Logan	Reynolds
Bachman	Dickinson	Lonergan	Robinson
Bankhead	Dieterich	Long	Schall
Barbour	Donahey	McAdoo	Schwellenbach
Barkley	Duffy	McCarran	Sheppard
Bilbo	Fletcher	McGill	Shipstead
Black	George	McKellar	Smith
Bone	Gibson	McNary	Steiwer
Borah	Glass	Maloney	Thomas, Okla.
Brown	Gore	Metcalf	Townsend
Bulkley	Guffey	Minton	Trammell
Bulow	Hale	Moore	Truman
Burke	Harrison	Murphy	Tydings
Byrd	Hastings	Murray	Van Nuys
Byrnes	Hatch	Neely	Wagner
Capper	Hayden	Norbeck	Walsh
Caraway	Holt	Norris	Wheeler
Carey	Johnson	O'Mahoney	White
Chavez	Keyes	Overton	
Clark	King	Pittman	
Connally	La Follette	Pope	

Mr. LEWIS. I announce that the Senator from Colorado [Mr. COSTIGAN], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], the Senator from North Carolina [Mr. BAILEY], and the Senator from Rhode Island [Mr. GERRY] are detained from the Senate on important public business.

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present.

The question is on agreeing to the motion of the Senator from New Jersey [Mr. MOORE].

Mr. PITTMAN. Mr. President, I am only going to take a very few minutes to explain my vote.

The VICE PRESIDENT. The question is not debatable. The time limit has expired under the unanimous-consent agreement. The question is on agreeing to the motion of the Senator from New Jersey.

The motion was agreed to, and the Senate proceeded to consider the bill (S. 1633) to amend the Interstate Commerce Act, as amended, and for other purposes, which had been reported from the Committee on Interstate Commerce with amendments on page 2, line 1, after the word "port", to insert "port district"; in the same line, after the word "gateway", to insert "transit point"; in line 4, after the word "port", to insert "port district"; and in the same line, after the word "gateway", to insert "transit point"; so as to make the bill read:

Be it enacted, etc., That paragraph (1) of section 3 of the Interstate Commerce Act, as amended, is hereby amended to read as follows:

"(1) It shall be unlawful for any common carrier subject to the provisions of this part to make, give, or cause any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, or any particular description of traffic, in any respect whatsoever or to subject any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

The amendments were agreed to.

The VICE PRESIDENT. Without objection, the bill——

Mr. PITTMAN. Mr. President——

The VICE PRESIDENT. Will be ordered to be engrossed for a third reading, read the third time——

Mr. LONG. Mr. President, do not let us pass it quite so fast.

Mr. PITTMAN. Mr. President, I wish to explain why I am not going to vote for this bill. I do not propose to enter into a discussion of the Texas case, the case between New Orleans and Galveston. I have found out, after serving for a great many years on the Interstate Commerce Committee of the Senate, that the Interstate Commerce Commission feels that it was created, not for the purpose of commerce, so far as the shippers of this country are concerned, but solely for the purpose of taking care of the railroads. In all their decisions the question has been what will aid the railroads, not what will aid the shippers.

The Supreme Court decided in the Texas case that the law which is now proposed to be amended was for the benefit of shippers; that it affected the shippers in the locality of the origin of the freight and of the destination of the freight, but did not affect the port nor the place through which the freight passed. What we are injecting into it is not the right of a port to bring an action before the Interstate Commerce Commission, for any port has a right to bring such an action before the Interstate Commerce Commission just as a chamber of commerce has the right to do so; but this bill goes further and provides that it shall be unlawful to discriminate against a port through which foreign trade passes.

How can there be discrimination against a port through which foreign trade passes except as it may be said that if the freight passes through A port instead of B port it is a discrimination against B port, or if it passes through A port instead of through C port it is a discrimination against C port? Are the shippers of this country interested through what port their foreign trade goes? They are not interested in the slightest; they are interested only in the expeditious transportation of their export trade at the lowest possible cost.

What is it proposed to do by this bill? It does not propose to grant a port the right to bring the question before the Interstate Commerce Commission, for, as I have said, any port has that right today the same as has any chamber of commerce. What is proposed is that it shall be unlawful to discriminate against a port.

What is meant by providing that it is unlawful to discriminate against a port? We know what the law means when it provides that it is unlawful to discriminate against a person or an individual or a corporation or a locality in the transportation of export trade from the place of origin to destination. But what is meant when it is proposed to put in the present law the provision that it shall be unlawful to discriminate against a port? Are we interested in that question? Are the exporters of this country interested in the question as to whether the Interstate Commerce Commission shall select New York or Baltimore? They are not interested in the slightest; they are interested only in the law as it now stands, providing that there shall be no discrimination between any exporters of the country. That is the way the ruling goes.

In the Texas case there was not any question as to the right of Galveston or New Orleans to raise the point as to discrimination against shippers. The question was new as to the right of discrimination as to a port. This bill provides that it shall be unlawful to discriminate as against a port. What is a port? What difference does it make to the shippers of this country through what port their foreign trade moves? What we are proposing by this measure is further to complicate the whole administration of interstate and foreign commerce.

By laws heretofore enacted we have granted to the Interstate Commerce Commission the power to prescribe higher rates for a short haul than for a long haul along exactly the same railroad system. Now, it is proposed further to complicate it and allow the Interstate Commerce Commission, in fact, to compel them to take into consideration whether or not freight shall go through this port or another port, and if it does not go through this port whether there is discrimination against that port.

Mr. MOORE. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from New Jersey?

Mr. PITTMAN. I yield.

Mr. MOORE. Does the Senator believe, then, that it is proper to discriminate against a port?

Mr. PITTMAN. I am not interested in any port.

Mr. MOORE. The Senator is not interested in whether or not ports are discriminated against?

Mr. PITTMAN. I do not think there is any such thing as discrimination against a port.

Mr. LONG. But if there is, the Senator does not care?

Mr. PITTMAN. I would very much rather be interested in the man who is shipping than in the man who lives in any city in the country.

Mr. MOORE. Then if that be the case, the Senator should be for the bill.

Mr. PITTMAN. I am trying to explain why I am not for the bill. I am not for the bill for the simple reason that we have laws affecting the whole transportation system of the country. We have directed the Interstate Commerce Commission not to consider the shipper but to consider the various railroads. Now, it is proposed further not to consider the shipper but to consider the various ports of the country. I do not mean to say a port should not have the right to appear on behalf of its citizens. I believe it has that right now. The bill says in plain words that it shall be unlawful to discriminate against a port. In other words, we are saying to the Interstate Commerce Commission, "You shall decide through which port traffic shall go"; when, as a matter of fact, the shipper is not interested in that point but is interested in having his goods moved as cheaply as he can have them moved.

Mr. COPELAND. Mr. President, I have been very much handicapped in this matter by failure to receive certain material which I had expected from New York. However, in order that I may protect the rights of those in whose behalf I speak, I desire to give notice of my intention to move a reconsideration of the vote by which the bill was passed, and to call up that motion at the proper time. May I have that notice recorded?

The VICE PRESIDENT. The bill has not yet passed. Previous to its passage, the Chair does not believe there is any possibility of the submission of even a notice of a motion to reconsider the vote by which it shall be passed.

Mr. COPELAND. Very well. I shall withhold my request until a later time.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

Mr. LONG. Mr. President, I desire to propose an amendment to the bill, as follows:

Where rates and charges of common carriers to ports are made as reductions to equalize rates to ports served by competing carriers, it shall not be termed undue preference or discrimination.

In the hearings there was no objection to the amendment. It simply provides that where a railroad reduces its rates for the purpose of affording a shipper transportation to competing ports, the reduction shall not be termed to be undue discrimination if it does no more than equalize rates. Some of those appearing before the committee had no objection to such an amendment. If it may be accepted, I should see no reason for further delay.

I have proposed the amendment, which merely provides that if a railroad is willing to reduce its rates in order that traffic may move, it shall not be termed to be undue discrimination; that if the railroad is willing to give the shipper a reduction in order that the railroad can be given no more than a chance to haul the goods and for that reason gives a reduction in rates, it shall not be termed to be forbidden by law.

It was said in the hearings that this amendment would not be objectionable. If we cannot get anything better than that, we should like at least to have the act provide that where there is a reduction made for the purpose of giving a carrier the right to carry goods at a cheaper rate in order that the shipper might have the advantage of a port where business is to be had and his goods may be sold, it should not be held to be a violation of the statute.

Mr. WALSH. Mr. President, much has been said in this debate against the practices and findings of the Interstate Commerce Commission. Perhaps those fundamental principles of law which guide the Commission ought to be changed. The bill now before us does not enter that domain. We are dealing here with schedules of rates made by common carriers. That is solely what we are dealing with. Should the Commission have jurisdiction if schedules of rates are discriminatory? We have said by existing law that they should be regulated; that the Interstate Commerce Commission should have control in preventing discrimination when the discrimination is against a person, a firm, a corporation, or a locality. Until 5 years ago, for over 40 years, the word "locality" had been construed to include "port." A schedule of rates today made by a common carrier, if discriminatory, can be investigated and an order or decree issued by the Interstate Commerce Commission; but if it is a port, no.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. PITTMAN. If a city is the destination, yes; if a port is the destination, yes; if it passes through a city in foreign commerce, no.

Mr. WALSH. I repeat that the law today permits the examination of a schedule of rates if it is alleged they are discriminatory when the question is raised by a person, a firm, a corporation, or a locality, and until a few years ago "locality" was supposed to include any place and to include a port. The law was so administered until the Supreme Court rendered its decision. There is no provision of law which permits a shipper, who alleges discrimination in a schedule of rates to a port, to go anywhere to have that discrimination and that prejudice and that disadvantage removed.

The purpose of the bill is to permit a port, where a schedule of rates is discriminatory, wiping out one port to the advantage of another, boosting one port to the disadvantage of another, and to have the question of discrimination determined.

The question of whether the Interstate Commerce Commission has decided issues before it unfairly or unjustly is aside from the issue. The question is whether we shall give them this jurisdiction when they have it in those cases where a schedule of rates is alleged to be to the disadvantage and prejudice of a locality, a firm, a corporation, or a person. It seems to me the issue is exceedingly simple, and we ought to keep it simple and not attempt to decide now whether we are going to create new fundamental principles for the procedure of the Interstate Commerce Commission. The bill merely provides that a port, as well as a locality, a firm, a corporation, or a person, shall have a tribunal to which cases of discrimination may be presented. That is all the bill provides.

Mr. BORAH. Mr. President, I should like to ask the Senator from Massachusetts a question.

Mr. WALSH. Certainly.

Mr. BORAH. The Senator this morning stated that the amendment which the bill proposes to the law—not the one that is now pending—could have no effect whatever upon the long and short-haul clause of the interstate commerce law. Is that the Senator's opinion?

Mr. WALSH. I have that opinion and that statement on the authority of Mr. Eastman and the representative of the Interstate Commerce Commission, who is on the floor. It cannot have the slightest effect on that clause; it has no bearing at all on it. The bill deals with no other section of the law than the section stating that it is unlawful for prejudice to be exercised by a common carrier against a person, firm, corporation, or locality.

Mr. WHITE. Mr. President, I rise in opposition to the amendment proposed by the Senator from Louisiana [Mr. LONG]. My opposition rests upon the ground that the amendment projects into the bill an entirely new subject matter. It goes to the question of rates; it goes to the question of services and practices, and lays down a definite and a new rule of law to guide the Commission in the exercise of the general jurisdiction now imposed upon it.

I have been astonished at the controversy which has arisen over this proposed legislation. It had seemed to me—and I

speak primarily because I was a member of the subcommittee before which the hearing was held—that this was a perfectly simple, single proposition.

I had in mind the constitutional provision that—

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

And I had assumed that the act of 1886, laying down the rule of law that it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, association, or locality, and so forth, was an implementing statute making effective the constitutional provision, and giving to a port—because everyone assumed that a port was included within the term "locality"—a tribunal before which it could go in order to assure to itself the constitutional guaranty of equality of right laid down in the article of the Constitution which I have read.

Mr. PITTMAN. Mr. President, may I ask the Senator a question?

Mr. WHITE. I yield.

Mr. PITTMAN. The statute to which the Senator is referring is an internal section of the Interstate Commerce Act.

Mr. WHITE. Yes.

Mr. PITTMAN. The one with which we are dealing relates to export trade. There have been quite a number of distinctions made with regard to export trade, have there not?

Mr. WHITE. I think that is true. Still I think this section of the Interstate Commerce Act did furnish, and was intended to furnish, a tribunal to which a port might go to secure to itself the effective advantage of the provision written into the Constitution. All that the amendment reported to the Senate by the committee proposes is to amend the existing law by including ports as entities which may appear before the Interstate Commerce Commission and there assert their rights. It is utterly inconceivable to me that we can justify a provision of law which gives to a person or a corporation a status under the law, and deny the same status to a great port of this country. That is all that is involved in the proposed legislation.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. WHITE. I yield.

Mr. MINTON. As I understand, the act as it now exists has been interpreted by the Interstate Commerce Commission for some 30 or 40 years, and the word "locality" has been interpreted to mean a port. So we have actually lived under a statute interpreted for 30 or 40 years by the Interstate Commerce Commission, which has held that a port is a locality; and all the things which the Senator from Louisiana has been talking about and conjuring up have not happened for 30 or 40 years. Is that correct?

Mr. WHITE. The Senator is absolutely correct. We have lived since 1886, and up until 1929, under a statute which everybody understood to give this precise right to a port; and it was only when the decision of 1929 was rendered that doubt was thrown upon whether the word "locality" did or did not include a port.

Mr. PITTMAN. Mr. President, a port may be a locality if it is the point of origin of the freight; but if it is on the way, it is not a locality, and should not be described as a locality by calling it a port. I am perfectly willing to agree to an amendment inserting the word "port" when it is the point of origin or the point of destination.

Mr. WHITE. The Court, in the case which has been so much discussed, held that a locality included only a point of origin or a point of destination. Up to that time a port had been understood to be comprehended within the proper definition of the word "locality."

Mr. PITTMAN. Let us do it now, then. Instead of including a port through which traffic passes from another point of origin to another destination, let us describe a port as a locality if it is the point of origin or the point of destination. That would be proper.

Mr. WHITE. From my view, the question is larger than that. In my opinion, the present statute as it has heretofore been interpreted did give and make effective to a port the right which was intended to be given by the constitutional provision.

I very much hope the bill as reported from the committee may have the approval of the Senate.

Mr. LONG. Mr. President, the chairman of the committee and the chairman of the subcommittee in charge of the bill say they have no objection to my amendment. It merely proposes that the right of reduction shall not be interfered with.

The PRESIDING OFFICER (Mr. GEORGE in the chair). The question is on the amendment offered by the Senator from Louisiana [Mr. LONG].

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill.

Mr. TYDINGS. Mr. President, what amendment was it which was just adopted?

The PRESIDING OFFICER. The amendment offered by the Senator from Louisiana.

Mr. TYDINGS. I ask that the vote by which the amendment was adopted be reconsidered, because many of us could not understand what the Chair was saying. The Senator from Massachusetts [Mr. WALSH] and I both were unable to vote because we could not tell what was being voted on.

Mr. LONG. Let the Senators read the amendment.

Mr. TYDINGS. Is that the other amendment, or a new amendment?

The PRESIDING OFFICER. Does the Senator from Maryland submit a unanimous-consent request for reconsideration of the vote by which the amendment was adopted?

Mr. TYDINGS. Has the vote by which the amendment was adopted been reconsidered? If so, we should like to have the amendment read. We may withdraw our objection.

The PRESIDING OFFICER. The Chair asked the Senator from Maryland if he desired to submit a unanimous-consent request.

Mr. TYDINGS. I ask unanimous consent that the vote by which the amendment was adopted may be reconsidered until some of us can understand what the amendment is.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Reserving the right to object, let me ask the Senator to look at the amendment first. No objection has been made to this amendment.

Mr. TYDINGS. Let us have the amendment read.

The PRESIDING OFFICER. The amendment which has just been adopted will be read for the information of the Senate.

The CHIEF CLERK. The amendment proposed to add at the end of the bill the following:

Where rates and charges of common carriers to ports are made as reductions to equalize rates to ports served by competing carriers, it shall not be termed undue preference or discrimination.

Mr. TYDINGS. Mr. President, may we have the amendment read the second time?

The PRESIDING OFFICER. The amendment will be restated.

The Chief Clerk restated the amendment.

Mr. TYDINGS. Mr. President, that might be a very good amendment——

Mr. LONG. It is.

Mr. TYDINGS. And it might not be. I can see how its application might work a hardship. I, for one, do not like to vote on an amendment which is so far-reaching as that without a little more information from the Interstate Commerce Commission. I therefore renew my request that the vote by which the amendment was adopted be reconsidered.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, I hope that will not be done. The Senator from Maryland and——

The PRESIDING OFFICER. The Senator from Louisiana objects.

Mr. TYDINGS. I may say to the Senator from Louisiana that possibly I shall not object, but I should like to have 5 minutes or so to study the amendment.

Mr. LONG. Let the Senator take 5 minutes.

Mr. TYDINGS. First of all, I desire to have it reconsidered. If necessary, I shall move to reconsider the vote. If the Senator will meet me on fair ground, I shall try to meet him on fair ground. If not, I shall have to fall back on my parliamentary prerogatives.

Mr. LONG. If the Senator moves to reconsider it, I will discuss the motion, and I believe he will withdraw his motion.

Mr. TYDINGS. I ask unanimous consent——

Mr. LONG. Go ahead. I do not object. Let it be reconsidered.

The PRESIDING OFFICER. Without objection, the vote by which the amendment was agreed to will be reconsidered. The question now is on the amendment offered by the Senator from Louisiana.

Mr. TYDINGS. Mr. President, the amendment reads:

Where rates and charges of common carriers to ports are made as reductions to equalize rates to ports served by competing carriers, it shall not be termed undue preference or discrimination.

May I ask the Senator from Louisiana what he has in mind by that?

Mr. LONG. It simply means this: Everyone knows we have been trying to get railroad rates down in this country. This amendment simply means that if a railroad is willing to make a reduction in rates that does not go below the rate of a competing line, it shall not be termed undue discrimination.

For instance, I will give the Senator a case. Here is the case of Boston, Mass., which wanted this amendment, as I understand. Boston, Mass., has been trying to get the carriers to make a reduction in rate that would not be below the rate of competitors, but would be equal to it. The rate now is somewhat high. If they can get the railroads to make that reduction, it will not be classed as undue discrimination.

I might say to the Senator that I know of no one in the hearing, not a single one, who opposed this amendment. If the Senator will look through the hearings and find questions asked by me, when I was on the subcommittee, in which this amendment was mentioned to the witnesses, he will see that those urging the passage of this bill had no objection to this form of an amendment.

Mr. TYDINGS. Let me point out to the Senator that the only danger of the amendment is that a railroad, of course, has to make a given amount of money—and I am not arguing for the railroads—in order to keep out of the hands of receivers.

Mr. LONG. The railroads do not have to reduce rates.

Mr. TYDINGS. I have no objection to the rates being lowered to the bottom rung of the ladder, but if some road that is not economically situated reduces its rate to compete with some road which is economically well situated to haul the particular commerce, it obviously must make up that reduction for that particular job on an increased rate on some other job.

I should prefer to leave rate making in the hands of the Interstate Commerce Commission, and I think it is unsound to try to write rate-making legislation on the floor of the United States Senate by adopting an amendment which no one saw except its author, until it was offered, and then have but 2 minutes' explanation.

Mr. SMITH. Mr. President, may I ask the Senator a question?

Mr. TYDINGS. Certainly.

Mr. SMITH. The object is to prevent further discrimination against ports where they are more advantageously situated by virtue of their nearness to the source of supply. If this amendment should be agreed to, we might just as well tear up the remainder of the bill——

Mr. TYDINGS. That is the way it appears to me.

Mr. SMITH. For the reason that any road which is farther away can reduce its rates to the given port in order to compete with those roads which are nearer to the port. Just strike out all the remainder of the bill and adopt this amendment, and we will have exactly the condition we now have.

Mr. TYDINGS. That is the way it appeals to me. Then the other road would be in the same position as if the measure had never been passed.

Mr. SMITH. As a matter of course.

Mr. TYDINGS. I do not wish to question the good faith and I do not question the good faith of the Senator from Louisiana in offering the amendment; but, as I see it in its application, it will be in effect rate making by Congress—setting up a discrimination where an effort is being made to eliminate one. Inasmuch as this is a Senate bill and none of us have had a chance to read the amendment very carefully, I will ask the Senator if it would not be better to submit it to the committee of one House or the other and, when the bill goes to the House of Representatives, to have it incorporated there?

Mr. LONG. I may say that the amendment was read and discussed in the hearings. I will get a copy of the hearings of last year.

Mr. TYDINGS. Then why did not the committee report it?

Mr. LONG. The committee did not report on it at all, as I understand. The bill came out with some few amendments suggested, which did not particularly affect it.

I did not urge this amendment. I did not think the bill ever would be reported. The amendment came from the Fort Worth Chamber of Commerce, of Fort Worth, Tex. Of course, those who do not want any rate reductions can argue against it. There seems to be some general sentiment that railroads may reduce their own rates too much. This does not compel a railroad to make any reduction. It simply permits a common carrier to make a reduction in its rates where it is necessary and is considered good business for the railroad to accommodate traffic, and to get traffic, and to help traffic.

Mr. TYDINGS. I might possibly be for the amendment, although the more I study it the less inclined I am to support it. It looks to me to be an amendment which in effect makes permissible discrimination, or rebates, if you please, to a port. It is nothing in the world but the equivalent of saying that a railroad may give to a particular port a rebate, as I read it, because the railroads could say to one port, "We will give you a lower rate under this amendment than we give to the other port, notwithstanding the fact that the distance and the circumstances and the expense and so on would not make the giving of the new rate economically sound."

Mr. SMITH. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. SMITH. The point I wanted to stress was that this is in effect what we do under the fourth section to meet water competition. The amendment provides that a railroad, no matter how far distant, if it desired to carry freight to a given port regardless of distance, could lower its rate to meet the competition of a road which was nearer to the port, so that we would have, in effect, for the competition for a port, what is provided in the fourth section. We might just as well leave it as it is, for they are doing that now, and in order to place the ports in a situation where they can make a showing that they are entitled to consideration by virtue of their advantageous position, they have a right to have a rate for them.

This is a very ingeniously drawn amendment, which in its terms says, "Your bill is not worth bringing in. Just adopt this amendment and throw the bill out of the window."

Mr. LONG. Mr. President, if the Senator will yield, that is not the position that was taken by those at the hearing.

Mr. SMITH. Let me ask the Senator from Louisiana a question.

Mr. LONG. Very well.

Mr. TYDINGS. I yield to the Senator to ask a question.

Mr. SMITH. Honestly, would not this amendment practically accomplish just what the Senator has been contending for? Will not the Senator from Louisiana answer this ques-

tion? He has offered this amendment in order to bring about the result contended for by him in his argument of all day yesterday and all day today, has he not?

Mr. LONG. Oh, no; I do not think the bill ought to pass. I should not like to see the bill pass.

Mr. SMITH. But if it does pass, the Senator wants this amendment on it.

Mr. LONG. This removes from the bill a possibility that many of us do not want. As an example——

Mr. TYDINGS. Mr. President, I do not wish to take the Senator off the floor——

Mr. LONG. I can wait for the Senator to get through.

Mr. TYDINGS. I will yield for a question.

Mr. LONG. Oh, no.

Mr. TYDINGS. Let me point out the position into which the Senator from Louisiana has gotten himself with this amendment.

As I heard the Senator speak yesterday and this morning, what did he advocate? The Senator from Louisiana, in opposing the bill, advocated a philosophy which would take from any port the lower freight rate which might be offered to an internal shipper, and raise that lower freight rate to where the freight rate would apply to all shippers regardless of the circuitous route which some of them might have to take to reach the port.

Having argued that way all yesterday and all this morning, we now have an amendment which seeks to do the same thing in this way, instead of coming down from the North to the South, or going up from the South to the North on the other side of the proposition. In other words, as I see it, if the amendment is agreed to, the very condition about which the Senator from Louisiana complains he now embraces, because he assumes that under the amendment he can accomplish the result for which he has argued.

I do not intend to take up more of the time of the Senate. The vote by which the amendment was agreed to has been reconsidered, and I am content to have a vote on the amendment, because I assume that by now Senators have had a chance to read it.

Mr. PITTMAN. Mr. President, I am very curious to know whether the Senator thinks that the practice of the Interstate Commerce Commission, at the present time, of allowing the same rate between destination points to a longer road as to a shorter road, is unlawful.

Mr. TYDINGS. I may say to the Senator from Nevada that I am not discussing the long and short-haul question.

Mr. PITTMAN. Nor am I.

Mr. TYDINGS. I want to remove that from my discussion.

Mr. PITTMAN. I have not mentioned those words.

Mr. TYDINGS. I think that in a country so large as this there might be cases where uniform rates on two railroads, one going in a straight line, the other by a circuitous route, might be justified; but, as a general transportation policy, it seems to me that the Interstate Commerce Commission should force the lowest rate for the most expeditious route, rather than to have a general rate which would tend to raise the lower rate up to where both roads could compete evenly.

Mr. PITTMAN. I have been contending for that in the Senate for 23 years; but I am stating what I understand to be the present law, and this does not change that law, as I see it.

Mr. TYDINGS. I do not think it does.

Mr. PITTMAN. They reserve the right to grant to a circuitous system of railroads between destination points, we will say, a thousand miles apart, the same rate as that given to a shorter line. I am not going to comment on how they make it up, but that is the law at the present time.

Mr. TYDINGS. I do not approve of that any more than does the Senator.

Mr. PITTMAN. I do not approve of it, but this does not change it one iota.

Mr. TYDINGS. Although in certain cases there might be justification, which I am not able to visualize.

Mr. PITTMAN. I have not been able to visualize them, but I say that this does not change that situation.

Mr. TYDINGS. That is correct.

Mr. PITTMAN. They are not working on the theory that the shortest line can do the business cheaper than the long line. If that condition exists, they compensate the longer line in some way. I have never approved of that.

If we are to get down to the mileage basis on railroads—and I am not prepared to fight the mileage basis—if they charge so much a mile for moving freight over the same system backward and forward, I am for it, but that is not the law. They are not doing that.

When we come to the proposal before us, the only way on earth by which a long line reaching a more distant port could compete with a short line reaching a nearer port would be by reducing its mileage rate, and that is what the amendment proposes.

We will assume, for instance, that the farmers in the Middle West, or anywhere in the interior far enough away so that the distance would be practically the same from Gulf ports, Pacific ports, and Atlantic ports, want to have competing ports. If, for instance, we give the short line the best of it, then people in a certain section of the country on a short-line mileage basis could reach foreign markets cheaper than would be possible probably 200 or 300 miles south of that point. So, as a matter of fact, the policy with regard to foreign exports—not internal traffic—has been to give all exporters through all ports an equal opportunity to reach the foreign ports. We have made quite an exception with regard to export trade. Therefore, there is only one way in which a railroad having a greater mileage to a port can maintain its traffic, and that is by charging a lower rate per mile.

If we should declare that it is unlawful for railroads to do that, or that to do it is a discrimination against a port, we should again bring into the discussion the question of what is a port. As I take it, the Supreme Court decision in the case which has been referred to time and time again does not state that a port cannot be a locality. The Court was discussing a port, not as a point of origin or destination of export trade, but as a gateway through which the traffic passed. The Court held that a port, or a city, or a town—call it what you wish—comes within the definition of "locality" if the freight originates there, or if it is the destination of the freight. The question is not understood here.

Mr. President, when the present amendment is disposed of I shall offer an amendment which will bring the word "port" entirely within the definition of "locality" as it has been interpreted by the Interstate Commerce Commission for 40 years. The amendment reads:

Provided, That the port, port district, gateway, or transit point is a point of origin or destination of the traffic.

If that provision shall be made, we will be entirely within all the decisions which have been rendered by the Interstate Commerce Commission up to 1929.

Mr. TYDINGS. Mr. President, of course, I am not an expert in this matter. The Senator from Nevada has been on the committee and has studied the question much more than have I; but, off-hand, I personally see no reason why the Senator's point is not well taken. A locality not only includes a harbor or terminus itself, but it includes the city around it. They are interlocked. I think the amendment is a fair one, and it is proper that it should be included in this bill.

Mr. PITTMAN. Absolutely. I have read the case which has been so frequently referred to; and the reason for the confusion which existed in that connection was that in that particular case the question was not concerning a point of origin or destination, but it concerned the traffic going through a certain point. It led to the belief that a port or a city connected with a port could not come within that law.

Mr. MOORE. Mr. President, in order to correct any erroneous impression I wish to say that the amendment

offered by the Senator from Louisiana was not agreed to or accepted by our committee.

Mr. WALSH. Mr. President, may I ask if this amendment was ever presented to the subcommittee of which the Senator from New Jersey was chairman?

Mr. MOORE. No; it was not.

Mr. WALSH. I have read the record of the hearings, and I see no reference at all to it.

Mr. LONG. Mr. President, this amendment was presented during the hearings of last year. I could refer the Senate to the point at which the amendment was offered, but my copy of the hearings has been temporarily removed from my desk. This amendment was read last year in the hearings. I only undertook to attend one hearing this year.

Mr. President, no one can have any objection to this amendment unless he is mercenary and selfish. Anyone must be wholly mercenary and selfish to oppose this amendment, and he must be very narrowly selfish from a territorial standpoint if he understands the amendment and yet opposes it. All on earth it undertakes to do is to permit a reduction which can be voluntarily made by a carrier, not to undercut another carrier, but to meet the competition of the other carrier. The carrier does not have to make the reduction in rates.

As an example, there are quite frequently immense crops which have to be moved thousands of miles. The carriers would like to move them. There is no way in the world by which they can move them unless they are permitted to make a rate reduction which at least equalizes the rate with other rates. That is done in the matter of passenger traffic.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Idaho?

Mr. LONG. I yield.

Mr. BORAH. The amendment has come in rather hurriedly, but my reading of it leads me to believe that under it the rates cannot be reduced below those of competitive points.

Mr. LONG. That is all.

Mr. BORAH. And, secondly, that the reduction may be voluntary.

Mr. LONG. That is all.

Mr. BORAH. And cannot be made compulsory?

Mr. LONG. That is correct.

Mr. BORAH. What objection can there be to that?

Mr. TYDINGS. Mr. President, I did not hear the Senator's question.

Mr. BORAH. If a railroad sees fit voluntarily to reduce its rate to the competitive basis of another road, who has any right to object to its doing so?

Mr. TYDINGS. I think there is a great deal to be said on the other side of that question. If the Senator will bear with me, I shall try to show him. The whole principle would be one of discrimination.

Mr. BORAH. But the rates cannot get below the competitive point. The shipper cannot get below the line of competition.

Mr. TYDINGS. The Senator from Idaho knows that if one railroad charges $10 between two points, and another railroad, whose line is twice as long between those two points as the first railroad's line, also charges $10, the discrimination in rate must be reflected by increasing other rates on the longer road.

Mr. BORAH. The Senator, however, overlooks the fact that in the first place in this instance the reduction is voluntary. In the second place, it cannot be below the competitive rate which has been established. The trouble with the Interstate Commerce Commission and its machinery for the past 30 years is that it is impossible to have them reduce rates. It is always a matter of increasing rates. Any move which permits a reduction of rates is objected to somewhere at some place. This amendment provides for a voluntary act upon the part of the railroads. The reduction cannot go below a certain point. It may be beneficial to the shipper, and why in the name of heaven should it not be granted?

Mr. TYDINGS. Simply because the other customers of the longer railroad would have to make up, by means of increased rates, the loss due to the discrimination against the shipper on the shorter line. When we enter upon the subject of discrimination, a railroad cannot operate its business and lose on one kind of load and keep on operating without charging more on another kind of a load.

Mr. BORAH. If the railroad were permitted to reduce rates at its pleasure, to reduce them as it would like to reduce—perhaps in order to destroy its competitors—that would be a different thing; but it would not be permitted to do so under this amendment.

Mr. TYDINGS. Why not?

Mr. BORAH. Because the amendment provides the rate cannot be reduced below a certain point.

Mr. TYDINGS. I do not think so.

Mr. LONG. Oh, yes; it does.

Mr. TYDINGS. What does it say?

Mr. LONG. It provides for equality.

Mr. TYDINGS. Then the first one, we will say, reduces its rates, and the other one will reduce again, and in the end we should have a situation where neither of them could run except by losing money, and, perforce, would have to make up that loss by other charges.

Mr. BORAH. Mr. President, let us not be so sensitive about the railroads, and think something of the shipper who will get some benefit from the reduction. There is no danger of the railroads voluntarily reducing rates below a point where they are making money. They will do that only if they are compelled to do it. I can see no reason why they should not be permitted voluntarily to make the reduction; and if somebody else reduces as the result of that reduction, the shipper will get the benefit of it, and the country will get the benefit of it.

Mr. TYDINGS. The shipper gets that benefit until he begins to ship over the same railroad for a shorter distance, for which the same rate is charged as for the longer distance. We cannot rob Peter to pay Paul, and if we give Paul an advantage we must rob Peter in order to pay him.

Mr. BORAH. Assuming that Peter is the shipper, we have been robbing Peter to pay Paul for years.

Mr. TYDINGS. How?

Mr. BORAH. By rates which are constantly increased.

Mr. TYDINGS. Very well. Railroads are constantly going into the hands of the receivers.

Mr. LONG. Losing business.

Mr. BORAH. For different reasons, which have nothing to do with the question we are now discussing.

Mr. TYDINGS. One of the main reasons why the railroads have gone into bankruptcy is that they have less revenue now than they had heretofore.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. TYDINGS. I will yield in just a moment. The net revenues of the railroads of the United States in the year 1929 were $5,200,000,000. How much are they today? Is there a Senator here who knows? They were $5,200,000,000 in 1929, and yet we are talking about reducing freight rates; and not a Member of the Senate knows how the railroad revenues last year compared with those in 1929.

Mr. BORAH. If the railroads have not had their income reduced since 1929, they are the only industry under the flag which has not.

Mr. TYDINGS. Of course; but I desire to tell the Senator that in 1929, as a class, the railroads were not rolling in wealth. Take the dividends of the railroads: One can read down the list of stock after stock which has not had a dividend payment for 4 or 5 years, and yet it is proposed here to write rates on the floor of the Senate without any hearing, without the Interstate Commerce Commission being consulted, and against sound policy. It is ridiculous for the Senate to attempt to set itself up as a rate-making body without a scintilla of evidence or fact upon which to predicate the rate making.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. CLARK. Does the Senator find in the amendment of the Senator from Louisiana anything which has to do with rate making?

Mr. TYDINGS. Certainly.

Mr. CLARK. I shall be glad if the Senator will find it for me.

Mr. TYDINGS. If a railroad is permitted voluntarily to reduce its rates on certain commodities below the point where it can carry on, or at least break even, which will necessarily force that railroad, if it is to stay in business, to raise its rates on other commodities, is that not rate making? If not, I should like to know what rate making is.

Mr. CLARK. Mr. President, will the Senator yield further?

Mr. TYDINGS. I yield.

Mr. CLARK. The Senator a while ago stated that no one on the floor of the Senate could tell why the railroads were going into receivership except by reason of a falling off of business. I can give the Senator another reason.

Mr. TYDINGS. I did not say that was the only reason.

Mr. CLARK. I understood the Senator to say that.

Mr. TYDINGS. I did not say that. I said one of the principal reasons—in my judgment the greatest of the reasons, considering railroads as a whole—why they have gone into receivership is because their business has dropped to such a point that fixed operating expense overshadows fixed operating income, and anybody will be put out of business who tries to operate under that plan.

Mr. CLARK. I agree with the Senator entirely that that is one of the reasons why railroads have been going into receivership; but the primary and overshadowing reason why railroads have been going into receivership in the past few years is that they have been in the hands of New York bankers who have milked the railroads and plundered the stockholders and the consumers and the shippers along the routes.

Mr. TYDINGS. That is true of some railroads; but there are many railroads which would have gone into the hands of receivers even if all the New York bankers had moved to Philadelphia or St. Louis, Mo.

Mr. CLARK. It so happens that some of those railroads are domiciled in St. Louis, and that is the reason I chance to know about the situation.

Mr. TYDINGS. Take the Seaboard Air Line, the Atlantic Coast Line, or almost any other railroad that has recently been in receivership, and look at the traffic, and one can see that the drop in traffic is such as barely to allow enough to enable the road to pay taxes.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Minnesota?

Mr. TYDINGS. I yield.

Mr. SHIPSTEAD. The gradual increasing of the rates charged by the railroads would drive any railroad into bankruptcy by driving away business.

Mr. TYDINGS. That may be true; I am not arguing that question here. What I am arguing is that wherever a railroad, in order to get business, reduces its rates to a point where it is operating at less than the cost involved to complete the transaction, it must raise its rates on something else or its operating income will be less than its operating expenses.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. TYDINGS. Yes; I yield.

Mr. PITTMAN. As I understand, this amendment is voluntary with the railroads?

Mr. TYDINGS. That is correct.

Mr. PITTMAN. That is my understanding.

Mr. TYDINGS. That is also my understanding.

Mr. PITTMAN. Therefore, they cannot be compelled to reduce rates to a given point, but they have a right to do so.

Mr. TYDINGS. That is correct.

Mr. PITTMAN. On the other hand, no railroad may raise its rates without the consent of the Interstate Commerce Commission?

Mr. TYDINGS. I think that is correct.

Mr. PITTMAN. Therefore, does the Senator suppose that any railroad is going to be foolish enough to voluntarily reduce its rates, even within the limits of a competitive rate, trusting to raise some other rates when it cannot raise rates without the permission of the Interstate Commerce Commission?

Mr. TYDINGS. I should think the railroads would be ready to make a gamble, hoping they could attract sufficient business to their lines, and that they might eventually "make a go" of it, in which case the traffic would be sucked from the cheaper line which in turn would lose the revenue; but although it happened to be the shorter distance between two points, if its traffic—and of course the case is purely hypothetical—if its traffic income declined, necessarily it would be an unsound decline, because it would be induced by unfair competition.

Let me cite an illustration from the city of Washington. The taxicab fares here start at 20 cents for the first zone; they are 40 cents for the second zone; 50 cents, I think it is, for the third zone, and 80 cents for the fourth zone. Let us suppose that one man reduces his rate to 10 cents, 20 cents, 30 cents, and 40 cents, or that a fleet of taxicabs do so, how long could any of them remain in business? Suppose further that those taxicabs received less than it cost to operate them; in that case there would pretty soon be no taxicab system; and that is what apparently we are ready to do with the railroad systems. You cannot get something for nothing; you cannot give Peter an advantage without robbing a Paul to do it. I am opposed to these discriminations which are not built upon the geography of the country.

What is the use of a port located in a particularly advantageous place being there if by law its traffic may be twisted and diverted to go to an inconvenient port 1,000 or 2,000 miles distant? There can be no reason. This proposal is not sound; in the last analysis, it is nothing more nor less than giving to a port a rebate; that is all.

The idea of one transportation system being only a thousand miles long and another one being 2,000 miles long and that the one which hauls the 2,000-mile distance can have no greater freight rate than the one that hauls over the 1,000-mile distance is eminently unfair.

Mr. BORAH. Mr. President, this amendment does not provide for that.

Mr. TYDINGS. Yes, it does; because it permits the long railroad to lower its rate to the exact rate charged by the short railroad. If that would not put them even, I do not know what would; and if we shall permit that long railroad to lower its transportation charges to meet those of the short railroad, then it must, if it gives that advantage to Peter, rob some other shipper whose name is Paul to make up the advantage.

Mr. BORAH. The railroad could not rob the other shipper without the consent of the Interstate Commerce Commission.

Mr. TYDINGS. Yes, it could; because the railroad could lower its rates voluntarily; and if, by lowering its rates voluntarily, it should put into jeopardy its financial structure, the whole thing would go into receivership, and every shipper, both the favored and unfavored, would have to bear his burden of a curtailed train service because the receivers would have to make income and outgo balance.

I am not going to take up any more time. If the Senate wants to adopt an amendment of this character, if it wants to take to its bosom the policy of rebates, if it wants to take to its bosom the policy of discrimination, if it wants to adopt a policy which is unsound, and which, in the end, will only make the longer transportation system increase its rates on the short haul for the advantages that they are giving on the long haul, that is the business of the Senate. For my part, I believe that the place to make rates is in the Interstate Commerce Commission, and we either ought to make them there or make them here; we cannot make them in both places; and, obviously, we ought not to make them here unless we have the data upon which to bottom sound judgment.

Mr. LONG. Mr. President, I am surprised at the rate-making theory propounded by my friend from Maryland. He

tells us about the railroads not being allowed to reduce their rates. They do reduce their rates on thousands of items. They are, however, not allowed to increase their rates.

I am sorry the Senator from Maryland is leaving the Chamber.

Mr. TYDINGS. The Senator from Maryland is not leaving the Chamber; but let me say here that he will leave whenever he gets ready to leave, and he will not consider it a discourtesy to anyone, either.

Mr. LONG. I do not care whether the Senator from Maryland leaves or not, but I would prefer to have him stay and hear what I have to say, because I should like to refer to what he has said.

As I have said, I am surprised to hear the Senator say that the railroads cannot make reductions in rates. The railroads are allowed to make all kinds of reductions. It is the policy of every rate-making body that I know anything about, including the Interstate Commerce Commission, to permit rate reductions, and no one undertakes to prevent that being done.

In the case of the passenger service, no one forbids a railroad granting excursion rates or anything of that kind for the purpose of encouraging passenger movement. The argument of the Senator from Maryland is the first such argument I have ever heard; it is a railroad argument that would have made old man James J. Hill turn over in his grave. I never heard a colder-blooded argument made for the maintenance of higher railroad rates than has been made by the Senator from Maryland when he says that the amendment is a pitiable proposition; that we cannot even dare to trust the railroad to grant a reduction of rates that is going to equalize its charges even with those of a competitor, on the ground that it would put the railroad out of business, when the railroad is not even made to do it, and that the amendment would put the Senate in the rate-making business.

I wish to refer to the hearing on this case before the Interstate Commerce Commission last year. I wish to show by that document that this amendment was there proposed, and those who then were there urging this proposed law were either favorable or not opposed to this amendment being written into the bill.

The only argument we now hear against this amendment is made by the Senator from Maryland, and the only argument he makes is that the railroad is liable to make a reduction to equalize the cost which will later on force it to raise the rates charged someone else. That is more cold-blooded than Mr. James J. Hill or Mr. Vanderbilt or any of the other gentlemen interested in railroads ever advanced when they maintained that the public should not be considered at all when it came to the question of railroad rate making.

I think we are exceedingly solicitous about everybody except the people who are trying to ship things. As was said by another Senator here this morning, most of the harm the railroads have been doing to themselves has been done by driving business off their own lines. That is one of the greatest harms they have been doing.

Mr. President, I want to put a question to my friend from Massachusetts [Mr. WALSH], who, I understand, lives in Boston. Suppose tomorrow morning that the railroads going into Boston decided to equalize the port charges with New York, would the Senator from Massachusetts object? On the contrary, the Senator from Maryland does object; and I will tell the Senate why. Maryland happens to have the only port that has one little railroad that does not go anywhere else but to Baltimore, so they do not want the other ports to have anything to compete with Baltimore; that is all. The Senator from Maryland would impose a charge on the interior of millions and hundreds of millions of dollars and do nobody any good, on the ground that we are doing the railroads a terrible injustice by permitting them to reduce a rate to what point? To a point that is not below what their competitor is charging to render the same service to a competing port. I certainly hope that the Senate is not going to be so unmindful of the welfare of the country as a whole and of shippers in general, if this bill should pass, as to forbid rate reductions being made where carriers are willing to make them and do no harm to anybody.

What harm has anybody ever pointed out here will be done to anyone by such reductions? What is there in the way of injury that can be done to a single soul by allowing a railroad, if it wants to do so, not compelling it if it does not want to do so, to reduce its rates not lower than to a point as low as its competitor in order that the carriers may have the benefit of such rate reduction and that all shippers may have it?

I do not want to prolong the discussion. I was surprised that the Senator from Maryland, after this amendment had been voted on, should take the position he did. I took this amendment up with the Senators in charge of the pending bill and they told me they had no objection to it. I so stated on the floor of the Senate, and the amendment was voted on and adopted.

I will show that this matter was brought up last year in the hearings. In order that I may have time to look up the amendment which was suggested last year, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	Lewis	Radcliffe
Ashurst	Copeland	Logan	Reynolds
Bachman	Dickinson	Lonergan	Robinson
Bankhead	Dieterich	Long	Schall
Barbour	Donahey	McAdoo	Schwellenbach
Barkley	Duffy	McCarran	Sheppard
Bilbo	Fletcher	McGill	Shipstead
Black	George	McKellar	Smith
Bone	Gibson	McNary	Steiwer
Borah	Glass	Maloney	Thomas, Okla.
Brown	Gore	Metcalf	Townsend
Bulkley	Guffey	Minton	Trammell
Bulow	Hale	Moore	Truman
Burke	Harrison	Murphy	Tydings
Byrd	Hastings	Murray	Van Nuys
Byrnes	Hatch	Neely	Wagner
Capper	Hayden	Norbeck	Walsh
Caraway	Holt	Norris	Wheeler
Carey	Johnson	O'Mahoney	White
Chavez	Keyes	Overton	
Clark	King	Pittman	
Connally	La Follette	Pope	

Mr. LEWIS. I reannounce the absences of Senators announced on previous roll calls.

The PRESIDING OFFICER. Eighty-five Senators have answered to their names. A quorum is present.

Mr. CLARK. Mr. President, I desire to occupy the floor briefly in support of the amendment of the Senator from Louisiana [Mr. LONG]. Let me read the amendment so Senators may understand it:

> Where rates and charges of common carriers to ports are made as reductions to equalize rates to ports served by competing carriers, it shall not be termed undue preference or discrimination.

My interest in the matter has to do with the interest which has been evinced and demonstrated over a very long period by myself and my predecessors in this body and in the body at the other end of the Capitol and by the people of the Middle West in behalf of an inland waterway system.

To my mind without the amendment suggested by the Senator from Louisiana the bill sponsored by the Senator from New Jersey [Mr. MOORE] would wipe out all the advantages which have been gained by the people of my territory—and when I say "the people of my territory" I mean all the people of the entire Middle West—through the development of a great inland waterway system at an expense to the Federal Government of a great many million dollars.

Let me cite an example. Unless the amendment of the Senator from Louisiana were adopted, as I see the situation, a farmer in Clay County, Mo., across the Missouri River from Kansas City, who is a producer and shipper of wheat, who desires to take advantage of the development of the Mississippi-Missouri River Waterway, would be hamstrung. Only within the last 3 weeks has barge-line service, at an expense of many million dollars to the Federal Government, been resumed on the Missouri River from St. Louis to Kansas City. We are now in a position to take advantage of

that service. Of course, under the necessities of nature New Orleans is the port to which we must send our products.

No one who is familiar with the development of competition between water rates and railroad rates can doubt that the railroad rates from Kansas City to New Orleans, in response to the competition of new water rates from Kansas City to New Orleans, will be reduced.

Under the bill, as I understand, unless the amendment of the Senator from Louisiana shall be adopted, because of the fact that there is a railroad line from Kansas City to Port Arthur, Tex., having a shorter mileage, shippers from Clay County, Mo., or Nodaway County, Mo., or Platte County, Mo., or the great agricultural section of Missouri and the great agricultural section of Kansas will be penalized in competition in taking advantage of the water rates from Kansas City to New Orleans via the new waterway provided by the Federal Government by reason of the fact that there happens to be a railroad short line from Kansas City, Mo., to Port Arthur, Tex.

If the bill is passed without the amendment of the Senator from Louisiana, then I believe the statement which the Senator from Louisiana made yesterday, that the Government has been squandering money in the perfection of an inland waterway, is absolutely well taken. As one who throughout his life has been a devotee and advocate of the development of an adequate system of inland waterways, I protest against any such course. I cannot understand how any Senator from the Mississippi Valley, from the States lying along the Mississippi River, or the Missouri River, or the Arkansas River, having access to this inland waterway system, can be willing to vote for the bill without the amendment of the Senator from Louisiana.

Mr. LONG. Mr. President, I desire to restate what I have previously stated, that this amendment was requested at the hearing even by the proponents of this bill. I have obtained the record of the hearings, and I now shall read a typical statement; and I am glad my friend from Massachusetts [Mr. WALSH] is here to hear me read it. I am reading from the Boston appearance.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. WALSH. There is now pending before one of the committees the petition of interested parties in Boston for a change in the basis of rate making which I should like to have made, but I do not desire to have it made on this bill. The trouble with the Senator's amendment is that he is trying to deal with a policy of regulation about which there is a wide division of opinion in connection with a measure which merely increases the jurisdiction of the Interstate Commerce Commission.

Mr. LONG. That is not what the Boston authorities thought.

Mr. WALSH. I know what they thought. They wanted a bill passed; and I also should like to have it passed.

Mr. LONG. All right; I have it here for the Senator. It is all here for him. Here is what they said. Among the typical questions which I asked, I asked this question of several of the witnesses appearing at the hearing:

> Then you would like to have written into this bill that the purpose is to try to establish an equality of ports; at least that there should be nothing done under this bill that would allow them to prevent an equality of ports?
>
> Mr. DOHERTY. That is absolutely right.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. As I understand the Senator's argument, under the existing law shippers of wheat or corn or hogs or anything else from Kansas City to Europe or South America would get the benefit of competition from Kansas City to New Orleans between the waterways set up by the Government and the railroads if this amendment should be adopted.

Mr. LONG. That is correct.

Mr. CLARK. Without the amendment of the Senator from Louisiana, because of the fact that the Kansas City Southern has a rail route from Kansas City to Port Arthur, Tex., which is shorter than the rail route from Kansas City to New Orleans, we should be deprived of that advantage.

Mr. LONG. That is true. Not only that——

Mr. MOORE. Mr. President, will the Senator yield?

Mr. LONG. No; wait just a moment until I answer. I hope my friend from New Jersey is not going to speak on both sides of my amendment. I quoted him in favor of it last time.

Mr. MOORE. Mr. President, I rise to a point of order.

Mr. LONG. I will yield to the Senator.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. MOORE. The Senator from Louisiana has spoken four times on this amendment.

Mr. CLARK. Then, Mr. President, I claim the floor.

Mr. LONG. I have not talked at all yet; have I?

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. LONG. I have not said much that has been said. That may be true, but let me answer this question, and then I shall be glad to yield to my friend from Massachusetts. Let me answer the question of the Senator from Missouri and those who have been voting for waterways.

Not only is what the Senator points out true but the Santa Fe would tap another western territory and prevent the use of the waterway system, because from Kansas City through St. Louis down the Mississippi River is a considerably longer and more circuitous route than from Kansas City direct to the Gulf coast by either the Katy or the Kansas City Southern Railroad. Therefore, you would forbid the use of the waterway system through the particular imposition that you have made here, providing that traffic must go by the shorter route. There is no waterway route that I know of that is not a longer route than the one by rail; so naturally you would inflict upon the water route a penalty that it could not survive.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. Of course, waterways run to ports where God has made them.

Mr. LONG. That is true.

Mr. CLARK. Competitive waterway and railroad routes run only to ports which God has made the end of the waterway route.

Mr. LONG. That is true; and this bill without this amendment ought to be entitled "A bill to undo everything the Lord has done." [Laughter.] That is what it ought to be entitled. That is what the bill is—a measure to undo what the Lord has done.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BARKLEY. I have just read hastily the amendment of the Senator from Louisiana. It is not easy, at first blush, to gather just what it encompasses. As I understand, the amendment provides that reductions in rates to the ports provided for in this bill in order to equalize rates between competitive carriers shall not be regarded as discriminations.

Mr. LONG. That is correct.

Mr. BARKLEY. Does that include only rail carriers, or does it contemplate water carriers' competition, either actual or potential, such as was the basis, in part at least, of the fourth section of the Interstate Commerce Act?

Mr. LONG. I had in mind any carrier, but, of course, particularly the rail carrier. In other words, that was the particular thing I had in mind when I drew the amendment. I desire to say that I drew the amendment very hastily from an amendment which, as I remembered, was offered at the hearing. I have it here before me.

Mr. BARKLEY. As a matter of fact, though, most discriminations occur with respect to rates, preferences of all sorts, rebates that were formerly given by railroads to certain sections of the country in order to build up one section against the other. It was largely a matter of rates. If this amendment should be adopted, I am wondering whether it would not nullify the bill we are now considering.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. I again call the attention of the Senator from Kentucky to the example I just used. There now is water competition in rates between Kansas City, Mo., and New Orleans, which necessarily brings down the rates of the rail competition. There is not water competition between Kansas City, Mo., and Port Arthur, Tex. As I read this bill without the amendment of the Senator from Louisiana, it prevents the effect of water competition between Kansas City, Mo., and New Orleans, La., because the rail route from Kansas City, Mo., to Port Arthur, Tex., is shorter than the water route.

Mr. BARKLEY. If the Senator will yield further, I do not desire to have anything done that will destroy any actual or potential water competition, although considerable effort is now being made, and there is quite a volume of opinion in favor of it, to have Congress enact legislation that will take away any advantage water may have as compared to rail.

Mr. CLARK. I will say to the Senator from Kentucky, if the Senator from Louisiana will permit me, that all my life I have been an advocate of waterway development in the United States for the purpose of bringing down transportation rates; and I am not willing now to have all the advantage which might have accrued to the people of the interior of the United States from those tremendous expenditures nullified.

Mr. BARKLEY. I appreciate that, and I agree; but it has not been my understanding that the bill as originally proposed really had anything to do with water rates. It had nothing to do with the lowering of rates, or permission by the Interstate Commerce Commission to lower rates in order to compete with water transportation; but it was intended to give an opportunity to ports against which there had been discrimination by railroads, either in competition with other railroads or through a desire to give advantage to some community over some other community. I did not think, and I have not yet been convinced, that the question of water competition is directly involved in the bill presented by the Senator from New Jersey.

Mr. MOORE. Mr. President, will the Senator yield?

Mr. CLARK. Will the Senator from Louisiana yield to me for just a moment to enable me to answer the Senator from Kentucky?

Mr. LONG. I yield.

Mr. CLARK. Of course, that is not apparent on the face of the bill. Water competition is not mentioned; but if water competition should be left out, and if it were only a question of the shipment of grain from Kansas City, Mo., let us say, and a differential rate were made between the shipment of grain from Kansas City, Mo., to Port Arthur, Tex., by one railroad having a straight line and by another railroad having a straight line to New Orleans so great that the railroad alone, in competition with the water route from Kansas City to New Orleans could not bring the rates down, that certainly would be a very great inhibition against the use and development of the waterway system of the United States.

Mr. BARKLEY. This bill grows out of a decision of the Supreme Court, back 5 or 6 years ago, which held——

Mr. CLARK. Two decisions of the Supreme Court, I will say.

Mr. BARKLEY. Which held that the word "port" not being used in the act of Congress, the port had no remedy; it had no forum at all where it could go. Without criticizing any court or anybody else, it seems to me rather a strained construction to say that when Congress mentioned "locality" or "community" it did not include a port. Of course, a port is a locality; it is a community; and, as I understand, this bill is simply to correct a situation brought about largely by that decision.

Mr. MOORE. That is exactly the case.

Mr. BARKLEY. For years and years before that decision this practice went on under the acts of Congress to regulate commerce, and railroads were permitted to reduce their rates to meet actual or potential water competition; and everybody supposed that a port, which was at least a part of a locality or a community, would have the same right that the entire community would have to appeal for redress against deliberate acts of preference and discrimination. I am still wondering whether the passage of this bill, as originally drawn, would have any bearing whatever upon changing the status quo which existed prior to the decision of the Supreme Court.

Mr. CLARK. If the Senator from Louisiana will yield——

The PRESIDING OFFICER. Does the Senator from Louisiana continue to yield?

Mr. LONG. I yield.

Mr. CLARK. Of course, the term "locality" might be understood to include ports which were individual municipalities in the same locality. For instance, to use the example which the Senator from Louisiana repeatedly used yesterday, it might be interpreted to include New Orleans and Lake Charles. In other words, the purpose of the act, as I see it, was to prevent discrimination between localities or regions, as we might call them.

Mr. BARKLEY. Yes.

Mr. CLARK. Under the existing law, in view of the two decisions of the Supreme Court—and there were two instead of one, as the Senator from Kentucky mentioned a moment ago—in view of the two decisions of the Supreme Court, any shipper who feels himself aggrieved either way has a right to appeal to the Interstate Commerce Commission.

Mr. BARKLEY. Yes.

Mr. CLARK. As I see it, the bill is to permit any port which happens to be located 1 mile closer to a market than another port to bring an action before the Interstate Commerce Commission.

Mr. BARKLEY. Let us overlook for the moment the question of rail competition. The law gives a remedy to any person, corporation, or association against any railroad which discriminates against it in favor of some other association, person, or corporation. That may not have any bearing at all on railroad competition. It may be a discrimination as between different points on its own line, where there is no competition of any sort.

If a corporation, or a person, or an association, or a community, has the right to go before a forum to obtain redress of grievances against a given carrier because that carrier has discriminated against it in favor of some other person, association, corporation, or community, it is difficult for me to find good reason for denying the same remedy to a port which just happens to be a port because it is on a body of water. I may be hopelessly confused on it, but I do not see where any harm could come by restoring the status quo. It was never charged, except in these suits which finally got to the Supreme Court, that there was any unfairness. It was just a matter of interpretation. I have no doubt that, when Congress passed the original act, if it had thought about it, or had thought there would be any difficulty about the interpretation, it would have written in the word "port."

Mr. CLARK. Mr. President, if the Senator from Louisiana will yield, I shall be glad to explain the point to the Senator from Kentucky.

Of course, the purpose of the original act, and what should now be the purpose of Congress, was to grant a cause of action to anyone who felt himself aggrieved. Congress originally used the term "locality", which is not a municipality, not a body politic.

Since ports have become organized bodies politic under the laws of various States, municipal bodies, the purpose of the pending bill is to make it possible for one municipality, so to speak, a municipal government, a port authority, organized under the laws of one State, to bring a complaint against another body politic, another port authority, organized under the laws of another State, to prevent shippers' exercising their private right to ship through the ports they may desire to use.

Mr. WALSH. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I am glad to yield.

Mr. WALSH. I think that perhaps some have the wrong idea as to when discrimination takes place and when the Interstate Commerce Commission has jurisdiction.

As I understand, a rate charged by two different railroads to different points, though the rate to one point may be much lower than the rate to the other, does not raise the question of discrimination. It is only when the same railroad picks out one port to give it business to the injury of another port that discrimination takes place.

Mr. CLARK. I do not so understand the Interstate Commerce Act.

Mr. WALSH. I have that fact from the gentlemen from the Interstate Commerce Commission now on the floor of the Senate. When a railroad is in competition with another railroad and establishes rates to two different points, there is not a question of discrimination.

Mr. CLARK. Will the Senator then explain his opposition to the amendment of the Senator from Louisiana?

Mr. WALSH. I am glad to answer the question. The principle involved is in part covered in another bill, and it is a highly controversial issue. There is a wide difference of opinion. If this amendment shall be agreed to, the bill of the Senator from New Jersey will be dead.

Mr. CLARK. Mr. President——

Mr. WALSH. Let me answer further. It is a highly controversial issue. The moment the amendment is adopted there will be telegrams from every section of the country, from those who say they are injured, and it will start a controversy and kill the measure now pending.

I want to see the measure now pending enacted without any interference with the fundamental principles guiding and directing the Interstate Commerce Commission. The bill merely increases the jurisdiction of the Commission and does not affect any policy or principle. The amendment goes into the question of changing on the floor of the Senate a highly controversial question dealing with a policy of the Interstate Commerce Commission.

Mr. CLARK. If the Senator from Louisiana will permit me, the Senator from Massachusetts wants the bill to go through without the consideration of any controversial question in which he is involved; but let me say to him that this question is as highly controversial as any question before his committee unless the amendment of the Senator from Louisiana is agreed to.

Mr. WALSH. I am not on the committee.

Mr. CLARK. The Senator from Massachusetts wants to eat his cake and keep it, too. The Senator from Massachusetts wants to get through things in which his port and his State happen to be interested and to regard as controversial anything which affects any other part of the country.

Mr. WALSH. As a matter of fact, the amendment the Senator from Louisiana is offering now and which I am opposing, has support in my State. I ask the Senator from Louisiana, Am I right?

Mr. LONG. Certainly; and I do not understand the Senator.

Mr. WALSH. The Senator is seeking to have me support an amendment which he knows interests in my State want, but which would result in defeating the bill presented by the Senator from New Jersey.

Mr. LONG. To the contrary. The Senator is mistaken. There will not be 5 votes against the bill if the amendment shall be accepted.

Mr. WALSH. Not here; but there will be when it gets to the House.

Mr. LONG. No; there will not be. I stake whatever I may have on being correct about the matter. I believe I am absolutely right.

As the Senator has said, what I am advocating came from the State of Massachusetts. There is a whole page of testimony to that effect. I am confident the Senator is for the amendment in principle.

Mr. CLARK. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG. I yield.

Mr. CLARK. Does the Senator think that the bill to which the Senator from Massachusetts refers as a controversial measure, which is now before his committee, is any more controversial than the pending bill without the Senator's amendment?

Mr. LONG. I do not think it is one-tenth of 1 percent so controversial. On the contrary, I think we would remove controversy from this whole structure of legislation if we put this exception into the bill. Instead of complicating it, I think it makes it something we can all support.

As I read a moment ago, and I do not mind reading it again:

> So all you are fighting on is the railroad question?
> Mr. DOHERTY. All we want is a right to live, the same as any other port, and we would be perfectly satisfied with equalization of rates, the same as every other port on the Atlantic coast, which we are not getting today, and we are entitled to it.

That is the testimony. Yet I am having to fight the gentleman who is sponsoring the legislation, and try to give him what he wants.

If the Senator from Massachusetts would adopt the attitude originally taken by the chairman of the subcommittee and the chairman of the main committee which reported the bill we would not have any controversy here. There is no one here who ought to raise this issue on the floor of the Senate, and the only argument that has been made is that made by the Senator from Maryland, that it is going to cause railroads to make reductions and give people rate reductions which the people ought not to have. That is the only argument that has been made.

This is no new principle. Railroads are allowed to make rate reductions without consulting anybody. The larger percentage of railroad rates are rates that are published, that are in the nature of reductions, or are not increases, at any rate, and they are not required to have a hearing of any kind before any commission of the Federal Government or of the State government in order to get that done.

Consider the question of passenger excursion rates. Down in Louisiana a few months ago the railroads ran five trains to Nashville, Tenn., with 20 cars to the train, charging $6 for the round trip, when the regular rate for a round trip would have been about $40 or $50 for the same trip. There was a rate reduction there on passenger travel of nearly 80 percent, the rate being one-fourth or one-half a cent a mile instead of 3.6 cents a mile.

Why did we not say in the Senate, "No; we will not allow that kind of a rate reduction to be made, because the railroads are likely to reduce the rate to too low a point"? The railroads would not have gotten that business at all if they had not reduced their rates. As it was, three or four or five thousand passengers rode at half a cent a mile, and paid the railroads a good profit, whereas their rails would have been idle and their cars rusting for the same length of time if they had not been allowed to make that reduction.

Mr. CLARK. Does not the Senator think that a good many railroads in the United States would not have been forced into receiverships in the last 10 years if they had met the competition of privately owned automobiles, and trucks, and busses, and reduced their rates?

Mr. LONG. I have been told that by some of the best railroad men I know. I met one of them who came up to the Congress during the time we were considering the railroad-bankruptcy bill, who said that one of their greatest troubles was that they had never met competition as they should have met it; that instead of raising railroad rates they should have reduced them in many cases largely below any figure they had had prior to the depression coming on.

They went to the Interstate Commerce Commission against the Louisiana Railroad Commission and the Arkansas Railroad Commission and I think perhaps the Texas Railroad Commission, and they won their case on the right to increase the rates on cotton. They raised the rate from 20 to 50 percent; and what was the result? Go down there today, and when the cotton season comes on you will see truck after truck coming into the ports loaded with cotton, and never again will the railroad lines see cotton brought from the places where that cotton was produced because they raised their rate instead of reducing the rate.

Today, after we have formulated a policy which certainly ought to mean something to us, after we have spent hundreds of millions of dollars for the development of navigation, and we have had a plan prepared by the War Department contemplating the expenditure of $9,000,000,000 more to give this country a complete waterway system, what do we say to the people in Montana, while undertaking to develop the Missouri River so that they will have the use of the water for navigation purposes down to the lower end of the Mississippi Valley? We say to them, "You cannot use the Mississippi Valley navigation development because we have decided that a rate discrimination exists there, and we will not allow any such reduction in rate as will cause you not to ship by way of the shortest route to a port which may accommodate or which may only half accommodate the shipments you are trying to send to foreign countries."

If the Senate votes down this amendment it will undertake to say that, even though God has created a natural port; the Congress shall undo His word—that is no. 1—and whatever increased rate a railroad has established to drive the boats off the river and to drive its own cars off its rail lines, the Congress of the United States is not going to allow it voluntarily to rectify by a rate reduction. It is the first case I have ever heard of where a proposition of this kind has been made in Congress to prevent rate reductions, the benefits of which are to be shared by the people using the rail lines, and no railroad is compelled to make them, and even those which are permitted to make them cannot reduce them below the point of competition.

The Senator from Maryland [Mr. TYDINGS] is absent now. Nonetheless, I have to answer some of the statements he makes. In speaking of the amendment, he says, "Suppose one railroad reduces its rate, and then the other railroad reduces its rate below the first reduction?"

Such a thing is not contemplated by the amendment, Mr. President. I am sorry the Senator has gone. The amendment provides that the railroad line can reduce the rate to a point of equality, but there is nothing which permits the other railroad to reduce its rate below that equality without the consent of the Interstate Commerce Commission. So the deplorable condition prophesied by the illustrious Senator from Maryland, who is fearful that railroads will do something in the way of giving people rates which will be so noncompensatory that the people will befuddle the railroads into bankruptcy, goes without any serious thing to back it up.

The speech which has been made in defense of the railroads is far beyond anything Mr. Vanderbilt ever said. "The public be damned" statement is in the background. It does not rank with the statement of our friend from Maryland that the railroads cannot be permitted or even trusted to make rate reductions to accommodate business and give the people a chance to ship stuff which otherwise could not move over their rail lines.

Who is opposing this amendment? The Senator from Massachusetts [Mr. WALSH] is not opposed to it. On the contrary, he states that he is in favor of the principle of it, but is fearful that if it shall be annexed to this bill it will accomplish its defeat. It will do no such thing. It will aid the passage of this bill rather than accomplish the defeat of the bill.

Who is opposing it? Does the chairman of the subcommittee [Mr. MOORE] say he is against this amendment? No; he has not said so yet. I quoted him on the floor of the Senate, in his presence, before this amendment was voted on the last time, as saying that he had no objection to the amendment. I quoted the Senator from New Jersey right here while he sat on the floor of the Senate, and it was not disputed that he was not opposed to the amendment being adopted, and thereupon the Senate adopted the amendment.

Did the Senator from Montana [Mr. WHEELER] oppose the amendment? I should like to know if anyone heard a word uttered by the Senator from Montana in opposition to rate reductions on railroad lines being permitted in favor of the people under an amendment which I proposed. I quoted the Senator from Montana on the floor of the Senate as not being opposed to the amendment, and it was thereupon adopted by the Senate.

Who is opposing this amendment, Mr. President? Who raises the flag here to defend the railroads—so much so that there can be no rate reductions or water competition as to anything they want to haul over their lines? This bill has turned into a pretty bill. It has turned into an unusual, manipulated, scientific piece of railroad juggling, as I view the matter now, compared to what we originally thought it was going to be, if the amendment I have proposed here is not going to be permitted to be written into the bill.

To show my good faith, I quote the amendment advocated at the hearings last year:

Provided, That such preference and/or prejudice, if any, as is found to result from equalizing, in whole or in part, the rates between competing ports on export, import, or coastwise traffic shall not be undue or unreasonable if said equalization is or was brought about solely by a reduction in the rate to or from the port or ports found to be preferred.

That was the amendment proposed last year, and I think anyone who will read the amendment I have offered will find that it is substantially the same thing. I hope there is no disposition on the part of the Senate to penalize unnecessarily the people and the waterways of the country.

Mr. President, there are but few Senators present at this time; and if no one else wishes to speak on this amendment now before it is voted on, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NEELY in the chair). The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Chavez	Johnson	Norbeck
Bachman	Clark	Keyes	O'Mahoney
Bankhead	Connally	King	Overton
Barbour	Coolidge	La Follette	Pittman
Barkley	Copeland	Lewis	Pope
Bilbo	Dickinson	Logan	Radcliffe
Black	Dieterich	Lonergan	Robinson
Bone	Donahey	Long	Schall
Borah	Duffy	McCarran	Schwellenbach
Brown	Fletcher	McGill	Sheppard
Bulkley	Gibson	McKellar	Steiwer
Bulow	Glass	McNary	Thomas, Okla.
Burke	Guffey	Maloney	Trammell
Byrd	Hale	Metcalf	Truman
Byrnes	Harrison	Minton	Tydings
Capper	Hastings	Moore	Van Nuys
Caraway	Hatch	Murphy	Wagner
Carey	Hayden	Neely	Walsh

Mr. LEWIS. Mr. President, I reannounce the absences of Senators as previously announced by me on earlier roll calls, and for the reasons previously stated.

The PRESIDING OFFICER. Seventy-two Senators having answered to their names, a quorum is present. The question is on the amendment offered by the Senator from Louisiana. [Putting the question.] The ayes seem to have it.

Mr. TYDINGS. I call for a division.

The PRESIDING OFFICER. A division is requested.

Mr. LONG. I demand the yeas and nays.

The PRESIDING OFFICER. Is the demand for the yeas and nays seconded?

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. NYE], which I transfer to the senior Senator from Rhode Island [Mr. GERRY], and vote "nay."

The roll call was concluded.

Mr. LOGAN. I have a general pair with the senior Senator from Pennsylvania [Mr. DAVIS], who is necessarily absent. I transfer that pair to the senior Senator from Colorado [Mr. COSTIGAN] and vote "nay." I am not advised as to how either Senator would vote if present.

Mr. MCNARY. The Senator from Maine [Mr. WHITE] is unavoidably detained on official business. He has a general pair with the Senator from California [Mr. MCADOO].

Mr. MCKELLAR (after having voted in the negative). I have a general pair with the junior Senator from Delaware [Mr. TOWNSEND], which I transfer to the Senator from South Carolina [Mr. SMITH], and allow my vote to stand.

Mr. LEWIS. I wish to announce that the Senator from Arizona [Mr. ASHURST], the Senator from Oklahoma [Mr. GORE], the Senator from California [Mr. MCADOO], the junior Senator from Montana [Mr. MURRAY], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Georgia [Mr. GEORGE], the Senator from South Carolina [Mr. SMITH], and the senior Senator from Montana [Mr. WHEELER] are detained in important committee meetings of the Senate.

I wish further to announce that the Senator from North Carolina [Mr. BAILEY], the Senator from Colorado [Mr. COSTIGAN], the Senator from Rhode Island [Mr. GERRY], the Senator from West Virginia [Mr. HOLT], the Senator from Georgia [Mr. RUSSELL], and the Senator from Utah [Mr. THOMAS] are detained on important public business.

I announce the following general pairs:

The Senator from Georgia [Mr. RUSSELL] with the Senator from Vermont [Mr. AUSTIN];

The Senator from North Carolina [Mr. BAILEY] with the Senator from North Dakota [Mr. FRAZIER];

The Senator from Utah [Mr. THOMAS] with the Senator from Michigan [Mr. VANDENBERG]; and

The Senator from Georgia [Mr. GEORGE] with the Senator from Minnesota [Mr. SHIPSTEAD].

The result was announced—yeas, 23, nays 49, as follows:

YEAS—23

Borah	Donahey	Long	Pittman
Bulow	Fletcher	McCarran	Pope
Capper	Gibson	McGill	Schall
Caraway	Hatch	Murphy	Thomas, Okla.
Clark	Johnson	Norbeck	Trammell
Copeland	King	Overton	

NAYS—49

Adams	Carey	Keyes	Radcliffe
Bachman	Chavez	La Follette	Robinson
Bankhead	Connally	Lewis	Schwellenbach
Barbour	Coolidge	Logan	Sheppard
Barkley	Dickinson	Lonergan	Steiwer
Bilbo	Dieterich	McKeller	Truman
Black	Duffy	McNary	Tydings
Bone	Glass	Maloney	Van Nuys
Brown	Guffey	Metcalf	Wagner
Bulkley	Hale	Minton	Walsh
Burke	Harrison	Moore	
Byrd	Hastings	Neely	
Byrnes	Hayden	O'Mahoney	

NOT VOTING—24

Ashurst	Frazier	Murray	Smith
Austin	George	Norris	Thomas, Utah
Bailey	Gerry	Nye	Townsend
Costigan	Gore	Reynolds	Vandenberg
Couzens	Holt	Russell	Wheeler
Davis	McAdoo	Shipstead	White

So Mr. LONG's amendment was rejected.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

Mr. PITTMAN. Mr. President, the amendment which we have just rejected would have granted to the cities on the coast certain rights which are not granted to cities in the interior. We must recollect that this relates to export trade. We have to keep that in mind all the time, that this is export trade; that we have been referring to a "port", when, as a matter of fact, the traffic merely passes through some city to some foreign country.

We have now stated that a city through which this foreign trade passes has a right to claim that it is discriminated against. I contend that every other city in the line of movement of that traffic has exactly the same right as the city on the coast. It is in transit. Therefore, as we have already reduced this matter to an absurdity, I offer the following amendment:

On line 1 of page 2 of the bill, after the words "transit point", I move to insert the following: "city or municipality through which traffic passes."

The VICE PRESIDENT. The amendment offered by the Senator from Nevada will be stated.

The CHIEF CLERK. On page 2, line 1, after the word "point", it is proposed to insert "city or municipality through which traffic passes."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Nevada.

Mr. MOORE. Mr. President, the representatives of the Interstate Commerce Commission with whom I have conferred say that this amendment would nullify all that would otherwise be accomplished by the bill. This amendment affects only ports of origination and of destination. The bill affects through traffic to Europe. It affects transit points.

I desire to say, as chairman of the subcommittee, that I am not in favor of the amendment.

Mr. LONG. Mr. President, I do not think the Senator from New Jersey means to oppose this amendment. He has in mind another amendment. This amendment not only gives ports a status under the act, but it gives the gateways and municipalities through which the traffic passes the right to appear before the Commission. All the people should have the right to be heard by the Commission, if one is to be heard by the Commission—not just one person. In other words, it is not fair to say to a big city like Birmingham, just because it is not on the Gulf, that it has not as much right to have its cut out of this business as Mobile, just because it is on the Gulf.

I hope there will be not a single vote against the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Nevada [Mr. PITTMAN].

The amendment was rejected.

Mr. PITTMAN. Mr. President, I have another amendment to offer. This is the amendment which the Senator from New Jersey had in mind.

At the end of line 7 on page 2, which is the end of the bill, I move to insert a colon and the following proviso:

Provided, That the port, port district, gateway, or transit point is a point of origin or destination.

I have already debated that proposal.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Nevada.

The amendment was rejected.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. COPELAND. Mr. President, with no purpose whatever in mind as to delay in this matter, I wish to enter a motion to reconsider the vote by which we have just passed the bill.

I explained a little while ago the reason why I do that. It is because I am quite concerned about the port of New York in connection with this proposed legislation. I assume it is all right; but I should like to have, over the week-end, an opportunity to find out. Therefore, I enter a motion to reconsider. On Monday, if I find that everything is all right, as I assume will be the case, I shall ask consent to withdraw the motion.

Mr. MOORE. Mr. President, I move to lay the motion on the table.

The VICE PRESIDENT. The Senator from New York moved to reconsider the vote by which the bill was passed——

Mr. COPELAND. No, Mr. President; I gave notice of my intent to do so. I am entering the motion, and I appeal to the Senator from New Jersey. We have in the Senate what we call "senatorial courtesy"; I rarely take advantage of it, but certainly it is my privilege, in a matter of great concern to an important section of the country, to have at least opportunity, if I find it necessary, to raise the question.

The VICE PRESIDENT. Let the Chair state the parliamentary situation to the Senator from New York so that he may understand it. The Senator gives notice that he intends to make a motion to reconsider. That has no parliamentary status. The bill may be messaged over to the House prior to next Monday. The Chair thinks the Senator ought to be informed about that.

Mr. COPELAND. In order that I may test the question and the courtesy of the Senate, I move to reconsider the vote by which the bill was passed.

Mr. MOORE. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The question is on the motion of the Senator from New Jersey [Mr. MOORE] to lay on the table the motion of the Senator from New York [Mr. COPELAND] that the vote by which Senate bill 1633 was passed be reconsidered.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House receded from its disagreement to the amendments of the Senate numbered 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 to the bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, and concurred therein, and that the House receded from its disagreement to the amendment of the Senate numbered 9 to said bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 29) to authorize and direct the Clerk of the House of Representatives, in the enrollment of the bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, to add an additional section making the appropriations therein effective as of July 1, 1935, in which it requested the concurrence of the Senate.

LEGISLATIVE APPROPRIATIONS—CONFERENCE REPORT

Mr. TYDINGS. Mr. President, I present a conference report on the legislative appropriation bill, and ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. Is there objection? The Chair hears none. The report will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, having met, after full and free conference, have been unable to agree.

MILLARD E. TYDINGS,
JAMES F. BYRNES,
CARL HAYDEN,
FREDERICK HALE,
JOHN G. TOWNSEND, JR.,
Managers on the part of the Senate.

LOUIS LUDLOW,
J. BUELL SNYDER,
M. A. ZIONCHECK,
JOHN F. DOCKWEILER,
EDWARD C. MORAN, JR.,
J. P. BUCHANAN,
D. LANE POWERS,
Managers on the part of the House.

Mr. TYDINGS. I move the adoption of the conference report.

The VICE PRESIDENT. The question is on the motion of the Senator from Maryland.

The report was agreed to.

Mr. TYDINGS. I ask the Chair to lay before the Senate the further action of the House of Representatives on the legislative bill.

The VICE PRESIDENT. The Chair lays before the Senate a resolution from the House of Representatives, which will be read.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
July 2, 1935.

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 to the bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, and concur therein; and

That the House recede from its disagreement to the amendment of the Senate numbered 9 to said bill and concur therein with the following amendment:

In lieu of the word "law" in said amendment insert "assistant."

Mr. TYDINGS. I move that the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 9.

The VICE PRESIDENT. The question is on the motion of the Senator from Maryland.

The motion was agreed to.

Mr. TYDINGS. I ask unanimous consent that the concurrent resolution, which is on the Vice President's desk, may be considered at this time. It will lead to no debate.

The VICE PRESIDENT. The Chair lays before the Senate a concurrent resolution from the House of Representatives, which will be read.

The concurrent resolution (H. Con. Res. 29) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, the Clerk of the House of Representatives is authorized and directed to change the numbering of section 4 thereof to section 5 and to insert a new section, as follows:

"SEC. 4. The appropriations and authority with respect to appropriations contained herein shall be available from and including July 1, 1935, for the purposes respectively provided in such appropriations and authority. All obligations incurred during the period between June 30, 1935, and the date of the enactment of this act in anticipation of such appropriations and authority are hereby ratified and confirmed if in accordance with the terms thereof."

Mr. TYDINGS. Mr. President, the conferees on the part of the Senate have agreed with the conferees of the House that the following statement shall be read to each body, so that it will govern future consideration of the legislative appropriation bill:

The managers on the part of both Houses at the conference on the Legislative Branch Appropriation Act, 1936, in considering certain amendments pertaining to the creation of new positions and the increase in compensation of certain existing positions under the Senate, unanimously agreed that it should be within the province of each House to determine without interference from the other the number and compensation of its own employees; and that in the future they will, so far as within their power, insist that all new positions and changes in compensation for either body shall be authorized by separate legislative enactment or by simple resolution of either House before any such new position or change in compensation is incorporated in the annual appropriation bill. It was further agreed that there should be joint action of the two Houses by a legislative measure other than the regular appropriation bill to effect a survey of all positions, and the compensation thereof, under the Senate and House of Representatives, for the purpose of establishing, so far as may be practicable, uniformity in the number of positions and in the compensation for similar positions under each House.

Hereafter, when the legislative appropriation bill is before the Senate, it will facilitate the consideration of the bill and keep our agreement with the House if Senators desiring to have new positions created, or desiring to have the compensation of existing positions increased, will have a resolution of the Senate passed authorizing the committee to make the necessary changes in the bill, rather than to put them up to the committee.

THIRD WORLD POWER CONFERENCE

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations, as follows:

To the Congress of the United States of America:

I commend to the favorable consideration of the Congress the enclosed report from the Secretary of State to the end that legislation may be enacted requesting the President to invite the World Power Conference to hold the Third World Power Conference in the United States in 1936 or 1937, and providing an appropriation of the sum of $75,000 for the necessary expenses of organizing and holding such a meeting.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *July 2, 1935.*

REGULATION OF TRANSPORTATION BY WATER

Mr. WHEELER. Mr. President, I move that the Senate proceed to the consideration of Senate bill 1632, the bill looking to the regulation of carriers by water.

Mr. COPELAND. Mr. President, reserving the right to object—I do not like to be in the position of appearing to object to anything, in spite of the treatment I have just received, but may I ask the Senator what his thought is about the bill?

Mr. WHEELER. I will say to the Senator from New York that I do not intend to have the bill proceeded with this evening, but I intend to have it taken up tomorrow, and I shall explain it at that time.

Mr. COPELAND. And that will take a couple of hours?

Mr. WHEELER. It will probably take a couple of hours.

Mr. COPELAND. While I am in deadly opposition to the bill, I think the Senator is entitled to the courtesy of having it considered, and therefore I shall make no objection.

Mr. ROBINSON. Mr. President, it seems to me well to state that it is my hope that the Senate may proceed with the consideration of the bill. It may be necessary to lay it aside in order to consider some other measures early next week, if the bill should not be disposed of tomorrow.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1632) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by water carriers operating in interstate and foreign commerce, and for other purposes, which had been reported from the Committee on Interstate Commerce with amendments.

The VICE PRESIDENT. The clerk will state the first amendment of the committee.

The first amendment of the committee was, on page 2, line 4, after the words "Congress to", to strike out the words "promote, encourage, and", and on line 5, after the words "as to", to strike out the word "develop" and to insert in lieu thereof the words "recognize and preserve the inherent advantages of", so as to read:

DECLARATION OF POLICY, DELEGATION OF JURISDICTION, AND REPEAL

SEC. 302 (a). It is hereby declared to be the policy of Congress to regulate transportation by water carriers in such manner as to recognize and preserve the inherent advantages of—

And so forth.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. ROBINSON. Mr. President, I understand from the Senator from Montana that he does not desire to proceed with the consideration of the bill today. Let me state that unless something shall arise to make necessary or desirable a change in the purpose, in all probability at the conclusion of tomorrow's session a recess will be taken until Thursday noon, with the tentative agreement and understanding that no business will be transacted on Thursday, and that on Thursday a recess or adjournment over the week-end will be taken.

Until today there was no other measure of general importance ready for consideration than the one which the Senator from Montana has now brought forward. Other bills have been reported today which the Senate will be ready to proceed with next week.

Mr. McNARY. Mr. President, may I call to the attention of the Senator the fact that Thursday will be the Fourth of July? He meant to say Friday, did he not?

Mr. ROBINSON. No; I said what I meant to say, and I thought the Senator from Oregon understood. The purpose is to meet Thursday, but to transact no business.

Mr. McNARY. I appreciate that, but I thought that inasmuch as Thursday would be a holiday, we would meet on Friday and accomplish the same purpose.

Mr. ROBINSON. The only reason why that is not done is that Senators who would find it necessary to be here in order to take action which is essential to a recess or adjournment might desire to be absent from the city on Friday. In other words, the action can be taken without inconvenience to anyone save the Chair and myself, if that meets with the approval of the Senate. I prefer to take the action on Thursday unless there is objection.

Mr. FLETCHER. Mr. President, the Committee on Banking and Currency voted today to report what is known as the "Banking Act of 1935", and I hope that we will be able to proceed with it very soon. The senior Senator from Virginia [Mr. GLASS] has presented the report of the committee.

Mr. McNARY. Mr. President, there was some confusion; did I understand the Senator from Florida to say that he hoped to bring the banking bill before the Senate tomorrow?

Mr. FLETCHER. No. I stated that we had today voted to report it, and that we hoped to take it up as soon as the Senate could conveniently do so.

Mr. McNARY. So we may not expect to have it brought before the Senate before some time during next week?

Mr. FLETCHER. I think that is likely; under the announcement made by the Senator from Arkansas we probably cannot reach it until next week. I am simply giving notice that the committee has voted to report it, and that we hope to deal with it as soon as the Senate can reach it.

Mr. ROBINSON. Mr. President, I think my statement is fully understood, and I have nothing further to say in the matter. Unless there is some other motion to intervene, I am ready to move that the Senate proceed to the consideration of executive business.

Mr. COPELAND. Mr. President, I had hoped that we might dispose of the river and harbor bill.

Mr. ROBINSON. Very well. I myself concur in the suggestion.

RIVERS AND HARBORS

Mr. KING. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of my motion to reconsider the vote by which the Senate passed the bill (H. R. 6732) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The VICE PRESIDENT. Is there objection? The Chair hears none; the unfinished business is temporarily laid aside, and the question is on agreeing to the motion of the Senator from Utah.

Mr. KING. Mr. President, immediately after the pending bill passed the Senate I entered a motion to reconsider the vote by which it passed. I did so after conferring with a number of Senators whose States have interests and rights in and to the waters of the Colorado River. It was feared that the rights of the so-called "upper basin States" in the Colorado River Basin were not sufficiently guarded and protected, and that an amendment should be offered to afford such protection. Even though it were thought that the interests of upper basin States were not jeopardized, it was regarded as proper that as a precautionary measure such a provision by way of amendment should be offered to the bill. For that purpose the motion to reconsider was interposed, and an amendment having been agreed upon, I am ready to have the motion to reconsider acted upon for the purpose of having such amendment adopted.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. JOHNSON. As I understand, the amendment which the Senator from Utah desires to present concerns an amendment which at my instance was adopted to the river and harbor bill; and, understanding the amendment as it has just been stated to me, I have no objection to a reconsideration of the river and harbor bill, and the adoption of the amendment which has been indicated to me by the Senator from Utah.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 32, line 22, after the word "authorized", it is proposed to strike out the period and insert a comma, and add the following:

and none of the waters conserved, used or appropriated under the works hereby authorized shall be charged against the waters allocated to the upper basin by the Colorado River compact, nor shall any priority be established against such upper basin by reason of such conservation, use, or appropriation.

Mr. ROBINSON. Mr. President, I think that amendment should be explained. The language does not make clear to my mind what is to be accomplished by it.

Mr. KING. Mr. President, while the matter may not seem important to some Senators, those who are familiar with irrigation and the vital necessity of conserving water for irrigation, will appreciate the significance of the amendment and the question involved therein.

The Colorado River rises in Wyoming and its principal tributaries are found in Utah and Colorado. New Mexico also makes an important contribution to the flow of the river. I might also add that several Arizona streams flow into the Colorado River.

The common-law riparian doctrine in its technical sense does not apply in the intermountain States and in two or more of the Pacific Coast States. The rights of individuals in and to the waters of streams within the geographical limits referred to are determined by appropriation. Those persons who first apply the water to beneficial use acquire interests and rights therein, subject, however, to the laws of their respective States. Some conflicts arose among the States and their residents as to their respective rights in and to the waters of the Colorado River. Arizona and California were so advantageously situated that they were in a position to take the lead in the appropriation of waters for irrigation and other purposes. It was believed for the best interests of the States concerned, as well as for the Federal Government, that an agreement be reached defining the rights of the States in the waters of the Colorado River. Accordingly, a conference was called in which the States referred to and the Federal Government participated. Hon. Herbert Hoover, then Secretary of Commerce, was named by the President of the United States to represent the Federal Government and he presided over the deliberations of the conference. The needs of the various States were canvassed and an agreement reached which was embodied in what is known as the "Colorado River compact." It was approved by the Federal Government, and the States likewise approved the compact, speaking through their legislative bodies.

Under the compact the waters of the Colorado River were divided between the lower-basin States and the upper-basin States. Seven million five hundred thousand acre-feet of the waters of the river were allocated to the upper-basin States, namely, Wyoming, Colorado, Utah, and New Mexico, and the residue was allocated to the lower-basin States consisting of California, Arizona, and Nevada.

I mentioned the fact that water rights are acquired by appropriation. It was understood that California and Arizona were so geographically situated with reference to the river that they could more quickly appropriate any waters allocated to them, and it was believed that perhaps they might be in a position to utilize a larger quantity of water than that allocated. The upper-basin States were not so favorably situated for agricultural development and for the prompt utilization of the waters allocated to them and to which they were entitled. Accordingly they have been interested in protecting their rights and taking whatever steps that they believed were necessary to attain that result.

Owing to the fact that Arizona did not ratify the compact, and to the further fact that the use of the waters of the river by the lower-basin States was being enlarged, the upper-basin States have been concerned to see that no appropriation should be made, or claims advanced, that would militate against their rights as set forth in the Colorado River compact. In other words, they have insisted that whatever appropriations were made by the lower-basin States should be made under and pursuant to the terms of the Colorado River compact. The importance of adherence to the terms of the compact is obvious to all. It is vital to the upper-basin States in order that their growth and development may be assured.

A large appropriation was made by Congress for the construction of the Colorado River Dam, and contracts have been executed under the terms of which California will obtain a large amount of water for power purposes and also for culinary and other beneficial uses. The bill before us authorizes the construction of an irrigation project known as the "Head Gate Rock project." I am advised that when the project is completed and the necessary canals constructed, a large area of land will be cultivated. The project also authorizes the construction of the Parker Dam for the irrigation of lands in California.

There is no objection to Arizona and California utilizing the waters of the Colorado River to which they are entitled under the compact, but the upper-basin States are interested in seeing that any appropriations made by these States shall not initiate rights in and to the waters of the Colorado River which will in any way interfere with the rights of the upper-basin States to the use of the 7,500,000 acre-feet allocated to them under the terms of the Colorado River compact. I might add that California has ratified the compact and her legislative enactment is a clear recognition of the rights of the upper-basin States to the uninterrupted use of the waters of the river allocated to them. Senators from the upper-basin States believe this amendment should be incorporated in the bill in order to make it clear beyond any possibility of doubt that the appropriations of water of the Colorado River authorized by the pending measure shall be made under the terms of the Colorado River compact and that in any developments in the future that none of the waters conserved, used, or appropriated under the works authorized by the bill shall be charged against the waters allocated to the upper-basin States.

It seems to me that the amendment is justified and should be accepted.

Mr. ADAMS. Mr. President, it occurs to me that in confirmation of the statement made by the Senator from Utah it might be well to have an explanation by the Senator from Arizona [Mr. HAYDEN], who knows the details, and can put into the RECORD his understanding of the matter; and he also has some opinions from the attorney general of Arizona which will bear out his understanding and ours.

Mr. HAYDEN. Mr. President, I ask Senators to look at the map hanging on the rear wall of the Senate Chamber. Senators will observe that Boulder Dam, about which we had so much controversy, is located on the boundary between Nevada and Arizona. That dam is now nearing completion, and beginning to impound water. The dam first mentioned in this amendment to the river and harbor bill is the Parker Dam, located just below the mouth of the Bill Williams River. The construction of the Parker Dam was stopped by the State of Arizona. The Supreme Court of the United States sustained the objection of the State of Arizona to the construction of the Parker Dam because it was not authorized by Congress.

This amendment proposes to authorize the construction of the Parker Dam. When the matter was presented to the Senators from Arizona we said we had no objection to the construction of the Parker Dam, which is primarily for the benefit of California, provided an authorization was also made to construct a dam at Head Gate Rock, just above the town of Parker and about 20 miles below the Parker Dam. That authorization is contained in this amendment to the river and harbor bill in these words:

The construction by the Secretary of the Interior of a dam in and across the Colorado River at or near Head Gate Rock, Ariz., and structures, canals, and incidental works necessary in connection therewith is hereby authorized.

In connection with that authorization, I desire to point out that the lands to be irrigated by the dam at Head Gate Rock, the canals, and other works are wholly within the Colorado River Indian Reservation. The Government of the United States proposes to take certain water out of the Colorado River and irrigate certain lands for its Indian wards.

Our contention is, and to support it I shall place in the RECORD an opinion by a special assistant to the attorney general of Arizona, Mr. James R. Moore, who represented the State of Arizona in the Parker Dam case in the Supreme Court, which is to the effect that the United States is bound by the Colorado River compact, and, therefore, in taking any water out of the Colorado River for the benefit of its Indian wards the United States takes such water subject to the Colorado River compact. The Colorado River compact provides that seven and one-half million acre-feet of water shall be reserved for the use of the States of the upper basin.

Therefore it seems to me that the amendment offered by the Senator from Utah [Mr. KING] is mere surplusage. It is merely for the purpose of quieting certain fears and says nothing more than the special assistant attorney general of Arizona has stated in his memorandum addressed to Senator ASHURST and myself.

There is only one point I want to make perfectly clear. The Colorado River compact provides that "nothing in this compact shall be construed as affecting the obligations of the United States of America to Indian tribes." It is my understanding that the adoption of this amendment in no manner changes the Colorado River compact. If there is any obligation of the United States to the Indian tribes which now rests upon the upper basin, such obligation will continue to rest against the upper basin regardless of the adoption of the amendment offered by the Senator from Utah.

Mr. ADAMS. Mr. President, will the Senator yield for a question?

Mr. HAYDEN. Certainly.

Mr. ADAMS. If I understand correctly the Senator's position, representing the State of Arizona, it is that there is nothing in the authorization contained in the bill which will take from the States of the upper basin any water to which they are now entitled under the Colorado River compact?

Mr. HAYDEN. That is a correct statement.

Mr. ADAMS. That it is not the intention to make any claims because of the appropriation of water which was allocated to those States by reason of this construction?

Mr. HAYDEN. That is also correct.

Mr. ADAMS. That this construction will not be the initiation of any right or any claim adverse to the rights or claims of the water users or prospective water users or the States of the upper basin?

Mr. HAYDEN. To which they may be entitled under the Colorado River compact.

I want an answer from the Senator from Colorado. If there is any obligation under the Colorado River compact which rests against the upper-basin States by reason of the language in that compact, which says "nothing in this compact shall be construed as affecting the obligations of the United States of America to the Indian tribes", that same obligation will continue. In other words, we are not attempting to change the compact by the adoption of the King amendment?

Mr. ADAMS. It is our understanding that the legal condition as to the water rights in the Colorado River shall be the same after this bill becomes a law as it is today and shall not be changed by reason of the appropriation of water over the dam authorized to be constructed.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. HATCH. Would it be possible, under the provisions of the amendment, to make any change in the Colorado River compact?

Mr. HAYDEN. We have a perfect understanding in that respect. I want to make it of record that there is no attempt on the part of the State of Arizona or the Federal Government in any manner to change the Colorado River compact by this amendment. The Federal Government, according to the attorney general of Arizona, is bound by the compact in connection with this matter because it is a party to it. The compact was ratified by the Congress and the action taken in this instance is for the benefit of Indians who are the wards of the Government. The compact could not be changed by Congress in any respect. I do not want it to be said in the future that the adoption of the King amendment in any manner affected the obligation of the United States with respect to the Indian tribes. Congress leaves that obligation in the exact status it was before the Senator from Utah offered his amendment.

Mr. President, for the benefit of Senators, I ask to have included in the RECORD at the conclusion of my remarks the memorandum by the special assistant attorney general of Arizona, Mr. Moore, to which I have referred. I also ask permission to have inserted in the RECORD at the conclusion of my remarks extracts from an opinion by the former attorney general of Arizona, Mr. LaPrade; extracts from a statement prepared by the Colorado River Commission of Arizona relating to the use of water in Mexico; and, finally, a letter from the Director of Irrigation of the Bureau of Indian Affairs relative to the Colorado River Indian irrigation project.

The VICE PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

HEAD GATE DAM, ACROSS COLORADO RIVER IN ARIZONA

SENATE AMENDMENT TO H. R. 6732

1. The project and its purposes: Head Gate Rock Dam, the canal and incidental works, are designed to divert and use 500,000 acre-feet of Colorado River water per year for irrigation of 100,000 acres of Colorado River Indian Reservation in Arizona, about 150 miles south of Boulder Dam. Six thousand acres of this land are now under irrigation. None of it is in private ownership nor subject to entry or purchase.

The Indian Service plans to make the reclaimed reservation available for settlement by such members of the Navajo and other tribes as may elect to remove from their present locations, large areas of which have become barren and unproductive on account of erosion due to overgrazing.

2. The United States relation to the Colorado River compact: Article VII of the compact reads:

"Nothing in this compact shall be construed as affecting the obligations of the United States of America to Indian tribes."

By subsection (b) of section 13 of the Boulder Canyon Project Act, which ratified the compact, it is provided:

"(b) The rights of the United States in or to waters of the Colorado River and its tributaries howsoever claimed or acquired, as well as the rights of those claiming under the United States, shall be subject to and controlled by said Colorado River compact."

By paragraph (a) article III of Colorado River compact, the "exclusive beneficial consumptive use of 7,500,000 acre-feet of water" of the Colorado River per annum, in perpetuity, are apportioned to the upper-basin States, consisting of Colorado, New Mexico, Utah, and Wyoming, and the lower-basin States, consisting of California and Nevada, respectively.

As the United States, by the provisions of subsection (b) of section 13, Boulder Canyon Project Act, above quoted, agreed to be bound by the division of the waters of the Colorado as apportioned between the upper- and lower-basin States by the Colorado River compact it, in effect, became and is a party to that interstate treaty.

Therefore, it cannot draw upon water apportioned to upper-basin States for irrigation of public or Indian lands in Arizona, California, or Nevada, nor acquire any priority of right against the upper-basin States by a priority of use in the lower-basin States or in Arizona.

3. Arizona and the compact: While Arizona is named in the compact as a party and is designated as one of the lower-basin States, its legislature declined to ratify the treaty and accordingly it is not a party to it and its name, wherever it appears therein, should be disregarded.

4. Nevada and the compact: Due to topographic conditions, Nevada cannot economically put to use more than 300,000 acre-feet per year of Colorado River water.

5. California and the compact: Pursuant to the requirements of subsection (a) of section 4 of the Boulder Canyon Project Act, California, by act of its legislature, agreed "irrevocably and unconditionally with the United States and for the benefit of the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming, that the (its) aggregate annual consumptive use (diversions less returns to the river) of waters of and from the Colorado River shall not exceed 4,400,000 acre-feet of the waters apportioned to the lower-basin States by paragraph (a) of article III of the Colorado River compact (7,500,000 acre-feet per year) plus not more than one-half of any excess or surplus waters unapportioned by said compact." The unapportioned water is estimated to be 1,500,000 acre-feet annually.

Hence, with California legally and Nevada topographically restricted to aggregate annual uses of 4,700,000 of the 7,500,000 acre-feet per year apportioned to the lower basin by paragraph (a) of article III of the compact, plus one-half of unapportioned waters, the remainder of the water so apportioned, amounting to

2,800,000 acre-feet per year plus one-half of the excess or surplus unappropriated water, estimated at 750,000 acre-feet per year, can be used in the United States only for irrigation of public and Indian lands in Arizona. There are no lands in private ownership in that State to which the water can be economically applied.

Therefore, unless so used, the water apportioned to the lower basin which California may not and Nevada cannot use, aggregating 3,550,000 acre-feet per year, necessarily will flow down the river, after generating power at Boulder Dam, and be available for use on about 1,000,000 acres of irrigable land in Mexico, just below the border.

A conservative, capital value of this water, with the regulated flow provided by Boulder Dam, for irrigation in Mexico is $25 per acre-foot or a total value of $88,750,000. Its value for use in the United States is twice as much.

The upper-basin States apparently would prefer to present this water to Mexico, free of charge, rather than to have it used in the United States. Such a gratuity was not intended by the Colorado River compact or by Congress.

JAMES R. MOORE,
Special Assistant Attorney General for Arizona.

WASHINGTON, D. C., *July 1, 1935.*

(The following extracts are taken from an opinion rendered to the Colorado River Commission of Arizona by Hon. Arthur T. LaPrade, attorney general of Arizona, and Mr. Charles A. Carson, Jr., his special assistant, on July 12, 1933, and relate particularly to paragraphs (c) and (d) of the Boulder Canyon Project Act, which reads as follows:)

(c) Also all patents, grants, contracts, concessions, leases, permits, licenses, rights-of-way, or other privileges from the United States or under its authority, necessary or convenient for the use of waters of the Colorado River or its tributaries, or for the generation or transmission of electrical energy generated by means of the waters of said river or its tributaries, whether under this act, the Federal Water Power Act, or otherwise, shall be upon the express condition and with the express covenant that the rights of the recipients or holders thereof to waters of the river or its tributaries, for the use of which the same are necessary, convenient, or incidental, and the use of the same shall likewise be subject to and controlled by said Colorado River compact.

(d) The conditions and covenants referred to herein shall be deemed to run with the land and the right, interest, or privilege therein and water right, and shall attach as a matter of law, whether set out or referred to in the instrument evidencing any such patent, grant, contract, concession, lease, permit, license, right-of-way, or other privilege from the United States or under its authority, or not, and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, and the users of water therein or thereunder, by way of suit, defense, or otherwise, in any litigation respecting the waters of the Colorado River or its tributaries.

EXTRACTS FROM THE LAPRADE-CARSON OPINION

Would the State of Arizona have authority to build a dam across the main stream of the Colorado River above Boulder Dam, and divert waters therefrom for irrigation and power through ditches, tunnels, and other works across the public domain, without the consent of the Federal Government?

* * * * * * *

Congress in the Boulder Canyon Project Act, (c) and (d) of section 13, makes the use of any right-of-way, license or privilege necessary or convenient for the use of the waters of the Colorado River or its tributaries, upon the express condition and with the express covenant that the rights of the recipients or holders thereof to waters of the river or its tributaries for which the same are necessary, convenient, or incidental and the use of the same, shall be subject to and controlled by said Colorado River compact. In view of the foregoing cases and decisions it is clear that Arizona could not construct a dam above Boulder Dam without agreeing to the conditions attached. It is provided in article 8 of the Colorado River compact:

"Present perfected rights to the beneficial use of waters of the Colorado River system are unimpaired by this contract. Whenever storage capacity of 5,000,000 acre-feet shall have been provided on the main Colorado River within or for the benefit of the lower basin, then claims of such rights, if any, by appropriators or users of water in the lower basin against appropriators or users of water in the upper basin shall attach to and be satisfied from water that may be stored not in conflict with article III.

"All other rights to beneficial use of waters of the Colorado River system shall be satisfied solely from the water apportioned to that basin in which they are situate."

It is thus apparent that the use of water in the lower-basin States is, according to the terms of the Colorado River compact, limited to that apportioned in article III (a) to 7,500,000 acre-feet per annum and article III (b), 1,000,000 acre-feet per annum included for the Gila River. Arizona, of course, is not bound by the terms of the Colorado River compact, not having ratified the same; but according to the condition attached to the rights-of-way, the use of such waters would be subject to the Colorado River compact although not ratified by the State of Arizona, and the total use of water in the lower-basin States, as defined by the Colorado River compact, would be limited as above set forth.

* * * * * * *

For the foregoing reasons, it is my opinion that your question must be answered in the negative, and that the State of Arizona does not have the legal right to build a dam across the main stream of the Colorado River, above Boulder Dam, and divert waters therefrom for irrigation and power, through ditches, tunnels, and other works across the public domain, without the consent of the Federal Government.

Yours very truly,

ARTHUR T. LAPRADE,
Attorney General.
CHAS. A. CARSON, JR.,
Special Assistant.

(The following extracts are from a statement prepared by the Colorado River Commission of Arizona, on Dec. 17, 1934, relative to the use of Colorado River water in Mexico:)

There are in Mexico about 1,000,000 acres of land susceptible of irrigation by the waters from the Colorado River (U. S. Geological Survey, Water Supply Paper 556). The Chandler interests of Los Angeles own about 830,000 acres of land in old Mexico, between 500,000 and 600,000 acres of which are level and irrigable from the waters of the Colorado River. Mr. Harry Chandler, of Los Angeles, Calif., on May 7, 1924, testified before the Committee on Irrigation and Reclamation of the House of Representatives that his company owned about 830,000 acres in old Mexico, between 500,000 and 600,000 acres of which are level and irrigable from the waters of the main stream of the Colorado River. (Hearings before the Committee on Irrigation and Reclamation, House of Representatives, 68th Cong., 1st sess., on H. R. 2903, pt. 7, p. 1563.)

The lands in old Mexico have never heretofore used in excess of 750,0000 acre-feet of water from the Colorado River in any 1 year, which allows of the irrigation of approximately 150,000 acres. (Report of the American Section International Water Commission, 1929.) In its uncontrolled state the river has been in alternate flood and extremely low flow. The limiting factor on Mexican developments has been the shortage of water in the river in the late summer, when it is particularly needed for irrigation of crops. As soon as the Boulder Dam regulates the flow of the river by discharging a regulated flow throughout the year, even though that be considerably less in quantity than the present annual flow of the river, it will be possible for the owners of lands in Mexico to utilize more of the water of the river than they have heretofore used.

* * * * * * *

The water will be stored in Boulder Dam Reservoir and will be released through the power plant for the generation of electrical energy, and if not used in the United States will go on down the Colorado River to Mexican lands owned by the Chandler interests of Los Angeles. This would result, despite the fact that Congress, in the first paragraph of the Boulder Canyon Project Act, stated:

"That for the purpose of controlling the floods, improving navigation, and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters thereof for reclamation of public lands and other beneficial uses exclusively within the United States. * * *"

It would be almost inconceivable that any American States should desire to forever block and prevent the use by another American State of the waters of an international stream, when the only result of that action would be that the waters could never be used in the United States or in any State thereof, but must of necessity, without any treaty or obligation, be delivered for use on lands in a foreign country, particularly so when the States who undertake to block and prevent a sister State have forever foreclosed themselves and all of them from using any portion of the water thus denied to a sister State.

It is utterly beyond belief that the Government of the United States, or any officer or agency thereof, should ever consider lending support to such a program. Certainly it was never so intended by the compact, by the act, by Congress, or any other Federal agency.

MEMORANDUM BY THE DIRECTOR OF IRRIGATION

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 23, 1935.

Memorandum for Senator HAYDEN.

The following information relative to the proposed Colorado River Indian irrigation project is submitted in answer to your inquiry of even date.

The ultimate area of the proposed irrigation project, Colorado River Reservation, is 100,000 acres. The irrigation works will consist of a 14-foot high diversion dam across the Colorado River near Head Gate Rock, together with the necessary canals, laterals, and drainage works. The total ultimate estimated cost of the project is $10,000,000, of which $6,400,000 is for the diversion dam and irrigation works and $3,600,000 is for subjugation.

Preliminary surveys are complete, and plans have been prepared so that work could be started within 90 days after funds become available. The work could be completed within 3 years, but it is not considered that it ought to be completed in less than 10 years. The development ought to be extended over a 10-year period as a minimum. The diversion dam headworks, and perhaps the major portion of the main canal, would necessarily have to be completed during the first year, and thereafter the project as a whole should be developed from that point in units of 10,000 acres.

In accordance with a 10-year development program, based on a total estimated cost of $10,000,000, funds would be required as

follows: $2,000,000 each year for the past 2 years; $1,000,000 per year for the next 4 years; $500,000 per year for the next 4 years.

It is estimated 6,000,000 man-hours of labor will be required for this total development, and the average number of men employed would be approximately 475.

A. L. WATHEN,
Director of Irrigation.

Mr. JOHNSON. Mr. President, as I understand, the amendment which has been suggested by the upper basin States is an amendment to a portion of the particular provision of the bill which was submitted by the Senator from Arizona [Mr. HAYDEN], and relates to the Indian Head Dam works and the like?

Mr. ADAMS. That is entirely correct.

The VICE PRESIDENT. Is there objection to the reconsideration of the votes by which the bill was ordered to a third reading, read the third time, and passed? The Chair hears none.

The question is on the adoption of the amendment submitted by the Senator from Utah [Mr. KING].

The amendment was agreed to.

Mr. COPELAND. Mr. President, there are four amendments which I desire to have considered at this time.

The VICE PRESIDENT. The first amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 37, after line 18, to insert the following:

New Jersey intracoastal waterway from Shrewsbury River to Delaware Bay above Cape May by way of the Manasquan Barnegat Canal, and including an entrance thereto through Barnegat Inlet.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. COPELAND. In behalf of the Senator from Connecticut [Mr. LONERGAN] I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 4, after line 10, to insert the following:

Connecticut River, at East Hartford, Conn.: The Secretary of War is authorized and directed to proceed with the construction of dikes, drainage gates, suitable pumping plants, and other facilities for controlling floods on the Connecticut River at East Hartford, Conn., pursuant to a special survey made by the district engineer at Providence, R. I., supplementing the survey in House Document No. 308, Sixty-ninth Congress, first session, and in conformity with either plan A or plan B designated in the report of said supplemental survey; selection of the plan to be executed shall be made by the Secretary of War with the approval of the town of East Hartford: *Provided*, That the cost of such work shall not exceed $658,000.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. COPELAND. In behalf of the Senator from Connecticut [Mr. MALONEY] I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 3, after line 8, to insert the following:

Indian Neck, Conn.: The Secretary of War is hereby authorized and directed to make a survey of Indian Neck Harbor, Conn., and report to Congress the facts of such survey, with recommendations concerning the practicability of additional dredging in the harbor to enlarge the harbor basins.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. COPELAND. In behalf of the Senator from Connecticut [Mr. MALONEY] I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 3, after line 8, to insert the following:

Milford, Conn.: The Secretary of War is hereby authorized and directed to make a survey of Milford Harbor, Conn., and report to Congress the facts of such survey, with recommendations concerning the practicability of additional dredging in the harbor to enlarge the harbor basins.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The question is, Shall the amendments be engrossed and the bill read a third time?

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. COPELAND. Mr. President, I move that the Senate insist on its amendments, request a conference with the House thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. COPELAND, Mr. FLETCHER, Mr. SHEPPARD, Mr. JOHNSON, and Mr. MCNARY conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. FLETCHER, from the Committee on Banking aud Currency, reported favorably the nomination of Harry L. Hopkins, of New York, now Federal Emergency Relief Administrator, to be also Administrator of the Works Progress Administration.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The VICE PRESIDENT. The reports will be placed on the Executive Calendar. If there be no further reports of committees, the clerk will state the first nomination in order on the calendar.

ALICE L. WOOLMAN

The legislative clerk read the nomination of Alice L. Woolman to be postmaster at Coweta, Okla.

Mr. McKELLAR. I ask that the nomination be passed over.

The VICE PRESIDENT. On request of the Senator from Tennessee the nomination will be passed over.

THE JUDICIARY

The legislative clerk read the nomination of John J. Morris, Jr., to be United States attorney, district of Delaware.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that nominations of postmasters be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc.

IN THE ARMY

The legislative clerk proceeded to read sundry nominations in the Army.

Mr. SHEPPARD. I ask unanimous consent that nominations in the Army be confirmed en bloc.

The VICE PRESIDENT. Without objection, the Army nominations are confirmed en bloc.

IN THE NAVY

The legislative clerk proceeded to read sundry nominations in the Navy.

Mr. ROBINSON. I ask unanimous consent that nominations in the Navy be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations in the Navy are confirmed en bloc.

IN THE MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the Marine Corps.

Mr. ROBINSON. I ask unanimous consent that nominations in the Marine Corps may be confirmed en bloc.

The VICE PRESIDENT. Without objection, the Marine Corps nominations are confirmed en bloc. That concludes the calendar.

CONSIDERATION OF TREATIES

Mr. ROBINSON. Mr. President, I understand the Chairman of the Committee on Foreign Relations [Mr. PITTMAN] wishes to take up some treaties on the calendar.

Mr. McNARY. Mr. President, the Senator from Michigan [Mr. VANDENBERG] asked me to object to the consideration of Executive Calendar No. 22 during his absence. He is now in Michigan. I ask that that treaty go over.

Mr. PITTMAN. That is the treaty between the United States and Germany?

Mr. McNARY. Yes.

Mr. PITTMAN. That may go over.

The VICE PRESIDENT. The treaty will be passed over.

PROTECTION OF HISTORIC MONUMENTS

Mr. PITTMAN. I ask that Calendar No. 20, Executive N, may be taken up for consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive N (74th Cong., 1st sess.), a treaty on the protection of artistic and scientific institutions and historic monuments, which was signed in Washington on April 15, 1935, by the respective plenipotentiaries of the 21 American republics, which was read the second time, as follows:

TREATY ON THE PROTECTION OF ARTISTIC AND SCIENTIFIC INSTITUTIONS AND HISTORIC MONUMENTS

The high contracting parties, animated by the purpose of giving conventional form to the postulates of the resolution approved on December 16, 1933, by all the States represented at the Seventh International Conference of American States, held at Montevideo, which recommended to "the Governments of America which have not yet done so that they sign the 'Roerich Pact', initiated by the Roerich Museum in the United States, and which has as its object the universal adoption of a flag, already designed and generally known, in order thereby to preserve in any time of danger all nationally and privately owned immovable monuments which form the cultural treasure of peoples", have resolved to conclude a treaty with that end in view, and to the effect that the treasures of culture be respected and protected in time of war and in peace have agreed upon the following articles:

ARTICLE I

The historic monuments, museums, scientific, artistic, educational, and cultural institutions shall be considered as neutral and as such respected and protected by belligerents.

The same respect and protection shall be due to the personnel of the institutions mentioned above.

The same respect and protection shall be accorded to the historic monuments, museums, scientific, artistic, educational and cultural institutions in time of peace as well as in war.

ARTICLE II

The neutrality of, and protection and respect due to, the monuments and institutions mentioned in the preceding article, shall be recognized in the entire expanse of territories subject to the sovereignty of each of the signatory and acceding States, without any discrimination as to the State allegiance of said monuments and institutions. The respective Governments agree to adopt the measures of internal legislation necessary to insure said protection and respect.

ARTICLE III

In order to identify the monuments and institutions mentioned in article I, use may be made of a distinctive flag (red circle with a triple red sphere in the circle on a white background) in accordance with the model attached to this treaty.

ARTICLE IV

The signatory Governments and those which accede to this treaty shall send to the Pan American Union, at the time of signature or accession, or at any time thereafter, a list of the monuments and institutions for which they desire the protection agreed to in this treaty.

The Pan American Union, when notifying the Governments of signatures or accessions, shall also send the list of monuments and institutions mentioned in this article, and shall inform the other Governments of any changes in said list.

ARTICLE V

The monuments and institutions mentioned in article I shall cease to enjoy the privileges recognized in the present treaty in case they are made use of for military purposes.

ARTICLE VI

The states which do not sign the present treaty on the date it is opened for signature, may sign or adhere to it at any time.

ARTICLE VII

The instruments of accession, as well as those of ratification and denunciation of the present treaty, shall be deposited with the Pan American Union, which shall communicate notice of the act of deposit to the other signatory or acceding states.

ARTICLE VIII

The present treaty may be denounced at any time by any of the signatory or acceding states, and the denunciation shall go into effect 3 months after notice of it has been given to the other signatory or acceding states.

In witness whereof, the undersigned plenipotentiaries, after having deposited their full powers found to be in due and proper form, sign this treaty on behalf of their respective governments, and affix thereto their seals, on the dates appearing opposite their signatures.

For the Argentine Republic, April 15, 1935:
FELIPE A. ESPIL. [SEAL]
For Bolivia, April 15, 1935:
ENRIQUE FINOT. [SEAL]
For Brazil, April 15, 1935:
OSWALDO ARANHA. [SEAL]
For Chile, April 15, 1935:
M. TRUCCO. [SEAL]
For Colombia, April 15, 1935:
M. LOPEZ PUMAREJO. [SEAL]
For Costa Rica, April 15, 1935:
MAN. GONZALEZ Z. [SEAL]
For Cuba, April 15, 1935:
GUILLERMO PATTERSON. [SEAL]
For the Dominican Republic, April 15, 1935:
RAF. BRACHE. [SEAL]
For Ecuador, April 15, 1935:
C. E. ALFARO. [SEAL]
For El Salvador, April 15, 1935:
HECTOR DAVID CASTRO. [SEAL]
For Guatemala, April 15, 1935:
ADRIAN RECINOS. [SEAL]
For Haiti, April 15, 1935:
A. BLANCHET. [SEAL]
For Honduras, April 15, 1935:
M. PAZ BARAONA. [SEAL]
For Mexico, April 15, 1935:
F. CASTILLO NAJERA. [SEAL]
For Nicaragua, April 15, 1935:
HENRI DE BAYLE. [SEAL]
For Panama, April 15, 1935:
R. J. ALFARO. [SEAL]
For Paraguay, April 15, 1935:
ENRIQUE BORDENAVE. [SEAL]
For Peru, April 15, 1935:
M. DE FREYRE Y S. [SEAL]
For United States of America, April 15, 1935:
HENRY A. WALLACE. [SEAL]
For Uruguay, April 15, 1935:
J. RICHLING. [SEAL]
For Venezuela, April 15, 1935:
PEDRO M. ARCAYA. [SEAL]

I hereby certify that the foregoing document is a true and faithful copy of the original, with the signatures affixed thereto up to the present date, of the Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact) which is deposited in the Pan American Union and open to the signature or adherence of all States.

Washington, the 16th day of April 1935.

[SEAL] E. GIL-BORGES,
Secretary of the Governing Board of the Pan American Union.

The VICE PRESIDENT. If there be no amendments, the treaty will be reported to the Senate.

The treaty was reported to the Senate without amendment.

The VICE PRESIDENT. The resolution of ratification will be read.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive N, Seventy-fourth Congress, first session, a treaty on the protection of artistic and scientific institutions and historic monuments, which was signed at the White House in Washington on April 15, 1935.

The VICE PRESIDENT. The question is on agreeing to the resolution of ratification. [Putting the question.] Two-thirds of the Senators present concurring therein, the resolution is agreed to and the treaty is ratified.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 48 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Wednesday, July 3, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 2 (legislative day of May 13), 1935

PROMOTIONS IN THE COAST AND GEODETIC SURVEY

The following-named officers of the Coast and Geodetic Survey in the Department of Commerce to be—

Hydrographic and geodetic engineer (with relative rank of lieutenant in the Navy) by promotion from junior hydrographic and geodetic engineer (with relative rank of lieutenant, junior grade, in the Navy)—

Carl Ingman Aslakson, of Minnesota, vice Carl A. Egner, promoted.

Junior hydrographic and geodetic engineer (with relative rank of lieutenant, junior grade, in the Navy) by promotion from aide (with relative rank of ensign in the Navy)—

John Crawford Ellerbe, Jr., of South Carolina, vice Carl Ingman Aslakson, promoted.

Aide (with relative rank of ensign in the Navy) by promotion from deck officer—

Harold John Seaborg, of Indiana, vice John C. Ellerbe, Jr., promoted.

APPOINTMENTS AND PROMOTIONS IN THE NAVY

MARINE CORPS

The following-named lieutenant colonels to be colonels in the Marine Corps from the 30th day of June 1935:

Paul A. Capron	Edward A. Ostermann
John Potts	John Marston

Maj. David L. S. Brewster to be a lieutenant colonel in the Marine Corps from the 1st day of June 1935.

The following-named majors to be lieutenant colonels in the Marine Corps from the 30th day of June 1935:

Harold S. Fassett	Thomas E. Bourke
James T. Moore	LeRoy P. Hunt

Capt. David R. Nimmer to be a major in the Marine Corps from the 29th day of May 1934.

The following-named captains to be majors in the Marine Corps from the 30th day of June 1935:

Gus L. Gloeckner
Harold D. Shannon
Prentice S. Geer

The following-named first lieutenants to be captains in the Marine Corps from the 30th day of June 1935:

Reginald H. Ridgely, Jr.
Caleb T. Bailey.
John D. Muncie

First Lt. William E. Burke to be a captain in the Marine Corps from the 1st day of July 1935.

The following-named citizens to be second lieutenants in the Marine Corps, revocable for 2 years, from the 1st day of July 1935:

Wilmer E. Barnes, a citizen of North Carolina.
George H. Brockway, a citizen of Wyoming.
Custis Burton, Jr., a citizen of Virginia.
Kenyth A. Damke, a citizen of Colorado.
Willard C. Fiske, a citizen of Arizona.
Dixon Goen, a citizen of California.
Frank P. Hager, Jr., a citizen of South Carolina.
Bruno A. Hochmuth, a citizen of Texas.
Joe C. McHaney, a citizen of Texas.
Hoyt McMillan, a citizen of South Carolina.
Albert F. Metze, a citizen of California.
Raymond L. Murray, a citizen of Texas.
Herman Nickerson, Jr., a citizen of Massachusetts.
John S. Oldfield, a citizen of Oklahoma.
Wesley M. Platt, a citizen of South Carolina.
William E. Profitt, Jr., a citizen of Minnesota.
Thomas F. Riley, a citizen of Virginia.
George A. Roll, a citizen of Pennsylvania.
Robert E. Stannah, a citizen of Pennsylvania.
Leo F. Sulkosky, a citizen of Washington.
Harold G. Walker, a citizen of West Virginia.
Julian F. Walters, a citizen of Maryland.
Chevey S. White, a citizen of Kansas.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 2 (legislative day of May 13), 1935

UNITED STATES ATTORNEY

John J. Morris, Jr., to be United States attorney, district of Delaware.

APPOINTMENT BY TRANSFER IN THE REGULAR ARMY

Second Lt. Ralph Hemmings Davey, Jr., to Quartermaster Corps.

Second Lt. Avery John Cooper, Jr., to Coast Artillery Corps.

PROMOTION IN THE REGULAR ARMY

Arthur Eugene White to be captain, Medical Corps.

APPOINTMENTS IN THE REGULAR ARMY

AIR CORPS

To be second lieutenants

Ray Willard Clifton	Lester Stanford Harris
Randolph Lowry Wood	Eyvind Holtermann
Arnold Theodore Johnson	Donald Newman Wackwitz
John David Pitman	James Hume Crain Houston
Marvin Frederick Stalder	Charles Henry Leitner, Jr.
Noel Francis Parrish	Clair Lawrence Wood
Dolf Edward Muehleisen	Charles Bennett Harvin
Carl Swyter	George Henry Macintyre
Richard Cole Weller	Bob Arnold
Edward Morris Gavin	Burton Wilmot Armstrong, Jr.
Robert Edward Jarmon	Mell Manley Stephenson, Jr.
Harry Crutcher, Jr.	Harold Lee Neely
Jack Mason Malone	Erickson Snowden Nichols
Frank Neff Moyers	Jasper Newton Bell
Edward Schwartz Allee	Russell Lee Waldron
Harry Noon Renshaw	William Foster Day, Jr.
Joseph Bynum Stanley	Robert Strachan Fisher
Thomas Frederick Langben	Harry Coursey
Clarence Morice Sartain	Daniel Edwin Hooks
James Hughes Price	Raymond Patten Todd
Joseph Caruthers Moore	
Lawrence Scott Fulwider	

PROMOTIONS IN THE NAVY

To be captains

William F. Amsden	Jonas H. Ingram
Harry A. McClure	Schuyler F. Heim
Cortlandt C. Baughman	Patrick N. L. Bellinger
Newton H. White, Jr.	

To be commanders

William A. Teasley	Thomas C. Latimore
John B. W. Waller	Lloyd J. Wiltse
Charles F. Martin	Leon O. Alford
Benjamin S. Killmaster	William H. Porter, Jr.
Wilder DuP. Baker	Walter A. Hicks
Harold J. Nelson	Warner P. Portz
Ralph O. Davis	Benjamin F. Perry

To be lieutenant commanders

Augustus J. Wellings	John W. Higley
John P. Vetter	John F. Crowe, Jr.
John F. Gillon	Francis P. Old
Royal W. Abbott	William H. Wallace
Richard R. Hartung	Joseph U. Lademan, Jr.
Carleton C. Champion, Jr.	Hugh W. Turney
William H. Buracker	

To be lieutenants

Cameron Briggs	John H. Griffin
William L. Messmer	Russell S. Smith
Frederick N. Kivette	Thomas H. Tonseth
Ira E. Hobbs	Joseph H. Wellings
Monroe Y. McGown, Jr.	Clyde F. Malone
Harold O. Larson	Adolph Hede
John O. Lambrecht	

To be lieutenants (junior grade)

Samuel H. Porter	Charles F. Brindupke
Albert A. Wellings	John P. Roach
Thomas G. Warfield	William H. Raymond, Jr.

To be medical inspectors

Lyle J. Roberts	Bertram Groesbeck, Jr.
Morton D. Willcutts	Louis E. Mueller
John W. Vann	Carl A. Broaddus
Sterling S. Cook	

To be pay inspectors

William V. Fox	Charles L. Austin

To be paymaster

Julius J. Miffitt

To be naval constructors

Armand M. Morgan	Edward V. Dockweiler
Robert S. Hatcher	Wendell E. Kraft
John J. Herlihy	John J. Scheibeler
Edward W. Clexton	

THE MARINE CORPS

To be major general

Charles H. Lyman

To be captain

Arthur T. Mason

To be first lieutenants

Roger W. Beadle	James C. Bigler
Howard J. Turton	Hector de Zayas
Walter Asmuth, Jr.	Samuel D. Puller
George N. Carroll	Robert L. Denig, Jr.

To be second lieutenants

Earl A. Sneeringer	Dwight M. Cheever
Peter J. Negri	Richard H. Crockett
Alexander B. Swenceski	Marvin H. Floom
Leonard F. Chapman, Jr.	James G. Frazer
William T. Fairbourn	Gould P. Groves
Carey A. Randall	Donn C. Hart
Elmer C. Rowley	Ralph L. Houser
Harry A. Schmitz	Kenneth A. Jorgensen
John W. Stage	Mortimer A. Marks
Eugene F. Syms	William S. McCormick
Clayton O. Totman	Kenneth F. McLeod
Ronald B. Wilde	Floyd R. Moore
Herbert R. Amey, Jr.	Richard E. Thompson
Kenneth D. Bailey	Stanley W. Trachta
Elmer E. Brackett, Jr.	William J. Van Ryzin

POSTMASTERS

CALIFORNIA

Nolan W. Smith, Alturas.
Neil A. MacMillan, Eureka.

COLORADO

N. George Parsons, Central City.
Frank P. January, Cheyenne Wells.
Robert R. Lawson, Grover.
Derrett C. Smith, Kim.
Mary E. Dermody, Strasburg.
Leona E. Backus, Two Buttes.

ILLINOIS

Francis X. Hodapp, Bradley.
Singleton W. Ash, Canton.
Richard A. McAllister, Fairbury.
Wayne D. Herrick, Farmer City.
Thomas B. Raycraft, Normal.
John L. Anheuser, O'Fallon.
Charles F. Schmoeger, Peru.
James Shoaff, Shelbyville.

IOWA

John C. Wardlow, Montrose.
Walter W. White, Spirit Lake.

KANSAS

Louie Haller, Alma.
Archie D. Spillman, Buffalo.
Max Dolan, Clifton.
James Oscar Warren, Eskridge.
Clayton J. Connell, Fall River.
Henry W. Behrens, Lyndon.
Joseph S. Dooty, Melvern.
John L. Rogers, Quenemo.
Charles P. Gates, Wakefield.
Minnie J. Meidinger, Wathena.

NEW HAMPSHIRE

Michael J. Carroll, Laconia.
Julia L. Mayo, Lyme.

NEW YORK

Joseph J. Wienand, Alden.
Guy C. Hazelton, Coeymans.
Arthur I. Ryan, Delmar.
James E. Robinson, Hermon.
Elwyn S. Sloughter, Ithaca.
Frank J. Ball, Lancaster.
Edgar Griffin, Palenville.
Clifford J. Fleckenstein, West Valley.

OHIO

Florence M. DeChant, Avon Lake.
John R. Gunning, Chillicothe.
Frank E. Noland, London.
William Alexander, Miamisburg.
Louis J. Eberle, Nelsonville.

OREGON

Isaac R. Howard, Junction City.
Maud W. Thomas, Malin.
Sidney B. Powers, Molalla.

SOUTH CAROLINA

Bessie T. Cooper, Mayesville.
George H. Fogle, Ridgeville.
Olin J. Salley, Salley.

SOUTH DAKOTA

Warren S. Leeper, Blunt.
Amelia L. Rositch, Bowdle.
John H. Francis, Dupree.

VIRGINIA

Pitt M. Watts, Orange.
J. Frank Harper, Waynesboro.

WEST VIRGINIA

Samuel A. Cockayne, Glen Dale.
J. Bright Hern, Lewisburg.
Lewellen A. Douglas, Spencer.

WISCONSIN

Alfred J. Zorn, Elkhart Lake.
Raymond B. Hartzheim, Juneau.
Harry P. Bowen, Watertown.

HOUSE OF REPRESENTATIVES

TUESDAY, JULY 2, 1935

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

God be merciful unto us and bless us, and cause His face to shine upon us; that Thy way may be known upon earth; Thy saving health among all nations. Let the people praise Thee, O God; let all the people praise Thee. Oh, let the

nations be glad and sing for joy, for Thou shalt judge the people righteously, and govern the nations upon earth. Let the people praise Thee, O God; let all the people praise Thee. Then shall the earth yield her increase; God, even our own God, shall bless us. God shall bless us and all the ends of the earth shall fear him. Amen.

The Journal of the proceedings of yesterday was read and approved.

Mr. RANKIN. Mr. Speaker, I make the point of order there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 113]

Bankhead	Dempsey	Higgins, Conn.	Ryan
Brown, Mich.	DeRouen	Kenney	Shannon
Bulwinkle	Dies	Lesinski	Sumners, Tex.
Cannon, Wis.	Dirksen	McLeod	Taylor, S. C.
Carter	Gasque	Oliver	Underwood
Cochran	Haines	Owen	
Cooley	Healey	Peyser	

The SPEAKER. Four hundred and three Members are present, a quorum.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Horne, its enrolling clerk, announced that the Senate had concurred in a concurrent resolution of the House of the following title:

H. Con. Res. 27. Concurrent resolution to print and bind the proceedings in Congress and in Statuary Hall upon the acceptance in the Capitol of the statue of Hannibal Hamlin, presented by the State of Maine.

HENRY GEORGE—SOUND ECONOMICS AND THE NEW DEAL

Mr. ECKERT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ECKERT. Mr. Speaker, during the weeks and months that Congress has been in session much has been said on the floor of this House what was intended as a contribution to the cause of better government and greater economic security. The vexing problems now confronting the country have been ably and eloquently discussed from many angles. In the light of what has been said on these disturbing problems there comes a feeling of confusion and bewilderment.

Is the American Republic a failure?

Is our adventure in democracy doomed to defeat?

Have all the labors of the founders of this Nation been in vain?

Is the prophecy of Macaulay to be fulfilled? *

* In 1857 Lord Macaulay wrote a letter to H. S. Randall, biographer of Jefferson—a letter which President Garfield said startled him "like an alarm bell at night"—which reads in part as follows:

I have long been convinced that institutions purely democratic must sooner or later destroy liberty or civilization, or both. You may think that your country enjoys an exemption from these evils. I will frankly own to you that I am of a very different opinion. Your fate I believe to be settled, though it is deferred by a physical cause. As long as you have a boundless extent of fertile and unoccupied land your laboring population will be far more at ease than the laboring population of the Old World, and while that is the case the Jefferson politics may continue to exist without any fatal calamity. But the time will come * * * when wages will be as low and will fluctuate as much with you as with us. You will have your Manchesters and Birminghams, and in these Manchesters and Birminghams hundreds of thousands of artisans will assuredly sometime be out of work. Then your institutions will be brought to the test. * * *

I have seen England pass three or four times through such critical seasons as I have described; through such seasons the United States will have to pass in the course of the next century, if not of this. How will you pass through them? I heartily wish you a good deliverance. But my reason and my wishes are at war, and I cannot help foreboding the worst. * * *

I seriously apprehend that you will, in some such season of adversity as I have described, do things that will prevent prosperity from returning. There will be, I fear, spoliation. The spoliation will increase the distress. The distress will produce fresh spoliation. There is nothing to stop you. Your constitution is all sail and no anchor.

As I said before, when a society has entered on this downward progress, either civilization or liberty must perish. Either some Caesar or Napoleon will seize the reins of government with a strong hand, or your Republic will be as fearfully plundered and laid waste by the barbarians in the twentieth century as the Roman Empire was in the fifth, with the difference that the Huns and Vandals who ravaged the Roman Empire came from without, and that your Huns and Vandals will have been engendered within your own country by your own institutions.

These are some of the reactions that come to one as the result of some of the discussions that have engaged the attention of this House since January 3. And naturally the question mounts, "Is there no way out?"

Is there no guiding principle in the social theories of our time to point the way? We boast of ours as a scientific age. Of mathematics, chemistry, biology, and many other sciences we speak in terms of certainty and assurance. There our calculations and deductions are true and certain. Not so with the social sciences. To them in these moments of uncertainty and bewilderment we turn for light and guidance in vain. The science whose voice is the most important to civilized man in these moments of darkness and despair speaks in terms of doubt and confusion. She offers no guiding principle, no fixed standard of social behavior by which our policies and legislation can be checked and guaged. From the science that holds in its keeping the solution of the problems that in all civilized countries are crowding the horizon there comes no certain answer.

This House sometime ago had the privilege of listening to a very able, learned, and illuminating address directed to the historical development and the evolution of the social and economic progress of the new deal by the distinguished gentleman from New York, Dr. SIROVICH. We were reminded by our distinguished colleague that from the very dawn of civilization to the present day the many have always been exploited by the few; that methods have changed but that throughout the long, weary trek of man from ancient barbarism to modern civilization it is the same sad story of the few despoiling the many.

Our distinguished colleague called the roll of some of the pioneers in the great struggle of social justice. All honor to the brave souls who gave of heart and mind and body that others might live fuller, better, and nobler lives. It is to be noted, however, that among the honor roll of those who made contributions to the social thought of their time there does not appear the name of a single American. This roll is confined to Europe alone; and much credit is due the social thinkers of Europe for their contribution to the cause of social justice—especially the Manchester School of England and the physiocrats of France—whose work was largely responsible for the agitation both in America and in Europe that resulted in the independence of America and the abolition of royalty in France. From the teachings of Smith and the physiocrats the American revolutionists drew their strength and inspiration. Upon the principles underlying their philosophy the American Republic was founded; and, if she is to endure, our economic system must be developed in harmony with these two schools of thought.

There are those who say our modern economic system is so complex and so involved that the teachings of Smith and the physiocrats are outmoded; that the doctrine of laissez faire is obsolete; that the law of competition must not be allowed to function; that the natural laws of economics cannot be trusted. Happily there came upon the scene of economic discussion in 1879 a man who recast the scholastic political economy of his time and developed scientifically the teachings of Smith and the physiocrats. Some day this man will be accorded his rightful place in the niche of fame.

This man was born in 1839 within the shadow of Independence Hall in Philadelphia, and by the sheer force of his intellectual genius and love of truth, gave to the world in 1879 a treatise inquiring into the cause of industrial de-

pressions and increase of want with increase of plenty that is recognized by thinkers and scholars the world over as one of the greatest achieved by the genius of man. It has been described by an eminent American as a book—

That rests upon a granite pedestal of truth, face up, open for the thinking world to scan—a book matchless in logic, beautiful in diction, perfect in illustration, unchallenged and unchallengeable, unanswered and unanswerable; an everlasting monument to the intellectual and moral integrity of the man who wrote it.

Upon the occasion of the author's funeral in New York in 1897, eulogies were delivered by distinguished representatives of various creeds and nationalities. A contemporary, witnessing the last rites, wrote:

Voices from Plymouth's Congregation Choir sang the solemn hymns; Dr. Heber Newton read from the beautiful ritual that as boys he and the dead man had listened to each Sunday in old St. Paul's in Philadelphia; Dr. Lyman Abbott recounted the peerless courage; Rabbi Gottheil the ancient wisdom, John S. Crosby the civic virtue, and Dr. McGlynn feelingly and impressively said:

"The chair of the President of the United States were all too small for such a man! He was not merely a philosopher and a sage; he was a seer, a forerunner, a prophet, a teacher sent from God. And we can say of him as the Scriptures say: 'There was a man sent of God whose name was John.' And I believe that I mock not those sacred Scriptures when I say: 'There was a man sent of God whose name was Henry George.'"

The thinking world is beginning to bear witness of Henry George's greatness and genius. Let me call a few present-day witnesses. Dr. John Dewey, one of the world's greatest educators and philosophers, in speaking of this man, said:

It would require less than the fingers of the two hands to enumerate those who, from Plato down, rank with Henry George among the world's social philosophers.

Tolstoi affirmed:

People do not argue with the teachings of Henry George; they simply do not know it. And it is impossible to do otherwise with his teaching, for he who becomes acquainted with it cannot but agree.

Louis D. Brandeis said:

I find it very difficult to disagree with the principles of Henry George.

William Lloyd Garrison, 2d:

Henry George was one of the great reformers of the world. His conscience was active, his sympathies broad, his purpose indomitable, his courage unfailing, his devotion to principle absolute.

Woodrow Wilson:

All the country needs is a new and sincere thought in politics, distinctly, coherently, and boldly uttered by men who are sure of their ground. The power of men like Henry George seems to me to mean that.

Dr. John Haynes Holmes:

My reading of Henry George's immortal masterpiece marked an epoch in my life. All my thought upon the social question and all my work for social reform began with the reading of this book.

George Bernard Shaw:

I went one night, quite casually, into a hall in London, and I heard a man deliver a speech which changed the whole current of my life. That man was an American, Henry George.

Oswald Garrison Villard:

Few men made more stirring and valuable contributions to the economic life of modern America than did Henry George.

John Erskine:

I would say that the tax theories of Henry George have always seemed to me unanswerable, and I believe that when we have tried other forms of taxation long enough to be convinced of their injustice we shall be ready for his simple and convincing ideas.

Kathleen Norris:

Anyone who really fears a revolution in America ought to reread Henry George's Progress and Poverty, one of the great social documents of all time.

Helen Keller:

I know I shall find in Henry George's philosophy a rare beauty and power of inspiration, and a splendid faith in the essential nobility of human nature.

Newton D. Baker:

I am inclined to believe that no writer of our times has had a more profound influence upon the thinking of the world than Henry George.

Albert Einstein:

Men like Henry George are rare, unfortunately. One cannot imagine a more beautiful combination of intellectual keenness, artistic form, and fervent love of justice. Every line is written as if for our generation.

This is an indication of the estimate of the thinking world as to Henry George's place among social philosophers. As the years roll by this appraisement will grow firmer and deeper, for Henry George, unlike many other social reformers and would-be statesmen, tested his proposals by the hard rules of logic and, like a true scientist, followed truth wherever it might lead. In his economic explorations he was like a man who built a house and digged deep and laid the foundation upon a rock.

Henry George recognized, as everyone does, that with steam and electricity and modern labor-saving machinery the effectiveness of labor has been increased enormously, and he thought, as everybody did, that with the modern methods of production the condition of the laborer would be lightened; that the enormous increase in the power of production would make real poverty a thing of the past. But the facts about him disproved the expectations. And so he set himself heroically to the task of discovering the reason why the laborer, who is the creator of all wealth, should, with the increase of his power to produce wealth, find it more difficult to make a living. This fact has puzzled and baffled the thinkers of the modern world. At the time Henry George investigated the problem Thomas H. Huxley, contemplating this fact, exclaimed in despair:

I do not hesitate to express the opinion that if there is no hope of a large improvement of the condition of the greater part of the human family with the advance of progress, I should hail the advent of some kindly comet which would sweep the whole affair away as a desirable consummation.

Nicholas Murray Butler, president of Columbia University, in a recent commencement address, expressed his astonishment in these words:

Why is it that with all the progress which the world is making in so many directions—science, letters, fine arts, every form of industry, commerce, transportation—why is it that there still exists so much want, so much of all that, which for lack of a better name, may be summed up under the word "poverty."

Huxley, Butler, and others stand amazed and nonplussed in the face of this perplexing fact, while George, unperturbed and undismayed and with a faith beautiful and sublime in the rightness of things, makes a searching examination and, as a result, produces the one outstanding classic that has been written upon the subject of political economy. He did for social science what Copernicus did for astronomy, what Darwin did for biology.

The question, Why does the laborer not receive the full share of the wealth his labor produces? engaged Henry George in the preparation of his great book, Progress and Poverty. He recognized that a correct answer required correct and clear thinking and, as a true scientist, he proceeded first to define the elemental terms used in his reasoning. As the problem centered around wealth, he began by defining wealth as "natural products so secured, moved, combined, or altered by human labor as to fit them for human satisfaction", and discovered that in the production of wealth there are three factors, namely, land, labor, capital.

"Land" he defined as Mother Earth, the raw materials from which and out of which wealth is created by labor with the aid of capital, such as tools and machinery. The term "land" includes all natural opportunities or forces. It is the source of all wealth.

"Labor" he defined as human energy, exerted to satisfy human want, all human activity exerted in the production of wealth.

"Capital" he defined as wealth used for the production of more wealth, or wealth in course of exchange.

He made the observation that man comes into the world beset with physical needs; that he finds himself upon the surface of the earth on which and in which are found the elemental ingredients that sustain life; that man's primary need is food, clothing and shelter; that the earth is the storehouse from which his primary needs are obtained;

that they must be extracted from the earth and that this requires human exertion or labor. So, in the examination of the problem of the production and distribution of wealth, George discovered the simple fact that all wealth is produced by labor and that all wealth is produced from the earth—the natural resources—and that natural justice decrees that labor should be the recipient of the wealth which it produces. Abraham Lincoln, in his day, recognized this elemental fact and elucidated the principle in this fashion:

> Inasmuch as most good things are produced by labor, it follows that all such things ought to belong to those whose labor has produced them. But it has happened in all ages of the world that some have labored, and others, without labor, have enjoyed a large proportion of the fruits. This is wrong and should not continue.

Dr. SIROVICH, in his address already referred to, historically portrayed the story of the battle between those who labor and those, who without labor, enjoy a large proportion of the fruits—between the exploited and the exploiter. Through the mutations of time methods have changed, but the end has always been the same. The few get a large proportion of the fruits of the labor of the many. In the early history of the race, brute force was the means employed. This method, by gradual changes, gave way to the more subtle and furtive plan of legislative exploitation.

Albert Jay Nock, in an article in the Atlantic Monthly of July 1934, speaking of the principle that man attempts always to satisfy his needs and desires with the least possible exertion, comments as follows:

> A candid examination will show, I think, that this law is also fundamental to any serious study of politics. So long as the state stands as an impersonal mechanism which can confer an economic advantage at the mere touch of a button, men will seek by all sorts of ways to get at the button, because law-made property is acquired with less exertion than labor-made property. It is easier to push the button and get some form of state-created monopoly like a land title, a tariff, concession, or franchise, and pocket the proceeds, than it is to accumulate the same amount by work.

Nock here calls our attention to the discovery of Henry George that there are two kinds of property, and that these two kinds of property are wholly different in nature and origin. One is the product of industry, the other is the product of law. The product of industry is private property. The product of law is public property. Private property must be held inviolate, while public property must be treated and administered as public property. Grants of power or privileges are held by the few in derogation of common right and hence the first duty of government is to control and administer those grants or privileges in such fashion that the interest of the people will be safeguarded and protected. In this the Government in the past has been guilty of indifference, neglect, and incompetence. The beneficiaries of privilege were not slow in availing themselves of this remissness on the part of the Government and appropriated the social values of privilege or law-created property to their own private use. It is this fact that has enabled them to build private fortunes and financial empires that have been the astonishment and amazement of the modern world. To this fact many of our social ills may be traced. The public-utility companies, such as control transportation, communication, electric power, gas, water, and so forth, issued billions of dollars worth of securities that represent nothing save the capitalized value of their franchises or rights-of-way. In the franchises or rights-of-way the public-utility companies have no proprietary rights. Franchises are delegations of sovereign power and in no sense are private property. And now, when the people are beginning to assert their rights attaching to these privileges or law-made property, the public-utility companies are facing serious trouble and are accusing the Government of undue and unjustified interference with their business. The slave master made the same complaint during the agitation of the slavery question. But obviously, if the slave master had never transgressed the natural rights of the slave, there would have been no slavery question.

Likewise, if the public-utility companies had observed the rights of the people in the grants and privileges which they received at the hands of the Government, instead of using them for private gain, there would be no trouble ahead for the utility companies now. But, being guilty of conversion of the people's property by appropriating it to their own use, the penalty must be paid. The wrong must be righted.

The public-utility field is a shining example of a sector of the present economic order that is reeking with special privilege—with law-made property. Every public-utility company—whether in the field of transportation, electrical power, communication, gas, water, or any other utility engaged in a public service enjoys a privilege that automatically absorbs social benefits. The social benefits that attach to franchises or rights-of-way are socially created and ought to accrue to all the people. Under our present benighted dispensation of public housekeeping we graciously permit the few to appropriate for private use practically all the benefits. It is estimated by trustworthy authority that these benefits amount to billions of dollars annually. These billions are a direct exaction from legitimate capital and labor, and in the every nature of things must unbalance the economic order.

President Roosevelt, in his annual message to Congress, recognized the inequalities existing in our economic order when he said:

> We find our population suffering from old inequalities, little changed by past sporadic remedies. In spite of our efforts and in spite of our talk, we have not weeded out the overprivileged and we have not effectively lifted up the underprivileged.

This is a Presidential challenge of the association of poverty with progress. It is the same challenge that confronted social thinkers and statesmen for the past hundred years. Henry George stated the challenge in these words:

> This association of poverty with progress is the great enigma of our times. It is the central fact from which springs industrial, social, and political difficulties that perplex the world and with which statesmen and philanthropists and educators grapple in vain. From it come the clouds that overhang the future of the most progressive and self-reliant nations. It is the riddle which the sphinx of fate puts to our civilization and which not to answer is to be destroyed.

For an answer to the riddle of the sphinx of fate, we must look to the natural laws of the distribution of wealth. George discovered the natural laws of distribution to be the law of rent, the law of wages, and the law of interest.

"Rent" he defined as meaning "the net profit of the use of land; that is, that portion of the products of labor and capital that must be yielded to the landowner for the permission to use his land."

"Wages" he defined as meaning "that part that is paid to the worker and constitutes the reward of human exertion."

"Interest" he defined as meaning "the part that is paid to the owner of capital and constitutes return for the use of capital."

In the operation of these laws he saw clearly what others are beginning to see dimly now. He saw that the values attaching to franchises are simply a manifestation of the law of rent and that wherever this law expresses itself there are to be found social benefits—benefits that rightfully belong to the people. He saw clearly what is beginning to dawn dimly upon the minds of many people now, that values attaching to land anywhere are social benefits that rightfully belong to the people.

To illustrate the operation of the laws of distribution, let us suppose a worker applies his labor to free land by gathering nuts or berries. The nuts or berries gathered would constitute his wages, and the economic equation would be: Wages equal wealth.

In time he used containers in which to put the nuts or berries. Then capital appeared and the equation became: Wages plus interest equal wealth.

Finally, as the community increased, the value of land became private property and immediately tribute was levied on the worker for the privilege of gathering nuts or berries. Then the equation became: Rent plus wages plus interest equal wealth.

And thus it stands today. All products of labor and capital are divided among the landowner as rent, the laborer as wages, and the capitalist as interest. Since all wealth

is distributed as rent, wages, and interest, it is clear that whatever is meted out to any one factor leaves that much less to be divided between the other two, and the proportion on which the allocation is made affects the prosperity, progress, and stability of society. Furthermore, whether rent is paid to the privileged few who own the earth inside and out, or paid in whole or in part for the support of government, would make a vast difference to capital and labor, which in the latter case would receive easement from extortionate prices and relief from multitudinous taxes. But if rent is paid exclusively to privilege, it will tend to absorb the earnings of capital and labor, bringing about depressions, and economic disasters, followed by the decline of civilization, as proved by ruins on the highway of history.

In a speech delivered on the floor of this House on the 9th day of January 1935, Mr. EATON, our distinguished colleague from New Jersey, made the striking observation:

> The President of the United States says we have not "weeded out the overprivileged." This is a fateful statement for the Chief Executive of this Nation to make. Whom does he mean by the "overprivileged" and how does he propose to weed them out? Is he going to weed them out by confiscation of their property? Is he going to weed them out by taxing them on a different basis than other citizens?
>
> How is he going to weed them out, and who are the overprivileged? Let us ask a question or two. Supposing a gentleman is fortunate enough to have had intelligent ancestors who invested in real estate, we will say, for example, on Manhattan Island, and now, without having lifted a finger in productive toil or produced a dollar, he is able to enjoy the privilege of a million-dollar yacht, a city mansion, and a country estate. Does the President hold this gentleman to be overprivileged? I think, myself, he is. But how, by fair and constitutional methods, are you going to get rid of him?

I agree with our distinguished colleague from New Jersey. I think he is entirely correct. The gentleman in this case, who happened to select intelligent ancestors is one of the overprivileged. The privilege he enjoys enables him to ride the seven seas in a million-dollar yacht, live in a city mansion, enjoy a country estate, and all this without lifting a finger in productive toil. A million-dollar yacht, a city mansion, a country estate represent the fruits of thousands of toilers. The gentleman who selected intelligent parents is enjoying the fruits of other men's toil as surely and effectively as the slave owner enjoyed the fruits of the labor of his slaves. Yea, even more so, for the slave master was bound to maintain his slaves, while the gentleman who selected intelligent parents is free from that burden and trouble. Lincoln said:

> To enjoy the fruits of other's toil without labor is wrong.

We all know it is wrong. The institution of slavery became offensive to a large portion of the people of America, and, after a long, bitter, and devastating struggle, it was abolished. Today the method of getting the fruits of other's toil is subtle and furtive. Yet the results are the same. The producer is robbed of the products of his toil. There are indications that the modern method of the exploitation of the producer is becoming offensive to the people of America, the same as slavery. The fact that a person by the mere ownership of a privilege, such as a franchise, a title to a valuable land site, or other governmental concession, can, without lifting a finger in productive toil or adding a dollar to the national income, sport a million-dollar yacht, live in a city mansion, and enjoy a country estate is beginning to put the country on inquiry as to its ethical and economic soundness.

Our worthy colleague from New Jersey asks:

> Is he going to weed them out by the confiscation of their property? Is he going to weed them out on a different basis of taxation than other citizens?

I yield to no one in my respect for a genuine capitalistic system of production and for the institution of private property. I hold that they are sound and the institution of private property inviolate. I stand with Henry George in the statement—

> This and this alone I contend for—that he who makes should have; that he who saves should enjoy. I ask in behalf of the poor nothing whatever that rightfully belongs to the rich.

But, like George, I recognize that there are two kinds of property—private property and public property. Private property, let me repeat, is the product of industry. Public property is the product of law. The product of industry is the result of the application of labor and capital applied to the natural resources and is rightfully private property, for the natural basis of private property is production; while the products of law are legal privileges, such as rights-of-way, an estate in land, or other grant or power from the State. Such grants constitute public property.

It is the duty of government to protect the citizen in the full enjoyment of his rightful private property. It is the function of government to administer public property in the interest of all the people. In the execution and administration of these functions the Government has lamentably failed in the past. It has neither protected the citizen in the full enjoyment of his private property nor administered the public property in the interest of all the people. On the contrary, it has invaded the rights of the citizen in the use of private property by collecting for public revenue a large percentage of the products of his toil and permitted the profits of public property from which public revenue ought to be derived, to be appropriated by certain groups of citizens for their private use. For example, a franchise for the use of the streets of a city granted to a public-utility company has a great value—a value that inherently belongs to the people. Yet, under the custom that prevails, the social values attaching to public-utility franchises are capitalized and appropriated for private use. This is a wrong that cries to high Heaven and must be reformed. This iniquitous practice enables the possessors of public-utility franchises to acquire gigantic fortunes without lifting a finger or adding a penny to the national income. It is a gross and palpable remission on the part of the Government in the performance of its rightful and proper functions, and is one of the primary causes of the unjust distribution of wealth and the resultant unemployment and social unrest.

The American Republic was founded on the principles of freedom and equality. Thomas Jefferson set forth as a cardinal tenet of genuine democracy that "equal and exact justice must be done to all men." Abraham Lincoln envisioned the Republic as having been "conceived in liberty and dedicated to the proposition that all men are created equal"; and Woodrow Wilson declared that "America stands for a free field and no favors."

In order to meet the standards set up by these eminent Americans, as well as the founding fathers, involving as they do the problem of establishing justice, preserving the blessings of liberty, maintaining economic freedom for all, our social system must be developed in a way so that the social benefits attaching to land and rights-of-way due to organized government and progress will be diffused equally among all the people.

Henry George demonstrated beyond a doubt that the major social benefits due to government and progress are reflected in the value of land and rights-of-way. These benefits are an expression of the economic law of rent. Rent is the automatic reflector of social benefits as well as the absorber of social benefits. It is clear that if these benefits are left in private hands the few will get what ought to accrue to the many. Since they are common benefits, they must be diffused equally among all the people. Therefore, the simple and rational way to bring this about is to socialize the thing in which all modern methods of production are reflected; that is, the capitalized value of land and rights-of-way.

And so, as a remedy for the paradoxical problem of want and starvation in the midst of plenty, Henry George proposed the simple device of collecting for public use the economic rent of land and rights-of-way.

It might be well to remind ourselves that in all our efforts to build our economic order on the basis of social justice, the power of taxation can be used more effectively to achieve this end than any other power of government. In a celebrated case, the Supreme Court of the United States said:

> The power to tax is the one great power upon which the national fabric is based. It is not only the power to destroy, but also the power to keep alive.

This dictum of the Supreme Court contains a very important and vital truth that statesmen, if they want America to develop upon principles of freedom and equality, must learn to apply wisely and sanely. The incidence of taxation is a very vital factor in the upbuilding of human society. It may be used as the Supreme Court has said, to destroy, but it can also be used to keep alive. Wisdom would dictate that it be used in such fashion that the prosperity and happiness of the people will be promoted. Inasmuch as the social benefits of government and progress are absorbed in the value of land and franchises, would not reason and natural justice dictate that the social benefits be taxed for the use of all the people? The question, by what constitutional means are the overprivileged to be weeded out, is quite pertinent. The answer is found in the case of Providence Bank against Billings, in which Chief Justice Marshall said:

Land, for example, has in many, perhaps all, of the States, been granted by Government since the adoption of the Constitution. This grant is a contract, the object of which is that the profits issuing from it shall inure to the benefit of the grantee. Yet the power of taxation may be carried so far as to absorb these profits. Does this impair the obligation of contracts? The idea is rejected by all.

So it would seem that under existing law the Government has the power to take for public use all the benefits issuing from land and franchises. By taking for public use the social benefits that are absorbed by land, by franchises, and by other governmental concessions, the products of capital and labor would be distributed honestly and equitably, and with the products of labor distributed honestly among producers, the purchasing power of the people would be immeasurably increased and consumption limited only by the people's willingness to work and produce. Under this plan production and consumption would automatically balance and the problem of involuntary unemployment solved.

It is estimated by reliable authority that the exactions of privilege in normal times absorb one-third of the national income. In other words, if the national income per year is $60,000,000,000, the privileged interests—those who possess the power to appropriate the social benefits attaching to governmental concessions, receive, without lifting a finger in productive toil, $20,000,000,000 of the products of capital and labor. From this vast quantity of the products of capital and labor government ought to appropriate enough for all public purposes and then the business-wrecking and depression-breeding taxes now levied upon the products of capital and labor could be abolished.

The claim is not made that the collection of all public revenue from the social benefits attaching to legal privilege would solve all our economic ills. But it is claimed that we cannot get rid of our basic troubles without doing so. Henry George himself made the same claim and concession in these words:

I do not say that in the recognition of the equal and unalienable right of each human being to the natural elements from which life must be supported and wants satisfied, lies the solution of all social problems. I fully recognize that even after we do this, much will remain to do. But whatever else we do, as long as we fail to recognize the equal right to the elements of nature, nothing will avail to remedy that unnatural inequality in the distribution of wealth which is fraught with so much evil and danger. Reform as we may, until we make this fundamental reform our material progress can but tend to differentiate our people into the monstrously rich and the frightfully poor.

Manifestly our major economic ills center around the problem of the distribution of wealth. We have observed that all wealth is the creation of labor, and by every rule of logic, reason, and justice labor ought to be the recipient of its products. It has been noted, however, that a large portion of the products of labor are enjoyed by those who do not labor. The conscience of the Nation is awakening to this fact, and the cry is everywhere heard that the parasites—the drones, those who have and enjoy but do not labor nor create—must be removed from our economic order. The American people are determined to weed out the parasites, the overprivileged. This is a sign of promise for the future. But this task must be approached in a spirit of justice and fair dealing. The indiscriminate sharing of the wealth of the Nation, as proposed in ever so many ways, is an offense against the moral sanctions of mankind. The problem must be solved in the spirit of reason and natural justice, and therefore the distribution of the fruits of productive effort must have the sanction of good morals and sound economics. In order to escape the pitfalls that beset the indiscriminate distribution of wealth by such proposals as " soak the rich ", " share the wealth ", " revolving pension funds ", " limitation of income ", and the like, we can well afford to turn to the natural laws governing the distribution of wealth, for these laws, when allowed to function freely and normally, will neither favor nor harm the richest or the poorest.

The Roosevelt administration is making a sincere and earnest attempt to solve the problem of distributing the national income. This is the first time in all the years of our national existence that a Federal administration deliberately set itself the task of grappling seriously with this age-old problem. In the years gone by the Government at Washington was concerned little, if any, about the problem of social justice or the rights of the citizen to the bounty of nature. Given a great and wealthy domain, the Government at Washington, during all the years of our national life, was content to let its fabulous possessions to be ravaged by the adventurous and the strong. It was open season for the plunderers and the despoilers of our land. Timber, oil, coal, mineral, urban, agricultural, and grazing lands in all sections of the Nation, and rights-of-way over the city streets and country highways were seized and appropriated by private individuals and corporations. Opportunities that these natural resources for self-improvement and self-advancement offered are now available only on the payment of a handsome ransom. The resources of the Nation are now in the grip of a comparatively few, and these few have possession of the economic life of the people. Serious and intelligent consideration must be given the problem of not only asserting but restoring to the citizen his rights to the social benefits attaching to the bounty of nature, for this is the fundamental reform upon which the success of all other reforms depend.

The new deal, in its deeper meaning, is a long-range program. It is designed to serve a dual purpose: First, temporary recovery; and second, permanent social justice. Much has been done in the name of the new deal for temporary recovery. Some steps have been taken looking toward permanent social justice and others are in contemplation. That every measure proposed either for temporary relief or permanent recovery is sound is not to be expected. No one pretends that the new deal is perfect. Attempts will be made to achieve its purpose that will seem awkward, futile, and illogical. It no doubt contains features that are undemocratic. These, by trial and error, can be discovered and eliminated, and only those in harmony with sound economics and genuine democracy retained. This is the task ahead for the new deal.

In a letter to President Roosevelt upon the adjournment of the extraordinary session of the Seventy-third Congress, I said:

In your speech, The Philosophy of Government, delivered before the Commonwealth Club, San Francisco, September 23, 1932, you stated: " Government includes the art of formulating a policy and using the political technique to attain so much of that policy as will receive general support; persuading, leading, sacrificing, teaching always, because the greatest duty of a statesman is to educate."

But in teaching, persuading, leading, we must be sure of our ground. There is in social affairs a natural order, and it is the duty of the statesman to discover and follow it. Not to discern clearly and distinctly the natural order is fraught with danger. When the natural order is clearly perceived, the task of steering the ship of state is as sure and certain and definite as the control of an ocean greyhound under the guiding hand of a skilled and trained navigator.

The program set up by the administration in the present crisis may be likened to the work of a certain railroad company that recently erected a bridge across the Ohio River at Steubenville, Ohio. The new bridge was built on the foundations of the old, and during the entire period of the construction of the new bridge not a single train was delayed, nor traffic interrupted in any way. The old bridge and the new in the course of construction were so flanked with temporary trestles that both the old and the new structures lost their semblance as bridges. But after the temporary trestles and the old bridge were removed the structure was there in all its beauty, grandeur, and strength. And so let us hope that the work of the administration thus far is but a temporary

device set up for use while the permanent structure of social justice is being fashioned and molded and constructed in harmony with the great order of things.

"For there is in human affairs one order which is the best. That order is not always the order which exists, but it is the order which should exist for the greatest good of humanity. God knows it and wills it; man's duty it is to discover it and establish it."

The new deal, in its deeper aspect, is designed to end the exploitation of the many by the few; to permanently weed out and eliminate the parasites and overprivileged; to forever silence the threnody of unrequited toil; to bring equal opportunity and economic freedom to all; and to make America in fact what it is in name, a land of "equal rights for all, special privileges for none."

To the task of developing, amplifying, and perfecting the new deal in its deeper meaning let us dedicate our political activities in the years ahead, and for light and leading and guidance we are privileged to drink deep at the fount of economic truth as revealed in the inspiring message of Henry George.

PERMISSION TO ADDRESS THE HOUSE

Mr. HOEPPEL. Mr. Speaker, I ask unanimous consent to address the House for 4 minutes.

The SPEAKER. The Chair hopes the gentleman will withhold that request until after the disposition of the pending matter.

Mr. HOEPPEL. I withhold the request, Mr. Speaker.

PUBLIC UTILITY ACT OF 1935

Mr. RAYBURN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating or marketing securities in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2796, with Mr. WARREN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. The question now recurs on the adoption of the committee amendment to the Senate bill.

Mr. CROSSER of Ohio. Mr. Chairman, I again ask unanimous consent to revert to page 229, for the purpose of offering an amendment. I have talked with the gentleman from Ohio [Mr. COOPER] about it and I think he agrees that what I am suggesting ought to be done.

Mr. SNELL. Mr. Chairman, reserving the right to object, let the amendment be reported.

The CHAIRMAN. The Clerk will report the proposed amendment.

The Clerk read as follows:

Amendment offered by Mr. CROSSER of Ohio: Page 229, line 11, after the word "person", insert a comma and the words "State, or municipality."

Line 13, strike out the words "of such person" and insert the word "thereof" in lieu thereof.

Mr. SNELL. Mr. Chairman, this bill will go to conference and I shall object to going back.

Mr. CROSSER of Ohio. Mr. Chairman, will the gentleman reserve his objection to let me explain the matter?

Mr. SNELL. I reserve it, Mr. Chairman.

Mr. CROSSER of Ohio. Both the Senate and the House bills are identical on this matter and therefore it will be impossible to change the language in conference. This is the reason I am anxious to have the amendment adopted and I really think it is what the gentleman from Ohio [Mr. COOPER] and the folks on that side would like to do. This amendment requires municipal corporations to be supervised like all other corporations.

Mr. SNELL. Mr. Chairman, I object.

Mr. CROSSER of Ohio. Then, Mr. Chairman, I submit another amendment and ask unanimous consent for its consideration.

The CHAIRMAN. The Clerk will report the proposed amendment.

The Clerk read as follows:

Amendment offered by Mr. CROSSER of Ohio: Page 229, lines 11 to 13, strike out subsection (5) and renumber the succeeding subsections accordingly.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to return to page 229 for the purpose of offering the amendment which has just been reported. Is there objection?

Mr. COOPER of Ohio and Mr. WADSWORTH reserved the right to object.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman explain this amendment?

Mr. CROSSER of Ohio. Mr. Chairman, the only purpose of this amendment is to do what the other amendment would have done more satisfactorily. Since we do not have municipal corporations included under the definition contained in the bill, this amendment proposes to strike out subsection (5) and in this way we will not discriminate against private corporations in favor of municipal corporations.

Mr. COOPER of Ohio. Do I understand the gentleman from Ohio to say that the last amendment he offers will do the same thing that the amendment which was just objected to would do, but in a little better way?

Mr. CROSSER of Ohio. No; the language of the bill as it now stands specifically leaves out municipalities. If my other amendment had been adopted it would have included municipalities, so they would be supervised with regard to accounting, and so forth, just like private corporations. This will not be true as the bill now stands, and I really should think the gentleman from Ohio and the gentleman from New York would want this amendment more than myself.

Mr. WADSWORTH. Mr. Chairman, reserving the right to object, may I ask the gentleman from Ohio this question. Does his last amendment strike out the entire definition of licensee?

Mr. CROSSER of Ohio. Yes; paragraph (5), which defines licensee, does not include municipal corporations.

Mr. WADSWORTH. Then if the last amendment offered by the gentleman is adopted, there will not be any definition of licensee in the bill?

Mr. CROSSER of Ohio. That is right.

Mr. WADSWORTH. Then where do we get?

Mr. CROSSER of Ohio. We have corporations, persons, and so on.

Mr. WADSWORTH. The word "licensee" is used very often throughout this bill, and if you strike out the definition of "licensee" you will cast the bill in doubt.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. COOPER of Ohio. Mr. Chairman, if what the gentleman from New York has said is true, I shall have to object.

The CHAIRMAN. The gentleman from Ohio objects.

The question now recurs on the adoption of the committee substitute for the Senate bill.

Mr. RANKIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman and members of the Committee, we are going to vote now on the motion to substitute the House bill for the Senate bill. Those of us who are opposed to the House bill will vote "no." If we vote down this motion, then the vote recurs on the adoption of the Senate bill, and then our vote will be "aye." If that vote is carried, then the bill goes to the White House. It does not have to go to conference.

On the other hand, if you vote "aye" on this motion and it is carried, you are voting for the House bill, which is the very bill that the Power Trust wants as against the Senate bill.

Mr. DINGELL. Will the gentleman yield?

Mr. RANKIN. I yield.

Mr. DINGELL. Does the Senate bill have any control provision over the pipe lines?

Mr. RANKIN. The gentleman knows what the Senate provision does. Those of you who are with us know that it comes down to a vote for the people or the Power Trust. A vote

for the Senate bill is a vote for the American people and against the Power Trust. [Applause.]

The first roll call will come on adopting the House bill as a substitute for the Senate bill. That vote will show where every Member stands—whether he is with the administration or with the Power Trust.

Our vote will be "no." The Power Trust vote will be "aye."

If we win on that roll call and defeat the motion to substitute the House bill for the Senate bill, then the next vote will be on the passage of the Senate bill.

On that proposition our vote will be "aye"; the Power Trust vote will be "no."

If we win on that vote, then the bill will go directly to the White House and become the law.

Mr. RAYBURN. Mr. Chairman, I owe it not only to myself, but I owe it to the Members of the House on both sides of the aisle who stood alongside me yesterday on the vote on section 11, to make this statement. I have stated in this debate that there were provisions in the Senate bill that I liked better than I did the provisions in the House bill. I gave evidence of that yesterday.

I also stated that I thought many provisions in the House bill have been better considered than those in the Senate bill, and therefore I stood for them.

Therefore, I cannot vote to substitute the entire Senate bill for the entire House bill. [Applause.]

Furthermore, when this roll is called you are going to further tie the hands of the House conferees. You are going to make it more impossible for the Senate committee to yield for the House committee measure and to get any sort of a bill. I feel, therefore, that I owe it to those who have known my position to make this statement. I now yield to the gentleman from New York.

Mr. SNELL. The chairman of the committee in the Senate has announced publicly that the Senate will never yield. Why are we making it any harder to get a bill if we vote direct on the substitutions?

Mr. RAYBURN. Well, I think sometimes we talk off the record. [Laughter.]

Mr. McFARLANE rose.

Mr. RAYBURN. I yield to the gentleman from Texas.

Mr. McFARLANE. I wish the gentleman would point out just what specific provision in the House bill is better than the specific provision in the Senate bill. I think that every amendment of the House bill to the Senate bill has greatly weakened it.

Mr. BLANTON. That can be left to the chairman of the committee.

Mr. RAYBURN. There are thirty-odd sections in this bill, and the most remarkable thing that we have seen in this House occurred the other day when 10 vitally important sections of the bill were read in the House and but two small amendments were offered, and one of them, after consideration, withdrawn.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. DINGELL. We are very much interested in the control of natural-gas pipe lines, one of the biggest violators and the biggest obstacle in the way of some of the large cities getting natural gas. That title has been stricken from the House bill.

Mr. RAYBURN. Yes; it was stricken from the House bill in committee on a vote of 11 to 12.

Mr. DINGELL. Would the gentleman tell me whether that has any chance of reinstatement?

Mr. RAYBURN. It will not be in conference. There is no chance to consider it.

Mr. DINGELL. Has the committee anything in mind to bring that out at any future day?

Mr. RAYBURN. One of the reasons of those who opposed putting title III in the bill was that the Federal Trade Commission was making a thorough investigation of the subject, and their hope was to report on the matter next December or January. Under Dr. Splawn, however, the argument on the other side, which was made by me and the others, was that he had made a very thorough investigation of it, and we have enough facts, therefore, on which to put title III in, but we were not able to do it.

Mr. DINGELL. The Senate bill contains no such provision.

Mr. RAYBURN. It contains no title III.

Mr. WOODRUM. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. WOODRUM. In order to understand a little more clearly the gentleman's position, as I understand it, the question we vote on now is whether or not we shall substitute the House bill for the Senate bill. I understand the gentleman's position to be that he will support the House bill as against the Senate bill.

Mr. RAYBURN. My position is this: I should like to see this bill in conference. I have pointed out a great many things in both bills. I think there are frailties in the House measure and also in the Senate measure, but I think we can do a better job in conference than we can here.

Mr. COOPER of Ohio. Mr. Chairman, I rise only to say that after weeks and weeks of consideration of this measure in the Committee on Interstate and Foreign Commerce, the committee was never permitted to take a direct vote as to whether or not we were for the "death sentence." You could not have gotten the bill out of the Committee on Interstate and Foreign Commerce with the "death sentence" in it. It is not a question this morning of what the Senate has done. The question we have to consider is the work of the House committee after almost 5 months, working night and day on the bill. [Applause.] Then again, my good friend, the chairman of the committee, said it would be impossible to get the conferees of the House and the Senate together if we passed the House bill. I remind the House that the "death sentence" provision in the Senate bill was adopted by only 1 vote in the Senate, so the House and the Senate cannot be very far apart on this great question.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. That is all I have to say.

Mr. HOEPPEL. Mr. Chairman, I rise in opposition to the pro forma amendment. Before a vote is taken on this bill I think the Membership should know something in reference to the pressure which is directed against Members who appear to be in opposition to the President's plan. I received the following telegram this morning:

LOS ANGELES, CALIF., *July 2, 1935.*

Hon. JOHN H. HOEPPEL,
Member of Congress, Washington, D. C.:

Please do not fail to vote for legislation against utility holding company. Democratic Party of California expects you to support the President's righteous stand on this issue. Failure to do so would be great disappointment to your constituency. Kind regards.

CULBERT L. OLSON,
Chairman Democratic State Central Committee.

I understand that another Representative from Los Angeles County, who, like myself, voted against the "death sentence" in this measure, received a similar telegram. I have the highest regard for Mr. Olson, the chairman of our Democratic State committee and hope that he may be our next Governor. I do not know whether he was inspired by the administration to send this telegram to me, but I do know that the administration did not give our party the proper support last year, and as a result we now have a Republican Governor in California.

Mr. COLDEN. Mr. Chairman, will the gentleman yield?

Mr. HOEPPEL. One more important point, my friend. From a source which I will not divulge, it was brought to my attention today that the relief funds for California may be more liberal in the event I support the President in his "righteous stand." I also received a telephone call from the head of a certain organization of California, apparently inspired by the administration, requesting that I support the President.

Mr. COLDEN. Mr. Chairman, will the gentleman yield?

Mr. HOEPPEL. For the information of the House, I wish to state that the dangling before my eyes of relief funds for our impoverished citizens will not impel me to desert or

deviate from what I consider to be my duty as a Representative—that is, to vote without coercion and according to the dictates of my conscience and in what I consider to be the best interests of all the people. The mere fact that pressure of this sort is being directed toward Representatives who voted yesterday against the "death clause" is a danger signal to democracy, and, in my opinion, there is no longer any necessity for a Congress of the United States if we are to be controlled on legislation before us by pressure from administrative sources.

I am not in favor of destroying wealth, but I do believe in regulation. If we wish to be fair with the investors of America, I would suggest that all holding companies be incorporated under Federal laws and that regulation, through taxation and other methods, should be sufficient.

I wish to go on record as one Democrat from the State of California who will not sell his vote for a mess of pottage or patronage.

Mr. BLANTON. Mr. Chairman, I offer the following preferential motion, which I send to the desk.

The Clerk read as follows:

Mr. BLANTON moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from Texas moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. The gentleman from Texas is recognized for 5 minutes.

Mr. BLANTON. Mr. Chairman, I have made this motion in order to get the floor, so as to enable me to emphasize and make plain the position taken by our Chairman of the Interstate and Foreign Commerce Committee [Mr. RAYBURN]. I am backing the chairman of our committee.

I am uncompromisingly against the holding companies controlling the utilities of this Nation. I am in favor of putting teeth into this bill. I am in favor of this Government properly regulating and controlling all utilities, and of abolishing and putting out of business all unnecessary and improper holding companies.

But the main question now before us is how is the best way to bring that about. In the teller vote yesterday, we were defeated by a decisive vote. We who insisted on putting teeth in this bill were outvoted. If we press our issue here again today, we are going to be outvoted again, under the present atmosphere and environment, and we will not accomplish what we desire.

Sometimes it is necessary for a good general to retreat temporarily. The chairman of our committee has made a good fight both in his committee and on this floor. He deems it best just now to make a strategical retreat. He thinks it is best to pass the House provisions and let the bill go to conference, as there are some sections of the House bill which are better than the Senate bill, and there are some sections of the Senate bill which are better than the House bill, and such action will put the provisions of both bills in conference, and there our committee chairman can make his fight for a proper bill to bring back to the House. Therefore, I am going to back our chairman, and vote with him to let the House bill pass.

Our chairman has given his time and attention assiduously to this bill. He knows exactly what he has in mind when he made the statement a moment ago. I think that those of us, including the gentleman from Mississippi——

Mr. McFARLANE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. McFARLANE. The gentleman has made a motion to strike out the enacting clause, and then he is speaking against his own motion.

Mr. BLANTON. Mr. Chairman, I have the right to use my own method of debate.

The CHAIRMAN. The gentleman from Texas will proceed in order.

Mr. BLANTON. Certainly. This bill is in such position that I think in case my motion should not prevail, and I know it will not, we should vote for the House bill, as the gentleman from Texas [Mr. RAYBURN] says he wants us to do. He is our leader in this matter. [Applause.] He is our Democratic leader respecting this legislation now before us. [Applause.]

Mr. MONAGHAN. Will the gentleman yield?

Mr. BLANTON. No. I am sorry. Mr. Chairman, I am going to follow our Democratic leader [Mr. RAYBURN].

Mr. O'MALLEY. Mr. Chairman, a point of order. The gentleman is not speaking to his motion.

The CHAIRMAN. The gentleman from Texas has the floor and will proceed in order.

Mr. BLANTON. Surely, I have the floor, and I know how to proceed in order.

Mr. Chairman, in case my motion should not prevail, and I know it will not prevail, because I am going to vote against it myself, this is what will happen: If we vote for the House bill, then we surely will have the Republicans with us on that, and then all of the provisions of the Senate bill will go to conference, and when that bill comes out of conference I predict the gentleman from Texas, the great chairman of this committee [Mr. RAYBURN], and his other conferees will bring back to us a bill that the majority of the Members of this House will be satisfied with and can vote for, even my friend from Mississippi [Mr. RANKIN], with whom I voted in the teller vote yesterday and with whom I stand shoulder to shoulder in fighting Power Trusts. [Laughter and applause.]

Mr. RANKIN. Oh, no; you do not. [Laughter and applause.]

Mr. BLANTON. Yes; I do. But I have got sense enough, Mr. Chairman, to use a little strategy [applause and laughter] in order to get proper legislation through this House.

Mr. McFARLANE. Will the gentleman yield?

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to withdraw my motion to strike out the enacting clause.

Mr. MARCANTONIO. Mr. Chairman, I object.

Mr. RANKIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard to the request of the gentleman from Texas [Mr. BLANTON] to withdraw his motion.

The Chair recognizes the gentleman from Massachusetts [Mr. CONNERY] for 5 minutes.

Mr. CONNERY. Mr. Chairman, I have the highest respect for my friend and colleague, the Chairman of the Committee on Interstate and Foreign Commerce [Mr. RAYBURN]. I regret that I cannot go along with him today. I think today we are facing one of the most important votes that we have faced, at least in my time in Congress in the last 13 years.

I do not suggest to any Member of this House how he should vote, or attempt to guide any Member of this House. Yesterday when I stood down in the Well of the house I explained afterward to my colleagues the reason why I mentioned the stand of the American Federation of Labor on this bill. [Applause and laughter.] That reason was that many Members had asked me not my position but the position of the American Federation of Labor, and for that purpose I expressed that position as it was made known to me.

Today it seems to me in this vote we are deciding for 125,000,000 people of the United States whether the power interests of the United States are going to continue to run this our country roughshod or whether the United States Government is going to run the country. [Applause.]

I repeat, I think it the most important vote we have been faced with in this House in many years. I hope the House will stand with President Roosevelt in his great fight against the Power Trust and vote down this motion when it is made, to substitute the House amendment for the Senate bill. I think this is a mighty battle between the United States Government and the Power Trust, and I hope, for the sake of the great masses of the people exploited and strangled by the Power Trust octopus of big business that the United States Government wins this all-important battle here and now. [Applause.]

Mr. McFARLANE. Will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. CONNERY] has expired. All time has expired.

The question is on the motion of the gentleman from Texas [Mr. BLANTON] that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The question was taken; and on a division (demanded by Mr. MARCANTONIO, Mr. O'MALLEY, and Mr. PATMAN) there were ayes 1 and noes 82.

So the motion was rejected.

Mr. RANKIN. Mr. Chairman, I move to strike out the section.

The CHAIRMAN. The Chair is unable to recognize the gentleman from Mississippi. All debate has expired.

The question now recurs to the adoption of the committee substitute for the Senate bill.

Mr. MARCANTONIO. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. RAYBURN and Mr. MARCANTONIO to act as tellers.

The Committee divided; and the tellers reported there were ayes 246 and noes 133.

So the committee substitute was agreed to.

The CHAIRMAN. The Committee rises under the rule.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WARREN, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill S. 2796, the Public Utility Act of 1935, pursuant to House Resolution 276, he reported the same back to the House with an amendment.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee substitute adopted in the Committee of the Whole? If not, the question is on the adoption of the amendment.

Mr. SNELL. Mr. Speaker, on the adoption of the amendment I ask for the yeas and nays.

Mr. RANKIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RANKIN. If this motion is voted down, then the Senate bill will be before the House for passage. That is correct, is it not?

The SPEAKER. That is correct.

Mr. RANKIN. Then our vote is nay.

The question was taken; and there were—yeas 258, nays 147, not voting 24, as follows:

[Roll No. 114]

YEAS—258

Adair	Carmichael	Duffey, Ohio	Greever
Allen	Carpenter	Duffy, N. Y.	Griswold
Andresen	Cary	Duncan	Guyer
Andrew, Mass.	Casey	Dunn, Miss.	Gwynne
Andrews, N Y.	Cavicchia	Eagle	Haines
Arends	Celler	Eaton	Halleck
Ashbrook	Chapman	Edmiston	Hancock, N. Y.
Bacharach	Christianson	Ekwall	Hancock, N. C.
Bacon	Church	Engel	Harlan
Barden	Claiborne	Englebright	Hart
Beam	Clark, Idaho	Evans	Harter
Bell	Clark, N. C.	Faddis	Hartley
Berlin	Coffee	Farley	Hennings
Blackney	Cole, Md.	Fenerty	Hess
Bland	Cole, N. Y.	Fernandez	Higgins, Mass.
Blanton	Collins	Fiesinger	Hobbs
Bloom	Cooper, Ohio	Fish	Hoeppel
Boehne	Corning	Fitzpatrick	Hoffman
Boland	Costello	Focht	Hollister
Bolton	Crawford	Frey	Holmes
Boylan	Crosby	Fuller	Hope
Brennan	Crowther	Fulmer	Houston
Brewster	Culkin	Gambrill	Huddleston
Brooks	Cullen	Gasque	Imhoff
Brown, Ga.	Darden	Gassaway	Jenckes, Ind.
Brunner	Darrow	Gavagan	Jenkins, Ohio
Buchanan	Delaney	Gifford	Johnson, Tex.
Buck	Dietrich	Gingery	Johnson, W. Va.
Buckbee	Ditter	Goodwin	Kahn
Burch	Dobbins	Granfield	Kee
Burnham	Dondero	Gray, Pa.	Kelly
Caldwell	Doutrich	Green	Kennedy, Md.
Carlson	Drewry	Greenway	Kerr
Kimball	Mason	Rayburn	Sutphin
Kinzer	May	Reece	Taber
Kleberg	Meeks	Reed, Ill.	Tarver
Kloeb	Merritt, Conn.	Reed, N. Y.	Taylor, Tenn.
Knutson	Merritt, N. Y.	Reilly	Thom
Kopplemann	Michener	Rich	Thomas
Lambeth	Millard	Richards	Thompson
Lamneck	Mitchell, Ill.	Richardson	Thurston
Lanham	Montague	Robertson	Tinkham
Lea, Calif.	Montet	Robinson, Utah	Tobey
Lehlbach	Mott	Robsion, Ky.	Tolan
Lewis, Colo.	Nichols	Rogers, Mass.	Treadway
Lloyd	Norton	Rogers, N. H.	Turpin
Lord	O'Brien	Rogers, Okla.	Umstead
Lucas	O'Connell	Rudd	Vinson, Ga.
Ludlow	O'Connor	Russell	Wadsworth
McAndrews	O'Leary	Sanders, Tex.	Walter
McCormack	O'Neal	Schaefer	Warren
McGehee	Palmisano	Schuetz	Weaver
McGroarty	Parsons	Sears	Whelchel
McKeough	Patton	Secrest	Whittington
McLaughlin	Perkins	Seger	Wigglesworth
McLean	Peterson, Fla.	Shanley	Wilcox
McMillan	Peterson, Ga.	Short	Wilson, La.
McReynolds	Pettengill	Smith, Conn.	Wilson, Pa.
McSwain	Pittenger	Smith, Va.	Wolcott
Maas	Plumley	Smith, W. Va.	Wolfenden
Maloney	Polk	Snell	Wolverton
Mansfield	Powers	Somers, N. Y.	Woodruff
Mapes	Ramspeck	Spence	Woodrum
Marshall	Randolph	Stefan	
Martin, Mass.	Ransley	Stewart	

NAYS—147

Amlie	Dunn, Pa.	Lemke	Sauthoff
Arnold	Eckert	Lewis, Md.	Schneider
Ayers	Eicher	Luckey	Schulte
Beiter	Ellenbogen	Lundeen	Scott
Biermann	Flannagan	McClellan	Scrugham
Binderup	Fletcher	McFarlane	Sirovich
Boileau	Ford, Calif.	McGrath	Sisson
Buckler, Minn.	Ford, Miss.	Mahon	Smith, Wash.
Buckley, N. Y.	Gearhart	Marcantonio	Snyder
Burdick	Gehrmann	Martin, Colo.	South
Cannon, Mo.	Gilchrist	Massingale	Stack
Cartwright	Gildea	Maverick	Starnes
Castellow	Gillette	Mead	Steagall
Chandler	Goldsborough	Miller	Stubbs
Citron	Gray, Ind.	Mitchell, Tenn.	Sullivan
Colden	Greenwood	Monaghan	Sweeney
Colmer	Gregory	Moran	Taylor, Colo.
Connery	Hamlin	Moritz	Terry
Cooper, Tenn.	Healey	Murdock	Thomason
Cox	Hildebrandt	Nelson	Tonry
Cravens	Hill, Ala.	O'Day	Truax
Cross, Tex.	Hill, Knute	O'Malley	Turner
Crosser, Ohio	Hill, Samuel B.	Parks	Utterback
Crowe	Hook	Patman	Vinson, Ky.
Cummings	Hull	Patterson	Wallgren
Daly	Jacobsen	Pearson	Wearin
Dear	Johnson, Okla.	Pfeifer	Welch
Deen	Jones	Pierce	Werner
Dickstein	Keller	Quinn	West
Dingell	Kennedy, N. Y.	Rabaut	White
Disney	Kniffin	Ramsay	Williams
Dockweiler	Kocialkowski	Rankin	Withrow
Dorsey	Kramer	Romjue	Wood
Doughton	Kvale	Sabath	Young
Doxey	Lambertson	Sadowski	Zimmerman
Driscoll	Larrabee	Sanders, La.	Zioncheck
Driver	Lee, Okla.	Sandlin	

NOT VOTING—24

Bankhead	Cooley	Higgins, Conn.	Peyser
Brown, Mich.	Dempsey	Kenney	Ryan
Bulwinkle	DeRouen	Lesinksi	Shannon
Cannon, Wis.	Dies	McLeod	Sumners, Tex.
Carter	Dirksen	Oliver	Taylor, S. C.
Cochran	Ferguson	Owen	Underwood

So the amendment was adopted.

The Clerk announced the following pairs:

On this vote:

Mr. Cooley (for) with Mr. Brown of Michigan (against).
Mr. McLeod (for) with Mr. Cochran (against).
Mr. Dirksen (for) with Mr. Taylor of South Carolina (against).

Until further notice:

Mr. Dies with Mr. Carter.
Mr. Sumners of Texas with Mr. Higgins of Connecticut.
Mr. Oliver with Mr. Ryan.
Mr. Bankhead with Mr. Cannon of Wisconsin.
Mr. Bulwinkle with Mr. Lesinski.
Mr. Underwood with Mr. Dempsey.
Mr. Ferguson with Mr. DeRouen.
Mr. Peyser with Mr. Owen.

Mrs. NORTON. Mr. Speaker, my colleague the gentleman from New Jersey, Mr. KENNEY, is unavoidably delayed. He called me over the long-distance telephone and authorized me to state that if he were present he would vote "yea."

The result of the vote was announced as above recorded.

The bill was ordered to be read a third time, and was read the third time.

Mr. HOLMES. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. HOLMES. I am.

Mr. RANKIN. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. RANKIN. Mr. Speaker, I make the point of order that the gentleman from Iowa [Mr. EICHER] is entitled to make this motion to recommit for the reason that under the rule the motion to recommit goes to the minority. When a bill is being considered in the House and the majority in charge of the bill is defeated on a major issue, control of the bill then passes to the other side. The control of this bill has passed to the other side of the House, or to the other side of this issue. I make the point of order, therefore, that the gentleman from Iowa [Mr. EICHER], a member of the committee representing the minority now, is entitled to be recognized to make the motion to recommit.

Mr. O'CONNOR. Mr. Speaker, may I be heard on the point of order?

The SPEAKER. The Chair will hear the gentleman.

Mr. O'CONNOR. Mr. Speaker, it is so well known that the precedents are to the contrary of the position stated by the gentleman from Mississippi that it is not even necessary for me to argue it.

Mr. RANKIN. Mr. Speaker, it is a great relief to the House not to have to strain the ponderous intellect of the gentleman from New York [Mr. O'CONNOR] on this point of order.

The SPEAKER. The Chair is ready to rule.

The motion to recommit was first adopted in order to protect the minority, not necessarily the political minority, but the minority in the House. It has been the uniform practice without one single exception since this rule was first adopted that the political minority in the House shall be given the preference on motions to recommit, provided they qualify, recognition first being given to members of the committee which reported the bill.

On May 7, 1913, this express point was ruled upon by the late Speaker Champ Clark, and the Chair will quote briefly from what the Speaker said on that occasion in response to an inquiry from the Honorable Victor Murdock, at that time a Representative from Kansas. Speaker Clark said:

> The Chair laid down this rule, from which he never intends to depart unless overruled by the House, that on a motion to recommit he will give preference to the gentleman at the head of the minority list, provided he qualifies, and then go down the list of the minority of the committee until it is gotten through with. And then, if no one of them offer a motion to recommit, the Chair will recognize the gentleman from Illinois [Mr. Mann] to make it; but if he does not do so, will recognize the gentleman from Kansas [Mr. Murdock] as the leader of the third party in the House. * * * Of course, he would have to qualify (63d Cong., 1st sess., RECORD, p. 1373).

As the Chair has stated, without one single exception this has been the ruling of all the Speakers who succeeded Speaker Clark.

The Chair feels that this rule having been adopted primarily to protect the minority, and in order to give the minority a right to express itself, that the previous rulings should be followed. The gentleman from Massachusetts, a minority member of the committee, has stated that he is opposed to the bill and is therefore in the same class as the gentleman from Iowa [Mr. EICHER], a member of the majority on the committee; therefore, the Chair overrules the point of order and recognizes the gentleman from Massachusetts [Mr. HOLMES] to offer the motion to recommit.

The Clerk read as follows:

> Mr. HOLMES moves to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to report the same back forthwith with the following amendment: Strike out all of section 11, beginning on page 196, line 14, and ending on page 200, line 3, both inclusive.

Mr. SNELL. Mr. Speaker, on that I ask for the yeas and nays.

Mr. RANKIN. Mr. Speaker, I offer an amendment.

Mr. SNELL. Mr. Speaker, I move the previous question on the motion to recommit.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mr. RANKIN) there were—ayes 295, noes 94.

So the previous question was ordered.

Mr. CONNERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CONNERY. What would be the situation in the event the motion of my colleague the gentleman from Massachusetts was agreed to striking out section 11? What would be the parliamentary situation?

The SPEAKER. The bill, of course, would be without section 11.

Mr. CONNERY. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CONNERY. In reference to my parliamentary inquiry, what I am after is this: The adoption of the House bill as a substitute for the Senate bill did away completely with the Senate bill. There would be no possibility by the adoption of this amendment striking out section 11 to revert to a consideration of section 11 of the Senate bill?

The SPEAKER. The gentleman is correct.

Mr. SNELL. Mr. Speaker, on the motion to recommit I demand the yeas and nays.

The yeas and nays were ordered.

Mr. McFARLANE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. McFARLANE. If we vote to strike out section 11 on this motion to recommit, then that section could not be considered in conference. In other words, we who favor the Senate bill should vote "no"?

The SPEAKER. The gentleman will have to determine that for himself.

The Clerk will call the roll.

The question was taken; and there were—yeas 93, nays 312, not voting 24, as follows:

[Roll No. 115]

YEAS—93

Allen	Dondero	Kennedy, N. Y.	Rich
Andresen	Doutrich	Kimball	Rogers, Mass.
Andrew, Mass.	Eagle	Kinzer	Seger
Andrews, N. Y.	Eaton	Knutson	Short
Arends	Ekwall	Lehlbach	Snell
Bacharach	Engel	Lord	Stewart
Bacon	Englebright	McLean	Sutphin
Blackney	Fenerty	Maas	Taber
Bolton	Fish	Mapes	Thomas
Buckbee	Focht	Marshall	Thurston
Burnham	Gifford	Martin, Mass.	Tinkham
Carlson	Goodwin	May	Tobey
Cavicchia	Guyer	Merritt, Conn.	Treadway
Christianson	Gwynne	Michener	Turpin
Church	Halleck	Millard	Wadsworth
Claiborne	Hancock, N. Y.	Mott	Wigglesworth
Cole, N. Y.	Hartley	Perkins	Wilson, Pa.
Collins	Hess	Pittenger	Wolcott
Cooper, Ohio	Hoffman	Plumley	Wolfenden
Crawford	Hollister	Powers	Wolverton
Crowther	Holmes	Ransley	Woodruff
Culkin	Hope	Reece	
Darrow	Jenkins, Ohio	Reed, Ill.	
Ditter	Kahn	Reed, N. Y.	

NAYS—312

Adair	Buck	Corning	Driver
Amlie	Buckler, Minn.	Costello	Duffey, Ohio
Arnold	Buckley, N. Y.	Cravens	Duffy, N. Y.
Ashbrook	Burch	Crosby	Duncan
Ayers	Burdick	Cross, Tex.	Dunn, Miss.
Barden	Caldwell	Crosser, Ohio	Dunn, Pa.
Beam	Cannon, Mo.	Crowe	Eckert
Beiter	Carmichael	Cullen	Edmiston
Bell	Carpenter	Cummings	Eicher
Berlin	Cartwright	Daly	Ellenbogen
Biermann	Cary	Darden	Evans
Binderup	Casey	Dear	Faddis
Bland	Castellow	Deen	Farley
Blanton	Celler	Delaney	Ferguson
Bloom	Chandler	Dickstein	Fernandez
Boehne	Chapman	Dietrich	Fiesinger
Boileau	Citron	Dingell	Fitzpatrick
Boland	Clark, Idaho	Disney	Flannagan
Boylan	Clark, N. C.	Dobbins	Fletcher
Brennan	Coffee	Dockweiler	Ford, Calif.
Brewster	Colden	Dorsey	Ford, Miss.
Brooks	Cole, Md.	Doughton	Frey
Brown, Ga.	Colmer	Doxey	Fuller
Brunner	Connery	Drewry	Fulmer
Buchanan	Cooper, Tenn.	Driscoll	Gambrill

Gasque	Kocialkowski	Norton	Shanley
Gassaway	Kopplemann	O'Brien	Sirovich
Gavagan	Kramer	O'Connell	Sisson
Gearhart	Kvale	O'Connor	Smith, Conn.
Gehrmann	Lambertson	O'Day	Smith, Va.
Gilchrist	Lambeth	O'Leary	Smith, Wash.
Gildea	Lamneck	O'Malley	Smith, W. Va.
Gillette	Lanham	O'Neal	Snyder
Gingery	Larrabee	Palmisano	Somers, N. Y.
Goldsborough	Lea, Calif.	Parks	South
Granfield	Lee, Okla.	Parsons	Spence
Gray, Ind.	Lemke	Patman	Stack
Gray, Pa.	Lewis, Colo.	Patterson	Starnes
Green	Lewis, Md.	Patton	Steagall
Greenway	Lloyd	Pearson	Stefan
Greenwood	Lucas	Peterson, Fla.	Stubbs
Greever	Luckey	Peterson, Ga.	Sullivan
Gregory	Ludlow	Pettengill	Sweeney
Griswold	Lundeen	Pfeifer	Tarver
Haines	McAndrews	Pierce	Taylor, Colo.
Hamlin	McClellan	Polk	Taylor, Tenn.
Hancock, N. C.	McCormack	Quinn	Terry
Harlan	McFarlane	Rabaut	Thom
Hart	McGehee	Ramsay	Thomason
Harter	McGrath	Ramspeck	Thompson
Healey	McGroarty	Randolph	Tolan
Hennings	McKeough	Rankin	Tonry
Higgins, Mass.	McLaughlin	Rayburn	Truax
Hildebrandt	McMillan	Reilly	Turner
Hill, Ala.	McReynolds	Richards	Umstead
Hill, Knute	McSwain	Richardson	Utterback
Hill, Samuel B.	Mahon	Robertson	Vinson, Ga.
Hobbs	Maloney	Robinson, Utah	Vinson, Ky.
Hoeppel	Mansfield	Robsion, Ky.	Wallgren
Hook	Marcantonio	Rogers, N. H.	Walter
Houston	Martin, Colo.	Rogers, Okla.	Warren
Huddleston	Mason	Romjue	Wearin
Hull	Massingale	Rudd	Weaver
Imhoff	Maverick	Russell	Welch
Jacobsen	Mead	Sabath	Werner
Jenckes, Ind.	Meeks	Sadowski	West
Johnson, Okla.	Merritt, N. Y.	Sanders, La.	Whelchel
Johnson, Tex.	Miller	Sanders, Tex.	White
Johnson, W. Va.	Mitchell, Ill.	Sandlin	Whittington
Jones	Mitchell, Tenn.	Sauthoff	Wilcox
Kee	Monaghan	Schaefer	Williams
Keller	Montague	Schneider	Wilson, La.
Kelly	Montet	Schuetz	Withrow
Kennedy, Md.	Moran	Schulte	Wood
Kerr	Moritz	Scott	Woodrum
Kleberg	Murdock	Scrugham	Young
Kloeb	Nelson	Sears	Zimmerman
Kniffin	Nichols	Secrest	Zioncheck

NOT VOTING—24

Bankhead	Cooley	Higgins, Conn.	Peyser
Brown, Mich.	Cox	Kenney	Ryan
Bulwinkle	Dempsey	Lesinski	Shannon
Cannon, Wis.	DeRouen	McLeod	Sumners, Tex.
Carter	Dies	Oliver	Taylor, S. C.
Cochran	Dirksen	Owen	Underwood

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Dirksen (for) with Mr. Taylor of South Carolina (against).
Mr. Higgins of Connecticut (for) with Mr. Cooley (against).
Mr. McLeod (for) with Mr. Cochran (against).

General pairs:

Mr. Dies with Mr. Carter.
Mr. Oliver with Mr. Ryan.
Mr. Bankhead with Mr. Cannon of Wisconsin.
Mr. Bulwinkle with Mr. Lesinski.
Mr. Underwood with Mr. Dempsey.
Mr. Peyser with Mr. Owen.
Mr. Cox with Mr. Brown of Michigan.
Mr. Sumners of Texas with Mr. DeRouen.

Mr. BELL changed his vote from "yea" to "nay."

Mr. CROSS of Texas. Mr. Speaker, my colleague the gentleman from Texas, Mr. DIES, is unavoidably absent. If he were here, I would vote "no" on the motion to recommit.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. RAYBURN and Mr. SNELL demanded the yeas and nays.

Mr. RANKIN. Mr. Speaker, there is nothing in this bill now worthy of the attention of Congress.

The yeas and nays were ordered.

The question was taken; and there were—yeas 323, nays 81, not voting 25, as follows:

[Roll No. 116]

YEAS—323

Adair	Ashbrook	Beam	Berlin
Amlie	Ayers	Beiter	Biermann
Arnold	Barden	Bell	Binderup
Bland	Farley	Lanham	Reilly
Blanton	Ferguson	Larrabee	Richards
Bloom	Fernandez	Lea, Calif.	Richardson
Boehne	Fiesinger	Lee, Okla.	Robertson
Boileau	Fish	Lemke	Robinson, Utah
Boland	Fitzpatrick	Lesinski	Robsion, Ky.
Boylan	Flannagan	Lewis, Colo.	Rogers, N. H.
Brennan	Fletcher	Lewis, Md.	Rogers, Okla.
Brewster	Ford, Calif.	Lloyd	Romjue
Brooks	Ford, Miss.	Lucas	Rudd
Brown, Ga.	Frey	Luckey	Russell
Brunner	Fuller	Ludlow	Sabath
Buchanan	Fulmer	Lundeen	Sadowski
Buckler, Minn.	Gambrill	McAndrews	Sanders, La.
Buckley, N. Y.	Gasque	McClellan	Sandlin
Burch	Gassaway	McCormack	Sauthoff
Burdick	Gavagan	McFarlane	Schaefer
Caldwell	Gearheart	McGehee	Schneider
Cannon, Mo.	Gehrmann	McGrath	Schuetz
Carlson	Gilchrist	McGroarty	Schulte
Carmichael	Gildea	McKeough	Scott
Carpenter	Gillette	McLaughlin	Sears
Cartwright	Gingery	McMillan	Secrest
Cary	Goldsborough	McReynolds	Shanley
Casey	Granfield	McSwain	Sirovich
Castellow	Gray, Ind.	Mahon	Sisson
Celler	Gray, Pa.	Maloney	Smith, Conn.
Chandler	Green	Mansfield	Smith, Va.
Chapman	Greenway	Mapes	Smith, Wash.
Christianson	Greenwood	Marcantonio	Snyder
Citron	Greever	Martin, Colo.	Somers, N. Y.
Clark, Idaho	Gregory	Mason	South
Clark, N. C.	Griswold	Massingale	Spence
Coffee	Guyer	Maverick	Stack
Colden	Gwynne	May	Starnes
Cole, Md.	Haines	Mead	Steagall
Colmer	Hamlin	Meeks	Stefan
Connery	Hancock, N. C.	Merritt, N. Y.	Stubbs
Cooper, Tenn.	Harlan	Miller	Sullivan
Corning	Hart	Mitchell, Ill.	Sweeney
Costello	Harter	Mitchell, Tenn.	Tarver
Cox	Healey	Monaghan	Taylor, Colo.
Cravens	Hennings	Montague	Taylor, Tenn.
Crosby	Higgins, Mass.	Montet	Terry
Cross, Tex.	Hildebrandt	Moran	Thom
Crosser, Ohio	Hill, Ala.	Moritz	Thomason
Crowe	Hill, Knute	Mott	Thompson
Culkin	Hill, Samuel B.	Murdock	Thurston
Cullen	Hobbs	Nelson	Tobey
Cummings	Hoeppel	Nichols	Tolan
Daly	Hook	Norton	Tonry
Darden	Hope	O'Brien	Truax
Dear	Houston	O'Connell	Turner
Deen	Huddleston	O'Connor	Umstead
Delaney	Hull	O'Leary	Utterback
Dickstein	Imhoff	O'Malley	Vinson, Ga.
Dietrich	Jacobsen	O'Neal	Vinson, Ky.
Dingell	Jenckes, Ind.	Owen	Wallgren
Disney	Johnson, Okla.	Palmisano	Walter
Dobbins	Johnson, Tex.	Parks	Warren
Dockweiler	Johnson, W. Va.	Parsons	Welch
Dorsey	Jones	Patman	Werner
Doughton	Kee	Patterson	West
Doxey	Keller	Patton	Whelchel
Drewry	Kelly	Pearson	White
Driscoll	Kennedy, Md.	Peterson, Fla.	Whittington
Driver	Kennedy, N. Y.	Peterson, Ga.	Wilcox
Duffey, Ohio	Kerr	Pettengill	Williams
Duffy, N. Y.	Kleberg	Pfeifer	Wilson, La.
Duncan	Kloeb	Pierce	Withrow
Dunn, Miss.	Kniffin	Polk	Wolverton
Dunn, Pa.	Kocialkowski	Quinn	Wood
Eckert	Kopplemann	Rabaut	Woodruff
Eicher	Kramer	Ramsay	Woodrum
Ellenbogen	Kvale	Ramspeck	Young
Engel	Lambertson	Randolph	Zimmerman
Evans	Lambeth	Rankin	Zioncheck
Faddis	Lamneck	Rayburn	

NAYS—81

Allen	Dondero	Kinzer	Rogers, Mass.
Andresen	Doutrich	Knutson	Sanders, Tex.
Andrew, Mass.	Eagle	Lehlbach	Seger
Andrews, N. Y.	Eaton	Lord	Short
Arends	Edmiston	McLean	Smith, W. Va.
Bacharach	Ekwall	Maas	Snell
Bacon	Englebright	Marshall	Stewart
Blackney	Fenerty	Martin, Mass.	Sutphin
Bolton	Focht	Merritt, Conn.	Taber
Buckbee	Gifford	Michener	Thomas
Burnham	Goodwin	Millard	Tinkham
Cavicchia	Halleck	O'Day	Treadway
Church	Hancock, N. Y.	Perkins	Turpin
Claiborne	Hartley	Pittenger	Wadsworth
Cole, N. Y.	Hess	Plumley	Wigglesworth
Collins	Hoffman	Powers	Wilson, Pa.
Cooper, Ohio	Hollister	Ransley	Wolcott
Crawford	Holmes	Reece	Wolfenden
Crowther	Jenkins, Ohio	Reed, Ill.	
Darrow	Kahn	Reed, N. Y.	
Ditter	Kimball	Rich	

NOT VOTING—25

Bankhead	Bulwinkle	Cochran	DeRouen
Brown, Mich.	Cannon, Wis.	Cooley	Dies
Buck	Carter	Dempsey	Dirksen

Higgins, Conn.	Peyser	Shannon	Underwood
Kenney	Ryan	Sumners, Tex.	Wearin
McLeod	Scrugham	Taylor, S. C.	Weaver
Oliver			

So the bill was passed.

The Clerk announced the following additional pairs:

On this vote:

Mr. Taylor of South Carolina (for) with Mr. Dirksen (against).
Mr. Cooley (for) with Mr. Higgins of Connecticut (against).

Until further notice:

Mr. Dies with Mr. Carter.
Mr. Cochran with Mr. McLeod.
Mr. Oliver with Mr. Ryan.
Mr. Bankhead with Mr. Cannon of Wisconsin.
Mr. Bulwinkle with Mr. Buck.
Mr. Underwood with Mr. Dempsey.
Mr. Sumners of Texas with Mr. DeRouen.
Mr. Brown of Michigan with Mr. Wearin.
Mr. Scrugham with Mr. Weaver.

Mr. CROSS of Texas. Mr. Speaker, my colleague the gentleman from Texas, Mr. DIES, is unavoidably absent. If present, he would vote "aye."

Mrs. NORTON. Mr. Speaker, my colleague the gentleman from New Jersey, Mr. KENNEY, is unavoidably detained. If present he would vote "aye."

Mr. COX. Mr. Speaker, my colleague the gentleman from Georgia, Mr. OWEN, is not recorded as having voted on any of the roll calls except the last. I desire to make the explanation that his absence from the House is due to illness. If he had been present, he would have voted against substituting the House amendment for the Senate bill. He was in favor of clause 11 of the Senate bill.

Mr. KVALE. Mr. Speaker, my colleague the gentleman from Minnesota, Mr. RYAN, is unavoidably absent. If present, he would vote "aye."

The result of the vote was announced as above recorded.

The title was amended.

On motion of Mr. RAYBURN, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENSION OF REMARKS—PUBLIC UTILITY ACT OF 1935

Mr. EAGLE. Mr. Speaker, during the several months the bill now under consideration has been discussed by the public throughout the country I have received 1,618 wires and letters from my constituents giving expressions of their views and wishes. As an answer to each and all of them, as well as a statement to the House of the views I entertain and the position I am taking, I make the following statement:

First. The national Democratic platform promised legislation to regulate, and not to destroy, utilities' holding companies.

Second. Section 11 of the Senate bill would utterly destroy nearly all utilities' holding companies. I voted today to substitute the House bill merely to regulate and not utterly to destroy them.

Third. The holding-company structure was built up under State laws permitting such procedure, when no Federal law prohibited their formation and operation, and investors poured billions into such stocks under those conditions. I am not willing to wreck those investments by arbitrarily tearing down the holding companies' structure.

Fourth. I am not willing to ruin our oil pipe-line structure in Texas of holding-company ownership or management, nor the gas holding-company structure, nor the light and power holding-company structure, under which those utilities have been furnished most of the money for their construction and extensions and improvements. That destruction would throw oil and gas and light and power into utmost confusion, resulting in less efficiency and probably higher rates with myriads of managements.

Fifth. Besides, or primarily, section 11 of the Senate bill, and also section 11 of the House bill as substituted today for the Senate section, are unconstitutional. I am sworn to uphold and defend the Constitution. That is my plain, sworn, first duty. The Supreme Court decision in the N. R. A. case recently handed down clearly holds that the Congress has no power to delegate legislative discretionary authority to a board, even when created by act of Congress. Yet that is exactly what section 11 of both Senate bill and House bill does. It is not right for me to violate my oath of office. And it would be useless as well to enact something that the Supreme Court would kill as soon as it reaches that Court, while causing injury to all innocent stockholders and the public in the meantime.

Sixth. On final passage I shall vote against the bill itself, whether containing section 11 of the Senate bill or of the House bill. I deeply regret that I have no opportunity to vote for a bill properly to regulate the utilities' holding companies, as promised in the national platform of the Democratic Party, to which I owe and keep faith and allegiance.

Mr. LUDLOW. Mr. Speaker, I am for the House holding-company bill because it provides a solution for the holding-company problem that is sane, reasonable, and altogether in the public interest. It does not destroy any legitimate holding company and it does not permit any illegitimate one to live. It does not destroy the holdings of innocent investors, but it purges the entire holding-company structure of the evils that beset it.

The House bill brings every public-utility holding company in the United States to the bar of judgment, and that is where they should be brought. The judge is the Federal Securities and Exchange Commission, appointed by President Roosevelt, who chose for its personnel competent men in whom the entire country has confidence. Before this judgment seat every public-utility holding company must reveal every detail of its operations, and if it cannot show its right to live it will be given a "death sentence." If it shows that it has a right to live; if it shows that it can function in the public interest, it will be permitted to live and to operate under rules that will make it a real servant of the people. That, in brief, is the essence of the House bill. What could be fairer, what could be more in harmony with the public welfare?

Lobbyists do not bother me. I guess they regard me as too tough and stubborn to fool with or maybe they compliment me by thinking that the gates of hell will not prevail against me when I make up my mind as to what is a just and right course of action.

I have been contacted by only one lobby in connection with this controverted holding-company bill and that is a lobby which I confess has a good deal of standing in my heart. It is an epistolary lobby which does its work at long range. It is composed of hundreds upon hundreds—I think I may even say thousands upon thousands—of persons residing in Indianapolis and Indiana, innocent investors in stock of holding companies who are figuratively trembling with fear that they will lose their investments if the "death sentence" is imposed on all holding companies. Many of them have no other sources of income and they are faced by an awful alternative—either we Members of Congress must modify the holding-company bill as it passed the Senate or it is the poorhouse for them. I am told that scattered throughout America there are 5,000,000 good, ordinary citizens who in perfect faith have put their earnings in stocks that will be rendered absolutely valueless unless the Senate bill is amended. Is it any wonder that they are worried and scared when they see themselves looking right into the doors of the poorhouse? The Twelfth Indiana District, which I have the honor to represent, evidently has its full share of these poor people who are shivering with fear lest their last financial props be knocked from under them, and when I cast my vote on this measure I shall have them in my mind's eye and I shall be thinking of them.

I will go as far as anybody in uprooting pernicious holding companies and in seeing to it that crooked financiers get long terms at hard labor and no favors in our most undesirable penitentiaries, but I cannot see any wisdom in wiping out all holding companies, the good as well as the bad, on account of the crookedness of the few, thus destroying the property of millions of innocent investors, including thousands in my own congressional district who have a right to look to me for protection. I would feel that I could not go home and look them in the face if I should yield supinely to the passage of an unjust measure that would rob them of the only means they have of keeping out of the poorhouse.

On general principles I am not much in favor of the destruction of property, whether tangible or intangible. While I am in harmony with the great humanitarian aims of the national administration and glory in many of its achievements, I never could agree that it was advisable to kill 5,000,000 pigs and convert them into soap grease instead of giving this meat to the hungry and I never could see anything but folly in plowing up every third row of cotton. I think the saner, more sensible plan is to produce all we can so that those who are hungry may be fed and those who are naked may be clothed and I am no more in favor of destroying stock certificates, honestly acquired and in the hands of innocent investors, than I am of destroying pigs and cotton or any other form of property.

The right, the just, the humane solution of this holding-company problem is not wholesale destruction but reasonable regulation—the destruction of those that should be destroyed and the regulation of the others so as to eliminate the evil practices and retain the good holding companies in order that they may provide employment and operate for the benefit of all. I am heartily for this plan which places holding companies under the jurisdiction of the Federal Securities and Exchange Commission, with full power to investigate and to find out what holding companies are against the public interest and to eliminate those, while seeing to it that all others function legitimately and in a way that redounds to the benefit of the people as a whole. Surely no fault can be found with this program. Surely it is a sound solution of the problem. The Securities and Exchange Commission is appointed by the President. Its duty is to visa the issuance of all stocks and securities so as to protect the buyer and to see that no one is fleeced. The President has appointed on that Commission men of the highest probity and standing who hold and who deserve the confidence of the country. Let us commit into their hands the task of straightening out the holding-company situation instead of rushing into a policy of wholesale destruction of property of millions of small investors—a policy which is all the more to be avoided because it will freeze the fear of honest business men who are already greatly disturbed over national trends.

It seems to me that this problem is really easy of solution. Let us not destroy holding companies that have not offended against the law, that perform a useful function and whose securities are held by millions of people of small means as their only support, but let us find the way to wipe every pernicious holding company out of existence and to send to the penitentiary every guilty crook who fleeces innocent investors. The best solution that is suggested is the one that is proposed in the House bill which leaves to the Securities Commission the execution of the details of this program. I believe it is the rational solution and I am for the House bill.

Mr. GRISWOLD. Mr. Speaker, this bill is to me a medley of contradictions. There may be some here who can reconcile its inconsistencies. If so they are more adept at mental gymnastics than I.

Almost every member of the committee has either openly admitted a fear that the bill is unconstitutional or refused to pass on the question. The most favorable thing that can be said of this phase of the debate is that all speakers on the Democratic side "hope" that it will be constitutional. In the face of such faint faith on the part of those who have studied the bill for months, the average Member who was never permitted to read it until last Wednesday should be at least excused for looking upon it with suspicion.

One thing at least is certain and stands out as prominently as a sore thumb. The public has been led to believe that this bill will outlaw all holding companies. People have been convinced that after the passage of this bill the "death warrant" of all holding companies will be written. They fully expect to be present when the victim is killed. The investor has been led to believe that because of this "killing" the value of his investment will depreciate; that he will suffer a sure and certain loss. This is only a half truth. The real truth is that if he invested in certain holding companies, he will lose. If he was so unfortunate as to invest in the smaller companies, he will lose. If he invested in a company which is a part of a "geographically integrated system", he will not lose on his investment. In such a case the value of his investment will increase because competition of the smaller companies will be destroyed. Only the little fish will be caught in the meshes of this bill.

In my district I have two counties and two cities served by the American Gas & Electric Co. Ninety-five percent of all the letters and telegrams I received on this bill came from the city of Marion. They came from those who favored it and from those who were opposed.

The American Gas & Electric Co. is financed by the Electric Bond & Share Co. The American Gas & Electric, through its subsidiaries, does business in more than 20 States. It has an "integrated system" that extends from North Carolina through and across the State of Indiana and into the State of Michigan. It is controlled by one of the largest holding companies in the United States. Dr. Splawn, who was the chief investigator for the committee, testified in the hearings that it is "the perfect" utility system. That eminent authority testified that the American Gas & Electric with its subsidiary companies is an "integrated system." Under section 11 of both the House and Senate bills—even under the so-called "death clause" in the Senate bill—the American Gas & Electric would not die. The law would not kill it. True, many little utility companies with their holding companies would die, but not the giant American Gas & Electric. The most that could happen to it would be that it might be forced to dispose of its holdings in two places. Those two places are Scranton, Pa., and Atlantic City, N. J. Therefore, the investors in this stock will not be affected by this bill. The same may be said of Consolidated Gas & Electric. It too is an "integrated system" that cannot be dissolved or eliminated under the terms of section 11 of this bill. I am interested in this phase of it. I am interested because despite the fact that some in my district may hold that an innocent investor in utility stock has no rights and should be deprived of his holdings without trial, I cannot bring myself to such an opinion.

I believe that those people who placed their small month-by-month savings in something their banker told them was good and on which the State Security Commission placed its stamp of approval have a right to have that saving protected as well as the man or woman who labored to obtain a farm or home has a right to protection in that farm or home. I believe also that the men who manipulated these companies merely as propositions of financial chicanery—the men who as officers of utility companies gouged both the innocent investor and undefended consumer should be punished. Neither this bill nor the Senate bill attempts to punish those guilty of such crimes. That much for the side of those who object to the passage of this bill and the "death sentence" clause. It is the side of the investor. It is the facts of this bill stripped of its legal phraseology and reduced to the language a layman may understand.

Now let us look at it from the side of those who favor the "death sentence." They consist largely of the consumer class. They have been vitally affected through the pyramiding of stock and the creation of fictitious values on which rates are based. Will the "death sentence" in this bill help citizens of my district who have been so treated? It will not! Why? Because they are consumers of the American Gas & Electric, the company that both Dr. Splawn and members of the committee hold up to the House as the "perfect system."

I call their attention to the fact that insofar as the report of the committee is concerned, insofar as the Government is concerned, so far as the bright young lawyers who drew up the bill for the administration are concerned, they do not quarrel with the American Gas & Electric, but, instead, compliment it. So pleased are they with its operation that they specifically exempt it by inserting in section 11 of both the House and Senate bills that phrase, "an integrated system."

These consumers evidently had not been told of that part of section 11 dealing with "integrated systems." If they did, they would not request me to vote for the "death sentence" on the holding companies of other States while at the

same time voting to let live the company that controls the utility which serves the very people who write me from my own district. Is this what the people of my district want? I do not think so. I think they have not been told the whole truth about the bill.

For 3 days I have listened attentively to the debate. I have listened to gentlemen present the side of the utilities and those gentlemen did not tell the whole truth. They told only part of it. They left some things unsaid. I listened carefully to the gentlemen who presented the argument of the administration in behalf of the "death sentence", and they also told only part of the truth. They, too, left much unsaid.

I have waited patiently to hear the one fact that was not told. That fact is that so far as my district is concerned, whether they be privately or municipally owned, the "death sentence" clause written into either the House or Senate bill will have no effect on the utility situation whatsoever, either from the standpoint of the consumer or the investor. The "death sentence" would make no change in the operation of the utilities in the Fifth District of Indiana. As it relates to my district all the talk about the "death sentence" is a tempest in a teapot. It is "much ado about nothing."

I shall vote for the House bill as it was reported by the committee, because it provides for regulation and control. Under it the power companies can be regulated and it makes no difference how large or how small they are. The regulation will apply to all alike. There will be no discrimination. There is need for regulation and control. It is needed to protect both the consumer and investor, and it is the duty of the Government to protect both. The citizen who has been fleeced of his savings and the consumer who has been gouged by exorbitant rates are both interested. A line should be drawn for these companies and they should be required to toe the mark. The law should say "these things you may do and these things you may not do", and that law should be enforced.

The House bill will set a standard and force compliance with it. The House bill will stop the evil. The Senate bill says, "We are going to inflict the 'death penalty' on the little company but we will let the big company live." The House bill says, "We will let you all live so long as you live right. If you go wrong, you act at your peril." The House bill has as its basis regulation, limitation, and control. I am of the opinion that this is the right way, the just way, and the proper way to handle a bad situation.

There is an instruction that it is customary to give to juries in criminal cases in Indiana. It has been held error for a court to refuse to give it when requested. I favor it as good law. It reads:

> It is better for 100 guilty persons to escape than for 1 innocent person to be punished.

It is applicable in the case of the People against The Utility Holding Companies.

FIGHT FOR FULL PAYMENT

Mr. PATMAN. Mr. Speaker, it will be interesting to the veterans of this country to know, and especially those members of the American Legion who are not in possession of all the facts, just exactly what has occurred in the fight for full and immediate cash payment of the adjusted-service certificates. The Legion publications will not carry my statements nor present my side of the issue, and I am seriously handicapped in getting the information to the members of that great organization, as I do not have and cannot obtain a list of the names of the posts throughout the country, or of members residing in different sections. Since I have been attacked by National Commander Frank N. Belgrano and Legislative Representative John Thomas Taylor, of the American Legion, I expect to fully and candidly present the true facts to the country which will disclose corroboration of charges of double-crossing, deceit, fraud, treachery, and disloyalty.

WHAT ST. LOUIS CONVENTION SHOULD DO

The St. Louis convention of the American Legion which will be held September 23 to 26, inclusive, 1935, should go on record favoring, first, full and immediate cash payment of the adjusted-service certificates without interest charges after October 1, 1931, on previous loans and should ask that the payment be made in Government money backed 100 cents on the dollar in gold that the Government now has in its possession that may be used for that purpose. It should be understood that the method of payment is secondary, but the plan is presented in order to make it easy to sell the country on such payment which requires neither additional tax-exempt bonds nor new taxes to make the payment.

CONGRESSIONAL INVESTIGATION

The convention should also go on record asking for a congressional investigation of Wall Street's connection with important, influential officeholders and legionnaires in the American Legion and former leaders of the American Legion, in view of sworn testimony which has heretofore been presented to a congressional committee that $74,000 in actual money was carried to the Chicago convention in the fall of 1933 and was used to buy the influence of certain leaders of the American Legion to get a so-called "anti-inflation resolution" through the Chicago convention, having for its purpose protection of Wall Street's and international bankers' interests. All of the American Legion leaders are not guilty. Only a few are guilty. Those who are not guilty will be exonerated by this investigation as they should be. If this testimony under oath is true, certain leaders of the American Legion have deliberately and willfully sold out to Wall Street interests and have become disloyal to the American Legion. This sworn testimony discloses that former commanders of the American Legion, including the present commander, Frank N. Belgrano, were members of a sound-money committee; that enormous and tremendous sums of money were used by this committee in connection with well-known "king makers" of the American Legion to further the interest of this special-privileged group.

One of the "king makers", it is alleged, received $100 a day—over $9,000 in all—for his work in connection with the committee. This sound-money committee was organized to do under-handed and under-cover work for big interests against the payment of the adjusted-service certificates. All true legionnaires should resent their leaders being used as hirelings and puppets for such a group for a consideration. This sworn testimony cannot be ignored.

Only a congressional committee can get at the facts, as the testimony must be obtained under oath, and it must be in a position to sit at different places in the United States and compel the attendance of witnesses from any section of this Nation and make satisfactory arrangements for testimony from witnesses abroad if necessary.

BELGRANO DODGED INVESTIGATION

March 5, 1935, when Mr. Belgrano was testifying before the Ways and Means Committee, he was asked by Mr. McCORMACK, of Massachusetts, the following question:

> Do you propose to investigate the matter on which this resolution was adopted? [Meaning, of course, the so-called "anti-inflation resolution" adopted at the Chicago convention in 1933, which it is charged was sponsored by the Wall Street crowd and which I have referred to herein.]
>
> Mr. BELGRANO. I propose to propose to have this matter put on the agenda of the executive committee meeting, which may be held in May at Indianapolis, and ask that a resolution be adopted at that committee meeting to appropriate enough funds to cause an investigation of the entire subject. Yes, sir.
>
> Mr. McCORMACK. I am glad to hear that (p. 120 of hearings).

Mr. Belgrano admitted in his testimony that many of those that were mentioned as members of this sound-dollar group were prominent members of the American Legion; others not.

The point is, Commander Belgrano promised to make an investigation of this matter through the American Legion and to furnish sufficient funds to cause the investigation of the entire subject. I am informed that he did put it on the agenda, as he promised to do. The presiding officer at the May meeting, when that point had been reached on the agenda, said: "I will now entertain a motion to investigate the sound-money scandal", or words to that effect.

There were assembled 56 executive committeemen from different departments. I am told that you could have heard

a pin drop and that they remained just as silent as 56 monuments in a cemetery at midnight. No word was spoken and no motion was made, so that part of the agenda was behind them, and Mr. Belgrano failed to carry out his promise.

SUGGESTIONS TO LEGIONNAIRES

As an humble member of the American Legion and as one who believes in its principles and believes it is one of the greatest organizations in the world, I suggest that the local posts of the American Legion and State conventions should keep in mind the following facts:

First. That delegates should be sent to the national convention that will represent the wishes and views of the rank and file of the American Legion.

Second. That they should be instructed to vote against any "king maker" candidate for commander and should vote for the congressional investigation of the unfortunate scandal occurring at the Chicago convention, which smells to high heaven.

Third. That the next national commander should be pledged to clean up the national headquarters of the American Legion and to especially oust John Thomas Taylor, who has become harmful instead of helpful to the organization.

Fourth. That a large group of those who attend the convention will be there on the expense of the national organization and will feel obligated to support the national commander, since he is authorizing their expenses. Many of this group will make every effort to hamper and hinder rank-and-file representatives.

Fifth. It is a well-known fact that strong influences emanate from national headquarters down to State organizations through certain favors the national organization can extend and by holding out hope that these State officers will be taken care of in the future with national headquarters positions. Hope is held out to these State officials of political advancement in the American Legion and committee assignments that will permit them to receive their traveling and hotel expenses at national conventions. I urge that the rank and file of the American Legion and the posts throughout each State see that their group is properly represented in both State and national offices and assignments. The "king makers" would not last a minute were it not for their interlocking arrangements with many State officials of the Legion throughout the country.

Sixth. The Legion Monthly should be converted into an instructive and informative magazine in the interest of the veterans.

METHOD OF PAYMENT SECONDARY

In the beginning, I want to make it plain that my fight for the payment of the adjusted-service certificates commenced before the depression with one thought in mind—the payment of this just and honest debt. The method of payment with me has always been secondary, although we were forced to suggest a method of payment in order that we could convince the country that a debt that is not legally payable until 1945 should be paid now. In doing that, it was necessary for us to advocate a plan that would not increase the national debt and would not cause new tax-exempt bonds to be issued or new taxes to be raised. The plan of payment made the measure popular and brought to our support business men, farmers, wage earners, and many groups and classes throughout the Nation that would not have, under any circumstances, favored the payment by any plan that would have increased their taxes or increased the national debt. We recognized the fact that the veterans alone could not put this proposition over; that we had to have help from the people in general, and in order to do that, this method was used to popularize it. I have also been interested in a plan that would put actual money into the pockets of the veterans and not merely secure the enactment of another law that would give the veterans promises only, such as the Vinson-Belgrano bill, that merely authorized Congress to make an appropriation to pay this debt. That bill would have given the veterans another promise but no money.

MIAMI RESOLUTION

The Miami convention of the American Legion in October 1934 passed a resolution asking for the full and immediate cash payment of the adjusted-service certificates. At the same convention what we know now to be a grievous and fatal mistake for the veterans was that Frank N. Belgrano, Jr., a Wall Street and international banker, foisted on the Legion by the "king makers", was selected as national commander to carry out that mandate. A coin was flipped by the "king makers." Belgrano won and the veterans have lost.

ANOTHER MISTAKE

Another great mistake was made when this national commander selected John Thomas Taylor legislative representative for the Legion, for the purpose of carrying out this mandate, as Taylor was representative of the Legion in 1924, when the present act, which was unfair in many ways and cheated the veterans out of 7 years' interest, was enacted into law. Taylor, sharing the views of his fellow Pennsylvanian, Andrew W. Mellon, opposed the cash payment in 1924, permitted many injustices to go into the act, and made the Members of Congress believe that the great American Legion was behind such an act, caused it to be enacted. Remember, Taylor was the man for the American Legion who put the stamp of approval upon the law that causes each veteran to receive an adjusted-service certificate due 27 years after his services were rendered. The act that permitted the banks to get the larger part of each certificate as interest on a few small loans. And he was the man who was being called upon by Commander Belgrano to go before the same Congress that had enacted the law in compliance with his wishes and get it revised to do the opposite of what he had advocated in 1924.

TAYLOR SAYS IGNORANCE OF VETERANS CAUSED AGITATION

As evidence of the fact that Taylor was not the man to lead this fight and should never have been considered for it a moment, he appeared before a Senate committee April 23, 1935, and let the committee members know that so far as he was concerned, the act of 1924 was all right and further gave them to understand that it was by reason of the ignorance of the veterans on the subject that caused so much agitation.

Taylor testified—page 93 of the hearings (Apr. 23, 1935):

> There was no necessity for any changes in that law until the depression came along.

This is contradictory to every argument we have ever made in favor of full payment, since the only thing we have to base our claim on is the justice of our claim, which is supported by the unanswerable arguments that the veterans were unlawfully defrauded out of 7 years' interest on what was confessed was due them. Taylor further gave the committee members to understand on the same page of the hearings that the veterans were ignorant, did not understand how the amount they were receiving was arrived at, and by reason of this ignorance, they had gained the impression that they were entitled to all of it now.

The truth is that the veterans of this country are better informed on the subject than John Thomas Taylor. They understand that Andrew W. Mellon caused them to be cheated out of 7 years' interest and that Mr. Taylor O. K.'d the wrong. They understand, too, that if they are given this $1 and $1.25 a day as of the time they rendered the services, with a reasonable rate of interest from that time, that they were entitled to an amount equal to the full face or maturity value of their certificates on October 1, 1931. If Andrew W. Mellon had hired a person to carry out his wishes and perpetrate wrongs on veterans in 1924, he could not have received better cooperation and more efficient service than John Thomas Taylor rendered.

I resent what Mr. Taylor said on page 94 of the hearings, in which he stated:

> But out in the country the millions of veterans in the remote sections of the country did not understand it.
>
> Things that are done here in Washington on veterans' legislation, by the time they are 200 miles from Washington, the veteran does not understand it.

In another part of his testimony, on page 94, Mr. Taylor, discussing the question of interest, said:

> There was no necessity for explaining that to them. • • •

Thereby leaving the impression that the veterans of this Nation are so ignorant that they cannot understand simple

questions of computing interest from the time that the services were rendered instead of from 1925.

BELGRANO'S POSITION

Let me briefly discuss the national commander's position. In the fall of 1932 the American Legion convention at Portland, Oreg., passed a resolution providing for the full and immediate cash payment of the adjusted-service certificates. After that time, the resolution was a continuing one. So after that time and until January 14, 1935, it was presumed that the American Legion was supporting my bill, which was receiving the support of the other veterans of the country. As the American Legion did not cause to be introduced another bill and being mandated to support the legislation, it was presumed to be supporting the bill before the country. However, Mr. Belgrano found himself in this position: If he supported the bill that the American Legion was presumed to have been supporting from the fall of 1932 and during the years of 1933 and 1934, it would cause the veterans to be paid in a way that the bankers would be denied their usual cut or rake-off on Government securities. This was contrary to what he calls an orthodox method of financing. Presuming he was acting in what he thought to be the interest of the American Legion in opposing such a bill, it was very convenient for him to advocate a bill that would give the bankers $2,000,000,000 in the form of a bonus in order to pay the veterans $2,000,000,000 on a debt. Like a thunderbolt out of a clear sky, on January 14, 1935, Commander Belgrano caused to be introduced in the House of Representatives, H. R. 3896, known as the "Vinson bill" or "Belgrano's bankers' bonus bill", providing for the payment of these certificates in what he called the orthodox method of financing.

EXCUSE FOR VINSON-BELGRANO BILL

The excuse for the introduction of the bill was that many bills providing for the payment in silver, by inflation, by levying taxes, and other methods were pending and it was necessary for him to cause to be introduced a bill that would carry out the Miami resolution and nothing more. The truth is at that time there was no bill pending in the House calling for the payment of these certificates in silver, by inflation, or by levying taxes. This statement was absolutely untrue and may be cited as an illustration of the type of propaganda that was used to excuse Belgrano for taking up the bankers' side.

NO MONEY FOR VETERANS IN BELGRANO BILL

Furthermore, the bill, if passed and enacted into law, would not permit the veterans to get a single penny; it merely authorized the payment to be made. However, when it is appropriated the bankers will have a cinch on their usual drag or no money for the veterans. I obtained from the Secretary of the Treasury an official ruling to the effect that if such a bill were to become a law another bill would then have to be introduced and the same hard fight conducted in order to get the veterans their money. Many years ago, in the early days of this campaign, I made the same mistake by introducing an authorization bill. It was soon discovered, corrected, and never made again. Belgrano refused to profit by my experience.

ANOTHER FAKE EXCUSE FOR BELGRANO-BANKERS' BONUS BILL

Another excuse was given for the introduction of this bill that a careful check-up had been made in the Senate and the Vinson-Belgrano bill could receive a two-thirds majority over a veto there. This statement was absolutely untrue, and I challenge now Commander Belgrano and Legislative Representative Taylor to name two-thirds of the Senators who would have voted for the Vinson bill over a Presidential veto, as claimed by them when the Vinson bill was introduced.

The truth is that our bill, H. R. 1, the Patman bill, had considerably more support in the Senate than any other bill. As positive and unmistakable evidence that the statement that two-thirds of the Senators would support the Vinson-Belgrano bill over a veto was absolutely untrue, Commander Belgrano did not even have the Belgrano bankers' bonus bill introduced in the Senate. He cannot make the veterans of this Nation believe that that bill was so strong in that body in the face of the fact that it never has until this good day been introduced in the Senate of the United States. If it were so strong, it would have been easy for the bill to have been introduced in the Senate instead of in the House on January 14, 1935, and passed in the Senate, and by that time our bill would have been passed in the House, and a conference committee would have been appointed from each House, differences would have been ironed out, a bill passed that would have received the maximum support in overriding the veto, and no differences would have come up between the veterans of this country. The fact that the bill was introduced in the House and not in the Senate was proof that both Taylor and Belgrano were more interested in defeating the proposal by causing a fight among veterans themselves than in receiving the payment of these adjusted-service certificates.

Both Taylor and Belgrano were drafted into the fight for this proposal. They were both against it, and have opposed it for 6 years. Certainly it was not very displeasing to them for it to be lost. I have had to fight not only the opposition of our opponents but these leaders of the American Legion, who were supposed to help me.

H. R. 1 SUPPORTED BY NONVETERANS

March 4 and 5, 1935, there was a hearing before the Committee on Ways and Means on House bill no. 1, the Patman bill, and H. R. 3896, the Vinson-Belgrano bill. At this hearing I was the first witness and presented every argument that could be presented, based upon my 6 years' experience, that would justify this payment. I answered every question that could possibly arise that was considered unfavorable to our proposal. We had the side of right and justice, and logic and reason were used to support the arguments. Upon every occasion I said that my primary interest was full cash payment and was secondarily interested in the method that was used.

Many others, representing farmers, wage earners, and business men, testified before the committee in support of our bill. It was the only bill that had nonveterans' support. James E. Van Zandt, commander in chief of the Veterans of Foreign Wars, presented a logical, convincing, and unanswerable argument in favor of the proposal and advised the committee that his organization, as well as a majority of the three or four million unorganized veterans, were 100 percent behind our bill.

Contrast this with the testimony of Taylor, Belgrano, and two other members of the official family of the American Legion, who presented not a single new argument in favor of the payment of these certificates, but spent almost their entire time denouncing me, my proposal, and disclosing a deliberate intention to divide the veterans, and the nonveterans as well, on this great question which would cause defeat. Taylor criticized me before the committee for having filed discharge petitions to force consideration of my bill in 1932, 1934, and 1935. He said that he was opposed to that method. The veterans of this country believe that I was working in their interest when I was doing everything that I possibly could do to get consideration of the bill that they were vitally interested in, yet Taylor in his testimony criticized me severely for being so active in their behalf.

BELGRANO VIOLATED INSTRUCTIONS BY OPPOSING ANY FULL-PAYMENT BILL

It is true that Belgrano did not have a mandate from the national convention to support my bill, although it was the only one that complied with the important parts of the resolution and the only one considered by Congress and the country for years. It is also true, however, that Belgrano was violating the resolution when he opposed my bill or any other bill that provided for full and immediate cash payment of these certificates, regardless of the method of payment proposed in the bill. He violated his instructions when he opposed any bill that carried out the Miami resolution.

HOUSE FAVORED PATMAN BILL

A majority of the members of the Ways and Means Committee, who favored any bill, favored my bill. Taylor and Belgrano, by getting a combination between the Republican

bloc on the committee and the Democrats who opposed any bill, succeeded by a vote of 14 to 11 in getting the Vinson bill reported out favorably to the House. On the House floor, the Vinson bill never did, at any time, receive more 120 votes out of 435 of Members who favored paying the adjusted-service certificates in full according to any method whatsoever.

The bill's main support came from those who opposed any type of legislation on this subject. The House, after a fair hearing, voted 207 to 204 in favor of the Patman bill.

BELGRANO REFUSES HELP IN SENATE FIGHT

If, at that time, we had gone to the Senate with the help of the American Legion leaders, we would have doubtless obtained a two-thirds majority in the Senate, but Belgrano still refused to support the bill and continued his fight before the Senate Finance Committee in opposition to my bill. Taylor also appeared in opposition to my bill. It will disgust any member of the American Legion to read Taylor's and Belgrano's testimony before that committee. Taylor defended the 1924 act and, in effect, said if it were not for the ignorance of the veterans, they would not be asking for full payment; that only those within 100 or 200 miles of Washington had any information; and Belgrano did not intelligently present the subject. He disclosed gross ignorance of the entire subject matter and even said that if the veterans are given credit for the 7 years' interest, the full amount will not be due until October 1935. He hurt our cause instead of helping us. If he had in mind securing the enactment of a bill that would give the bankers their usual drag or no bill at all, he could not have done more effective work to that end.

Before that committee I very quickly and promptly said that I was primarily interested in full and immediate payment of these certificates and only secondarily interested in the method of payment, that if I could not get approval of any bill I would gladly support the Vinson-Belgrano bill. On the other hand, Mr. Belgrano, after much questioning, would not come out and say that he would like to see the veterans get their money according to the Patman plan if Congress would not adopt any other plan, thereby showing that he was for the bankers first and the veterans second. In answer to questions he said the Senators could vote any way they wanted to on the floor if the Vinson-Belgrano bill was defeated, and the vote was on the Patman bill or no bill (Senate hearings, p. 117, Apr. 23, 1935).

WHAT I HAVE DONE IN FIGHT

Since I as author of this legislation have been attacked by the elected leader of the American Legion, I feel it my duty to tell you something about the fight I have made, even though I may be accused of dealing in personal matters. You probably want to know something about the man that introduced the first bill in the House of Representatives providing for the full and immediate cash payment, which was on May 28, 1929, and who has consistently and persistently continued the fight until this good day.

First. I have visited every State in this Nation in behalf of this cause, have visited practically every principal city, and in many places engaged in joint debate on the platform and over the radio with those who were attacking the veterans and especially this proposal.

Second. Prepared at an enormous expense to myself and almost 2 years' time a table that discloses approximately the amount of money the veterans in each county in the United States will receive in the event a bill is passed providing for full payment, with no interest charge on loans after October 1, 1931. That table is just as new today as the day it was made, as the bill now pending will cause the payments as indicated in that table. Making this computation was a tremendous job and very expensive. Each county, 3,071 in all, represented a separate problem and many factors received consideration.

Third. Prepared and caused to be distributed a booklet for the sole and only purpose of selling this cause to the people. This booklet caused me a personal loss of more than $1,000. My loss would have been much greater had not the Veterans of Foreign Wars minimized it by purchasing several thousands of booklets. The national headquarters of the American Legion purchased 10 for $2.50 and used my information that I had spent years of time to compile at my expense without even giving me credit for it.

Fourth. The satisfaction of knowing that I have been working for a cause that will not only help the veterans, but all the people of the country as well, I have been amply and fully repaid for everything that I have done and my fight will continue. My successful efforts for the disabled and their families have many, many times repaid me for the sacrifices in time or money that I have made for the veterans' cause. The knowledge that just one veteran and his family received a substantial sum in 1931, which relieved distress in his family, doubly and amply repays me for any sacrifice made, and there were thousands of such cases.

No one will deny that I have traveled more miles, made more speeches, spent more hours of investigation and searching for valuable information that would help our cause, advanced more reasons why this debt should be paid, than any other person in America.

Probably many would be interested in knowing that I am not a rich man; I am a poor man; have always been poor and probably always will be, not looking for riches or personal private fortune, but hope as an insignificant Member of Congress and as an humble member of the American Legion to render the veterans and the country a constructive service. When I entered Congress I owed $5,000 which probably would have been repaid by this time had I not been compelled to spend large sums of money answering such attacks that have been made upon me by both Belgrano and Taylor, both inside and outside of the Legion and in selling this cause to the country and Congress. Instead of owing $5,000 today, I owe $10,000. I am not complaining about it in the least; I am happy over the fact that I have, in a small way at least, caused good, constructive thoughts to be disseminated throughout the rank and file of this country, which will not only help the veterans and their dependents but the entire Nation and all the people as well.

VETERANS OF FOREIGN WARS

Taylor and Belgrano, in order to try to arouse the members of the American Legion against me, tried to make the Vinson-Belgrano bill and the Patman bill an issue between the American Legion and the Veterans of Foreign Wars, an excellent way to drive a wedge between the veterans. Many Legionnaires, doubtless, acting under their instructions, even went so far as to claim that I was sponsoring the Veterans of Foreign Wars, trying to hurt the Legion. It is absolutely untrue. It is true the Veterans of Foreign Wars have been with me in this fight. I express gratitude and appreciation for their help, not only for myself, but for all other veterans as well, including the rank and file of the American Legion, who are sponsoring our cause. My policy has always been and is now as a Member of Congress to work with, cooperate with, coordinate my efforts with every person and organization who is sincerely working in the same direction that I am working for a cause, but not to sponsor any of them. I have not been sponsoring any organization in this fight. If any organization benefits by reason of their cooperation with me, their leaders are entitled to credit for using good judgment and manifesting a spirit of cooperation in the direction that will likely get the best results.

MEMBER OF ALL THREE WORLD WAR VETERANS' ORGANIZATIONS

I have been an active member of the American Legion since 1920, helped to organize the first post in my home town, and was the post commander of it the first year; have been a delegate to State and National conventions ever since, and have at all times worked in what I believed to be in the interest of the American Legion. I am also a member of the Disabled American Veterans, having a service-connected disability, which prevented my going overseas during the war. I am also proud of my membership as an honorary member of the Veterans of Foreign Wars. It is a militant organization, whose leader, James E. Van Zandt, is one of the most effective crusaders for the veterans' cause in this Nation. George K. Brobeck, legislative representative of the Veterans of Foreign Wars, is also a militant and cooperative friend of the veterans and an effective campaigner for their cause. There

is plenty of room in this country for these three great organizations. The spirit of noncooperation with other organizations and friends of the veterans' cause that has been manifested in the recent past by certain leaders of the American Legion should be discontinued and a spirit of cooperation should be invoked instead. Veterans are not helped by fighting among themselves. I have tried to keep down such fights, but received no cooperation from the present leadership of the American Legion.

MEETING OF STEERING COMMITTEE FOR H. R. 1

About 2 weeks ago the steering committee in the House of Representatives for the passage of H. R. 1 had a meeting which was attended by practically all of the 22 members. It was decided that we will continue to fight primarily for the full and immediate cash payment of the adjusted-service certificates, and that we are only secondarily, as we have always been, interested in the method of payment; that we stand ready and are on the alert during this session of Congress to take advantage of any opportunity that will permit us to secure the passage of a law to pay these certificates. The members of that committee are as follows:

Wright Patman, chairman; Abe Murdock, secretary; Adolph J. Sabath, Illinois; James G. Scrugham, Nevada; Arthur H. Greenwood, Indiana; William M. Colmer, Mississippi; Jennings Randolph, West Virginia; Clarence Cannon, Missouri; Wm. P. Connery, Jr., Massachusetts; William M. Berlin, Pennsylvania; Frank Hancock, North Carolina; Jed Johnson, Oklahoma; James P. Richards, South Carolina; Gerald J. Boileau, Wisconsin; Andrew J. May, Kentucky; Fred H. Hildebrandt, South Dakota; Martin F. Smith, Washington; Martin Dies, Texas; John E. Miller, Arkansas; George A. Dondero, Michigan; Paul J. Kvale, Minnesota; Roy E. Ayers, Montana.

I am personally greatly indebted to the members of this steering committee for their very able, loyal, and effective support of this cause. The House victory was not my victory, it was our victory. Without this good steering committee, success would not have been possible.

There are many other Members of this House who are also entitled to receive the greatest recognition possible for their contribution to this successful battle.

SUCCESS AGAINST GREAT ODDS

Many people wonder how it was possible for our bill, H. R. 1, the Patman bill, to be successful in the House when it was opposed by the following groups:

First. Those who were opposed to any bill.

Second. Those who were in favor of any other proposal.

Third. Those who were in favor of the Vinson-Belgrano bankers' bonus bill.

Fourth. The Republican minority.

Fifth. A majority of the Ways and Means Committee.

Sixth. The House leadership.

Seventh. The administration forces.

Notwithstanding all of this opposition, out of 531 Members of the House and Senate we lacked only 9 votes of receiving a two-thirds majority in each House. Our bill received over 75 percent of the combined votes of the two Houses. This is the only bill that ever stood five tests in the House of Representatives in 2 days. The Vinson-Belgrano supporters were allowed two of these tests. We won because we had the right side, because we had a good organization to keep the Membership and the country informed, and because we had logic and reason to support every argument that was made. In fact, our arguments could not be answered.

H. R. 1

This bill is not dead. It is pending before the Ways and Means Committee at this time, and if the issue is not disposed of at this session of Congress, when Congress meets again, either in special session or on January 3, 1936, the passage of the bill will be insisted upon. It is unnecessary to file a new bill. H. R. 1 is very much alive and will remain alive until it is either enacted into law or until the end of the Seventy-fourth Congress, which will be January 3, 1937.

If we are not successful this session of Congress, those of us who are sponsoring this bill expect to make the same vigorous, determined, and persistent fight when Congress meets again that we have always made.

If the American Legion convention at St. Louis elects a commander who will work with us and will appoint representatives who will work with us, I can personally assure the veterans that they will get their money in a very short time when the next Congress meets if we are unable to secure full payment at this session.

BELGRANO AND TAYLOR EITHER WITHHOLDING MONEY FROM VETERANS OR DELIBERATELY TELLING FALSEHOODS

Commander Belgrano and Legislative Representative Taylor are either willfully preventing the veterans from receiving their money in full payment of their certificates or they have deliberately and willfully made false statements to the veterans. This statement is based upon the fact that they claim that the Vinson-Belgrano bill had pledged to its support two-thirds of the Members of the United States Senate. If that statement is true, there was no reason on earth why the bill was not introduced in the Senate the very day that the President's veto was sustained or the next day or any day after then, or even today, and the bill passed in the Senate, passed in the House, and if vetoed, it would have been overridden, if they are telling the truth. Therefore, if they have told the truth, it is within their power to immediately get a bill passed that will give the veterans their money. Have they deliberately told a falsehood or do they desire to withhold the money from the veterans? The truth is the Vinson-Belgrano bill has never had the support in the Senate that the Patman bill had. Belgrano and Taylor know this.

THE SENATE VOTE

If the Vinson-Belgrano bill had been placed on final passage in the Senate this year, it would not have received near as many votes as the Patman bill received, because many senators would not vote for the Vinson bill since it would require additional bonds and new taxes, but would gladly vote for the Patman bill, which would pay the debt to the veterans without creating a new debt. Therefore, the Patman bill received the maximum strength in the Senate. However, if the test should come again, every Senator who voted for the Patman bill will be under obligations to vote for any bill that provides for full and immediate cash payment. If he does not, he will be accused of favoring the issuance of new money first and the veterans second. I am sure they will not place themselves in that position.

Even with this added strength, evidently the supporters of the Vinson-Belgrano bill do not believe that they have a two-thirds vote in the Senate or they would have it introduced in the Senate immediately and passed. If it has a two-thirds vote and they know it, they are withholding the money from the veterans if they do not cause it to be introduced in the Senate at once and passed.

NO MONEY FOR VETERANS IN ORIGINAL VINSON-BELGRANO BILL

Section 5 of the Vinson-Belgrano bill stated—

There is hereby authorized to be appropriated such amount that may be necessary to carry out the provisions of this act.

That meant that if the bill should pass and become a law another hard fight would then have to be made to get the money. It was estimated that full and immediate cash payment with remission of interest as provided in the Patman bill at the most would cost the Government $2,263,545,684. The veterans would get about $2,000,000,000 of this. On May 3, 1935, when the bill was pending in the Senate, Senator THOMAS of Oklahoma offered the following amendment:

SEC. 6. There is hereby appropriated from any funds in the Treasury not otherwise appropriated the sum of $2,263,545,684 to carry out the provisions of this act.

There was a roll-call vote on this question; 57 Senators voting for it and 23 against. Eighteen of these 23 voting against it also voted against the bill on final passage. The bill in its original form gave Congressmen a good storm cellar. They could vote for the bill and then fall out over the method of payment, which would result in the veterans getting a law passed but no money.

SENATE CHANGED BILL

After the adoption of this amendment the bill was no longer the original Vinson-Belgrano bill, but was amended over their protest to put the money into the bill, so that the veterans would get their money if the bill passed.

If the American Legion ever offers another bill asking for an appropriation of such a large sum of money, it should never under any circumstances offer a mere authorization bill, but should actually put the appropriation in the proposed bill.

NO ATTACK ON AMERICAN LEGION

Belgrano and Taylor continue to insist that I am attacking the American Legion and the American Legion officials. This is not true. I am a loyal legionnaire; have never attacked the American Legion, but have attacked certain elected and appointed leaders like Taylor and Belgrano, who have betrayed the rank and file. My efforts in this direction are constructive and will have a tendency to save the Legion instead of harming it.

It grieves me to take issue with any national commander of the American Legion. I respect the position that he holds. My belief, however, is that no really red-blooded American who has worn the uniform of this country will expect me to sit idly by and not defend myself from the wild propaganda and vicious attacks made upon me by the kingmaker selected national commander of the American Legion and his hired hand, John Thomas Taylor.

WHO STARTED FIGHT

I did not start the fight between myself and Belgrano and Taylor. It will probably be interesting to many to know how this fight started. On January 14, 1935, the Vinson-Belgrano bill was introduced. If that had been all that was done, I probably would not have said a word, but would have continued to fight for my own proposal and left the matter to the House without making any attack whatsoever on the elected leader of the American Legion who caused the bill to be introduced. However, Belgrano and Taylor did not stop with the introduction of the bill. They immediately got out a statement for the American Legion in which I was denounced in the most critical and caustic terms, and all of those supporting my proposal were called idiots and lunatics. Even then I hesitated to get up a fight with the American Legion leaders, so my steering committee was called together, and upon the motion of Congressman SCRUGHAM, which was unanimously adopted, we sought a conference with Commander Belgrano for the purpose of ironing out our differences, and reuniting our forces for the purpose of presenting a united shoulder-to-shoulder fight before Congress and the country for the one purpose of getting the adjusted-service certificates paid in full. Although Commander Belgrano was in Washington and accepted our invitation, he refused to attend the meeting after the appointment was made, and refused to confer with our committee. There was nothing left for us to do except to answer the unjustified attack made upon the supporters of our bill, and to disclose to the veterans the possible motives behind their actions.

SENATORS WHO OPPOSED ANY BILL SUPPORTED VINSON-BELGRANO BILL

In the Senate on May 7, 1935, on a direct vote to substitute the Vinson bill for the Patman bill the vote was 35 for to 52 against. Democratic leaders and the strongest administration supporters were about equally divided on the vote.

Forty-five of the 52 who voted against the Vinson bill and in favor of the Patman bill were Democrats. Thirty-two of these Democrats supported the bill on final passage and only 13 voted against it. This is a complete answer to the argument that the Patman bill was supported largely by those who were opposed to the legislation. Just the reverse is true.

Out of the 35 who voted to substitute the Vinson bill for the Patman bill 19 of them voted against the bill on final passage, and only 16 of the 35 voted for the bill on final passage, which goes to show that the Members of the Senate who were opposed to any bill were making an effort to substitute the Vinson bill, knowing it had no chance over a Presidential veto. The same tactics were used in the House. This information is contrary to reports put out by Belgrano and Taylor. The figures may be verified by consulting the CONGRESSIONAL RECORD of that date, pages 7066–7068.

Seven Republican Members voted against substituting the Vinson bill for the Patman bill and all of them voted for the bill on final passage. Contrast this with the 15 Republicans who voted to substitute the Vinson bill for the Patman bill. Only 5 of them voted for the bill on final passage, while 10 voted against it on final passage.

IN SENATE AMENDMENTS WERE IN ORDER TO PATMAN BILL AFTER VINSON BILL DEFEATED

Belgrano and Taylor falsely claim that after the enemies of any bill in the Senate succeeded in substituting the Patman bill, they then voted against the bill on final passage. The truth is the Patman bill passed the House and was referred to a Senate committee. The Senate committee reported it to the Senate with a recommendation that it be passed with an amendment, which was the Harrison bill. When the bill came before the Senate the first question was whether or not the Harrison bill would be substituted as an amendment for the Patman bill. The Vinson bill was substituted for the Harrison bill. Then the vote was on substituting the Vinson bill for the Patman bill. The Vinson bill lost. It was then in order for any Senator to move to amend the Patman bill by changing it in any way that he desired. He could have sent up an amendment to strike out the money feature and insert a provision that it be paid directly out of the Treasury if he had desired. The reason it was not done was because they did not have a majority of the votes and certainly did not have two-thirds as claimed. Any inference that the Vinson supporters were maneuvered into a parliamentary situation that caused them to lose, although having a majority, is absolutely unfounded for the reasons I have herein outlined.

AFTER BILL PASSED SENATE

After the bill passed the Senate by a tremendous vote, and for several days while it was pending before that body on a friendly motion to reconsider, which would enable us to have time to get all the friends of the measure together for the purpose of coordinating our efforts and making an appeal to the President not to veto the bill, or, in the event the bill was vetoed, to pass it over a Presidential veto, there were many conferences attended by the House steering committee for the passage of H. R. 1, and the Senate steering committee, which was composed of 10 or 12 Senators who were leading the fight in that body. At these meetings we made every effort to get Commander Belgrano or Legislative Representative Taylor to attend and work with us. This they absolutely refused to do. They made no effort, so far as I know, to get the bill passed in the Senate after the Vinson-Belgrano bill was defeated. Neither did they make any effort to get the veto overridden. The next day after the bill passed the Senate, Belgrano was on the firing line at Ogden, Utah. Neither Taylor nor Belgrano were seen on Capitol Hill after the bill passed the Senate, so far as I know, until the veto was sustained, except Taylor was seen one time near the Senate floor. They refused to aid us in any way, but, on the other hand, caused us to lose, we know, 4 votes on the vote to override the President's veto. If these leaders had really wanted this legislation passed, I believe the American Legion was worth the necessary 9 votes in the Senate, and this number could have been obtained if they had really tried to obtain them, but as it was the American Legion leaders did not help us to get one single vote but caused us to lose 4 votes.

AFTER VETO SUSTAINED ANOTHER ATTACK ON ME

After the veto was sustained, instead of making an effort to pass a bill that Taylor and Belgrano claimed had more than two-thirds pledged to its support in the Senate—and we all know any bill of this nature will receive more than two-thirds vote in the House—they caused to be issued in the June 1935 National Legionnaire another attack on me, in which they referred to me as follows:

An upstanding fellow and the bonus racket had served him as a most reliable vehicle. As a vote getter it can't be beat. JOHN RANKIN, of Mississippi, had a monopoly on it for a while, but when he became bigger of stature, so to speak, when his interests broad-

ened to the point of having designs on the leadership, he turned the veterans' vehicle over to Wright.

It is not helpful to have the cause publicized as a racket, and, secondly, although Judge RANKIN has been an able supporter of this movement, he never did claim to have the leadership of it. I introduced the first bill in the House on the subject and have continued the fight ever since. The statement in another part also refers to the bill as an inflationary bill, which is absolutely untrue. It is not inflationary, and Belgrano and Taylor know that it is not inflationary. Dr. O. W. M. Sprague, Hon. Jesse Jones, Chairman of the Reconstruction Finance Corporation, Mr. Eccles, Governor of the Federal Reserve Board, and former Secretary of the Treasury Mr. McAdoo said it was not an inflationary bill. If Belgrano and Taylor continue to say it is, we must presume that they are deliberately attempting to mislead the veterans. In this same publication there were many other attacks upon me, and the article indicates that Taylor and Belgrano are very, very sore because I have persistently advocated this cause. They have always been against it, and it is evidently pleasing to them that the veto was not overridden. Remember, this is attack no. 2, after the veto was sustained, when I had not said or done anything, except to try to get this bill passed, that would justify this attack.

THE THIRD ATTACK ON ME

Attack no. 3 is in the American Legion Monthly for July 1935, by Banker Belgrano and Hired-Hand Taylor. I would like to answer this article and get it published in the American Legion Monthly, but I know that this publication will never carry a line favorable to me as long as king-maker commanders control it as they are doing now. This message will reach very few veterans and very few people compared to the publications put out by Belgrano and Taylor. However, with my limited means, and to the full extent of my ability, I expect to continue to defend the veterans' cause for the full payment of these certificates even though I have the opposition of those who claim to be friendly to the cause but who are betraying the veterans who elected them. Belgrano and Taylor in their fight against me have had the assistance of Wall Street and international banking groups that we know have spent enormous sums of money in opposition to the cause which I advocate. The $74,000 that was spent at Chicago was chicken feed compared to the total amount expended for the purpose of defeating this cause. A witness testified under oath that Belgrano and other high officials of the American Legion were members of the sound-dollar committee who represented the front for these big bankers in opposing this legislation.

THE FOURTH ATTACK ON ME

The National Legionnaire for July 1935 contains new and additional attacks on me by Belgrano and Taylor. In this publication they infer that everybody has given up in the fight except themselves. The truth is, they have never gotten in the fight, and no one who has been carrying on has given up. They also quote a few editorials from newspapers which say that the inflation issue beat the veterans. They failed to print the editorials from some of the greatest newspapers in this country favorable to my side of the question and showing my bill was not inflationary. They are just picking out unfavorable editorials and printing them, giving the veterans only one side, and refusing to give my side.

VETERANS PICTURED AS IGNORANT CLASS

Belgrano and Taylor evidently believe, as Taylor testified before the Senate committee, that the veterans are a very ignorant class, and very few of them who live more than 100 or 200 miles from Washington know what it is all about. With that assumption and with the means of communication within their grasp, which I do not possess, they probably expect to crush me and thereby destroy the cause that they have always opposed but have been pretending to defend.

BELGRANO'S BANKERS' BONUS BILL OR PATMAN BILL

If the Vinson-Belgrano bankers' bonus bill had passed, it would have increased the earnings of Commander Belgrano's banks in California; New York City; Rome, Italy; and London, England, from $5,000,000 to $10,000,000 a year. It would have increased the earnings of his California banks alone more than three and a half million dollars a year, without being out a penny and without running any risk whatsoever, whereas under the Patman bill the Government would have used its own credit free and the commander's banks would have been denied this $5,000,000 to $10,000,000 annual bonus.

HOW OUR CAUSE WAS HARMED

Our cause for full payment of these certificates was not helped but was harmed when the American Legion officials published a statement to the effect that the average member of the American Legion has an income of twice that of the average general income. This was a falsehood and led the country to believe that all veterans were twice as well off as other people. These leaders also declared that 94 percent of the American Legionnaires carry insurance policies averaging over $12,000. I do not believe there is a word of truth to this. It looks like both of these statements were made for the purpose of hurting our cause by causing the people of the country to believe that the veterans are twice as well off as any other class.

Every veteran in this country who has all of the information on this subject knows that we are criticized by Belgrano and Taylor because we would not put our heads in the bankers' laps and permit them, if any bill were passed and enacted, to receive a bonus of $2,000,000,000 in order that we might pay the veterans a debt of $2,000,000,000. They know that Banker Belgrano and John Thomas Taylor are not displeased because the bill was defeated, and they also know that they did not make an honest, sincere effort to secure passage of the legislation.

HOUSE FORCES SHOULD NOT AGAIN BE DIVIDED

If the leaders of the American Legion are determined to sponsor another bill for the payment of the adjusted-service certificates, they should certainly not commence such a bill in the House where our forces are united. They should commence the bill in the Senate, the body that has always killed the legislation. Furthermore, no bill should be introduced that merely provides an authorization for an appropriation as the Vinson-Belgrano bill. It should actually carry the appropriation.

EXAMPLE OF MISLEADING

As an example of how Belgrano and Taylor have attempted to mislead the veterans, I refer you to the fact that the Vinson-Belgrano bill does not carry out the mandate of the Miami convention. I will call your attention to one specific instance—the Miami resolution says that the American Legion asked for a refund of all interest paid. The Vinson-Belgrano bill does not contain such a provision, yet Belgrano and Taylor continue to say that the bill complies exactly with the Miami resolution. Other instances can be cited. It is true that the Miami resolution was embodied in the bill in the preamble, but a preamble never becomes a law. It is thrown in the wastebasket because it is before the enacting clause of the bill and does not have the effect of law.

ANOTHER FALSE REPRESENTATION

Belgrano and Taylor have attempted to make the members of the American Legion believe that I claimed in my speech on January 30, 1935, in the House that the Miami convention of the American Legion endorsed my bill. I never did make such a claim and do not make such a claim now. In answer to a question propounded to me by Representative FISH, of New York, I stated positively that I did not claim that my bill was endorsed by this convention. I did say then, I do say now, that my bill was the only one that complied with that part of the resolution which says that the payment should be made in a way that no new or additional debt will be created. All other bills will create a new debt.

MEMBERS OF CONGRESS KNOW WHO HAS CARRIED ON THIS FIGHT

Many veterans know me and know Belgrano and Taylor, and know our records. I am sure as to what their judgment will be. There are many thousands of legionnaires, however, who do not know any of us personally. I suggest that they write their Congressman regardless of the way he voted, whether for the Patman bill, the Belgrano bill, or

against any bill, and I am convinced that you will need no other evidence to refute the wild propaganda that Belgrano, Taylor, and the American Legion national headquarters are using against me in an effort to justify the double-crossing they gave their members. Members of Congress are fair, and I am willing to abide by their judgment. They know I have done and am now doing everything within my power to get these certificates paid.

ADDITIONAL STRENGTH EACH SESSION

Our bill passed the House June 15, 1932, by a vote of 211 for to 176 against.

March 12, 1934, it passed the House by a vote of 295 for to 125 against.

On March 22, 1935, it passed the House by a vote of 318 for to 90 against.

It passed the Senate May 7, 1935, by a vote of 55 for to 33 against. An effort was made to substitute the Vinson bill, which lost by a vote of 35 for to 52 against. It is ridiculous to say that two-thirds of the Senators wanted a certain bill and could not get it.

On May 22, 1935, on the question of overriding the President's veto, 322 voted to override with 98 against in the House.

May 23, 1935, the Senate voted to override the President's veto as follows: Fifty-four yeas to 40 nays, lacking 9 votes of being two-thirds, a sufficient number to override in the Senate, although in the combined Membership of the two Houses, consisting of 531 Members, less than 25 percent voted against our proposal. In other words, more than 75 percent favored our bill.

HOW STRENGTH INCREASED FOR PATMAN BILL AT EACH ELECTION

In 1930, 77 new Members of the House of Representatives were elected, 54 of them were pledged for my bill to pay the adjusted-service certificates and 23 were against it. In 1932, there were 181 new Members of the House elected, 133 favoring my bill and only 48 against it. In 1934, there were 108 new Members elected to the House of Representatives, 91 for the bill to only 17 against it.

This indicates how the bill has grown in strength, and the only bill pending before the country during this time for the full and immediate cash payment of the adjusted-service certificates that was being considered was the Patman bill to pay in new currency without creating a new debt.

RECENT TREASURY STATEMENT

According to the June 29, 1935, daily statement of the United States Treasury, the Government holds $9,115,380,809.40 in gold. The title to this gold is in the United States Government. The Government has outstanding today less than five and a half billion dollars in actual money, including paper money, silver, and other coins. Therefore, the Government can issue $2,000,000,000 in gold to pay the veterans or issue $2,000,000,000 in paper money secured by $2,000,000,000 in gold and still have more than $7,000,000,000 to retire the five and a half billion dollars in outstanding money.

PAY VETERANS IN NEW MONEY

We are asking in H. R. 1, the Patman bill, that sound money be issued to pay this debt. It will be issued in a way that no inflation will possibly result. It will distribute purchasing power to three and one-half million veterans who reside in every nook and corner of the Nation, but will not cause the issuance of more nontaxable bonds or an increase in taxes. It is not sound governmental policy to pay this debt with bonds that will cause the bankers to get a $2,000,000,000 bonus in order to pay the veterans a $2,000,000,000 debt when we have the idle gold in the Treasury to pay the debt with.

SALARIES AND EXPENSES, BELGRANO AND TAYLOR

The national commander of the American Legion receives $10,000 a year and expenses. Belgrano's expenses the first 2 months were $2,286.99, or over $1,100 a month and at this rate will be over $13,000 for the year. Taylor receives $6,000 a year and expenses. His department, the legislative, cost the American Legion $23,482.79 in 1934.

These charges would not be excessive if Taylor and Belgrano were working for the American Legion. The veterans would be much better off without the kind of assistance they have been rendering.

Wall Street interests should be compelled to pay their own lobbying expenses and not make the individual legionnaires over the Nation pay their bill. Neither should they be allowed to use leaders of the American Legion as a front to put over their propaganda.

LEGION SHOULD HAVE 2,000,000 MEMBERS

The American Legion should have at least 2,000,000 members. If there is the right kind of house cleaning, commencing at the top, I predict the membership will reach that figure in a very short time.

Mr. SCHNEIDER. Mr. Speaker, the Wheeler-Rayburn bill for governmental control of public utility holding company practices is the most misrepresented and misunderstood legislation which has come before this session of Congress. The army of lobbyists, which has not only infested the corridors of the Capitol but has been active throughout the country by personal solicitation and by letter, has attempted to lead investors in all utility stocks and bonds, and even in other investments, to believe that all of their securities will be adversely affected by this proposed legislation.

As a matter of fact, opponents of this legislation admitted at the hearings before the Senate committee that only one-fifth of the investment in utilities is in the holding companies, four-fifths being in regular operating companies. Much of the holding-company investment is controlled by large banks and financial combinations. Instead of adversely affecting securities of operating companies this bill is aimed to take the financial leeches off these companies and their stockholders and enable them to give good service at reasonable rates to consumers, with a fair return to investors, relieving them of the obligation to carry the old man of the sea, who has fastened himself on their backs in the form of holding-company organizations.

The bill as passed by the Senate calls only for elimination of unnecessary holding companies over a period of years, with a reasonable time given for an orderly liquidation. Holding companies which control properties located close to each other, where the operating units could obtain some advantage by cooperative action, are deemed desirable and are allowed to continue under the bill.

This bill is aimed at abuses such as those illustrated when an official of one of the large holding companies located in New York appeared recently before a Senate committee. He was asked about an operating company on the Pacific coast and indicated he knew nothing about the company. He was then asked if he was not the president of the company named and did not draw a salary of $7,500 a year from the company, holding such position by virtue of the control over the operating company by his holding-company organization. After a whispered consultation with his attorney he confirmed the fact that he was an officer and drew the salary, although later testimony showed he had never even visited the company offices while on a trip to the Pacific coast.

During the Senate debate on this measure charts were submitted showing a spider's web of holding-company affiliations in which as many as 12 holding companies were pyramided on top of a lone operating company, which is expected to provide sustenance for the bloodsuckers which feed upon its activities to the detriment of the consumers of electricity and the investors in utility stocks.

We are here attempting to remedy these injustices under which the holding companies hold the voting stock in the operating companies while investors who furnish most of the capital in the operating companies hold the bag. Through this control, although actually owning only a small proportion of the capital invested, the holding companies dictate the business policies of the operating companies. They tell them from whom they are to buy materials, at what prices, and from whom they shall hire engineering and legal services, frequently furnishing both supplies and services at exorbitant rates. In one case it was shown that a holding company charged $2,000,000 for legal services which had actually cost $1,000,000.

Section 13 of this bill, which would control the practices cited above, has unfortunately been emasculated and hamstrung by action of the House committee, and should be restored as approved by the Senate, so that legal racketeering of the type described above can be effectively stopped.

Section 11 of the bill has also been emasculated, those responsible for wrecking this section arguing that it is not necessary to arrange for dissolution of the holding companies whose activities extend beyond all economic borders and result in control in New York, Chicago, and other financial centers of properties located thousands of miles away and having no economic connection with the financial bosses controlling them.

This bill is merely an attempt to cut down these gigantic octopuses to a size where they can reasonably be controlled by the States, so far as possible. Regulation of their activities is impossible under the present organizations, as is shown by the statements on the floor of this Congress by two former Governors of sovereign States who made an honest effort while serving as chief executives of their Commonwealths to control holding-company practices.

Senator BROWN, of New Hampshire, who, following his term as Governor of his State, served for 7 years on the public-utilities commission, stated on the floor of the Senate:

> New Hampshire is not a large State. It has an area of something less than 10,000 square miles. Nor is it densely populated, having a population of 465,000. The utility problem in that State ought not to be extremely complicated, yet our commission could never even be certain as to the number of holding companies doing business in the State, because it is impossible for a State commission to discover the truth. I have seen them juggle their books, juggle their cash where they were both buyer and seller, juggle their taxes, juggle their lawyers, their accountants, and their engineers.
>
> In my opinion, under the present set-up nobody can effectively regulate such an organization. It is too big, too powerful, its officials are too fast, and its lawyers are too smart.

Our colleague here in the House, former Governor PIERCE, of Oregon, told us of similar experiences he has had in the State of Oregon.

Holding companies are here making a fight for these emasculating amendments, saying, "We are willing to submit to reasonable regulation, and we will be good." The investigation of the Federal Trade Commission shows, however, that every holding company from Insull up or down has been guilty of unfair practices. Those who operate this financial octopus know regulation cannot be made effective. That is why they are advocating it here today. These same interests have lobbyists at legislative sessions of every State fighting to the last ditch to prevent any strengthening of the laws regulating their evil practices. They attempt to control and, if necessary, corrupt public officials from the lowest town or city officer to the highest legislative body, the United States Congress.

The average citizen need but refresh his recollection of activities of public-utility officials in his community and he will not doubt the charges made about the practices of holding companies and their attempts to control the Government for private interests.

Mr. Speaker, many years ago the late Senator La Follette, with far-reaching vision, secured passage of an antimerger law in the District of Columbia making it unlawful for a holding company to own more than 10 percent of the capital stock of any District utility corporation. Despite this effort to regulate, People's Counsel Roberts, of the District, whose experience in attempting to regulate these practices prompted him to make a radio address a few nights ago in support of this legislation, pointed out that all of the District utility corporations are now controlled by holding companies.

The argument is being advanced that these financial pirates, like Insull, should be allowed to continue their operations because any action by Congress might decrease the value of investments in holding companies. Legislation which has been enacted, and which is being proposed here to protect the innocent victims of lying propaganda, is said to be responsible for the shrinkage in the value of utility securities. The facts are, however, that between 1929 and 1933, during the era of unrestricted individualism, the market value of securities of 25 leading holding companies decreased from $19,245,157,757 to $2,879,000,000. A loss in securities' values which brought a decrease from 19 to 2 plus certainly demonstrates that something more effective than the benevolent management of Insull and his kind is needed to protect the American investor.

Mr. Speaker, I believe we should reject the House committee amendments, sponsored by the Power Trust in an effort to make this bill ineffective. We should then move promptly to pass the bill. The workers and farmers are in need of this protection against centralized industrial control. They pay the higher rates which the present system foists upon them, and groan under the exploitation.

The investors, who are being used by the power trust as a smoke screen, need the protection of this bill, which is aimed to preserve the rights and property of those who have invested in securities representing honest value.

Mr. SAUTHOFF. Mr. Speaker, President Roosevelt delivered his special message to the Congress of the United States on March 12, 1935. In that message he said, among other things:

> We do not seek to prevent the legitimate diversification of investment in operating utility companies by legitimate investment companies. But the holding company in the past has confused the function of control and management with that of investment and in consequence has more frequently than not failed in both functions.

And again—

> But where the utility holding company does not perform a demonstrably useful and necessary function in the operating industry and is used simply as a means of financial control, it is idle to talk of the continuation of holding companies on the assumption that regulation can protect the public against them.

And again—

> And it offers too-well-demonstrated temptation to and facility for abuse to be tolerated as a recognized business institution. * * * It is a corporate invention which can give a few corporate insiders unwarranted and intolerable powers over other people's money. * * * it has built up in the public-utility field what has justly been called a system of private socialism which is inimical to the welfare of a free people.

President Roosevelt's views on this subject were founded largely on the report of the National Power Policy Committee. This committee in its report gives us some startling information which may well cause the average citizen to pause and consider whither we are drifting. I take the liberty here of quoting from the committee's report:

> In 1925 holding companies controlled about 65 percent of the operating electric-utility industry. By 1932, 13 large holding groups controlled three-fourths of the entire privately owned electric-utility industry, and more than 40 percent was concentrated in the hands of the three largest groups—United Corporation, Electric Bond & Share Co., and Insull. Even these three systems are not totally independent. United Corporation has a stock interest in Electric Bond & Share Co. In the latter system have been brought certain Insull properties since the collapse of the Insull empire. In 1929 and 1930, 20 large holding company systems controlled 98.5 percent of the transmission of electric energy across State lines.
>
> The rise to power of the large holding company in the gas-utility industry has been no less startling than in the field of electricity. In 1932, 11 holding company systems controlled 80.29 percent of the total mileage of natural-gas trunk pipe lines, upon which the gas fields are almost completely dependent for the marketing of their product.

I quote again:

> For all this concentration so dangerous to his democracy, the American consumer pays the bill. With a large and often unsound capitalization to support, many holding companies have not been able to be satisfied with reasonable dividends on the securities of their operating companies. They have compelled the consumer to bear the burden of various fees, commissions, and other charges which they levy against their subsidiaries. They take fees, usually a percentage of the gross revenues of the subsidiary, under contracts for the performance of management, engineering, accounting, publicity, legal, tax, and other general and special services. They make profits on the sale of materials to their subsidiaries. They make profits from construction contracts which they negotiate and perform for their subsidiaries; they often control one or more construction companies to which is awarded most of the building work for the entire system. They take fees for handling the issue, sale, and exchange of securities for their subsidiaries.

And again—

The investigation of the Federal Trade Commission shows, for instance, that in 1929 Associated Gas & Electric Co. acquired 94,005 shares of Barstow Securities Corporation, a utility-holding company which controlled General Gas & Electric Corporation which controlled a chain of operating companies. The price paid was $531.04 a share. According to the accountants of the Federal Trade Commission, the stock had a book value of $2.97 per share and had earned $4.16 per share in the preceding year. The acquisition was a victory for Associated Gas over the United Gas Improvement Co. (a member of United Corporation group) which had bid against Associated Gas for the property. To finance its purchase of these Barstow securities, with annual earnings of about $391,000, Associated Gas incurred obligations whose annual interest charges were $2,800,000. The example is an extreme one, but acquisitions of properties were common at two, three, or more times their book value, an entry not likely to be understated in an industry where returns are regulated in relation to property value.

And again—

The public-utility holding companies have become Nation-wide institutions. Their subsidiary operating companies are located in every State. Electric Bond & Share Co. has operating companies in 36 States and 8 other systems have units in 11 to 29 States. Many holding companies have affiliations, sometimes amounting to control, with banking interest, construction companies, coal mines, newspapers, and other interests.

The committee report also points out that there is no Government regulation of these huge holding-company structures because holding companies are very careful to incorporate in a State which is outside of the limits of a State or States in which the operating companies are located. This places them beyond the reach of the public service commission of any State, and makes it impossible to exercise any governmental control over their operations. Needless to say, legislation is necessary to take care of these huge corporate empires that are now outside the limits of Government control. This is the objective set forth in the President's message.

OTHER PEOPLE'S MONEY

Early English law was extremely rigid. Forms and technicalities were strictly observed. The court of common law gave no remedy, unless a writ fitted exactly to the case could be found. The interests of cestui que use were not protected by the common-law courts, because no writ existed to fit the case. Therefore, for many years uses and trusts existed in honorary obligations, but had no legal standing. If money was delivered to A, to be paid to B, the common-law action of account lay. If a chattel were delivered to another for the use of a third, detinue could be brought by the beneficiary.

But the development of the court of chancery wrought a change. Gradually a practice of petitioning the king arose for relief where the law courts gave no remedy. These petitions were referred to the chancellor. As a result the chancellor became the custodian of the king's conscience, and his court the court of conscience. Equity and fairness were supposed to govern, instead of technicality.

It was natural that cestui que trust who had been injured, due to a failure of their trustees to hold their property for their use, should apply to the chancellor for relief. The chancellors of those days were churchmen, and their consciences were naturally shocked by the unfairness of allowing a trustee to make away with his beneficiary's property. The process by which the chancellor acted was known as a subpena. It commanded the defendant to do or refrain from doing a certain act. (Bogart, Trust and Trustees, vol. 1, sec. 3.)

The common-law trusts were employed for the voluntary association of individuals pursuing a common cause. The trust received no corporate franchise, its members complied with no general corporation law. They derived whatever power for authority they had from the voluntary action of the individuals forming the trust. Naturally, the individuals forming such a common-law trust were greatly concerned as to their personal liability.

In order to secure exemption from personal liability for the shareholders the trust had to be one in which the shareholders reserved no powers of control over the business of the trust. Of course, no modern Napoleon of industry would ever consent to surrender control, and yet at the same time he would not want to inflict upon himself any personal liability. The answer was, the holding company, a corporation which could hold the stock of another corporation. This has solved the problem of the promoter, the investment banker, and the stock manipulator who has used other people's money to buy a business for himself. But you say, "How could this possibly be done?" Let me give you a very simple illustration:

Let us say that the Madison Operating Co. furnishes gas and electricity to the public in a very rich territory. It is an excellent company with splendid modern equipment, with an able and efficient manager, and enjoys the best of patronage and earns large dividends. The capital structure of this company consists of $150,000,000 divided into three equal groups—$50,000,000 of 6-percent bonds, $50,000,000 of 6½-percent preferred stock which has no voting power, and $50,000,000 of common stock which has voting power and thereby controls the company.

Let us say that three men—Smith, Jones, and Brown—conceive the idea of getting control of this splendid operating company. In order to get control all they need is 50 percent of the common stock of the company, because that is the stock that has voting rights. Smith and Jones are bankers and Brown is a broker of considerable prestige. They very quietly buy up $25,000,000 worth of common stock of this company wherever they can get it at a reasonable price.

When once they have secured this $25,000,000 worth of common stock in the Madison Operating Co., the rest is very simple. They now form the Dane Holding Co., the capital structure of which is $25,000,000, being the $25,000,000 with which they bought 50 percent of the operating company's common stock. The Dane Holding Co. is divided into $12,500,000 of common stock, $6,000,000 of preferred stock and $6,500,000 worth of bonds, which reduces the investment of Smith, Jones, and Brown by one-half. But the end is not yet. Thereupon these gentlemen incorporate the Columbia Holding Co. with a capital structure of $12,500,000 divided into $6,250,000 of common stock, $3,000,000 of preferred stock and $3,250,000 of bonds.

Times being good and the business showing a nice profit, they now incorporate the Dodge Holding Co., with a capital structure of $6,250,000, consisting of $3,125,000 of common stock, $1,500,000 of preferred stock, and $1,625,000 worth of bonds. Next they incorporate the Jefferson Holding Co., later on the Waukesha Holding Co., and finally the Wisconsin Holding Co.; in each case reducing their investment by one-half, until finally by owning one-half of the common stock of the Wisconsin Holding Co., or with an investment of $195,312.50, they completely control the Madison Operating Co., a $150,000,000 enterprise.

The Madison Operating Co. ($150,000,000):	
Bonds	$50,000,000
Preferred stock	50,000,000
Common stock	50,000,000
The Dane Holding Co. ($25,000,000):	
Bonds	6,500,000
Preferred stock	6,000,000
Common stock	12,500,000
The Columbia Holding Co. ($12,500,000):	
Bonds	3,250,000
Preferred stock	3,000,000
Common stock	6,250,000
The Dodge Holding Co. ($6,250,000):	
Bonds	1,625,000
Preferred stock	1,500,000
Common stock	3,125,000
The Jefferson Holding Co. ($3,125,000):	
Bonds	1,000,000
Preferred stock	562,500
Common stock	1,562,500
The Waukesha Holding Co. ($1,562,500):	
Bonds	500,000
Preferred stock	281,250
Common stock	781,250
The Wisconsin Holding Co. ($781,250):	
Bonds	200,000
Preferred stock	190,625
Common stock	390,000

You must also realize that the Madison Operating Co.'s profits must pay the interest on the bonds and preferred

stock of all these holding companies, and that the profits of the Madison Operating Co. can come from only one source, namely, the users of gas and electricity in the territory served by that company. Of course, the investor, being a bondholder of the Wisconsin or the Waukesha Holding Co., thinks he has a first lien on some valuable property, but when you stop to analyze it you can readily see, by examining the chart, that the first lien against the Madison Operating Co.'s property is the $50,000,000 of bonds which form the senior security; the second lien, or junior security, is the $50,000,000 of preferred stock. Therefore, the holders of bonds of the Dane Holding Co. have only a third mortgage, and so on down the line until you come to the bondholders of the Wisconsin Holding Co., which are so far out on the limb that they do not have any secure footing.

However, you must note this fact about these different corporations. The first corporation is naturally a Wisconsin corporation with its principal office in Madison where the operating company is located. The next corporation, the Dane Holding Co., and all the succeeding holding companies, namely, the Columbia, the Dodge, the Jefferson, and the Waukesha, are incorporated in another State in order that the Wisconsin Public Service Commission will have no jurisdiction over them, cannot examine their books, records, documents, and so forth, and can issue no orders in regard to them whatsoever. The last-named holding company, the Wisconsin, incorporated in New York State, where Smith and Jones are bankers, buys all the equipment for the Madison Operating Co. It gives the contract for all equipment to the Waukesha Holding Co. and charges a fee for that service. The Waukesha Holding Co. furnishes the equipment to the Madison Operating Co. but charges more than the market price and keeps the difference as its profit.

The Wisconsin Holding Co. also hires the Jefferson Holding Co. as the accountants of the Madison Operating Co., and pays a stiff fee to that company for keeping the books, making out corporation reports, pay rolls, preparing income-tax reports, making yearly audits, rendering any and all service in connection with this part of the Madison Co.'s business. The Jefferson Co. charges a pretty stiff fee for this service and retains the money as a profit.

The Wisconsin Holding Co. also gives a contract to the Dodge Holding Co. for all lumber and hardware used by the Madison Operating Co., and the Dodge Co. charges in excess of the market price for these commodities. That profit goes to the Dodge Holding Co. The Wisconsin Co. also gives a contract to the Columbia Holding Co. for all advertising, legal service, education and promotional campaigning, which, in plain language, means lobbying. For this service the Columbia Co. charges a good stiff fee and pockets the profits. Next, the Wisconsin Co. gives a contract to the Dane Holding Co. for all construction work with the express proviso that materials must be purchased from the Dodge Holding Co. The Dane Holding Co. charges more than the market value for these services and pockets the profit.

Now, we ask, "Where does the Madison Operating Co. get the money to pay off all these excessive charges?" And the answer is, "From its customers who use gas and electricity." In these arrangements which I have mentioned there is not one single solitary thing that the manager of the Madison Operating Co. could not hire at a much cheaper price than he has to pay to these holding companies. This is the unjust and unfair burden that the consumer is called upon to bear. Of course, he would be much better off, and so would the Madison Operating Co., if it did not have all these holding companies piled upon its back. Perhaps some of you feel that I exaggerate in mentioning these things, but every one of them can be verified by actual experience. In his address to the Senate on March 27, 1935, Senator BURTON K. WHEELER, of Montana, furnished the following example:

In 1923 Cities Service undertook, through Lakeside Construction Co., to construct a plant at Valmont, Colo., for one of Cities Service subsidiaries, the Public Service Co. of Colorado, operating in Denver. The cost of construction, as computed in the books of the Lakeside Construction Co., was slightly less than four and one-half million dollars. That figure included the salaries of Cities Service experts on the job and special contractors' and engineering fees paid by Cities Service Co. For this job Public Service Co. of Colorado, the operating company, paid Lakeside Construction Co., the dummy construction company, over $10,000,000 par value in securities of Public Service Co. Furthermore, that $10,000,000 in securities was paid in advance of construction, and during the period of construction the subsidiary paid that dummy construction company dividends and interest on those securities amounting to almost three-quarters of a million dollars. The operating subsidiary, therefore, paid almost $11,000,000 for the construction of a plant, the cost of which was less than four and one-half million dollars as the holding company computed its own records. The securities which the operating subsidiary gave the dummy construction company were transferred immediately, without even notation upon the books of the construction company, to the Cities Service Co., the top holding company. When the Cities Service Co. received these securities, it kept out of them for purposes of control the common stock of two and one-half million dollars par value, and then sold the bonds and debentures to the public for almost six and three-fourths million dollars cash. The actual construction, you will remember, had cost, according to the Cities Service books, less than four and one-half millions. So that at the end of the transaction the Cities Service Co. had a cash profit of over $2,000,000 in addition to the two and one-half million dollars par value of common stock of the operating subsidiary which it retained, and in addition to its contractors' and other fees.

Another illustration of exhorbitant fees paid to holding companies for service which they (the operating company) did not need is the case of the Associated Gas & Electric Co., and also the Cities Service Co., which collected as taxes from their subsidiary company approximately $3,000,000, respectively, which neither Associated Gas nor Cities Service had to pay to the Government. The way it was done was this: The holding companies kept the books for the subsidiaries. At the end of the year they would compute the income tax for the subsidiary company and get its check for the amount of the tax. If your system had 200 subsidiary companies in it these sums would amount to a very substantial sum of money. Under the law the corporations which were part of a holding company group were permitted to file one return for all the companies lumped together. This was a very convenient method of computation because the loss of one company could offset the profit of another in the same group. By pursuing this method of computation the holding company was able to reduce the tax against its subsidiaries by millions of dollars, but it did not return to any of the subsidiaries any of this tax money, but kept it for itself. One could hardly call this rendering a valuable service.

The reports of the Federal Trade Commission contain many other abuses of a similar character, all pointing out overcharges by the controlling holding company against the operating subsidiaries. It was a very common practice not to have any competitive bidding in making purchases of supplies, equipment, or material of any kind. By not having competitive bidding it was possible to charge the operating company an excessive price and pocket the difference. The user of gas and electricity paid the bill, and he is still paying it because we have not yet ended these abuses.

One of the outstanding figures in the utility world is Samuel Ferguson, president of the Hartford Electric Light Co., of Hartford, Conn. Mr. Ferguson, in commenting upon these abuses of the holding companies, among other things, wrote as follows:

The results of such abuses as have been perpetrated by certain speculative holding companies have been and will continue to be far worse for the investing public than for the consuming public, since the latter is protected from abuses by the regulatory control of the States over the operating companies, which control is exercised by public-utility commissions.

For years I have anticipated the results of the past few years, namely, that the public would visit the sins of the speculative holding company upon the head of the operating utility. But it is very heartening to see clear evidence on all sides that the public is now beginning to differentiate intelligently, and to lay blame where it properly belongs, instead of indiscriminately, though it is very sad that the knowledge had to be acquired at so great expense and sorrow to a great multitude of investors. (Electric World, Jan. 21, 1933.)

Let us see what the holding companies did with the investors' money. The United Corporation is a super holding company operated by the Morgan syndicate. The corporation gave perpetual option warrants to the organizers of the company to subscribe at any time to the holding company stock. The organizers paid $1 each for these options. J. P. Morgan & Co. held a large block of these options and realized a profit of $68,000,000 on an investment of $1,750,000. There is no excuse on earth for any corporation issuing these options. They do not serve any useful purpose whatever to the corporation or to the public which invests in the corporation's securities. It is merely a high-class method of robbing and cheating the investing public by lawful means.

The Federal Trade Commission made a report in which it set forth that "91 operating companies in holding company control, having combined capital assets of nearly $3,307,000,000, revealed write-ups and other improperly capitalized items amounting to not less than $842,995,000. This meant an increase of purely fictitious values which exceeded 34.2 percent. In other words, they merely opened a new set of books in which they raised the valuation of the fixed assets and the other assets over one-third of their original value.

The New York Times on March 15 contained an amazing story. Promoters had sold to the public $100,000,000 worth of holding company securities in 1 year out of which they took a profit of $34,000,000. The testimony disclosed that not one dollar of this money was put back into purchasing generating plants, dynamos, transmission lines, poles, or anything else, but was used solely in stock-market manipulations and purchasing of stocks of holding companies.

The Electric Bond & Share Co. on November 1, 1930, wrote up the capital accounts of the Tennessee Public Service Co., one of its properties, $4,388,157, or over 33⅓ percent. When we remember that the depression was already under way, how can anyone justify writing up a company's assets by over one-third? The Florida Power & Light Co., a member of the Electric Bond & Share system, wrote up its book value 126 percent. Its book value was $28,213,209.01. They wrote it up to the amazing sum of over $64,000,000 and, of course, sold the investing public stocks and bonds without voting rights.

Mr. RAYBURN, Chairman of the Committee on Interstate and Foreign Commerce in the House, spoke on this matter on Thursday, June 27, and referred to 17 abuses of which the holding companies were guilty in their transactions and manipulations. Mr. RAYBURN gave many examples to bear out his contention relative to these abuses. I cannot repeat all of them here, but I wish to point out several of them which must be of interest to everyone. Among other things, Mr. RAYBURN said:

> It may surprise you, but about 50 holding companies completely control these 2,000 operating companies. One holding company, Electric Bond & Share, controls so many operating companies that the grand total value of the properties of all of the companies in that system amounts to $3,000,000,000. That is, just one holding company dominates one-seventh of all the property operated by electric-light companies.
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> * * * * * * *
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> And then the banking houses control the holding companies which control the operating companies. One big banking house, through a company called United Corporation, has an arrangement by which 8 or 10 of these big holding companies are tied together, so that more than one-fourth of the electric-light companies in the entire United States are subject to that banking influence.

This startling statement would seem to indicate that if these stock manipulations and combinations continue unchecked it will not be long before every consumer in the United States of gas and electricity will be paying tribute to an unknown and unseen overlord more powerful than the President of the United States.

I quote again from Mr. RAYBURN's able address:

> In 1929, 25 holding companies had securities outstanding in the hands of the public with nominal market value of $19,245,157,757. This enormous volume of securities had been issued by these 25 holding companies alone, although the total claimed fixed capital of the entire electric light and power industry was at that time less than $12,000,000,000.
>
> Now, remember these stocks had a nominal market value in 1929 of more than $19,000,000,000. By the end of February 1933, just before the present administration came into office, these securities had declined to a market value of $2,879,000,000.

For the past 6 months every Member of Congress has been receiving letters, telegrams, telephone calls, and in some instances personal visits protesting against "destruction of all utilities." Newspaper articles have appeared daily referring to the so-called "death sentence." One would think from this mass of propaganda that the Congress was engaged in absolutely destroying and wiping out all public utilities. The intelligence of the average American citizen should tell him how foolish such a contention is, because every Member of Congress is conscientiously striving to help the people of his district, not to injure them. It is the President's contention that the control of the holding company evil and the compulsory reduction of vast holding company empires to more simple forms where everything is plain and aboveboard will mean more security to the investing public and a square deal to the consumer of gas and electricity. To me it seems amazing that the people who have invested their money in utility securities—87 percent of which was lost before this session of Congress ever met—should now place their faith and trust in the very people who robbed them. How much better it would be to trust somebody else, somebody raised in your own community, somebody who is accountable to you for his actions, somebody whose home is where yours is, whose wife and whose children live in your midst, somebody whom you see daily, than an unknown holding company in New York City.

Senator BROWN, of New Hampshire, a very able man who served for 7 years as a member of the New Hampshire Public Service Commission, made a speech on this question in the United States Senate June 5, 1935. I am sorry that I cannot quote at length from Senator BROWN's very able and interesting address. However, let me give you only a few excerpts:

> Between the destruction of the holding company and the destruction of our democracy, the choice for me is not difficult, because I know that the choice is inevitable. I have seen these giant holding companies come into our State, where the utility problem should be a very simple one, and bring to the people, not the benefits of operating economies or of improved services, but all the corrupting and corroding influences of irresponsible absentee management and misused economic power.
>
> I have seen them juggle their books, juggle their cash, juggle foreclosure sales where they were both buyer and seller, juggle their taxes, juggle their lawyers, their accountants, and their engineers.
>
> When we attempted to investigate the operations of these holding companies we were overwhelmed with wave after wave of lawyers, accountants, engineers—a new crowd of shock troops every week—gathered from different sections of the country.
>
> More than once have I seen the person in charge of an operating company claim and insist that he did not know where the company was located which was over him; did not know the name of his boss; and did not know where he lived.

Senator BROWN further pointed out that holding companies furnish managerial, purchasing, construction, engineering, financial, accounting, advertising, and legal services. In relation to these he said, enumerating them:

> First. A management contract where the holding company is paid by the operating company 2½ percent per annum of gross earnings of the operating company, payable monthly, plus certain expenses.
>
> Second. A construction contract giving to the holding company or affiliate a fee of 7½ percent of the gross amount charged or chargeable to the plant or property accounts of the operating company, payable monthly, and certain expenses.
>
> Third. A purchasing contract where the holding company or affiliate receives 1½ percent of the amount paid for purchases by the operating utility.
>
> Fourth. A plan as to appliances where the holding company or affiliate gets a margin of 30 percent profit on the sales by the operating utility.
>
> Fifth. An advertising arrangement in which a fee is charged.
>
> The New Hampshire commission was never able to get any information with respect to the amount of profit accruing to the holding company or affiliate on any of these contracts. I have always maintained, and still do, that where companies are commonly owned or have a common interest no profit should be allowed in their dealings one with the other.

Senator BROWN also points out in the same able address that the consumer of gas and electricity has a larger investment than that of the utility but that his investment is never referred to. Senator BROWN showed that in 1933 the utilities had an investment of $12,900,000,000 in capital equipment. At the same time the consumers of gas and electricity had an investment of $13,200,000,000, one-half of which was in household appliances. The housewife who buys a washing machine, an electric refrigerator, a toaster, a mixing machine, or an electric iron also is an investor, and she is the main investor, because she uses the current daily and replaces the appliance when it is worn out. Therefore her interest is fully as important as that of the investor in

stocks and bonds. Senator BROWN also denies that Government regulation would injure the investing public:

How does it hurt the investor to be given a security in a sound business for one that has been unsound and always will be unsound? I recall one of the days of the financial crash in 1929. Going into a building, I saw people standing around a woman who had fainted. It developed that she has saved up a couple of thousand dollars scrubbing floors over a long period of time. Someone had persuaded her to put her entire savings into Cities Service securities, and she was still buying more on the installment plan.

The following from the proceedings of House of Representatives of July 1, 1935:

Mr. Chairman, I am offering an amendment, which I am sending to the Clerk's desk.

The Clerk read as follows:

"Amendment offered by Mr. SAUTHOFF: On page 183, after line 20, add a new subsection, as follows:

"'(d) Every registered holding company and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holders of each class of preferred stock, common stock, or any other stock of such company voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights. Every registered holding company, and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holder of each bond or debenture of such company contingent voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights; such voting rights shall be contingent and exercisable upon any default in the payment of interest or principal upon such bond or debenture and shall be effective during the continuance of any such default.'"

Mr. SAUTHOFF. Mr. Chairman, on January 27 the minority leader of the committee, the gentleman from Ohio [Mr. COOPER] made the statement that this bill would destroy all holding companies. To this statement I take exception. The bill does nothing of the kind. What does this bill do? It exempts from its provision—and I wish you would note these four classes—first, all operating companies. What does this mean? It means that for every dollar invested in holding company utilities there are $4 of the public's money invested in operating utilities—$4 to $1. This is the ratio, and all the $4 are exempt, and, therefore, four-fifths of the public's money invested in utilities is entirely exempt from the provisions of this act.

The second class is composed of all operating companies engaged in purely intrastate commerce.

The third class consists of all operating and holding company systems which are engaged predominantly in the operation of the generation and transmission of gas and electric power, which systems are in contiguous States, even though engaged in interstate commerce; and last, but not least, all holding and operating systems which are geographically and economically integrated, even though engaged in interstate commerce. Those are the four classes that are exempt, constituting 91 percent of the investments that are in holding and operating companies. The only thing this bill touches is the 9 percent of the money that is invested in holding and operating systems; and what does it do as to the 9 percent?

Does it destroy them? No; absolutely not. What does it provide about that? It simply provides that they can continue as they are, saying to them that they do not have to change their corporate existence, or to make one single solitary operation as to their by-laws or organization, but that they must surrender control, and that is the one thing on earth that they do not want to do.

What does my amendment provide? My amendment merely provides that those who put their money, the vast investing public, into this business shall have the right to vote as to what is to be done with their money.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. MAVERICK. Mr. Chairman, I ask unanimous consent that his time be extended for 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. Yes.

Mr. COOPER of Ohio. Is the gentleman speaking of the House bill or the Senate bill?

Mr. SAUTHOFF. I am speaking of the Senate bill.

Mr. COOPER of Ohio. That is what I thought.

Mr. SAUTHOFF. And the House bill tries to evade what is in the Senate bill. To get back to my point, all my amendment does is to give to the public that is investing its money in public utilities a right to vote, and I say now that the public bought and paid for every utility in the United States, and why should it not have the right to vote as to what is to be done with its money? They paid for them; it is their money. Why should they be shut out from a voice in what is to be done with their money? All this amendment asks is for you to give the holders of preferred stock a right to vote.

One more provision in my amendment is, that in case there is a default in payment either of interest or principal on the bonds held in the holding company, that the holder of the bonds shall have the right to vote. What is wrong about that? It is his money. The President recently said that this bill inflicted no death sentence. That is a specious phrase used to frighten children. It cannot frighten anyone who analyzes the bill, because it is not true. The President said it does not destroy, it does not pass the death sentence. He made the statement that this bill is an emancipation proclamation for the investor in utility securities. I go a step further than that. There is an earlier American doctrine on which our very existence has been founded, and that is the doctrine enunciated by the immortal Virginian, Patrick Henry, when he said that taxation without representation is tyranny. The public has been taxed in buying the preferred stock and in buying bonds in the entire utility structure. We have been taxed, but we have not been allowed to be represented, and all I ask in this amendment is that those who are taxed be allowed to have representation in the control of these companies.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. Yes.

Mr. MAY. I agree with the gentleman absolutely in the statement that the vast majority of the money that is in the utilities of this country has been put in by the people, including the employees of the company. What does the gentleman think of the provision of the House bill that where 10 percent of the stock in any operating company is owned by a holding company it comes within the domination of the bill?

Mr. SAUTHOFF. I am in favor of it, if thereby the holding company has control.

Mr. Speaker, anyone who is apprehensive as to the rights of the investor or as to the security of his investment can vote this provision into the bill and feel that he has given the investor every opportunity to protect himself by having a voice in the proceedings and having the majority of the voting rights at all the meetings.

Some question has been raised as to the constitutionality of this measure and that point is urged with considerable vigor by those who are opposed to the Senate bill. My answer to their objection is this: If the Senate bill is unconstitutional, then how much more is the House bill unconstitutional which delegates all the powers to the Securities Exchange Commission, a delegation of powers which might well be questioned in view of the decision of our Supreme Court in the Schechter case. In that case delegation of great powers was held unconstitutional. How can you justify it in this case in view of the decision in that case? However, I do not feel that the Senate bill is unconstitutional. The only theory upon which the Federal Government can exercise its jurisdiction in the utilities field is through the interstate commerce clause of the Constitution. In *People* v. *Katz* (249 N. Y. S. 719), the Court said among other things:

"Commerce" embraces transportation of persons or property by land, water, or by air travel, and extends to all instrumentalities so employed.

Let us examine the authorities to see what particular matters have been held to constitute interstate commerce. The following cases will be of interest:

The term "interstate commerce" includes instrumentalities and agencies by which it is conducted and the power of Congress extends to the regulation of such instrumentalities, including the right to legislate for the welfare of persons operating them (*Loyd* v. *N. C. Ry. Co.* (162 N. C. 485)).

"Interstate commerce" as used in the Constitution and the Anti-trust Act, comprehends every contract, trade, and dealing between citizens of one State and those of another, which contemplates the transportation of goods, persons, or information from one State into another, and every initiatory, negotiating, and intervening act of the parties to that trade or deal, from the time the intercourse relating to it commences until the transportation and delivery have been completed (*United Leather Workers International Union* v. *Herbert & Meisel Trunk Co.* (284 F. 446)).

Electricity transported from one State to another is interstate commerce, even though an independent or municipal purchases the current from an operating company and then sells it to the consumer (*Pub. Ut. Com.* v. *Attleboro Steam Elec. Co.* (273 U. S. 83)).

Gas and oil are likewise proper subjects of interstate commerce and this is true even when such gas and oil is stored, inspected, and held, the destination being undetermined at the time, if subsequently it is transported into another State even though some of this gas and oil is commingled with other gas and oil in the same pipe lines used for local consumption (*Eureka Pipe Line Co.* v. *Hallanan* (257 U. S. 265)).

Telephoning and telegraphing from one State into another is interstate commerce (*C. B. & Q. Ry. Co.* v. *Reed* (217 Pac. 322)).

Transmission of a telegram between two points in the same State over the ordinary route passing out of the State is interstate business (*Shannon* v. *W. U. T. Co.* (152 Ark. 358)).

Cleaning, repair, and adjustment of large stationary gas engines constituting part of a compressor plant of a company producing, transporting, and selling natural gas, both within and without this State, used in the collection of such gas, from the wells and draw-

ing and forcing it through pipe lines from the wells to places of sale and consumption by means of pumps and other instrumentalities, are parts of its interstate business (*Smith* v. *Fuel Co.* (91 W. Va. 52)).

Every negotiation, contract, trade, and dealing between citizens of different States, which contemplates and causes such importation, whether it be of goods, persons, or information, is a transaction of interstate commerce (*Little* v. *Smith* (124 Kans. 237)).

Courts well realize that interpretations of the law must grow with the expansion of the activities of the citizens of the State. Law is not a dead instrument that was established thousands of years ago and has made no progress, nor can it be interpreted in the light of ancient history. Law must grow with the times; it must expand to fit industrial, economic, and social conditions. We cannot possibly apply the rules of the Dark Ages to the conduct of our citizens of today. We must, therefore, apply our rules and our interpretations thereof to conditions as they exist now. The evidence of the various agencies of the state have disclosed that holding companies, through absentee ownership and through interstate commerce, control the destinies of millions of our citizens. To effect their purpose they employ all the instruments of interstate commerce. The steam railway, the airplane, the automobile, the radio, the telephone, and the telegraph, all of these are used daily in interstate commerce to effecuate their purposes—namely, to furnish managerial skill, to furnish construction contracts, to furnish purchasing contracts, to furnish advertising arrangements, to furnish accounting and legal skill, to furnish electric appliances, and in short to do everything necessary to completely dominate the business of their subsidiary companies. Cut off their interstate commerce and they would be rendered helpless and impotent.

In 1890 the New York court ordered the Sugar Trust to dissolve, and in 1892 the Ohio court ordered the Standard Oil Co. to dissolve. These decisions were based upon the fact that these huge combinations were in restraint of trade, constituted a monopoly, and were contrary to the public interests. Those decisions were held and the trusts were dismantled, yet no investor lost a dollar in the transaction because they had invested in something of value. In the case of the utility companies, however, the investor has been cheated and defrauded. He has been sold write-ups and inflations, and too often nothing of value. What we are seeking to do is to put an end to this legalized form of financial piracy. If we, who are responsible for the laws of our Nation, recognize these evils and stand quietly by, we ratify them by our silence and become a party to them. For my part I do not care to be identified with such practices. I want to be recorded as condemning them, lock, stock, and barrel, and I want to do all in my power not to make it possible for these companies to continue defrauding the investing public.

It is sound public policy to limit and circumscribe human greed and cupidity, even though it may be temporarily held in abeyance. Limited as my experience has been, yet it is my observation that dividends have no ideals and that there are no heart throbs in profits. We are building a Frankenstein that with iron heel and clanking tread tramples underfoot the rights and privileges of our people. It is our duty to end it.

Mr. CARPENTER. Mr. Speaker, I voted against the "death sentence" clause in the utilities bill, and I voted for the bill on its final passage for the reason I have always favored the principles of this legislation, and furthermore I voted against the motion to recommit the bill striking out the controversial section 11 of the House bill, which would have taken the holding companies out from under any regulation whatsoever by the Federal Government, which motion to recommit, if adopted, would practically have nullified the bill.

As it is generally understood I am not a friend of the holding companies. They should never have been born in the first instance, but we cannot kill them outright without injuring many innocent stock holders and security holders. Moreover this is a representative form of government. I am the representative of the people of my district, and regardless of what my personal views may be I must recognize the fact that many people of my district believe and have so stated to me that if the Senate "death penalty" clause is adopted it will wipe out their life's savings.

It was brought out in the hearings and in the argument that there were many companies that were solvent and paying dividends to their stockholders regularly. To have wiped them out would, I believe, not only be a great hardship upon these investors but any such action on the part of this Government would have been held unconstitutional by our courts.

There is very little difference between section 11 of the Senate and House bills in regard to dissolving the large holding companies. The only practical difference as I see it is, under the House bill these companies have their day in court, and if they do not meet the regulations and specifications of the law then they are to be dissolved, while under the Senate bill they had no day in court, and under our Constitution and form of government legal action cannot be taken until the parties involved have had a day in court. To proceed otherwise in this country would, in my opinion, lead to the most despotic and dictatorial form of Government that could be imagined and would be destructive to the rights and liberties of our citizenship.

In addition thereto there was what appears to me to be a joker written in section 11 of the Senate bill that would have been to the advantage of the very large holding companies as against the small holding companies operating in only two States, which reads as follows:

Provided, however, That the Commission, upon such terms and conditions as it may find necessary or appropriate in the public interest or for the protection of investors or consumers, shall permit a registered holding company to continue to be a holding company in the first degree if such company has obtained from the Federal Power Commission a certificate that the continuance of the holding-company relation is necessary, under the applicable State or foreign law, for the operations of a geographically and economically integrated public-utility system serving an economic region in a single State or extending into two or more contiguous States or into a continguous foreign country.

The joker, in my judgment, is the word "two." I think "two" should have been changed to "one." For, under this provision as it is written, a holding company could continue in operation, starting out in one State and going from thence into every State in the Union, so that there would be no gap between States, where the little company serving in a single State and in one additional contiguous State would be required to be dissolved, and the large company under the above provision of the law could continue to exist.

In addition thereto such action on the part of Congress, in adopting as a part of this bill an absolute "death sentence" for all companies, might have been an out for the dishonest and crooked companies, their officials and salesmen could have told the investors that the reason why their stocks were valueless was that Congress had made them so. I believe if there is any salvage that it should be saved for the little investor, and that stringent regulations and the prevention of future holding companies under the terms of the House bill are in keeping with the platform of the Democratic Party of 1932, which all parties now agree was one of the greatest party platforms ever written.

Mr. MAAS. Mr. Speaker, I am not opposed to regulation of public-utility holding companies; in fact I believe that their financial practices should be under the closest control.

I am not even an advocate of holding companies whether they be in the public-utility field or any other line. I believe that many holding companies are created for the sole purpose of obtaining control with a small amount of capital of vast operating properties with enormous public investments involved.

But the Wheeler-Rayburn bill does not accomplish the purpose of correcting these abuses. Its ultimate purpose is not an orderly regulation of the public-utility industry. It was conceived and born in the sole desire of accomplishing eventual Federal ownership of the public utilities. Should this objective be accomplished it is but the first step in a program, the conclusion of which would be the Federal ownership of all industry and all commerce; in fact, a complete socialization of all business in the country.

This bill drafted secretly by the so-called "brain trust" had its conception in communism, not Americanism. If the bill were genuine in its announced purpose—to eliminate unnecessary holding companies—this would not be confined to the utility field but would be aimed at all such holding companies. Why was this particular field of public utilities singled out for this legislation? The answer is that the first step in a socialization program is to bring the natural resources under the direct ownership of the Federal Government where it can become the absolute tool of the politician who seeks dictatorship rather than the advancement of democratic government.

The Federal Securities Commission and the Federal Trade Commission have adequate authority to regulate both the financial practices of utility holding companies and the unfair practices that have been going on in the past.

The real proponents of the Wheeler-Rayburn bill are not interested in correcting the abuses in the public-utility holding-company field, but only with the ultimate program of federalization of the whole utility field. This bill is only an entering wedge and the first step in that program. Certainly, the regulation of operating utility concerns is within the province of individual States. If we do not check now this constant tendency of turning over to the Federal Government the prerogatives and obligations of the individual States, we will soon be no longer a Union of sovereign Commonwealths, but will be a great Federal State, with more artificial subdivisions administered by bureaucrats in the manner of absence landlordism.

Public officials who most intimately deal with the affairs of our daily life will no longer be amenable to local public opinion. The so-called "death sentence" of the Wheeler-Rayburn bill was pure camouflage, though the amendment was rightly named. It was a death sentence, but it was a death sentence for American industry, American initiative, American individual responsibility. It was a death sentence to the whole American philosophy of government and economics. It was a death sentence for democracy. It was intended to become the doorstep for communism.

I yield to no man in my liberalism; but genuine progressivism and liberalism mean taking the government as far as possible out of the direction of the affairs of the individual citizen. The constant drive to have the Federal Government usurp all of the functions of local self-government is not liberality; it is retracting our steps to the dictatorship of a monarchy.

I hope that no one will be misled by so-called "progressive" legislation which has as its object returning the people of this country to the ruthless control of a dictatorship. It was against such ruthless domination that the American people revolted and set up a democracy. Let us recapture the democracy and not be led back to the horrors of dictatorial rulers.

Mr. REILLY. Mr. Speaker, I hold no brief for the utility holding companies. There are, in my judgment, a very few good holding companies. As a general proposition, holding companies should never have been permitted to organize or function, because they serve, except in rare instances, no good purpose, and were organized largely for the purpose of plundering stockholders and the general public.

In legislating on holding companies Congress is confronted with a condition and not a theory. Holding companies have come into existence as a result of charters granted by the various States, and as a result of the employing of high legal talent they have ramified and expanded so that the ordinary mind cannot comprehend just where the utility world is at today from the standpoint of pyramided holding companies. Of the $12,000,000,000 that our citizens have invested in utility companies today, three billion is said to be invested in the stock of holding companies. It should be the aim of Congress in legislating on public utilities and holding companies to protect the investments of the stockholders in these institutions and not to jeopardize such interests. Legislation designed to punish holding companies by a "death sentence" or otherwise for their wrongdoings will punish the stockholders and not the offending corporations.

Two methods are proposed for handling the utility holding-company problem—one as proposed by the bill now before the House and the other contained in the bill recently passed by the Senate. The House bill proposes to regulate holding companies—that is, put them under the strictest kind of regulation—while the Senate bill proposes to leave to a commission the question of whether or not certain holding companies shall be obliged to liquidate and go out of business within 5 or 7 years.

The public-utility holding companies, or some of them at least, have done and are doing two things which fair-minded people condemn: First, these companies have issued hundreds of millions of dollars of worthless stock, which has been sold to the investing public; second, these same public-utility holding companies, or many of them at least, are milking, so to speak, the local operating companies by excessive charges for services rendered in order to provide funds to pay the operating expenses of the holding companies and dividends on their stocks.

The indictment of selling worthless stock to the investing American public is a thing of the past, or, rather, is water over the dam. No such stocks are being sold today, nor can be sold, as a result of the passage of the Federal Securities Act. The second indictment, of being leeches on the operating companies of the different holding-company units, is taken care of in the pending House bill, which gives to the Power Commission and the Securities Commission the right to pass on the fairness of all contracts entered into by holding companies with their operating units, thereby preventing holding companies from exacting unfair and unjust tributes from the operating companies.

Both the House bill and the Senate bill are designed to accomplish the same results—that is, the elimination or winding up of useless holding companies—one by the method of regulation and the other by the direct decree of Congress that said holding companies, within a time limit, must liquidate. Under the House bill each holding company will have its day in court, where it can make a showing justifying its right to continued existence, while the Senate bill does not seek to control, but rather to destroy.

I do not claim to be a constitutional lawyer, but I do believe that Congress has no power to decree the death of any business lawfully operating under a charter granted by a State. I am not yet ready to subscribe to the doctrine that Congress has the power, under the Constitution, or should have the power, to declare the death of any legitimate business functioning under the laws of a State.

If the Senate amendment should become a law, the whole utility field, representing $12,000,000,000 of invested capital of our citizens, would be in a chaotic condition. Investors, whether in local utilities or holding companies, would be up in the air as to their investments. If section 11 of the Senate bill, called the "death clause", should become a law, a cloud would be placed on all investments in holding companies; and, according to the National Association of Mutual Savings Banks, also on the stock of all utility operating companies, which might result in the loss of hundreds of millions of dollars to utility stockholders who have already suffered too great a loss.

In casting my vote in favor of the House bill, to regulate holding companies, I am voting in accord with the national platform of my party, which declares for the regulation of holding companies and not for their death.

I have given this bill and the Senate bill very serious consideration. I am in sympathy with the efforts to curb, control, and eliminate useless holding companies, not only in the public-utility field but in all fields, and I believe the pending House bill presents the best way to accomplish that purpose. Believing such, I must vote my convictions.

Neither the pending bill nor the Senate bill is what can be called, by any stretch of the imagination, the "recovery legislation." The pending legislation is long-distance reform legislation. Neither the Senate nor the House bill will put a single man to work, and it is altogether probable that if the Senate bill were passed many now employed would lose their jobs, and many others who otherwise might get work

would remain unemployed, because holding companies are not going to spend any money in enlarging plants or improving the same because of the uncertainty that would exist as to whether or not such companies will be able to operate after the period of limitation provided in the Senate bill.

It appears that the President favors section 11 of the Senate bill. I have supported the President's recovery program 100 percent. I think he launched a great emergency relief program and that he saved the country from an economic and financial collapse, the likes of which the world has never known before, but, as stated above, the pending bill is in no way an emergency relief measure. The President has a right to his opinion as to the best way for solving the holding-company problem. He probably knows more about the subject than I do, or the Members of the House. He may be right, but I cannot see the problem as he does.

The threat has been made during this debate that those who vote against incorporating in the House bill the "death sentence" contained in section 11 of the Senate bill will be held accountable on the next election day and very likely be retired to private life. Mr. Chairman, I have had this same charge hurled at me before, when I have seen fit to vote my honest judgment. I cannot properly serve my district as a Representative in this House if I have to keep my eyes on the ballot box. I have to live with myself and be on speaking terms with myself, and I can only do so by voting my honest convictions as a Member of the House, without regard to the effect of said votes on my political future. I have followed this course thus far during my 9 years of service in this body, and I intend to follow the same line of action as long as my constituents are kind enough to continue my membership in this body.

Mr. ELLENBOGEN. Mr. Speaker, more falsehoods, deliberate misrepresentations, and malicious propaganda have been spread about the utility holding-company bill now pending than about any other bill.

EVERYBODY IS INTERESTED IN THIS BILL

Every person is directly and vitally interested in the utility holding-company bill. He is interested either as a consumer who buys gas or electricity or he is interested as a stockholder who has invested in an operating utility company or in a utility holding company. In determining my vote on this bill I considered all these interests.

MY VOTE PROTECTED THE CONSUMER AND THE INVESTOR

I considered the interests of the consumer and the interests of the investor. In casting my vote for the so-called "death sentence", which is in reality no "death sentence" at all, I voted for the greater welfare of the people as a whole, and not for a specially favored few. I voted to protect the consumer against extraordinary rates for gas and electricity. I voted to protect the investor in stocks or bonds of a utility operating company.

I voted to protect those who invested in bonds of underlying utility subholding companies. I voted to protect every man, woman, and child who may hereafter make investments in utility holding or operating companies. I voted to protect a Democratic form of government against the rulers of giant monopolies who were extending their hands to throttle the Government of the people and to subject it to their will. In voting for the so-called "death sentence" I voted to abolish dishonesty and unfair monopolistic trade practices, and last but not least, I voted with the administration and with our beloved President, Franklin D. Roosevelt.

I hope that before long the people will know the true facts concerning this legislation. I hope that out of the maze of vicious and false propaganda, the truth will stand out like a beacon so that it may be seen far and wide. I know that then everyone will applaud the purposes and the aim of this bill in the form in which it was presented by the administration.

THE PASSAGE OF THIS BILL WILL NOT DEPRECIATE SECURITIES

Where utility securities have any value, that value will be preserved and protected. The passage of the utility holding company bill will not result in the loss of a single penny to any investor. In fact, it will result in further protection and increasing the value of their securities and at the same time reducing exorbitant utility rates.

WITH COMPARATIVELY SMALL INVESTMENT THE HUGE HOLDING COMPANIES DOMINATE THE UTILITY FIELD

The assets of the entire operating electric utility industry is estimated to have cost about $12,000,000,000. The holding companies own only about three billions of the securities of these operating companies. Yet, in spite of the fact that the holding companies have one-fourth of the utility assets they virtually control and dominate the entire utility industry. Three large holding companies control 40 percent of the operating electric utility industry of the entire United States. These giant supercompanies have grown so large—so powerful and so arrogant—with economic and political influence that it was impossible to regulate them. They sought to dominate the Government itself. They became too big to be governed, too powerful to be regulated.

THE "DEATH SENTENCE" IS A MYTH

Let me make this clear: The so-called "death sentence" is a clever name invented by utility propagandists. There is no such thing as a "death sentence" in the pending bill.

The bill does not affect operating companies but only holding companies. It gives holding companies until 1940—5 years—and with the consent of the Commission until 1942—7 years—to rearrange their affairs. But even after 7 years a utility holding company need not dissolve itself. It must only divest itself from unfair and inequitable management and service contracts which it has forced upon subsidiary operating companies. Even under the clause containing the so-called "death sentence," a utility holding company could continue to exist without divesting itself of a single share or any part of its investments by simply continuing hereafter as an investment trust.

Even the so-called "death sentence" clause permits holding companies where their operating companies are located within a contiguous geographical area, so that the holding company may legitimately be said to render service to the operating company. Holding companies which manage geographically integrated utility systems are permitted even by the so-called "death sentence" clause.

In 1929 the bankers and corporate insiders sold utility holding-company securities to the public, having a market value of $19,000,000,000, while their actual investment in plant equipment and capital assets represented only $3,000,000,000. By this oversale of holding-company securities the people lost $16,000,000,000. This was no accident. This was a deliberate and willful robbery of the public. Sixteen billions; not millions, but billions taken from the public. Remember this figure. Bear this in mind when you hear someone defend the utility holding companies. These giant companies cannot justify their existence. They are a danger to the investors. They exploit the consumers. They are of no value to operating companies.

GIANT HOLDING COMPANIES HAVE DEPRIVED INVESTORS OF THEIR SAVINGS AND KEPT THE RATES TO THE CONSUMERS HIGH

If you wonder why the investors lost money, why the stockholders of the local companies received no dividends, why the rates of gas and electric are so high, and why the abolition of a few holding companies was necessary, here is the reason, here is the picture in all its ugliness; here is the truth.

Here are a few examples that will interest you.

THE PHILADELPHIA COMPANY EXPLOITS THE PITTSBURGH FIELD

Here in Pittsburgh we can appreciate the need for the abolition of utility holding companies. The high rates for gas, electric, street cars, and busses are traceable to the fact that the entire utility industry of Pittsburgh is held in the clutches of the Byllesby companies, its sub holding companies, bank affiliates, and subsidiaries. The Philadelphia company, which exploits the Pittsburgh utility field, controls and dominates the Equitable Gas Co., the Duquesne Light Co., the Pittsburgh Railways Co., the Pittsburgh Motor Coach Co., and others.

If you have wondered why street-car rates are so high in the Pittsburgh district, you will find the answer in the

manner in which the Pittsburgh Railways Co. has been supermanaged and supermilked by the holding and management companies.

While the modern trend is for the substitution of busses in the transportation field, the Philadelphia company refused to install busses. Why? Perhaps because the Duquesne Light Co. holds a 50-year contract to supply energy to the Pittsburgh Railways Co. Imagine an agreement for service and supply of power over a period of 50 years. No sane business man would enter into an agreement of this kind. That was just one way that the holding companies have milked the Pittsburgh Railways Co.; have prevented fare reductions and have prevented improved service.

In order to avoid payment of toll charges on city and county bridges and to refuse payment of its share of street improvements, the Pittsburgh Railways Co.'s business has been so manipulated that a continual and consistent deficit is always shown. These deficits are shown not by reason of poor business or lack of patronage but solely by the form of accounting used and the financial superstructure involved.

Busses do not use electric energy like street railways do. Is not that the reason why the Philadelphia company refuses to extend bus service to replace or supplement inadequate street-car service? The Philadelphia company controls the Duquesne Light Co. that sells the power and the Pittsburgh Railways Co. that buys the power, and as long as that holding company dominates the utility field in Pittsburgh the people of Pittsburgh will continue to pay high rates for gas and electricity, for street-car service, and be denied the use of modern busses.

A $500 INVESTMENT WRITTEN UP TO FIVE AND ONE-HALF MILLION DOLLARS

Byllesby & Co., a large utility holding company—the same holding company that controls the utility field in the Pittsburgh district—purchased the common stock of the United Railways Investment Holding Co. for $500 and then transferred it to a subsidiary company for $5,500,000. Imagine selling the public a $500 block of stock for five and one-half million!

HOLDING COMPANIES WHICH COLLECTED AND KEPT INCOME TAXES FROM THEIR SUBSIDIARIES

Here is how holding companies cheated operating companies by the device of making consolidated income-tax returns:

For 3 years the Associated Gas & Electric Co. collected $2,900,000 from subsidiaries for income taxes but did not pay the Government a single cent. From 1922 to 1930 the Cities Service Co. collected $11,600,000 in income taxes from subsidiaries, paid out $1,700,000 and pocketed a profit of $9,800,000 on money collected from its own subsidiaries to pay to the Government as taxes. The stockholders of the operating companies were thus robbed of dividends and profits to that amount, and the rates to consumers were increased by that sum.

THE PEOPLE LOST $16,000,000,000 IN WORTHLESS INVESTMENTS

Here is how the people lost $16,000,000,000 in holding-company securities: Holding companies pyramided company upon company, selling the holdings of one to another newly created one, and skyrocketing the price and writing up the value on each operation.

WRITE-UPS

When the Electric Bond & Share Co. purchased certain Texas utility property they paid $2,400,000. Several months later they conveyed the same property to a subsidiary for $10,500,000, or a write-up of 400 percent. The Appalachian Electric Power Co. bought properties for seventy-two million and transferred them to a subsidiary for one hundred and thirty-nine million. When the Cities Service Power & Light Co. took over the Cities Service Co. the assets on the books were written up from forty million to one hundred and six million, or a write-up of 165 percent. The United Gas & Improvement Co. system showed write-ups of $10,000,000 on operating companies and fourteen million on subholding companies.

Write-ups of operating companies of the Cities Service System were more than $134,000,000. The write-ups of 18 holding companies exceeded $2,000,000,000. The purpose of these write-ups is, of course, for the holding company to get out all of its investment, make a large profit, and still retain ownership, control, and domination of the properties.

EXORBITANT MANAGEMENT FEES

In order to support their over-capitalization and inflated values, the holding companies have resorted to every known device to extort money from the operating companies, from the consumers and the investing public. These holding-company supermanagers charge large fees for managing companies in which they own very little stock. The Electric Bond & Share Co. received in 1927 management fees of $9,000,000 for supplying service which actually cost only $4,000,000, netting them a profit of over $5,000,000 for managing their own company.

THE HOLDING COMPANY EXCLUDES INDEPENDENT BUSINESS

One of the most glaring abuses of the utility holding companies lies in the manner in which they compel subsidiary and operating companies to buy engineering, construction, and other services, and energy at exorbitant rates from the holding companies without permitting the operating company to obtain these services at the lowest possible prices from free and independent commercial sources. In that manner utility holding companies have syphoned billions of dollars from operating companies into their own coffers, and have increased to the same extent the rates that must be paid by consumers for gas and electricity.

Some utility holding companies have as many as a hundred subsidiaries. Every utility holding company monopolizes the furnishing of all services to all underlying and operating companies.

A utility holding company monopolizes the construction of buildings for the operating company. It monopolizes the furnishing of managerial and engineering services. It monopolizes the furnishing of every single item for which it is able to create a subsidiary company. Thus the utility holding company excludes the contractor from bidding on and building for subsidiary utility companies. It excludes the carpenter, the bricklayer, and other building trades from independently working for these operating companies. It excludes the independent engineering firm from furnishing managers to an operating company. The utility holding company excludes every independent business man, large or small, from doing business with its subsidiary holding and operating companies. It is a supertrust, which monopolizes all the business within the sphere of its web of subsidiary companies.

DO YOU WANT PROTECTION TO THE INVESTOR AND CONSUMER OR TO THE SUPERUTILITY HOLDING COMPANY?

The so-called "death sentence" is no "death sentence" at all, as I have said before, but life to the utility holding companies means death to the independent merchant, the independent business and professional man.

Death to the holding companies means life to the operating company and life to the independent merchant and professional man.

Death to the holding company means life to the investor, it means safety to the investor in utility stocks, it means protection to everyone who buys securities in utility companies.

Death to the utility holding companies means cheaper rates, better service, and a free economic system.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On June 27, 1935:

H. R. 1703. An act for the relief of Cletus F. Hoban;

H. R. 7205. An act to amend the Ship Mortgage Act, 1920, otherwise known as "section 30" of the Merchant Marine Act, 1920, approved June 5, 1920, to allow the benefits of said act to be enjoyed by owners of certain vessels of the United States of less than 200 gross tons; and

H. R. 7652. An act to authorize the furnishing of steam from the central heating plant to the Federal Reserve Board, and for other purposes.

On June 28, 1935:

H. R. 4505. An act granting the consent of Congress to the State of Maine and the Dominion of Canada to maintain a bridge already constructed across the St. John River between Madawaska, Maine, and Edmundston, New Brunswick, Canada;

H. R. 6630. An act to extend the times for commencing and completing the construction of a bridge across the Rio Grande at or near Rio Grande City, Tex.;

H. R. 6717. An act to amend section 1 of the act of July 8, 1932;

H. R. 6988. An act authorizing the State of Louisiana and the State of Texas to construct, maintain, and operate a free highway bridge across the Sabine River at or near a point where Louisiana Highway No. 21 meets Texas Highway No. 45;

H. R. 7044. An act authorizing the State of Louisiana and the State of Texas to construct, maintain, and operate a free highway bridge across the Sabine River at or near a point where Louisiana Highway No. 6, in Sabine Parish, La., meets Texas Highway No. 21, in Sabine County, Tex.;

H. R. 7083. An act to extend the times for commencing and completing the construction of a bridge across the Wabash River at or near Merom, Sullivan County, Ind.;

H. R. 7374. An act to amend section 98 of the Judicial Code to provide for the inclusion of Durham County, N. C., in the middle district of North Carolina, and for other purposes;

H. R. 7526. An act to amend the act approved February 20, 1931 (Public, No. 703, 71st Cong.), entitled "An act to provide for special assessments for the paving of roadways and the laying of curbs and gutters";

H. R. 7765. An act to amend (1) an act entitled "An act providing a permanent form of government for the District of Columbia"; (2) an act entitled "An act to establish a Code of Law for the District of Columbia"; to regulate the giving of official bonds by officers and employees of the District of Columbia, and for other purposes; and

H. J. Res. 324. Joint resolution to provide revenue, and for other purposes.

On June 29, 1935:

H. R. 1315. An act for the relief of Thomas J. Gould;

H. R. 2708. An act for the relief of James M. Pace;

H. R. 3180. An act for the relief of Ruth Nolan and Anna Panozza;

H. R. 3574. An act for the relief of Nellie T. Francis;

H. R. 4105. An act for the relief of Julian C. Dorr;

H. R. 4817. An act for the relief of Matthew E. Hanna;

H. R. 6504. An act to amend an act entitled "An act for the grading and classification of clerks in the Foreign Service of the United States of America, and providing compensation therefor";

H. R. 7160. An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges; and

H. R. 7254. An act for the relief of Lily M. Miller.

On July 1, 1935:

H. R. 805. An act for the relief of Luther M. Turpin and Amanda Turpin;

H. R. 5774. An act to authorize a preliminary examination of Rogue River and its tributaries in the State of Oregon with a view to the control of its floods;

H. R. 5775. An act to authorize a preliminary examination of Siuslaw River and its tributaries in the State of Oregon with a view to the control of its floods;

H. R. 5776. An act to authorize a preliminary examination of Yaquina River and its tributaries in the State of Oregon with a view to the control of its floods;

H. R. 5777. An act to authorize a preliminary examination of Siletz River and its tributaries in the State of Oregon with a view to the control of its floods;

H. R. 7313. An act authorizing a preliminary examination of Gafford Creek, Ark.;

H. R. 7314. An act authorizing a preliminary examination of Point Remove Creek, Ark., a tributary of the Arkansas River;

H. R. 7600. An act authorizing a preliminary examination of the Tanana River and Chena Slough, Alaska; and

H. R. 7870. An act to provide a preliminary examination of the Purgatoire (Picketwire) and Apishapa Rivers, in the State of Colorado, with a view to the control of their floods and the conservation of their waters.

Mr. FERGUSON. Mr. Speaker, I ask unanimous consent to proceed for 1½ minutes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. FERGUSON. Mr. Speaker, I failed to hear my name on the motion to substitute the Senate bill for the House bill. Had I had the opportunity to vote, I would have voted against substituting the Senate bill for the House bill.

Mr. WEARIN. Mr. Speaker, I did not hear my name called a moment ago upon the roll call on the passage of this bill. Had I had the opportunity to vote, I would have voted "aye."

ORDER OF BUSINESS

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Friday next; and that when the House adjourns on Friday next it shall adjourn to meet the following Monday.

Mr. ROGERS of Oklahoma. Mr. Speaker, reserving the right to object, I hope it will not be necessary next week to eliminate Calendar Wednesday. My committee has about 25 bills on the calendar and there are only two committees ahead of us and I understand each committee has only a few bills. I realize this has been necessary in the past on account of important business, but I hope it will not be necessary to dispense with Calendar Wednesday business in the future.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—PUERTO RICO

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Insular Affairs.

To the Congress of the United States:

As required by section 23 of the act of Congress approved March 2, 1917, entitled "An act to provide a civil government for Puerto Rico, and for other purposes", I transmit herewith certified copies of laws and resolutions enacted by the Thirteenth Legislature of Puerto Rico during its third regular session, February 11 to April 14, 1935.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *July 2, 1935.*

PERSONAL EXPLANATION

Mr. BREWSTER. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. BREWSTER. Mr. Speaker, during the consideration of the bill which we have just completed I was approached in the lobbies of this Capitol in a manner which seems to me incompatible with a proper consideration of the high responsibilities of our office, and I desire to speak briefly to that point in order that there may be no misapprehension as to the considerations that have entered into this case.

I come here, surely, as one entitled to recognition as not amenable to the influence of the so-called "Power Trust." Throughout the period of my public life for 17 years it has been almost one continuous contest—resulting three times in my defeat in no small measure by these very interests about whom we have heard so much.

Into my State, while I was Governor, came Mr. Samuel Insull, of Chicago. In the height of his power, he not only dominated two-thirds of our utilities, but 5 of our newspapers through interests closely allied with him, 40 of our banking units—38 of which were subsequently closed—and

many of the major industries of our State. I say this in order that there may be no misapprehension as to where my sympathies have lain in the tremendous issues with which this country is now faced.

Meanwhile it is important to keep our own deliberations clear of improper influence of any kind. During the consideration of the "death sentence" clause in the holding-company bill, Thomas G. Corcoran, Esq., coauthor with Benjamin V. Cohen, Esq., of the bill, came to me in the lobby of this Capitol and stated to me, with what he himself termed "brutal frankness", that if I should vote against the "death sentence" for public utility holding companies he would find it necessary to stop construction on the Passamaquoddy Dam in my district.

Such a suggestion from such a source is repugnant to every instinct of decency in legislation [applause] and to a proper regard for our constitutional oath of office.

During the past 2 months Mr. Corcoran has been the personal representative of the President in clearing up the details incident to starting construction at the Passamaquoddy, and only this last week construction really commenced with the arrival at Eastport of Maj. Philip B. Fleming, who is to have charge of the project:

I do not know what other Members may have faced suggestions of this kind. I do not believe the President would countenance any such course if he were fully informed. [Applause.] This statement on the floor of the House seems the only way to protect this project, which means so much to the people of my State of Maine.

I share with the President his concern at the concentration of economic power. It seems necessary, however, that the Membership of this House, without regard to party, shall also keep the country alert to the dangers implicit in the concentration of political power. [Applause.]

It is our task to assist the President in every way within our power to keep the work-relief fund clear of political abuse in accordance with the President's earnest and repeatedly expressed desire. [Applause.]

Mr. KELLER. I challenge that statement.

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

Mr. MAVERICK. Mr. Speaker, I should like to know where this request was made.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi to address the House for 5 minutes?

There was no objection.

Mr. RANKIN. Mr. Speaker, I have heard a good deal about lobbyists who have attempted to use undue influence on Members of the House. So far as I am personally concerned, I have no first-hand information as to their activities. They must have thought I was not worth wasting time on.

I know nothing whatsoever of the charge made by the gentleman from Maine [Mr. BREWSTER], but if any such proposition was made, I take the responsibility for saying it was not made with the knowledge or consent of the President of the United States.

Mr. CHRISTIANSON. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. Not until I get through with my statement.

Mr. CHRISTIANSON. Does not the gentleman think the President should disavow it?

Mr. RANKIN. The gentleman from Maine evidently has not called it to the President's attention. I am surprised to see him take this course without first calling it to the attention of the administration. It looks very much like a political movement to me.

The last time I talked with the gentleman from Maine [Mr. BREWSTER] he was with the administration on this bill.

This has been a fight between the American people and the Power Trust. The Power Trust won, and the gentleman from Maine [Mr. BREWSTER] helped them do it.

I know the President is earnestly interested in the Passamaquoddy project, and I think that after what he has done for the people of Maine toward that great development, to make such a charge publicly without first calling it to his attention is a poor reciprocation, to say the least of it.

For a long time I was the only man on the floor of the House who advocated the development of the Passamaquoddy project, until my distinguished friend [Mr. MORAN] came to the House a few years ago. Mr. MORAN has worked faithfully on it, and his efforts are now bearing fruit.

It is a national proposition. It is the President's desire to bring to all the American people the benefits of electric energy, the greatest material gift God has bestowed on humanity outside of the soil from which we live.

The President would spurn any suggestion of using undue influence of any kind in order to unduly affect or influence Members of Congress. [Applause.]

The people of Maine have no coal, gas, or oil for fuel. Their hope is the development of their hydroelectrical power, and I am sorry to see the gentleman from Maine [Mr. BREWSTER] line up with the very forces that would destroy the Quoddy project.

I regret that the gentleman from Maine decided to go against us on this proposition, because I believe that when he voted against substituting the Senate bill for the House measure he cast a vote that is detrimental to the welfare of the people of his State, regardless of the reasons he may assign for his vote. [Applause.]

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes.

Mr. SNELL. I shall object to any more remarks on that.

Mr. MAVERICK. We did not object when the gentleman spoke.

Mr. SNELL. We have had one on each side.

The SPEAKER. Is there objection?

Mr. SNELL. Mr. Speaker, I object.

Mr. MAVERICK. I did not object when the Republicans talked. I suppose I cannot say anything. I have been present in conversation with Mr. Corcoran and Mr. BREWSTER, and know something about it. I do not believe a word of it, and I want to say something about it.

The SPEAKER. Objection is made.

Mr. MAVERICK. All right, but I want to make it plain I did not object to Mr. SNELL or any Republican talking. I refrained from objecting to a Republican talking on a subject in which I am concerned and then they object to me talking. It is not fair.

The SPEAKER. The gentleman from Texas is out of order.

LEGISLATIVE APPROPRIATION BILL, 1936

Mr. LUDLOW. Mr. Speaker, I present a conference report upon the bill (H. R. 8021, Rept. No. 1416) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, for present consideration, and ask unanimous consent that the statement of the conferees be read in lieu of the report.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the statement of the conferees.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, having met, after full and free conference, have been unable to agree.

LOUIS LUDLOW,
J. BUELL SNYDER,
M. A. ZIONCHECK,
JOHN F. DOCKWEILER,
EDWARD C. MORAN, JR.,
J. P. BUCHANAN,
D. LANE POWERS,
Managers on the part of the House.

MILLARD E. TYDINGS,
JAMES F. BYRNES,
CARL HAYDEN,
FREDERICK HALE,
JOHN G. TOWNSEND, JR.,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate numbered 3 to 10, inclusive, and 12 to 32, inclusive, to the bill (H. R. 8021) "making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes" submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report:

The amendments in question all relate to additional personnel or changes in compensation of personnel under the Senate. They are reported to the House in disagreement in accordance with the rules of the House, being legislative in character. The managers on the part of the House propose to recommend to the House that the Senate amendments be concurred in.

LOUIS LUDLOW,
J. BUELL SNYDER,
M. A. ZIONCHECK,
JOHN F. DOCKWEILER,
EDWARD C. MORAN, JR.,
J. P. BUCHANAN,
D. LANE POWERS,
Managers on the part of the House.

Mr. LUDLOW. Mr. Speaker, I move that the House recede from its disagreement to Senate amendments 3 to 8, inclusive, Senate amendment no. 10, and Senate amendments nos. 12 to 32, inclusive, and concur in the same.

The Clerk read as follows:

Mr. LUDLOW moves that the House recede from its disagreement to the amendments of the Senate nos. 3 to 8, including no. 10, and nos. 12 to 32, inclusive, and concur in the same as follows:

Senate amendment no. 3, page 2, line 21, strike out "minute and Journal clerk" and insert "Parliamentarian and Journal clerk."

Senate amendment no. 4, page 3, line 9, strike out "three" and insert "four."

Senate amendment no. 5, page 3, lines 10 and 11, strike out "messenger in library, $1,380;".

Senate amendment no. 6, page 3, lines 11 and 12, strike out "assistant in library, $1,740" and insert "two assistants in the library at $1,740 each."

Senate amendment no. 7, page 3, line 13, strike out "$120,120" and insert "$123,360."

Senate amendment no. 8, page 4, line 13, strike out "assistant clerk, $2,220" and insert "two assistant clerks, at $2,220 each."

Senate amendment no. 10, page 6, line 12, strike out "three" and insert "four."

Senate amendment no. 12: Page 7, lines 3 and 4, strike out "assistant clerk, $2,220" and insert "two assistant clerks, at $2,220 each."

Senate amendment no. 13: Page 7, line 5, strike out "$493,200" and insert "$503,460."

Senate amendment no. 14: Page 7, line 23, after "$2,640", insert "one, $2,100."

Senate amendment no. 15: Page 7, line 23, strike out "four" and insert "three."

Senate amendment no. 16: Page 7, line 23, after "each", insert ", one, to the secretary for the majority, $1,800."

Senate amendment no. 17: Page 7, line 23, after "messengers—", insert "one, $2,640,".

Senate amendment no. 18: Page 7, line 24, strike out "three" and insert "four."

Senate amendment no. 19: Page 7, line 25, strike out "30" and insert "29."

Senate amendment no. 20: Page 8, line 2, after "$2,400" insert "and $240 additional so long as the position is held by the present incumbent."

Senate amendment no. 21: Page 8, line 11, strike out "11" and insert "13."

Senate amendment no. 22: Page 8, line 15, strike out "one, $1,440" and insert "three at $1,440 each."

Senate amendment no. 23: Page 8, line 16, strike out "25" and insert "29."

Senate amendment no. 24: Page 8, line 16, after "each", insert ", three, at $480 each."

Senate amendment no. 25: Page 8, line 16, strike out "six" and insert "seven."

Senate amendment no. 26: Page 8, line 19, strike out "$235,748" and insert "$254,868."

Senate amendment no. 27: Page 8, line 21, after "Arms:", insert "Lieutenant, $1,740;".

Senate amendment no. 28: Page 8, line 21, strike out "Special" and insert "special."

Senate amendment no. 29: Page 8, line 22, strike out "$51,960" and insert "$53,700."

Senate amendment no. 30: Page 8, line 24, strike out "$3,060" and insert "$3,600."

Senate amendment no. 31: Page 8, line 25, strike out "20" and insert "26."

Senate amendment no. 32: Page 8, line 26, strike out "$42,840" and insert "$53,100."

Mr. TABER. Mr. Speaker, will the gentleman yield me a moment or two?

Mr. LUDLOW. Mr. Speaker, I should be very glad to yield to the gentleman from New York after I have made an explanation of the conference report.

Mr. Speaker, these amendments relate exclusively to increases in salaries and to personnel of the Senate employees. All other items in disagreement have been ironed out. The House Subcommittee on Appropriations, of which I am chairman, at the beginning of the present Congress very properly took the position that legislation of that character on appropriation bills is out of order and should not be tolerated as a matter of good practice. The function of the Committee on Appropriations is not to legislate but to make appropriations to conform with existent legislation. Numerous employees of the House of Representatives came to the Subcommittee on Appropriations in charge of the legislative bill early this year and presented to us claims for increase in salaries. Some of these were not such that we could countenance on merit, but some were undoubtedly meritorious, but we laid down the general policy that increases of salaries on appropriation bills, being legislation, should not be countenanced and that all legislation of that character ought to come in regular order through legislative committees. We therefore presented the legislative appropriation bill to the House and put it through the House of Representatives clean of all increases and clean of all new positions.

Now let me digress to review briefly the history of this bill. In accordance with an understanding in the last session, I consulted the chairman of the Senate subcommittee in charge of the legislative bill and in a conference that was held before we framed our bill I had what I thought was a very complete understanding with him that they would pursue a similar course over there. I am not in any way impugning his integrity or his good faith, but as a matter of fact, the other body paid no attention whatever to our understanding and they piled up the bill in the Senate with 26 new positions totaling an expense of $46,000 a year, and 5 increases in salary totaling an increase of $2,340.

The members of our House subcommittee, Democrats and Republicans, took the same attitude on this proposition. We did not for a moment condone the action of the Senate. We do not condone it now. Nevertheless the time has come when something must be done in regard to the final enactment of this legislation. The appropriations for the House and the Senate, the Government Printing Office, the Library of Congress, and other establishments on Capitol Hill have expired because of limitation of law, the fiscal year having closed on June 30, and we are now operating without funds. The Senate absolutely refuses to back down. It asserts the contention that it is none of the business of the House what the Senate does in regard to increases of salary or increases of personnel in its own force, and contends that it is a better judge than we are of what is needed over there. I may say in all fairness to them that they accord to the House of Representatives the same privilege which they claim for themselves. Some of the changes they have made in the bill are horrifying to our sense of economy. In one office, the office of the Sergeant at Arms of the Senate, which has seemingly been functioning without any great disability or inconvenience, they have put 15 additional employees. We do not like it, but at the same time we have reached an impasse and something has to be done. In the final meeting of the conference committee, the two sides being deadlocked, an agreement was worked out, however, as to the future. The Senate conferees agreed with the House conferees that never again, so far as they are able to control it, will there be any legislation of this character tacked onto appropriation bills, and that in both Chambers whenever propositions are brought forward to increase salaries or to add new positions to the personnel, it must be done in the regular way through legislation, thus preserving to the Committee on Appropriations its traditional and proper function, the function of appropriating money to carry out authorizations made by legislation, and with that understanding, and based on that understanding only, have the House conferees agreed that through force of circumstances we will allow this limited number of Senate increases and new personnel to go through.

Mr. Speaker, I send to the Clerk's desk to be read to the House and to be made a part of my remarks on this occasion a copy of an agreement which has been entered into by the conferees of the House and the Senate, and which simultaneously is to be read by Senator TYDINGS as chairman of the Senate subcommittee, in the Senate, to be made a part of the RECORD in that body. I ask for the reading of the statement.

The SPEAKER. Without objection the Clerk will read.

There was no objection, and the Clerk read as follows:

The managers on the part of both Houses at the conference on the Legislative Branch Appropriation Act, 1936, in considering certain amendments pertaining to the creation of new positions and the increase in compensation of certain existing positions under the Senate unanimously agreed that it should be within the province of each House to determine without interference from the other the number and compensation of its own employees and that in the future they will, so far as within their power, insist that all new positions and changes in compensation for either body shall be authorized by separate legislative enactment or by simple resolution of either House before any such new position or change in compensation is incorporated in the annual appropriation bill. It was further agreed that there should be joint action of the two Houses by a legislative measure other than the regular appropriation bill to effect a survey of all positions and the compensation thereof under the Senate and House of Representatives for the purpose of establishing so far as may be practicable uniformity in the number of positions and in the compensation for similar positions under each House.

Mr. LUDLOW. The House conferees believe that this agreement will effectually remove a bone of contention that has existed through many Congresses between the House and the Senate, and at the same time it will wipe out what has grown to be a very pernicious custom of legislating on appropriation bills. We believe it is a very wholesome agreement, and in consideration of the fact that we have secured this agreement we ask the House of Representatives to recede and concur in the few Senate amendments.

I now yield to the gentleman from New York [Mr. TABER] 5 minutes.

Mr. TABER. First, may I ask the gentleman a question?

Mr. LUDLOW. I yield.

Mr. TABER. If I recall correctly, it was only a few months ago that another increase in the number of employees for the Senate was made just about similar to this in amount?

Mr. LUDLOW. Does the gentleman mean since the last fiscal year? They provided themselves since that time with a session clerk, as I understand. It was done not by legislation on an appropriation bill, but by a Senate resolution.

Mr. TABER. We had a long disagreement with the Senate within just a very few months over an attempt on the part of the Senate to increase this force very largely.

Mr. LUDLOW. Not this session.

Mr. TABER. No; not at this session; but at the last session.

Mr. LUDLOW. The same question arose on this bill in the last fiscal year. As I say, it has been a continuing quarrel, if we can call it such, for years and years. This seeks to establish a new policy which will respect proper traditions and customs. In other words, we hope it will reform this situation so that we may go ahead in the future without these continual bickerings between the two branches of Congress.

I now yield to the gentleman from New York.

Mr. TABER. Mr. Speaker, I am not unmindful of the fact that the Senate and House each has claimed the right to name whatever legislative or other assistants they may want in their own bodies. Also, I am not unmindful of the fact that there is a responsibility resting upon us for the appropriations of the Government. Last year the Senate came in with a great big increase, substantially about what is before us now, as I remember it. Now they are here again with an increase of $50,000 in the expense of running the Senate, providing them with additional clerical help. It seems to me that having operated the Senate with just as much business as they have now over a long period of years, there is absolutely no excuse for these increases.

I think the Senate should have more sense of responsibility in voting out the people's money. I do not believe it is becoming in any part of the Government today to go out and recklessly and irresponsibly increase the expenses of operating the Government. I, for one, cannot vote for these Senate amendments. I cannot do it, because I believe if this House calls it more forcibly to the attention of the Senate, the Senate will recede.

I hope the motion will not be agreed to.

Mr. LUDLOW. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BUCHANAN].

Mr. BUCHANAN. Mr. Speaker, my colleague from New York [Mr. TABER] well knows my position upon amendments of this kind to appropriation bills. There is no difference between his ideas and mine upon that subject. He and I have both been upon the Appropriations Committee for a sufficient length of time to know that there is continual contention every session of Congress over increased salaries placed upon appropriation bills in the Senate. The gentleman knows that the rules of the House prevent any employee of the House from getting an increase in salary or of there being a new position created on an appropriation bill. Therefore the Senate has an advantage over us. They can increase and do increase their salaries and the number of employees whenever they please on this bill, and the House cannot increase a single one of its salaries or create a new position.

Gentlemen, this is an ancient contest. I ran back the parliamentary precedents for many years, and it has been almost an annual contest between the House and Senate, this question of the right of each House to determine the number of its employees and the compensation paid to them, as a matter of comity between the two Houses. I am not prepared to say that that is not correct, because each of us has a responsibility to our constituents and ought to be held responsible by our constituents; but I deplore this continual wrangling every year and the continual mounting of the Senate pay roll for its employees every year. This session they placed these amendments on this bill, detailed to you by my colleague, Mr. LUDLOW, amounting to a little over $486,000. The question was as to how to stop it in the future. Many of the places which they created over there are held by them to be essential by reason of increased business and increased duties. There is no doubt about that. The problem is to adopt a procedure to govern us in the future, so this issue will not forever and forever recur to plague us.

Now, this is the legislative appropriation bill. There has not yet been a cent appropriated for the fiscal year starting July 1 to pay the salary of any Member of the Senate or the House. Not a cent has been appropriated to pay the salary of any employee of House or of the Senate. The old fiscal year has expired and the new one begun, so that we must either yield or not have any money with which to meet these expenses.

Mr. KNUTSON. Will the gentleman yield?

Mr. BUCHANAN. I yield.

Mr. KNUTSON. As I understood the chairman of the subcommittee, the Senate has agreed to not make any further increases hereafter?

Mr. BUCHANAN. I will come to that in a moment.

Mr. KNUTSON. But how can this Senate bind future Senates, and of what value is such an agreement?

Mr. BUCHANAN. I will come to that in a moment. Therefore we had an understanding with this subcommittee of the Senate that so far as they were concerned, and so far as is within their power, they would not allow any more amendments of this character to be placed on appropriation bills in the Senate.

The gentleman from Minnesota [Mr. KNUTSON] asked how they could bind future Congresses. They can effectively enforce the rule if those gentlemen will make points of order on the floor of the Senate when such amendments are offered, and refuse to bring them back in their committee reports so long as they are Members of the Senate and members of the subcommittee.

Mr. FORD of Mississippi. Does not the gentleman think we can hold out in the House as long as they can in the Senate, that we can do without pay as long as they can?

Mr. BUCHANAN. Oh, yes; we can bow our necks and stop the payment of all salaries; we can be stubborn and not give to the measure that proper consideration and moderation that Members of Congress should give to legislation.

[Here the gavel fell.]

Mr. LUDLOW. Mr. Speaker, I yield 5 additional minutes to the gentleman from Texas.

Mr. BUCHANAN. For over a hundred years they have exercised this privilege of determining the salaries of their own employees. They have increased the number of their employees, and now we want to change the procedure and have made a step in the right direction.

The gentleman from Minnesota asks if we can do it. We cannot bind a future Senate, no; but this will be a precedent. It will be put upon the record and be brought to the attention of the country at large, and it will be observed.

Now I shall tell you what ought to be done, I shall tell you how this thing has been working before the subcommittee of which the gentleman from Indiana [Mr. LUDLOW] is chairman. Members of the House on behalf of employees of the House, and employees of the House themselves, come before the subcommittee and ask for salary increases based on the belief that employees of the Senate performing similar duties are receiving more pay. The same thing happens in the case of employees of the Senate; they want salary increases because employees of the House performing similar duties are receiving more pay than they—just see-sawing; and instead of saying we will reduce these higher salaries to the lower level we increase the lower salaries to the higher level. As a result, the expenses of this Congress are mounting; and if it keeps on the time will come when a real investigation will be made.

I ask you gentlemen to agree to this report. Allow them this concession, and we will do our best to stop it in the future. [Applause.]

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield.

Mr. KNUTSON. Will the gentleman inform the House the relative number of employees of the Senate and the House.

Mr. BUCHANAN. The House is so much larger than the Senate, of course, that we have the greater number of employees.

Mr. KNUTSON. Can the gentleman give us the number?

Mr. BUCHANAN. I have not the number in my mind now.

Mr. THURSTON. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield.

Mr. THURSTON. There is no justification for the increase that is demanded by the Senate.

Mr. BUCHANAN. Yes; there is some justification; they need more employees in their post office. There is no question about that.

Mr. THURSTON. About what proportion of the increase is justified?

Mr. BUCHANAN. I do not recall; perhaps half of it, or more.

Mr. THURSTON. We gave them $40,000, when they are really entitled to $20,000.

Mr. BUCHANAN. But remember this: They are never going to yield. They have claimed this privilege for a century, and they are not going to concede it. The agreement that was reached marks a definite step in the right direction.

Mr. KVALE. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield.

Mr. KVALE. The gentleman undoubtedly recalls the instance some years ago when the reportorial staff of the House of Representatives was in danger of being broken up because the salaries were on such a low scale compared with those of the reportorial staff of the Senate.

Mr. BUCHANAN. That is correct.

The SPEAKER. The question is on the motion of the gentleman from Indiana that the House recede from its disagreement to the amendments of the Senate nos. 3 to 8, inclusive, no. 10, and nos. 12 to 32, inclusive.

The motion was agreed to.

Mr. LUDLOW. Mr. Speaker, I move that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment.

The Clerk read as follows:

Mr. LUDLOW moves that the House recede from its disagreement to the amendment of the Senate numbered 9, and concur therein with the following amendment:

In lieu of the word "law" insert the word "assistant."

The motion was agreed to.

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent for the immediate consideration of a concurrent resolution, which I send to the desk.

The Clerk read the resolution, as follows:

House Concurrent Resolution 29

To authorize and direct the Clerk of the House of Representatives, in the enrollment of H. R. 8021, the Legislative Branch Appropriation Act, 1936, to add an additional section making the appropriations therein effective as of July 1, 1935.

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, the Clerk of the House of Representatives is authorized and directed to change the numbering of section 4 thereof to section 5 and to insert a new section, as follows:

"SEC. 4. The appropriations and authority with respect to appropriations contained herein shall be available from and including July 1, 1935, for the purposes respectively provided in such appropriations and authority. All obligations incurred during the period between June 30, 1935, and the date of the enactment of this act in anticipation of such appropriations and authority are hereby ratified and confirmed if in accordance with the terms thereof."

The SPEAKER. Is there objection to the consideration of the resolution?

There was no objection.

Mr. LUDLOW. Mr. Speaker, this resolution, I think, is self-explanatory.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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Mr. O'CONNELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. O'CONNELL. Mr. Speaker, my former colleague, the Honorable Francis B. Condon, now a justice of the Supreme Court of Rhode Island, introduced bill H. R. 2744 in the present Congress on January 3, authorizing a Government loan for the construction of commercial airships and to establish a regular trans-Atlantic airship service from the Atlantic coast of the United States to England.

The fact that Justice Condon introduced and supported this bill is accepted by his numerous friends in Congress as evidence the bill has outstanding merit and that the airships of American design, proposed to be constructed, would be a great improvement over the German type which we had previously constructed for our Navy Department.

I consider the bill, H. R. 2744, one of the really important measures that have been submitted to this Congress. The construction of large airships that will be strong, safe, economical to construct and to operate may create immediate work for 5,000 unemployed, may increase the sale of our products in foreign markets and provide a valuable secondary defense for our country, and should not be delayed.

I want to go on record as favoring the bill H. R. 2744 and I desire Members of Congress, the press, and the public to know about this opportunity for our Nation to establish a new, safe, and dependable major form of transportation, which may give reliable and fast service to all parts of the world. For this purpose I requested the inventor of the new suspension-bridge frame airship to submit a brief which I request shall be extended, with my present statement, in the CONGRESSIONAL RECORD.

The bill H. R. 2744, "authorizing the Reconstruction Finance Corporation to make a loan for the construction and operation of airships in overseas trade, and for other purposes", is as follows:

"*Be it enacted, etc.*, That for the purpose of fostering the American airship industry and to promote American overseas trade with use of commercial airships, to be available in time of war, to encourage American design, construction, and operation of airships, to demonstrate the value and profit of overseas airship service, thus to promote its extension with private capital, and to provide immediate employment in airship construction, the Reconstruction Finance Corporation is authorized and directed to lend the sum of $12,000,000 to the Respess Aeronautical Engineering Corporation for the purpose of constructing an airship plant, an Atlantic operating terminal, two airships employing the new suspension-bridge type structure, and each having not less than 7,000,000 cubic feet gas capacity, and for operating these airships in commercial service from the United States to England or a European country. Such loan shall carry interest charges at the rate of 3½ percent per annum, which shall cumulate during the period of constructing and testing such airships, and shall remain a lien on the patents and patent rights and all present and subsequently acquired assets of the corporation until paid. Such loan, plus accumulated interest, shall be paid in 10 annual payments, the first payment to be made 3 years after the date of the enactment of this act."

In the consideration of the bill (H. R. 2744) for American construction of lighter-than-air craft, we should recognize that our present valuation of airships is based entirely upon their construction with the German Zeppelin frame.

The Zeppelin frame is an indeterminate structure and may not be calculated upon normal engineering formulas. The stress analysis of such airships has been estimated upon what is known as an "empirical" formula that is based upon a compilation of facts gained from experience with previous airships. The Zeppelin frame is also unavoidably subject to reversal of stress, causing fatigue and crystallization of the duralumin metal. Thus, with uncertainty of calculation and the surety of reduction in the strength of the structure with fatigue, it cannot be a safe and dependable frame.

We offer an improved frame of the steel-suspension-bridge cable type, that is the strongest and most dependable structure in proportion to its weight, and this frame can be calculated as definitely and as accurately as we now calculate the strength of our suspension bridges, and in this structure the stress cannot reverse.

We can positively avoid structure failure in airships through the use of this frame, and we may also provide other improvements which establish a sound basis for a new evaluation of the airship.

To make it clear just what a change from the Zeppelin-frame airship to one employing the suspension-bridge frame means, one could build a duplicate of the *Graf Zeppelin* or of the U. S. S. *Macon*, using the suspension-bridge frame in place of the Zeppelin frame, and this airship would fly and maneuver in the same manner as the *Graf Zeppelin* or the U. S. S. *Macon* performed. Whatever may be said of the performance of the Zeppelin airship will apply equally to the Respess airship, but the Respess airship would have in addition the following advantages:

1. Greater strength and safety.
2. Decreased maintenance costs.
3. Reduction in time of construction.
4. Reduction in cost of construction.
5. More efficient use of material.
6. Greater inherent strength.
7. Ease of construction.
8. Increased length of life.
9. Simplicity, accuracy, and definiteness of calculation.
10. The stresses in this airship never reverse, thereby removing all fear of failure in the hull through fatigue and crystallization.
11. The net pay load will be unusually high, facilitating economical commercial operation.

These advantages were enumerated in an analysis and report by Messrs. Robinson & Steinman, consulting engineers, 117 Liberty Street, New York City, upon their examination of the plans for a Respess airship, 147 feet in diameter by 785 feet long, designed in accordance with specifications prepared by the Bureau of Aeronautics of the Navy Department for the construction of the *Akron* and *Macon*. Messrs. Robinson & Steinman are internationally recognized as authority on tension structures, and the accuracy of their analysis has been subsequently endorsed by many of the world's leading structural and aerodynamic engineers.

The size of an airship and the volume of lifting gas it may have determines its total buoyancy or lift in pounds. Its frame structure, cover, gas bags, permanent equipment, and interior structure required for operations constitutes a permanent weight which, when deducted from the total buoyancy, establishes what is termed the "useful load" of the airship.

The useful load of the airship may be divided, (1) in the weight of power equipment, which will determine the speed required; (2) in the amount of fuel and oil to be carried, which will determine the distance the airship may travel without refueling; (3) the amount of ballast required to be carried to insure proper operation and control of the airship; (4) the crew, their quarters, passenger accommodations, and service equipment; and (5) the pay load of passengers, mail, express, and freight when the airship is operated in commercial service.

A properly designed and constructed commercial airship may be adapted for military service. The military airship would have no passengers; therefore the interior structure, that may be built in for passenger use, could be removed and its weight with the weight of the passengers, mail, express, and freight would represent a very considerable lift that would be available for increasing the power for higher speed, for a larger quantity of fuel and oil for increased range of flight, or for military equipment such as airplanes, rapid-fire guns, ammunition, etc.

We are a commercial Nation. Airships for use should be constructed primarily as commercial carriers. Should we require these airships for military use we should change them, as explained, to be adapted for the particular military service to which they are intended to be employed. I feel it would be a serious mistake, at this time, for the United States to attempt to develop and construct airships for exclusive military service.

Military airships can be constructed or maintained in serviceable condition only through the appropriation of public funds, obtained by taxation. With the loss of the *Akron* and the *Macon*. I do not feel Congress will appropriate more funds for the construction or operation of new naval airships before several years have passed.

If the funds that were appropriated for building and operating the *Akron* and the *Macon* were loaned to some citizen-owned corporation for the construction of two airships for commercial overseas operation, the airships would have been insured, and were they lost by reason of structure failure the insurance money would have been available for building two more airships, in which the likelihood of structure failure would at least be reduced.

The plan of constructing commercial airships with Government loans, as provided in bill H. R. 2744, and with construction loans as now provided for merchant marine vessels, seems may offer the best assurance that we may build a fleet of great commercial airships and thus we may establish a valuable secondary defense without Government appropriations for the construction and maintenance of a military airship fleet.

The United States has always been the leader in transportation and communications. Leadership was usually achieved after many mistakes, which often appeared would block progress, but the mistakes served to disclose the necessity for improvement, and some American always came forward with the improvement. We should not expect American airships to be perfected unless we make some mistakes, and we should not make the greater mistake of refusing to accept the improvement when it is offered.

The Honorable PETER NORBECK, United States Senator from South Dakota, recently said, "I cannot subscribe to the logic that because we have not been able to build as good airships as Germany, we should quit building. I think we should learn to build. A number of mistakes have evidently been made in the building of these airships, but more mistakes were made in developing the harvesting machine, the sewing machine, and the cotton gin, but the hundreds of mistakes eventually led to a perfect product."

I subscribe to everything Senator NORBECK says, but I go further to state we should build better airships than Germany and I know we can do so. I have faith in American ingenuity and engineering skill. This faith is backed by a century of American engineering accomplishment, that refused to accept defeat and always has succeeded.

My faith in the capability of American engineers to construct improved airships is shown by 5 years of the hardest kind of work. I have secured the endorsement and reports of American engineers of international repute; I have followed the standard procedure of construction of a model of the suspension bridge structure for airships and have demonstrated same with tests in one of the leading Guggenheim Schools of Aeronautics, and I have financed this important development personally.

The driving force behind my effort has been chiefly the American achievement of something that is worth while and may result in public benefit to our Nation, through the establishment of a new major form of transportation that may become a safe, luxurious, and an economical mode of travel.

This development has now reached the stage where I believe the construction of American-designed commercial airships is warranted. I advocate the approval of bill H. R. 2744, by the present Congress, because I am convinced we need these airships now and should have them at as early date as possible. If funds are now made available, by the approval of this bill, I hope to construct two airships for North Atlantic service, in slightly more than 12 months. This statement is made with serious consideration of the possibility of such accomplishment.

The matter of building American airships for commercial service is not a new subject. Consideration of the matter was taken up and approved by the House of Representatives June 15, 1932, but was not acted on by the Senate. This bill proposed that the Government should subsidize the construction and operation of trans-Atlantic airships by the payment of $20 per mile, for the round trip, with 10,000 pounds of mail reservation to Europe, which payment made on the basis of the service of two round trips weekly, proposed under our bill H. R. 2744, would be $320,000 per week, or $13,280,000 annually paid for mail alone. This amount is more than the $12,000,000 we request as a loan, plus the sum of $1,200,00 which we estimate would cover our annual charge for the same mail service.

We do not require any subsidy nor mail contract. If the Government desires our airships to carry its mails we would be glad to carry same at not exceeding $1.50 per pound, on a 10,000-pound mail reservation, which charge is less than 10 percent of the $16 per pound estimated cost on the other basis. We feel that all Members of the present Congress who approved the bill H. R. 8681, June 15, 1932, should now approve the present bill, and those who opposed the other, because of the high mail charge, should now approve our bill H. R. 2744, because of the low mail charge.

If there is doubt as to the need of transoceanic airship service and if such service could secure patronage to make a profit, the data supplied in the report of the House Committee on Com-

merce, on bill H. R. 8681, June 15, 1932, should remove such doubt. I submit attached printed extracts in our bulletin 135–A taken from this report, for your consideration.

Rear Admiral H. I. Cone, retired, when chairman of the Advisory Committee of the United States Shipping Board Bureau, told the Federal Aviation Commission that "the Government should build a series of airships suitable for transoceanic passenger and express service." In that way, he declared, "the United States would assume world leadership in the aircraft industry, enabling us at the same time to recapture our lost position in the field of world shipping", adding: "The United States will be left hopelessly behind unless we take steps for building airships to fill out our merchant marine."

In the consideration of building and operating commercial airships, with subsequent construction of additional airships with private capital, the operations must be conducted at a profit. Thus, there are two vital points to be decided: the type and size of the airships to be constructed and the conditions under which the airships shall be operated.

In the choice of airships the type and size that provides the greatest strength and safety with assurance of rendering the most valuable commercial and military service should be selected. The conditions under which the airships may be operated should give assurance of a reasonable profit, after providing for replacements, liquidation of principal and interests on funds employed in the construction and in establishing the service.

In our bulletin 135, published prior to the loss of the *Macon*, we submitted a pertinent comparison of estimated detailed operating charges and income for two 7,000,000 cubic feet airships of the Goodyear-Zeppelin type and two of the Respess suspension-bridge type, of the same size, as operating under conditions proposed for trans-Atlantic service under bill H. R. 2744. These figures indicate an annual loss of $3,155,800 for the two Zeppelin-type airships, while the Respess airships indicate an annual profit of $2,902,600. I attach copy of the bulletin for your further information in detail.

In our estimate of operating charges we include $660,000 for "traffic soliciting and handling", to be paid steamship lines. This item was included upon the suggestion of Admiral Cone that the steamship lines, with their established traffic organizations, could handle the business cheaper than we could and the steamship lines may thus receive a larger net income than they might lose from business we may take from them. Admiral Cone further states we should secure 100 percent full loads instead of 75 percent of full loads, as we had estimated, thus it is possible our net earnings could be increased.

These estimates were submitted with realization that no service of this character has ever been operated, and consequently the figures must be taken as approximate. A sincere effort was made to submit figures that are conservative and it is felt that they do show fairly closely what might be expected.

The very substantial difference in the net result of operating the two types of airships emphasizes the difference in the types of structures employed, for the structure of an airship affects its strength and safety, it affects the period of time required for construction and cost of construction, the maintenance and operating costs, the period of useful life and requirement for annual depreciation, the cost of insurance, the useful load, the pay load upon which it must rely for profit in operation and it also affects the military value of the airship.

I could extend my remarks with technical details, to substantiate the really remarkable improvement that may result from airships being constructed with use of the suspension-bridge type frame. I feel, however, the subject will be more effectively presented by engineers who have no financial interest in our company. My aim is to present the commercial and military value of these airships, as warrant for Government support.

If bill H. R. 2744 is approved by Congress, and we are thus supplied with funds with which to construct and operate airships, we are assured of the fullest cooperation of the lighter-than-air personnel of the Navy, Army, Commerce, and other departments of the Government, to which technical forces we would add leading American structural and aerodynamic engineers engaged in private practice, also engineers who specialize in power plants, gas bags, aeronautical equipment, etc.

In other words, I expect we would assemble a specialized technical force of this character that may be unequalled in any other country of the world. Thus, with the combined knowledge, experience, and ingenuity of America's productive minds, we should build airships to be an accomplishment as perfect in result as is possible to attain, with our present knowledge of lighter-than-air craft.

These airships would be designed primarily for commercial service in extending our overseas trade, but also provision may be made for quickly converting the airships to military service in event of war. This conversion feature alone should be warrant for Government loans, with which to build these airships, for thus a very valuable military force would be available, ever ready for use, with a trained personnel signed to enter military service on demand.

That these airships will be a valuable addition to our air forces cannot be denied. We may not judge the importance of the airship by their limited military service in the World War, nor from our experience with the *Akron* and the *Macon*. The airships we would build would be strong, safe, and efficient airships that could be converted to become fighting airships, as our Navy airplane carriers are fighting ships. The *Akron* and the *Macon* fully demonstrated they could transport and service a number of airplanes, which would leave and return to the airships. In time we should expect to construct 10,000,000 cubic feet commercial airships, each of which could be converted to transport and service 20 airplanes.

The next war in which we may be engaged may be decided in the air, not on the sea or on land. The nation that has the most efficient airplanes should be best fitted to win air battles. No matter how effective military airplanes may become, when designed to operate from land airports or from navy aircraft carriers, such airplanes could be redesigned to be reduced very greatly in weight, increased in speed, and improved in military efficiency if they were designed to operate only from airships and never operate from the ground. This is an accepted fact and is not a theory.

The much discussed present grave danger of bombing and of poison gas attack, by enemy air forces, was not fully demonstrated in the World War, but may be demonstrated in a ghastly manner in the next war between great nations. The very uncertainty of this prospective danger is one of our serious problems in determining what we must do for defense against air attack.

Probably the greatest damage that may result from an aerial attack would be fires that may destroy cities, these fires being started by explosive fire bombs dropped in several sections of a city at the same time.

Another grave danger is the release of explosive shells from enemy bombing planes. This danger was explained by one of America's leading builders of heavier-than-air craft to the Federal Aviation Commission, with the statement, as reported in the press: "An enemy bombing squadron could fly from a thousand miles away from our seacoast, at a speed exceeding 200 miles per hour, at an altitude exceeding 30,000 feet, and in passing over New York City could destroy the buildings of lower Manhattan from the Battery for perhaps a mile northward."

At least five great and intelligent nations, England, France, Germany, Russia, and Japan, expect warfare with use of poison gases, for they have provided gas masks in large quantities and have drilled the men, women, and children of their cities in the use of such masks. This statement is justified by photographs, reproduced in our American newspapers, showing such groups being drilled in the use of the gas masks. There is also provision of airtight containers for babies.

What can we do to protect ourselves?

We might send our Navy far out in the ocean to meet and try to destroy the enemy fleet and its airplane carriers. A larger Navy is suggested, also a larger Army; great batteries of antiaircraft guns are recommended; building a great fleet of naval and Army airplanes is proposed. We suggest the construction of a fleet of great airships that may be self-supporting in overseas trade and be called for military service in event of war.

For protecting our cities these great commercial airships could be quickly converted to carry airplanes, have an airship speed exceeding 100 miles per hour, or be able to cruise slowly at 20,000 feet altitude, over an area to be protected, sending out scouting airplanes to contact enemy planes, and when such planes are located the scout plane may direct the airships in a course to intercept the enemy planes. Thus, at the proper time, the airship may release a fleet of our most efficient fighting airplanes which may destroy the enemy airplane squadron.

If we had a sufficient number of these great convertible commercial airships, we could patrol and protect the areas surrounding our great centers of population and we could establish and maintain a constant defense line a thousand miles out to sea, if desired.

The military value of an airship may be judged by its ability to withstand adverse weather conditions, by its useful load which may define its range, its speed, its military equipment, and by its likelihood of receiving serious injury when attacked by other aircraft.

The suspension-bridge structure of an airship is a type to stand adverse weather and is less vulnerable to gunfire than the Zeppelin-type frame. The gas is not under pressure and would leak very slowly, through holes made by bullets. Damage would occur only provided an airplane could get relatively close to the airship.

For military purposes the airship may be armed with a dozen or more rapid-fire long-range guns, so that at least two of these guns may cover every point of approach to the airship in every direction. These guns could be fired with great accuracy and shoot farther than the guns carried by airplanes; thus in combat the airplane may seldom even puncture the fabric cover of the airship before the plane is destroyed. In other words, this airship at 20,000 feet altitude may be able to operate with less danger from enemy heavier-than-air craft than naval vessels.

Another feature of importance in considering the future military value of airships, employing the suspension-bridge structure, is these airships can be constructed very quickly and in large numbers should we be unable to avoid war with another nation and suddenly require more airships. Under pressure of war need these airships, capable of transporting and servicing 20 airplanes, may be duplicated in quantity in about 6 months or less. This is not possible with Navy vessels, Navy airplane carriers of merchant-marine ships.

In requesting a loan of $12,000,000 for erecting a $4,000,000 southern airship plant, $2,000,000 for the construction and equipment of an Atlantic operating terminal, $5,000,000 for building two 7,000,000 cubic feet airships, and $1,500,000 for operating capital, with which to establish these airships in service crossing the North Atlantic, I believe the loan is justified by the tremendous public benefit that may accrue, and that approximately 5,000 men will be employed, in direct and indirect labor, thus increasing em-

ployment and forming the foundation upon which a new great American industry may be established.

The construction may be carried forward with ability, with the strictest economy, without waste, and without profit. About $10,000,000 may be expended under patents or patent rights that ordinarily would be entitled to royalty payments of not less than 5 percent. With allowance of a reasonable profit, plus royalty, the Government should have additional value of at least 15 percent of such expenditures, or $1,500,000, when compared with other Government construction by private contract.

Reference should also be made to the fact the new airship docks at the plant and the operating terminal will be constructed with use of an approved new patent engineering design that also is of the suspension-bridge principle, and it is estimated that at least $2,500,000 may be saved as compared with similar size docks of the arch-frame type now employed in the docks in New Jersey and California.

Thus with the combined economy of the airships being constructed at cost and without royalty, with the additional saving in dock cost through the employment of a new type of construction, protected by patent rights, the Government is secured by property value that ordinarily might require $16,000,000 to duplicate. In addition, there are valuable patent rights and it is also contemplated we may later do public financing for the construction of additional airships and these new funds may provide additional security for the loan.

In constructing these airships, it should be understood we cannot build commercial airships that may be converted to military use without provision for such possible military use being included in the design and construction. Thus the cost of construction may be considerably increased over airships required solely for commercial service, and some additional weight must be built in, which may reduce the pay load and the commercial profit of operation. These facts should be duly considered in connection with proposed Government loans.

Reference has been made to locating the new plant in the South. In view of the fact that there is now a dock erected in Akron and another at Lakehurst, which possibly could be used for the construction of airships, an explanation should be made as to the desirability of erecting the new plant in a southern location.

For construction in the North it is necessary to provide heat for perhaps 6 months each year, and with so large a building of the type employed, provision of sufficient heat is impracticable, thus the work may be badly delayed during cold weather. Overhead, taxes, insurance, plant upkeep, and depreciation continue, however, adding to the cost of the airships being constructed.

In the South, below the snow and ice belt, no heating is required, and work can be carried on 24 hours per day every day in the year if desired. Building two airships under the same roof in the South will effect very great economy as compared with building a single airship at Akron or elsewhere where heating is required for construction. Economics of this character may not be neglected if successful commercial operation must be achieved.

The loss of the *Akron* and the *Macon* is a challenge to our Government, to our engineers, and to our Nation. In the consideration of bill H. R. 2744 there is an opportunity for Congress to assert its faith in American ingenuity and engineering skill by providing means for building American-designed airships. This bill is warranted on the basis of—

1. With the suspension-bridge frame airships can be constructed to be strong, safe, and avoid structure failure.
2. Immediate increase in employment, 80 percent of loan to be expended for direct and indirect labor, with employment of 5,000 men, for 1-year period at high wages.
3. May establish the foundation for a new great American industry which may become a valuable asset to our country for increasing employment, for extending our foreign commerce, and for the construction of military equipment in event of war.
4. May, in effect, expand our merchant marine with a more rapid transport service than is possible to secure through construction of sea vessels.
5. May establish extensive valuable bases for commercial or military use, for both lighter-than-air and heavier-than-air craft.
6. May result in establishing an American-controlled major transportation system, extending to the important commercial centers of the world, to interior cities as well as seaports.
7. May establish a valuable secondary defense, which may ultimately be developed to become a primary defense or offense.
8. May salvage an investment of $12,000,000 which the Government has already expended on the development and conservation of our natural helium-gas resources.
9. May establish twice-a-week, 32-hour trans-Atlantic mail service, at a charge of only $1.50 per pound.
10. May establish a profitable overseas service which may liquidate the Government loan and promote an extension of the services with private capital.

THE CRIME BREEDING MOVIES

Mr. CULKIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. CULKIN. Mr. Speaker, the most potent social influence that has come into being since the invention of printing is the photoplay. Moving pictures are, to my mind, the most powerful instrument for the communication of thought that mankind has devised. Speaking a universal language they create or destroy our allegiance to culture, education, and religion.

INFLUENCE OF MOVIES ON LIFE

While the photoplay has become one of the most powerful forces in our national life under present auspices it is exerting a blasting influence upon our civic and religious idealism. The specious appeal of the photoplay has in part submerged the strengthening and uplifting ideals of the home, school, and pulpit. As now presented, the movie is a head-on collision with the social influences that make for the advancement of government and society.

I said a moment ago that the appeal of the screen is universal. The House will recognize this to be so when I call attention to the fact that last year between twenty-eight and thirty million minors entered the 20,500 movie theaters in America every week and that 11,000,000 of these young people were under the age of 14 years. These children, of course, were at the impressionable period of their lives. I will demonstrate later that the moving pictures that these children saw had a powerful effect upon their attitudes and conduct, more potent, in my judgment, in their effect upon social reactions than the average home or the average school. I do not emphasize the weekly attendance of 45,000,000 adults at these performances.

It is my belief, based on many years of observation, that the alarming antisocial trend of the moronic and delinquent types has been created and stimulated by attendance at these performances. It is the judgment of those who have attempted to chart the minds of children that behaviorism and juvenile delinquency in the child and crime in the adolescent and adult have been immeasurably increased by their drinking in the crude, antisocial presentations of life so universal in the present-day movies.

THE SCREEN AND CHILDHOOD

Of late years trained psychologists have gone far in their study of the youthful mind. I believe that they can now diagnose the source of germs that attack the youthful intelligence. For years we have been without chart or compass as to the effect of the photoplay upon childhood. The House will be interested to know that in 1932, those in charge of the Payne Fund, a foundation devoted to the welfare of youth, realizing the social importance of learning just what effect the screen was having on the minds of children, at the instance of Dr. Lowell, president emeritus of Harvard, financed an investigation in this field. The results were published in 1933 under the title of "Motion Pictures and Youth." This work appeared in six volumes and the titles were 12 in number. They range from Motion Pictures and Standards of Morality to Movies, Delinquency, and Crime. The studies upon which these books are based extended over 2 years and were conducted by outstanding educators and psychologists of our eastern and western universities.

These experts sound a note of alarm. They find that children, even of the early age of 8, see 70 percent of the facts of a picture and remember them for a surprisingly long time. They find that a single exposure to a picture may make a child antisocial and delinquent in his attitudes. These research men find that there is too much sex and crime and love for a proper diet for children. These studies make additional findings, as follows:

First. That motion pictures, in stimulating desires for easy money and luxury, are an important factor in shaping criminal courses.

Second. That the picturizing of criminal activity, ways of burglarizing or robbing, of escaping detection, and of avoiding pursuit, contribute to delinquency or crime. Twenty percent of the convicts whose experiences were studied in this particular, stated that motion pictures taught them ways of stealing.

Third. That 17 percent of the truant- and behavior-problem boys state that movies had made them want to run away from school, that 49 percent of 110 criminals examined say that the movies gave them the desire to carry a gun, 28 percent declared that it gave them the practice of stick-up, 20 percent stated that the movies had taught them ways

of stealing, and 21 percent stated that movies taught them ways of fooling police.

Fourth. Twenty-five percent of 117 delinquent girls in the State training school indicated that the movies were a direct contributing influence to their own delinquency. That 49 percent of 252 girls in a State training school said that the movies made them want to live a fast life.

Fifth. Twenty-five percent of 252 delinquent girls studied, many from 14 to 18 years of age, had been led to sexual irregularities following the arousing of sex impulses by passionate love pictures.

These thoroughly reliable findings tell the story of the disaster that is being done to the youth of America by the photoplay. These, of course, represent only those whose delinquency and crime come to the surface. In my judgment, there is a vast army of delinquents and criminals that are never detected or arrested, who fall from grace by reason of the movie influence. There is a vast army of Americans whose lives never reach a crisis, whose citizenship is unfavorably affected by the present-day screen.

Henry James Forman, in his book entitled "Our Movie-Made Children" states on page 6:

> Crime and conduct, however, though of tremendous importance are not the only domains indisputably subject to movie influence. Many educators and laymen alike, * * * have had the conviction that the motion picture with its immense range and vast reach falls little short of being a supplementary educational system of our Nation. Indeed some laymen have gone so far as to believe that the motion picture vies in importance with the national school system.

It is inevitable, therefore, that those charged with the education of children and concerned about the future of the Nation should regard the cinema as charged with a public interest. The producing group in this field resent this suggestion and say that it is a regular business engaged in commercial manufacturing for profit. But they have not been successful in rendering themselves immune to public scrutiny. Every thinking group in America has become alive to the fact that our future is greatly dependent upon the production of photoplays which will strengthen and conserve rather than destroy the influence of the home and school.

CHARACTER OF PICTURES PRESENTED

The discussion brings us to the consideration of the type of pictures the movie magnates have inflicted on the American people since the birth of the cinema. Dr. Dale, one of the Payne investigators, found that in 115 pictures presented, 406 crimes were actually committed and an additional 43 crimes attempted; that in another block of 35 pictures 54 murders were committed. The fact is that in these pictures the Al Capone type is so conventionalized that he has become the model for many American schoolboys who, freed from the scrofulous influence of the cinema, would otherwise have gone along normally.

Father Daniel A. Lord, S. J., of St. Louis, Mo., who has made an intimate study of the screen products, issued a booklet in June 1934 under the title of "The Motion Pictures Betray America." In this publication he analyzed 133 pictures which were screened in the latter part of 1934. He states these pictures show a minimum of 81 major crimes against the law. This does not include wholesale murders in one superfilm. Father Lord states that due to the character of movies presented the whole moral law is at stake. He continues:

> The Commandments that God gave to Moses on Mount Sinai are being smashed in the daily grinding of the motion-picture projectors. * * * The very things which did Jesus to death are being shown glamorously and attractively on the screen. The innocence of little children is being corrupted, and youth is being initiated into explicit methods of crime.

P. S. Harrison, editor of Harrison's Reports, which is the authoritative reviewing service in the moving-picture field, is even more vigorous in his denunciation of pictures than Father Lord. In Mr. Harrison's report made last year, only 30 out of 133 pictures are suitable for children and adolescents.

Bishop Edward D. Mouzon, senior prelate of the Methodist Episcopal Church South, said:

> I am about to reach the conclusion that the filthy, lewd, sex-filled pictures shown to our children, stimulating emotions far beyond their years, is the most damning influence that ever swept out of hell.
>
> I thank God that the Roman Catholics took the lead in this fight. * * * The time has come when all who believe in God, the Ten Commandments, the sanctity of the home, and decency—Jew, Roman Catholic, and Protestant—must stick together.

I now call the attention of the House to another illuminating piece of data. The motion-picture division of the University of the State of New York, which, under the educational law, is charged with the duty of reviewing and licensing motion pictures, during the year ending June 20, 1934, the last report available, eliminated from pictures examined 1,337 scenes and 818 titles, a total of 2,195. The following is a statement of the grounds on which these eliminations were based:

Indecent	838
Inhuman	79
Tending to incite to crime	511
Immoral or tending to corrupt morals	752
Sacrilegious	15
Total	2,195

The Legion of Decency, organized in November 1933, by the Catholic Hierarchy of North America, was the body referred to by Bishop Mouzon. It is estimated that 5,000,000 Catholics signed the Legion of Decency's pledge to refrain from attending movies which were indecent in character. The Legion of Decency movement reached its peak in the fall of 1934 and performed a great service to the cause of public morality. The movement terrified the producing group and resulted in a substantial betterment in production. The movie press and the lobbyists are now writing off this influence and the producers now have their nerve back. They are ignoring or subsidizing the advance guard of this great army. I shall refer more fully later to this phase of the question in my discussion of the organization of the producers' group.

George Jean Nathan, brilliant dramatic critic, who originally was one of the foremost opponents of interference with photoplay production, wrote in the American Spectator in October 1934 as follows:

> The current movie censorship drive, as everyone knows, is directed primarily against smut, with which the pictures in recent years have been brimming. Smut—and there is no other name for the thing the pictures have been retailing—is no part of any kind of art or even pseudo art, and forced elimination should not concern any anticensorship body with an ounce of intelligence left in its head. * * * The truth about the movies is that in many cases they have got to be so filthy that they do not in their present plight deserve the least consideration from any anticensorship organization.

The fact is that every church group, every welfare organization, every group of men and women concerned with the educational and cultural advancement of America has protested in thunder tones against the demoralizing and destructive influence of the cinema upon childhood and youth.

Thus far, they have done so in vain and here is proof of it. I hold in my hand the May 23, 1935, issue of the Catholic Sun, published at Syracuse, N. Y. On page 5 of that issue appears a list of pictures divided into three groups as to their moral fitness by the Queen's Work Sodality, Chicago Legion of Decency. Out of 197 pictures showing in the latter part of May of the present year, but 59 pictures are recommended as unobjectionable and suitable for public entertainment. Fifty-four pictures are neither approved nor forbidden, but are for adults only; while 84 pictures are considered indecent and immoral and unfit for public entertainment. It would seem from this appraisal that Hollywood, despite the waves of criticism that have broken over it, has learned nothing. In the language of George Jean Nathan, who is no purist, they seem to have no vehicle except smut with which to represent human life and human endeavor.

There are happy exceptions, however. The capacity of the photoplay for recreational purposes and the cultural uplift of the people is without limit. Single instances of this may be found in a few productions which have come from the Hollywood studios. The complete artistry—both pictorial and histrionic—which was displayed in the recent production of David Copperfield establishes the fact that there are in the ranks of Hollywood men of genius and extraordinary

capacity, who, if freed from some of the present influences, would blaze a trail to a real era where the screen would play a constructive part in the recreational and cultural field. This picture and a few others of the same merit have been enjoyed by many millions—many of whom had previously withdrawn their patronage.

A CRIMINAL TRUST

Before discussing the proposed legislative phases of this extraordinary situation, I desire to present to the House as briefly as possible a picture of the background and present organization of the movies. It will surprise the House to know that the producers not only are the most antisocial influence in America by reason of the character of the product, but their whole structure of control is built upon illegality, violation, and evasion of existing law. The movie industry is the fourth largest industry in the United States, with an estimated investment of two and a half billion dollars. It employs more than 30,000 people, and more than 900 of the persons in the production field enjoy annual salaries of about $10,000. It has been under fire by the courts as violating the provisions of the Sherman Antitrust Act. What it cannot get by fair means in the open, it buys in the twilight zone of venality. Eight companies control 90 percent of the photoplay production in America. These are banded together by hooks of steel, and they own and operate 20 percent of the talking-picture theaters in the United States. It should be noted that 80 percent of the theaters are owned by the independents.

It will be developed later that the independents' control over their own property is of a nominal nature by reason of the operation of the Movie Trust through block booking. The name of their central organization is the Motion Picture Producers & Distributors of America, Inc. This outfit has various ramifications, but through its producing and distributing factors controls the production and sale of pictures in America.

In 1922, Will Hays, then Postmaster General and chairman of the Republican National Committee, became the nominal head of these organizations. He was a Presbyterian elder and was supposed to have close contact with the Protestant groups in America. The public, which had been alarmed with the antisocial tendencies of the movies, was encouraged in the belief that under his leadership the movie production would at last become less antisocial and cease to be a destructive influence upon the minds and characters of the American youth. It was considered fair procedure to give him a chance to work this program out. The public waited in vain for any change in the character of production. Pictures became more salacious and more daring. Filth is a mild word when used for descriptive purposes in connection with the productions that ensued. The public then woke up and found that the redoubtable Will Hays instead of being a Moses leading the movies out of the cesspools was in fact a lobbyist whose sole function was to keep the public off the producers. He had no authority then and has none now. On the lot in Hollywood a current phrase is, "To hell with the reformers! We are paying Will Hays $250,000 a year to give us immunity." For years Mr. Hays has been the artful dodger that has kept public sentiment in leash. In 1922 Hays and the producers adopted 13 high moral standards of production to which they promised obedience. They broke that promise by sending the screen to a lower depth of antisocial production. Hays manipulated the various denominational groups by placing some of their quasi-leadership on the pay rolls of the Movie Trust. He had contact men for every religious group on the pay roll. He had contact men for every educational group on the pay roll.

His job was to lull the patriotic and genuinely American groups who wished to prevent our children from being destroyed into passivity by promise of reform which never came. And it is doubtful if he ever had such power. The practical men at the head of the film industry had no use for him, except so far as he was able to keep the public off their shoulders. In the meantime, year by year, the streams of filth from Hollywood augmented a thousandfold.

The Movie Trust is definitely a violation of the Antitrust Act. Under the N. R. A., which is now history, the trust control of the movie production reached its peak. The N. R. A. code, as written, turned the independent producers and exhibitors over to the Movie Trust, body and soul. These were happy days for Will Hays and those whom he represented, but unhappy days for the independents and those concerned with the human documents of America. Rapacity and tyranny were on the throne, and the picture looked very black so far as the public interest was concerned. The Supreme Court decision in the Schechter case ended all this.

Today the distinguished, able, and public-minded Attorney General of the United States, Hon. Homer S. Cummings, is conducting a prosecution in St. Louis, Mo., which will, if successful, have a far-reaching effect upon this industry. It will take the shackles off the independent producers and will subject the antisocial types that are in command to the restraints of law. America is already heavily in Mr. Cummings' debt for his law-enforcement accomplishments. If he carries this fight to a knock-out, this and future generations of Americans will call him "thrice blessed."

Not long ago it was stated that Will Hays could no longer deliver and that he was on his way out. It was also stated that the Honorable James A. Farley would succeed him at a salary of $250,000 a year. But the time was not quite ripe for this procedure, and Will Hays executed a flank movement on those who were trying to oust him by hiring John Boettiger, who was about to marry the daughter of President Roosevelt. Mr. Boettiger had been an able newspaperman and had an attractive personality, but the purpose of his employment was obvious. George Ackerson, former President Hoover's secretary, occupied a similar post, but when the election went against the former President, out of his job went Ackerson. If a change of this administration comes, this will be the fate of Mr. Boettiger. I have no doubt that he has personally no illusion about his status. I know the public has none.

Another phase of the movie situation is worthy of consideration. The penny arcaders and their successors and assigns got into deep water in 1929. They were obliged to go to the Chase National Bank for succor. Vast loans were made them by this organization, in which, as the public knows, the influence of John D. Rockefeller, Jr., is more or less dominant. In addition to that, the Western Electric Co., which is a subsidiary of the American Telephone & Telegraph, has become a major creditor of the producers. There is some hope in this situation. The gentlemen on the directorate of these outfits have a large stake in the future of America. I said before that the present-day photoplay tends to destroy our culture and to destroy the influences of education and religion.

Any casual student of affairs recognizes that that is what movies are doing now. It might be added that overnight they might almost destroy our present form of government. They were used extensively in Russia in putting across the communistic theory. They sowed the seed of fascism in Italy. This may seem improbable here in America. May I say, however, that the destruction of the civic character in America is vastly more serious and devastating than even the destruction of our present governmental construction. If the national character is destroyed, our form of government is immaterial. So I call upon these gentlemen who are the present overlords of big business to take a hand and help save the childhood and youth of America from being debauched. I am familiar with the mistaken ethics with which high finance buffers itself in a situation like this, but make bold to say that if they continue fiddling while Rome burns the blood will be on their own heads.

PROPOSED LEGISLATION

Prior to coming to Congress I was for 17 years engaged either in the prosecution of crime or as judge of the domestic relations court of Oswego County, N. Y. For many years I handled intimately the problems of those whose lives had led them to violations of the law, and in the case of children under 16 years into the growing field of juvenile delinquency. By intensive investigation into the causes of maladjustment

among children I came to the conclusion that the screen, as presented, was a powerful factor in their stumbling. I came to be of the opinion that the photoplay not only seriously affected the lives of the delinquent but also the social viewpoint of the normal child and adolescent. I therefore felt strongly on this subject, and when I was elected to Congress endeavored to find a way to harness the photoplay for the purposes of mankind.

Several years ago I reintroduced the Hudson bill, H. R. 2999, with some minor changes. This bill establishes a Federal commission and writes into law the set of standards adopted by the producers' organization itself in 1922. It is, to my mind, sound and necessary legislation if the salutary lessons of the home, school, and church are to be preserved. Personally I favor making motion pictures a public utility, as they are in England and France. Telephones, telegraphs, and railroads are public utilities and are under Federal supervision as such. How much more vital it is to the life of the Nation that its far-reaching influence—which in the present hands has destroyed the influence of the home, church, and school—should be under governmental direction. We have protection for our children's bodies against adulterated foods, but no regulation or control over the germs that destroy their minds. In the second session of this Congress I intend to press this bill vigorously for passage. No opportunity for a hearing has been had on it at this session. The Interstate and Foreign Commerce Committee has been submerged in the hearings on utilities, transportation, and related subjects.

For the present I urge the passage of H. R. 4757, presented by me, which regulates the practice of block booking and blind selling by prohibiting the compulsory and mass booking of copyright films and amending section 2 of the Clayton Act to make it apply to licenses, agreements, and leases, as well as sales in interstate commerce.

The gentleman from Indiana [Mr. PETTENGILL] has introduced H. R. 6472, which is of the same general purpose. The gentleman introduced this bill, partially at my request, as I am more concerned about the passage of the legislation than the credit of sponsoring it. I feel, however, that this legislation—H. R. 6472—should be strengthened by certain amendments, which I am hoping he will accept when the time comes. With these qualifications I am heartily back of his bill. Either one of these bills will break the present monopolistic control which a handful of men now exercise over the movies. This legislation will destroy the present vicious and indefensible system of block booking by which the local theater manager must buy his pictures—the bad along with the good—in blocks of as many as 60 without the privilege of choosing what he wants in the open market. It will destroy the system of blind selling by which the exhibitor has to book his pictures before they are even produced without a chance to see them and know whether or not they are suitable for his clientele.

BLOCK BOOKING SHOULD END

Under the present system the exhibitor in northern Maine or in a prairie city in Kansas is obliged to buy and present the same type of pictures that are presented in the metropolitan centers where the audiences are necessarily more sophisticated and certainly more adult. At present the exhibitors buying in blocks of 60 pictures either take what the producers give them or else they get nothing. The producers complain of the threatened censorship. They rail at those who suggest it as guilty of an unwarranted impertinence. Yet they themselves exercise a censorship at once brazen and illegal. They have a strangle hold on the exhibitors and compel them to buy and show such pictures as they see fit to produce and are prepared to sell.

The producers demand the freedom of the screen, yet a few irresponsible and covetous men, whose vulgarity predominates in film production, hold the whole situation in the hollow of their hand. This legislation will break that strangle hold and make the screen free. It will fix responsibility. The present block-booking procedure ties up the theater screens of the country. It practically paralyzes the entrance of independent producers in whom many people believe lies the whole hope of the proper development of this medium of expression. It is not wholesale selling, and that argument has no basis in fact. This legislation will make the local manager responsible to his own clientele, and local influence will have a part in the selection of the films to be presented.

The situation as it exists at present can best be illustrated as follows: You wish to buy a book and go to a bookstore for that purpose. The bookseller tells you that he cannot sell you the book you want unless you buy 49 more, all of his own selection. That is the case in a nutshell.

Every socially minded organization in America is militantly opposed to block booking and blind selling. Here are some of them:

Federated Women's Clubs, Parent-Teacher Associations, ministerial associations, brotherhoods, Young Men's Christian Association, Young Women's Christian Association, National Woman's Christian Temperance Union, North American Congress of Home Missions, National Grange, Northern Baptist Convention, General Convention of the Protestant Episcopal Church in the United States of America, various branches of the Legion of Decency, including many prominent ecclesiastics and lay leaders of the Catholic Church, General Assembly of the Presbyterian Church of the United States of America, Women's Missionary Council Methodist Episcopal Church South, Women's Foreign Missionary Society of the Methodist Episcopal Church, Oregon Conference of the Methodist Episcopal Church, and the International Reform Federation.

Since the introduction of these bills I have had communications from 244 organizations and 121 individuals, from various parts of the United States, favoring both my bills (H. R. 2999 and H. R. 4757).

The mothers of the United States, under the leadership of the parent-teacher organization, are embattled on this proposition. They are looking toward Congress for relief from the tainted influence of the present screen. I want to tell the House that they are up in arms and will not be denied. Every influence, venal or otherwise, will be marshaled by the purveyors of filth against these needed reforms. I urge the House to pass this legislation abolishing block booking at the present session. If you do it, you will make a substantial contribution to the cause of America, because it will rescue the citizens of the next generation from an influence that is steadily but surely destroying them. I have faith in the courage and vision of my colleagues in the House on both sides of the aisle. I am content to submit this issue to them for action. [Applause.]

Mr. CLAIBORNE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAIBORNE. Mr. Speaker, my distinguished colleague the gentleman from Missouri [Mr. COCHRAN] is unavoidably detained in the hospital due to illness. Had he been able to attend the session here today he would have voted for the holding-company bill.

Mr. FISH. Mr. Speaker, I offer a privileged resolution.

The Clerk read the resolution, as follows:

House Resolution 285

Whereas the Representative from Maine, the Honorable RALPH BREWSTER, did on this date, July 2, 1935, arise in the House of Representatives and make a statement that he had been approached by an official of the United States Government and told that if he (BREWSTER) did not vote against the death-sentence provision in the so-called "Federal Power Act" that certain funds allocated for public works in his congressional district in the State of Maine would be withheld, and whether any political threats were made by other officials: Therefore

Resolved, That a special committee of five Members of the House be appointed by the Speaker to investigate the charge made by the Representative from Maine, Mr. BREWSTER, and report its conclusions and recommendations to the House at the earliest practicable date. For such purpose the committee is authorized to send for persons and papers and to administer oaths to witnesses and to sit during the sessions of the House or any recess thereof.

Mr. BLANTON. Mr. Speaker, I make the point of order that is not a privileged resolution.

The SPEAKER. The Chair will hear the gentleman from Texas on the point of order.

Mr. BLANTON. Mr. Speaker, such a resolution to be privileged is one that affects the safety, dignity, and integrity of the proceedings of the House collectively. In what way does this incident affect the safety, the dignity, and the integrity of the proceedings of the House collectively? In my judgment, not at all.

Why, there could be occasions when someone employed by the Government might approach every one of the 435 Members of the House and make this threat or that threat, but that does not affect the privileges of the House. We are supposed to be strong enough to withstand any such approaches from any employee of the Government. If this had been a Cabinet officer or someone connected with the President's office, the situation might be different.

For instance, Mr. Speaker, there are in Washington today over 100,000 Government employees on the pay roll of the Government. In the United States there are over 700,000 Government employees. Because someone employed by the Government approaches a Member of Congress and makes a foolish, futile threat to him does not violate the privileges of the House, because it does not affect the safety, dignity, and integrity of the proceedings of the House collectively.

The resolution which the gentleman from New York [Mr. FISH] offers, therefore, is not a privileged resolution raising the question of the privilege of the House collectively. This is not a question of personal privilege. No one has risen on the floor raising the question of personal privilege. If privileged at all, therefore, it must be a privilege of the House collectively. It must be something that affects the safety, dignity, and integrity of the proceedings of the House of Representatives collectively, and there is nothing of that kind in this resolution.

Mr. O'CONNOR. Will the gentleman yield?

Mr. BLANTON. I yield to the gentleman from New York.

Mr. O'CONNOR. Mr. Speaker, I move that the resolution be referred to the Committee on Rules.

Mr. BLANTON. No. I want my point of order ruled on first. I did not yield to the gentleman for that purpose. Mr. Speaker, I desire a ruling on my point of order.

Mr. FISH. Mr. Speaker, I would like to be heard on the point of order. It seems to me this resolution obviously affects not only a Member's representative capacity, and I refer to the gentleman from Maine [Mr. BREWSTER], but the integrity, the dignity, the reputation, and the good name of the House of Representatives. It is of the highest privilege for the resolution to be immediately considered. It is inconceivable that charges of this nature may be made upon the floor of the House by the gentleman from Maine, whom everybody on both sides trusts, as shown by the applause that he received, and that no action should be taken. I do not believe it is proper that after such a charge has been made that it should be ignored and no consideration given it by the House of Representatives.

Mr. Speaker, I submit that this affects the integrity and honor of the House of Representatives itself. A definite charge has been made by a distinguished Member of this House that he was wrongfully approached by a high public official in order to influence or change his vote. The gentleman from Texas [Mr. BLANTON] referred to it and said it did not come from a member of the Cabinet. The charge was aimed at one of the sponsors of the utility bill, a high Government official who speaks with authority. If this charge is correct, there should be an immediate investigation. Mr. Speaker, I submit this is a matter affecting the integrity of the entire House of Representatives and therefore of the highest privilege.

Mr. MAVERICK. Mr. Speaker, I believe that the gentleman from Texas [Mr. BLANTON] is correct in stating that this is not a privileged resolution, but I hope that the resolution will be passed unanimously by the House. I believe it brings up a very important question.

Mr. Speaker, I want to say this much about the gentleman from Maine [Mr. BREWSTER]. The gentleman was for the Senate bill; at least he said so when he attended a meeting with me at the Power Policy Commission and in conversations. He attended secret meetings and got all the inside stuff. Of course, we were associated with the "brain trusters"—to which some may object; but I have no contempt for brains. I attended this meeting with the gentlemen from Maine, Mr. BREWSTER and Mr. MORAN, Mr. RANKIN, Mr. MARCANTONIO, Mr. SCOTT, and others; and Mr. BREWSTER consented to make a speech for the Senate bill, section 11, and discuss the legal phases of it.

Mr. SNELL. Mr. Speaker, I make the point of order that the gentleman is not speaking in order.

Mr. MAVERICK. Of course, make a point of order when it hurts.

The SPEAKER. The gentleman will discuss the point of order, which is the only thing pending before the Chair.

Mr. MAVERICK. I have not the parliamentary experience and ability to get up here and beat the parliamentary rules; but I do say I hope the House passes the resolution, and I do not believe a word the gentleman from Maine [Mr. BREWSTER] said.

Mr. SABATH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SABATH. If this resolution should be held privileged——

Mr. BREWSTER. Mr. Speaker——

Mr. MAVERICK. Regular order, Mr. Speaker.

The SPEAKER. The regular order is for gentlemen to be seated and keep quiet while the gentleman from Illinois submits his parliamentary inquiry.

Mr. BREWSTER. Mr. Speaker——

The SPEAKER. The gentleman from Illinois [Mr. SABATH] has the floor, if he desires to submit a parliamentary inquiry.

Mr. SABATH. My parliamentary inquiry is this: If the point of order that has been made should be overruled——

Mr. BREWSTER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Maine rise?

Mr. BREWSTER. Mr. Speaker, I rise to a point of the highest personal privilege.

The SPEAKER. The gentleman cannot take the gentleman from Illinois off the floor in that way.

Mr. BREWSTER. I was standing here seeking recognition, Mr. Speaker——

The SPEAKER. The gentleman is not in order. The gentleman from Illinois has the floor to submit a parliamentary inquiry.

Mr. SABATH. My parliamentary inquiry is whether it would be in order to amend the resolution by broadening the resolution and providing that the lobbying on both sides be investigated. [Applause.] I believe such a resolution should be adopted.

The SPEAKER. Of course, the House can do with the resolution as it pleases, and if it is held to be in order it is subject to amendment.

Mr. SABATH. That is the inquiry I wished to make, Mr. Speaker.

Mr. BREWSTER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Maine rise?

Mr. BREWSTER. I rise to ask whether it is possible for the gentleman from Texas to challenge my word on the floor of this House without having his words taken down. I rose immediately the words were uttered, and it seems to me nothing could transcend such a proposition. If that is not possible, it transcends my conception of parliamentary procedure.

The SPEAKER. To what words does the gentleman object?

Mr. BREWSTER. He said, as I understood him, that he did not believe a word I had uttered.

The SPEAKER. The Chair would state to the gentleman that the Chair does not think that implies that the gentleman uttered an untruth. That was the opinion of the gentleman from Texas, but not necessarily the opinion of anyone else, and the Chair does not understand that there is any question of privilege involved in the remarks uttered.

Mr. BREWSTER. May I ask that the words be taken down?

The SPEAKER. The gentleman could have done that——

Mr. McFARLANE. Mr. Speaker, a point of order.

The SPEAKER. The Chair is trying to rule on a point of order now, if the gentleman will permit the Chair to do so.

Mr. McFARLANE. I wanted to make my point of order before the Chair rules.

The SPEAKER. The gentleman from Texas made the statement, but that does not necessarily imply that the gentleman from Maine intentionally made a misstatement on his own part. He simply said he did not believe it, but this did not necessarily imply that the gentleman from Maine intentionally made a misstatement. What the gentleman from Texas said may be construed as meaning that the gentleman from Maine was merely mistaken in his conclusions, and that the gentleman did not deliberately make a false statement. So the Chair fails to see where any question of privilege is involved in the statement. Of course, if the gentleman wishes to make his own statement about it, he can do so with the permission of the House.

Mr. BREWSTER. I do not think I can add to what I said. It becomes an issue of veracity.

The SPEAKER. The Chair is ready to rule.

The gentleman from New York [Mr. FISH] has presented a resolution of investigation, which has already been read from the Clerk's desk and which it is not necessary to read again. I am sure every Member of the House, as does the Chair, feels jealous of the dignity and integrity of the House, its entire membership, and all its proceedings.

Rule IX provides that—

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings.

The gentleman from Maine [Mr. BREWSTER] has made certain serious charges. It is not necessary, of course, for the Chair to pass on the charges. That is a matter for the House to determine. But the Chair does feel that in view of the statements made by the gentleman from Maine on his own responsibility as a Member of this House, as well as those contained in the pending resolution, that if such statements are found to be correct, then it seems to the Chair that the integrity of the proceedings of this House have been seriously interfered with. The Chair, therefore, thinks that the resolution presents a question of the privilege of the House, and overrules the point of order.

Mr. PETTENGILL. Mr. Speaker, I offer a substitute motion.

The Clerk read as follows:

> Substitute motion offered by Mr. PETTENGILL:
> "Whereas the gentleman from Maine [Mr. BREWSTER] has just informed the House that one Thomas Corcoran, not a Member of the House, improperly approached him and attempted to unduly influence him as to his vote on the Utility Act of 1935: Be it
> "*Resolved*, That the Rules Committee of the House be, and it is hereby, authorized and directed to investigate such charges and all charges of the exercise of undue influence on Members of the House by both the proponents and opponents of S. 2796, and report its findings to the House, with its recommendations."

Mr. O'CONNOR. Mr. Speaker, on the motion, sometime ago a similar matter occurred and the Rules Committee was authorized to investigate it.

I may say that the charges are serious. There have been a lot of serious charges made around here. If this matter is intrusted to the Rules Committee, I feel safe in saying it will move promptly and without any consideration of anybody who is involved.

Mr. Speaker, I move the previous question.

The question was taken; and on a division (demanded by Mr. MARCANTONIO) there were 180 ayes and 1 no.

So the previous question was ordered.

Mr. MARCANTONIO. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MARCANTONIO. I have a resolution with reference to the Rules Committee which I desire to offer now as an amendment.

The SPEAKER. That is not in order at this time, the previous question having been ordered. The question is on adopting the substitute.

The question was taken, and the substitute was agreed to.

The SPEAKER. The question is on the resolution as amended.

The resolution as amended was agreed to.

A motion to reconsider the vote was laid on the table.

Mr. MORAN. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. MORAN. Mr. Speaker and Members of the House, I rise to answer the charges made today against Mr. Thomas Corcoran, R. F. C. attorney, by my colleague from Maine [Mr. BREWSTER].

I have been on the floor of the House today every minute, except a very few minutes during which period Mr. BREWSTER made his speech. I do not charge that Mr. BREWSTER selected that brief period for his speech. I am merely stating the facts as they are. It would have been courteous for him to have made the speech in my presence. Upon my return to the floor, I obtained a transcript of his remarks, and following that, I interviewed Mr. Thomas Corcoran to obtain his reply. In view of the fact that this controversy concerns a Maine project, in consideration of my background of several years' political experience in Maine, with my close personal knowledge of the events discussed by Mr. BREWSTER, and with the advantage of an interview with Mr. Corcoran within the last few minutes, I am in an excellent position to answer my colleague.

Two matters of great importance to Mr. BREWSTER and to me, have been occurring simultaneously. First, the public-utility bill, and, second, the so-called "Quoddy" power project in Maine. The interest of Mr. Thomas Corcoran in the public-utility bill is well known. It is not, however, generally known that Mr. Corcoran is also handling for the administration the legal features of the "Quoddy" project, which is located in Mr. BREWSTER's district.

Regarding the public-utility bill, meetings have been held by those favoring the so-called "death sentence." Those meetings were attended by several of my honorable colleagues, including Mr. RANKIN, Mr. MAVERICK, Mr. MARCANTONIO, Mr. McFARLANE, and various others of that group in the House which believes in the "death sentence" provision. To some of those meetings Mr. Thomas Corcoran was invited, as our group recognized in Mr. Corcoran a man who combined brilliancy of intellect with the sole desire of serving the public interest, and we knew of his vast store of information concerning this bill. My colleague Mr. BREWSTER was considered by us as one of our group; he was invited to attend such meetings; he did attend; he participated actively in discussions. At those meetings, our strategy was discussed, in addition to the provisions of the bill. Mr. BREWSTER actively engaged in the discussions. It was our understanding that as probably the best lawyer among us, he would handle on the floor any of the legal features of corporate reorganization involved in section 11. This is no hearsay; this is my personal knowledge; I was present, and know whereof I speak. The other colleagues I have mentioned will readily substantiate my statement that Mr. BREWSTER actively participated with us.

The Members of the House, therefore, can readily imagine my surprise on last Monday to see Mr. BREWSTER pass through the tellers and vote in opposition to the group with which he had been actively participating. His actual vote was my first knowledge of his change of heart. My amazement was beyond imagination.

Regarding the "Quoddy" project, I have been interested in it from the beginning of my term in the last Congress. The first time the "Quoddy" project was ever presented to the present administration was by me on May 29, 1933, when I presented it to the Federal Power Commission and formally requested a study. When the P. W. A. later came into existence, I presented the project to that unit. The Federal Power Commission made its report to me personally, as stated therein, and the report was unfavorable. Believing the report to be an "overnight" matter not given thorough consideration, I demanded reconsideration and a real study. It would be tedious and inapplicable here to trace the many activities by me in connection with this project long before

Mr. BREWSTER came to Congress, and during which time Maine Republicans were charging that the whole effort was political and that the project never would be undertaken, but the project finally received an allocation of $10,000,000 under the new work-relief fund, and work is now beginning at the site.

There were many legal matters to be considered in connection with this project, as, for example, a settlement with Mr. Dexter P. Cooper, whose fertile mind originated the project, an allowance for his expenses, rights, and so forth. These matters had to be handled with a great deal of care, as there are private interests in Maine opposed to this project, who would seize any opportunity to hamstring it. It so happens that Mr. BREWSTER is the only attorney in the Maine delegation in the House; naturally, Mr. Corcoran, charged with the responsibility as representative of the administration in handling these legal details, discussed these matters frequently with Mr. BREWSTER. There was also a problem of requiring the Maine Legislature to adopt legislation creating a so-called "power authority" to carry out the project. I know that in determining his course on this legislative problem, Mr. Corcoran heavily relied upon assurances of cooperation from Mr. BREWSTER and myself. Mr. BREWSTER offered to bring two Maine attorneys of his selection to Washington for one interview to discuss various features, and did so. This all explains the perfectly natural contacts which Mr. BREWSTER had voluntarily with Mr. Corcoran.

No one realizes more than Mr. Corcoran the fact that all these legal matters must be in the hands of the friends of the project. No one realizes more than I do the most dangerous possibilities if a person beholden in any way to private power interests should be in the inner councils of the administration in working out these matters. Therefore, when Mr. Corcoran learned of Mr. BREWSTER'S change of heart on the public-utility bill, it was but natural that he should inform Mr. BREWSTER that his legal services in connection with the "Quoddy" project were no longer trustworthy. Mr. Corcoran, after having had one experience of participating with Mr. BREWSTER in conferences on the utility bill, with such an amazing result, apparently does not wish to have the administration take such a risk in connection with the "Quoddy" project.

All of these facts are interesting background to the present controversy. Whether Mr. BREWSTER became panic-stricken over what he had done on the utility bill, and took the method of attacking Mr. Corcoran, a most useful public servant, to cover up his own action, I do not know.

I know that President Roosevelt would not for one minute countenance such action, as charged by Mr. BREWSTER. Mr. Corcoran denies the charge absolutely.

I have implicit faith in Mr. Corcoran; I do not believe there is a man connected with this administration who is more honest, who is more truthful, and who is more interested in the best kind of public service for the people of America. Nothing has occurred in my many dealings with him which has given me the slightest reason to believe any such charge as has been leveled at him by Mr. BREWSTER. Mr. Corcoran plays the game square; even in the heat of the many controversies which have centered around him, no one has ever charged him with being a "double-crosser." He fights toe-to-toe courageously, honestly, enthusiastically, but always fairly. His whole soul is wrapped up in helping this administration give to the people social security, economic freedom, and political freedom, which are the main objectives of our great leader in the White House, President Franklin D. Roosevelt. I believe in "Tom" Corcoran; I am fully confident that any investigation will demonstrate to the American people that he is the kind of a man that I know him to be.

Some men can take comfort in the fact that there is something greater than high political office, no matter how high; that there is something more worth while than being the subject of blazing headlines of newspapers, or the acclaim of the multitudes, both of which are temporary in character; that "something" is for a man to be honest with himself and with his fellow man, which inevitably carries with it self-respect and the respect of his fellow men. Such a man can meet with equanamity and confidence any charges leveled at him by anyone not similarly blessed.

The SPEAKER. The time of the gentleman from Maine has expired.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that the gentleman's time be extended for 5 minutes.

The SPEAKER. Is there objection?

Mr. SNELL. Mr. Speaker, as this matter is to be investigated by the Rules Committee, I object.

Mr. BLANTON. Then I ask that the gentleman have 2 minutes in which to finish his remarks.

The SPEAKER. Is there objection?

There was no objection.

Mr. BREWSTER. Mr. Speaker, will the gentleman yield?

Mr. MORAN. I am sorry. If I had more time I should be very glad to yield, but I have only a moment or two.

The CHAIRMAN. The time of the gentleman from Maine has again expired.

UTILITY HOLDING COMPANIES IN THE STATE OF OREGON

Mr. MOTT. Mr. Speaker, on Friday I addressed the House on the pending utilities bill and talked particularly about the regulation of utility and other holding companies in Oregon under our modern law.

It may be recalled that I told how those regulatory laws were passed and how the financial rackets of the holding companies were stopped, and I took particular occasion to state very definitely in my remarks on Friday that I was opposed, not only to holding companies of the racketeering sort but that I had little use for holding companies at all, even the good ones. I stated, however, that, in my opinion, it was not necessary to ruin innocent security holders by destroying the companies in order to solve the holding-company problem.

I have just looked at the CONGRESSIONAL RECORD for yesterday, and, much to my surprise, I find that my colleague from the Second District of Oregon [Mr. PIERCE] has accused me of making a speech on the floor on Friday in favor not only of utility holding companies in general but of utility holding company racketeering in particular.

By the way, this is an extension of his remarks in which he makes that assertion. He did not say these things on the floor yesterday when I was present. He wrote them into his remarks as an extension to his speech, so this is my first opportunity to read his speech, which speech, of course, he did not really speak.

He says, among other things, that he is amazed to learn that the Congressman representing those investors raises his voice in defense of the type of financial pirates who have robbed us; and then he tells the story of the robbery of Oregon investors by the Central Public Service Corporation, the corporation which I mentioned on the floor as being, in my opinion, the worst racketeering utility holding company in the country; and he says I am in favor of letting companies of that kind operate, because I oppose section 11 of the Senate bill.

I told you on Friday how we made the laws that enabled us to stop just that sort of racketeering in the State of Oregon. I told you they were made during the 8 years I was a member of the legislature, and I had a rather considerable part in the making of them. I told you how we stopped the racket of this particular holding company by the proper enforcement of these laws when I was appointed corporation commissioner of the State of Oregon. I stated that we were able to stop, and that we did stop, every holding-company racket in that State.

We stopped the sale of all racketeering securities and prosecuted and convicted all the racketeers who sold them, and yet the gentleman from Oregon [Mr. PIERCE] says in his extension of remarks that on Friday I made a speech in favor of these very holding companies and holding company rackets, when as a matter of fact my speech was a denunciation of them. I wish the gentleman from Oregon [Mr. PIERCE] were here. I am sorry he is not. I do not like to talk about him in his absence. He ought to be present when

important business is going on, but, of course, that is something over which I have no control.

My colleague from Oregon was in the State legislature for about 8 years preceding the time I was a member of that body. He was Governor of the State for 4 years also. During the time he was Governor of the State and during the time he was in the legislature we had rather inadequate utility and securities laws and not always very good enforcement of them. During all of that time I do not recall that my colleague ever made a suggestion, either as State senator or as Governor of Oregon, that those laws be improved. Perhaps he was satisfied with them.

At any rate, after my colleague left the legislature, and after I came into the legislature, we did take an interest in this field of legislation and proceeded to make those modern, progressive, and effective laws by which, as I told you Friday, we stopped the rackets. The very rackets which my colleague, the gentleman from Oregon, told you we could not prohibit by State law, are the rackets that we stopped with the law we made in the Oregon Legislature after my colleague ceased to be a member of that body.

Mr. McFARLANE. Will the gentleman yield?

Mr. MOTT. I yield to the gentleman from Texas.

Mr. McFARLANE. The gentleman from Mississippi [Mr. RANKIN] has placed in the RECORD the figures to show the rates of the State of Oregon, to show that that State is being penalized some $6,510,000, as I remember it, in excessive rates above what would be a reasonable rate when compared with the Tacoma, Wash., rate. If the gentleman stopped all these rackets, why are his people being charged these excessive rates?

Mr. MOTT. The gentleman from Texas does not understand what I mean by "a racket", and what is generally understood as "a financial racket" by corporation commissioners and people who have knowledge and experience in this field. A financial racket, I may say for the gentleman's information, is the issuance and sale of worthless securities.

Mr. McFARLANE. I think those rackets all over the country are the same.

Mr. MOTT. The utility rates in Oregon are low compared with rates of private utilities in other parts of the United States, including the gentleman's State. They are obviously not as low as those of municipal plants. However, that has nothing to do with this subject.

Let me finish. Now, my very lovable friend and colleague from eastern Oregon [Mr. PIERCE] is a little hard of hearing, and perhaps he did not understand just what I was talking about in my speech on Friday. I was talking about holding-company rackets, and particularly about how under the laws of Oregon we were able to clean up the rackets. I said that I held no brief for holding companies of any kind, but that all the evil practices of them could be stopped by proper regulatory laws.

It really is not worth talking about. My speech was very, very definite on that point, but I do not like to have a plain speech construed and commented upon in the RECORD as something that it was not. For that reason I have risen to correct the statement made in my colleague's extension of his remarks yesterday.

The SPEAKER. The time of the gentleman from Oregon [Mr. MOTT] has expired.

RELIGIOUS LIBERTY—PERSECUTION OF CATHOLICS AND OTHERS IN MEXICO AND OTHER COUNTRIES

Mr. CITRON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include certain excerpts from statements of the President of the United States.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. CITRON. Mr. Speaker, dispatches from Mexico yesterday to the American press report that "Mexico is planning to ease its church policy" and that the Mexican Government recently has been inclined toward showing some tolerance to Catholics.

We certainly are living in dark and troublesome times. In many countries all over the world we find evidence of intolerance, hatred, and a spirit of cruelty and malice. Forces of darkness hardly conceivable in our civilized day, are sweeping over lands whose people were once charitable, lovable, and kind. Men seem to have lost their reason, and the cruelty of the animal seems to obsess them.

Nation appears eager to war nation; and within the nation class is pitted against class, and minorities, either of race or religion, are being persecuted.

We pray that none of these evil forces enter our gates. What a frightful nightmare for man or woman to live through—in dread of prison, detention camps, forced labor, or purges on the morrow. And this only because of their race or religion, or because they exercised their God-given right to think and express their own opinions and convictions.

Has civilization improved the soul and spirit of man? Then why such hatreds which resemble only that of barbarians, whom we might excuse, or that of fiends, whose minds we cannot discern. Are we recurring to the prejudices and bigotries of the Dark Ages, or is mankind only going through a period of mob insanity?

The supplication of the people of our country is that those who so wrong against civilization may be forgiven. We forgive them because we know they are misled. The fault and responsibility is not theirs; they are misinformed and tyrannized by their leaders. The spirit of Nero and the sin of Cain find a resting place among some present-day dictators—their modern prototypes; but the evil they do is overcome by the onward march of civilization in making this a better world to live in.

We, in this country, must raise our voices for the suppressed, persecuted, and afflicted. Should we stand idly by and see the oldest of Christian religions persecuted in Mexico? Can we permit the persecutions of the Middle Ages, reborn under a new cloak and guise, to exist next door to our land? Our consciences dictate to us to protest at the horror of attacks on all religions—Catholic, Protestant denominations, and the Jewish faith. It is only too true that these evil forces are an attack upon the spirit of democracy.

But always after darkness, light appears. I hope that this dispatch from Mexico means a change of conditions in Mexico. I believe that in Mexico and other countries, sanity among the rulers will eventually prevail. And let us be ever watchful that this spirit of intolerance does not spread its poisons into our country. I doubt if it could, because the spirit of our Nation's birth lives within us—the spirit of the Declaration of Independence, the ideals of our Constitution, the principles of our traditions, and the very hopes for a better world are ingrained in all of us so much that this country shall continue to stand as the beacon light of liberty, democracy, and social justice.

Mr. Speaker, it is not necessary for me to narrate specifically the times and places of persecutions in this day of half-enlightened and pseudo-cultured despots and dictators. I can only say that the people of this country look with horror upon such a state of events. Men of all classes, races, and creeds have expressed their abhorence in protest of all kinds.

There are many reasons for such wrongful conduct, such as the zeal for supernationalism, economic exploitations of peoples and consequent revolts often accompanied by revengeful activities, arousing of racial and national passions, and a philosophy prevailing in many parts of the world that the end justifies the means—an idea propagated by dictatorships. Lastly there smolders from the World War hatreds and revenge.

How to meet this problem has been the ever-continual dream of the world's greatest idealists. Needless to say, the traditional doctrines of our people and Government have immeasurably contributed toward the continuous efforts of mankind to teach love of neighbor, to aid and assist the persecuted and downtrodden.

I shall conclude with a few quotations from various opinions on religious freedom made by some of our Presidents.

OPINIONS OF PRESIDENTS OF THE UNITED STATES ON RELIGIOUS LIBERTY

In instructions of September 14, 1775, to Benedict Arnold, about to lead a force into Canada against Quebec, General Washington said:

As the contempt of the religion of a country by ridiculing any of its ceremonies, or affronting its ministers or votaries, has ever been deeply resented, you are to be particularly careful to restrain every officer and soldiers from such imprudence and folly, and to punish every instance of it.

On the other hand, as far as lies in your power, you are to protect and support the free exercise of the religion of the country, and the undisturbed enjoyment of the rights of conscience in religious matters, with your utmost influence and authority. (Writings of Washington, edited by Sparks (N. Y., 1847), vol. III, p. 89.)

Washington, writing on August 15, 1787, to Lafayette concerning the French Assembly of Notables, said:

I sincerely hope with you, that much good will result from the deliberations of so respectable a council. I am not less ardent in my wish, that you may succeed in your plan of toleration in religious matters. Being no bigot myself to any mode of worship, I am disposed to indulge the professors of Christianity in the church with that road to heaven, which to them shall seem the most direct, plainest, easiest, and least liable to exception. (Writings of Washington, edited by Sparks (N. Y., 1847), vol. IX, p. 262.)

In May 1789, Washington responded to the good wishes of the general committee representing the United Baptist Churches of Virginia, by saying:

I have often expressed my sentiments, that every man, conducting himself as a good citizen, and being accountable to God alone for his religious opinions, ought to be protected in worshipping the Deity according to the dictates of his own conscience. (Washington's Writings, edited by Sparks (N. Y., 1847), vol. XII, p. 155.)

In 1790, Washington, writing to the Jewish Synagogue at Newport, R. I., said:

May the same wonder-working Deity, who long since delivered the Hebrews from their Egyptian oppressors and planted them in the "promised land"; whose providential agency has lately been conspicuous in establishing these United States as an independent nation, still continue to water them with the dews of heaven, and to make the inhabitants of every denomination participate in the temporal and spiritual blessings of that people whose God is Jehovah. (Maxims of Washington, D. Appleton & Co. (1790), (p. 373.)

In October 1789, Washington, writing to the Quakers, in response to their good wishes expressed at their yearly meeting, said:

The liberty enjoyed by the people of these States, of worshipping Almighty God agreeably to their consciences, is not only among the choicest of their blessings, but also of their rights. While men perform their social duties faithfully, they do all that society or the State can with propriety demand or expect, and remain responsible only to their Maker for the religion or mode of faith, which they may prefer or profess. (Writings of Washington, edited by Sparks (N. Y., 1847), vol. XII, p. 168.)

In January 1793, replying to the good wishes of the members of the New Church in Baltimore, Washington said:

In this enlightened age and in this land of equal liberty it is our boast that a man's religious tenets will not forfeit the protection of the laws nor deprive him of the right of attaining and holding the highest offices that are known to the United States. (Writings of Washington, edited by Sparks (N. Y., 1847), vol. XII, p. 202.)

JEFFERSON—GOVERNMENT AND RELIGION

Whatsoever is lawful in the Commonwealth or permitted to the subject in the ordinary way cannot be forbidden to him for religious uses; and whatsoever is prejudicial to the Commonwealth in their ordinary uses and therefore prohibited by the laws ought not to be permitted to churches in their sacred rites. For instance, it is unlawful in the ordinary course of things or in a private house to murder a child. It should not be permitted any sect, then, to sacrifice children; it is ordinarily lawful (or temporarily lawful) to kill calves or lambs. They may, therefore, be religiously sacrificed, but if the good of the State requires a temporary suspension of killing lambs, as during a siege, sacrifices of them may then be rightfully suspended also. This is the true intent of toleration. (Jefferson, Notes on Religion (1776?) See Ford's edition of his writings, vol. II, p. 102.)

Our civil rights have no dependence on our religious opinions more than on our opinions on physics or geometry; that therefore the prescribing of any citizen as unworthy of public confidence by laying upon him an incapacity of being called to the offices of trust and emolument, unless he professes or renounces this or that religious opinion, is depriving him unjustly of those privileges and advantages to which, in common with his fellow citizens, he has a natural right. (Thomas Jefferson, Statute of Religious Freedom (1779). See Ford's edition of his writings, vol. II, p. 238.)

We (the Assembly of Virginia) * * * declare that the rights hereby asserted (in the Statute of Religious Freedom) are of the natural rights of mankind, and that if any act be hereafter passed to repeal the present (act), or to narrow its operations, such act shall be an infringement of natural right. (Jefferson, Statute of Religious Freedom (1779). See Ford's edition of his writings, vol. II, p. 239).

How far does the duty of toleration extend?—

1. No church is bound by the duty of toleration to retain within her bosom obstinate offenders against her laws.

2. We have no right to prejudice another in his civil employment because he is of another church. (Notes on Religion, Writings of Thomas Jefferson. See Ford edition, vol. II, p. 99.)

I do not like [in the Federal Constitution] the omission of a bill of rights, providing clearly and without aid of sophisms for freedom of religion. (Jefferson to Madison (December 1787.) See Ford's edition of his writings, vol. IV, p. 476.)

I sincerely rejoice at the acceptance of our new Constitution by nine States. It is a good canvass, on which some strokes only want retouching. What these are, I think are sufficiently manifested by the general voice from north to south, which calls for a bill of rights. It seems pretty generally understood that this should go to * * * religion. * * * The declaration that religious faith shall be unpunished, does not give impunity to criminal acts, dictated by religious error. (Jefferson to Madison (July 1788.) See Ford's edition of his writings, vol. V, p. 45.)

One of the amendments to the Constitution * * * expressly declares that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press"; thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press; insomuch that whatever violates either, throws down the sanctuary which covers the others. (Jefferson, Kentucky Resolutions (1798). See Ford's edition of his writings, vol. VII, p. 295.)

In matters of religion I have considered that its free exercise is placed by the Constitution independent of the powers of the general Government. I have, therefore, undertaken, on no occasion to prescribe the religious exercises suited to it; but have left them as the Constitution found them under the direction and discipline of State or church authorities acknowledged by the several religious societies. (Jefferson's Second Inaugural Address (1805). See Ford's edition of his writings, vol. VIII, p. 344.)

I do not believe it is for the interest of religion to invite the civil magistrate to direct its exercises, its discipline, or its doctrines; nor of the religious societies, that the General Government should be invested with the power of effecting any uniformity of time or matter among them. (Jefferson to Rev. Samuel Miller (1808). See Ford edition of his writings, vol. IX, p. 175.)

Thomas Jefferson, writing to Albert Gallatin, June 16, 1817, said:

Three of our papers have presented us the copy of an act of the Legislature of New York, which, if it really has passed, will carry us back to the times of the darkest bigotry and barbarism to find a parallel. Its purport is that all who shall hereafter join in communion with the religious sect of Shaking Quakers shall be deemed civilly dead, their marriages dissolved, and all their children and property taken out of their hands. * * * It contrasts singularly with a contemporary vote of the Pennsylvania Legislature, who on a proposition to make belief in God a necessary qualification for office, rejected it by a great majority, although assuredly there was not a single atheist in their body. (See Ford's edition, vol. X, p. 91.)

MADISON

James Madison, writing from Montpelier, July 10, 1822, to Edward Livingston, said:

I observe with particular pleasure the view you have taken of the immunity of religion from civil jurisdiction, in every case where it does not trespass on private rights or the public peace. This has always been a favorite principle with me. * * *

I should suppose the Catholic portion of the people [of Louisiana] * * * would rally, as they did in Virginia when religious liberty was a legislative topic, to its broad principles. * * * In a Government of opinion like ours, the only effectual guard must be found in the soundness and stability of the general opinion on this subject. Every new and successful example, therefore, of a perfect separation between ecclesiastical and civil matters is of importance. (Madison's Writings (Philadelphia, 1865), vol. III, pp. 274–75.)

LINCOLN—MARCH 4, 1864—MEMORANDUM ABOUT CHURCHES

I have written before, and now repeat, the United States Government must not undertake to run the churches. When an individual in a church or out of it becomes dangerous to the public interest, he must be checked; but let the churches, as such, take care of themselves. It will not do for the United States to appoint trustees, supervisors, or other agents for the churches.

I add if the military have military need of the church building, let them keep it; otherwise let them get out of it and leave it and its owners alone, except for causes that justify the arrest of anyone. (Lincoln's Complete Works, edited by Nicolay and Hay (New York, 1894), vol. II, p. 491.)

THEODORE ROOSEVELT

During the campaign of 1908 there were some who objected to Taft as a Unitarian. After the election Theodore Roosevelt wrote under date of November 6, 1908, to J. C. Martin:

To discriminate against a thoroughly upright citizen because he belongs to some particular church * * * is an outrage against that liberty of conscience which is one of the foundations of American life. (Works of Theodore Roosevelt (Scribners, N. Y., 1921), vol. XVI, p. 46.)

PUBLIC-UTILITY HOLDING COMPANIES IN THE STATE OF OREGON

Mr. EKWALL. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. SNELL. Reserving the right to object, Mr. Speaker, is there any more real business to come before the House this afternoon?

Mr. EKWALL. What does the gentleman mean by "real business"? [Laughter.]

The SPEAKER. The Chair is not so advised.

Mr. SNELL. Is there any further legislative business?

The SPEAKER. The Chair has no information of any.

Is there objection to the request of the gentleman from Oregon [Mr. EKWALL]?

There was no objection.

Mr. EKWALL. Mr. Speaker, this seems to be rather a family affair. Most of the real business for the day, as the minority leader has mentioned, seems to be concluded. I would like to sort of correct my colleague from the Second District of Oregon, whom I personally love and respect on account of his years and experience.

I want to say that his talk on yesterday was about a minute or 2 minutes on the floor, and then under the provision of unanimous consent, whereby he extended his remarks, he has put three or four pages in here, in which he has seen fit to criticize my colleague, Mr. MOTT, from the First Oregon District, and myself. In part, he said:

I am amazed to learn that a Congressman representing those investors can raise his voice in defense of the financial pirates who robbed us.

Well, I did not raise my voice in behalf of the holding companies of this country, and I did not raise my voice in behalf of any financial pirates. I thought I made myself perfectly clear also that I was raising my voice on behalf of the innocent investors, on behalf of certain helpless citizens of this country.

I said at that time, among other things:

I hold no brief for holding companies as such. Some of them are good and some of them are bad; but I submit that with honest utility-commission officials and efficient corporation commissioners, who will fulfill their oaths of office and conduct themselves properly, that with proper regulation the utility holding companies and the utility companies can be curbed.

Mr. FERGUSON. Mr. Speaker, will the gentleman yield?

Mr. EKWALL. I yield.

Mr. FERGUSON. How did the gentleman vote on the holding-company bill?

Mr. EKWALL. I voted against the holding-company bill because I think there is a "death sentence" clause in it, and that it is unconstitutional.

Mr. FERGUSON. The gentleman voted against regulation, then.

Mr. EKWALL. No; I did not vote against regulation. I voted against the "death sentence." I am for regulation. I have stated that on the floor and it is in the RECORD; but I did not state it in a minute or two here on the floor and then put in a lot of extraneous matter in the RECORD that my colleagues could not hear; and I resent to a certain extent my colleague from eastern Oregon putting in these remarks without even giving my colleague, Mr. MOTT, or myself a chance to know they were there except to run across them rather accidentally.

Mr. Speaker, I do not yield to the gentleman from Oregon [Mr. PIERCE], or to anyone else, my interest in the citizens of my country or the users of electricity; neither do I think that I should be criticized here because I have raised my voice on behalf of the millions of investors in this country whose life savings I thought were imperiled; and I stand by my record on the floor of the House on this bill and on my speech on last Friday. I will compare it with that of my worthy, genial, and aged colleague from eastern Oregon. Methinks the gentleman protesteth too much. My colleague, Mr. PIERCE, exhorts us all to stand by the President in this particular piece of legislation; but when legislation is considered which has for its purpose inflation of our currency notice the alacrity with which he switches position. He does not hesitate to disagree with our President, when it suits his fancy, but he swears undying fealty when he sees eye to eye with his Chief.

In closing, I reiterate that I am not in anywise championing the cause of any holding company, but I am speaking for the millions of investors who have done no wrong, and who should not be punished because some crooked manipulators have acted in an unconscionable manner in the past. I would have been glad to vote for a strict regulatory measure, but I felt that the bill in question was unwise, illegal, and unfair to investors who are in position to lose their all by its passage.

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the gentleman from Oregon [Mr. PIERCE] may proceed for 5 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. PIERCE. Mr. Speaker, I am at a disadvantage, for I did not come into the Chamber until near the close of the speech of the gentleman from Oregon [Mr. MOTT], having been detained by urgent departmental business for my constituents.

Mr. Speaker, if my speech in the RECORD of July 1 has attracted attention, I am glad of it. I stand on every word of it. I regret that men representing districts of Oregon that have been victimized by holding companies should cast their votes today to leave in existence companies that will do what they did in Oregon. We all know that is what is meant by the House amendment, and the talk about removing any "death penalty" clause is a mere subterfuge, possibly intended to render the act unconstitutional or to delay regulation by endless litigation. I admit it is a clever propaganda, but it is not satisfying to those who really want to better conditions for investors and consumers.

Some years ago we had an electric operating company doing business in Portland, Oreg., a company that was supposed to be solvent. Portland is a most desirable place for an electric power company, because it has an abundant and regular supply of water power and a population ready to buy electricity.

The Albert E. Peirce Co., a subsidiary of Electric Bond & Share, secured control of the stock of the local operating company. The first thing that happened thereafter was an order for the operating company to take stock in the Central Public Service Corporation, an Albert E. Peirce holding company, and transfer it for stock in the operating company. Next came an order to the operating company to take $6,753,748 from its treasury, money belonging to its stockholders, and purchase stock in the Seattle Gas Co. That stock was worth $15 per share on the market, but they paid therefor $225 per share—15 times its market value. The holding company then caused the operating company in Portland, Oreg., to enter on its books $6,753,748 for "equipment and plant", when they never bought a bit of equipment nor improved the plant.

The operating utility was simply forced to purchase the worthless stock of the Seattle Gas Co. It has all been published time and again in the Portland papers, and, so far as I know, never denied. I gave the history in my speech yesterday. I cannot conceive how any man representing a district so victimized could cast his vote to leave in existence holding companies that can rob the people in this manner.

The holding company increased the debt of the operating company in Portland, Oreg., from $45,000,000 to $71,000,000, and then went into bankruptcy, not, however, until after

the holding company had sold their stock all through that country to the amount of millions, victimizing the purchasers. Then they had the audacity to go back and get those poor people whom they had swindled to telegraph here to me, and I presume to the genial judge, and to the former corporation commissioner, my colleagues from Oregon, urging support for the holding companies. I surely did not follow their advice. Let the RECORD speak for my colleagues.

Do the holding companies think they can fool all the people all the time? Are the holding companies promising to give back some of the money that they have stolen from the people?

Mr. McFARLANE. Will the gentleman yield?

Mr. PIERCE. I yield to the gentleman from Texas.

Mr. McFARLANE. The majority, today, has voted to perpetuate this same racket all over the Nation, which, if not stopped, will continue to extract from the pockets of the electric consumers about $1,000,000,000 annually, of which $6,510,000 comes from the people of Oregon. The stock racket, which you mention for Oregon, has gone on Nation-wide. It is the same kind of a racket exactly.

Mr. PIERCE. Answering my colleague from the western Oregon district, who assumes that, since he became corporation commissioner in Oregon, there has been no chance to do anything except write into the capital stock of a company in Oregon or Washington, honest investments, real money invested; may I say that the late corporation commissioner of Oregon evidently does not know what is going on and what has gone on. I assert to him and to my colleagues in this House, that there is not an electric power company in Oregon but what can be duplicated for a far less amount of money than is being carried in their capital structure today.

OREGON NOT "SAFE" FROM UTILITY EXPLOITATION

I have no desire to enter into a controversy over petty or personal matters with my colleague from Oregon. I cannot understand his position taken on this floor when he states (CONGRESSIONAL RECORD, p. 10430) that Oregon is safe because "no company of any kind in the United States can sell one of its securities in the State of Oregon without first receiving a permit from the corporation commissioner of that State." Corporation commissioners sometimes make mistakes. Such a mistake was made when a permit was issued to Albert E. Peirce & Co., to act as brokers and sell stock in the State of Oregon. One who issued that commission cannot escape responsibility for the financial disaster which followed. My colleague further asserts complete confidence in the ability of State officers or regulatory bodies to deal with the problem. Why was action not brought against these particular racketeers? There were many who relied upon the State to prosecute the company which was unfortunately allowed to operate in Oregon.

The facts of the case are that Oregon has not been, and is not today, sufficiently protected from the depredations of fraudulent, piratical holding companies. Never, during our long struggle for power rights, have the utilities been in such ruthless control. The situation in Oregon is, as my colleagues have stated, "satisfactory", but for the utilities, and not for the people. The rackets have not been stopped in Oregon. I do not know that it can be done, and that is one reason why I voted for abolition of holding companies. They still exist, and move in their own mysterious ways their wonders to perform. They work in the interests of their Wall Street backers.

BONNEVILLE POWER MUST BE PROTECTED

Oregon is paying twice what it should pay for electric energy. Yes; twice what it will pay if we are allowed to distribute the electric power from Bonneville at cost, plus a sufficient amount to amortize the investment in 50 years. That is our present problem, one which this body must help to decide. Think of the heritage we may leave to our children, those of the next generation—the electric energy of the Columbia River harnessed, paid for, and ready for use! Millions upon millions of kilowatts! It can never be done if the racketeers of Wall Street are allowed to stand between the Government-erected power plant and those who desire to use the electric energy. This opportunity must be protected from abuse by predatory interests. You must, by your votes, guarantee that protection.

Under unanimous consent of this body I withheld insertion in the RECORD of my remarks of July 2, in order to secure from Oregon an authoritative statement on the utility situation in Oregon today, said by my colleagues to be "satisfactory." This statement, which follows, is made by C. M. Thomas, utility commissioner of Oregon for 4 years, retiring last February. May I point out the fact that our utility companies still charge to operating expenses, contributions for political purposes? The press of Oregon has reported within the month an order of the present commissioner refusing further continuation of allowance as "operating charges" in a utility budget of $3,500 as a contribution to the National Security Owners' Association, whose propaganda has been on your desks this winter.

STATEMENT OF FORMER OREGON UTILITIES COMMISSIONER

SALEM, OREG., *July 8, 1935.*

Hon. WALTER M. PIERCE, M. C.,
Washington, D. C.

DEAR SIR: Acknowledgment is made of the receipt of your letter in re present situation in Oregon concerning public utilities, particularly referring to watered stock, dividends thereon, and holding-company fees and charges.

This information is embodied in my final report to the Governor under date of February 11, 1935. Referring only to the larger companies, the report states: "The three companies comprising the Electric Bond & Share Co. group already mentioned are carrying enormous amounts in their capital structures as common stock for which the operating company received nothing of value. This is known as 'watered stock.' Dividends have been paid on this stock. The following gives the name of the company, the date of the issuance of the watered common stock, the gross amount of dividends paid thereon, and the total service fees of each company:

Name	Year	Amount	Dividend	Service fees
Northwestern Electric Co	1914	$10,000,000	$890,000.00	$340,593.32
Pacific Power & Light Co	1910	4,764,553	1,130,920.54	1,686,966.84
Portland Gas & Coke Co	1910	2,446,100	3,616,860.37	1,384,632.35
Total for group		17,210,653	5,637,780.91	3,412,192.51

"The amount of watered stock, $17,210,653.

"The ratepayers of Oregon have provided these dividends and service fees.

"The preferred-stock holders have also suffered through loss of dividends.

"In 1934–35 the Northwestern Electric Co., having delivered notes previously to the American Power & Light Co. for dividends on the said $10,000,000 of common stock, took up said notes, paying the sum of $649,957, and passed the preferred-stock dividends, although they were earned."

HOLDING COMPANY FEES AND CHARGES

Under this heading the report states:

"The commissioner has and does consider the holding-company question the most important of all the many questions involved in the subject of the control of operating companies. Great progress has been made in this field. While commissions throughout the United States and members of the public have constantly criticized holding-company charges and fees, no practical solution had been offered until the commissioner on November 1, 1934, entered order in the cases involving the California-Oregon Power Co. and the Mountain States Power Co. This order provided that the Byllesby Engineering & Management Co. may serve the local operating companies under the following conditions:

"1. That the present contracts providing for payment on percentage of gross revenue be canceled on the ground of public policy.

"2. That a percentage charge of gross revenue or a charge by allocation is hereafter prohibited.

"3. That services may be performed and paid for under a new contract, providing:

"(a) The contract is submitted to and approved by the commissioner.

"(b) That such services must be necessary and essential to the operation.

"(c) The fee or charge must be for a definite amount, based on the actual cost of performing or furnishing.

"(d) The account must be itemized and so entered upon the books of the operating company.

"(e) Provided that if such cost exceeds the reasonable price then such reasonable price shall prevail.

"This order has been accepted by both of said companies and is now in operation.

"A list of the companies which have discontinued payment of holding-company service and managerial fees as per order of the commission, together with the amounts involved are as follows:

Portland General Electric Co., Portland Traction Co. (street car), Portland Electric Power Co. (interurban), Yamhill Electric Co., Molalla Electric Co	$268,488
West Coast Telephone Co	4,600
Oregon-Washington Water Service Co	6,000
Oregon-Washington Telephone Co	1,306
California-Oregon Power Co	121,000
Mountain States Power Co	52,183
	453,567

"There remain but two of the larger companies or groups in the State which contend that the old method of assessing and collecting holding-company fees and charges on the percentage of gross-revenue basis and the allocation method should be retained. These strenuously insist upon a retention of the old system. They are as follows:

"The Pacific Telephone & Telegraph Co. with its subsidiaries. These fees were rejected in the commissioner's order, which order is now in the Circuit Court of Multnomah County on appeal, and amount to an annual charge of $95,644.

"The second is known as the 'Electric Bond & Share Group.' The American Power & Light Co. holds the common-stock control and the service charges and fees are collected by the Electric Bond & Share Co. from the following:

Northwestern Electric Co	$53,755
Pacific Power & Light Co	48,740
Portland Gas & Coke Co	47,683
	150,178

Since this report was filed the new administration, according to the press, dismissed the California-Oregon Power Co. case, of which the order mentioned was a part, thereby restoring the old contracts, so that the total for 1934 would be increased by that amount. All these holding-company fees are based on percentages of gross revenue. During the depression, the amounts paid have materially decreased, as is shown by comparison with even the year 1932.

In 1932 the charges assessed by holding companies against Oregon operations were as follows:

Northwestern Electric Co. to Electric Bond & Share Co.	$55,944.06
Portland Gas & Coke Co. to Electric Bond & Share Co.	60,061.86
Pacific Power & Light Co. to Electric Bond & Share Co.	71,075.20
California-Oregon Power Co. to Byllesby E. & M.	206,365.27
Mountain States Power Co. to Byllesby E. & M.	100,183.84
Pacific Telephone & Telegraph Co. to American Telephone & Telegraph Co.	128,491.03
Portland Electric Power Co. to Central Public Service	268,000.00
	890,121.26

Upon the public utilities commissioner's order, the $268,000 was not paid, making total paid $622,121.26. This does not include some of the small company payments.

Notwithstanding that regulation in Oregon was provided for by statute about 1911, it has never been established by administration. Oregon like most States demands efficient regulation, but provides meager and insufficient funds to accomplish results against untiring and adequately financed organizations. The smaller and some of the larger utilities here have cooperated with the commission, but such utilities as the Pacific Telephone & Telegraph Co., subsidiary of the American Telephone & Telegraph Co., and the Electric Bond & Share group referred to, not only oppose regulations every step but openly defy it. This last group has successfully avoided the establishment of valuations and rate bases.

In 1930 this group expended for donations and political contributions the following:

Northwestern Power & Light Co	$24,280
Portland Gas & Coke Co	30,234
Pacific Power & Light Co	30,758
Total	85,272

Regulation cannot be said to be established unless and until the larger utilities are compelled to submit to the same supervision as the smaller. The situation in the State is thoroughly unsatisfactory to the public.

In connection with overcharges, the overcharges here are enormous growing out of many angles of which several are, viz: (1) Excessive salaries, (2) donations, (3) political contributions and expenditures, (4) merchandising under which losses are charged to ratepayer, (5) stock-selling activities, (6) memberships and dues in clubs of all kinds, (7) holding-company fees.

State regulation cannot succeed until Congress provides effective control and supervision of defiant financial interests foreign to the State.

Very truly,

CHARLES M. THOMAS.

COMMITTEE ON MILITARY AFFAIRS

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent that I may have until 6 o'clock tonight to file a report of the Committee on Military Affairs in reference to House Resolution 330, which is a very innocent resolution to close Military Road in the interest of human life.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

EXTENSION OF REMARKS

Mr. PIERCE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD and to include therein a letter from the recently retired public service commissioner of the State of Oregon in reference to the exact condition of the utilities out there at this time.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

HOLDING COMPANIES

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. MAVERICK. Mr. Speaker, I have heard much in speeches on this bill of demagogues and corporations—and I almost said, of cabbages and kings. I have heard about the "brain trust"; about the goose that laid the golden eggs—a hundred or so slogans used, as usual, to keep people from thinking. By a resounding use of the word "brain trust" one is supposed to justify contempt for some employee of the Government or other person who has some education and brains. Personally, I have no contempt for a man just because he has brains and an education. Someone shouts, "You must not kill the goose that lays the golden eggs", which sounds good but does not mean anything, for we well know that if we release the investors from the racketeering and heavy expenses and service contracts of the holding companies the investors will be better off, as well as the consumers.

I have heard some able speaking on irrelevant subjects. One of my colleagues claims to be not only a Democrat but a "Jeffersonian" Democrat and a "southern" Democrat. It is true that he is from the South. So am I. I have heard the President compared, by innuendo, to Stalin, Mussolini, and Hitler; have heard the Democratic platform of 1932 referred to. The Democratic platform has been referred to numerous times concerning the "regulation" of holding companies, and yet the following was not quoted:

> We advocate strengthening and impartial enforcement of the antitrust laws—

And listen closely—

> to prevent monopoly and unfair trade practices, and revision thereof for the better protection of labor and the small producer and distributor; the conservation, development, and use of the Nation's water power in the public interest.

Also, in reference to holding companies, the words specifically say:

> Regulation to the full extent of Federal power of—
> (a) Holding companies which sell securities in interstate commerce.
> (b) Rates of utility companies operating across State lines.

I think if we review all angles of this matter thoroughly that we must construe the holding companies we seek to eliminate as "monopolies"; likewise we believe that we have shown that they have "unfair trade practices"; and then, to follow the rest of the thought, "regulation to the full extent of Federal power", it seems to me that the Senate bill is principally such regulation; that we regulate the holding companies in interstate commerce; that we confine them to a State or economic and geographic integrated areas. We insist upon certain simplifications and reorganizations. The word "abolish" is used. It means, on analysis, that certain

gigantic organizations that in effect violate both Federal and State laws will have certain features of their corporate organization abolished. But the main purpose will be simplification in order that the people may know what they have.

To go on with the Democratic platform, however, let me go back to 1912 and quote that platform, which was adopted when Woodrow Wilson was a candidate for President, and which platform he approved. It says:

1912

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade including, among others—

Now listen closely—

the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

You will note that it says the "prevention" of holding companies. And I believe that it is more or less historically correct to say that the Democratic Party has always been against holding companies altogether. And everyone knows the Senate bill does not even abolish them all. Many others have described its full provisions. In any event, I have quoted the platform of the Democratic Party in order to clarify the subject, but it seems aside from the platform that the Senate bill is good common sense.

Now, let us analyze the Senate bill and see whether or not there is anything socialistic about it. Some speakers have said so. But the Senate bill is no more socialistic than the House bill; and I cannot see, according to any principle of socialism, that either bill has the slightest socialistic tinge about it. Then, why say the Senate bill is socialistic? I cannot see why it is socialistic to have our corporations in such shape that we can handle them. Neither bill provides for public ownership. The Senate bill has the miscalled "death sentence", and this section seems to me to be just old-style Democratic political principle, and it seems to me to be good economics. When any organization becomes too complicated in its various combinations, organizations, subsidiaries, and various similar and dissimilar names, too widely spread and too powerful, it must in some manner be curbed, and such as is harmful corrected by abolition of certain features or regulation. That does not mean that we are opposed to big corporations, but it does mean that we are opposed to corporations which cannot in any way be controlled. So that, I think, disposes of the socialism issue. It is not necessary to defend or denounce socialism, except to say that this bill in no way attaches itself to socialism, and is wholly irrelevant.

And then we get to Thomas Jefferson. He always hated and despised monopolies; there is no question but that the holding companies sought to be eliminated or regulated are monopolies. The Democratic Party, from month to month and year to year, has always denounced monopolies; then if you get down to Democratic doctrine, as a matter of fact, this bill, which seeks to eliminate the unnecessary holding companies and to confine whatever holding companies are left, such as those which operate in a geographical and economic area, or those within a State, why that is simply good Democratic doctrine. And you can say, as far as that is concerned, that it is good, southern Democratic doctrine.

Let us discuss for a moment the matter of corporations as a whole.

All of us know that the problem of government is difficult at best. There is not a man in this House who does not know that it is one thing to make laws and quite a difficult thing to make laws that will actually reach the abuse we are aiming at or that will stop when it reaches its mark. It is difficult enough to govern the individual citizen. There are vicious and violent and cunning men among us who know how to evade the law, to bribe the law administrator, to escape in numerous ways the processes of the law. But, difficult as this is, it is a comparatively easy task compared with the efforts to govern the corporation.

I do not wish to attack the corporation as a useful instrument of organization in industry. They are necessary. But, as practical legislators, we have got to recognize that the bigger, the richer, the more powerful the individual citizen is, the more difficult it is for the Government to reach him if he is disposed to defy it. And in the corporation we have erected fictional legal beings, separate and legal personalities, which are bigger than any citizen can hope to be. The corporation unites the resources of thousands, even hundreds of thousands of individuals. And while those resources belong to the corporation, the corporation itself becomes an instrument in the hands of the small group of men who dominate it. I know that many such groups use those corporations for useful, productive purposes. But we all know that there are many which have been used for the selfish aggrandizement of the men who dominate them. All of us, I think, will agree on these points.

Now again, I repeat, I do not want to do away with the corporation merely because it is so big and powerful. But I say that as practical men, holding in trust the welfare of the Nation, we have to be sure that we do not permit the corporation to grow so large, so powerful, and having such wide economic and political influence that it becomes too big to govern—or so big that it dominates the Government itself.

This in turn means that we do not permit the corporation to possess attributes which, in their very nature, put it beyond the reach of the Government. You can govern the citizen because you can identify him; you can put your hand on him; you can locate him. But you cannot locate the corporation, you cannot put your hand on it. What do I mean by this? Well, the citizen is a man. He has a name. He is a single individual. You do not permit him to divide himself up into two or a dozen or a score of individuals. You do not permit him to operate under an alias. But the corporation can do all these things. By means of the holding-company device, a corporation can split itself up into a score or a hundred corporations. Every department of a business can be made into a separate corporation with a different name. In one State the business is conducted by one corporation, in another State by another. Assets can be passed around. Funds can be juggled; books become utterly incomprehensible. Some of these corporate structures are so complicated that the men who run them cannot remember their countless ramifications. It is said that Ivar Kruger killed himself when he lost his recollection of the interminable tangle of corporations in his vast web and could not keep track of it.

Samuel Insull controlled the light and power resources of 5,000 American cities. Owen D. Young on the witness stand testified that when he went to look into the Insull tangle he could not understand it. No government can understand it. No government can reach it. No government can govern a being which is so vast, so complicated, so indefinable, and which, before the law, actually enjoys, by government franchise, the dangerous privilege of being 10, 20, or 100 beings. We must make up our minds that we must cut these monsters down in size and simplify them in nature to the point where we can subject them to the reign of law or we must abdicate and declare that we are too weak to govern them.

Now on the question of the investor. Right here let me say this. I am growing weary of this incessant, ceaseless clamor of fire alarms that are being touched off by big business at every important piece of legislation pending in this House. Every bill that has been introduced has brought down here a gang of lobbyists who have cried out to the American people that if the bill were to pass American business would be destroyed and chaos would overtake us.

The bankers are here yelling that the Reserve bank bill will ruin all the banks. The utility people are here saying that this utility bill will destroy our utilities, wreck a $16,000,000,000 investment, and bankrupt the investors. The tax bill will destroy what is left of business. The farm bills will wreck the processors of basic commodities. The labor bill will crush industry. Last year they said the Securities Act would end investment. And they told us if the stock exchange bill were passed it would end our financial system.

These men are engaged in one ceaseless, indiscriminate, boisterous ballyhoo of disaster and destruction, and I think it is time to stop it.

On this bill they are telling the investors that it will force the dumping of shares on the market in the midst of a great depression and that this will wreck all values. They know that is not so. Of course, some shares will have to be sold. But the companies will have from 3½ to 4½ years to make their sales. Do they mean we are still going to be in the depression in 1940 and after?

And why will it be necessary to dump shares of operating companies on the market? The Standard Oil Co. of New Jersey, in 1911, was a holding company and the Supreme Court dissolved it. It did not sell a single share of its operating companies. And it was not destroyed. The General Electric was a holding company as to the shares of Electric Bond & Share back around 1924 or 1925. It did not sell those shares. It merely passed them around to its own shareholders. There are plenty of examples of that. They told us back in 1932 when Senator GLASS introduced a bill to compel banks to divest themselves of their affiliates within 2 years that this was not enough, that it would take 5 years and that this would work great hardship on the banks and affiliates. But then came the exposures of the National City Bank and the Chase National Bank. The Chase Bank saw it was on the spot and, without waiting for any law, its directors announced that it would divest itself of its affiliates and it did so within a few months. And did this wreck the bank? Did it wreck the affiliate? Why I read in the paper the other day that the shares of that affiliate, now known as the "Boston Co.", have had the most sensational rise in the market of any stock.

Some of these companies will prove a little difficult to untangle. Of course, that is so. But it can be done. There is not one cent of value in these holding companies save the value that it is the operating companies which they own. If we do nothing to impair that, the values that are left can be distributed among the investors who own the shares. These men know that. This talk about loss is only another case of trying to frighten Congressmen. The American people have lost $16,000,000,000 in holding-company securities. Who got that sixteen billion or at least that portion of it which was paid out by investors in actual cash? The promoters who organize and in most cases still dominate these holding companies. They have robbed the American people of $16,000,000,000, and the weapon they used was the holding company. Now, when this Government proposes that we take that machine gun out of their hands, these fellows, with that $16,000,000,000 still in their pants pockets, come down here and pretend to act as the protectors of the very investors they have impoverished. Here is a corporation, the Electric Power & Light Corporation. Here is an investor who owns a share of stock in it. He paid $83 for it. Now it is worth 85 cents. Standing by his side is a gentleman who says he is the investor's protector and guardian. But he is the fellow who has the investor's $83 in his jeans. Now he looks very pious and says Congress is about to rob him of the remaining 85 cents.

There is really not much left to be destroyed. But what is left ought to be saved for the investor, and the only way to do that is to break the hold of the exploiter on him. The way to do that is to take out of his hands the machine gun—the holding company—with which he has held up the American investor in holding-company utilities of billions and with which he hopes to resume his depredations as soon as times get better.

Now, Mr. Speaker, I have worked up certain information concerning the Commonwealth & Southern Corporation, which has a capital of its 11 operating subsidiaries of some $1,000,000,000.

This study, which I submit here, shows how the simplifications can be made and how it does not in effect abolish anything or destroy anybody's investment, and will, in fact, benefit all of the stockholders of these various companies. The study which I have prepared is as follows:

The Commonwealth & Southern Corporation

(Source: Moody's Public Utilities, 1934–35. A. E. Hay, June 22, 1935)

	Book value as of Dec. 31, 1934	Percent of the total fixed capital of the 11 subsidiaries
Total fixed capital of its 11 operating subsidiaries	$1,013,118,914	
A. Southern group:		
1. Alabama Power Co., Alabama	179,839,589	
2. Georgia Power Co., Georgia	260,992,016	
3. Gulf Power Co., Florida	16,578,625	
4. Mississippi River Power Co., Mississippi	32,929,634	
5. South Carolina Power Co., South Carolina	23,349,575	
6. Tennessee Power Co., Tennessee	98,270,300	
Total fixed capital	611,959,744	60.40
The above group or system fully meets the requirements of the Senate bill 2796.		
B. Northern system:		
7. Consumers' Power Co., Michigan	211,519,257	20.87
The property of this company is also a "geographically and economically integrated public-utility system."		
C. Eastern systems:		
8. Ohio Edison Co.,[1] Ohio	114,631,566	11.31
9. Pennsylvania Power Co., Pennsylvania	12,694,124	1.25
Total	127,325,690	12.56
These 2 properties[1] constitute a "geographically and economically integrated 'public utility' system extending into 2 or more contiguous States."		
D. Illinois group:		
10. Central Illinois Light Co., Illinois	$42,217,990	4.17
Except for a small separate system serving 8 towns in northern Illinois, the "Illinois group" forms "a single geographically and economically integrated 'public utility' system."		
E. Indiana system:		
11. Southern Indiana Gas & Electric Co., Indiana	20,096,233	1.99
This Indiana company also forms a single geographically and economically integrated "public utility" system.		
Total fixed capital	1,013,118,914	100

	Fixed capital	Percent of total
RÉSUMÉ		
The first 3 groups or systems named fully meet, each in itself, the requirements of Senate bill 2796 as to constituting "a geographically and economically integrated public utility system":		
A. Southern group	$611,959,744	60.40
B. Northern system	211,519,257	20.88
D. Illinois system (except for a small separate system serving 8 towns in northern part of the State)	42,217,990	4.17
Total	865,696,991	85.45
The 2 following properties form "a geographically and economically integrated 'public utility' system * * * extending into 2 or more contiguous States":		
C. Ohio and Pennsylvania (except for a small separate system serving about 6 towns in Western Ohio)	127,325,690	12.56
Property which, though forming "a geographically and economically integrated 'public utility' system", for several reasons might have to be disposed of.		
E. Indiana system	20,096,233	1.99
Total of above	1,013,118,914	100

[1] Except for a small separate system serving about 6 towns in Ohio.

COMMENTS

A study of the data herewith submitted clearly shows in any reorganization of the Commonwealth & Southern Corporation, that at least 98 percent in "fixed capital", of its subsidiary properties can be so handled or arranged as to not adversely affect either their outstanding securities or those of the Commonwealth & Southern Corporation, that is, under any well-considered plan no security holder need to lose any money or any of his or her securities.

Neither under the provisions of the Senate bill, S. 2796, with special reference to section 11 (a) to (e), both inclusive, or other sound reason, will it be necessary to sacrifice either property or securities.

The Commonwealth & Southern Corporation may have to divest itself of the following: Its property in Indiana, in Ohio, in Illinois. The first is practically only 1.99 percent of the corporation's total fixed capital, and it doubtless could be sold to other interests operating in Indiana, and without any loss to security holders.

The properties in Ohio and Illinois would amount to about one-tenth of 1 percent of total fixed capital, so that, as to these three properties, the maximum amount involved would be only 2 percent of total fixed capital, in any reorganization of the Commonwealth & Southern Corporation and which does not necessarily mean that much or even any loss to the latter or its stockholders.

The Ohio Edison Co. in 1931 exchanged about four of its properties for a like amount of utilities nearer to its Akron property. In fact, all public-utility holding companies have exchanged properties or acquired them on a basis of exchange of securities—because it suited them to do so.

The Commonwealth & Southern Corporation state, since their organization in 1929, that they have reduced the 165 then constituent companies to its present 11 operating subsidiaries—all of this within about 5 years.

The Public Utility Act of 1935 gives it longer time in which to do much less, and without loss to security holders or itself.

SHIP-SUBSIDY LEGISLATION AND H. R. 8555

Mr. WEARIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. WEARIN. Mr. Speaker and Members of the House, the day following the vote upon the ship-subsidy bill, H. R. 8555, some newspaper accounts reported the struggle as one in which the gentleman from Maine [Mr. MORAN] and the gentleman from Iowa [Mr. WEARIN] had come close to defeating an administration measure requested by President Roosevelt. I have challenged a similar statement appearing prior to the vote from the floor of the House and afford myself of this opportunity to reiterate that same challenge. Members of the House were told under varying circumstances that Roosevelt's ship-subsidy bill was at stake, which I will deny until our distinguished leader in the White House indicates that I am in error.

The Chairman of the House Committee on Merchant Marine and Fisheries stated in the hearings that the bill under consideration at that time was not an administration measure. During the course of the debate on the floor he stated definitely that he had not discussed the proposal in person with President Roosevelt and went only so far as to state that the Secretary of Commerce had approved the proposed legislation. In fact, the proponents of the bill repeatedly made the statement that it differed in several marked respects with the suggestions of the President in his special message to Congress. That is evidenced by the fact that he recommended a reorganization of the administrative machinery and a separation of the regulatory functions from administrative duties, the former to be placed under the supervision of the Interstate Commerce Commission. H. R. 8555 does not conform with this request.

With reference to the corrupt mail contracts awarded under title IV of the 1928 act, the President suggested that the Congress end this subterfuge and indicated that we should terminate existing contracts. H. R. 8555 conforms only in part with this suggestion. It does prevent their renewal or extension, but it permits the said contracts now in force to continue until they have expired, if the President sees fit to permit such a state of affairs. Such a provision fails to comply with the suggestion that we end the subterfuge, but what is even worse it continues to "pass the buck" to the Chief Executive.

The President also suggested in his special message to the Congress that we terminate the business of lending Government money for shipbuilding. H. R. 8555 does not do this, but continues and glorifies the evil. It is entirely possible that the shipping interests of this country can secure loans that will total more than 80 percent of the cost of the ship and then trade in their obsolete bottoms as part and perhaps full payment on the balance due. It should be evident from the above facts and from the very admissions of the proponents of the bill themselves in the hearings before the committee and on the floor of the House that the bill now before the Senate does not follow the suggestions of the Chief Executive based upon the findings of the investigation on the part of the Post Office Department, but disagrees in vital respects. It cannot, therefore, be said that the measure that so recently passed the House by a narrow margin is an administration bill. The facts indicate we can reasonably assume the opposite to be the case.

One of the principle objections I raised to H. R. 8555 was the fact that many of its sections incorporate a specific prohibition against many of the evils that have been brought out by recent investigations, and that all admit should be stopped, such as the tendency to pipe out subsidies through the agency of subsidiaries and similar unfortunate circumstances that have cost the American taxpayers millions of dollars without having resulted in a better merchant marine under the 1928 act, and then in the concluding sentences of the said sections include permissive authority to permit the recurrence of such evils on the part of the body charged with the administration of the pending bill. Such permissive authority is a direct contradiction of the avowed purpose on the part of the proponents of the bill to prevent a recurrence of what has happened under old ship-subsidy legislation. If a thing is bad, it should be prevented and no agency of the Government granted the authority to permit its recurrence. In answer to my charge the statement was repeatedly made that the President can be trusted to select the proper personnel. That is true; but Franklin D. Roosevelt will not always be President of the United States. Our experience has been that even where any part of the Government has been granted limited jurisdiction in the administration of subsidies abuses have occurred, inspired, no doubt, by those who were to profit thereby. With that thought in mind, I discover in Senate Report 898, covering Preliminary Report of the Special Committee to Investigate Ocean and Air Mail Contracts (pp. 34, 35, and 36), certain facts which, in my judgment, it has now become necessary to place before the Congress and country, through the agency of the RECORD, in an effort to protect the public interests.

Government officials, charged with the administration of this subsidy, have on various occasions taken illegal action, in some instances previously objected to by the Comptroller General, and in at least one case directly disregarding the expressed desire of Congress.

In spite of the fact that Congress had specifically forbidden the payment of any moneys on the purported contract of Seatrain Lines, Inc., the Post Office Department, under Postmaster General Brown, regularly dispatched mails under this contract. Such dispatch continued until the fall of 1933, when it was first brought to the attention of executive Post Office officials of the present administration and was promptly discontinued.

As a result of transactions involving the sale of a Shipping Board vessel, steamship *Storm King*, and concessions on the sale price of certain stores, it appears that the Export Steamship Corporation was permitted to profit at Government expense in the amount of $152,082.79. Without apparent authority in law, the United States Shipping Board Merchant Fleet Corporation has paid out in premiums on vessels sold by the Shipping Board to the Export Steamship Corporation $457,457.19, $240,000 of which has been repaid by the Export Steamship Corporation, leaving an outstanding amount of $217,457.19.

The Comptroller General has consistently taken exception to the operating agreement of 1930, commonly known as the "lump sum" agreement, upon the ground that such agreements are illegal. Notwithstanding the expressed position of the Comptroller General, millions of dollars have been paid out under such agreements, some of which are still in effect. Appropriations, however, have been passed providing for payment under the operating agreement of 1930.

On November 14, 1932, the Comptroller General advised the Shipping Board that it was without authority to pay the United States Lines Co. to assume their extended liability in connection with prepaid tickets sold by the Government prior to April 8, 1929.

Prior to this ruling, however, and on September 16, 1932, the accounts in question had been assumed by the United States Lines Co., which for assuming the account, received from the Shipping Board $216,639.96, and had disbursed to December 31, 1933, against the assumed liability, only $18,731.

In the spring of 1929 the vessels of the American Merchant Lines and the United States Lines, regarded as the prize fleet operated by the United States Shipping Board, were sold to the United States Lines, Inc., for $16,000,000, 25 percent of which was paid in

cash. A large amount of stock in the United States Lines, Inc., was sold to the general public.

In 1931 the United States Lines, Inc., experienced financial difficulty in complying with the construction requirements of its mail contracts. As a result of this situation, which involved construction loans, the United States Shipping Board compelled the United States Lines, Inc., to name as 4 of its 7 directors, 4 nominees of the Shipping Board, Ira A. Campbell, Robert L. Hague, Edward N. Hurley, and Franklin D. Mooney. In the month of July 1931 the Shipping Board began to press for some reorganization of the United States Lines, Inc., and advised representatives of various steamship companies of its intention. The Board eventually offered for sale the notes of the United States Lines, Inc., in the approximate amount of $11,000,000. The highest bid was made by a group composed of the Dollar, Dawson, and Chapman interests, the International Mercantile Marine being one of several unsuccessful bidders. The bid of the Dollar-Dawson-Chapman group, submitted on August 17, 1931, was not immediately accepted by the Shipping Board. However, on October 13, 1931, a contract was entered into between Messrs. Dollar and Dawson and representatives of the International Mercantile Marine Co. whereby the International Mercantile Marine Co. obtained an interest in the new company to be organized upon the acceptance of the Dollar-Dawson-Chapman bid. On October 30, 1931, the United States Lines Co., a Nevada corporation, organized pursuant to the bid of the Dollar-Dawson-Chapman group, and in which the International Mercantile Marine Co. had obtained an interest by the contract of October 13, 1931, entered into a contract with the Shipping Board for the purchase of the notes for $3,170,900. While less important and more reasonable concessions had theretofore been refused to the United States Lines, Inc., by the Shipping Board, this contract made among others the following concessions to the new company. The contract provided for the redelivery of the steamship *America* and the steamship *George Washington* to the Shipping Board and the cancelation of the outstanding indebtedness on these two ships. The outstanding notes purchased amounted to $8,983,620.56, which the new company purchased for $3,170,900, a net reduction in the amount of $5,812,720.56. All payments on the amount of $3,170,900 were deferred for 3 years. No interest was to be paid on the outstanding indebtedness of $3,170,900 until October 30, 1934, at which time interest was to and did begin to accrue at 4½ percent. Miscellaneous payables due the Shipping Board by the United States Lines, Inc., in the amount of $196,168 were deferred for a period of 3 years.

The International Mercantile Marine Co. was represented in this transaction by Mr. Cletus Keating, law partners of Ira Campbell, placed upon the board of directors of the United States Lines, Inc., by the United States Shipping Board. Chauncey Parker, who, as general counsel for the Shipping Board, drew the contract of October 30, 1931, in which the concessions detailed above were granted to the new company in which the International Mercantile Marine Co. was interested, held 6-percent bonds of the International Mercantile Marine Co. in the amount of $10,000. Postmaster General Brown, when he approved subcontracts on mail routes 43 and 44 by the United States Lines, Inc., to the new United States Lines Co., in which the International Mercantile Marine Co. had an interest, held over 4,000 shares of stock in the International Mercantile Marine Co.

In spite of the fact that the law gave the Postmaster General no power beyond that of making contracts to carry the mail, it is conclusively established that in letting these contracts no real attention was paid to the effect of such action upon the Postal Service. In every instance where, on grounds bearing no reasonable relation to "mail", the Postmaster General determined to let contracts for the carriage of the mail, he stood ready to and did certify the proposed service as a "mail route." The incorrigible optimism of the Postmaster General as to the "substantial volume of parcel post which might be developed" on routes whereon no mail moved when the contract was let has been equalled only by the ingenuity of the operators in making this optimism bear fruit in correspondence addressed by themselves to their agents abroad and especially ear-marked for carriage by their "mail contract" ships (lest benighted postal employees, concerned with service rather than subsidy, dispatch it by speedier means), and even in transporting empty mail sacks.

The Postmaster General has advised the President that out of 43 such active mail routes only 12 are of substantial value as mail carriers, 8 are of slight postal value, 23 have no postal value whatever, and that a number of them are actually detrimental to the speedy transmission of the mails.

Particular attention is called to the part the lobbyist, Ira Campbell, took in transferring the net assets of the United States Lines, Inc., to the United States Lines Co., the latter now a subsidiary of the International Mercantile Marine Co. Bear in mind that Mr. Campbell was placed on the Board of Directors of the United States Lines, Inc., by the old Shipping Board. Mr. Cletus Keating, a law partner of Mr. Campbell, represented the United States Lines Co. in the transaction.

Approximately $150,000 has been paid the Campbell-Keating firm by the United States Lines Co. in fees (p. 557, pt. 3 of the Farley reports). Cash in the amount of $8,400,000 was invested in the United States Lines, Inc., by P. W. Chapman & Co. at the outset (p. 275 of pt. 2 of the Farley reports).

P. W. Chapman & Co. sold a great deal of this stock to the general public and the literature used in selling said stock to the public was approved by the United States Shipping Board (see p. 258 of pt. 2 of the Farley reports). Testimony before the Black committee (pp. 4120–4122, inclusive, of pt. 9 of the hearings) indicates that when the assets of the United States Lines, Inc., were transferred to the United States Lines Co. the general public held approximately 47,000 shares of stock in the United States Lines, Inc., which cost them over $3,000,000.

The United States Lines Co. issued to the United States Lines, Inc., for all their assets, junior preferred stock in the new company—the United States Lines Co.—which has thus far proved worthless.

The gentleman from New York [Mr. SIROVICH], a member of the Merchant Marine and Fisheries Committee, stated before that committee that the stock issued to the old company was as worthless as so much wall paper (p. 565 of Davis hearings in 1932). Thus far his statement has proven true, the transfer having taken place in 1931.

The above information reflects a picture whereby stockholders, including some 4,700 individuals scattered over approximately 45 States, have invested over $3,000,000 in a worthless venture recommended by the Government—this does not include the net investment of approximately $5,000,000 by P. W. Chapman & Co. after a certain percentage of the stock had been sold to the general public. In other words, they have worthless stock in the United States Lines, Inc., and the United States Lines, Inc., in turn, has the thus far worthless junior preferred stock in the United States Lines Co., representing a cash investment of $8,400,000.

Incidentally, this is more outside money than has been brought into the steamship companies now holding mail contracts by all other investors since the World War. One would not wonder at the ill repute in which the steamship industry has fallen, and this, no doubt, is one of the many reasons why outside capital is not, and cannot be, interested in the steamship industry. It is an additional reason why the taxpayers should not invest more millions in an enterprise handled by the same people unless they retain title to the ships.

It is also interesting to note that Mr. Campbell was not only a party to this questionable transaction but he is attorney for the American Steamship Owners' Association, whose members have mail contracts with a gross value of $300,000,000, which contracts, the Postmaster General has advised, were illegally awarded. Mr. Campbell's firm is also attorney for the group of companies controlled by the International Mercantile Marine Co., who hold contracts valued at over $40,000,000, and which are included in the total contracts that are subject to cancelation. He is also attorney for the Lykes' Companies, who hold contracts valued at over $35,000,000, which contracts are also a part of this group. The Seatrain Lines, Inc., hold an alleged illegal contract for which the Senate has refused to appropriate any money. The Seatrain Lines, Inc., are suing the Government, and Campbell is their attorney. From the testimony before the Committee on Merchant Marine and Fisheries, we can reasonably conclude that the subsidy provisions of H. R. 8555 are satisfactory to Mr. Campbell, who speaks for the shipping interests.

I call the attention of the Congress and the country to the above facts to indicate the selfish manner in which the shipping interests of this country functioned under the 1928 act, through which they received their subsidies and likewise their failure to cooperate with the letter and spirit of the law, not to mention the interest of Congress to develop an American merchant marine. There is nothing that leads many of us to believe they will act differently under the bill now before the Senate should it become a law.

It will be recalled that during the debates upon H. R. 8555 last Tuesday and Wednesday I called attention to the fact that the bill provided for at least 10 different forms of subsidies. Among the most vicious of the group are the

construction, operating, and what I have termed trade penetration and general loss subsidies about which there has been thrown but slight safeguards against excessive expenditures thereunder. In fact, from the experts, including Mr. Alfred H. Hall, of the Department of Commerce, I learn, as do proponents of the bill, that the very element of differential between foreign costs and American costs which is the basis of the proposed act is an evasive term that cannot be determined accurately. We have no way of discovering how much money could be spent under a bill of such a character. It is evident from the character of the measure that tremendous sums could be advanced to the shipping interests of this country without violating the terms of the bill if it should become a law.

The American taxpayers would not tolerate such a situation nor should they even be asked to do so, especially when our experience in the past has been that the altruism of the interests this measure attempts to favor now has not prompted them to cooperate with the Government in building an adequate merchant marine.

If private capital is not available to promote an American merchant marine without the investment of practically the entire amount on the part of the Federal Government then we are justified in believing that the American Government should retain title to the ships built until such time as the operators are in a position to purchase and pay for them. Under such a program we would be assured of developing American-flag services as rapidly as we desire which is the goal toward which many people profess to be laboring.

MERCHANT MARINE—H. R. 8555

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the merchant marine bill, and to include therein excerpts from Senate Report No. 898.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MARCANTONIO. Mr. Speaker, after studying very carefully H. R. 8555 and also after listening attentively to the several days' discussion of the merchant marine situation and to the unsuccessful efforts of a well-informed minority presenting amendments to this essentially unsound bill that would provide no protection in the disbursement of the taxpayers' money, I am convinced that this Congress should have the benefit of the conclusions and recommendations contained in the preliminary report of the Special Committee to Investigate Ocean and Air Mail Contracts—Senate Report No. 898—which report was published after a study of over 2 years had been made by the committee of the administration of the ocean mail contracts and the merchant marine situation generally. They follow:

CONCLUSIONS AND RECOMMENDATIONS

From the mass of evidence relating to the American merchant marine which has been uncovered, examined, and considered it is possible to draw certain definite conclusions.

In the past the Government, by managing-operator agreements on the percentage and lump-sum basis, and by mail contracts, has subsidized ship lines which did not then have, do not now have, and probably never will have commerce and trade sufficient to make them self-sustaining. It has subsidized others, then and now, capable of earning fair—and in some instances large—profits without a dollar of Government aid. Having in mind the policies of the past, and the present regrettable status of the American merchant marine in which these policies have resulted, it is evident that certain decisions must be made, and that it is imperative for those decisions to be made immediately. It is abundantly shown that the present situation is intolerable.

The first question (and it must be decided upon the sole ground of public interest) is whether or not the Government shall expend taxpayers' money to create and maintain a merchant marine. This Government may, should it see fit, leave the business of shipbuilding and the operation of ships in foreign trade to the natural forces and elements of private business, and refrain from using public funds in these enterprises. If this course should be followed, it is believed by many that fewer ships would be built in America, and that some non-self-supporting ship lines would be abandoned. The natural result of declining shipbuilding in America would probably be the decline of facilities for shipbuilding to such an extent that this country would have inadequate shipyards capable of expanding the American merchant marine to necessary size under emergency conditions. Your committee believes, however, that many American ships would continue to operate without financial aid from the Government, and that if a constructive national policy were adopted there would be developed a merchant marine commensurate to the commercial and national needs of the country.

However, assuming that the public interest requires the expenditure of Government funds to create and maintain an American merchant marine, a second and more complex problem is presented as to the method by which the Government is to create and maintain the desired merchant marine. There are several major alternatives which the Government may adopt:

(1) It may provide for Government ownership and operation.

(2) It may provide for Government ownership and private operation, the operation to be subsidized where this is proved necessary.

(3) It may provide for private ownership and private operation, the operation to be subsidized where this is proved necessary.

Under any system of Government aid, the problem of construction and its cost is particularly important. Under the system which has operated up to the present, the Government has undertaken to supply the differences between the cost of construction in American yards and the cost of construction abroad without reference to whether or not the cost of construction in the American yard was just and equitable. The cost of construction has been left entirely to the private operator and the private shipyard. It is obvious that there can be no justification for payment of more than a reasonable price for the subsidized construction of ships. The cost of ships constructed for an American merchant marine with the aid of Government funds to be operated either by the Government or by a private individual should be rigidly scrutinized and provisions made to prevent profiteering in this business at the expense of the taxpayer. It is believed that ships for an American merchant marine can, and should be, constructed in private American yards. If, however, it be found impossible to secure private construction of suitable ships on reasonable terms and conditions, it will, of course, become advisable for the Government to construct ships in its own yards. No necessity excuses the payment of Government tribute to private monopoly.

GOVERNMENT SUBSIDY VERSUS GOVERNMENT OPERATION

Undoubtedly there are various trade routes wherein operations could not be carried on profitably. If it be deemed in the public interest for the Government to extend financial aid for such operations, an annual expenditure of millions of Government dollars must be expected. This expenditure is inevitable in such an undertaking, whether the ships be Government operated or privately operated, but Government subsidized.

True Government operation implies that the business is conducted without hope or possibility of private individual profit and with complete Government control of the wages, salaries, working conditions, and activities of those employed therein. In such Government operations, if there is profit it inures to the taxpaper, and if there is loss it is borne by the taxpayer.

True private operation implies that private individuals supply the capital and operate and control the project for private profit, stimulated by the hope of profit to operate frugally and efficiently.

Business subsidized by the Government looks to the Government for a part or all of its capital. Government subsidy absorbs whatever losses are incurred in whole or in part. In the past, control of wages, salaries, working conditions, and profits of business subsidized by the United States has been vested in private individuals. In other words, while the Government has supplied, during the past decade, far more than 50 percent of the capital of enterprises engaged in foreign shipping, as the investor of the greater portion of this capital, it has not had that management and control which private investors would have had under the same circumstances.

As between true Government ownership and operation of a merchant marine and true private ownership and operation, your committee would favor the latter.

As between true Government ownership and operation and private ownership and operation subsidized by the Government, your committee believes that Government ownership and operation would best serve the interest of the people.

Private ownership and operation of merchant and aerial transportation with Government subsidy has resulted in a saturnalia of waste, inefficiency, unearned exorbitant salaries, and bonuses and other forms of so-called "compensation", corrupting expense accounts, exploitation of the public by the sale and manipulation of stocks, the values of which are largely based on the hope of profit from robbing the taxpayer, and a general transfer of energy and labor from operating business to "operating on" the taxpayer. Measured by results, the subsidy system, as operated, has been a sad, miserable, and corrupting failure. Many of its apologists have been shown to be those who have directly received financial profit or those who for various reasons have been influenced by those who did directly profit from it. Not the least of these influences has been the millions of Government dollars flowing through the hands of the immediate recipients, their associates, affiliates, subsidiaries, holding companies, and allies into the treasuries of newspapers, magazines, and publicity agencies. Evidence before this committee has illustrated the existence and effect of these evil influences.

True Government operation has had only one trial. Although certain marine profiteers and some portions of the press have repeatedly asserted that the Government has lost huge sums by direct Government operation and drawn therefrom the unsound conclusions that such losses are inevitable in true Government operation, the truth is that this Government has not, since 1920, with the exception of one fleet, engaged in any such operation. The exception is the fleet operated as the United States Lines.

After spending $5,565,327.05 during a period of 4 years in the development and operation of this line in a manner similar to the development of lines privately operated, the Government, for the fiscal year 1927, showed a profit of $404,017.12 in the operation of this line. During that same year so-called "private operations" on other Government-owned lines operated for private profit cost the American taxpayers $9,283,035.31.

This was prior to the wide-spread decline in maritime business conditions. This line was sold to private interests in the year 1929 and has been privately operated since that time with the aid of huge grants of so-called "mail pay." The result of this single instance of true Government operation does not show the impracticability of such operation, but, on the other hand, demonstrates that true Government operation, under normal business conditions, has been and can be profitable.

As heretofore stated, Government losses, persistently described by selfish interests as arising out of Government operations, have really resulted from private operations in the form of subsidized operating agreements variously called "managing-operator agreements", "lump-sum agreements", and "mail contracts." Under all of these, the private operators took the profits and the Government took the losses. Your committee believes from the experiences of the Government, particularly during the past decade, that it would be difficult and almost impractical to devise safeguards sufficient to save the taxpayer from the unfair and unjust extortions of persistent profiteers under a subsidy system.

This committee, therefore, recommends that whenever the taxpayers' money is invested in ships or shipping enterprises, the Government retain full and complete ownership and control. It is believed that loss and waste from such ownership and operation would be far less than that which inevitably results from the subsidy system. Certainly the Government would not reduce the wages of its smaller paid workers and at the same time permit its agents and employees to profit from salaries, bonuses, commissions, and other forms of so-called "compensation" to the extent of one hundred thousand to half a million dollars in a single year, which have, in several instances, been the results of subsidy.

GOVERNMENT OWNERSHIP WITH PRIVATE OPERATION

As heretofore stated, your committee considers Government ownership and operation preferable to any system involving subsidy. As between Government ownership with subsidized private operation and true private ownership with subsidized private operation, your committee would unquestionably prefer the latter. Your committee, however, does not believe that it is possible to bring about the latter system.

Not all the Government aid which has been expended over a long period of years, amounting to hundreds of millions of dollars, with the practice of lending Government money for shipbuilding (which practice the President has stated should terminate) has been able to create a privately owned American merchant marine. It has been shown that the resources of private enterprises engaged in foreign shipping are wholly inadequate to finance the necessary construction program which has been conservatively calculated to require an expenditure of not less than $245,000,000 at the rate of $35,000,000 per annum during the next 7 years. It appears axiomatic that if the Government, by reason of its investment, is to be the equitable owner of the American merchant marine, it should retain legal title to the ships themselves, and with such title retain that complete control which accompanies legal ownership.

Government ownership with private subsidized operation should not, however, permit the iniquitous managing-operator or lump-sum systems of the past. The operation should be upon a charter basis or a profit-sharing basis, permitting no more than a reasonable profit for those private interests best equipped and experienced to operate the Government's fleets in an efficient and aggressive manner.

Your committee therefore recommends that whenever the taxpayers' money is invested in ships or shipping enterprises, unless it be considered (as we consider it) in the public interest to provide for Government ownership and operation, that the system adopted provide for Government ownership with private operation.

SUBSIDIZED PRIVATE OWNERSHIP AND OPERATION

The Merchant Marine Act of 1928, according to its terms, was designed to create and maintain an adequate merchant marine ultimately to be owned and operated privately by citizens of the United States. While this act has been flagrantly maladministered, it is incapable, even if administered with maximum efficiency, of providing an adequate American merchant marine at reasonable cost.

Its administration has been distinguished by a startling disregard for the public interest. Public officials have been encouraged to believe that the Merchant Marine Act of 1928 actually meant what it did not say, and that they should administer it—as they have administered it—upon this essentially unsound basis.

It is conspicuously devoid of those safeguards which should always accompany grants of public money to private persons for the effectuation of a public purpose.

Its administration was confided to the Post Office Department, then and now without the proper facilities for the administration of a marine subsidy.

Instead of an adequate American Merchant Marine it has produced unconscionable exploiters, intent upon wringing every possible penny from the public purse while giving an absolute minimum of service in return. It has facilitated every conceivable form of holding company—subsidiary, affiliate, and associated corporate hocus-pocus. It has financially assisted favored operators in the protected and semiprotected trades against competition limited to unsubsidized American-flag enterprises. While it has given birth to a situation to delight unscrupulous, self-seeking individuals, it has caused the marine subsidy of this Nation, with real reason, to become known as "pie."

The Merchant Marine Act of 1928 should be repealed.

The history of marine subsidy in the United States does not encourage this committee to believe that such a subsidy is likely to be honestly administered in the future. Reserving to itself the right to doubt that it is possible to secure honest administration of such an act, this committee points out a few essentials which must be contained in any subsidy program. The following conclusions with respect to the administration of a subsidy apply with like force to a system contemplating Government ownership and private operation and to a system contemplating subsidized private ownership and operation.

The subsidy must be administered by fearless, uncompromising men, unsusceptible to the insidious influence of selfish interests. These men must bring to their difficult task intelligence, industry, candor, and courage, and minds single to the best interest of their country. They must not be compelled to take over entire the personnel of existing governmental agencies, shot through with the destructive propaganda of the past, but should be encouraged to avail themselves primarily of those now in Government service who have resisted that propaganda and should be permitted to call others of like mind to their aid.

The system to be adopted must be as simple as the complexity of the problem permits. It must possess the maximum of elasticity compatible with existence of essential safeguards. Above all, it must be no temporary subterfuge but the candid crystallization of painful experience into permanent policy worthy of a great Nation.

Specifically, this committee makes the following recommendations:

The marine subsidy should be divided into a construction subsidy and an operating subsidy, later to be discussed in detail. The construction subsidy should be available to all American shipping operators engaged in foreign commerce upon the same terms, and no operating subsidy should be paid to a shipping operator whose business or interests are in the protected coastwise or intercoastal, or the semiprotected nearby foreign trades, except that subsidy should be available upon the same terms to all American operators in cases where substantial foreign competitors operate parallel services, even in cases where the American operator is in the semiprotected trade.

No subsidy should be paid to any ship operator or shipbuilder who fails to maintain a uniform system of bookkeeping to be prescribed by the agency administering the subsidy, or whose books, files, and records are not open to the inspection of the designated employees of this agency.

No operating subsidy should be paid to any ship operator who fails to comply with Government-required manning and wage scales and labor conditions, or to provide the most improved equipment and trained personnel for the preservation of safety at sea, or who operates, charters, acts as agent, or has any financial interest directly or indirectly in the operation of foreign-flag tonnage. A substantial portion of the operating subsidy is designed to be received by American seamen. The rate of pay of the American seaman is generally higher than that paid by foreign nations, but in view of the many benefits provided for foreign seamen, which are not received by American seamen, it is doubtful if the actual compensation received by the American seamen is greater than that received abroad. Most certainly every effort to bring about security and better conditions should be encouraged, and it is a primary duty to see that this portion of the subsidy reaches its intended beneficiaries, thus encouraging an all-American personnel, which is an essential element of a truly American merchant marine.

No subsidy should be paid for the benefit of any operator whose financial or corporate structure, in the opinion of the agency administering the subsidy, permits the diversion of the subsidy into activities other than bona fide American-flag foreign-trade shipping enterprises, except that such subsidy payments may be made upon terms and conditions prescribed by the agency administering the subsidy sufficient to protect the Government against such diversion, nor should any construction subsidy be paid to any shipbuilder whose activities are not confined to shipbuilding and ship repair.

No subsidy should be paid to any operator or shipbuilder who pays or causes to be received any officer, agent, or employee (which terms should be construed in the broadest sense to include, but not to be limited to, managing trustees or other agencies) wages, salaries, or compensation exceeding in amount or value the sum of $17,500 in any one year.

No subsidy should be paid to or for the benefit of any ship operator or shipbuilder whose private capital, in the opinion of the agency administering the subsidy, is insufficient to insure a reasonable likelihood of continuous successful operation with a fair amount of Government assistance, or which in the case of an operator is unwilling to provide for an adequate replacement program for its fleet.

The purpose of a construction subsidy is to increase the building of ships for foreign trade in American yards by equalizing the cost to American citizens of constructing them in American yards and placing them in operation on foreign trade routes with the cost of constructing the same ships in foreign yards and placing them in operation upon the same routes. The present system of construction loans should be abolished, but the ship operators should be free to borrow from governmental agencies (other than the United

States Shipping Board, whose power to make loans should be abolished) upon equal terms and conditions with other private enterprise. The construction subsidy should equal in amount the difference between the cost of similar first-class construction in that foreign yard where construction by the operator is, in the opinion of the agency administering the subsidy, most economically practicable plus an amount equal to that required to place the vessel in operation at a point equal in advantage to that point where it will be placed in operation by an American yard without added cost to the operator and the reasonable cost of American construction. This amount should be paid directly by the Government to the shipbuilder. No such subsidy should be paid to any shipbuilder unless its wage scale is, in the opinion of the agency administering the subsidy, sufficiently high to equal the wage scale for similar services in foreign yards plus that portion of the subsidy properly allocable to shipbuilder's wages. In the judgment of your committee, it is impossible to prescribe the exact formula for the computation of foreign construction costs. This conclusion is borne out by the testimony of Alfred H. Haag, Chief of the Division of Shipping Research of the United States Shipping Board Bureau, before the Committee on Merchant Marine and Fisheries of the House of Representatives on May 6, 1935, when he stated that he knew of no method by which this cost could be determined. For accuracy and fairness in such computations it will be necessary to rely upon the initiative and integrity of the officials administering the subsidy program, whose calculations must, in great part, be based on what amounts to hearsay evidence.

Subsidy payments to the shipbuilders should be subject to recapture. When at the end of any calendar year the cumulative profits on the true investment exceed 6 percent per annum calculated from the enactment of the new subsidy program, 75 percent of profits exceeding 6 percent should be paid to the Government until subsidy payments theretofore made to the shipbuilder have been retired.

No vessel, the construction of which is subsidized, should be permitted to operate other than in foreign trade, except with the consent of the agency, and the agency should specifically be denied authority to consent to such operation until there shall have been repaid an amount which bears the same proportion to the construction subsidy theretofore paid as the remaining economic life of the vessel bears to its entire economic life.

No such vessel should be transferable to foreign registry except under similar terms and conditions and under no circumstances should any such vessel be so transferred unless provision be made for American construction and registry of tonnage of at least equal value to the American merchant marine.

The operating subsidy should equal the differential between the operating cost of the American operator and the operating cost of that substantial foreign competitor operating most cheaply in that service, foreign subsidy being taken into consideration. As in the case of construction differentials, your committee is of the firm opinion that it is, and always will be, utterly impossible for an agency of this Government to determine accurately the true operating costs of foreign ships owned and operated by foreign citizens whose records are maintained in foreign countries. In view of this fundamental precept, the operating subsidy should be subject to recapture and should be returned to the Government in the same manner as heretofore provided with respect to the construction subsidy.

There is considerable force in the theory that no profit other than compensation for personal services in the form of reasonable salaries should accrue to private individuals from activities aided by Government funds. In no event, however, can there be valid objection to a system (such as that herein set out) providing for the possibility of the return of the subsidy in whole or in part where cumulative profits make this possible. This percentage division of profits in excess of a cumulative average of 6 percent per annum will permit both the recapture of excess subsidy by the Government and the creation of reasonable reserves by the private operator.

No operating subsidy should be paid to any line operating in competition with an unsubsidized American-flag line rendering adequate service upon a foreign-trade route.

The subsidy program should not be administered by any existing governmental agency but by an entirely new, absolutely independent establishment. The administrative heads of the agency should be subject to removal by the President for inefficiency, neglect of duty, or malfeasance in office, and their terms of office should not be so long as to preclude effective supervision by the Senate. It should not be necessary for this agency to concern itself with regulatory functions which should be exercised by the Interstate Commerce Commission. This new agency should, in addition to administering the subsidy, assume all of the duties, other than regulatory, now vested in the United States Shipping Board Bureau and the Merchant Fleet Corporation of the Department of Commerce.

No person should be eligible for appointment to any executive or supervisory position in the agency administering the subsidy who has or has had within a period of 3 years prior to appointment any financial interest in any shipping, shipbuilding, or ship-repair company, its subsidiaries or affiliates, or in any business or concern deriving a substantial portion of its revenue from such sources, or who has, within 3 years prior to appointment, been employed by any such firm, person, company, or corporation aforesaid. The acquisition of any interest in any such business or the receipt of any gratuity or valuable thing from any such source should be ground for immediate dismissal of any officer or employee, and the acquisition of any such interest or the receipt of employment, compensation, gratuity, or valuable thing by any immediate relative of an employee should also be ground for dismissal, if, in the opinion of the appointing agency, such action is required in the public interest.

All existing mail contracts let under the Merchant Marine Act of 1928 should be terminated. The effective date of cancelation should permit a reasonable time within which adequate service can be provided under the new law. Within such reasonable period, to be provided by Congress, the holder of any ocean-mail contract should be entitled to adjust with the agency administering the subsidy all claims between the contractor and the Government growing out of its mail contract, excepting speculative or prospective future profits, and such settlement should be final.

If such settlement and adjustment is made, the company previously holding the mail contract should be eligible to apply for and to receive the benefits under the new act.

Any mail contractor failing so to settle its claims against the Government should be entitled to sue in the Court of Claims for just compensation.

In all suits so filed the Attorney General of the United States should be directed to seek damages in the full amount paid out under any contract which has been found by the Postmaster General to have been left without competitive bidding, and to urge all proper legal defenses and assert all just claims in all suits filed by mail contractors.

The Postmaster General should be further authorized to transmit ocean mail in the most expeditious manner possible and at existing poundage rates, giving a reasonable preference to American-flag vessels.

Before closing this report, your committee desires again to stress the necessity for immediate action by Congress. In his message of March 4, 1935, the President stated that:

"An American merchant marine is one of our most firmly established traditions. It was, during the first half of our national existence, a great and growing asset. Since then it has declined in value and importance. The time has come to square this traditional ideal with effective performance.

In the report of the Postmaster General, as well as the report of the Interdepartmental Committee on Shipping Policy, it is conclusively demonstrated that the present system is unsound, unsatisfactory, and cannot provide what the President rightly states the American Government owes to its people, that is, "ships in keeping with our national pride and national needs." Your committee is convinced of the immediate necessity of enacting laws which will provide such ships to serve the needs and justify the pride of the American people and to that end it urges instant action.

In the Senate's consideration of any proposed legislation, your committee specifically invites attention to the present appalling lack of resources in the shipping industry and presents the inescapable question as to whether this wholesome desire for upbuilding our merchant marine shall be fulfilled by an aggressive governmental program, or shall private interests be intrusted to bring about the desired results with money they do not now have, and which it is readily apparent they cannot secure except from governmental sources.

The conclusions and recommendations contained in this report are submitted for the sole purpose of making available to the representatives of the American people factual information vital to the efficient performance of their duty. Much of this information has hitherto been unavailable. Some of it has been carefully and effectively concealed. This report is submitted in the hope and with the desire that it may be of service in bringing about immediate, candid, and courageous congressional action, reasonably calculated to create and maintain an American merchant marine worthy of this Nation.

Respectfully submitted.

HUGO R. BLACK.
WILLIAM H. KING.
PAT MCCARRAN.

Senator KING approves the report with the following statement of exceptions:

Though I signed the foregoing report, it was with the understanding that I did not agree with all of the conclusions and recommendations.

I believe the report to contain a fair and accurate statement of the facts disclosed by the record.

I have not been in accord with the policies of the Government in granting subsidies and bounties to shipping interests, and insofar as the report approves of bounties or subsidies or the operation by the Government of a merchant marine I do not approve of the same.

If, however, bounties and subsidies are granted, then I believe that every possible safeguard for the protection of the Government and the taxpayer should be provided. The safeguards recommended in the report would fairly meet the requirements and should be embodied in any subsidy legislation.

The United States had for many years an adequate merchant marine which carried from 83 to 87 percent of our foreign commerce. Unwise legislation drove American ships from the seas and almost destroyed our merchant marine. In my opinion an American merchant marine can be developed and operated without bounties or subsidies.

The Democratic Party has upon a number of occasions denounced subsidies and some of the best thought of our country has believed that an adequate merchant marine was not only possible, but certain, if measures were enacted removing restrictive legislation destructive in its application. I cannot believe that

with the genius, wealth, and commerce of the United States, bounties or subsidies are essential to the building and operation by private capital of a merchant marine.

Undoubtedly, if American citizens were not prevented from purchasing ships built in foreign countries and operating them under American registry and under the American flag, one of the obstacles to the realization of an effective merchant marine would be removed. The repeal of other statutes would aid in providing an effective and adequate merchant marine.

A sound and rational tariff policy would produce important results and materially aid in the establishment and maintenance of a merchant marine.

WILLIAM H. KING.

It is obvious that the committee which reported out this bill failed to either acquaint itself with the valuable data contained in the Senate report and the reports of the Postmaster General, or they were read and not considered very seriously.

The purpose of new legislation, however, is to better conditions, if possible, instead of converting a racket into a superracket. It is earnestly hoped that each Member will find time to read Senate Report No. 898 in detail, from which my quotations were taken; and also parts 1 and 2 of the Farley reports, which have so clearly called attention to the illegality of all except one of the existing contracts and the various forms of abuses that have arisen in the administering of these contracts. It is not believed that anyone could pass intelligently on new legislation until they have acquainted themselves with these reports.

ORDER OF BUSINESS

Mr. TAYLOR of Colorado. Mr. Speaker, there are now nearly 400 bills on the Private Calendar, and many of the Members are quite anxious to have them considered. I feel that if the Members of the House desire to come here on Friday and consider just the unobjected-to individual bills on that calendar under the rule, that we might pass a large number of them on that day. For this reason, and at the request of a number of Members, I ask unanimous consent that it may be in order on Friday next to consider only individual bills on the Private Calendar under the rules of the House.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. BLANTON. Mr. Speaker, reserving the right to object, that request, if granted, would mean that on Friday, except those who have these bills and the few Members who investigate these private bills to stop the bad ones, all the balance of the Membership are discharged under present orders and may do what they please between now and Monday. They may catch up with the work of their districts and may catch up with their mail and office work. But it would penalize those Members who have to carefully study these bills on the Private Calendar and force them to use their time on these bills and would compel them to work in the House Friday. This is a week-end after a hard session. I have been working here continuously since last November.

Mr. TALYOR of Colorado. Mr. Speaker, I am merely submitting the request of a great many Members.

Mr. BLANTON. Mr. Speaker, I object. I think all of us alike ought to have this week-end to catch up with our office work.

THIRD WORLD POWER CONFERENCE (H. DOC. NO. 240)

The Speaker laid before the House the following message from the President of the United States, which was read and referred to the Committee on Foreign Affairs and ordered printed:

To the Congress of the United States of America:

I commend to the favorable consideration of the Congress the enclosed report from the Secretary of State to the end that legislation may be enacted requesting the President to invite the World Power Conference to hold the Third World Power Conference in the United States in 1936 and 1937, and providing an appropriation of the sum of $75,000 for the necessary expenses of organizing and holding such a meeting.

FRANKLIN D. ROOSEVELT.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. OLIVER (at the request of Mr. HILL of Alabama), indefinitely, on account of illness.

To Mr. FERNANDEZ, for 2 weeks, on account of illness in family.

ORDER OF BUSINESS

Mr. MAAS. Mr. Speaker, may I ask the gentleman from Colorado what the program will be on Friday?

Mr. TAYLOR of Colorado. There will not be any program, as a matter of fact.

BILLS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H. R. 3012. An act to authorize the transfer of certain lands in Hopkins County, Ky., to the Commonwealth of Kentucky; and

H. R. 6464. An act to provide means by which certain Filipinos can emigrate from the United States.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 12 minutes p. m.) the House, in accordance with its previous order, adjourned until Friday, July 5, 1935, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON THE PUBLIC LANDS

(Wednesday, July 3, 10:30 a. m.)

Committee will hold hearings on various bills.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

402. A letter from the Governor of the Federal Reserve Board, transmitting its twenty-first annual report, covering operations during the calendar year 1934 (H. Doc. No. 27); to the Committee on Banking and Currency and ordered to be printed, with illustrations.

403. A letter from the Secretary of Commerce, transmitting copies of the fifty-second supplement, General Rules and Regulations Prescribed by the Board of Supervising Inspectors, Bureau of Navigation and Steamboat Inspection, and also copies of the fifty-first supplement, covering the new boiler rules; to the Committee on Merchant Marine and Fisheries.

404. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of West Virginia on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. McREYNOLDS: Committee on Foreign Affairs. Senate Joint Resolution 139. Joint resolution requesting the President to extend to the International Statistical Institute an invitation to hold its twenty-fourth session in the United States in 1939; with amendment (Rept. No. 1415). Referred to the House Calendar.

Mrs. NORTON: Committee on the District of Columbia. H. R. 8577. A bill to amend the Teachers' Salary Act of the District of Columbia, approved June 4, 1924, as amended, in relation to raising the trade or vocational schools to the level of junior high schools, and for other purposes; without amendment (Rept. No. 1417). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee of the District of Columbia. H. R. 8078. A bill to repeal sections 1, 2, and 3 of the act approved February 3, 1909; with amendment (Rept. No. 1418). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. H. R. 8579. A bill to amend the law with respect to jury trials in the police court of the District of Columbia; without amendment (Rept. No. 1419). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. H. R. 8580. A bill to amend the law with respect to the time for jury service in the police court of the District of Columbia; without amendment (Rept. No. 1420). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. H. R. 8581. A bill to amend the law providing for exemptions from jury service in the District of Columbia; without amendment (Rept. No. 1421). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. H. R. 8582. A bill to provide for the semiannual inspection of all motor vehicles in the District of Columbia; without amendment (Rept. No. 1422). Referred to the Committee of the Whole House on the state of the Union.

Mr. PALMISANO: Committee on the District of Columbia. S. 395. An act relative to the qualifications of practitioners of law in the District of Columbia; with amendment (Rept. No. 1423). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. H. R. 8583. A bill to amend the Code of Law for the District of Columbia in relation to the qualifications of jurors; without amendment (Rept. No. 1424). Referred to the House Calendar.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 6740. A bill to amend an act approved December 17, 1928, entitled "An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment thereon in claims which the Winnebago Tribe of Indians may have against the United States, and for other purposes"; with amendment (Rept. No. 1425). Referred to the Committee of the Whole House on the state of the Union.

Mr. McSWAIN: Committee on Military Affairs. House Joint Resolution 330. Joint resolution to close Military Road temporarily; with amendment (Rept. No. 1428). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. KENNEDY of Maryland: Committee on Claims. H. R. 8750. A bill for the relief of sundry claimants, and for other purposes; with amendment (Rept. No. 1426). Referred to the Committee of the Whole House.

Mr. KENNEDY of Maryland: Committee on Claims. S. 2488. An act for the relief of the widows of an inspector and certain special agents of the Division of Investigation, Department of Justice, and operative in the Secret Service Division, Department of the Treasury, killed in line of duty; without amendment (Rept. No. 1427). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLOOM: A bill (H. R. 8749) to increase the limit of cost for the Department of Agriculture Extensible Building; to the Committee on Public Buildings and Grounds.

By Mr. PATMAN: Resolution (H. Res. 284) to amend House Resolution 226; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. KENNEDY of Maryland: A bill (H. R. 8750) for the relief of sundry claimants, and for other purposes; to the Committee on Claims.

By Mr. CHURCH: A bill (H. R. 8751) to provide a preliminary examination of the Fox River and its tributaries in Wisconsin and Illinois; to the Committee on Flood Control.

By Mr. McSWAIN: A bill (H. R. 8752) granting a pension to Clarence Edgar Stephens; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9060. By Mr. COLDEN: Resolution of the Allied Automotive Industries of California, Ltd., by A. Brandhofer, executive secretary, in regard to unfair trade practices, reduction of employees' salaries, etc., in the automotive maintenance and garage industry in California, due to the loss of its National Recovery Administration Code and the Motor Vehicle Maintenance Code No. 543; to the Committee on Ways and Means.

9061. By Mr. DOBBINS: Petition of J. R. Hefner and 49 other citizens of Monticello, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9062. Also, petition of E. E. Logan and 30 other citizens of Bement, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9063. Also, petition of J. A. McNally and 546 other citizens of Decatur, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9064. Also, petition of William V. Hains and 15 other citizens of Blue Mound, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9065. By Mr. DORSEY: Petition of the Shakahappo Tribe, No. 138, of the Improved Order of Red Men of Pennsylvania, endorsing the proposals of the Dies joint resolution (H. J. Res. 69); to the Committee on Immigration and Naturalization.

9066. By Mr. FENERTY: Petition of the Poutaxet Tribe, No. 145, Improved Order of Red Men of Pennsylvania, located in the city of Philadelphia, urging passage of House Joint Resolution 69; to the Committee on Immigration and Naturalization.

9067. Also, petition of the Tongwee Tribe, No. 322, Improved Order of Red Men of Pennsylvania, located in the city of Philadelphia, urging passage of House Joint Resolution 69; to the Committee on Immigration and Naturalization.

9068. Also, petitions from sundry citizens of Philadelphia, Pa., urging passage of House Joint Resolution 193, directing the President to name July 9 of this year Commodore John Barry Memorial Day, and authorizing the Postmaster General to issue a series of postage stamps; to the Committee on the Judiciary.

9069. By Mr. FORD of California: Resolution of the Assembly and the Senate of the State of California, urging the President and the Congress to enact legislation proposed by House bill 6984, providing benefits to persons who served in the Quartermaster Corps or under the Quartermaster General during certain wars; to the Committee on Pensions.

9070. By Mr. HALLECK: Petition of citizens of Lafayette, Ind., favoring Senate bill 1629, for the regulation of motor vehicles in interstate commerce, as it was passed by the Senate; to the Committee on Interstate and Foreign Commerce.

9071. Also, petition of citizens of Buck Creek, Ind., favoring Senate bill 1629, for the regulation of motor vehicles in interstate commerce, as it was passed by the Senate; to the Committee on Interstate and Foreign Commerce.

9072. By Mr. JENKINS of Ohio: Petition signed by about 725 employees of the Ohio Match Co., of Wadsworth, Ohio, and citizens of the State of Ohio, urging that every effort be made to prevent any further influx of foreign matches into the markets of the United States by increasing the duty on matches from 20 to 40 cents per gross; to the Committee on Ways and Means.

9073. By Mr. MARTIN of Massachusetts: Memorial of the General Court of Massachusetts, urging the Federal Government to grant funds for removing elevated railway structures in the city of Boston; to the Committee on Appropriations.

9074. By the SPEAKER: Petition of the Railroad Employees Pension Association, urging immediate action on Senate bill 2826 and House bills 8371 and 8121; to the Committee on Interstate and Foreign Commerce.

9075. Also, petition of the Midwest Conservation Alliance, to close the season on migratory waterfowl for 1 year beginning September 1935, and for other purposes; to the Committee on Agriculture.

SENATE

WEDNESDAY, JULY 3, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, July 2, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Lewis	Pope
Ashurst	Coolidge	Logan	Radcliffe
Bachman	Copeland	Lonergan	Reynolds
Bankhead	Dickinson	Long	Robinson
Barbour	Dieterich	McAdoo	Schall
Barkley	Donahey	McCarran	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	George	McNary	Smith
Borah	Gibson	Maloney	Steiwer
Brown	Glass	Metcalf	Thomas, Okla.
Bulkley	Gore	Minton	Trammell
Bulow	Guffey	Moore	Truman
Burke	Hale	Murphy	Tydings
Byrd	Harrison	Murray	Van Nuys
Byrnes	Hatch	Neely	Wagner
Capper	Hayden	Norbeck	Walsh
Caraway	Holt	Norris	Wheeler
Carey	Johnson	O'Mahoney	White
Chavez	Keyes	Overton	
Clark	King	Pittman	

Mr. LEWIS. I announce that the Senator from Colorado [Mr. COSTIGAN], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], the Senator from North Carolina [Mr. BAILEY], and the Senator from Rhode Island [Mr. GERRY] are detained from the Senate on important public business. I request that this announcement stand for the day.

Mr. NORRIS. I wish to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is absent on account of illness in his family.

Mr. McNARY. I wish to announce that the senior Senator from Michigan [Mr. COUZENS] is absent on account of illness, and that the Senator from Vermont [Mr. AUSTIN], the Senator from Pennsylvania [Mr. DAVIS], the senior Senator from North Dakota [Mr. FRAZIER], the senior Senator from Delaware [Mr. HASTINGS], the junior Senator from North Dakota [Mr. NYE], the junior Senator from Delaware [Mr. TOWNSEND], and the junior Senator from Michigan [Mr. VANDENBERG] are necessarily detained from the Senate. I request that this announcement stand for the day.

The VICE PRESIDENT. Eighty-two Senators have answered to their names. A quorum is present.

PAY OF SPECIAL ASSISTANT ATTORNEYS

The VICE PRESIDENT laid before the Senate a letter from the Attorney General, transmitting, pursuant to law, a report showing the names of persons employed under the appropriation, "Pay of special assistant attorneys, United States courts", with the rates of compensation or fees paid for the period from January 1, 1935, to June 30, 1935, which, with the accompanying report, was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

Mr. COPELAND, from the Committee on Commerce, to which was referred the bill (S. 754) to amend section 21 of the act approved June 5, 1920, entitled "An act to provide for the promotion and maintenance of the American merchant marine, to repeal certain emergency legislation, and provide for the disposition, regulation, and use of property required thereunder, and for other purposes", as applied to the Virgin Islands of the United States, reported it without amendment and submitted a report (No. 1010) thereon.

Mr. FLETCHER, from the Committee on Commerce, to which was referred the joint resolution (S. J. Res. 153) providing for participation by the United States in the Pan American Exposition to be held in Tampa, Fla., in commemoration of the four hundredth anniversary of the landing of Hernando De Soto in Tampa Bay, and to permit articles imported from foreign countries for the purpose of exhibition at such exposition to be admitted without payment of tariff, and for other purposes, reported it without amendment and submitted a report (No. 1014) thereon.

Mr. SMITH, from the Committee on Agriculture and Forestry, to which was referred the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, reported it with amendments and submitted a report (No. 1011) thereon.

Mr. LOGAN, from the Committee on Military Affairs, to which was referred the bill (S. 1991) for the relief of Wilson G. Bingham, reported it without amendment and submitted a report (No. 1012) thereon.

He also, from the Committee on Claims, to which was referred the bill (S. 2734) to confer jurisdiction upon the United States Court of Claims to hear and determine the claims of Henry W. Bibus, Annie Ulrick, Samuel Henry, Charles W. Hensor, Headley Woolston, John Henry, estate of Harry B. C. Margerum, and George H. Custer, of Falls Township and borough of Tullytown, Buck County, Commonwealth of Pennsylvania, reported it with an amendment and submitted a report (No. 1013) thereon.

Mr. ASHURST, from the Committee on the Judiciary, to which was referred the bill (H. R. 7050) to amend the act of June 27, 1930 (ch. 634, 46 Stat. 820), reported it without amendment and submitted a report (No. 1015) thereon.

He also, from the Committee on Indian Affairs, to which was referred the bill (S. 2523) authorizing payment to the San Carlos Apache Indians for the lands ceded by them in the agreement of February 25, 1896, ratified by the act of June 10, 1896, reported it without amendment and submitted a report (No. 1016) thereon.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 2849) to provide funds for cooperation with Wellpinit School District No. 49, Stevens County, Wash., for the construction of a public-school building to be available for Indian children of the Spokane Reservation, reported it without amendment and submitted a report (No. 1017) thereon.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 2d instant that committee presented to the President of the United States the following enrolled bills:

S. 1958. An act to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes;

S. 2074. An act to create a National Park Trust Fund Board, and for other purposes; and

S. 2642. An act to incorporate The American National Theater and Academy.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NORRIS:

A bill (S. 3202) granting an annuity to George J. Kleffner; to the Committee on Civil Service.

By Mr. COPELAND:

A bill (S. 3203) granting a pension to Dorothy King; to the Committee on Pensions.

By Mr. NORBECK and Mr. BULOW:

A bill (S. 3204) to provide additional funds for the completion of the Mount Rushmore National Memorial, in the State of South Dakota, and for other purposes; to the Committee on the Library.

By Mr. NEELY:

A bill (S. 3205) to provide for the retirement of officers and employees of the legislative branch of the Government, and for other purposes; to the Committee on Rules.

By Mr. CLARK:

A joint resolution (S. J. Res. 156) establishing a commission to be known as the "United States Commission for the Celebration of the One Hundredth Anniversary of the Birth of Mark Twain" (Samuel L. Clemens); to the Committee on the Library.

RIVERS AND HARBORS

Mr. COPELAND. Mr. President, I ask unanimous consent that the river and harbor bill, being the bill (H. R. 6732) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, may be printed showing the Senate amendments numbered.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

RECALL OF UNITED STATES SENATORS AND REPRESENTATIVES (S. DOC. NO. 108)

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the body of the CONGRESSIONAL RECORD a brief on the constitutionality of the recall of United States Senators and Representatives in Congress, prepared by Hon. WALTER F. GEORGE, Chairman of the Committee on Privileges and Elections, United States Senate. It is a matter which is of general interest to Senators and Representatives. I also ask that the brief be printed as a Senate document.

There being no objection, the brief was ordered to be printed as a Senate document and to be printed in the RECORD, as follows:

CONSTITUTIONALITY OF THE RECALL OF UNITED STATES SENATORS AND REPRESENTATIVES IN CONGRESS

For the reasons hereinafter specified, any attempt by a State to recall a United States Senator is repugnant to the Federal Constitution and is therefore void and of no effect.

There are three questions to be answered:

First. Can a State declare a vacancy to exist in the United States Senate prior to the expiration of the term of the incumbent?

Second. Can a State hold a special election to elect a United States Senator when no vacancy exists?

Third. Can a State set up qualifications for United States Senators in addition to the qualifications outlined in the Constitution?

The first and second questions can be answered jointly. Article I, section 4, clause I, of the Federal Constitution provides that the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators. The times for holding regular elections for Senators and Representatives has been prescribed by Congress (title 2, U. S. C., secs. 1 and 7), and has the effect of superseding any State statutes inconsistent therewith. It therefore follows that the States are precluded from fixing a different time for the regular election of a Senator or Representative (*Ex parte Siebold* (Md. 1880) (100 U. S. 383)).

Article XVII of the Federal Constitution provides that when vacancies occur in the Senate the executive authority of the State may issue writs of election to fill such vacancies, and the legislature of the State may empower the executive to make a temporary appointment until such vacancy is filled by election.

The Governor of a State derives his authority to make an appointment to fill a vacancy in the United States Senate solely from the Federal Constitution and a law enacted by the legislature of his State pursuant to the Constitution. This power is conferred upon the Governor so that he may exercise his own best judgment as to whom he will select to fill such a vacancy until the people may express their choice at a subsequent election. No State can by law in any manner limit the choice which a governor may make in such an event. He is limited only by the Federal Constitution which requires that the person whom he appoints shall be at least 30 years of age, an American citizen for at least 9 years, and a resident of the State. Any such attempt further to limit the Governor's complete freedom of choice is vain and wholly without force.

Twelve States have laws which provide for the recall of State and local officials but it is unnecessary to comment thereon except to say, generally, that under this procedure the official against whom a recall petition may be properly filed is given an opportunity to resign. The usual requirement is that such petition must be signed by 25 percent of the qualified electors. If he refuses to resign, a special election is held to determine by majority vote whether the official shall be removed from office by the election of a rival candidate.

The application of this State recall system to the office of United States Senator would be an attempt by a State to fill a vacancy in the United States Senate before a vacancy exists therein and cannot be justified under either article I, section 4, of the Federal Constitution (relating to the time of holding regular elections) or under article XVII of such Constitution, which provides for a special election only when an actual vacancy exists.

No authority can be found under any other provision of the Federal Constitution for such special election. On the contrary, the result attempted to be achieved by such special recall election is in direct conflict with article I, section 5, clause 2 of such Constitution, which provides that each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and with the concurrence of two-thirds expel a Member.

Under the guise of a recall election the State would attempt to expel a Member of the Senate and thereby usurp a power vested exclusively in the Senate by the Constitution. In *Burton* v. *U. S.* (202 U. S. 344, at p. 369) the Supreme Court, speaking through Mr. Justice Harlan, stated that the seat into which a Senator is originally inducted can only become vacant by his death, by expiration of his term of office, or by some direct action on the part of the Senate in the exercise of its constitutional powers.

It therefore follows that if a vacancy does not exist, a State cannot create one, and a special election called to fill a nonexistent vacancy must necessarily be futile and without effect.

Answering the third question, in 1856 the Senate decided that a State might not add to the qualifications prescribed by the Constitution for a Senator. In the Lyman-Trumbull case a provision of the Constitution of the State of Illinois provided that certain judges of that State should not be eligible to any other office of the State or of the United States during the term for which they were elected, nor for 1 year thereafter. Mr. Trumbull had been a judge and came within the prohibitions of the State constitution. Notwithstanding that fact, the Senate, after lengthy debate, by a vote of 35 yeas, 8 nays, declared Mr. Trumbull was entitled to his seat (Hinds' Precedents, vol. I, p. 387, sec. 416).

Article XVII of the Federal Constitution provides that the terms of Senators shall be for 6 years. If a State may recall a Senator elected for a term of 6 years, and before such term has expired, a further qualification has been added for Members of the Senate from that State. The recall law would provide, in effect, that a Member of the Senate may hold office for 6 years, but only at the will of the people of the State. The State is not only attempting to set up an additional qualification for Senators but is also attempting to be the judge of such qualification in contravention to article I, section 5, clause I, of the Federal Constitution, which provides that each House shall be the judge of the qualifications of its own Members.

Furthermore, the historical background of the 6-year term shows conclusively that Senators were to be chosen "to hold their office for a term sufficient to insure their independence." During the Constitutional Conventions held at Philadelphia and elsewhere prior to the ratification of the Constitution by the States, the terms of Senators were debated at great length. Terms ranging from 2 years to life were proposed. Madison reminded the delegates that the Senate was designed to protect the people against themselves as well as against their rulers—against their hasty and ill-advised decisions—a purpose more likely to be secured if its Members were given long terms and so gained experience. (See the Records of the Federal Convention, Farrand, vol. I, p. 228; Elliot's Debates on the Federal Constitution, vol. V, pp. 186–187, 241–245; and "the Madison Papers", vol. 2, p. 962.)

The recall law of any State is not in harmony with the reasons that led to the adoption of the 6-year term as such a law operates not to insure independence of thought and action but to restrict such thought and action by leaving Senators at the mercy of organized minorities and by leaving their tenure in office uncertain at all times.

If the independence of Members of the Senate is desired to be restricted, such restriction must necessarily take the form of an amendment to the Federal Constitution. No State can impose upon its Senators any restriction which is not applicable to Senators from all other States.

Any attempt to recall a Member of the House of Representatives must fail for the reasons above stated. A recall election is in effect nothing more or less than a petition by the ballots of a certain number of voters requesting the Senator or Representative against whom the recall is directed to resign his seat in Congress. There is no lawful way to compel such a resignation, which must be purely voluntary. If the Senator or Representative should resign nothing that has occurred prior to his resignation can be of any force or effect in bringing about the election of his successor in office.

A Senator or Representative has a right to resign his seat. When he does so the Federal law alone prescribes how the vacancy may be filled. In the case of a Representative in Congress, the Governor has no power under the Federal Constitution to fill a vacancy by appointment. All that the Governor can do is to call a special election, or, by declining to do so, leave the congressional district without representation until after the next general election.

That a State may not superadd or vary the qualifications prescribed to the Senator or Representative by the Federal Constitution is clearly set forth in the following extract from Story on the Constitution (sec. 627):

"The truth is that the States can exercise no powers whatsoever which exclusively spring out of the existence of the National Government, which the Constitution does not delegate to them. They have just as much right, and no more, to prescribe new qualifications for a Representative as they have for a President. Each is an officer of the Union, deriving his powers and qualifications from the Constitution, and neither created by or dependent upon nor controllable by the States. It is no original prerogative of State power to appoint a Representative, a Senator, or President for the Union. Those officers owe their existence and functions to the united voice of the whole, not a portion of the people. Before a State can assert the right it must show that the Constitution has delegated and recognized it. No State can say that it has reserved what it never possessed."

In conclusion, a recall election held by any State in an attempt to remove from office a United States Senator, a Representative in Congress, or any Federal official serving within such State is void and of no effect. No State can impair the supremacy of the Federal Government by in any manner interrupting the tenure of office of any person serving under Federal authority.

WALTER F. GEORGE,
Chairman Committee on Privileges and Elections,
United States Senate.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating, or marketing securities, in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

LOBBYING ACTIVITIES IN CONNECTION WITH HOLDING-COMPANY BILL

Mr. WHEELER. From the Committee on Interstate Commerce, I report back favorably, without amendment, Senate resolution 165, submitted yesterday by the Senator from Alabama [Mr. BLACK], providing for the appointment of a special committee of five Senators by the President of the Senate, such committee to be authorized and directed to hold a complete investigation of lobbying activities in connection with the so-called "holding-company bill." I presume the resolution will have to be referred now to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. Without objection, the resolution is referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. LEWIS. Mr. President, at this point I wish to seek information, and I ask the Senator from Alabama whether the resolution contemplates an inquiry as to matters of the House as well as of the Senate? Is it intended to extend to all the suggestions of lobbying in the House, or is it limited to the Senate?

Mr. BLACK. It is intended to apply to any efforts which have been made to influence legislation relating to the so-called "holding-company bill", wherever they may have been made. Frankly, I submitted the resolution with the idea that there should be a full, fair, and complete investigation.

Mr. LEWIS. I am anxious to know if the Senator from Alabama submitted the resolution upon the theory that Members of this honorable body have been approached by those called "lobbyists", and whether it was as to them the Senator was seeking investigation?

Mr. BLACK. I was seeking investigation, I may say to the Senator, on the basis that charges have been publicly made that a large amount of money has been spent in order to influence the proposed legislation; that a large amount of money has been spent in order to prevent the passage of the holding-company bill; that the charges have been widespread that lobbyists have filled the galleries of both the Senate and the House; that they have come here from all over the United States; and that they have worked, in some cases, effectively to accomplish their purposes. It is my judgment that, if an investigation is to be held of these lobbying activities, it should be an investigation prompted by the idea that we must investigate everything that pertains to the proposed legislation, and to do it fully and fairly. Frankly, I think it should come from sources that want a full, fair, and complete investigation of the matter.

Mr. LEWIS. The Senator from Alabama assumes this resolution to be all-embracing rather than being addressed to individual Members of the Senate or of the House?

Mr. BLACK. I intended it to be all-embracing, and for that reason it is my opinion that it is utter folly to discuss making an investigation without an appropriation. If there is going to be an investigation it should be a real investigation, and should not be a mere superficial scratching of the surface because somebody says that somebody else told him that some one else said so-and-so would happen if he did or did not act in a certain way. I have submitted a resolution which provides a substantial appropriation with the idea that if there is to be an investigation it shall be full, fair, and complete, extending all over the Nation, to find out what has been done and whether or not money has been spent to influence legislation, and, if so, how and by whom and in what amount.

Mr. LEWIS. Since such is the Senator's purpose, would it not be prudent, possibly profitable, to have the resolution adopted at once, and then take such course as reference to the Committee on Appropriations as may be necessary? Is it important that the resolution be disposed of early?

Mr. BLACK. If I thought it could be done, I should make the request. It is my understanding, however—and I ask the Chair—that the rules provide that such a resolution must go to the Committee to Audit and Control the Contingent Expenses of the Senate, and that that rule cannot be waived.

The VICE PRESIDENT. The Senator from Alabama states the situation correctly. Under the rule of the Senate the resolution has to be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. LEWIS. We might anticipate their action.

The VICE PRESIDENT. Let the Chair state again, as he has often stated, that the Senate can do anything by unanimous consent except to amend the Constitution. If Senators want to adopt the resolution by unanimous consent they may do it, because that would be waiving the rule requiring reference of the resolution to the Committee to Audit and Control.

Mr. LONG. It is not a rule. It is a statute.

Mr. McNARY. Mr. President, I hesitate to disagree with the Chair, but it is not a rule. It is a statute. I do not believe that by unanimous consent we can waive such statutory regulation.

The VICE PRESIDENT. Let the Chair say to the Senator from Oregon—and the Chair is sure he will agree—that if the Senate should by unanimous consent adopt the resolution, the test would come when the Committee to Audit and Control should be called upon to approve the vouchers.

Mr. McNARY. Oh, yes; but I still say that, in my judgment, we could not act upon the resolution without first referring it to the Committee to Audit and Control.

The VICE PRESIDENT. The Chair thinks it could be done by unanimous consent. In any event, however, the resolution has been referred to the Committee to Audit and Control.

DOES THE POT CALL THE KETTLE BLACK?

Mr. LONG. Mr. President, since the Senator from Alabama [Mr. BLACK] has submitted some observations, in his presence I wish to make a brief remark about the resolution which he has introduced. I was in the Committee on Interstate Commerce this morning and I voted to report the resolution back to the Senate and to have it referred to the Committee to Audit and Control the Contingent Expenses of the Senate, which, of course, meant a favorable report.

I have noticed that in the House an investigation has been started on the other end of the line, to investigate what influences have been used, first, in order to pass the holding-company bill and then also what has been done to defeat the holding-company bill.

Mr. President, I do not believe Senators ever have paused very long to consider what we are doing in connection with this legislation, or we would be probably a little bit more charitable with ourselves, and some of us might come to wonder if we have been exactly honest in our convictions with reference to this legislation. The bill was founded upon our party politics and our platform pledge for the regulation of holding companies. I call it regulation broad enough to include destroying the evil holding company. I think, like the taxing power, that the power to regulate in many cases includes the power to destroy. This bill is neither a bill to regulate where holding companies should be regulated nor a bill to destroy where they should be destroyed.

I was called upon by some very good friends I have in the House who brought to my mind the great fight which has been made in this country against food monopoly and the holding companies which have such control over foodstuffs. Also, as I mentioned on the floor of the Senate the other day, I was reminded of the status of the oil monopoly and the status of various marketing monopolies. Many people are unable to understand us, because if there is not a great principle at stake in this bill how is it that our platform singled out no particular enterprise and that the President's message singled out no particular enterprise? If there is any great issue between right and wrong, the people cannot understand why it is that we are indulging in a great harangue against the one singled-out particular industry and leaving the balance immune.

Mr. WHEELER. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Montana?

Mr. LONG. I yield.

Mr. WHEELER. The Senator spoke about food monopolies. Let me say that, as he will recall, as Chairman of the Interstate Commerce Committee I submitted a resolution which was adopted by the Senate and is now pending in the House before the Committee on Interstate and Foreign Commerce of that body, requesting the Federal Trade Commission to investigate the food monopoly and the processors of food products.

Mr. LONG. I know the Senator from Montana and I think exactly alike on this matter. If the Senator from Montana and I should undertake to write a law we would not have the slightest difference of opinion about it. I know we would write a law covering all monopolistic holding companies which are in themselves, in my opinion, practicers of evil.

I had considerable difficulty in reconciling in my own mind the fight for this principle when we take such devious steps as that we take razor blades and save for the future every other evil except one connected with the electrical business. In other words, we were so careful in this broad and great principle—I was not, but I mean as a whole our committee and the Senate were—that we undertook, in tackling this gigantic, mammoth fraud, to peel off of it, and to preserve from the effect of the legislation, anything and everything except the electrical companies.

What is our excuse today for raising this hubbub that we have heard so much about? The oil companies, which are far more effective in the life and affairs of the country than the electrical companies could be, because there are thousands of people who are not affected by the provisions of this bill, are left untouched.

What is the excuse? The excuse stated on the floor of the Senate was that we are not strong enough to battle against all of these concerns in one bill; that if we came here with a bill carrying out the party platform pledge for regulating or destroying all of these nefarious influences, because there is no ground for excluding one and including another, we could not get our own selves to vote for a bill which would attack this cancer in an expansive and honorable way.

When we went to the House with this bill something else happened, but something had happened in the Senate as well. We put on the bill as an amendment a provision including the gas interests more broadly than they were at first covered in the report submitted by the Interstate Commerce Committee. Through the influence of the Senator from Tennessee [Mr. MCKELLAR], the Senator from Missouri [Mr. CLARK], and myself, with the Senator from Montana [Mr. WHEELER] being very willing—and what I would call a very willing witness to having it done—we wrote into the bill a provision covering the gas-distributing lines in a broader sense. That was not anticipated, and, if I may state what came to my ears, not particularly in confidence—and I would believe that I should not undertake to find out particularly the source whence it came—it had been understood that we would leave out the gas companies if the gas companies would not lend any effort to prevent the electrical holding companies from being broken up by law.

In other words, we made government a matter of favoritism. This matter of favoritism is the great fault with our Government today. Every other government has to fight it. We make this great principle one of favoritism, one of immunity. We picked out all the culprits except one and made them State witnesses. We gave them all the right to go free provided they would help us convict the one. From the experience I have had, I am not so sure that we picked the most culpable one to convict, and in letting the whole barnyard go free I am not so sure that we did a good thing or an honorable thing.

It hurt my heart in the committee. I went to the Interstate Commerce Committee at one time. I think the Senator from Montana [Mr. WHEELER] knows that I have quite a regard for his position. When the names of La Follette and Wheeler could not even be gotten on the ballot in Louisiana, I was one of the few candidates for public office in that State who dared to express confidence in the Senator from Montana. I had great faith and confidence in him, knowing that the Senator from Montana at one time had run on a platform advocating public ownership of public utilities. I am not so sure that that is not going to be the final course Congress is going to have to take. I would rather have it today than what we have. I saw the Senate do an act here yesterday which convinced me that we are destroying one effort at regulation with another effort to do something that is contrary to the regulation. But I went before the Committee on Interstate Commerce, and I said to the chairman, and I said to the committee—I think perhaps my friend the Senator from Maine [Mr. WHITE] was there that day; not so very many of us were there—I said:

> I want to know what this bill is going to do. Are we going to come here with a holding-company bill that is going to undertake to carry out the promise of the party to the country while excluding everybody except the electrical companies? I want to urge that the committee meet this issue while it can and while it should. I think this bill should either regulate or destroy, or both, holding companies as a general proposition, because—

And I make this statement again—

no one can point out to me any more reason for singling out electrical companies than they can point out to me for singling out oil companies, or food companies, or shipping companies in this country.

Mr. President, a resolution now is offered here to investigate, to see what influences have been used regarding holding-company legislation. I am not so sure but that we ought to have done some investigating along this line. I did not ask for any evidence of a prima facie case on the resolution of the Senator from Alabama. There was not any evidence before us this morning, but I was willing to vote for the investigation. How unlike the Farley case was our action this morning! How different it has been! We have made fish out of one and flesh out of the other. How different it was this morning, when we belched forth a recommendation for $150,000 without a witness, without a line, without a showing, notwithstanding the fact that with affidavits galore we went on record a few days before as declining to investigate matters probably of equal importance.

However, Mr. President, if this resolution shall be reported favorably by the Committee to Audit and Control the Contingent Expenses of the Senate, and if the President of the Senate shall appoint a committee—as he will under this resolution, if the committee shall see fit to spend $150,000—I hope we shall not consider this as a one-way proposition. Sometimes there is such a thing as getting beaten at your own game. If we investigate this matter I hope we shall try to find out what has happened, because the resolution is broad enough, and that is the only basis upon which this investigation can be justified. Did not the holding-company bill, when it got back to the House of Representatives, find there cohorts who had been brought into the opposition by reason of the fact that because there was an amendment to the bill which brought the gas companies into it, certain administration stalwarts became quite recalcitrant when the bill reached there?

We ought to investigate the inside of our own house. Why, for what reason, were the floor leader of the House, Mr. O'CONNOR, and the other gentleman—I have forgotten his name—so disinterested when the bill reached the House that they did not even vote? Why? There was nobody here in the Senate who failed to record himself one way or the other. Why, over there, was there any such disinterestedness that the floor leader did not even vote, and the man next to him——

Mr. ROBINSON. Mr. President, I am compelled to make the point of order against the Senator from Louisiana.

The VICE PRESIDENT. The Chair was about to call the Senator's attention to the rule.

Mr. LONG. In what respect?

Mr. ROBINSON. It is not competent for a Senator to make references to the other body.

Mr. LONG. I have heard that point mentioned here, but I have never been able to find the rule.

Mr. ROBINSON. Mr. President, I make the point of order.

The VICE PRESIDENT. The point of order is sustained. It is the rule of the House and the rule of the Senate, and has been for more than a hundred years; and let the Chair say to the Senator from Louisiana that it is very well founded upon the theory that if Members of the House or the Senate were to make remarks about the other House, or its Membership, it would not be conducive to their working together for the best possible legislation.

Mr. LONG. Well, that has not been the case in the other House in regard to me. [Laughter.]

The VICE PRESIDENT. That, of course, is a matter for the other House to consider.

Mr. LONG. I shall not quibble about the matter. I can stay within the rule which the Senator from Arkansas thinks ought to be invoked. I hope it will not be taken as a reflection; but I am making, I think, probably more of a defense——

The VICE PRESIDENT. If the Senator will permit the Chair to make a suggestion, he can say that there is some other body in which a certain thing occurred, and he can discuss that body, whatever it may be—the Legislature of Pennsylvania or the Legislature of Louisiana, or any other body.

Mr. LONG. I shall not even do that. I shall stay within the spirit as well as within the technical letter of the rule. But was our administration entirely pleased with the form the bill finally took? If I may use the words of the Chair, why should another department of our Government, some other body, find its leaders, men upon whom we rely to carry the alabaster vase to a point where it is to be effective, deserting the cause in its hour of need, if it is a good cause? Why should they have deserted it?

Now I wish to say just a word in defense of men of that kind. In the words of the Senate, they have pretty good ground to do it. A friend of mine from Louisiana, a gentleman whom I respect very highly, an honest, honorable, upright man, came to me in the cloakroom and said, "I am not going to vote for this provision in the bill, and I will tell you why I do not think I can do it. The chain stores are taking away all the business that has been done by my friends in the city of New Orleans. There is one of them on every corner, and every time we try to reach the food monopoly and the devious practices to which they have resorted we find that there is always another kind of company to be affected but not the chain stores. When we reach that company there is always another company, to a point where they have managed to wreck every independent competitor they have in my city." He said, "That is one reason." Then he said, "Next, with all the fight you have been making all these years against the Oil Trust, all the fight you have made since 1918, and all the opinions and decisions you wrote against the Oil Trust, why is it that you made no effort, as a member of the Interstate Commerce Committee, to see that the oil companies were kept in the bill, when they have inflicted more distress upon our State, as a result of these holding combinations, than anything else? Why is it that you did nothing to see that those monopolies were kept in the bill?"

I want some Senator to tell me what my answer should have been to that representative. What honest answer could I have made to him? And what could I have said to a man who said to me, "Where are these leaders? Where are these leaders who are opposing this measure? Why have they not just grounds? These are my grounds. They may see the matter as I see it."

Mr. President, I have spoken longer than I intended to speak. I intended to make only a few remarks, but I have brought myself to this point, which I must mention before I close:

It is well that we should investigate, I say to my friend from Alabama [Mr. BLACK], whatever influences have been brought to bear to keep the Congress from acting as Congressmen would act if there were no such influences. It is well that we should cleanse the Augean stables to see that this independent branch of the Government operates without the iniquitous influences which change men's minds on issues and cause them to do other than they would do without such outside iniquity, if it may be so termed. It is only fair and right that we should do that; but let us not make our investigation one-sided.

It is stated in the public press that power lobbies came here representing both sides. I do not doubt it. If I had owned a power line I would have been here. If I had a dime's worth of interest in one of those companies I would have been here, I would have done everything I could to keep the bill from being passed, and I would have had a right to do it. Probably it is a matter of degrees as to when the use of influence becomes something that is contrary to good government. That is something which the lawmakers have to determine.

Is it not a matter for which the Congress should concern itself when a man is told that a Government project in his State will not be built if his vote is one way but will be built if it is another way? Is it not a matter to attract the attention of Congress when it is broadcast in the public press

that a certain man has been dehorned of patronage, that this Representative has had this done to him, that this Senator has had this done to him, because he did not vote a certain way?

I want my friends to think a moment. Which is the worse? Is it worse for one who has no connection with Government to use these outside influences in order that he may control the minds and consciences of men, or is it worse that one supposed to maintain the great and pure principles about which we hear should depart from his own understanding of them in order that he may bring to pass what he desires by exerting iniquitous influence on some public official?

Is it not time to investigate, is it not time to find out whether Congress legislates under the fear of punishment or hope of reward, as we hear it said and as it is publicly printed? Is it not time to find out whether or not Congress operates as a matter of favoritism, those whom the administration considers best not to attack being excluded, and those being included whom it considers itself strong enough to defeat?

When the lawmaking body says, "We cannot tackle this company; it is too big. We cannot tackle the food monopoly; it is too big. We cannot tackle the market monopoly; it is too big. We will tackle only an interest that is so small that we are able to whip it"; that is the same as saying that Congress attacks those only who in size and importance have not attained a character of strength which makes battling more difficult. It is the same as saying, "We battle against the weak; we never battle against the strong." It is the same as saying, "Law is intended for the one, but it is not intended for the other." It is the same as saying that justice depends on who you are, how big you may be, and how strong you may be.

Mr. President, if these principles and these pure and idealistic motives inspiring my good friend the Senator from Alabama have their good and their complete application, then let us not make fish of one and fowl of the other. Let us search our own hearts. Let us investigate quietly, without any appropriation by the Congress, among ourselves, and find out why it is that in this legislation we have been afraid to go the full route and destroy the evil that exists, the evil we all recognize to exist, in all these holding enterprises. It is no time to have a wrangle that the pot may call the kettle black.

REGULATION OF TRANSPORTATION BY WATER

The Senate resumed the consideration of the bill (S. 1632) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by water carriers operating in interstate and foreign commerce, and for other purposes.

Mr. WHEELER. Mr. President, the first committee amendment was agreed to yesterday. I ask unanimous consent that the remaining committee amendments be considered and disposed of before action on other amendments.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the next amendment of the Committee on Interstate Commerce.

The next amendment was, under the heading "Declaration of policy, delegation of jurisdiction, and repeal", on page 2, in line 6, after the word "and", to strike out "maintain" and insert "foster"; in line 8, after the word "carriers", to insert "in the public interest"; in line 9, before the word "adequate", to strike out "provide" and insert "promote"; in the same line, after the word "efficient", to strike out "transportation"; in line 10, after the word "carriers", to insert "and reasonable charges therefor, without unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices"; in line 13, after the word "between", to strike out "such" and insert "and coordinate transportation by and regulation of, water"; in line 15, after the word "other", to strike out "agencies of transportation" and insert "carriers"; in line 17, before the word "and" where it occurs the first time, to strike out "coordinate transportation by water carriers and such other agencies and the regulation thereof"; in the same line, after the word "and" where it occurs the first time, to strike out "foster" and insert "develop"; in the same line, after the word "preserve", to strike out the comma and "in the public interest,"; in line 18, before the word "transportation", to insert "system of"; and in the same line, before the word "properly", to strike out "system" and insert "by water", so as to read:

SEC. 302. (a) It is hereby declared to be the policy of Congress to regulate transportation by water carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote adequate, economical, and efficient service by water carriers and reasonable charges therefor, without unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices; improve the relations between, and coordinate transportation by and regulation of, water carriers and other carriers; and develop and preserve a system of transportation by water properly adapted to the needs of the commerce of the United States and of the national defense.

The amendment was agreed to.

Mr. McNARY. Mr. President, it was my understanding yesterday that the Senator from Montana this morning would occupy an hour or more in explanation of the provisions of the bill. I think we all relied upon the understanding. Very few of us are familiar with the bill. I think we would be better enabled to act upon the amendments if an explanation and statement were had beforehand, and I ask the Senator to make his statement, in conformity with the agreement of yesterday afternoon.

Mr. WHEELER. Mr. President, permit me to say to the Senator from Oregon that the amendments now being acted on are amendments to strike from the bill certain provisions, and I thought it would simplify the matter if we should act upon them and then I could make an explanation of the bill.

Mr. McNARY. Very well. I thank the Senator.

The PRESIDENT pro tempore. The clerk will state the next amendment of the committee.

The next amendment was, on page 2, line 21, after the word "part", to insert "shall"; in line 23, after the word "interstate", to strike out "or" and insert "and"; in the same line, after the word "commerce", to insert "to the extent herein provided"; in line 24, after the word "such", to strike out "commerce" and insert "transportation"; in line 25, after the words "Interstate Commerce", to strike out "Commission to the extent herein provided. The Intercoastal Shipping Act, 1933, sections 1, 14, 14a, 15–25, and 27–33, inclusive, of the Shipping Act, 1916, and section 19 of the Merchant Marine Act of 1920 are hereby repealed" and insert "Commission: *Provided*, That it is hereby expressly declared to be the policy of Congress to exclude from the provisions of this part transportation by interstate contract carriers by water which, by reason of the inherent nature of the commodities transported, their requirements of special equipment, or their shipment in bulk, is not actually and substantially competitive with transportation by interstate common carriers by water in the same trade or route; and that the Commission shall proceed immediately to determine the transportation so to be excluded, and shall from time to time make such modifications of its findings as may be necessary to carry out the policy so declared: *Provided further*, That unless and to the extent that the Commission shall from time to time find such application necessary to carry out the policy of Congress declared in section 302 (a), such provisions shall not apply to transportation by water in interstate commerce solely within the limits of a single harbor or between places in contiguous harbors, when such transportation is not a part of a continuous through movement under a common control, management, or arrangement, to or from a place without the limits of any such harbor or harbors, or to transportation by ferry or by small craft of not more than 50 tons carrying capacity or to vessels carrying passengers only and equipped to carry no more than 16 passengers", so as to read:

(b) The provisions of this part shall apply to the transportation of passengers or property by water in interstate and foreign

commerce to the extent herein provided and the regulation of such transportation is hereby vested in the Interstate Commerce Commission: *Provided*, That it is hereby expressly declared to be the policy of Congress to exclude from the provisions of this part transportation by interstate contract carriers by water which, by reason of the inherent nature of the commodities transported, their requirement of special equipment, or their shipment in bulk, is not actually and substantially competitive with transportation by interstate common carriers by water in the same trade or route; and that the Commission shall proceed immediately to determine the transportation so to be excluded, and shall from time to time make such modification of its findings as may be necessary to carry out the policy so declared: *Provided further*, That unless and to the extent that the Commission shall from time to time find such application necessary to carry out the policy of Congress declared in section 302 (a), such provisions shall not apply to transportation by water in interstate commerce solely within the limits of a single harbor or between places in contiguous harbors, when such transportation is not a part of a continuous through movement under a common control, management, or arrangement, to or from a place without the limits of any such harbor or harbors, or to transportation by ferry or by small craft of not more than 50 tons carrying capacity or to vessels carrying passengers only and equipped to carry no more than 16 passengers.

The amendment was agreed to.

The next amendment was, on page 4, after line 3, to strike out:

(c) Nothing in this part shall be construed to diminish any power or duty of the Commission under part I of this act with respect to water carriers and no part of said part I applicable to water carriers shall be construed as repealed or modified by anything in this part, except when and to the extent inconsistent herewith.

The amendment was agreed to.

The next amendment was, on page 4, after line 9, to strike out:

(d) Nothing in this part shall be construed to affect any law of navigation, the admiralty jurisdiction of the courts of the United States, liabilities of vessels and their owners for loss or damage, or laws respecting seamen, or any other statute or maritime laws, regulation, or custom not in conflict with the provisions of this part.

The amendment was agreed to.

The next amendment was, on page 4, line 17, after the word "Sec.", to strike out "203" and insert "303"; in line 19, after the words "joint stock", to strike out "company" and insert "association"; and at the end of line 19, to strike out "or body politic" and insert "and any trustee, receiver, assignee, or personal representative thereof", so as to read:

SEC. 303. (a) The term "person" includes any individual, firm, copartnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

The amendment was agreed to.

The next amendment was, on page 4, line 25, after the word "common", to strike out "carrier," and insert "carrier by water or"; on page 5, line 1, after the word "contract", to strike out "carrier, or otherwise" and insert "carrier by water"; in line 2, after the word "property", to strike out "by water"; in the same line, after the word "interstate", to strike out "or foreign commerce" and to insert "commerce, as a common carrier by water transports passengers or property in foreign commerce", so as to read:

(b) The term Commission means the Interstate Commerce Commission.

(c) The term water carrier means any person who or which, whether as a common carrier by water or a contract carrier by water, transports passengers or property in interstate commerce, or as a common carrier by water transports passengers or property in foreign commerce and is not included in the term "railroad" by section 1 (3) of part I.

The amendment was agreed to.

The next amendment was, on page 5, line 6, after the words "part I", to strike out the colon and the following proviso:

Provided, That unless and to the extent that the Commission shall from time to time find such application necessary to carry out the policy of Congress declared in section 202 [302] (a), the provisions of this part shall not apply (1) to transportation in interstate commerce solely within the limits of a single harbor or between points in contiguous harbors, when such transportation is not a part of a continuous through movement under a common control, management, or arrangement, to or from a point without the limits of any such harbor or harbors, or (2) to transportation by ferry or by small craft of not more than 50 tons carrying capacity or to vessels carrying passengers only and equipped to carry no more than 16 passengers.

The amendment was agreed to.

The next amendment was, on page 5, line 20, after the word "out", to insert "to the general public", so as to read:

(d) The term "interstate common carrier by water" means any water carrier which holds itself out to the general public to transport passengers or property, or any class or classes thereof, in interstate commerce, for compensation or hire.

The amendment was agreed to.

The next amendment was, on page 6, line 3, after the word "or", to strike out "arrangement" and insert "arrangement," so as to read:

(e) The term "interstate contract carrier by water" means any water carrier which transports passengers or the property of others, in interstate commerce, for compensation or hire, under a charter, contract, agreement, or arrangement, but which is not an interstate common carrier by water.

The amendment was agreed to.

The next amendment was, on page 6, after line 4, to strike out:

(f) The term "interstate private carrier by water" means any water carrier which is not an interstate common carrier by water or an interstate contract carrier by water, except as may be authorized under the provisions of section 212 of this part, and which, unless so authorized, transports, in interstate commerce, solely its own property and/or the property of any person by whom or which it is owned or controlled in whole or in part, directly or indirectly, or with whom or which it is affiliated. As used in this paragraph, the term "control" shall be construed to include the power to exercise control. An interstate water carrier shall be held to be affiliated with the person if, by reason of the relationship of such person to such carrier (whether by reason of the method of, or circumstances surrounding organization or operation, or whether established through common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or any other direct or indirect means), it is reasonable to believe that the affairs of such carrier will be managed in the interest of such person.

The amendment was agreed to.

The next amendment was, at the top of page 7, to strike out:

(g) The term "common carrier by water in foreign commerce" means any water carrier which holds itself out to transport passengers or property, or any class or classes thereof, from or to any place in the United States or in any territory or possession of the United States, to or from a foreign country, or to or from a foreign country with transshipment or transfer at any point within the United States or any territory or possession thereof: *Provided*, That a cargo boat commonly called an ocean tramp carrying on any one voyage cargo supplied by one shipper only, under a single charter party or contract of affreightment, shall not be deemed such common carrier by water in foreign commerce.

The amendment was agreed to.

The next amendment was, on page 7, after line 13, to strike out:

(h) The term "wharfinger" means any person, not included in the terms "interstate water carrier" or "common carrier by water in foreign commerce", as defined herein, or in the term "railroad" as defined in section 1 (3) of part I, who or which owns, operates, manages, or controls any wharf or pier, or any dock or other water space for the accommodation of vessels, or any warehouse, yard, grounds, or other facility or equipment of any kind in or in connection therewith, and holds himself or itself out to furnish any such facility, at any place within the United States or any territory or possession thereof, for compensation or hire, in or in connection with transportation by water carriers of passengers or property, or any class or classes thereof, in interstate or foreign commerce.

The amendment was agreed to.

The next amendment was, on page 8, line 4, before the word "The", to strike out "(i)" and insert "(f)", so as to read:

(f) The term "vessel" means any water craft or other artificial contrivance of whatever description which is used, or is capable of being, or is intended to be, used as a means of transportation by water.

The amendment was agreed to.

The next amendment was, on page 8, line 8, before the word "The", to strike out "(j)" and insert "(g)"; in line 9, before the word "connection", to strike out "or in"; in line 10, before the word "transportation", to insert "or in connection with"; in line 14, after the word "kind", to strike out "owned, leased, or used" and insert "operated or controlled"; in line 15, after the word "carrier", to strike out

" or by any wharfinger " and insert " and used "; and in the same line, after the word " in ", to strike out " the receipt, handling, carriage, or delivery of passengers or property, or in the interchange thereof with any other agency of " and insert " or in connection with such ", so as to read:

(g) The term " facility " includes any vessel used by or operated in connection with any water carrier in or in connection with transportation subject to this part, whether such vessel is owned or operated under a charter, contract, agreement, or lease, and any facility, warehouse, wharf, pier, dock, yard, grounds, or equipment of any kind operated or controlled by any such water carrier, and used in or in connection with such transportation.

The amendment was agreed to.

The next amendment was, on page 8, before the word " The ", to strike out "(k)" and insert "(h)"; and on page 9, line 1, after the word " transported ", to insert " or the interchange thereof with any other agency of transportation. The term ' handling ' shall not be construed to include stevedoring services in the loading or unloading of vessels ", so as to read:

(h) The term " transportation " includes the use of any and all facilities defined above and any and all instrumentalities and facilities of shipment or carriage, irrespective of any contract, express or implied, for the use thereof, and any and all services in or in connection with transportation, including the receipt, delivery, elevation, transfer in transit, refrigeration or icing, ventilation, storage, and handling of property transported or the interchange thereof with any other agency of transportation. The term " handling " shall not be construed to include stevedoring services in the loading or unloading of vessels.

The amendment was agreed to.

The next amendment was, on page 9, at the beginning of line 5, to strike out "(l)" and insert "(i)"; in the same line, before the word " interstate ", to strike out " The term " and insert " The terms "; in line 6, after the word " or ", to insert " ' transportation in interstate commerce ' "; in line 7, before the word " transportation ", to strike out " means " and insert " mean "; in line 8, after the word " water " to insert " or partly by water and partly by railroad or motor vehicle,"; and in line 17, after the word " paragraph ", to strike out " (j) " and insert "(g)", so as to read:

(i) The terms " interstate transportation ", or " transportation in interstate commerce " as used in this part, mean transportation of persons or property wholly by water, or partly by water and partly by railroad or motor vehicle, from one State or Territory or possession of the United States, or the District of Columbia, to any other State or Territory or possession of the United States, or the District of Columbia, or from one place in any such Territory or possession to another place in the same Territory or possession, whether such transportation be wholly within the United States or by way of a foreign port or waters or the high seas; and includes the use of any and all instrumentalities and facilities embraced in paragraph (g) of this section.

Mr. COPELAND. Mr. President, I should like to ask the Senator about the amendment on page 9, line 8. I recall that when the Eastman bills came to us one was to regulate busses, another to regulate water transportation, another to reorganize the Interstate Commerce Commission, to increase the number of its members. Why was this language inserted, " or partly by water and partly by railroad or motor vehicle "? Is that in anticipation of the passage of the third one of these bills?

Mr. WHEELER. No. The bill regulating busses and trucks has already passed the Senate. The change to which the Senator calls attention is necessary in view of the fact that the proposed regulation applies also to transport partly by water and partly by railroad or motor carrier. It is necessary to use this language.

Mr. COPELAND. Was the Senator's committee quite united in support of the bill?

Mr. WHEELER. There was only one member of the committee who filed a minority report.

Mr. COPELAND. The Senator refers to the Senator from Minnesota [Mr. SHIPSTEAD]?

Mr. WHEELER. The Senator from Minnesota filed a minority report, and he was the only one who did so.

Mr. COPELAND. I recall that when the bill was introduced I protested on the part of the Committee on Commerce, saying that this water carriers' bill should have been referred to the Committee on Commerce instead of to the Committee on Interstate Commerce. The matter was very amicably adjusted by the invitation of the Chairman of the Committee on Interstate Commerce to the Committee on Commerce to be represented.

I should like to say that, so far as the representatives of the Committee on Commerce are concerned, we are united in opposition to the bill. We are not in approval of it. Therefore our position is apparently that of the Senator from Minnesota.

Mr. WHEELER. I do not think the Senator is quite accurate in saying that the Committee on Commerce is entirely opposed to the bill, because some members of the Committee on Commerce have told me that they favor the bill.

Mr. COPELAND. Likewise some members of the Committee on Interstate Commerce have said they were in opposition to it.

I should like to inquire further. I notice in the report of the Senator from Minnesota [Mr. SHIPSTEAD] that he speaks about the great farm organizations being in opposition to the bill. I note on page 5 of the minority report this language:

The record clearly shows that the public which furnishes the tonnage and pays the freight urges that this legislation be not passed.

Mr. WHEELER. Let me say to the Senator that that is not accurate, as I shall show when I come to explain the bill. As a matter of fact, a number of shippers and chambers of commerce have asked that the bill be passed.

So far as the farm organizations are concerned, I think some farm organizations did appear and object to the bill; but I wish to say that when I asked some of them for their reasons for objecting to the bill they did not advance any reasons; and, in fact, did not clearly understand the bill. The chief objection on the part of any farm organization was that they were afraid the Interstate Commerce Commission was " railroad-minded." I intend at the proper time to take up that phase of the question and discuss it, and to show that the farm organizations are not justified in that fear and that the Interstate Commerce Commission, in dealing with both water and rail transportation, has shown itself to be fair to water transportation. The Inland Waterways Corporation and the Mississippi Valley Barge Line are in favor of the bill.

The Warehousemen's Association of the Port of New York has written me a letter in which they favor the bill. The Shellenberger Mills & Elevator Co., of Salina, Kans., great shippers, have written a letter favoring the bill.

Mr. COPELAND. Mr. President, does the Senator think the ones who wrote those letters knew all about the bill? I assume from what the Senator says that those who knew about the bill were in favor of it. Is the Senator quite confident that these persons who have written him approving the bill really knew all about it?

Mr. WHEELER. Those who wrote favoring the bill gave their reasons for favoring it. A representative of farm organizations appeared before the committee, and if Senators will read his testimony they will see that he did not know anything about the bill, and he could not state specific objections to the bill, but simply took the stand that, generally speaking, he felt that the Interstate Commerce Commission should not regulate water transportation. I might add that he also felt that the Interstate Commerce Commission should not regulate trucks and busses.

Mr. COPELAND. Without knowing about it, he probably was right in that matter.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. McKELLAR. Did the Mississippi water carriers, including the Government carriers on that river, all oppose the bill?

Mr. WHEELER. I have before me a letter from the Inland Waterways Corporation, a Government corporation, signed by General Ashburn, who wrote as follows:

I am enclosing herewith a copy of my testimony before the Interstate Commerce Committee on the so-called " Eastman bills ", to regulate water carriers, and to reorganize the Interstate Commerce Commission.

I would be very glad if you would read this testimony, because it is my opinion based upon 15 years' experience as the agent of Congress in promoting inland-waterway transportation.

Gen. T. Q. ASHBURN.

He testified in favor of this bill.

Mr. McKELLAR. What about the private carriers?

Mr. WHEELER. The Mississippi Valley Barge Line Co. writes, as of February 21:

The Federal Coordinator of Transportation has submitted to the Congress his recommendations for the regulation of all forms of transportation. His arguments in favor of regulation of water carriers are to my mind both sound, practical, and workable.

Conditions prevailing in the transportation industry persuade me to believe that stabilization of rates, a matter in which the public has a very vital interest, can come only through Federal regulation.

Mr. COPELAND. Who is the Senator quoting there?

Mr. WHEELER. I am reading from a letter written by the president of the Mississippi Valley Barge Line.

Mr. COPELAND. The Mississippi Valley Association is bitterly opposed to it.

Mr. WHEELER. In my judgment, the Senator is wrong in assuming that all its members are opposed to the bill. The Missouri River Improvement Association has passed resolutions favoring the bill, and their representatives came before the committee and testified in favor of it; and shippers in Kansas City, shippers in St. Louis, and farther down the Mississippi River have come before the committee personally or have sent letters favoring the bill.

Mr. McKELLAR. The Mississippi Valley Association is quite an old organization, and I am wondering if that association approved it.

Mr. WHEELER. Mr. President, I am told that the Mississippi Valley Association did not approve the bill, but the Missouri River Association did approve the bill. The Government Inland Waterways Corporation, by General Ashburn, testified and wrote in favor of the bill. Also, the Mississippi Valley Barge Line Co. approved the bill, both at the hearings and by letters directed to me and to the junior Senator from Missouri [Mr. TRUMAN].

I wish to call attention to the fact that the grounds for many of the objections to this bill which were stated before the committee were eliminated from the bill, so that the bill as it was reported out from the committee has eliminated practically all the substantial objections which were made before the committee.

Mr. McKELLAR. Were the objections raised by the Mississippi Valley Association eliminated?

Mr. WHEELER. I shall have to check that up.

Mr. McKELLAR. I hope the Senator will do so.

Mr. WHEELER. I know that General Ashburn, of the Inland Waterways Corporation, and the Mississippi Valley Barge Line Co., which are the largest barge lines on the river, and which would be more vitally affected by the bill than any other lines, in the event the bill were a bad bill, have gone on record in favor of it.

I continue to read from the letter written by the Mississippi Valley Barge Line Co., as follows:

Conditions prevailing in the transportation industry persuade me to believe that stabilization of rates, a matter in which the public has a very vital interest, can come only through Federal regulation. I am informed that this is also the view of those responsible for the management of the Inland Waterways Corporation, a Government-owned enterprise. More than 95 percent of the common-carrier traffic on the Mississippi and Ohio Rivers is handled by that company and ours.

Mr. McKELLAR. Under the terms of the bill, is it the opinion of the Senator that barge lines and the water transportation on the Mississippi River would be destroyed?

Mr. WHEELER. The fact of the matter is this: Here is what these people have been afraid of, and, quite frankly, this was the testimony which came out: The railroads at the present time are regulated, and they are constantly coming to the Interstate Commerce Commission asking that their rates be reduced so that they will be down to a point where they can compete effectively with water carriers on the inland waterways and in the coastal business. They are very much afraid that unless this bill passes the railroads will be given opportunity to drive them out of business. I expect to take up, when I come to the explanation of the bill, the reason why it is necessary that the bill be passed, and why, in my judgment, it is necessary for the preservation of the water carriers themselves to have this legislation adopted.

Mr. McKELLAR. In other words, the Senator believes that the water transportation of the Mississippi River will not be destroyed but will be benefited by the provisions of the bill?

Mr. WHEELER. Yes.

Let me read further from this letter written by the Mississippi Valley Barge Line Co.:

That the shippers are overwhelmingly in favor of regulation appears to be evidenced by the vote on a referendum on the subject, taken by the United States Chamber of Commerce. Sixteen hundred and fifty-four local chambers of commerce voted in favor of regulation, while but 286 voted in opposition to regulation. It is significant that the votes of the Chambers of Commerce of St. Louis, Cincinnati, Louisville, Evansville, Memphis, and New Orleans, which are served by river transportation, were in favor of regulation.

In the consideration of this most important subject I believe it will prove helpful to the members of the Interstate Commerce Committee of the Senate to have information of conditions that exist in the transportation industry that were not touched upon in detail by the Federal Coordinator.

What follows will, I believe, prove convincing that the existing chaos has other causes more important than the absence of regulation of rail competitive forms of transport. It is also calculated to dispel the belief held by a large body of public opinion that the so-called "plight" of the railroads is due to this unregulated competition. The "plight" of the railroads is not dissimilar from that of other industries and is due primarily to the business depression, supplemented by the utter disregard of sound business principles by the railroads and other forms of transportation, all of whom are equally guilty of both unbusinesslike practices and cutthroat competition. Practices of this character exist in the transportation industry probably to a greater degree than in any other major industry. Uneconomic competition prevails not only between the various forms of transportation but between individual units of the same form.

Mr. COPELAND. Mr. President, if I may interrupt the Senator, let me say that I presume he will read this letter later on. I wanted to have this material brought out. I was reading from the minority views presented by the Senator from Minnesota [Mr. SHIPSTEAD], but there was a digression. I desire to say that outside of the Government-owned lines, the shipping interests of the Mississippi Valley are against the bill.

Mr. WHEELER. Oh, no, Mr. President!

Mr. SHIPSTEAD. Mr. President, who has the floor?

The PRESIDENT pro tempore. The Senator from New York had the floor, and was asking a question.

Mr. WHEELER. The Senator from New York asked a question, which I started to answer, and then he interrupted.

Mr. SHIPSTEAD. Mr. President, will the Senator from Montana yield?

Mr. WHEELER. I yield.

Mr. SHIPSTEAD. I desire to interrupt the Senator from Montana [Mr. WHEELER] for a moment in regard to the letter read by him. He quotes the statement in the letter that 95 percent of the common carriers on the Mississippi and Ohio River system favor this bill. The common carriers on those rivers carry only 3 percent, or less than 3 percent, of the total freight carried on those rivers. The remainder is carried by private carriers.

This is said to be a bill to protect and encourage water transportation. I wish to state that the records show that the carriers on the inland waterways which carry 95 percent of the tonnage have asked to be left out of the bill. At first they were included. When I shall later take the floor I will read from the record to show that the lake carriers, who carried 75,000,000 net tons of freight on the Great Lakes last year, came down here. They did not have to appear before any committee. They were too powerful politically. They came down here. The only one who is left is the common carrier who carries a little package freight and carload lots for the small shipper.

I shall not delay the Senator any longer. I thank him for yielding, and I shall later take the floor in my own right to discuss the bill.

Mr. WHEELER. Mr. President, will the Senator from New York yield to me?

Mr. COPELAND. I will yield.

Mr. WHEELER. Let me say that the Senator is completely wrong in the statement he has made to the effect that 95 percent of these people came down here and asked to be taken out of the bill. What I said to the Senate just a moment ago was to the effect that what this bill chiefly seeks to do is to regulate the common carriers by water transportation, and that 95 percent of the common-carrier traffic on the Mississippi and on the Missouri asked to be regulated by this bill. The statement is made that what we are seeking to do is to injure the common carriers by water on the Mississippi, when the Government agency, the Inland Waterways Corporation and the Mississippi Valley Barge Line, as I started to show, say that they control 95 percent of the common-carriage business on the Mississippi, and that they want to be regulated. Not only that, but the chambers of commerce of cities along the Missouri and Mississippi Rivers, which would be affected adversely by it, if the statement of the Senator from Minnesota be correct, are in favor of the regulation of common carriers by water.

Now, with reference to the contract carriers, the Senator says that we left out entirely the contract carriers. That is not correct. As a matter of fact, this bill regulates the contract carriers on the Mississippi River; it regulates the contract carriers on the Ohio River; and it regulates the contract carriers on the other rivers, insofar as they come in competition with common carriers by water.

With reference to the bulk carriers on the Great Lakes and the barge lines upon the rivers, which do not come in competition with the common carriers by water, let me make this statement to show the Senator wherein he is incorrect. If the Senator wants the Interstate Commerce Commission to regulate these Lake cargo boats and contract barge lines upon the Mississippi River, and he will offer an amendment to do so, I am perfectly willing to accept it; but the only carriers these operations come in contact with are the railroads.

It is said that this omission of the contract barge lines from this bill is favored by the railroads. I say to the Senator that is not correct, because the private and contract barge lines of which he speaks and which handle the bulk cargoes on the Mississippi River and on the Great Lakes are, most of them, owned privately or they are purely contract carriers and do not come in conflict with the common carriers by water. The only carriers with whom they compete are the railroads. We have not attempted to regulate those in this bill, because they only compete with the railroads, and they are left free to make rates as low or as high as they want. If, however, the Senator wants to include them in this bill, I am perfectly willing to accept an amendment to that effect.

Mr. SHIPSTEAD. To include whom?

Mr. WHEELER. The railroads would like to see all the contract carriers in this bill.

Mr. SHIPSTEAD. They have not the power to put them in.

Mr. WHEELER. Let me finish my statement. If the Senator will offer an amendment to put them in the bill, I will accept the amendment.

Mr. SHIPSTEAD. The Senator means the private carriers?

Mr. WHEELER. Yes; the private as well as the contract carriers. If the Senator will offer an amendment to put them in the bill, I will accept such an amendment.

Mr. SHIPSTEAD. I do not want them regulated, either; I do not want them under the Interstate Commerce Commission. I know what the Interstate Commerce Commission has done to the railroads.

Mr. WHEELER. But the Senator is complaining that we have left them out because they are so powerful; but I say if the Senator wants them in and will offer such an amendment, I will help him to have them put in. They were left out because we felt that at this time the Interstate Commerce Committee perhaps did not have sufficient evidence of the need for regulating either private carriers or these contract carriers not in competition with common carriers by water, and that the Commission ought to study the question and report back to Congress on that need.

We are seeking in this bill to regulate common carriers by water on the inland waterways and in the coastal and intercoastal trades. We are seeking also to regulate contract carriers in these trades, but only insofar as they compete with the common carriers by water in the same trades; and the bill specifically provides that the Interstate Commerce Commission must recognize the difference between water and rail and at all times to bear in mind that difference.

When I come to discuss the bill, let me say to the Senator, I intend to point out what the Interstate Commerce Commission has done with reference to water rates where they have had the power over them, and I intend to show that, as a matter of fact, the Interstate Commerce Commission has always, over the objection of the railroads, sought to preserve water transportation to the extent they had the power to do so.

Mr. SHIPSTEAD. Mr. President, let me answer the Senator from Montana, if the Senator from New York will permit me.

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Minnesota?

Mr. COPELAND. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. I myself happen to know a little something about what the Interstate Commerce Commission has done to water transportation where they have had the authority. They had the authority, under the law passed by Congress, to establish joint rates 8 years ago, and the first joint rate that was made provided a differential of 20 percent in favor of the waterways, and they have reduced it to 10 percent. By a recent decision, made January 7 of this year in the case of joint rates for the water carriers from New York to the ports of Chicago and Duluth. All the carriers asked was $1.29 and the Railroad Warehouse Commission raised it to $1.62 over the protest of the water carriers. They gave them a rate higher than they wanted to charge.

So far as this bill protecting the common carrier is concerned, he is going to be protected from whom? If we are going to protect him and the contract and private carriers, then we ought to regulate contract and private carriers. It is said they were left out because there is no competition between contract and private carriers. They carry 97 percent of the tonnage on the inland waterways. It is claimed that there is no competition between them and the railroads. Of course, there cannot be, because on water freight is hauled so cheaply that the railroads cannot compete.

What is left is the little common carrier who carries only 3 percent. He is left in the bill; he is to be protected and the way he is going to be protected is by regulating him.

Mr. LONG. Mr. President, if the Senator will yield, he made a statement a minute ago as to the Interstate Commerce Commission. Does he know of any instance where the Interstate Commerce Commission regulates that it has ever helped these interests?

Mr. SHIPSTEAD. As a matter of fact the history of water rates under the decisions of the Interstate Commerce Commission shows that the water carriers have been discriminated against. It was admitted by the Coordinator and others who appeared before the committee that the Transportation Act of 1920 specifically provided that the first business of the Interstate Commerce Commission was to do something for the railroads at the expense of the shipper and at the expense of everyone else; that its business was to save the railroads, and the records of the Commission show that that is what they have been trying to do. But the railroads are in worse shape now than when regulation began.

Mr. WHEELER. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. WHEELER. While I hold no brief for the Interstate Commerce Commission—and certainly nobody can ever accuse me of being biased in favor of the railroads, because the fact is quite the contrary and the railroads feel that I am extremely unfair with them as to many matters—let me say

that if we are going to have full regulation of the railroads, then we have got to have some regulation of their competitors. That is a fundamental proposition.

Mr. ROBINSON. Mr. President, in connection with that statement, and with other remarks which have been made, does not the question also arise whether we are to have regulation at all or whether the carriers are to be left entirely unregulated?

Mr. WHEELER. Exactly.

Mr. ROBINSON. Does any Senator think that the transportation system of the country in its present magnitude, involving as many conflicting interests as it does, can be operated successfully without some form of regulation, insofar as it deals with interstate commerce?

Mr. LONG. Mr. President——

Mr. WHEELER. Let me say to the Senator——

Mr. COPELAND. Mr. President, I think I will take the floor in my own right.

The PRESIDENT pro tempore. The Senator from New York declines to yield further.

Mr. COPELAND. Mr. President, I wish to say in reply to the Senator from Arkansas there is not any thought about freeing shipping from regulation. Shipping is now regulated. We have the Intercoastal Act of 1933 and the Merchant Marine Act of 1928. There is regulation of the shipping rates in the Shipping Board and the Commerce Department.

Mr. ROBINSON. The Senator's position, then, is that there must be regulation?

Mr. COPELAND. Oh, yes.

Mr. ROBINSON. But that the regulation that is now provided is adequate and reliable?

Mr. COPELAND. That is correct.

Mr. ROBINSON. And that there is no occasion for modifying it or entrusting it to any different agency from that which exercises jurisdiction.

Mr. COPELAND. The Senator is entirely correct.

Mr. ROBINSON. I understand the Senator's position.

Mr. COPELAND. I know, if I know anything, that if we put shipping under the Interstate Commerce Commission the shipping men of this country might as well go out of business. The only way shipping can compete with the railroads is by reason of a lower rate for the carriage of freight. If this bill should pass, and shipping concerns should be placed under the Interstate Commerce Commission, and there should come a complaint from a transcontinental railroad that the intercoastal lines, the shipping lines from the Pacific coast to the Atlantic, were cutting under the rates of the railroads and interfering with the operation of the railroads and the making of profits by the railroads, if the matter should thus be brought officially to the attention of the Interstate Commerce Commission, there would be only one way by which they could settle it to suit the railroads, and that is to insist that the rates on shipping be increased; and the minute the rates on shipping were increased, then shipping would go out of business, and likewise all the great concerns included in the testimony of the Senator from Minnesota would naturally have cause for complaint.

Mr. ROBINSON. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Arkansas?

Mr. COPELAND. I yield.

Mr. ROBINSON. I understood the Senator a few moments ago, in answer to one of my questions, to say that there is at present an adequate regulation of shipping rates. I do not think the word "rates" was used, but my understanding was that it was comprehended or at least implied in the answer. Is that correct?

Mr. COPELAND. That is correct.

Mr. ROBINSON. What agency now regulates shipping rates?

Mr. COPELAND. The Shipping Board.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WHEELER. Let me correct the Senator by saying that the Interstate Commerce Commission at the present time regulates the rates of certain inland and coastal shipping. As I shall point out later, where the ships are owned by the railroads the Interstate Commerce Commission regulates the rates. Where the ship lines make joint rates with the railroads, such rates are likewise regulated by the Commission. But the contract carriers by water are not regulated either on the Mississippi River or in the coastal trade.

Mr. ROBINSON. That was my information, and that accounted for the last question which I asked the Senator from New York. My information was that there is no regulation.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WHITE. I should not want to permit to pass unchallenged the general statement just made by the Senator from Montana, because there is a very substantial body of law giving jurisdiction over the rates and the practices of water carriers, and a very large portion of the pending bill is made up by a transfer and a reframing of existing provisions of law. I think that is a fair statement of the situation.

Mr. COPELAND. That is the fundamental fact. When anybody says here that there is no system now in existence for the regulation of shipping and shipping rates, he certainly is misinformed. The purpose of the bill, as the Senator from Maine just pointed out, is to transfer from the Shipping Board and from the Department of Commerce to the Interstate Commerce Commission the power which the Shipping Board now has over the regulation of rates.

Mr. WHITE. Mr. President, will the Senator yield further?

Mr. COPELAND. Certainly.

Mr. WHITE. I invite the Senator's attention that in the early stages of the discussion of this matter in the Interstate Commerce Committee there was prepared for the use of the committee, and I think it was at my suggestion, a statement showing the comparable provisions of law and showing the sources from which the provisions in the pending bill were taken. That is set forth in parallel columns in the hearings, and Senators will find repeated references to present law or regulation. The bill is in large part a transfer of existing authority from existing agencies to the Interstate Commerce Commission. There are many modifications, of course.

Mr. WHEELER. So far as foreign shipping is concerned, all the bill seeks to do is to transfer the power from the Commerce Department to the Interstate Commerce Commission in accordance with the message of the President of the United States saying he wanted it all under one agency.

With reference to intercoastal shipping, and so there may be no mistake about it at all, the Commerce Department at the present time may fix maximum rates, but at the present time there is no power to fix minimum rates.

Mr. COPELAND. The courts have held that the Commission have that power.

Mr. WHEELER. No; the Commission does not have the power to fix minimum rail-water rates, but only to fix maximum of such joint rates. Of course, the Commission can fix the maximum and minimum, or the precise rates for rail traffic, and it may fix the port-to-port rates of water carriers owned by railroads, but its power over joint rail-water rates is limited, like that of the Department of Commerce over the intercoastal rates, to fixing only the maximum.

Mr. COPELAND. Does the Senator propose that the Interstate Commerce Commission shall fix specific rates on goods shipped by vessels?

Mr. WHEELER. What the bill proposes to do in respect of interstate common carriers by water is exactly the same thing the Interstate Commerce Commission does at the present time with reference to the rates of railroads. The practice is that the railroad companies file their rates. If the Commission find that those rail rates are unfair or unjust or discriminatory, then they have the power to order the railroads to change the rates so they shall not be unjust, shall not be discriminatory, and shall not be unfair. That is what the bill proposes to empower the Commission to do

also in respect of the rates of interstate common carriers by water.

Mr. SHIPSTEAD. Mr. President, will the Senator yield to me a moment, and then I shall not bother him further?

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Minnesota?

Mr. COPELAND. I am glad to yield.

Mr. SHIPSTEAD. On the Mississippi River last year there were carried 57,700,000 tons, while the common carriers carried only 1,350,000 tons. The Senator from Montana said the Federal Barge Line and the Mississippi River Barge Line asked to come under the Interstate Commerce Commission. It is true they did that. They also stated why they came with that request. Their experience with the Interstate Commerce Commission has been such that they are afraid they are going to be driven out of business by discrimination in joint rates and railroad reductions in port-to-port rates against them. They were told that if they came under Federal regulation, there would be placed on the Interstate Commerce Commission some men who would make a particular study of water transportation.

Here is an idea as to why the water carriers carried 95 percent of the transportation on the inland waterways. The tonnage on the Ohio River 2 years ago was twice the amount of tonnage that passed through the Panama Canal. The great metropolitan area of Pittsburgh gets coal hauled down the Monongahela River to Pittsburgh for 23 cents per ton. The people who own those large private and contract carriers who carry 97 percent of the tonnage on the inland waterways are the same people who own the coal, the iron, and the steel industries. They own the great terminal warehouses. They own the boats.

That is the crowd which controls the railroads. They do not want those who carry 97 percent of the tonnage to compete with the railroads. They do not want them regulated. They say there can be no competition between them. But the little common carrier who carries the freight of the small shipper, the carload lots, the package freight, is to be regulated for his own protection. If there ever was anything more ironical and paradoxical advanced in legislation, I should like to know it. He must be regulated to protect himself evidently against himself.

Mr. WHEELER. Let me ask the Senator a question. He complains in one breath that we left them out because of their tremendous power and their tremendous influence, and of course that is not correct.

Mr. SHIPSTEAD. I beg to differ with the Senator.

Mr. WHEELER. All right. I say that is not correct. The only carriers they come in competition with are the railroads. Is not that correct?

Mr. SHIPSTEAD. They do not compete with the railroads. They cannot compete because water transportation is so cheap there can be no competition.

Mr. WHEELER. If the Senator's theory were correct that the Interstate Commerce Commission was railroad-minded, then what would happen if we put the water carriers under regulation would be that the Interstate Commerce Commission would raise their rates so that the railroads could compete with them. That would be the result if what the Senator believes were correct.

Mr. COPELAND. Does the Senator doubt that would happen?

Mr. WHEELER. Of course I doubt it.

Mr. COPELAND. I have no doubt about it.

Mr. WHEELER. Does the Senator think that Mr. Eastman is so corrupt and the other members of the Interstate Commerce Commission are so corrupt that they are going to——

Mr. COPELAND. Mr. President, just a moment. I have never intimated that Mr. Eastman or anybody else is corrupt.

Mr. WHEELER. I understand that.

Mr. COPELAND. I do not want those words put in my mouth. Public officials are not corrupt. I regard Mr. Eastman as one of the outstanding men of the country. I have great confidence in him. I believe that under no circumstances would he be corrupt. When I talk about what the Interstate Commerce Commission would do outside of corruption and in decency, I know as well as I could know anything that is not yet proven—and yet history shows the truth of what I am saying—that the Interstate Commerce Commission is railroad-minded. It will continue to be railroad-minded and if this bill should pass it would mean the end of the American merchant marine. We can take our choice as regards the facts of the future.

Mr. SHIPSTEAD. Mr. President, will the Senator from New York yield further?

Mr. COPELAND. Certainly.

Mr. SHIPSTEAD. Let me explain the economic results of this control by the railroads of the coal and grain and iron and steel transportation on the Great Lakes, which is 97 percent of the tonnage, or 75,000,000 tons, and why they do not want competition and why there cannot be any competition.

That tonnage is hauled very cheaply, but do not think for a moment that the consumer or the producer gets the benefit. The coal mines, which are owned and operated by the large coal companies, are owned by the same people who own the Steel Corporation and the boats. They haul the steel and coal on the Great Lakes. They haul the ore from Duluth to Pittsburgh or to Ashtabula and Lake Erie ports, and haul the finished products back. That cheap transportation is not reflected in the prices the consumer pays. They have a monopoly of transportation by water. The Government has spent millions of dollars to develop channels and harbors on the Great Lakes which are enjoyed by the Great Lake Carriers Association, a close corporation, a monopolistic corporation controlling transportation and the price to consumer on commodities carried. They have all the benefit of water transportation, because they have a monopoly, and, of course, they can haul this tonnage cheaper than it can be hauled on a railroad; and they do not want the Interstate Commerce Commission to interfere and take away this piece of pie from them, so they are not in the bill. The little shipper, who must pay the cost of transportation, what little he now gets out of a common carrier—only 3 percent—pays the freight.

These common carriers came here, as I said before, because of their experience with the Interstate Commerce Commission in fixing joint rates. They have been discriminated against in port-to-port rates by the Interstate Commerce Commission. They feel like the banker who has been robbed by bank robbers, and so he thinks he will join them, because they are too powerful to be resisted. That was the substance of their testimony before the committee.

Mr. COPELAND. I do not feel that the Senator has bothered me. I thank him for what he has contributed; but I desire to call a little more attention to the matter which I was discussing in the very beginning, before we entered into this colloquy.

In the minority report presented by the able Senator from Minnesota, he says:

> The record clearly shows that the public which furnishes the tonnage and pays the freight urges that this legislation be not passed. The great farm organizations, such as the American Farm Bureau Federation, the National Grange, the Northwest Farmers' Union, the Farmers' National Grain Corporation, and the American Cotton Cooperative Association regard this legislation as inimical to the welfare of farmers all over the Nation.

A little while ago the Senator in charge of the bill, the Senator from Montana [Mr. WHEELER], said that when he pinned down one of these witnesses he seemed hazy. I am not surprised that any witness should feel somewhat hazy or be a little bit in doubt about what the bill means, because apparently the Senators on the floor do not fully realize what it means. I may be hazy on a million other matters, but I have not any doubt in my mind that the farm organizations are very wise when they say that this bill is an improper bill, because it means an added burden to every farmer who has occasion to ship his fruit or his farm products any distance. Just as soon as he loses the competition now afforded by the steamship owners, and gets in the hands of the railroads, as this bill certainly provides—because turning over shipping to the Interstate Commerce

Commission means turning over shipping to the railroads—when that happens, the agricultural shippers as well as the manufacturers of my section will suffer materially.

Mr. SHIPSTEAD. Mr. President, will the Senator yield further?

Mr. COPELAND. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. In the letter which the Senator from Montana quoted, it was stated that the Chamber of Commerce of the United States were in favor of this bill. The members of the Chamber of Commerce of the United States do not pay any freight rates. Whatever business they transact where freight rates are involved, they pass them on to the consumer or the producer, and he pays the transportation charges. The Coordinator, Mr. Eastman, admitted before the committee that this would mean an increase in rates.

Who pays the rates except the farmers who belong to these organizations who came here to protest? They are the ones who pay the bills. They pay the transportation on everything they ship to a terminal market. The higher the freight, the less they get for their product. They pay the freight on every piece of manufactured goods from the factory to the farm; so there is no one in the United States who has a greater stake in transportation rates than the farmer, because he is both the producer and the consumer, and he pays the freight both ways. The testimony of the United States Chamber of Commerce ought to be thrown out of the window, because its members do not pay any freight.

Mr. FLETCHER. Mr. President, I suggest to the Senator, if he will allow me, that even though the purchaser pays the freight—and sometimes it is argued that the shipper does not pay the freight; that the purchaser pays the freight—even though the purchaser pays the freight, the price is reflected in the price which the producer receives.

Mr. SHIPSTEAD. Certainly.

Mr. FLETCHER. It is reflected to him in any event.

Mr. SHIPSTEAD. Certainly. If wheat sells in Baltimore for a dollar a bushel, and it costs 20 cents to transport it from Minneapolis, the price in Minneapolis is just 20 cents less than in Baltimore. The same thing is true if it is shipped to Liverpool or if it is shipped to Hong Kong.

To show what weight should be given to the views of those who wrote this bill, when they first brought in the bill they had in it a provision that the Interstate Commerce Commission should regulate the rates on all ships leaving the United States for foreign ports. If that should be done, and under the law as proposed here rates were required to be published 30 days in advance, suppose there were a chance for an American citizen to sell 10,000,000 bushels of wheat to Hong Kong. The rate must be published—20 cents a bushel. That would serve notice to all Canadian ports that no ship could leave American ports charging less than 20 cents a bushel for grain to Hong Kong. All the Canadian shipping and Canadian grain interests would have to do to get that business would be to say, "We will haul it for 18 cents." The same thing is true as to ports along the Atlantic coast. It would drive commerce away from the Atlantic coast ports of the United States to Montreal and to Quebec; so they finally took that provision out of the bill.

Then, the framers of the bill were going to regulate wharfage. They did not know that many of the wharves were owned by various States and municipalities, subdivisions of State governments; so they had to let that provision go out when the fact was pointed out that the Federal Government could not step in with a law and regulate an agency or a subdivision of a State.

They also proposed to regulate the great mass of tonnage on inland waters, 97 percent private and contract carriers. When they found out what the opposition was they left that out and said there was not any competition. I happen to know this because some of these people came down to call on me before the session of the Congress opened. There can be no competition between water and rail transportation.

For instance, last year, during the drought, over 11,000,000 bushels of wheat were shipped into the drought area from Atlantic coast ports and Pacific coast ports; and where did it go? It is a distance of 1,500 miles across the country from Oregon and Washington to Chicago or Duluth. That wheat, 11,000,000 bushels, came down through the Panama Canal, across the Gulf, up the Atlantic coast, over the New York barge line to Buffalo, and then across the Great Lakes to Duluth and Chicago, 8,000 miles.

There can be no competition between rail and water transportation; and yet, by forced stretch of the imagination, alleged competition between the two methods of transportation is invoked to kill the growing industry of common-carriage transportation by water, just in its infancy, ostensibly for the benefit of the small shipper, for the benefit of the farmer who ships only in carload lots. It is said that they must be protected, and the way to protect them is to regulate the water carriers. Protect them from whom? If they are in danger from competition, why not regulate their competitors? We are now putting them into the hands and into the power of a commission which, ever since it was given authority over joint rates in 1928, has consistently and constantly discriminated against the water carriers in favor of the railroads, to drive them out of business.

Mr. COPELAND. Mr. President, I apologize to the Senate for taking so much time. I shall merely add that not only all these great farm organizations but the National Industrial Traffic League, the Mississippi Valley Association, the Upper Mississippi Valley Association, the Mississippi and St. Croix Improvement Commission, and many other organizations, are on record against this bill.

I have presumed to say as much as I have about the subject because all these matters were given consideration by the Commerce Committee in connection with the writing of the subsidy bill. There we had the testimony of many persons who were interested in shipping; and I know from the testimony, and from private conversations with them, that outside of those shipping lines which are largely railroad-controlled there is opposition, and bitter opposition, to this bill; and at the right time we shall attempt to present the argument in a more orderly fashion.

I apologize to the Senate for having taken so much time. I suggest that the reading of the amendments be continued.

The PRESIDING OFFICER (Mr. TRUMAN in the chair). The question is on agreeing to the amendment of the committee on page 9, line 8.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Interstate Commerce was, on page 9, line 19, before the word "The", to strike out "(m)" and insert "(j)"; in line 20, after the word "include", to insert "Porto Rico, notwithstanding the provisions of the act of March 2, 1917, to provide a civil government for Porto Rico, and any other act or acts which are inconsistent with the provisions of this part, and any other possession of the United States except"; and in line 25, after the name "Canal Zone", to strike out the comma and "but this enumeration shall not be construed to exclude any such possession of the United States", so as to read:

(j) The term "possession of the United States" shall include Porto Rico, notwithstanding the provisions of the act of March 2, 1917, to provide a civil government for Porto Rico, and any other act or acts which are inconsistent with the provisions of this part, and any other possession of the United States except the Philippine Islands and the Canal Zone: *And provided further*, That nothing in this part shall be construed to affect the power of the Government of the Philippine Islands vested in it by the second proviso of section 21 of the Merchant Marine Act, 1920, as amended or by any other act or acts.

The amendment was agreed to.

The next amendment was, on page 10, line 8, after the word "Sec.", to strike out "204" and insert "304"; in line 9, after the word "to", to strike out "supervise and"; in the same line, after the word "regulate", to strike out "interstate"; and in the same line, after the word "carriers", to strike out "wharfingers, and common carriers by water in foreign commerce to the extent hereafter" and insert "herein", so as to read:

SEC. 304 (a) It shall be the duty of the Commission to regulate water carriers to the extent herein provided, and to that end the Commission shall have authority to make and amend such general or special rules and regulations and to issue such orders as may be necessary to carry out the provisions of this part.

The amendment was agreed to.

The next amendment was, on page 10, line 17, after the word "the", to insert "organization of water carriers and the"; in line 18, after the word "of" where it occurs the first time, to strike out "the" and insert "their", and in the same line, after the word "business", to strike out "of water carriers and wharfingers", so as to read:

(b) The Commission shall have authority to inquire into and report on the organization of water carriers and the management of their business and to keep itself informed as to the manner and method in which the same is conducted, and to transmit to Congress, from time to time, such recommendations as the Commission may deem necessary.

The amendment was agreed to.

The next amendment was, on page 10, line 24, after the word "reasonable", to strike out "classification" and insert "classifications"; in line 25, before the word "groups", to strike out "or" and insert "of"; in the same line, after the word "in", to strike out "any one of the several classes of carriers herein defined as an" and insert "the terms"; on page 11, line 2, before the word "interstate", to insert "or"; at the end of line 2, after the word "water", to strike out "and or 'interstate private carrier by water' and 'common carrier by water in foreign commerce'"; and in line 8, after the word "the", to strike out "Commission deems" and insert "Commission, after hearing, finds", so as to read:

(c) The Commission may establish from time to time such just and reasonable classifications of groups of carriers included in the terms "interstate common carrier by water" or "interstate contract carrier by water" as the special nature of the service performed by such carriers shall require; and such just and reasonable rules, regulations, and requirements consistent with the provisions of this part to be observed by the carriers so classified or grouped, as the Commission, after hearing, finds necessary or desirable in the public interest.

The amendment was agreed to.

The next amendment was, on page 11, after line 10, to strike out:

(d) The Commission is authorized and directed in aid of the accomplishment of the purposes of this part.

1. To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally and which arise out of or result from foreign laws, rules, or regulations, or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country; and

2. To request the head of any department, board, bureau, or agency of the Government to suspend, modify, or annul rules or regulations which have been established by such department, board, bureau, or agency, or to make new rules or regulations affecting shipping in the foreign trade other than such rules or regulations relating to the Public Health Service, the Consular Service, and the Steamboat Inspection Service.

The amendment was agreed to.

The next amendment was, on page 12, after line 4, to strike out:

(e) No rule or regulation shall hereafter be established by any department, board, bureau, or agency of the Government which affects shipping in the foreign trade, except rules or regulations affecting the Public Health Service, the Consular Service, and the Steamboat Inspection Service, until such rule or regulation has been submitted to the Commission for its approval and final action has been taken thereon by the Commission or the President.

The amendment was agreed to.

The next amendment was, on page 12, after line 12, to strike out:

(f) Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation, or make a new rule or regulation upon request of the Commission, as provided in subdivision (2) of paragraph (d) of this section, or objects to the decision of the Commission in respect to the approval of any rule or regulation, as provided in paragraph (e) of this section, either the Commission or the head of the department, board, bureau, or agency which has established or is attempting to establish the rule or regulation in question may submit the facts to the President, who is hereby authorized to establish or suspend, modify, or annul such rule or regulation.

The amendment was agreed to.

The next amendment was, at the top of page 13, to strike out:

(g) No rule or regulation shall be established which in any manner gives vessels owned by the United States any preference or favor over those vessels documented under the laws of the United States and owned by persons who are citizens of the United States.

The amendment was agreed to.

The next amendment was, on page 13, line 6, before the word "Whenever", to strike out "(h)" and insert "(d)"; in line 12, after the word "to", to strike out "the latter" and insert "such interstate"; in line 13, after the word "relieve", to strike out "the latter" and insert "such"; and in line 16, after the word "undue", to strike out "disadvantage" and insert "disadvantage, consistently with the public interest and the policy declared in section 302 (a) of this part", so as to read:

(d) Whenever it shall appear from complaint made to the Commission or otherwise that the rates, fares, regulations, or practices of water carriers engaged in transportation to or from a port or ports of any foreign country in competition with interstate common carriers by water or interstate contract carriers by water, cause undue disadvantage to such interstate carriers by reason of such competition, the Commission may relieve such carriers from the provisions of this part to such extent, and for such time, and in such manner as in its judgment may be necessary to avoid or lessen such undue disadvantage, consistently with the public interest and the policy declared in section 302 (a) of this part.

The amendment was agreed to.

The next amendment was, on page 13, after line 18, to insert:

(e) Upon complaint in writing to the Commission by any person, or upon its own initiative without complaint, the Commission may investigate whether any water carrier has failed to comply with any provision of this part or with any requirement established pursuant thereto, and if, after notice of and hearing upon any such investigation, the Commission finds that any such carrier has failed to comply with any such provision or requirement, it shall issue an appropriate order to compel such carrier to comply therewith. Whenever the Commission is of opinion that any complaint does not state reasonable grounds for action on its part, it may dismiss such complaint.

The amendment was agreed to.

The next amendment was, on page 14, after line 6, to insert:

(f) After a decision, order, or requirement has been made by the Commission in any proceeding under this part, any party thereto may make application to the Commission for reconsideration or rehearing of the same, or of any matter determined therein, and it shall be lawful for the Commission in its discretion to grant such reconsideration or a rehearing if sufficient reason therefor be made to appear. Applications for reconsideration or rehearing shall be governed by such general rules as the Commission may establish. No such application shall excuse any carrier from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. If, after such reconsideration or rehearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such reconsideration or rehearing shall be subject to the same provisions as an original decision, order, or requirement.

The amendment was agreed to.

The next amendment was, on page 15, line 3, in the heading after the word "Interstate", to strike out "water transportation, and wharfingers" and insert "transportation", so as to make the heading read:

Interstate transportation; rates, fares, charges, and practices.

The amendment was agreed to.

The next amendment was, on page 15, line 6, after the word "Sec.", to strike out "205" and insert "305"; in line 7, after the word "water", to strike out "to establish reasonable through routes for interstate transportation with other such common carriers and with common carriers by railroad and/or by motor vehicle, and"; in line 11, after the word "for", to strike out "the"; in the same line, after the word "transportation", to strike out "of passengers or property

in interstate commerce " and insert after the semicolon " and, according to its undertaking or holding out "; in line 14, after the word " reasonable ", to strike out " individual and joint "; in line 22, before the word " transportation ", to strike out " interstate "; in line 23, after the word " property ", to insert " in interstate commerce "; in the same line, after the word " of ", to strike out " such "; and on page 16, line 1, after the word " any ", to strike out " of such parties. Such carriers may also establish through routes and joint rates, fares, charges, and classifications with common carriers by water in foreign commerce and just and reasonable regulations and practices relating thereto, and in the event of such through routes and joint rates the provisions of this section, section 206, and section 207 (except paragraph (c) thereof) of this part, with respect to through routes and joint rates, fares, charges, classifications, regulations, and practices between interstate common carriers by water, shall apply. It shall be the duty of every wharfinger to provide safe and adequate service, equipment, and facilities used or necessary in or in connection with transportation subject to this part, and to establish, observe, and enforce just and reasonable charges and classifications for wharfage, handling, loading, unloading, storage, dockage, and all other services or uses related to or connected with such transportation, and just and reasonable rules, regulations, and practices relating thereto. The establishment and maintenance of through routes and joint rates between interstate common carriers by water and by railroad, and any proceeding in relation thereto, shall be subject to the provisions of part I of this act " and insert " carrier party thereto ", so as to read:

SEC. 305. (a) It shall be the duty of every interstate common carrier by water to provide safe and adequate service, equipment, and facilities for transportation; and, according to its undertaking or holding out, to establish, observe, and enforce just and reasonable rates, fares, charges, and classifications, and just and reasonable regulations and practices relating thereto and to the issuance, form, and substance of tickets, receipts, bills of lading, and manifests, the manner and method of presenting, marking, packing, and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the transportation of passengers or property in interstate commerce; and in case of joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any carrier party thereto.

The amendment was agreed to.

The next amendment was, on page 16, after line 23, to insert:

(b) Interstate common carriers by water may establish reasonable through routes and joint rates, fares, charges, and classifications with other such carriers or with common carriers by railroad or motor vehicle; and in case of such joint rates, fares, or charges it shall be the duty of the carriers parties thereto to establish just and reasonable regulations and practices in connection therewith, and just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any of such carriers. The establishment and maintenance of through routes and joint rates or fares between interstate common carriers by water and common carriers by railroad, and any proceeding in relation thereto, shall be subject to the provisions of part I of this act, which shall not be construed as amended hereby; and between interstate common carriers by water and common carriers by motor vehicle shall be subject to part II of this act."

The amendment was agreed to.

The next amendment was, on page 17, line 16, before the word " It ", to strike out "(b)" and insert "(c)"; in line 17, after the word " water ", to strike out " or any wharfinger "; in line 19, after the word " port " and the comma, to insert " port district, gateway, transit point "; in line 21, after the word " port " and the comma, to insert " port district, gateway, transit point "; and in line 24, after the word " whatsoever ", to insert a colon and the following proviso: " *Provided,* That this paragraph shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever descripiton ", so as to read:

(c) It shall be unlawful for any interstate common carrier by water to make, give, or cause any undue or unreasonable preference or advantage to any person, port, port district, gateway, transit point, locality, or description of traffic in any respect whatsoever, or to subject any person, port, port district, gateway, transit point, locality, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided,* That this paragraph shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

The amendment was agreed to.

The next amendment was, on page 18, line 3, after the word " Sec.", to strike out " 206 " and insert " 306 "; in line 7, after the word " the ", to strike out " interstate "; in the same line, after the word " transportation ", to insert " in interstate commerce "; in line 8, after the word " between ", to strike out " points " and insert " places "; in the same line, after the word " own ", to strike out " route " and insert " route,"; in line 9, after the word " between ", to strike out " points on its own route " and insert " such places "; in line 10, before the word " on ", to strike out " points " and insert " places "; in line 16, before the word " other ", to strike out " storage charges, and " and insert " or "; in line 17, before the word " require ", to strike out " may " and insert " shall "; and in line 21, after the word " consignee ", to strike out " Each wharfinger shall file with the Commission and print and keep open to public inspection tariffs showing all his or its charges, classifications, rules, regulations, and practices for wharfage, handling, loading, unloading, storage, dockage, or other services or uses in or in connection with transportation subject to this part ", so as to read:

SEC. 306. (a) Every interstate common carrier by water shall file with the Commission, and print, and keep open to public inspection tariffs showing all rates, fares, charges, classifications, rules, regulations, and practices, for the transportation in interstate commerce of passengers and property between places on its own route, and between such places and places on the route of any other such carrier or on the route of any common carrier by railroad or motor vehicle, when a through route and joint rate shall have been established. Such tariffs shall plainly state the places between which property or passengers will be carried, the classification of property or passengers and, separately, all terminal charges, or other charges which the Commission shall require to be so stated, all privileges or facilities granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such rates, fares, or charges, or the value of the service rendered to the passenger, shipper, or consignee.

The amendment was agreed to.

The next amendment was, on page 19, line 4, after the word " water ", to strike out " and of wharfingers ", and in line 9, after the word " in ", to strike out " consonance " and insert " accordance ", so as to read:

(b) All charges of interstate common carriers by water shall be stated in lawful money of the United States. The Commission shall by regulations prescribe the form and manner in which the tariffs required by this section shall be published, filed, and posted; and the Commission is authorized to reject any tariff filed with it which is not in accordance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

The amendment was agreed to.

The next amendment was, on page 19, line 13, after the word " water ", to strike out " and no wharfinger "; in line 19, after the word " carrier ", to strike out " or wharfinger "; and on page 20, line 1, after the word " apply ", to strike out " to interstate common carriers by water " and insert " in the administration of this part ", so as to read:

(c) No interstate common carrier by water shall charge or demand or collect or receive a greater or less or different compensation for transportation subject to this part or for any service in connection therewith than the rates, fares, or charges specified for such transportation or such service in the tariffs lawfully in effect; and no such carrier shall refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation affecting the value thereof except such as are specified in its tariff: *Provided,* That the provisions of section 1 (7) and 22 (1) of part I shall apply in the administration of this part.

The amendment was agreed to.

The next amendment was, on page 20, line 6, before the word " except ", to strike out " or wharfinger ", so as to read:

(d) No change shall be made in any rate, fare, charge, classification, regulation, or practice specified in any effective tariff of an interstate common carrier by water, except after 30 days' notice of the proposed change filed and posted in accordance with

this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow changes upon notice less than that herein specified, or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special circumstances or conditions.

The amendment was agreed to.

The next amendment was, on page 20, line 19, after the word "Commission", to strike out "may" and insert "shall"; in line 21, before the word "complete", to insert "schedules of minimum rates or charges or, in the discretion of the Commission"; on page 21, line 1, after the word "therewith", to strike out "except in strict accordance with" and insert "for a less compensation, either directly or by means of a change in"; in line 2, after the word "the", to strike out "charges"; in line 3, after the word "terms", to strike out the comma; in the same line, after the word "of", to strike out "such" and insert "any"; in line 4, after the word "undertaking", to insert "than the rates or charges so published and filed with the Commission"; in line 5, after the word "That", to insert "the Commission, in its discretion and for good cause shown, either upon application of"; in line 8, after the word "thereof" and the comma, to strike out "may apply to the Commission for" and insert "or upon its own initiative may, after hearing, grant"; in line 10, after the word "paragraph", to strike out the comma and "and the Commission may, after hearing, grant such relief", and in line 14, after the word "section", to strike out "202" and insert "302", so as to read:

(e) It shall be the duty of every interstate contract carrier by water to file with the Commission, post, and keep open for public inspection in accordance with such rules and regulations as the Commission shall prescribe, schedules of minimum rates or charges or, in the discretion of the Commission, complete and exact copies of every contract, charter, agreement, or undertaking for interstate transportation to which it is a party; and it shall be unlawful for any such carrier to transport passengers or property or to furnish facilities or services in connection therewith for a less compensation, either directly or by means of a change in the terms and conditions of any contract, charter, agreement, or undertaking than the rates or charges so published and filed with the Commission: *Provided*, That the Commission, in its discretion and for good cause shown, either upon application of any such carrier or carriers, or any class or group thereof, or upon its own initiative may, after hearing, grant relief from the provisions of this paragraph to such extent, and for such time, and in such manner, as in its judgment, is consistent with the public interest and the policy declared in section 302 (a) of this part.

The amendment was agreed to.

The next amendment was, on page 21, line 16, after "Sec.", to strike out "207" and insert "307"; in line 19, after the word "section", to strike out "206" and insert "306"; in line 20, after the word "common", to insert "carrier by water"; in the same line, after the word "or", to insert "any interstate"; in line 21, after the word "carrier", to strike out "or carriers"; in the same line, after the word "water", to strike out the comma and "or by any such common carrier or carriers in conjunction with any common carrier or carriers by motor vehicles, or by any wharfinger or wharfingers"; and on page 22, line 2, after the word "oath", to strike out "Whenever the Commission is of opinion that any complaint does not state reasonable grounds for investigation and action on its part, it may, in its discretion, dismiss such complaint", so as to read:

SEC. 307. (a) Any person may make complaint in writing to the Commission that any individual or joint rate, fare, charge, classification, regulation, or practice, published and filed as provided in section 306 of this part by any interstate common carrier by water or any interstate contract carrier by water is or will be in violation of this part. Every complaint shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

The amendment was agreed to.

The next amendment was, on page 22, line 9, after the word "by", to strike out "water, or by any such carrier or carriers in conjunction with any common carrier or carriers by motor vehicles, or by any wharfinger or wharfingers" and insert "water"; in line 13, after the word "or" where it occurs the first time, to strike out "carriers, or wharfinger or wharfingers," and insert "carriers"; and in line 17, after the word "it", to strike out "shall" and insert "may", so as to read:

(b) Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of opinion that any individual or joint rate, fare, or charge demanded, charged, or collected by any interstate common carrier or carriers by water for transportation subject to this part or any regulation or practice whatsoever of such carrier or carriers relating to such transportation, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any provision of this part, it may determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful regulation or practice thereafter to be made effective.

The amendment was agreed to.

The next amendment was, on page 22, after line 21, to strike out:

(c) The Commission shall, whenever deemed by it necessary or desirable in the public interest, after hearing upon complaint or upon its own initiative without a complaint, establish just and reasonable through routes, joint classifications, and joint rates, fares, charges, regulations or practices, applicable to the interstate transportation of passengers or property by common carriers by water, or by any such carrier or carriers in conjunction with any common carrier or carriers by motor vehicle, or the maxima or minima, or maxima and minima, to be charged, and the terms and conditions under which such through routes shall be operated.

The amendment was agreed to.

The next amendment was, on page 23, line 9, before the word "In", to strike out "(d)" and insert "(c)"; in line 11, after the word "carrier", to strike out "or wharfinger" and insert "by water"; in line 13, after the word "carrier", to strike out "or wharfinger"; in line 15, after the word "carrier", to strike out "or wharfinger"; and in line 17, after the word "carrier", to strike out "or wharfinger", so as to read:

(c) In any proceeding to determine the justness or reasonableness of any rate, fare, or charge of any interstate common carrier by water there shall not be taken into consideration or allowed as evidence or elements of value of the property of such carrier either goodwill, earning power, or the certificate under which such carrier is operating; and in applying for and receiving a certificate under this part any such carrier shall be deemed to have agreed to the provisions of this paragraph on its own behalf and on behalf of all transferees of such certificate.

The amendment was agreed to.

The next amendment was, on page 23, line 20, before the word "whenever", to strike out "(c)" and insert "(d)"; in line 23, before the word "transportation", to strike out "interstate"; in line 24, after the word "water" and the comma, to strike out "or by any such carrier or carriers in conjunction with any common carrier or carriers by motor vehicle,"; on page 24, line 3, after the word "carriers" to insert "parties"; in the same line, after the word "thereto", to strike out "(whether agreed upon by such carriers any of them, or otherwise established)"; in line 6, after the word "carriers", to strike out the comma and "and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith"; and in line 19, after the word "justified", to strike out "and, in the case of joint rates prescribed by the Commission, the order as to divisions may be made effective as of the date of the original order", so as to read:

(d) Whenever, after hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property by interstate common carriers by water are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers. The order of the Commission may require the adjustment of divisions between such carriers in accordance with the order, from the date of filing the complaint or entry of order of investigation or such other dates subsequent as the Commission finds justified.

The amendment was agreed to.

Mr. KING. Mr. President, I wish to inquire of the Senator from Montana, having the bill in charge, as to whether any of these amendments are controversial.

Mr. WHEELER. No; the amendments are not controversial. They are amendments which were adopted by the committee. I do not know of anything controversial about any of them. Some amendments were suggested by the Interstate Commerce Commission, but the committee did not act favorably on them. They were with reference to the regulation of contract carriers, and regarding the commodity clause. The committee came to the conclusion that it was best to pass the bill without those amendments, and then submit the law to the Commission so that they could make a study of it, and report back as to the necessity for any of these more drastic provisions.

Mr. KING. The Senator knows I am not a member of the committee, and some of us are constantly engaged in other committees, and I should like to ask the Senator whether he would object to a reconsideration if, upon an examination of the record, it was discovered that some of the amendments perhaps need further consideration?

Mr. WHEELER. I would have no objection whatever.

The PRESIDING OFFICER. The clerk will resume the reading of the bill.

The reading of the bill was resumed.

The next amendment of the committee was, on page 24, line 22, before the word "In", to strike out "(f)" and insert "(e)"; in line 24, after the word "the", to strike out "circumstances and conditions peculiar to" and insert "inherent advantages of"; on page 25, line 1, before the word "water", to strike out "interstate"; in the same line, after the word "carriers", to strike out "and to the operations of wharfingers"; in line 2, after the word "traffic", to insert "by such carriers"; in line 4, after the word "efficient", to strike out "interstate"; in the same line, after the word "transportation", to strike out "and wharfinger service"; and in line 7, after the word "such", to strike out "water carriers and wharfingers" and insert "carriers", so as to read:

(e) In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors to the inherent advantages of transportation by water carriers; to the effect of rates upon the movement of traffic by such carriers; to the need, in the public interest, of adequate and efficient water transportation at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable such carriers, under honest, economical, and efficient management, to provide such service.

Mr. FLETCHER. Mr. President, I should like to ask a question of the Senator from Montana, in charge of the bill. I have a communication here in which I find the following:

We can understand why the regulation of common carriers by rail, by motor, and possibly by water is justified and necessary; but we cannot find justification for Federal regulation of public bodies and private persons and companies engaged in the operation of terminals, warehouses, wharves, etc.

Mr. WHEELER. Mr. President, wharfingers have been eliminated from the bill. As the bill was originally introduced, it contained a provision regulating wharfingers. We took that provision out of the bill in the committee.

Mr. FLETCHER. That is what I desired to ascertain.

The PRESIDING OFFICER. The question is on agreeing to the amendment on page 25, line 7.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will resume the reading of the bill.

The reading of the bill was resumed.

The next amendment of the committee was, on page 25, line 9, before the word "whenever", to strike out "(g)" and insert "(f)"; in line 13, after the word "water" and the comma, to strike out "or by any such carrier or carriers in conjunction with any common carrier or carriers by motor vehicle, or by any wharfinger or wharfingers"; in line 19, after the word "carriers" and the comma, to strike out "or such wharfinger or wharfingers"; in line 25, after the word "carriers", to strike out the comma and "or wharfinger or wharfingers"; on page 26, line 18, after the word "carrier", to strike out "or wharfinger"; and in the same line, after the word "operation", to strike out "as provided in section 210 (a) of this part" and insert "when this section takes effect", so as to read:

(f) Whenever there shall be filed with the Commission any schedule stating a new rate, fare, charge, classification, regulation, or practice for the interstate transportation of passengers or property by an interstate common carrier or carriers by water, the Commission is hereby authorized and empowered upon protest of interested parties or upon its own initiative at once, and, if it so orders, without answer or other formal pleading by such carrier or carriers, but upon reasonable notice, to enter upon an investigation concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice, and pending such hearing and the decision thereon, the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby, a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than 7 months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto, as would be proper in a proceeding instituted after such rate, fare, charge, classification, regulation, or practice had become effective. If the proceeding shall not have been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period: *Provided, however,* That this paragraph shall not apply to the initial schedule or schedules filed with the Commission by any such carrier in operation when this section takes effect.

The amendment was agreed to.

The next amendment was, on page 26, line 20, before the word "Whenever", to strike out "(h)" and insert "(g)"; in line 25, after the word "section", to strike out "202" and insert "302"; on page 27, line 13, after the word "part", to strike out "except to the extent, if any, and in such manner, as" and insert "which"; in line 14, after the word "Commission", to strike out "may deem consistent" and insert "shall find to be undue or inconsistent"; in line 16, after the word "section", to insert a comma and "and the Commission shall give due consideration to the cost of the services rendered by such contract carriers and to the effect of such minimum charge or such rule, regulation, or practice on the movement of traffic by such carriers", so as to read:

(g) Whenever, after hearing, upon complaint or its own initiative, the Commission finds that any rate, charge, rule, regulation, or practice of any interstate contract carrier or carriers by water, or the form or provisions of any charter, contract, agreement, or undertaking used by any such carrier, contravenes the policy declared in section 302 (a) of this part, the Commission may prescribe such minimum rate or charge, or such rule, regulation, or practice, or such form or provisions of any such charter, contract, agreement, or undertaking as in its judgment may be necessary or desirable in the public interest and to promote the policy declared in said section. Such minimum rate or charge or such rate, regulation, or practice, or the form, terms, or conditions of any such contract, charter, agreement, or undertaking affecting such minimum charge or the value of the service rendered, so prescribed by the Commission, shall give no advantage or preference to any such contract carrier in competition with any interstate common carrier subject to this part, with the Commission shall find to be undue or inconsistent with the public interest and the policy declared in said section, and the Commission shall give due consideration to the cost of the services rendered by such contract carriers and to the effect of such minimum charge or such rule, regulation, or practice on the movement of traffic by such carriers.

The amendment was agreed to.

The next amendment was, on page 27, after line 20, to strike out:

(i) After a decision, order, or requirement has been made by the Commission in any proceeding under this part, any party thereto may make application to the Commission for reconsideration or rehearing of the same, or of any matter determined therein, and it shall be lawful for the Commission in its discretion to grant such reconsideration or a rehearing if sufficient reason therefor be made to appear. Applications for reconsideration or rehearing shall be governed by such general rules as the Commission may establish. No such application shall excuse any carrier or wharfinger from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. If, after such reconsideration or rehearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such reconsidera-

tion or rehearing shall be subject to the same provisions as an original decision, order, or requirement.

The amendment was agreed to.

The next amendment was, on page 28, line 17, after "Sec.", to strike out "(208)" and insert "(308)"; in line 18, after the word "in", to strike out "section 207 (a) of"; in line 21, after the word "thereof", to insert "by any interstate common carrier by water"; and in line 23, after the word "carrier", to strike out "or wharfinger", so as to read:

SEC. 308. (a) If, after hearing on a complaint made as provided in this part, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this part for a violation thereof by any interstate common carrier by water, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

The amendment was agreed to.

The next amendment was, on page 29, line 1, after the word "carrier", to strike out "or wharfinger"; in line 7, after the word "carrier" to strike out "or wharfinger,"; and in the same line, after the word "any", to strike out "point" and insert "port", so as to read:

(b) If such carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the district court of the United States for the district in which he or it resides or in which is located the principal operating office of such carrier, or in which is located any port of call on a route operated by such carrier, or in any State court of general jurisdiction having jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the District Court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

The amendment was agreed to.

The next amendment was, on page 29, line 22, after the word "interstate", to strike out "carriers or wharfingers subject to this part" and insert "common carriers by water", so as to read:

(c) (1) All actions at law by interstate common carriers by water for recovery of their lawful tariff charges, or any part thereof, shall be begun within 1 year from the time the cause of action accrues, and not after.

The amendment was agreed to.

The next amendment was, on page 30, line 3, after the word "interstate", to strike out "carriers or wharfingers subject to this part" and insert "common carriers by water", so as to read:

(2) All complaints against interstate common carriers by water for the recovery of damages not based on overcharges shall be filed with the Commission within 90 days from the time the cause of action accrues, and not after, subject to subparagraph (4).

The amendment was agreed to.

The next amendment was, on page 30, line 11, after the word "interstate", to strike out "carriers or wharfingers subject to this part", and insert "common carriers by water"; in line 16, after the word "carrier", to strike out "or wharfinger"; and in line 18, after the word "carrier", to strike out "or wharfinger", so as to read:

(3) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against interstate common carriers by water within 1 year from the time the cause of action accrues, and not after, subject to subparagraph (4), except that if claim for the overcharge has been presented in writing to such carrier within the 1-year period of limitation said period shall be extended to include 1 year from the time notice in writing is given by such carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

The amendment was agreed to.

The next amendment was, on page 30, line 23, after the figure "(3)", to strike out "a carrier or wharfinger subject to this part" and insert "an interstate commerce carrier"; and on page 31, line 6, after the word "carrier", to strike out "or wharfinger", so as to read:

(4) If on or before expiration of the 90-day period of limitation in subparagraph (2) or of the 1-year period of limitation in subparagraph (3) an interstate commerce carrier begins action under subparagraph (1) for recovery of lawful tariff charges in respect of the same transportation service, or, without beginning action collects charges in respect of that service, said period of limitation shall be extended to include 90 days from the time such action is begun or such charges are collected by such carrier.

The amendment was agreed to.

The next amendment was, on page 31, line 10, after the word "carrier", to strike out "or wharfinger", so as to read:

(5) The cause of action in respect of a shipment of property shall, for the purposes of this section, be deemd to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

The amendment was agreed to.

The next amendment was, on page 31, line 19, after the word "of", to insert "this"; in the same line after the word "shall", to insert "take effect 6 months after this section becomes effective and"; and in line 22, after the word "accrued", to strike out "as well as cases in which the cause of action may hereafter accrue, except that actions at law begun or complaints filed with the Commission against interstate carriers or wharfingers subject to this part for the recovery of overcharges where the cause of action accrued on or after this section takes effect, shall not be deemed to be barred under paragraph (c) if such actions shall have been begun or complaints filed prior to enactment of this paragraph or within 6 months thereafter", so as to read:

(8) The provisions of this paragraph (c) shall take effect 6 months after this section becomes effective and extend to and embrace cases in which the cause of action has heretofore accrued.

The amendment was agreed to.

The next amendment was, on page 32, line 7, after the word "award", to strike out "for" and insert "of"; and in line 9, before the word "parties", to strike out "carriers or wharfingers" and insert "carriers", so as to read:

(d) In such suits all parties in whose favor the Commission may have made an award of damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant has his or its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs against the defendant found to be liable to such plaintiff.

The amendment was agreed to.

The next amendment was, on page 32, line 22, after "Sec.", to strike out "209" and insert "309"; on page 33, line 11, after the word "this", to strike out "part" and insert "section", and in line 14, after the word "this", to strike out "part" and insert "section", so as to read:

SEC. 309. It shall be lawful for any interstate common carrier by water to enter into or continue a contract, agreement, understanding, or arrangement with any other such carrier or carriers for pooling or apportioning earnings, losses, traffic, or service: *Provided*, That no such contract, agreement, understanding, or arrangement shall be lawful unless and until a true copy thereof is filed with the Commission: *And provided further*, That the Commission may by order disapprove, cancel, or modify any such contract, agreement, understanding, or arrangement, or any modification or cancelation thereof, whether or not previously approved by it, which it finds to be unjust or unreasonable or unduly preferential or prejudicial as between carriers, shippers, ports, or otherwise, and contrary to the public interest. Such agreements, understandings, or arrangements lawfully existing at the time when this section shall take effect shall be lawful until disapproved by the Commission, and thereafter shall be unlawful. All such agreements, understandings, or arrangements entered into after this section takes effect shall be unlawful unless and until the same have been approved by the Commission. Any such carrier or carriers shall be relieved from the operation of the 'antitrust laws', as designated in section 1 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, and from all other restraints and prohibitions of Federal or State law, so far as may be necessary to enable such carrier or carriers to carry out such contracts, agreements, under-

standings, or arrangements to the extent that they are herein authorized.

The amendment was agreed to.

The next amendment was, on page 34, line 3, after "Sec.", to strike out "210" and insert "310"; in line 4, after the word "water", to strike out "and no wharfinger"; in line 7, after the word "section", to strike out "212" and insert "311"; in line 10, after the word "routes", to insert "or in the trade or trades"; in line 11, after the word "operated", to strike out "continuously"; in line 13, after the words "bona fide", to strike out "and continuous"; in line 14, after the word "except", to insert "in either event"; in line 16, after the word "no", to strike out "control; and that, subject to section 212, if any wharfinger or a predecessor in interest was in bona fide continuous or seasonal operation, in 1934, as a wharfinger, owing, operating, managing, or controlling the services and facilities specified in its application, and has so operated continuously since that time" and insert "control"; on page 35, line 2, after the word "within", to strike out "sixty" and insert "one hundred and twenty"; and in the same line, after the word "this", to strike out "part shall take" and insert "section takes", so as to read:

SEC. 310. (a) No interstate common carrier by water shall engage in transportation subject to this part unless it holds a certificate of public convenience and necessity issued by the Commission: *Provided, however,* That, subject to section 311, if any such carrier or a predecessor in interest was in bona fide operation as a common carrier by water in 1934 over the route or routes or in the trade or trades for which application is made and has so operated since that time, or, if engaged in furnishing seasonal service, only, was in bona fide operation in 1934 during the season ordinarily covered by its operation, except in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within 120 days after this section takes effect. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in paragraph (c) of this section and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful.

The amendment was agreed to.

The next amendment was, on page 35, line 13, after the word "Commission", to strike out "may" and insert "shall"; and in line 14, after the word "require" and the period to insert "Any person, not included within the provisions of paragraph (a) of this section, who or which is engaged in transportation as a common carrier by water in interstate commerce when this section takes effect, may continue such operation for a period of 120 days thereafter without a certificate and, if application for such a certificate is made to the Commission within such period, such person may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission", so as to read:

(b) Application for a certificate shall be made in writing to the Commission, be vertified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require. Any person, not included within the provisions of paragraph (a) of this section, who or which is engaged in transportation as a common carrier by water in interstate commerce when this section takes effect, may continue such operation for a period of 120 days thereafter without a certificate and, if application for such a certificate is made to the Commission within such period, such person may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission.

The amendment was agreed to.

The next amendment was, on page 35, line 25, after the word "section", to strike out "212" and insert "311", so as to read:

(c) Upon application as provided in this section, and subject to section 311, the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if the Commission finds that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied.

The amendment was agreed to.

The next amendment was, on page 36, line 11, after the word "certificate", to strike out the comma and "when issued to an interstate common carrier,"; in line 13, after the word "which", to insert a comma and "or the trade or trades in which,"; in line 20, after the word "to", to strike out "the furnishing of additional vessels or other facilities, the frequency or sailings or other additional service over the specified route or routes between the specified ports, to"; and on page 37, line 2, after the word "pursuant", to strike out "thereto. Such certificate, when issued to a wharfinger, shall specify the services and facilities which such wharfinger is authorized to provide or operate, and at the time of issuance and from time to time thereafter, there shall be attached to the exercise of the privilege granted by such certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require" and insert "thereto: *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment, facilities, or service within the scope of such certificate, as the development of the business and the demands of the public shall require", so as to read:

(d) Such certificate shall specify the route or routes over which, and the ports to and from which, or the trade or trades in which, such carrier is authorized to operate, and, at the time of issuance and from time to time thereafter, there shall be attached to the exercise of the privileges granted by such certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such other terms, and conditions, and limitations as are necessary to carry out, with respect to the operations of the carrier, the requirements of this part or those established by the Commission pursuant thereto: *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment, facilities, or service within the scope of such certificate, as the development of the business and the demands of the public shall require.

The amendment was agreed to.

The next amendment was, on page 37, after line 14, to strike out:

(e) No interstate common carrier by water to which a certificate has been granted as provided in this part shall serve any other ports than those covered by its certificate and no wharfinger to which a certificate has been granted as provided in this part shall own, operate, control, or manage any warehouse, wharf, dock, yard, grounds, or other facility used in or in connection with transportation subject to this part other than those covered by its certificate; and no such carrier or wharfinger shall abandon all or any part of the service authorized in such certificate except upon application to and permission of the Commission based upon a finding that such extension will promote the public convenience and necessity or that such abandonment will not substantially impair the public interest: *Provided, however,* That nothing herein shall be construed to preclude temporary cessation or diminution of service by any such carrier or wharfinger upon application to and approval of the Commission or under such general or special regulations and conditions as the Commission may prescribe in the public interest: *And provided further,* That cessation or diminution of service by reason of force majeure shall not be deemed a forfeiture of such certificate if service is resumed within a reasonable time.

The amendment was agreed to.

The next amendment was, on page 38, line 16, before the word "No", to strike out "(g)" and insert "(f)"; in the same line, before the word "shall", to strike out "interstate contract carrier by water" and insert "person"; in line 17, after the word "in", to insert "the business of an"; in the same line, after the word "interstate", to strike out "transportation" and insert "contract carrier by water"; in line 18, after the word "unless", to insert "he or"; in the same line, after the word "holds", to strike out the article "a" and insert the words "an effective"; in line 19, after the word "Commission", to strike out "and"; in line 20, after the word "section", to strike out "212" and insert "311"; in line 22, after the word "as", to strike out "a" and insert "an interstate"; in line 24, before the word "since", to strike out "continuously"; in line 25, after the

words "bona fide", to strike out "and continuous"; on page 39, line 2, after the word "except", to insert "in either event"; in line 6, after the word "paragraph", to strike out "(h)" and insert "(g)"; in line 7, after the word "within", to strike out "60" and insert "120"; in line 8, after the word "this", to strike out "part" and insert "section"; in the same line, before the word "effect", to strike out "shall take" and insert "takes"; in line 10, after the word "paragraph", to strike out "(h)" and insert "(g)"; and in line 13, after the word "lawful" and the period, to insert "Any person, not included within the foregoing provisions of this paragraph, who or which is engaged in transportation as an interstate contract carrier by water when this section takes effect, may continue such operations for a period of 120 days thereafter without a permit and, if application for such permit is made within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission", so as to read:

(f) No person shall engage in the business of an interstate contract carrier by water unless he or it holds an effective permit issued by the Commission authorizing such operation: *Provided*, That, subject to section 311, if any such carrier or a predecessor in interest was in bona fide operation as an interstate contract carrier by water in 1934 in the trade or service for which application is made and has so operated since that time, or, if engaged in furnishing seasonal service only, was in bona fide operation in 1934 during the season ordinarily covered by its operations, except in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such permit, without further proceedings, if application for such permit is made to the Commission as provided in paragraph (g) of this section and within 120 days after this section takes effect. Otherwise the application for such permit shall be decided in accordance with the procedure provided for in paragraph (g) of this section and such permit shall be issued or denied accordingly. Pending determination of any such application the continuance of such operation shall be lawful. Any person, not included within the foregoing provisions of this paragraph, who or which is engaged in transportation as an interstate contract carrier by water when this section takes effect may continue such operations for a period of 120 days thereafter without a permit, and, if application for such permit is made within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission.

The amendment was agreed to.

The next amendment was, on page 39, line 23, before the word "Application", to strike out "(h)" and insert "(g)"; on page 40, line 2, after the word "Commission", to strike out "may" and insert "shall"; in line 3, after the word "section", to strike out "212" and insert "311"; in line 10, after the word "section", to strike out "202" and insert "302"; in line 11, after the word "The", to strike out "operations authorized thereby" and insert "business of the carrier and the scope thereof"; in line 14, after the word "such", to insert "reasonable"; in line 15, after the word "limitations", to insert a comma and "consistent with the character of the holder as an interstate contract carrier by water"; and in line 19, after the word "thereto", to insert a colon and the following proviso: "*Provided, however*, That no terms, conditions, or limitations shall restrict the right of the carrier to substitute or add contracts within the scope of the permit, or to add to his equipment, facilities, or service, within the scope of the permit, as the development of the business and the demands of the carrier's patrons shall require", so as to read:

(g) Application for such permit shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require. Upon application, and subject to section 311, the Commission shall issue such permit if it finds from the application or from any hearing held thereon that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that such operation will be consistent with the public interest and the policy declared in section 302 (a) of this part. The business of the carrier and the scope thereof shall be specified in such permit and there shall be attached thereto at the time of issuance and from time to time thereafter such reasonable terms, conditions, and limitations, consistent with the character of the holder as an interstate contract carrier by water as are necessary to carry out the requirements of this part or those lawfully established by the Commission pursuant thereto: *Provided, however*, That no terms, conditions, or limitations shall restrict the right of the carrier to substitute or add contracts within the scope of the permit, or to add to his equipment, facilities, or service, within the scope of the permit, as the development of the business and the demands of the carrier's patrons shall require.

The amendment was agreed to.

The next amendment was, at the top of page 41, to strike out:

REGISTRATION FOR PRIVATE CARRIERS BY WATER

SEC. 211. (a) No interstate private carrier by water shall engage in interstate transportation unless it holds a registration, issued by the Commission and authorizing such operation: *Provided*, That any such carrier in operation when this part shall take effect may continue in such operation if application for such registration is made to the Commission as provided in paragraph (b) of this section and within 60 days thereafter.

(b) Application for such registration shall be made to the Commission in writing, verified under oath, and shall contain proof that the applicant is an interstate private carrier by water within the meaning of this part, and such other information as the Commission may require.

The amendment was agreed to.

The next amendment was, on page 41, line 16, after the word "Sec.", to strike out "212" and insert "311"; in line 17, after the word "to", to strike out "an interstate" and insert "a"; in the same line, after the word "carrier", to insert "in interstate commerce"; in line 19, after the word "in", to strike out "sections 210 and 211" and insert "section 310"; in line 22, after the word "section", to strike out "202" and insert "302 (a)"; in line 23, after the word "means", to strike out "a certificate" and insert "certificates"; and in line 24, after the word "necessity", to strike out the comma and "a permit, or a registration" and insert "or permits", so as to read:

DUAL OPERATION

SEC. 311. The Commission, upon application, may issue to a water carrier in interstate commerce more than one of the forms of operating authority specified in section 310 of this part if the Commission is of opinion that the granting of such application will be in the public interest and consistent with the policy declared in section 302 (a) of this part. The term 'forms of operating authority' means certificates of public convenience and necessity or permits.

The amendment was agreed to.

The next amendment was, on page 42, line 3, after the word "Sec.", to strike out "213" and insert "312"; in the same line, after the word "Certificates", to strike out the comma and "permits, and registrations" and insert "and permits"; in line 6, before the word "hearing", to insert "notice and"; in line 7, after the word "part" and the comma, to strike out "because of financial irresponsibility or"; in line 8, after the word "any", to strike out "provisions" and insert "provision"; and in line 12, after the word "permit", to insert a colon and the following proviso: "*Provided, however*, That no such certificate or permit shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within such reasonable time, not less than 90 days, as the Commission may prescribe with a lawful order of the Commission made as provided in section 304 (e), commanding obedience to the provision of this part, or to the rule or regulation of the Commission thereunder, or to the term, condition, or limitation of such certificate or permit, found by the Commission to have been violated by such holder"; and in line 23, after the word "certificate", to strike out "or", so as to read:

SUSPENSION, CHANGE, REVOCATION, AND TRANSFER OF CERTIFICATES, PERMITS, AND REGISTRATIONS

SEC. 312. (a) Certificates and permits shall be effective from the date specified therein. Any such certificate or permit may, after notice and hearing, be amended, suspended, or revoked, in whole or in part, for willful failure to comply with any provision of this part, or with any lawful order, rule, or regulation of the Commission promulgated thereunder, or with any term, condition, or limitation of the certificate or permit: *Provided, however*, That no such certificate or permit shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within such reasonable time, not less than 90 days, as the Commission may prescribe with a lawful order of the Commission made as provided in section 304 (e), commanding obedience to the provision of this part, or to the rule or regulation of the

Commission thereunder, or to the term, condition, or limitation of such certificate or permit, found by the Commission to have been violated by such holder.

(b) Except as provided in this part, any such certificate, permit may be transferred with the approval of the Commission.

The amendment was agreed to.

The next amendment was, at the top of page 43, to strike out:

COMMODITIES CLAUSE

SEC. 211. From and after the 1st day of July 1936 it shall be unlawful for any interstate common carrier by water or interstate contract carrier by water to transport in interstate commerce any article or commodity manufactured, mined, made, or produced by or under authority of, or owned in whole or in part by such carrier or by any person directly or indirectly controlling, managing, or operating such carrier or in which such carrier or person may have any interest, direct or indirect, or with which it may be affiliated, except such articles or commodities as may be necessary and intended for the use of such carrier in the conduct of its business as a common or contract carrier by water: *Provided, however*, That if the Commission shall find after hearing upon the application of any such carrier or carriers, that such transportation is in the interest of the public and is of advantage to the convenience and commerce of the people, and that such extension will not contravene the policy declared in section 202 (a) of this part, the Commission may, by order, extend the time during which such transportation may be continued beyond the 1st day of July 1936.

The amendment was agreed to.

The next amendment was, on page 44, line 3, after the word "Sec.", to strike out "215" and insert "313"; in line 7, after the word "any", to insert "major"; in the same line, after the word "thereof", to strike out the comma and "with each other or with those of one or more interstate contract carriers by water which are not also carriers by railroad,"; in line 12, after the word "such", to strike out "common"; in line 13, after the word "such", to strike out "common"; in line 14, after the word "any", to insert "major"; in line 15, after the word "such", to strike out "common or contract"; in line 16, after the word "carrier" and the semicolon, to strike out "or for any such contract carrier or two or more such contract carriers jointly to purchase, lease, or contract to operate the properties, or any part thereof, or any such common carrier;"; in line 19, after the word "such", to strike out "common"; in line 20, after the word "such", to strike out "common"; in line 21, after the word "carrier", to strike out "or of any such contract carrier"; in line 22, after the word "stock" and the semicolon, to strike out "or for any such contract carrier, or two or more such carriers jointly, to acquire control of any such common carrier through purchase of its stock"; in line 25, before the word "which", to strike out "corporation" and insert "person"; on page 45, line 1, after the word "water", to strike out "or an interstate contract carrier by water"; in line 3, before the word "carriers", to insert "interstate common"; in the same line, after the word "water", to strike out "of which one or more is an interstate common carrier"; in line 5, after the word "such", to strike out "corporation" and insert "person"; in line 6, after the word "such", to strike out "common"; in the same line, after the word "carriers", to strike out "by water"; and in line 7, after the word "such", to strike out "common or contract", so as to read:

CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL

SEC. 313. (a) It shall be lawful, under the conditions specified below, but under no other conditions, for two or more interstate common carriers by water which are not also carriers by railroad to consolidate or merge their properties, or any major part thereof into one corporation for the ownership, management, and/or operation of the properties theretofore in separate ownership; or for any such carrier or two or more such carriers jointly, to purchase, lease, or contract to operate the properties, or any major part thereof, of another such carrier; or for any such carrier or two or more such carriers jointly, to acquire control of another such carrier through purchase of its stock; or for a person which is not an interstate common carrier by water or a carrier by railroad to acquire control of two or more interstate common carriers by water through ownership of their stock; or for any such person which has control of one or more such carriers to acquire control of another such carrier through ownership of its stock.

The amendment was agreed to.

The next amendment was, on page 45, line 11, after the word "the", to strike out "corporation" and insert "person"; in line 17, after the word "the", where it occurs the second time, to strike out "public interest will be promoted by the"; and in line 18, after the word "proposed", to insert "will be consistent with the public interest", so as to read:

(1) Whenever a consolidation, merger, purchase, lease, operating contract, or acquisition of control is proposed under this section, the carrier or carriers or the person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the carriers involved in the proposed transaction and the applicant or applicants, and other parties in interest of the time and place for a public hearing. If after such hearing the Commission finds that the transaction proposed will be consistent with the public interest and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe; and

The amendment was agreed to.

The next amendment was, on page 46, line 1, before the word "which", to strike out "corporation" and insert "person who or"; in line 6, after the word "such", to strike out "corporation" and insert "person"; and in line 7, after the word "section", to strike out "217" and insert "315", so as to read:

(2) Whenever a person who or which is not an interstate common carrier by water or an interstate contract carrier by water is authorized, by an order entered under paragraph (a) (1) of this section, to acquire control of any such carrier by water or of two or more such carriers, such person thereafter shall, to the extent provided by the Commission, for the purposes of section 315 relating to accounts, records, and reports, including the penalties applicable in the case of violations thereof, be subject to the provisions of this part.

The amendment was agreed to.

The next amendment was, on page 46, line 16, after the word "railroad" and the comma, to strike out "or of one or more such carriers and any interstate contract carrier by water", and in line 21, before the word "manner", to strike out "other", so as to read:

(b) (1) It shall be unlawful for any person, except as provided in paragraph (a), to accomplish or effectuate, or to participate in accomplishing or effectuating, the control or management in a common interest of two or more interstate common carriers by water which are not also carriers by railroad, however such result is attained, whether directly or indirectly, by use of common directors, officers, or stockholders, a holding or investment company or companies, a voting trust or trusts, or in any manner whatsoever. It shall be unlawful to continue to maintain control or management accomplished or effectuated after the enactment of this part and in violation of this paragraph. As used in this paragraph, the words "control or management" shall be construed to include the power to exercise control or management.

The amendment was agreed to.

The next amendment was, on page 48, line 3, after the word "any", to strike out "corporation" and insert "person", so as to read:

(e) The carriers and any person affected by any order made under the foregoing provisions of this section shall be, and they are hereby, relieved from the operation of the "antitrust laws", as designated in section 1 of the act entitled "An act to supplement existing law against unlawful restraints, and monopolies, and for other purposes", approved October 15, 1914, and of all other restraints or prohibitions by or imposed under authority of law, State or Federal, insofar as may be necessary to enable them to do anything authorized or required by such order.

The amendment was agreed to.

The next amendment was, on page 48, line 15, after the word "Sec.", to strike out "216" and insert "314"; in the same line, after the word "by", to strike out "water or interstate contract carriers by"; in line 19, after the word "section", to strike out "215" and insert "313"; on page 49, line 4, after the word "the", to strike out "provisions" and insert "exemption in section 3 (a) (6)"; in line 5, after the figures "1933" and the single quotation, to strike out "are" and insert "is"; in the same line, after the word "hereby", to strike out "repealed insofar as they relate to security issues subject to this section." and insert "amended to read as follows:

"'(6) Any security issued by an interstate common carrier by water, the issuance of which is subject to the provisions of section 20a of the Interstate Commerce Act, as amended: '.

So as to read:

ISSUANCE OF SECURITIES

SEC. 314. Interstate common carriers by water, corporations organized for the purpose of engaging in transportation as such carriers, and corporations authorized by order entered under section 313 (a) (1) to acquire control of any such carrier, or of two or more such carriers, shall be subject to the provisions of paragraphs 2 to 11, inclusive, of section 20a of part I: *Provided, however,* That said provisions shall not apply to such carriers or corporations where the par value of the securities to be issued, together with the par value of the securities then outstanding, does not exceed $500,000. In the case of securities having no par value, the par value for the purpose of this section shall be the fair market value as of the date of their issue: *Provided further,* That the exemption in section 3 (a) (6) of the "Securities Act of 1933" is hereby amended to read as follows:

"(6) Any security issued by an interstate common carrier by water, the issuance of which is subject to the provisions of section 20a of the Interstate Commerce Act, as amended; ".

The amendment was agreed to.

The next amendment was, on page 49, line 13, after the word "Sec.", to strike out "217" and insert "315"; in line 15, after the word "from", to strike out "all interstate"; in the same line, after the word "carriers", to insert "engaged in interstate transportation"; in line 16, before the word "to", to strike out "wharfingers,"; in line 18, after the word "such", to strike out "carriers" and insert "carriers,"; in the same line, before the word "specific", to strike out "and wharfingers"; in line 22, after the word "any", to strike out "intrastate common carrier by water or any contract carrier by water, or any wharfinger," and insert "such carrier"; and on page 50, line 1, after the word "carrier", to strike out "or wharfinger", so as to read:

ACCOUNTS, RECORDS, AND REPORTS

SEC. 315. (a) The Commission is hereby authorized to require annual, periodical, or special reports from water carriers engaged in interstate transportation, and to prescribe the manner and form in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may deem information to be necessary. Such reports shall be under oath whenever the Commission so requires. The Commission may also require any such carrier to file with it a true copy of any contract, charter, or agreement between such carrier and any other carrier or person.

The amendment was agreed to.

The next amendment was, on page 50, line 5, after the word "by", to strike out "interstate common carriers by water or interstate contract carriers by water, or wharfingers" and insert "water carriers engaged in interstate transportation,"; in line 15, after the word "carriers", to strike out "or wharfingers"; in line 20, after the word "carriers", to strike out "or wharfingers"; in line 22, after the word "carriers", to strike out "or wharfingers"; and in line 25, after the word "carrier", to strike out "or wharfinger", so as to read:

(b) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by water carriers engaged in interstate transportation, and the length of time such accounts, records, and memoranda shall be preserved, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money. The Commission or its duly authorized agents shall at all times have access to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept, or required to be kept by such carriers. The special agents or examiners of the Commission shall have authority under its order to inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and to operating trustees thereof and, to the extent deemed necessary by the Commission, to persons having control, direct or indirect, over or affiliated with any such carrier.

The amendment was agreed to.

The next amendment was, on page 51, line 2, after the word "Sec.", to strike out "218" and insert "316"; and in line 4, after the word "for", to strike out "transport of" and insert "transportation by", so as to read:

RECEIPTS, BILLS OF LADING, MANIFESTS, ETC.

SEC. 316. The provisions of section 20 (11) of part I shall apply with like force and effect to receipts, bills of lading, manifests, or other contracts for transportation by interstate common carriers by water.

The amendment was agreed to.

The next amendment was, on page 51, line 7, after the word "Sec.", to strike out "219" and insert "317"; in the same line, after the word "every", to strike out "interstate"; in line 8, after the word "carrier", to strike out "and every wharfinger" and insert "engaged in interstate transportation"; and in line 15, after the word "such", to strike out "water carrier or wharfinger" and insert "carrier", so as to read:

NOTICES, ORDERS, AND SERVICE OF PROCESS

SEC. 317. (a) It shall be the duty of every water carrier engaged in interstate transportation to file with the Commission a designation in writing of the name and post-office address of an agent upon whom or which service of notices or orders may be made under this part. Such designation may from time to time be changed by like writing similarly filed. Service of notices or orders in proceedings under this part may be made upon such carrier by personal service upon it or upon an agent so designated by it, or by registered mail addressed to it or to such person or corporation at the address filed. In default of such designation, service of any notice or order may be made by posting in the office of the secretary of the Commission. Whenever notice is given by mail, as provided herein, the date of mailing shall be considered as the time when notice is served.

The amendment was agreed to.

The next amendment was, on page 51, line 25, after the word "any", to strike out "interstate"; in the same line, after the words "carrier or" to insert "water", and in the same line, after the word "carriers", to strike out "or by any wharfinger" and insert "engaged in interstate transportation", so as to read:

(b) No order relating to a violation of this part by any water carrier or water carriers engaged in interstate transportation shall be made by the Commission, except after hearing upon complaint or after an investigation upon its own initiative.

The amendment was agreed to.

The next amendment was, on page 52, line 14, after the word "Sec.", to strike out "220" and insert "318"; in line 15, before the numerals "16", to insert "section"; in line 16, before the word "of", to insert "and section 17"; in the same line, before the word "the", to insert "and"; in line 17, before the word "the", to insert "and"; and in line 20, after the word "part", to insert "so far as concerns interstate transportation", so as to read:

ENFORCEMENT AND PROCEDURE

SEC. 318. (a) The provisions of section 12, section 16, (5), (6), (7), (8), (9), (10), (12), and (13), and section 17 of part I, and the "Compulsory Testimony Act" (27 Stat. 443), and the "Immunity of Witnesses Act" (34 Stat. 798; 32 Stat. 904, ch. 755, sec. 1), shall apply with full force and effect in the administration of this part so far as concerns interstate transportation.

The amendment was agreed to.

The next amendment was, on page 52, line 21, after the word "any", to strike out "interstate"; in the same line, after the word "carrier", to strike out "or wharfinger" and insert "engaged in interstate transportation"; and on page 53, line 8, after the word "carrier", to strike out "or wharfinger, and/or the officers, agents, employees, and representatives of any such carrier or wharfinger", and insert "and/or any officer, agent, employee, or representative thereof", so as to read:

(b) If any water carrier engaged in interstate transportation fails to comply with or operates in violation of any provision of this part, or any rule, regulation, requirement, or order thereunder, or of any term or condition of any certificate or permit, or registration, the Commission or the Attorney General of the United States may apply to any District Court of the United States having jurisdiction of the parties for the enforcement of such provision of this part or of such rule, regulation, requirement, order, term, or condition; and such court shall have jurisdiction to enforce obedience thereto by a writ or writs of injunction or other process, mandatory or otherwise, restraining such carrier and/or any officer, agent, employee, or representative thereof from further violation of such provision of this part or of such rule, regulation, requirement, order, term, or condition and enjoining upon it or them obedience thereto.

The amendment was agreed to.

The next amendment was, on page 54, line 2, after "Sec.", to strike out "221" and insert "319"; and in line 6, after the word "permit", to strike out "or registration", so as to read:

UNLAWFUL ACTS AND PENALTIES

SEC. 319. (a) Any person who knowingly and willfully violates any provision of the preceding sections of this part, or any rule,

regulation, requirement, or order thereunder, or any term or condition of any certificate or permit, for which no penalty is otherwise provided, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was in whole or in part committed shall be subject for the first offense to a fine not exceeding $500, and for any subsequent offense to a fine of not exceeding $2,000. Each day of such violation shall constitute a separate offense.

The amendment was agreed to.

The next amendment was, on page 54, line 14, after the word "Any", to strike out "interstate common carrier by water or any interstate contract carrier by water, or any wharfinger" and insert "water carrier engaged in interstate transportation"; and in line 23, after the word "obtain", to strike out "interstate transportation, or wharfinger service, for persons or property" and insert "transportation subject to this part", so as to read:

(b) Any water carrier engaged in interstate transportation or any officer, agent, employee, or representative thereof, who shall knowingly and willfully offer, grant, or give, or cause to be offered, granted, or given any rebate, deferred rebate, or other concession, in violation of the provisions of this part, or who, by any device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person to obtain transportation subject to this part at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was wholly or in part committed shall be subject for each offense to a fine of not less than $100 and not more than $5,000.

The amendment was agreed to.

The next amendment was, on page 55, line 8, after the word "receive", to strike out "and" and insert "any"; in line 12, after the word "any", to strike out "interstate" and insert "water"; in the same line, after the word "carrier", to strike out "or wharfinger"; in line 14, after the word "obtain", to strike out "interstate transportation, or wharfinger service" and insert "transportation subject to this part"; in line 22, after the word "carrier", to strike out "or wharfinger"; and in line 24, after the word "carrier", to strike out "or wharfinger", so as to read:

(c) Any person or persons who shall knowingly and willfully solicit, accept, or receive any rebate, deferred rebate, or other concession in violation of the provisions of the preceding sections of this part, or who shall by any device or means, whether with or without the consent or connivance of any water carrier or his or its officer, agent, employee, or representative, knowingly, and willfully obtain transportation subject to this part at less than the rates, fares, or charges lawfully in effect, or shall knowingly and willfully, directly or indirectly, by false claim, false billing, false representation, or other device or means, obtain any allowance, refund, or repayment in connection with or growing out of such transportation or service, whether with or without the consent or connivance of such carrier, or his or its officer, agent, employee, or representative, whereby the compensation of such carrier for such transportation or service, either before or after payment, shall be less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed, be subject for each offense to a fine of not less than $100 and not more than $5,000.

The amendment was agreed to.

The next amendment was, on page 56, line 8, after the word "Any", to strike out "interstate common carrier by water, or any interstate contract carrier by water, or any wharfinger" and insert "water carrier engaged in interstate transportation"; in line 15, after the word "the", to strike out "Commission" and insert "Commission,"; and in line 24, after the figures "$5,000" and the period, to strike out "The provisions of this paragraph which concern a 'report' shall apply with like force and effect to any private carrier by water and any officer, agent, employee, or representative thereof", so as to read:

(d) Any water carrier engaged in interstate transportation or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this part, or to keep accounts, records, and memoranda in the form and manner prescribed or approved by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed, be subject for each offense to a fine of not less than $100 and not more than $5,000.

The amendment was agreed to.

The next amendment was, on page 57, line 3, after the word "who", to insert "knowingly and willfully"; in line 6, after the word "of" where it occurs the second time, to strike out "an interstate water carrier, or wharfinger" and insert "any water carrier engaged in interstate transportation"; and in line 8, after the word "section", to strike out "217" and insert "315", so as to read:

(e) Any special agent or examiner who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of the examination of the accounts, records, and memoranda of any water carrier engaged in interstate transportation, as provided in section 315 of this part, except as he may be directed by the Commission or by a court of competent jurisdiction or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $5,000 or imprisonment for a term not exceeding 2 years, or both.

The amendment was agreed to.

The next amendment was, on page 57, line 16, after the word "water" and the comma, to strike out "or any wharfinger,"; in line 18, before the word "for", to strike out "wharfinger, or"; in line 19, before the word "to", to strike out "wharfinger or person," and insert "person"; in line 20, after the word "knowingly", to insert "and willfully"; in line 25, after the word "such", to strike out "common carrier for interstate transportation or to such wharfinger" and insert "carrier for transportation in interstate commerce"; on page 58, line 6, after the word "knowingly", to insert "and willfully"; in line 7, before the word "Nothing", to strike out the quotation mark and "(g)"; and in line 14, after the word "of", to strike out "crimes" and insert "crimes,", so as to read:

(f) It shall be unlawful for any interstate common carrier by water, or any officer, receiver, trustee, lessee, agent, or employee of such carrier or for any other person authorized by such carrier or person to receive information knowingly and willfully to disclose to or permit to be acquired by any person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such carrier for transportation in interstate commerce, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly and willfully receive any such information which may be so used. Nothing in this part shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, Territory, or District thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes, or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.

The amendment was agreed to.

The next amendment was, on page 58, line 19, after the word "Sec.", to strike out "222" and insert "320"; on page 59, line 3, after the word "carrier", to strike out "or wharfinger"; in line 8, after the word "carrier", to strike out "or wharfinger"; in line 10, after the word "carrier", to strike out "or handled by such wharfinger"; in line 19, after the word "carrier", to strike out "or wharfinger"; in line 23, after the word "carrier", to strike out "or wharfinger"; on page 60, line 5, after the word "carrier", to strike out "or wharfinger", and in line 10, after the word "carrier", to strike out "or wharfinger", so as to read:

COLLECTION OF RATES AND CHARGES

SEC. 320. No interstate common carrier by water shall deliver or relinquish possession at destination of any freight transported or handled by him or it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges and to prevent unjust discrimination or undue preference or prejudice: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any such carrier from extending credit in connection with rates and charges on freight transported or handled for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the Dis-

trict of Columbia. Where such carrier is instructed by a shipper or consignor to deliver property transported by such carrier, to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation or handling charges in respect of the transportation or handling of such property (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him, if the consignee (a) is an agent only and had no beneficial title in the property, and (b) prior to delivery of the property has notified the delivering carrier in writing of the fact of such agency and absence of beneficial title, and, in the case of a shipment reconsigned or diverted to a point other than that specified in the original bill of lading, has notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or in the case of a shipment so reconsigned or diverted, the beneficial owner shall be liable for such additional charges, irrespective of any provisions to the contrary in the bill of lading or in the contract under which the shipment was made or handled. If the consignee has given to the carrier erroneous information as to who is the beneficial owner, such consignee shall himself be liable for such additional charges, notwithstanding the foregoing provisions of this paragraph. On shipments reconsigned or diverted by an agent who has furnished the carrier with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, the said beneficial owner shall be liable for all legally applicable charges in connection therewith.

The amendment was agreed to.

The next amendment was, on page 60, after line 14, to strike out:

TRANSPORTATION BY COMMON CARRIERS IN FOREIGN-COMMERCE AGREEMENTS

SEC. 223. (a) Every common carrier by water in foreign commerce shall file immediately with the Commission a true copy, or if oral, a true and complete memorandum, of every agreement with another such carrier, or with an interstate common carrier by water or railroad or with a wharfinger, or any modification or cancelation thereof, to which such carrier may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling or regulating competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term "agreement" in this section includes understandings, conferences, transshipment, and other arrangements: *Provided, however,* That the provisions of this paragraph shall not apply to any such agreement filed with the Department of Commerce when this part shall take effect.

(b) The Commission may by order disapprove, cancel, or modify any agreement, or any modification or cancelation thereof, whether or not previously approved by the Department of Commerce or by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be in violation of this part, and shall approve all other agreements, modifications, or cancelations. If shall be unlawful to carry out any agreement or any portion thereof disapproved by the Commission.

(c) All agreements, modifications, or cancelations made after this part takes effect shall be lawful only when and as long as approved by the Commission, and before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancelation.

(d) Every such agreement and every such modification or cancelation thereof affected by an any order made under the provisions of this section shall be excepted from the operation of the "antitrust laws", as designated in section 1 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, and from an other restraints or prohibitions by or imposed under authority of law, State or Federal, insofar as may be necessary to the carrying out of anything authorized or required by such order.

(e) Whoever violates any provision of this section shall be liable to a penalty of $1,000 for each day such violation continues, to be recovered by the United States in a civil action.

The amendment was agreed to.

The next amendment was, on page 62, after line 21, to strike out:

RATES, FARES, AND CHARGES

SEC. 224. (a) No common carrier by water in foreign commerce shall demand, charge, or collect any rate, fare, or charge which is unjust and unreasonable or unjustly discriminatory between shippers or ports, or unjustly prejudicial to exporters of the United States as compared with their foreign competitors. Whenever the Commission finds after hearing upon complaint or its own initiative that any rate, fare, or charge demanded, charged, or collected by any such carrier contravenes the provisions of this paragraph, it may prescribe a reasonable maximum rate, fare, or charge, or alter the rate, fare, or charge so demanded, charged, or collected to the extent necessary to correct such unjust discrimination or prejudice and make an order that the carrier shall discontinue demanding, charging, or collecting any such unjustly discriminatory or prejudicial rate, fare, or charge.

(b) Every such carrier shall establish, observe, and enforce just and reasonable charges, regulations, and practices relating to or connected with the receiving, transporting, handling, storing, or delivering of property. Whenever the Commission finds that any such charge, regulation, or practice is unjust or unreasonable it may determine, prescribe, and order enforced a just and reasonable charge, regulation, or practice.

(c) Upon complaint by any carrier who or which is a party to any conference agreement approved under authority of section 223 of this part alleging the charging of any unreasonably low rate, fare, or charge, by any carrier or carriers subject to this part with whom or which such carrier is in competition, the Commission may investigate such complaint and, after hearing, determine and prescribe such minimum rate, fare, or charge, to be observed by such other carrier or carriers, and by the complaining carrier and other carriers parties to such agreements, who or which are also parties to such investigation, as in the Commission's judgment the competitive situation and other surrounding circumstances and conditions may require: *Provided, however,* That such order shall be made only after a finding by the Commission that the rate, fare, or charge of such competing carrier or carriers is so unreasonably low as to contravene the policy declared in section 202 of this part.

The amendment was agreed to.

The next amendment was, on page 64, after line 13, to strike out:

REPARATION

SEC. 225. (a) Any person may file with the Commission a sworn complaint setting forth any violation of this part by a common carrier by water in foreign commerce, and asking reparation for the injury, if any, caused thereby. The Commission shall furnish a copy of the complaint to such carrier, who shall within a reasonable time specified by the Commission satisfy the complaint or answer it in writing. If the complaint is not satisfied the Commission shall, except as otherwise provided in this part, investigate it in such manner and by such means, and make such order, as it deems proper. The Commission, if the complaint is filed within 1 year after the cause of action accrued, may direct the payment, on or before a day named, of full reparation to the complainant for the injury caused by such violation.

(b) The Commission, upon its own motion, may in like manner and, except as to orders for the payment of money, with the same powers, investigate any violation of this part.

The amendment was agreed to.

The next amendment was, on page 65, after line 8, to strike out:

REBATES, UNFAIR PRACTICES, DISCRIMINATION

SEC. 226. (a) No common carrier by water in foreign commerce shall, directly or indirectly, in respect to the transportation by water of passengers or property between a port of a State, Territory, district, or possession of the United States and a port of a foreign country:

(1) Pay, or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow, a deferred rebate to any shipper. The term "deferred rebate" as used in this part means a return of any portion of the freight money by a carrier to any shipper as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

(2) Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term "fighting ship" as used in this part means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing, or reducing competition by driving another carrier out of said trade.

(3) Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.

(4) Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered or unfairly treat or unjustly discriminate against any shipper in the matter or cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage, the loading and landing of freight in proper condition, or the adjustment and settlement of claims.

(b) Any carrier who violates any provision of paragraph (a) of this section shall be guilty of a misdemeanor punishable by a fine of not more than $25,000 for each offense.

(c) The Commission upon its own initiative may, or upon complaint shall, after due notice to all parties in interest, and hearing, determine whether any person, not a citizen of the United States and engaged in transportation by water of passengers or property—

(1) Has violated any provision of paragraph (a) of this section, or

(2) Is a party to any combination, agreement, or understanding, express or implied, that involves in respect to transportation of passengers or property between foreign ports, deferred rebates or any other unfair practice designated in said paragraph (a), and that excludes from admission upon equal terms with all other parties thereto, a common carrier by water in foreign commerce which is a citizen of the United States and which has applied for such admission.

(d) If the Commission determines that any such person has violated any such provision or is a party to any such combination, agreement, or understanding, the Commission shall thereupon certify such fact to the Secretary of Commerce. The Secretary shall thereafter refuse such person the right of entry for any ship owned or operated by him or by any carrier directly or indirectly controlled by him, into any port of the United States, or any Territory, District, or possession thereof, until the Commission certifies that the violation has ceased or such combination, agreement, or understanding has been terminated.

The amendment was agreed to.

The next amendment was, on page 68, after line 5, to strike out:

SEC. 227. It shall be unlawful for any common carrier by water in foreign commerce either alone or in conjunction with any other person, directly or indirectly—

(1) To make, cause, or give any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in any respect whatsoever, or to subject any particular person, port, locality, or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(2) To allow any person to obtain transportation for property at less than the regular rates or charges then established and enforced on the line of such carrier, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means.

(3) To induce, persuade, or otherwise influence any marine insurance company or underwriter, or agent thereof, not to give a competing carrier by water as favorable a rate of insurance on vessel or cargo, having due regard to the class of vessel or cargo, as is granted to such carrier or other person subject to this part.

The amendment was agreed to.

The next amendment was, at the top of page 69, to strike out:

ACCOUNTS, RECORDS, AND REPORTS

SEC. 228. The Commission may require any common carrier by water in foreign commerce, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report, or any account, record, rate, or charge, or any memorandum of any facts and transactions appertaining to the business of such carrier. Such report, account, record, rate, charge, or memorandum shall be under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission. Whoever fails to file any report, account, record, rate, charge, or memorandum, or willfully falsifies, destroys, mutilates, or alters any such report, account, record, rate, charge, or memorandum, or willfully files a false report, account, record, rate, charge, or memorandum, shall be guilty of a misdemeanor and subject upon conviction to a fine of not less than $100 and not more than $5,000.

The amendment was agreed to.

The next amendment was, on page 69, after line 18, to strike out:

NOTICE, ORDERS, SERVICE OF PROCESSES, REHEARINGS

SEC. 229. The provisions of section 207 (i) and of section 219 shall apply to proceedings under section 223 and the following.

The amendment was agreed to.

The next amendment was, on page 69, after line 22, to strike out:

ENFORCEMENT AND PROCEDURE

SEC. 230. (a) For the purpose of investigating alleged violations of section 223, and the following, of this part, the Commission may by subpena compel the attendance of witnesses and the production of books, papers, documents, and other evidence from any place in the United States at any designated place of hearing. Subpenas may be signed by any Commissioner, and oaths or affirmations may be administered, witnesses examined, and evidence received by any Commissioner or examiner, or, under the direction of the Commission, by any person authorized under the laws of the United States or any State, Territory, District, or possession thereof to administer oaths. Persons so acting under the direction of the Commission and witnesses shall, unless employees of the Commission, be entitled to the same fees and mileage as in the courts of the United States. Obedience to any such subpena shall, on application by the Commission, be enforced as are orders of the Commission other than for the payment of money.

(b) No person shall be excused on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence, in obedience to the subpena of the Commission or of any court in any proceeding based upon or growing out of any alleged violation of this part; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpena and under oath, he may so testify or produce evidence, except that no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

(c) In case of violation of any order of the Commission, other than an order for the payment of money, the Commission, or any party injured by such violation, or the Attorney General, may apply to a district court having jurisdiction of the parties; and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce obedience thereto by a writ of injunction or other proper process, mandatory or otherwise.

(d) (1) In case of violation of any order of the Commission for the payment of money the person to whom such award was made may file in the district court for the district in which such person resides, or in which is located any office of the carrier or other person to whom the order was directed, or in which is located any point of call on a regular route operated by the carrier, or in any court of general jurisdiction of a State, Territory, District, or possession of the United States having jurisdiction of the parties, a petition or suit setting forth briefly the causes for which he claims damages and the order of the Commission in the premises.

(2) In the district court the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor shall he be liable for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If a petitioner in a district court finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as part of the costs of the suit.

(3) All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties to such order may be joined as defendants, in a single suit in any district in which any one such plaintiff could maintain a suit against any one such defendant. Service of process against any such defendant not found in that district may be made in any district in which is located any office of, or point of call on a regular route operated by, such defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

(4) No petition or suit for the enforcement of an order for the payment of moneys shall be maintained unless filed within 1 year from the date of the order.

(e) The venue and procedure in the courts of the United States in suits brought to enforce, suspend, or set aside, in whole or in part, any order of the Commission shall, except as herein otherwise provided, be the same as in similar suits in regard to orders of the Commission entered pursuant to part I of this act, but such suits may also be maintained in any district court having jurisdiction of the parties.

(f) The Commission shall enter of record a written report of every investigation made under sections 223, and the following of this part, in which a hearing has been held, stating its conclusions, decision, and order, and, if reparation is awarded, the findings of fact on which the award is made, and shall furnish a copy of such report to all parties to the investigation. The Commission may publish such reports in the form best adapted for public information and use, and such authorized publications shall, without further proof or authentication, be competent evidence of such reports in all courts of the United States and of the States, Territories, Districts, and possessions thereof.

The amendment was agreed to.

The next amendment was, on page 73, after line 17, to strike out:

UNLAWFUL ACTS AND PENALTIES

SEC. 231. (a) The provisions of section 221 (a), (c), (e), (f), and (g) shall apply in the administration of sections 223 and following:

(b) Whoever violates any provision of sections 223 and following, except where a different penalty is provided, shall be guilty of a misdemeanor, punishable by fine not to exceed $5,000.

The amendment was agreed to.

The next amendment was, at the top of page 74, to insert:

COMMON CARRIERS BY WATER IN FOREIGN COMMERCE

SEC. 321. The power and duties vested in the United States Shipping Board by sections 14, 14 (a), 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 of the Shipping Act, 1916, as amended by the Merchant Marine Act, 1920, and the Merchant Marine Act, 1928, and the powers and duties vested in the United States Shipping Board by the Intercoastal Shipping Act, 1933, and section 19 of the Merchant Marine Act, 1920, as amended herein, or transferred to the Department of Commerce by the Executive order signed the 10th day of June 1933, pursuant to the act of Congress approved the 3d day of March 1933, with respect to common carriers by water in foreign commerce and persons included in the term "other person subject to this act" as defined in section 1 of the Shipping Act, 1916, are hereby transferred to and vested in and shall be exercised by the Commission. Any order issued by the Commission pursuant to such powers and duties shall be enforced in the same manner as heretofore provided for enforcement of the orders of the United States Shipping Board and violations of any such order shall subject the

person guilty thereof to the same penalties or punishment as heretofore provided for such violation of the orders of the United States Shipping Board.

The amendment was agreed to.

The next amendment was, on page 75, line 3, to change the section number from 232 to 322.

The amendment was agreed to.

The next amendment was, on page 75, line 9, after the word "member", to insert "or examiner", and in line 12, after the word "carrier", to strike out "or wharfinger" and insert "or in any carrier by railroad, motor vehicle, or other form of transporation", so as to read:

GENERAL PROVISIONS

ADMINISTRATION

SEC. 322. (a) The Commission is authorized to employ, and to fix the compensation of, such experts, assistants, special agents, examiners, attorneys, and other employees as in its judgment may be necessary or advisable for the convenience of the public and for the efficient administration of this part.

(b) No member or examiner of the Commission shall hold any official relation to, or own any securities of, or be in any manner pecuniarily interested in any water carrier, or in any carrier by railroad, motor vehicle, or other form of transportation.

The amendment was agreed to.

The next amendment was, on page 75, line 14, in the heading, before the word "transfer", to insert the word "repeals" and a comma, so as to read:

Repeals, transfer of employees, records, property, and appropriations, and effect of transfer of jurisdiction.

The amendment was agreed to.

The next amendment was, on page 75, line 17, after the word "Sec.", to strike out "233" and insert "323."

The amendment was agreed to.

The next amendment was, on page 75, after line 16, to insert:

(a) The Intercoastal Shipping Act, 1933, sections 18 and 19 of the Shipping Act, 1916, and any other provisions of said Act, and any provisions of the Merchant Marine Act, 1920, which are inconsistent with this part are hereby repealed so far as they apply to matters within the jurisdiction vested in the Commission by the provisions of this part.

(b) Nothing in this part shall be construed to diminish any power or duty of the Commission under part I of this act with respect to water carriers, and no part of said part I applicable to water carriers shall be construed as repealed or modified by anything in this part, except when and to the extent inconsistent herewith.

(c) Nothing in this part shall be construed to alter or diminish other powers now vested in the Department of Commerce.

(d) Nothing in this part shall be construed to affect any law of navigation, the admiralty jurisdiction of the courts of the United States, liabilities of vessels and their owners for loss or damage, or laws respecting seamen, or any other statute or maritime law, regulation, or custom not in conflict with the provisions of this part.

The amendment was agreed to.

The next amendment was, on page 76, line 14, before the word "All", to strike out "Sec. 233. (a)" and insert "(e)", so as to read:

(e) All officers and employees of the Division of Regulation of the Shipping Board Bureau of the Department of Commerce are hereby transferred to the Commission, without change in classification or compensation; except that the Commission may provide for the adjustment of such classification or compensation to conform to the duties to which such officers and employees may be assigned.

The amendment was agreed to.

The next amendment was, on page 76, line 22, before the word "There", to strike out "(b)" and insert "(f)", so as to read:

(f) There are hereby transferred to the jurisdiction and control of the Commission all files, reports, records, tariff schedules, and all property (including office furniture and equipment), contracts, agreements, documents, or papers under the jurisdiction of the Department of Commerce relating to the duties, powers, and functions imposed upon and vested in the Commission by this part. All appropriations and unexpended balances of appropriations available for expenditure by the Department of Commerce for the said Division of Regulation shall be available for expenditure by the Commission for any and all objects of expenditure authorized by this part in the discretion of the Commission, without regard to the requirement of apportionment under the Antideficiency Act of February 27, 1906.

The amendment was agreed to.

The next amendment was, on page 77, line 12, before the word "All", to strike out "(e)" and insert "(g)"; and in line 14, after the word "by", to insert "the United States Shipping Board or", so as to read:

(g) All orders, determinations, rules, regulations, permits, contracts, or agreements which have been issued or authorized by the United States Shipping Board or the Department of Commerce under any provision of law repealed or amended by this part or in the exercise of duties, powers, or functions transferred to the Commission by this part and which are in effect at the time this part takes effect shall continue in effect until modified, terminated, superseded, or repealed by the Commission or by operation of law. Any proceeding, hearing, or investigation commenced or pending before the Department of Commerce at the time this part takes effect shall be continued by the Commission in the same manner as though originally commenced before the Commission if such proceeding, hearing, or investigation (1) involves the administration of duties, powers, and functions transferred to the Commission by this part, or (2) involves the exercise of jurisdiction similar to that granted to the Commission under the provisions of this part. All records, reports, tariff schedules, contracts, or agreements transferred to the Commission under this part shall be available for use by the Commission to the same extent and be of the same effect as if such records were originally records of the Commission.

The amendment was agreed to.

The next amendment was, on page 78, line 10, before the word "The", to strike out "(d)" and insert "(h)"; in line 24, after the word "questions", to strike out "allowed" and insert "involved"; and on page 79, line 1, after the word "Commission" and the period, to strike out "Nothing in this part shall be construed to alter or diminish other powers vested in the Department of Commerce", so as to read:

(h) The provisions of this part shall not affect suits commenced prior to the time this part takes effect; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered in the same manner and with the same effect as if this part had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States in relation to the discharge of official duties shall abate by reason of any transfer of authority, power, and duties from such agency or officer to the Commission under the provisions of this part, but the court, upon motion or supplemental petition filed at any time within 12 months after such transfer showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Commission.

The amendment was agreed to.

The next amendment was, on page 79, line 4, to change the section number from 234 to 324, so as to read:

SEPARABILITY OF PROVISIONS

SEC. 324. If any provision of this part or the application thereof to any person, or commerce, or circumstance is held invalid, the remainder of the part and the application of such provision to other persons, or commerce, or circumstances shall not be effected thereby.

The amendment was agreed to.

The next amendment was, on page 79, line 10, before the word "This", to strike out "235 (a)" and insert "325"; in line 13, after the word "of", to strike out "July" and insert "October"; in line 17, after the word "of" where it occurs the first time, to strike out "July" and insert "October"; and in line 18, before the numerals "1936", to strike out "January" and insert "April", so as to read:

TIME EFFECTIVE

SEC. 325. This part, except this section, which shall become effective immediately upon approval, shall take effect and be in force on and after the 1st day of October 1935: *Provided, however,* That the Commission shall, if found by it necessary or desirable in the public interest, by general or special order, postpone the taking effect of any provision of this part to such time after the 1st day of October 1935 but not beyond the 1st day of April 1936, as the Commission shall prescribe.

The amendment was agreed to.

The PRESIDING OFFICER. That completes the committee amendments.

Mr. WHEELER. Mr. President, I offer an amendment, on page 9, line 25, after the word "Zone", to insert a proviso, as follows:

Provided, That the transportation of passengers or property to or from a place in the Philippine Islands or to or from a place in the Canal Zone shall be deemed transportation in foreign commerce and subject to the provisions of this part applicable to common

carriers by water in foreign commerce: *Provided further, however,* That transfer or transshipment of passengers or property at the Canal Zone shall not affect the character as interstate commerce, within the meaning of this part, of transportation of such passengers or property between places in the United States or its territories or possessions.

Let me say that this amendment was suggested to me by the Coordinator, Mr. Eastman, who says:

As now worded, transportation to or from the Philippine Islands and Canal Zone would be left wholly without regulation. This result was not intended. The conditions affecting such transportation warrant treatment as foreign commerce, except as to traffic transferred or transshipped in interstate commerce at points in the Canal Zone. There is a considerable volume of this class of traffic.

Mr. COPELAND. Mr. President, so far as I am concerned, if we are going to have this bill, I do not care how many amendments we put on it; we could not possibly make it any worse.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Montana.

The amendment was agreed to.

Mr. WHEELER. On page 42, line 2, I offer an amendment to strike out the first comma, insert the word " and ", and to strike out the words " and registrations."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 42, line 23, I move to restore the word " or " and to strike out the comma.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 45, line 2, I move to insert the word " such " after the word " more."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 46, lines 2 and 3, I move to strike out " or an interstate contract carrier by water."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. In the committee amendment on page 49, line 9, I move to strike out the words " by water."

The PRESIDING OFFICER. Without objection, the vote by which the amendment of the committee was agreed to is reconsidered; the amendment to the amendment is agreed to and the amendment as amended is agreed to.

Mr. WHEELER. On page 52, line 25, I move to strike out the words " or registration."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 54, line 3, I move to strike out the words " the preceding sections of."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 54, line 4, I move to insert after the word " part " the words " relating to interstate transportation."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 55, in lines 20 and 21, I move to strike out the words " or service ", and the same amendment in line 25.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 58, line 21, I move to strike out the words " or handled."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 59, line 5, I move to strike out the words " or handled."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 59, line 12, I move to strike out the words " or handling ", and the same amendment in line 13.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. In the committee amendment on page 74, lines 6 to 9, I move to strike out " and the Merchant Marine Act, 1928, and the powers and duties vested in the United States Shipping Board by the Intercoastal Shipping Act, 1933 "; and after the word " and ", in line 9, to insert " those vested in such Board by."

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment was agreed to is reconsidered, the amendment to the amendment is agreed to, and the amendment as amended is agreed to.

Mr. WHEELER. On page 20, line 17, after the word " water ", I move to insert the words " not excluded from all the provisions of this part pursuant to section 302 (b)."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 30, line 6, I move to strike out " 90 days " and insert " 1 year."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WHEELER. On page 30, lines 21 and 23, I move to strike out the words " 90-day period of limitation in subparagraph (2) or of the "; to strike out " subparagraph " in line 22 and insert " subparagraphs " and insert "(2) and " before "(3)."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

GOVERNMENT STATISTICAL SERVICES

Mr. COPELAND. Mr. President, I ask unanimous consent that the unfinished business may be temporarily laid aside and that the Senate proceed to the consideration of House bill 7590.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill (H. R. 7590) to create a Central Statistical Committee and a Central Statistical Board, and for other purposes, which had been reported from the Committee on Commerce without amendment.

Mr. COPELAND. Mr. President, this is a bill, as its title indicates, to create a central statistical committee and a central statistical board. We have had in operation since 1931 a Federal Statistics Board. With the coming of the depression, it was found necessary to enlarge that work of gathering statistical material. I should like to suggest four brief amendments.

On page 2, line 1, after the word " of ", I move to insert the words " the Secretary of the Treasury ", so that it will read:

The committee shall consist of the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. COPELAND. In section 3, line 5, after the word " President ", I move to insert the words " with the advice and consent of the Senate."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. COPELAND. In section 5, on page 5, at the end of line 10, I move to strike out the period and insert the words " and to the President for transmittal to the Congress."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. COPELAND. On line 18, page 5, I move to strike out the word " competitive."

The PRESIDING OFFICER. Without objection the amendment is agreed to.

Mr. ROBINSON. Mr. President, I hope the bill may be passed.

The PRESIDING OFFICER. The question is on the engrossment of the amendments.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ORDER OF BUSINESS

Mr. ROBINSON. Mr. President, I understand there are some Senators who do not wish to have the unfinished business disposed of today. I understand from the Senator from Oregon that he prefers that the further consideration of the bill be deferred until Monday.

Mr. McNARY. That is correct.

Mr. ROBINSON. Therefore, Mr. President, I shall move an executive session after the brief statement I am about to make.

It is my intention to move a recess until tomorrow, and it is not expected that any business will be transacted tomorrow, but when the Senate meets tomorrow a recess will be taken until next Monday, the meeting tomorrow being necessary for the reason that the Constitution limits the length of time that the Senate may recess or adjourn without the consent of the other body.

SENATOR GIBSON'S REPORT ON PHILIPPINES—EDITORIAL FROM MANILA BULLETIN

Mr. McNARY. Mr. President, will the Senator from Arkansas yield to me to present a request?

Mr. ROBINSON. I yield.

Mr. McNARY. Mr. President, I have here an editorial from the Manila Bulletin referring to the work of the Senator from Vermont [Mr. GIBSON] as a member of the committee who visited the Philippine Islands. It is an interesting and informative editorial, and I ask unanimous consent to be permitted to have it printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Manila (P. I.) Bulletin]

THE GIBSON OF THE REPORT

One needs to know the political character that is ERNEST W. GIBSON to understand the report on the Philippines written by the Vermont Republican, who came to the islands as a member of a Democratic administration's congressional investigating commission.

The report, just made public, reflects the political independence of the 64-year-old Senator; the independence which characterized his method of conducting his own investigation while here and weighing facts for his own independent conclusions. To be understood the Gibson report should be studied against the background of the quiet, friendly, and independent survey the Senator made here; the survey which took him on the trip which he planned and which was made absolutely independently of what his fellow investigators were doing.

The independent character of his investigation and report is not mentioned here in any attempt to draw party lines or to create the impression that he was at outs with the other members of the mission. In fact, his findings so thoroughly harmonize with the views expressed by Senator TYDINGS and the other Senators that we hardly could understand why he wrote an independent report, if we did not take into consideration his independent line of thought and his policy of refusing to have his hands and his tongue tied by what somebody else says or some party dictates. He is a Republican, but he refuses to be governed in his thoughts and in his acts by machine politics. That is the explanation to the tone in his voice when he tells that he has been read out of his party on one or more occasions. It is the explanation of the independent attitude he took in making his Philippine investigation and writing his report thereon.

Probably it also plays a part in explaining the frankness with which he points to the dangers to the United States, to the Philippines, and to the peace of the world from the Tydings-McDuffie Act and tenders his regrets that he voted for that measure. There certainly is an independence of political thought as an appealing ring of sincerity in this paragraph from the Gibson report:

"It must be observed that so far as the political situation is concerned, we have enacted the independence law. In my opinion, it should not have received the sanction of the Congress in its present form. I voted for it, and now tender my regrets for having done so. But it has been approved by the Philippine Legislature and constitutes an obligation which we cannot ignore. The economic provisions of the Tydings-McDuffie Act can be changed and the imperfections and inequalities adjusted. Even the political set-up can be changed, but this must be done on the initiative of the Philippine people."

The conclusions reached by Senator GIBSON as result of his independent study are too clearly stated by him to require comment or repetition. His warnings ring too sincerely to need emphasizing. His whole report reads with far too much calm friendliness to call for magnifying paragraphs and underscoring lines. No one can help be impressed with the openness of his expression of pride at the progress that has been made here and the equally frank expression of regret that he lent his vote to the sanction of that which "will make America, once the hope of Christendom, the leader in the retreat of the white man" and "will put us in a position of leaving a people we have promised to help at the mercy of grasping imperialistic nations, unless and until a neutralization treaty can be negotiated—an idle dream."

Any person—Filipino, American, or foreigner—reading the Gibson report must consider the independent conservatism of the author of that report to appreciate the weight of the warnings contained in it. Senator GIBSON wrote his report in the same friendly but frank tones he used in making the inquiry which produced the report. Through the report he makes official the conclusions he expressed to local leaders after he had come and had seen and had been convinced.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. TRUMAN in the chair) laid before the Senate messages from the President of the United States, submitting a treaty and a convention, which were referred to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

Mr. COPELAND, from the Committee on Commerce, reported favorably the nominations of the following officers of the Coast and Geodetic Survey:

Carl Ingman Aslakson, of Minnesota, to be hydrographic and geodetic engineer (with relative rank of lieutenant in the Navy) by promotion from junior hydrographic and geodetic engineer (with relative rank of lieutenant, junior grade, in the Navy), vice Carl A. Egner, promoted;

John Crawford Ellerbe, Jr., of South Carolina, to be junior hydrographic and geodetic engineer (with relative rank of lieutenant, junior grade, in the Navy) by promotion from aide (with relative rank of ensign in the Navy), vice Carl Ingman Aslakson, promoted; and

Harold John Seaborg, of Indiana, to be air officer (with relative rank of ensign in the Navy) by promotion from deck officer, vice John C. Ellerbe, Jr., promoted.

Mr. KING, from the Committee on the Judiciary, reported favorably the nomination of Harold M. Stephens, of Utah, to be assistant to the Attorney General, vice William Stanley, resigned.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

MARINE CORPS NOMINATIONS

Mr. TRAMMELL. Mr. President, from the Committee on Naval Affairs I report favorably certain nominations for appointment in the Marine Corps. They are temporary appointments for 2 years, and the desire is that the appointees, numbering about 25, be commissioned on the 5th of July, at the time when a number of others whose nominations have been confirmed will be commissioned. I ask unanimous consent that the nominations be confirmed en bloc, without reference to the calendar, and that the President be immediately notified of the confirmations.

The PRESIDING OFFICER. Without objection, the nominations reported by the Senator from Florida [Mr. TRAMMELL] are confirmed en bloc, and the President will be notified.

If there be no further reports of committees, the clerk will state the first nomination in order on the calendar.

WORKS PROGRESS ADMINISTRATION—HARRY L. HOPKINS

The legislative clerk read the nomination of Harry L. Hopkins, of New York, to be Administrator of the Works Progress Administration.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBINSON. I ask unanimous consent that the President be notified of the confirmation of the nomination of Mr. Hopkins.

The PRESIDING OFFICER. Without objection, the President will be notified.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. ROBINSON. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

That completes the calendar.

ASSISTANT TO ATTORNEY GENERAL—HAROLD M. STEPHENS

Mr. KING. Mr. President, I should like to have the attention of the Senator from Oregon [Mr. McNARY], the leader on the other side.

Hon. Harold M. Stephens was nominated 2 years ago for a position in the Department of Justice. During the intervening time he has had charge of the activities in connection with the enforcement of the antitrust laws. He is a lawyer of ability and eminence. Mr. William Stanley, who has been the Assistant to the Attorney General, resigned for the purpose of resuming private practice and Judge Stephens has been nominated to succeed him.

The Judiciary Committee has approved the nomination. It is very important that it be confirmed as soon as possible, because the duties of the position made vacant by the resignation of Mr. Stanley are imperative and need immediate attention. I ask unanimous consent that the nomination be confirmed.

The PRESIDING OFFICER. Is there objection?

Mr. McNARY. In view of the statement of the Senator from Utah, I have no objection.

Mr. KING. I thank the Senator.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. KING. I ask that the President be notified.

The PRESIDING OFFICER. Without objection, the President will be notified.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 2 o'clock and 10 minutes p. m.) the Senate took a recess until tomorrow, Thursday, July 4, 1935, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 3 (legislative day of May 13), 1935

APPOINTMENTS IN THE NAVY

MARINE CORPS

To be second lieutenants in the Marine Corps, revocable for 2 years, from the 1st day of July 1935

Wilmer E. Barnes
George H. Brockway
Custis Burton, Jr.
Kenyth A. Damke
Willard C. Fiske
Dixon Goen
Frank P. Hager, Jr.
Bruno A. Hochmuth
Joe C. McHaney
Hoyt McMillan
Albert F. Metze
Raymond L. Murray
Herman Nickerson, Jr.
John S. Oldfield
Wesley M. Platt
William E. Profitt, Jr.
Thomas F. Riley
George A. Roll
Robert E. Stannah
Leo F. Sulkosky
Harold G. Walker
Julian F. Walters
Chevey S. White

ASSISTANT TO THE ATTORNEY GENERAL

Harold M. Stephens to be Assistant to the Attorney General.

ADMINISTRATOR OF THE WORKS PROGRESS ADMINISTRATION

Harry L. Hopkins to be Administrator of the Works Progress Administration.

POSTMASTERS

CONNECTICUT

Mary W. Pinney, Bloomfield.
Nellie U. Schumey, Warehouse Point.

INDIANA

Cary A. Davis, Albion.
Gerald L. Knox, Converse.
Raymond McClain, Greenwood.
Harry R. Groat, Lagrange.
Dallas L. Mygrant, Markle.
John Isenbarger, North Manchester.
Dora Hungerford (Mr.), St. Paul.

MASSACHUSETTS

Dora E. Gagnon, Byfield.
John P. Connolly, Hopedale.
Sylvester D. Conley, Ipswich.
Annie E. Cronin, North Wilmington.
John Enneguess, South Acton.
David R. Kinsley, West Acton.

MONTANA

Richard E. Morris, Baker.
Frank R. Murray, Townsend.

NEBRASKA

John L. Withers, Elwood.
Irene H. Roberts, Paxton.

NORTH CAROLINA

Thomas B. Miller, Sr., Apex.

SOUTH DAKOTA

Adolph P. Koevenig, Hill City.
Herald A. Krebs, Quinn.

VERMONT

Louis F. Martin, Manchester Center.
Donald L. Mattison, Manchester Depot.
Carroll E. Jenkins, Orleans.
Clinton M. Hall, Wilmington.

WYOMING

Franklin P. Nelson, Evanston.
Alfred B. Mills, Lusk.

SENATE

THURSDAY, JULY 4, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

AUTHORITY TO SIGN AN ENROLLED BILL

Mr. ROBINSON. I ask unanimous consent that during the adjournment or recess of the Senate following today's session, the President of the Senate be, and he is hereby, authorized to sign the enrolled bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes.

The VICE PRESIDENT. Without objection, it is so ordered.

RECESS TO MONDAY

Mr. ROBINSON. I move that the Senate stand in recess until 12 o'clock noon Monday next.

The motion was agreed to; and (at 12 o'clock and 1 minute p. m.) the Senate took a recess until Monday, July 8, 1935, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

FRIDAY, JULY 5, 1935

The House met at 12 o'cock noon.

Rev. Charles H. Corkran, pastor Douglas Memorial Episcopal Church, Washington, D. C., offered the following prayer:

Almighty and ever-living God, Father of us all and giver of every good and perfect gift, we bow reverently in Thy presence, knowing that Thou art good, just, and holy, and that Thou art the same yesterday, today, and forever. Thou art constant in all Thy benefits and mercies toward the children of men. Gracious Father, accept our sincere thanks and gratitude for Thy continued watchful care over us. Let Thy directing influence be in all our doings and grant us Thy continual help, so that in all things begun, continued, and ended we may glorify Thy name. Through Christ Jesus our Lord. Amen.

The Journal of the proceedings of Tuesday, July 2, 1935, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8021) entitled "An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate no. 9 to the foregoing bill.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 6732. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House thereon, and appoints Mr. COPELAND, Mr. FLETCHER, Mr. SHEPPARD, Mr. JOHNSON, and Mr. MCNARY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1633. An act to amend the Interstate Commerce Act, as amended, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 7590. An act to create a Central Statistical Committee and a Central Statistical Board, and for other purposes.

The message also announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 29. Concurrent resolution to authorize and direct the Clerk of the House of Representatives, in the enrollment of H. R. 8021, the Legislative Branch Appropriation Act, 1936, to add an additional section making the appropriations therein effective as of July 1, 1935.

LEAVE OF ABSENCE

Mr. GILLETTE. Mr. Speaker, may the RECORD show that my colleague from Iowa [Mr. EICHER] is excused indefinitely on account of illness?

The SPEAKER. Without objection, it is so ordered.

There was no objection.

OUR POST-OFFICE SYSTEM

Mr. STEFAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. STEFAN. Mr. Speaker, I desire to say something in behalf of my bill, H. R. 5273, the purpose of which is to take the post office out of politics and place its operation on a common-sense and businesslike basis.

From the inception of this Government by the adoption of the Constitution in 1789 we have had the post-office system operated by the United States Government. The only other affairs which have been operated by the United States for an equal length of time is the maintenance of the Army and the maintenance of the Navy.

The operation of the post office was deemed so essential by the founders of this Nation that it was specifically set forth in the Constitution itself that this power should belong to the Federal Government. No one has dared to attempt to make of the Army a political machine. Neither has any hardy soul ventured to set forth political affiliations as a basis of sailing on the high seas in behalf of the United States. Contemplating these basic truisms, how can any reasonable person do other than marvel that the third great original branch of governmental service should from its very inception be seized upon as the basis for partisan reward?

Is it because this man is a Democrat that he is better able to operate a certain post office than another man who may have better education, better training, better temperament than him? Perish the thought. Was our present Postmaster General Farley selected because of unusual predilections along the line of the conduct of the mails? I think I am reasonably safe in saying he probably did not even know where the post office was located in his home city. Republicans have been equally guilty when they have been in power. All too frequently this important post goes to the chairman of the national committee of the party which has been successful in the last election. It is then placed right in the middle of the spoils system in its worst form. Political obligations exist that must be paid off. Efficiency is sacrificed in order that someone may be rewarded for work he has done at the past elections.

What has been the inevitable result? One of the principal results has been that the Post Office Department has during a large percentage of the years been operated at a large deficit. This deficit then in turn has to be made up out of taxes. Taxes come from none but the ultimate consumer. Everything we eat, everything we wear, the property we live in must pay from day to day for this additional burden. Let no one be misled by soak-the-rich slogans. You may put the burden of taxation anywhere you please but in the final analysis it will be passed right on down to the consumer, and when it comes to the real necessities of life such as food, clothing, and shelter we all use those things in approximately equal amounts. You may hide them as you will but they are still there to be paid and the consumer pays the bill. Someone will probably say that the post-office deficits constitute a small part of our national tax bill. Granted that that may be true the facts are not to be disputed that it is the pennies that make up the dollar. No governmental magic has yet been devised nor is any in prospect that will enable the reduction of the total tax bill of the Nation without making the reductions in the component parts that go to make up the whole of governmental needs. Start cutting off this postal deficit and you will start in on the matter of reducing taxes.

Out in my State of Nebraska we are justly proud of our record in the matter of taxes levied by the State against its people. We have no income tax, no sales tax, no one of those new forms of taxation that undertake to shift the tax burden. Nebraska has no bonded indebtedness. Yet only a few short years ago we completed the construction of a new State capitol building at an approximate cost of $12,000,000, which is one of the most beautiful structures of its kind in the entire world. I mention these matters merely to illustrate my point that in spite of these things taxes can be kept low. We have kept them low by simply following that homely old adage, that may now seem in disrepute but is as true and applicable now as it was the day it was first uttered, that if we watch the pennies the dollars will look out for themselves.

But the matter of the cost is not the only consideration. There are other matters of equal or greater importance. One of the prime factors with the framers of the Constitution in placing the establishment of post offices and post roads with the Federal Government was to secure and keep secure reasonably rapid communication between the various sections of the country. It is so elemental that no one will rise to dispute me when I say that in postal work the longer a person works in this branch of service the more proficient he becomes. He is able to do his work faster, better, and more of it the more familiar he becomes with the various angles of the work. It is of little moment whether he be engaged in one branch of the work or another. Whether he be sorting mail or delivering it, whether he be engaged in any one of the many branches of the work, experience shows that in almost every instance he becomes more adept as he learns these various angles and the Government gets more for its dollar of pay and the patrons get a much improved service.

Since this service was set up in the Constitution almost a hundred and fifty years have elapsed. Our population has increased from 3,000,000 to 125,000,000 of people. Our borders have been extended from the Atlantic to the Pacific. It requires business sense and business ability to transport

the mails quickly and expeditiously over that far-flung empire. The immortal Lincoln, in his first inaugural address, delivered amid the gathering tumult of clashing arms, found time to mention this in these words:

The mails, unless repelled, will be sent to all parts of the Union.

Mr. Speaker, I am not alone in my support of this measure. No less a person than Senator GEORGE W. NORRIS, who has so ably represented my State in both this body and in the Senate of the United States, is staunchly advocating this measure. No one can question his ability and patriotism. No one can honestly question his desire to do what is best for the greatest number of people. He has stated in the Senate of the United States that the politics played by the gentleman in charge of the Post Office Department was doing grave harm to the President of the United States. If that be true and we who know Senator NORRIS know that he did not make this charge lightly, then how much damage is politics doing to the transportation of the mails? However, you need not confine this solely to this administration. They will not always be in charge. They assure us that their intentions are the best. Their intentions may be good but their performance is tragic. I believe it was old John Calvin who declared, "Hell is paved with good intentions"—and then with perfectly good intentions he burned Servetus at the stake—the foremost scientist of the time. Marcus Aurelius, universally credited with being a man of the most excellent intentions, roasted St. Cecilia before a slow fire and murdered myriads of Christians.

It is not enough that a public officer have good intentions. He must have the ability to properly perform his job, and his performance of that job in the important handling of the mails must not be impeded by the knowledge that the holding of his job is dependent on how he performs politically. Whence comes this money that is being squandered and wasted? The Government of the United States is itself a pauper save for a few public buildings and things of that kind it can be said to own.

The money used to pay postal deficits is the money forced from the people of the United States by taxation—the bonds issued are a first mortgage upon all the property of all the people of the United States. They are likewise a first mortgage on the energies of all who live—nay, more, they are a first mortgage upon the shadowy hosts that yet shall pass across this "bank of time."

What is the remedy? There is no single remedy. But take the Post Office out of politics and you will have accomplished much.

MAJ. PATRICK H. WINSTON

Mr. UMSTEAD. Mr. Speaker, I ask unanimous consent that the bill (H. R. 5203) for the relief of Maj. Patrick H. Winston may be re-referred to the Committee on Military Affairs.

The SPEAKER. Is there objection?

There was no objection.

EXTENSION OF REMARKS

Mr. BLANTON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on the subject of the futility of wasting as much as $150,000 of the people's tax money to find out something that every one of us already knows all about.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. RANKIN. Reserving the right to object, Mr. Speaker, of course, the gentleman has reference to the Senate investigation of the utility lobby against the holding company bill.

Mr. BLANTON. I did not mention the Senate. Neither my request nor my remarks will in any way violate our parliamentary rules.

Mr. RANKIN. I know; but that is what the gentleman refers to, and that investigation ought to be made, by all means. It will likely reveal the most outrageous saturnalia of propaganda, pressure, and corruption that has ever been revealed around this Capitol. I hope the gentleman will not obstruct the Senate or the Senate committee in making a thorough investigation of that powerful lobby.

Mr. BLANTON. I am not against a proper investigation. On the contrary, I am for a thorough investigation. We are going to have one in the House, conducted by our Rules Committee. It is not going to cost any money. We can conduct one without any money. We already know that every big utility company in the United States had lobbyists here trying to keep the bill from passing which we passed the other day. No new facts will be developed that will be worth 5 cents to the people. All money that may be spent on an investigation will be wasted.

I am tired of seeing public money wasted. No good whatever will be accomplished by spending a lot of money on an investigation. For a few thousand dollars any competent committee ought to be able to make a thorough investigation. They cannot find out a thing that every single Member of this House does not already know. My remarks are going to cover the futility of wasting a tremendous amount of money in any legislative body on investigations that bring about nothing of value to the people.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. RANKIN. Further reserving the right to object, Mr. Speaker, I wish to say to the gentleman from Texas that in the first place it is none of our business what the Senate does.

Mr. BLANTON. I have not in any way referred to the Senate. It is some of our business if we can stop $150,000 of the people's tax money from being wasted. I am considering the advisability of registering a vigorous protest against anybody wasting money out of the Public Treasury to the amount of $150,000, which is a large sum.

Mr. RANKIN. It is imperative that they go to the bottom of this corruption. Besides, the Senate has a right to summon witnesses and put them under oath, and the House committee has not.

It may not be necessary to spend the entire amount asked for, but whether it is or not, this investigation by the Senate committee ought not to be interfered with.

Mr. BLANTON. I am in no way interfering with the Senate. I have not mentioned the Senate. The Senate has not authorized any sum to be wasted. I hope that the Senate will provide that no money shall be wasted. But as a citizen of the United States, and as a Representative of the people in the Congress of the United States, I have the right, and it is my duty, to register a protest against anybody wasting $150,000 that will produce not one thing of value to the people, and will uncover no facts other than those which are already known to every posted Member of this Congress.

Mr. MAPES. Mr. Speaker, the regular order.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. BLANTON]?

Mr. RANKIN. If the gentleman is going to jump on the Senate, I will have to object.

Mr. BLANTON. I am not going to jump on the Senate. My remarks shall be within our rules.

Mr. RANKIN. Then I shall not object.

The SPEAKER. Is there objection?

There was no objection.

CONGRESSIONAL RECORD

Mr. PATMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PATMAN. Will there be a RECORD of the proceedings printed today or will it be printed next Monday?

The SPEAKER. That is controlled by the Joint Committee on Printing.

Mr. PATMAN. I understand there will not be a RECORD printed until Monday now.

The SPEAKER. That is under the control of the Joint Committee on Printing.

Mr. RANKIN. But it will contain the proceedings of today?

The SPEAKER. When it is printed the Chair assumes, of course, it will contain the proceedings of today.

ENROLLED BILL SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H. R. 8021. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 14 minutes p. m.) the House, pursuant to its order heretofore entered, adjourned until Monday, July 8, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

405. A letter from the Attorney General of the United States, transmitting a report showing the special assistants employed under the appropriation "Pay of special assistant attorneys", contained in the Department of Justice Appropriation Act, 1935, approved April 7, 1934, the rates of compensation of such assistants, and the amounts paid; to the Committee on Expenditures in the Executive Departments.

406. A letter from the Secretary of War, transmitting draft of a proposed bill to authorize the Secretary of War or the Secretary of the Navy to withhold the pay of officers, warrant officers, enlisted men, and nurses of the Army, Navy, or Marine Corps to cover indebtedness to the United States under certain conditions; to the Committee on Military Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. WALLGREN: Committee on Roads. S. 1374. An act authorizing the survey, location, and construction of a highway to connect the northwestern part of continental United States with British Columbia, Yukon Territory, and the Territory of Alaska; with amendment (Rept. No. 1429). Referred to the Committee on the Whole House on the state of the Union.

Mr. BLAND: Committee on Merchant Marine and Fisheries. H. R. 7814. A bill to authorize the Secretary of Commerce to grant to the State of California an easement over certain land of the United States in Tehama County, Calif., for highway purposes; without amendment (Rept. No. 1430). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. HOEPPEL: Committee on War Claims. H. R. 1618. A bill for the relief of Anna McDonald; with amendment (Rept. No. 1431). Referred to the Committee of the Whole House.

Mr. HOEPPEL: Committee on War Claims. H. R. 4059. A bill for the relief of Ella B. Kimball, daughter and only heir of Jeremiah Simonson; without amendment (Rept. No. 1432). Referred to the Committee of the Whole House.

Mr. HOEPPEL: Committee on War Claims. H. R. 6356. A bill to carry out the findings of the Court of Claims in the case of Joseph G. Grissom; with amendment (Rept. No. 1433). Referred to the Committee of the Whole House.

Mr. BEITER: Committee on War Claims. H. R. 7821. A bill for the relief of the estate of Benjamin A. Pillsbury (William J. Pillsbury, executor); without amendment (Rept. No. 1434). Referred to the Committee of the Whole House.

Mr. BEITER: Committee on War Claims. H. R. 8220. A bill for the relief of Helen Mahar Johnson; without amendment (Rept. No. 1435). Referred to the Committee of the Whole House.

Mr. BEITER: Committee on War Claims. House Joint Resolution 223. Joint resolution conferring upon the Court of Claims jurisdiction of the claim of the Rodman Chemical Co. against the United States; with amendment (Rept. No. 1436). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. McCORMACK: A bill (H. R. 8753) to amend certain sections of title IV of the Revenue Act of 1932, as amended, relating to the taxes on gasoline and lubricating oils; to the Committee on Ways and Means.

By Mr. WILCOX: A bill (H. R. 8754) to amend chapter 9 of the act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States", as approved July 1, 1898, and acts amendatory thereof and supplementary thereto; to the Committee on the Judiciary.

By Mr. WERNER: A bill (H. R. 8755) to provide additional funds for the completion of the Mount Rushmore National Memorial, in the State of South Dakota, and for other purposes; to the Committee on the Library.

By Mr. HEALEY: Resolution (H. Res. 286) favoring use of the good offices of United States Government for the reestablishment of places of worship and opportunity for unrestricted exercise of their religious beliefs to American citizens resident in or visiting the Republic of Mexico; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRUNNER: A bill (H. R. 8756) to restore Joseph Theodore Kingsley to the emergency officers' retirement list; to the Committee on Claims.

By Mr. HOEPPEL: A bill (H. R. 8757) granting a pension to Della Means; to the Committee on Invalid Pensions.

By Mr. VINSON of Kentucky: A bill (H. R. 8758) for the relief of Doris Allen; to the Committee on Foreign Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9076. By Mr. ANDREW of Massachusetts: Petition of the Massachusetts House of Representatives, urging the granting of funds by the Federal Government for the immediate removal of elevated railway structures in the city of Boston and the construction of subways in substitution therefor; to the Committee on Appropriations.

9077. By Mr. BOYLAN: Resolutions adopted at the quarterly meeting of the National Board of Officers of the Catholic War Veterans, at their headquarters in New York City, regarding stamping out of communism in the United States; to the Committee on Foreign Affairs.

9078. By Mr. GOODWIN: Petition of citizens and residents of Gardiner, N. Y., protesting against the condition of affairs in Mexico, and urging that Congress take some steps to rectify this un-American and un-Christian government of the Mexican people; to the Committee on Foreign Affairs.

9079. By Mr. HIGGINS of Massachusetts: Resolutions favoring the granting of funds by the Federal Government for the immediate removal of elevated railway structures in the city of Boston and the construction of subways in substitution therefor; to the Committee on Appropriations.

9080. By Mr. JOHNSON of Texas: Petition of Hon. Beauford H. Jester, Corsicana, Tex., favoring adequate regulation of trucks and busses; to the Committee on Interstate and Foreign Commerce.

9081. By Mrs. ROGERS of Massachusetts: Petition of the General Court of the Commonwealth of Massachusetts,

favoring the granting of funds by the Federal Government for the immediate removal of elevated railway structures in the city of Boston and the construction of subways in substitution therefor; to the Committee on Appropriations.

9082. By the SPEAKER: Petition of the city of San Juan, P. R.; to the Committee on the Public Lands.

SENATE

MONDAY, JULY 8, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar days Wednesday, July 3, and Thursday, July 4, 1935, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts:

On July 2, 1935:

S. 2738. An act to authorize the use of park property in the District of Columbia and its environs by the Boy Scouts of America at their national jamboree.

On July 5, 1935:

S. 1958. An act to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes; and

S. 2642. An act to incorporate The American National Theater and Academy.

CONDOLENCES ON DEATH OF THE LATE SENATOR CUTTING

The VICE PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a copy of a resolution adopted by the Provincial Board of Iloilo, P. I., expressing condolences on the death of Hon. Bronson Cutting, late a Senator from the State of New Mexico, which, with the accompanying paper, was ordered to lie on the table.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Clark	Johnson	Pittman
Ashurst	Connally	Keyes	Pope
Austin	Coolidge	King	Radcliffe
Bachman	Copeland	La Follette	Reynolds
Bailey	Davis	Lewis	Robinson
Bankhead	Dickinson	Logan	Russell
Barbour	Dieterich	Lonergan	Schall
Barkley	Donahey	McAdoo	Sheppard
Bilbo	Duffy	McGill	Shipstead
Black	Fletcher	McKeller	Smith
Bone	George	McNary	Steiwer
Borah	Gerry	Maloney	Thomas, Okla.
Brown	Gibson	Metcalf	Townsend
Bulkley	Glass	Minton	Trammell
Bulow	Gore	Murphy	Truman
Burke	Guffey	Murray	Tydings
Byrd	Hale	Neely	Vandenberg
Byrnes	Harrison	Norbeck	Van Nuys
Capper	Hastings	Norris	Wagner
Caraway	Hatch	Nye	Walsh
Carey	Hayden	O'Mahoney	Wheeler
Chavez	Holt	Overton	White

Mr. VANDENBERG. I announce that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent because of illness.

Mr. NYE. I wish to announce that my colleague the senior Senator from North Dakota [Mr. FRAZIER] is necessarily absent.

Mr. LEWIS. I announce that the Senator from Utah [Mr. THOMAS], the Senator from Colorado [Mr. COSTIGAN], the Senator from Nevada [Mr. MCCARRAN], the Senator from Washington [Mr. SCHWELLENBACH], the Senator from Louisiana [Mr. LONG], and the Senator from New Jersey [Mr. MOORE] are absent on important public business.

The VICE PRESIDENT. Eighty-eight Senators have answered to their names. A quorum is present.

SIGNING OF AN ENROLLED BILL

The VICE PRESIDENT announced that, under authority granted by the Senate on the 4th instant, he signed on Friday, July 5, 1935, the enrolled bill (H. R. 8021) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes, said bill having been signed by the Speaker of the House of Representatives and previously reported by the Committee on Enrolled Bills as having been examined and found truly enrolled, and that it was delivered to the committee to be presented to the President of the United States.

DEFICIENCY ESTIMATE, JUDICIAL EXPENSES, DISTRICT OF COLUMBIA (S. DOC. NO. 111)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a deficiency estimate of appropriation for the District of Columbia in the amount of $617, fiscal year 1935, for the payment of judicial expenses, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE—OIL LANDS IN FORMER NAVAL RESERVES (S. DOC. NO. 109)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation, fiscal year 1936, for protection of the interests of the United States in matters affecting oil lands in former naval reserves, as directed by law, amounting to $40,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE—DEPARTMENT OF AGRICULTURE (S. DOC. NO. 110)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation, fiscal year 1935, amounting to $9,000,000, for the Department of Agriculture, to carry into effect those provisions of the act approved June 29, 1935, providing for research into basic laws and principles relating to agriculture and for the further development of cooperative agricultural extension work, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

ELECTRIC RATE SURVEY IN NORTH DAKOTA

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Federal Power Commission, transmitting, pursuant to law, a compilation completed through the electric rate survey of the domestic and residential rates in effect in the State of North Dakota on January 1, 1935, which, with the accompanying paper, was referred to the Committee on Interstate Commerce.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a memorial of several citizens of the United States, remonstrating against the enactment of the so-called "Wheeler-Rayburn public utilities bill", which was ordered to lie on the table.

Mr. WALSH presented a resolution adopted by a convention of the Massachusetts State Council, Knights of Columbus, favoring a senatorial investigation of alleged religious persecutions in the Republic of Mexico as provided by the so-called "Borah resolution", and protesting against alleged antireligious conditions and policies pursued in that country, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by a meeting of the board of directors of the Independent Oil Men's Association of New England, protesting against the enactment of the so-called "Thomas Federal petroleum act" and the substitute offered in lieu thereof, which was ordered to lie on the table.

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT

Mr. WALSH presented a letter from Russell T. Fisher, secretary of the National Association of Cotton Manufacturers, Boston, Mass., enclosing copy of resolutions adopted by the Northern Cotton Mills Policy Committee and the board of government of the National Association of Cotton Manufacturers, which were ordered to lie on the table and to be printed in the RECORD, as follows:

THE NATIONAL ASSOCIATION OF COTTON MANUFACTURERS,
Boston, Mass., June 28, 1935.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

DEAR SENATOR WALSH: We are enclosing copy of a resolution unanimously passed by the Northern Cotton Mills Policy Committee, representing all of the northern cotton mills, and in addition approved by the board of government of the National Association of Cotton Manufacturers, a trade association representing this same group of mills.

The situation which would be created by the passage of the amendments as now drafted is so serious that we respectfully urge you to give this matter your careful attention.

Yours very truly,

RUSSELL T. FISHER.

Whereas there has been passed by the House of Representatives and is now pending before the Senate a bill (H. R. 8492) to amend the Agricultural Adjustment Act; and

Whereas section 29 of said bill seeks (1) to prevent any suit or proceeding by a taxpayer in any court to secure a refund of processing taxes previously assessed or paid; (2) to prevent, in advance of payment, any judicial determination of the constitutionality of any tax subsequently imposed; and (3) to impose conditions upon obtaining a refund of any such tax subsequently imposed which are impossible of fulfillment, thereby in effect depriving the taxpayer of all remedies; and

Whereas the Policy Committee of the Northern Cotton Mills and the board of government of the National Association of Cotton Manufacturers view with alarm this obvious effort on the part of the administration to collect from the citizens of the country in the guise of taxes money which it may have no lawful right to collect, and to retain such money as its own without remedy on the part of the taxpayer: Now, therefore, be it

Resolved, That the Policy Committee of the Northern Cotton Mills and the board of government of the National Association of Cotton Manufacturers hereby declare themselves as opposed to the passage of such bill in its present form or in any form which has the effect of depriving taxpayers of the right to have the constitutionality of such taxes judicially determined, or which imposes unreasonable conditions and restrictions upon the exercise of such right, and condemn the present attempt of the administration to circumvent the Constitution of the United States through the denial of such right; and further

Resolved, That the Congress of the United States be urged to strike section 29 from the proposed bill, and, in the event of a denial of this request, that Congress be urged at least to modify the provisions of section 29 so as to give to taxpayers a right to secure as speedily as possible a determination by the United States Supreme Court of the constitutionality of the processing tax.

HOURS AND WAGES OF LABOR—RESOLUTION OF GOVERNORS' CONFERENCE

Mr. GUFFEY presented a resolution unanimously adopted by the Conference of Governors at Biloxi, Miss., which was referred to the Committee on Education and Labor and ordered to be printed in the RECORD, as follows:

Whereas business has been greatly benefited and working conditions vastly improved in the last 2 years under the wise leadership of President Franklin Delano Roosevelt; and

Whereas it is essential to our national economic security that a Nation-wide program providing for minimum wages of pay and maximum hours of employment be maintained in the interest of the preservation of amicable relationships between capital and labor, and the enhancement of the purchasing power of the people in this country to the end that unemployment be reduced: Therefore be it

Resolved, That it is the sentiment of this Governors' Conference that these ideals should be encouraged and furthered throughout this Nation.

STATEMENT BY PRESIDENT ROOSEVELT ON SIGNING LABOR-DISPUTES BILL

Mr. GUFFEY. Mr. President, I present and ask to have printed in the RECORD the text of a statement issued by President Roosevelt upon signing the so-called "Wagner labor-disputes bill", as printed in the Washington Post of the 6th instant.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TEXT OF WAGNER BILL STATEMENT

(Public Law 198)

President Roosevelt issued the following statement when he signed the Wagner labor disputes bill yesterday:

"This act defines, as a part of our substantive law, the right of self-organization of employees in industry for the purpose of collective bargaining, and provides methods by which the Government can safeguard that legal right. It establishes a National Labor Relations Board to hear and determine cases in which it is charged that this legal right is abridged or denied, and to hold fair elections to ascertain who are the chosen representatives of employees.

"A better relationship between labor and management is the high purpose of this act. By assuring the employees the right of collective bargaining it fosters the development of the employment contract on a sound and equitable basis. By providing an orderly procedure for determining who is entitled to represent the employees, it aims to remove one of the chief causes of wasteful economic strife. By preventing practices which tend to destroy the independence of labor, it seeks, for every worker within its scope, that freedom of choice and action which is justly his.

"The National Labor Relations Board will be an independent quasi-judicial body. It should be clearly understood that it will not act as mediator or conciliator in labor disputes. The function of mediation remains, under this act, the duty of the Secretary of Labor and of the Conciliation Service of the Department of Labor. It is important that the judicial function and the mediation function should not be confused. Compromise, the essence of mediation, has no place in the interpretation and enforcement of the law.

"This act, defining rights, the enforcement of which is recognized by the Congress to be necessary as both an act of common justice and economic advance, must not be misinterpreted. It may eventually eliminate one major cause of labor disputes, but it will not stop all labor disputes. It does not cover all industry and labor, but is applicable only when violation of the legal right of independent self-organization would burden or obstruct interstate commerce. Accepted by management, labor, and the public with a sense of sober responsibility and of willing cooperation, however, it should serve as an important step toward the achievement of justice and peaceful labor relations in industry."

REPORTS OF COMMITTEES

Mr. MINTON, from the Committee on Military Affairs, to which was referred the joint resolution (S. J. Res. 110) authorizing Brig. Gen. C. E. Nathorst, Philippine Constabulary, retired, to accept such decorations, orders, medals, or presents as have been tendered him by foreign governments, reported it without amendment and submitted a report (No. 1018) thereon.

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (S. 2833) for the relief of Mrs. Jack J. O'Connell, reported it without amendment and submitted a report (No. 1019) thereon.

He also, from the same committee, to which was referred the bill (S. 2834) to provide for the appointment of Ira E. Porter as a second lieutenant, United States Army, reported it with amendments and submitted a report (No. 1020) thereon.

Mr. LOGAN, from the Committee on Military Affairs, to which was referred the bill (S. 2657) for the relief of Harold Dukelow, reported it with an amendment and submitted a report (No. 1022) thereon.

Mr. ASHURST, from the Committee on the Judiciary, to which was referred the bill (H. R. 3430) to amend the act approved May 14, 1930, entitled "An act to reorganize the administration of Federal prisons; to authorize the Attorney General to contract for the care of United States prisoners; to establish Federal jails, and for other purposes, reported it without amendment and submitted a report (No. 1021) thereon.

Mr. DIETERICH, from the Committee on the Judiciary, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 478. A bill to amend a part of section 1 of the act of May 27, 1908, chapter 200, as amended (U. S. C., title 28, sec. 592) (Rept. No. 1023); and

S. 479. A bill to amend section 126 of the Judicial Code, as amended (Rept. No. 1024).

Mr. BURKE, from the Committee on the Judiciary, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 2340. A bill to authorize the Attorney General to determine the fees to be paid in connection with the taking

of depositions on behalf of the United States (Rept. No. 1025); and

S. 2603. A bill to authorize the Attorney General to determine and pay certain claims against the Government for damage to person or property in sum not exceeding $500 in any one case (Rept. No. 1026).

Mr. GUFFEY, from the Committee on Mines and Mining, to which was referred the bill (S. 1567) for the relief of certain claimants in cases of contracts connected with prosecution of the World War, reported it with amendments and submitted a report (No. 1027) thereon.

Mr. HATCH, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 2577) to repeal the provisions of the homestead laws requiring the cultivation of homestead entries, reported it with amendments and submitted a report (No. 1028) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ROBINSON:

A bill (S. 3206) for the relief of Col. Richard M. Cutts, United States Marine Corps; to the Committee on Claims.

By Mr. JOHNSON:

A bill (S. 3207) for the relief of Miriam Grant; to the Committee on Claims.

By Mr. LONERGAN:

A bill (S. 3208) to provide protection by registration of designs for textiles and other materials; to the Committee on Patents.

By Mr. McNARY:

A bill (S. 3209) for the relief of Frank E. O'Rourke; to the Committee on Public Lands and Surveys.

By Mr. LA FOLLETTE:

A bill (S. 3210) to refer the claim of the Menominee Tribe of Indians to the Court of Claims with the absolute right of appeal to the Supreme Court of the United States; to the Committee on Indian Affairs.

A bill (S. 3211) to provide for direct review by the Supreme Court in cases involving the constitutionality of the statutes of the United States; to the Committee on the Judiciary.

By Mr. NEELY:

A bill (S. 3212) granting a pension to George T. Hodges; and

A bill (S. 3213) granting a pension to Clark Huggins; to the Committee on Pensions.

By Mr. WHITE:

A bill (S. 3214) granting a pension to John Wesley Heal; to the Committee on Pensions.

By Mr. FLETCHER:

A joint resolution (S. J. Res. 157) approving the construction and establishment of buildings and facilities for, and the production and operation of, a Pan American Exposition and International Merchandising Mart, at Miami, Fla., and authorizing the Director of the Public Works Administration to cooperate in making available certain funds therefor; providing for the participation by the United States therein; and to permit articles imported from foreign countries for the purpose of exhibition at such exposition to be admitted without payment of tariff; and for other purposes; to the Committee on Commerce.

CHANGES OF REFERENCE

On motion of Mr. SHEPPARD, the Committee on Military Affairs was discharged from the further consideration of the following bills, and they were referred as indicated below:

S. 2955. A bill for the relief of Emil Zumbrunn; to the Committee on Finance.

S. 2963. A bill to amend the act of Congress approved March 3, 1925 (43 Stat. 1109), relating to the restoration of Fort McHenry, in the State of Maryland; to the Committee on Public Lands and Surveys.

OLIVER WENDELL HOLMES MEMORIAL FUND

Mr. BARKLEY. Mr. President, I ask unanimous consent that House Joint Resolution 237, being Calendar No. 980, be taken from the calendar and referred to the Committee on the Library. I have conferred with the Senator from Arizona [Mr. ASHURST], Chairman of the Judiciary Committee, and it is agreeable to him that such action be taken. The joint resolution relates to the establishment of the Oliver Wendell Holmes trust fund or gift to the United States.

The VICE PRESIDENT. Without objection, it is so ordered.

THE AGRICULTURAL ADJUSTMENT ACT—AMENDMENTS

Mr. LA FOLLETTE submitted an amendment, Mr. BORAH submitted two amendments, and Mr. BYRD submitted four amendments intended to be proposed by them, respectively, to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which were severally ordered to lie on the table and to be printed.

THE MERCHANT MARINE—AMENDMENT

Mr. BONE submitted an amendment intended to be proposed by him to the bill (S. 2582) to develop a strong American merchant marine, to promote the commerce of the United States, to aid national defense, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENTS TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. KING submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on the District of Columbia and ordered to be printed, as follows:

Under the heading "Health Department" (District of Columbia), on page 13, after line 10, to insert the following:

"Salaries: For an additional amount for personal services, including the same objects specified under this head in the District of Columbia Appropriation Act for the fiscal year 1936, $61,240."

Mr. KING subsequently, from the Committee on the District of Columbia, to which the foregoing amendment was referred, reported it favorably, and the amendment was referred to the Committee on Appropriations.

Mr. NORBECK submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 46, line 16, after the word "band", to insert "which have not been tried or submitted."

On page 46, line 19, after the word "the" where it occurs the first time, to insert "direct."

On page 46, line 24, at the beginning of the line, to insert the word "direct."

On page 47, at the end of line 6, to strike out the period and insert a colon and the following proviso:

"*Provided*, That expenditures in fulfillment or in partial fulfillment of any treaty or contractual obligation with any Indian tribe or band; or expenditures in discharge of any obligation assumed by the United States, or in the furtherance of any governmental policy; or any expenditure made prior to the date of any settlement, accord, or satisfaction by treaty, act, or contract with any Indian tribe or band shall not be held to be expended gratuitously; and expenditures for the salary, expenses, housing, and subsistence of officers or employees of the United States, and expenditures for relief or for public works or for any public benefit, shall not be held to be expenditures for the benefit of any Indian tribe or band; and in any and all cases referred to in this section the United States shall be required to prove the actual direct benefit accruing to each such tribe or band of Indians, and the Court of Claims shall fix the amount of the offset in accordance with principles of law and equity established in Indian cases."

LYDA BEERY

Mr. COPELAND submitted the following resolution (S. Res. 166), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the appropriation miscellaneous items, contingent fund of the Senate, fiscal year 1935, to Lyda Beery, sister of Lutie M. Hart, late an assistant clerk to the Committee on Commerce of the Senate, a sum equal to 6 months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

FEDERAL TAXES—ADDRESS BY SENATOR VANDENBERG

Mr. McNARY. Mr. President, last evening the junior Senator from Michigan [Mr. VANDENBERG] delivered a very able address on Federal taxation, which was broadcast over the Columbia network. I ask unanimous consent that the address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My fellow countrymen, the United States suddenly confronts a new Federal tax problem. It has been unexpectedly precipitated upon our people from a volatile White House. It involves considerations vital to all, because no tax was ever yet devised which did not ultimately involve mass citizenship. Let us put first things first, and face the facts.

Fact no. 1: Although the President's annual address to the Congress last January asserted no new taxes would be necessary in 1936 and although his congressional spokesmen were saying this same comforting thing as recently as 3 weeks ago, he suddenly switched his thinking on June 19 and demanded new and punitive levies on a few high incomes, a few high inheritances, and on large corporations.

Fact no. 2: The President evidently originally intended his vague homily to be an ultimate rather than an immediate mandate. Apparently he had no thought of present action. Indeed, he specifically said the questions were "too complicated and difficult" to be adequately answered prior to this session's adjournment. For the moment he was wholly right in this latter aspect. Evidently he figured he was simply launching an adroit political flank movement to surround and confound his own restless and vocal left-wingers. But the left-wingers promptly and gleefully put him on the spot. They demanded immediate action as proof of good faith. They were in no mood for pale promises which might never mature.

Fact no. 3: The President was caught on the horns of his own dilemma. He immediately dumped his own original purpose and deserted his party spokesmen. He, too, demanded immediate action. By not being too specific, he left open certain lines of retreat. But his insistent mandate was imperious and immediate. It was one of those summary moments for which the new deal is famous. Dictators often are that way.

Fact no. 4: His loyal party servants, dazed but dogged, faithfully responded, with vigor and vertigo, and at once set themselves to the mad task of rewriting the basic tax laws of the Republic in 72 hours. Thereupon a miracle occurred. They faced severe revolt. It was more than a punch-drunk Congress and a pump-primed country could stand. It was the last straw. It seems that there are limits to American patience. The explosion rattled the White House rafters and produced a salutary pause which communicated itself to Capitol Hill.

Fact no. 5: The President hastily shifted back again—or that was the way it seemed to most innocent bystanders. Blandly, but not too successfully, he blamed the news hawks for misrepresenting him. His House and Senate leaders—as agile as the man on the flying trapeze—just as hastily reverted to their own original sanities. They were groggy but glad. The process of somewhat orderly and relatively deliberative legislation was resumed. A new tax bill will now be written with some semblance of rational consideration for the realities, and with at least a limited permit to affected citizens—who are about to be separated from their money—to speak their piece.

Thus it is that new tax laws are now in process of more orderly development, although there is yet no evidence of the pious purpose asserted in the original Presidential message, as follows: "If a government is to be prudent, its taxes must produce ample revenues without discouraging enterprise." I applaud the sentiment; but I deplore its total absence in the program up to date. This leads to another set of facts:

Fact no. 1: The Federal Treasury is racing merrily toward potential insolvency. During the past 12 months it has paid out $13,812 every passing minute of the day and night. In 2 years we have spent more than fourteen billions, while we have taken in less than seven billions. This takes no account of other billions we have guaranteed. This spending spree still continues at break-neck speed. We charge the bills to posterity. We pillage our grandchildren. We still spend $2 for every dollar we take in. It is only a question of time when such a crazy process ends like the career of any other wastrel.

Fact no. 2: In the face of such arithmetic, there are but two possible results. Either we go to deliberate monetary inflation to cheat our debts and debtors—and, simultaneously, to ruin ourselves as all other people, similarly tainted, have ruined themselves; or we balance our Budget, pay as we go, and restabilize the public credit by heavily increased taxation. I digress to say that no amount of taxes could be as burdensome and as confiscatory as uncontrolled monetary inflation, which would cruelly crucify us all. This is not a matter of argument. It is an historic axiom. There are a few natural laws which no regime, no matter how infatuated with its own benevolence and power, can repeal or evade.

Fact no. 3: We cannot escape the need for new taxes. This need is already here. Paying out has been a happy holiday. Paying back in is something else. To the extent he asserts the need for revenue, the President is right. But his own proposals and those of his administration thus far are inadequate, incomplete, and pathetically superficial. They strain at a gnat and swallow the camel. It is politics rather than economics. To this extent the President is ominously wrong.

Thus we now collide with another set of very hard and very cold facts which we shall ignore at our peril.

Fact no. 1: The administration's new tax program, as thus far disclosed, will raise far less than $400,000,000 annually. Even at this promised maximum—which few realists remotely concede—this is only about 10 percent of 1 year's deficit at the present rate of spending. It curries popular favor by pretending to "soak the rich." It may thus produce votes. But it will not produce revenue. The total income of all the multimillionaires thus marked for slaughter would not pay the President's bills for 60 days. Furthermore, such a program cannot possibly satisfy our real "wealth redistributors" whom the President apparently hopes to placate. It is not a tax program. It is not even a good soapbox formula.

Fact no. 2: The formula contains no suggestion of recurrent economy. It does not even flirt with a balanced Budget. There is no longer even the familiar promise—often made, always broken—that we are in sight of a purpose to start to get ready to commence to begin living within our means. There continues to be total forgetfulness in respect to the President's own solemn warning of 2 years ago: "Most liberal governments are wrecked on the rocks of loose fiscal policy." Indeed, this rapidly is becoming an administration's epitaph instead of its aspiration. The present tax formula proposes simply to pour more public money down a bottomless well. It would pretend to refill a barrel with the spigot and the bunghole open.

No wonder the country gets jittery in such a presence—a country which would literally leap into a recovery stride if its Government would give it a convalescent chance. No wonder there are prayers for more lucid intervals.

It is time to set our house in order and to quit these hectic detours from the straight road. A passion for reform should not ignore the simple truth that we must have recovery first in order to have anything worth reforming.

What does this mean in respect to the taxes which we discuss this evening? The answer is in another and final set of facts.

Fact no. 1: Rational economy again must hunt a balanced Budget as speedily as possible. It is far more important not to spend needlessly than it is to tax for extravagances, experiments, and wastes. At best, the burden will be heavy for some time to come. The more the reason to husband our resources lest we exhaust the only reliance upon which the victims of this depression can depend.

Fact no. 2: With rational economy in practice, and fewer brainstorms to salvage, a new tax program should raise enough money to do the job. Of course, "the rich" must pay—and pay up to the hilt. But let us not delude ourselves. The income-tax base must be broadened and all the brackets must accept a heavier load. There is no other way to get the money. Inevitably millions of our citizens must contribute, each according to his ability to pay. Nor will they unduly complain if they may be assured that they are buying national solvency. Otherwise they will have a right to complain, and bitterly. Incidentally, when this broad tax program arrives—and citizens realize there is no Santa Claus—the popularity of loose spending will suffer a wholesome set-back.

Fact no. 3: The tax program must be practical or it is worse than useless. It is simple folly to try to cheat the law of diminishing returns. Instead of distributing wealth we may destroy it. I am frank to say I believe in using inheritance taxes to achieve social objectives. But there is a point beyond which the break-up of a large fortune may ruin the industry which sustains it and thus, in turn, ruin thousands of its related employees. I should not relish, for example, the spectacle of a great motor industry which the Government takes over for inheritance taxes and delivers, let us say, to Dr. Tugwell or Jim Farley or Harry Hopkins and his "boondogglers" to operate. There are some calamities which the country could not survive.

Fact no. 4: Corporation taxes are business taxes. Recuperated private business is our hope for the future. It must carry its full share of the tax load; but it must not be driven to discouragement or despair. It must not be nominated for punitive slaughter. At the moment it may be better to emphasize taxation upon the individual, after the earnings of business have been distributed to him.

Fact no. 5: Any such program must include the elimination of tax-exempt bonds. Otherwise, these "rich", instead of being "soaked" (to use the favorite language of the demagogue), will continue to slip through the back door to enjoy relative immunity. Thus they may laugh at their would-be executions. Yet the administration formula does not appear thus far to include this little item, although the President spoke bravely of it in his first pronouncement. Without it any program is a snare and a transparent delusion.

This is in conclusion: It were better for this weary and benumbed Congress to recess for a few recuperative months while a real program is developed to fit our whole necessity. None of these new taxes will be collected until next year anyway. There is no gain in haste. There may be tragic loss. It were better that seasoned judgments should reach a sustained and healthy conclusion. There are some things too desperately important to all America to be settled on the vagrant basis of an off-hand hunch. Pell-mell statesmanship is always hazardous—never more so than now. In any event it is past time for prodigal Uncle Sam to return to the fiscal sanity of his fathers.

ADDRESS BY SENATOR CLARK BEFORE JEWISH VETERANS OF THE UNITED STATES

Mr. BACHMAN. Mr. President, I ask unanimous consent to have incorporated in the RECORD an address delivered by the senior Senator from Missouri [Mr. CLARK] on July 4, 1935, at the Arlington Memorial Amphitheater, before the Jewish Veterans of the United States.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Commander, distinguished guests, ladies, and gentlemen, I feel deeply honored to be invited here on this patriotic occasion to this great national shrine to participate in the celebration of the

Jewish War Veterans of the United States. Within these sacred grounds where are gathered the remains of veterans of all our wars, where "on Fame's eternal camping grounds their silent tents are spread, and glory guards with solemn round the bivouac of the dead", within these hallowed precincts where the unknown hero who sleeps in yonder tomb after giving his life for his country may be Jew or gentile, Catholic or Protestant, of German, English, French, or any other descent, while or black, rich or poor, we cannot fail to be impressed with the universality and uniformity of patriotism which have gone to make up the American people. Here in the presence of so many splendid Jewish veterans of the World War, representatives of a great multitude throughout the land, whose heroic services were commended by every commander under whom they served and gladly recognized by the comrades who shared their sacrifice, I desire to speak to you of the bitter aftermath of war, of the saturnalia of brutal persecution, of the jealousies, the ugly suspicions, the rancorous hates which seem to inevitably follow in the train of war.

To you, sprung from the loins of that great race which for ages has suffered persecution and risen above it, which has preserved its racial integrity and its intellectual and moral greatness through hardship and cruelty unparalleled in the world's history, it is unnecessary to expatiate upon the horrors of war, its brutality, its innate inhumanity. Yet in the largest and most tragic sense the aftermath of war is more dreadful than the war itself. The victims of starvation in the present world-wide depression, the sufferers under persecution and oppression so hideous that it would have disgraced the Dark Ages, are as truly the victims of war as those who were torn by shell or slashed by bayonet in the war itself.

Today, 17 years after the close of the war which was to make the "world safe for democracy", the "war to end war", we find democracy prostrate throughout most of the world, most of the countries in the world under the iron heel of brutal dictatorship, and in one country at least a deliberate effort being made to stamp out every vestige not only of liberty and democracy but culture and religion as well. Twenty years ago republicanism was marching eastward in Europe. Today democracy and liberalism throughout the world fight with their back to the wall and all as the inevitable consequence of war.

No one who is familiar with history, no one who is even moderately conversant with the events of our own times, no thinking man or woman who knows the vast contributions in peace times and the heroic sacrifices in war times of Jewish citizens in every country which they have made their home, can fail to recognize that the assertion in some quarters in Europe that Jewish citizens lacked patriotism is a lie, and that the prescription and persecution which that great people are now undergoing is an abomination in the sight of the Lord. Who can tell but that as the unknown hero who sleeps here may have been a Jew, so may the German hero who lies in a similar tomb in Berlin have been of the same blood. The fact that a great people of the highest cultural attainments inhabiting a land which was the very cradle of liberty, as we understand it, can be dragooned into engaging in such a campaign of hate and savagery is the best example of the frightful results of war.

It is a fact, ugly, tragic, lamentable, but true nevertheless, that the prospect for war abroad is far more ominous and imminent today than it appeared at this season in 1914. Gen. Tasker H. Bliss, justly denominated as a statesman in uniform, the American member of the Supreme War Council, once said that all of the causes of the World War could be summed up in one: "Too many men wandering around Europe with guns in their hands." And yet today, more than 2 decades after the outbreak of that dreadful struggle, there are a million and a half more men under arms in Europe than there were in 1914. Expenditures in preparation for war exceed those of 1914 by billions of dollars. At any moment a spark may set off a conflagration more deadly and more devastating than the World War, of which the present world-wide depression is only the logical and inevitable aftermath.

No competent economist who studies the calamitous events of the last two decades can fail to realize that we are today still paying the bill for the Great War in the starvation, misery, and death which the present awful depression has imposed upon the nations of the earth. We are still paying the bill in innocent suffering for the madness which engulfed the world.

Too few of us have realized that the doctrine of "peace on earth, good will toward men" represents not only the greatest moral declaration of all times but the greatest economic necessity ever expressed.

The nations of the world must finally subscribe either to the doctrine of war and want or they must subscribe to the doctrine of peace and plenty. So long as the world expects and prepares for wars, it will have them. But even if it were true that preparation for war would end war—a proposition denied by the whole history of the world—the present rate of expenditure for armament will soon absolutely bankrupt the world, even without the aid of another war.

Yet men are so filled with fear by the propaganda of armament makers that it is commonly said that peace is an idealistic conception of which there is yet no hope of attainment. When men say that the time is not yet come for stopping armament expenditures, they are saying that the time has not yet come for economic recovery. Nations can and will insist on saving expenditures on armament when their peoples realize that the profits of munition makers are the chief cause of their poverty.

The last war was the most horrible in all history. That the next will be still more terrible and destructive no one who has even casually observed the advance of modern science and listened for even a moment to the predictions of military experts can doubt. In terms of the war system the era of coal is past; the World War was fought in the petroleum age; the next combat will be waged amid the unpredictable horrors of the electrical era. For the statesmen of the world to permit the present insane competition in armaments to continue with the certainty that it will precipitate in this generation or the next, another cataclysm of unimaginable horrors, is stupendous and incredible folly. For the statesmanship of our own country to fail to guard against a repetition of our tragic experience of the World War when we literally drifted into a war between other nations is inexcusable and criminal negligence.

In the past year the Senate Munitions Committee, of which I have been privileged to be a member, has conducted the most comprehensive investigation and study of the activities of our arms merchants and other propagandists for war which has ever been attempted.

We have had occasion to examine the tortuous record of our diplomatic correspondence during the last war, and have had access to files still held to be confidential by Government departments, and which I am not now privileged to discuss, but which I hope to be able to devise means to make public to the people of the United States at an early date.

In the course of that investigation we learned how certain munition manufacturers made hundreds of millions of dollars out of a war which cost the taxpayers of the United States scores of billions. We listened to the testimony of a munitions magnate who admitted personally drawing down something over three millions in bonuses during the 2 years of war for conducting his ordinary business, and yet who protested in terms of outrage against paying the soldiers of the war a pitiful bonus of a dollar to a dollar and a quarter a day for actual service.

We learned that after the sailing of the first munitions ship in 1914 we were irrevocably committed to the path which led to war, since any change in our laws as to permitting sales of munitions or loans to belligerents would itself have been a violation of our policy of neutrality.

As a result of this investigation the Munitions Committee prepared and reported a bill providing for the payment of a war as the war is fought, the most drastic limitation of profits during the period of the war, and the drafting of the facilities and personnel of industry. This measure has received the approval of the Munitions and Military Affairs Committees and is now awaiting action by the Finance Committee. Its passage will go far to prevent our embroilment in another war and, if war should come, would to a large extent wipe out the outrageous iniquities of sacrifice in the last war.

As a further result of this investigation Senator NYE and myself have introduced three resolutions which, taken together, are designed and believed to afford a structure of neutrality laws which will permit the United States to remain free from embroilment in future wars between other nations. Two of these resolutions have been favorably reported by the Senate Committee on Foreign Relations, and action is expected on the third at an early date. Time does not permit more than the briefest outline of the policy embodied in these resolutions, but in short they embody four vital provisions:

1. A complete embargo on the shipment of all arms and ammunition and other war materials or other contraband.

2. A similar automatic embargo on all loans and credits to the warring nations for the purchase of war materials or other contraband.

3. A law forbidding the granting of passports to American citizens traveling in war zones or on belligerent ships.

4. A law requiring that anyone who exports any article declared to be contraband of war by any belligerent country shall do so at his own risk or at the risk of the foreign government or foreign purchaser.

Let us look the situation in the face. Let us keep our country out of future foreign wars. Let us take the American flag off munitions ships. Every man on profit bent or impelled by idle curiosity in the war-torn areas of the world carries in his body the death of a hundred thousand American boys. He can be made a cause of war. His profits from the warring countries are his own business; let his risk be his own business, too.

If there be those so brave as to risk getting us into war by traveling in the war zone—if there be those so valiant that they do not care how many people are killed as a result of their own adventures—let us tell them and let us tell the world that from now on their deaths will be a misfortune to their own families alone—not to the whole Nation.

The time for action is now. If Congress should adjourn without acting on this legislation and war should break out in Europe before the assembling of the next session in January, our country would be as helplessly committed to the shambles as we were in the last war. For the creation of a militant public sentiment which will take steps to insure against our again being dragged into ruinous participation in foreign fights, I can conceive of nobody to whom I can appeal with greater confidence than the Jewish Veterans of the United States, who know from experience of the horrors of war and who see throughout the world the dread lessons of the aftermath of war. So can we best keep faith with those that died. So can we best pay tribute to the memories of our fallen comrades by doing our uttermost to insure that their unnecessary sacrifices will never have to be repeated.

CALVIN COOLIDGE—ADDRESS BY REPRESENTATIVE PLUMLEY

Mr. GIBSON. Mr. President, during my school days I had the good fortune to attend Black River Academy at Ludlow, Vt., with former President Calvin Coolidge. July 4, 1935, marked his sixty-third birthday.

When history makes a true appraisal of his services as a legislator, as chief executive of the Commonwealth of Massachusetts, and as President of the United States, it will record that he was one of the great men of our Republic, and it will also record that he was an outstanding leader of progressive thought and action.

On Sunday, July 7, Representative CHARLES A. PLUMLEY, of Vermont, delivered an address in observance of the birthday anniversary before the Calvin Coolidge class of the First Congregational Church in Washington. I ask unanimous consent that the address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

All over this land which commemorated the Independence of the Republic with enthusiasm and with genuine and tender sentiment, you will find that many Americans did not forget that it was also the anniversary of the birth of one of the greatest of all Americans.

President Roosevelt, in sending a wreath to be placed upon the grave in Plymouth, Vt., on July 4, not only evidenced the gratitude and reverence of the living for the dead but testified to the genuine respect and affection with which all the people pay homage to the memory of that distinguished but modest gentleman, great in his simplicity—a typical son of Vermont, Calvin Coolidge.

In paying my tribute to him today I think I can do no better than to repeat in substance what it was my privilege to say at Plymouth, Vt., in the cemetery, near his grave on July 4, 1934.

Calvin Coolidge above and beyond the temptation of power, with him authority meant only added responsibility and the use, not the abuse, of his prerogative. His calm, steady judgment won men's support. He commanded confidence, not alone because he deserved it, but he appealed to the qualities that are best and noblest in us. Now, today, in retrospect, in these hours of stress and the turmoil of the times, men wonder at the breadth of his comprehension and are astonished at the sweep of his vision. True, it is difficult for some to understand the man, for they do not comprehend his conception, his philosophy of government.

But as years go on, distances and time will but add to and increase his fame, and the appreciation of the scope and force of his achievements, with the glory and grandeur that is his, will grow through the years.

He lives and will continue to live in the hearts of the common people of America, as do Washington and Lincoln, because of the fact that what each and all of them did was in an unselfish expenditure of themselves for the exaltation of the men and women whom they served, the enthronement of conscience, and the perpetuation of government which recognizes the rights of all the governed.

"Sovereignty, it is our belief, is vested in the individual, and we are going to protect the right of the individual." A few days ago my attention was called to a book entitled "Pen Pictures of the Presidents", and I was asked by the author to read and comment upon the sketch devoted to Calvin Coolidge. This is what I said: I have read with very great interest and pleasure your "Pen Pictures of the Presidents." While in the main, that which you have to say concerning Calvin Coolidge is fair and covers the situation authentically, I do take exception to the statement that:

"Calvin Coolidge was an enigma during his term as President and later * * * in April 1932, debate still goes on, as to whether Calvin Coolidge was an inconceivably lucky nonentity or a superlatively astute political analyst."

You are wrong! Calvin Coolidge was neither an "inconceivably lucky nonentity nor a superlatively astute political analyst." He was a shrewd, thrifty, calculating, wise, and honest Yankee. Those who cannot comprehend what this means and are not able to understand Calvin Coolidge cannot, of course, appreciate him, more's the pity for them! His type is not unusual in the State that gave him birth. He is no enigma to the people of Vermont. Neither do they feel he was a wonder man. He did the day's work and could do it because he was wondering what tomorrow would have for him to do, and was getting ready for it.

He possessed more than average ability along many lines, as many so-called "experts" learned to their embarrassment if and when he took the pains to confute them. His sagacity was demonstrated too many times to need enumeration or reiteration. A child of fate was he? So was Lincoln. The homeliness of the two men makes a picture that will survive the ages. They were of and for and by the people.

Calvin Coolidge—the inscrutable man of just discernment; canny jester; conserved every resource to its last scintilla, was frugal of time, money, and breath. He did the thinking while others did the talking. He did the saving while others wasted and spent. His people's, his country's interests were those he conserved selfishly.

In his ability to minimize and to efface himself he was great. He used others to accomplish his purposes and attain his ends, many times without their being aware they were being used. He did not seek personal aggrandizement, and the satisfaction he felt at accomplishment was his reward. He gained office after office with almost ridiculous ease because he discharged the duties of each office with scrupulous care and a little better than it had ever been done before.

If politics is the science of government, as it is, he certainly was a politician, for none was ever more or better versed in politics, governmentally defined, than he. He was humble, broad-minded, and a zealous patriot, with no inferiority complex, willing to let the future find for him his place, which will be in that group which shall contain the really great of all ages.

This is the lesson which I would leave with you today, for Calvin Coolidge, son of Vermont, lover of its hills, valleys, and mountains, should he stand here and speak to us today, I think, would be heard to say:

"'All roads lead down from the summit,'
The plodding and worldly say;
'Down from the stars and glaciers
To the roofs and walls of day.'

"'All roads lead down from the summit!'
Oh, not for him who knows
Those mightier peaks ascending
Above the unmelting snows.

"Not for the climber spellbound
On twilight's purple crest,
When darkening golden ranges
Loom in the cloudy west!

"He, with fierce wings aspiring,
Where the last sunbeam dies,
Soars bodiless to pathways
Where never an eagle flies;

"And in a passionate worship,
With vision freshly born,
Perceives that from man's summits
All roads lead up and on!"

THE CONSTITUTION—ADDRESS BY SENATOR METCALF

Mr. McNARY. Mr. President, I ask unanimous consent to have printed in the RECORD an effective radio address delivered by the senior Senator from Rhode Island [Mr. METCALF] on Thursday night, July 4. This address was broadcast over a Nation-wide network on the program of the National Radio Forum, arranged by the Washington Evening Star.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

As the full truth about the present administration begins to crystallize in the minds of the American people they realize a definite change in our form of government. It is a change from a republican government, based upon a constitution, to one of a strictly socialistic character. The change is taking place behind a cloak of public emergency, and in a confusion set up by the most bureaucratic propaganda machine in the history of the United States. As the import of the new deal becomes understood, our citizens should resolve that the Constitution of the United States shall not be abandoned through the subversive efforts of a group of radical advisers, who, by political chance, happen to be in control of our public affairs.

What is the basis for all this alarm about the Constitution? What is the reason for the charges that our Government is undergoing a radical change?

It has become quite apparent that the whole program of this new deal is one foreign to democracy and beyond our Constitution. Laws have been enacted under the cry of "Speed! Speed! Speed!" There is a constant demand on the part of the administration for more power. Power is asked to destroy utility-holding companies, to levy taxes by an administration officer, to spend huge amounts of money without proper accounting, to enter into business, to destroy corporations, to reduce tariffs, to make treaties, and in fact, to ignore the legislative branch of the Government in favor of the executive. Out of such a program may come communism or a dictatorship.

The fundamental patriotism of the American people is being used as the instrument with which to whittle away the rights of our citizens and establish a form of government which lurks in the minds of the advisers of our President. Those who oppose the administration are subjected to abuse and violent criticism. They are called unpatriotic, and freedom of speech is no longer their inalienable right. Almost as soon as the Democratic Party came into power its promises and platform were discarded, and a movement was started to coerce the people of the United States and the Congress into supporting a radical and experimental program.

Lawyers were employed on devious schemes for avoiding the constitutional limitations placed upon the Executive. Publicity men were hired to mold the opinion of the American people Congress up to this time has been driven into submission. Happy events of this week indicate that the domineering, tyrannical attitude of the Executive toward the legislative arm of Government has brought a natural but delayed reaction, almost in the nature of a rebellion. In the face of a $4,000,000,000 fund in the hands of the Executive, no one can say how long the spirit of independence now being manifested in Congress will last. It

is a hopeful sign, however, that Congress moves toward a resumption of its proper place in the scheme of our Government. Three powerful forces are silently—almost secretly—at work to prevent this. They are, first, the clever propaganda machine which has the single purpose of selling the American people ideas engendered in the minds of political officeholders; second, the illegal interpretations of the Constitution by attorneys hired by the various Federal departments; and third, by the assessment of overwhelming taxes, the building up of an enormous public debt, and the destruction of confidence in our business future.

To my mind the administration has no right, either moral or legal, to establish a propaganda machine at the expense of the taxpayers of this country. They turn out hundreds of adroit news stories for printing in the press of the country. When you read these stories in the daily papers you cannot know what facts have been suppressed.

The Government press agents, some of them paid as much as $10,000 per year, are employed outside the law. The Federal statutes expressly prohibit the Government from hiring any publicity agent unless specifically authorized by the Congress. This law appears in title 5 of the United States Code. I shall read it:

"No money appropriated by this or any other act shall be used for the compensation of any publicity expert unless specifically appropriated for that purpose."

Has this administration violated this law by appointing press agents as administrative assistants, or information agents, or clerks, or by some other title? Call them what you will, they are the paid publicity agents of the present Government, and their purpose is to turn the tide of public opinion in favor of the radical experiments fostered by the "brain trusters."

The taxpayers are paying salaries to men whose sole purpose is to make you believe, through propaganda, that the administration is right in everything it undertakes and that its critics are wrong in everything they contend. When we find evidence that some private organization is distributing propaganda aimed at any sort of change in our public institutions we are up in arms against it. We create investigating committees and hold public meetings for the purpose of exposing propagandists. At the same moment we are forced to endure propaganda agents within our own Government—men who are supported by the very taxpayers toward whom their efforts are directed. Nothing could be more un-American.

The law which I have quoted was adopted by the Congress after mature consideration. At the time of its passage the statements of Representative Gillette, later Speaker of the House, and Congressman Fitzgerald, Chairman of the House Ways and Means Committee, well expressed the feeling of the Congress. The former stated:

"* * * It does not seem to me that it is proper for any Department of the Government to employ a person simply as a press agent to advertise the work and doings of that Department. In the ordinary work of the Department, anything which requires the knowledge of the public certainly finds its way into the press at this time, and I am surprised to find that there is existing some such position as this."

He was referring to what was then considered a disgraceful fact—that the Government had hired one press agent! This was during the administration of Woodrow Wilson. What change a short time brings in the philosophy of government!

Thus do we find those responsible for the fair administering of the public laws using devious and disgraceful methods for avoiding the very laws they are supposed to administer. Do you believe it is just for the Federal Government to set up a powerful lobby at the expense of the taxpayers? Do you think it is right for us to criticize those lobbyists who seek to protect the interests of their clients and at the same time smile upon a lobby established by the Government?

Only a few days ago the administration vigorously attacked the lobby of the utility-holding companies. This lobby was declared to be the most dangerous and powerful in history. I know little about the propaganda of the holding companies. I imagine few Members of Congress pay much attention to it, but it is my conviction the most powerful and dangerous lobby in this country has been set up within the Government. Pamphlets are even being printed which instruct school teachers how to sell the new-deal idea of public ownership of utilities to our school children. Has my radio audience heard as much from the propaganda of the utilities as from the high-pressure speechmakers and propagandists of this administration? I will venture more propaganda has been distributed in favor of the destruction of holding companies than has been employed by the companies in an effort to save their institutions. The Senate Committee on Interstate Commerce has approved a resolution to investigate the utilities' lobby. Why shouldn't we investigate it both ways?

During its program toward socializing our Government it was necessary for the administration to go beyond the intent of the law in setting up a legal organization in most of the newly created departments. I understand the N. R. A., the A. A. A., and other bureaus have engaged lawyers, a number of whom have been employed in drafting laws for submission to the Congress. It is a moot question whether they are devoted to writing laws within the limitations of the Constitution. It is appalling that the corps of lawyers maintained by the Government could not have drafted an N. R. A. Act which would have been constitutional. It is a momentous thing when laws proposed by the administration are passed by the Congress and afterward found to be so badly written and so radical in nature that the Supreme Court by unanimous decision can declare them beyond the pale of the Constitution.

The Department of Justice was created in 1870 for the purpose of centralizing the Federal legal department of the United States Government. It was the hope of those persons who brought about its establishment that just such things as are occurring at this time might be avoided. Consequently, a law was passed forbidding the head of any department to employ a lawyer or counsel at the expense of the taxpayers.

All legal services were to be under the Attorney General of the United States, and he alone was to be responsible for legal advice given to the various departments of the Government. This is still the law, but the administration has supplied most departments with attorneys whose sole apparent duty is to aid the bureau chiefs in carrying out, through legislation and otherwise, their radical intentions.

This administration has avoided the purposes of the act creating the Department of Justice and has taken from the Attorney General the responsibility for much legal advice. If this is not true the Attorney General of the United States is responsible for causing the President to sponsor, approve, and put into effect radical and unconstitutional pieces of legislation.

The Congress should inquire more thoroughly into the source of legislation which comes to the Capitol. Some may be written in one department and some in another. The Attorney General may think one piece of legislation to be constitutional and the lawyers hired by a department may advise to the contrary. Somehow we should seek to defend the Constitution from a bureaucracy such as this.

The Supreme Court has recently checked the headlong plunge of our Government into fascism or nazi-ism. Whether it can continue as the one unshaken bulwark of our traditional Government must be determined by the people and the Congress. Now that the Supreme Court has spoken in defense of the Constitution the administration seeks to get around that document by devious methods. A bill now pending in Congress will give to the Secretary of Agriculture almost the power of a dictator over the food supplies of the Nation. He may impose taxes upon basic commodities and regulate the prices of the necessities of life. The bill provides that if the A. A. A. is declared to be unconstitutional, an American citizen shall have no right to ask for a refund of taxes which are illegally collected from him. Protection of the courts is being taken from the taxpayer and he will have no redress from destructive acts of the Secretary of Agriculture. Citizens must pay taxes whether they are right or wrong, legal or illegal.

Furthermore, the legislation demanded by the administration seeks to deprive the Supreme Court of an opportunity to pass on the basic constitutionality of law. Legislation demanded by the President is now pending to deny to citizens who have been damaged by repudiation of the gold clause access to the Court of Claims. This is the first time since the court was established in 1855 that a citizen has been deprived of the right of a hearing before a judicial body on his claim against the Government. This reverts to the autocratic philosophy of the divine right of kings.

If that is democracy, then Joseph Stalin, of Russia, was most certainly the outstanding Democrat of his time.

I cannot believe that the administration has made any progress toward industrial recovery. More people are now on the relief rolls than when the President had been a year in office. People are being taught to glorify charity and many are refusing to work because of the ease with which they can obtain relief. The Democratic Party came into power with the solemn promise to bring about public economy. For a short time this program was carried out. Suddenly, with no more explanation than a magician gives his audience, the administration indulged in mental acrobatics and inaugurated a spending campaign which has never been equaled in the history of the country.

While he was running for office the Democratic candidate said of the Hoover government:

"I accuse the present administration of being the greatest spending administration in peace times in all our history—one which has piled bureau on bureau, commission on commission, and has failed to anticipate the dire needs of reduced earning power of the people."

A month later he solemnly made the following statement:

"I regard reduction in Federal spending as one of the most important issues of this campaign. In my opinion, it is the most direct and effective contribution that Government can make to business."

The facts are that the cost of government from George Washington to Woodrow Wilson, a period of 124 years, was $24,500,000,000. During the first 3 years of the present administration $24,200,000,000 will have been spent. These 3 years will cost the people of the United States almost as much as every President from George Washington to Woodrow Wilson.

The extreme heights to which this hypocrisy has gone may well be realized when we refer to the words of the Democratic candidate for President in September 1932. He said:

"* * * Remember well that attitude and method—the way we do things, not the way we say things, is nearly always the measure of our sincerity."

To pay the tremendous deficit the American people are being mortgaged for generations to come. Children born today will be paying for the Democratic orgy when their grandchildren are governing the country. In order to replenish the Government's borrowing power, and as a sop to certain political forces opposing the administration we are asked to rush through the Congress a drastic tax program designed to confiscate the funds of our citizens and to punish our corporations for successful oper-

ation. A man may have spent his lifetime building up a business that his children may carry on, and find that by virtue of the new-deal tax laws the Government will have destroyed all hope of that business remaining the heritage of his sons or daughters. The people should register a powerful objection to the levying of confiscatory taxes in order to gain the political support of Socialists and radicals of every stripe. Since the inception of our Government, private property has had three attributes. One is the right to possession and enjoyment of property honestly accumulated. The second is the right to the income it yields. The third is the right to disposition. The administration proposes to materially curb, and in some cases destroy, these fundamental attributes of property. The rights of the States to jurisdiction over private property within the States will be transferred to the Federal Government. It cannot be long, should such actions continue, before the States of the Union have disappeared and all authority of government will have been vested in a dictator.

If the proposed inheritance taxes become law, we will have invited the destruction of every life-insurance company in the country.

Who would be foolish enough to continue paying premiums on large life-insurance policies with the knowledge that the Government is going to confiscate as much as 75 per cent of the face value of this policy? What insurance company could possibly live if the large policyholders voluntarily canceled their contracts? The collapse of our insurance companies would constitute a national catastrophe. Why should we invite it at a time like this?

If by taxation the administration succeeds in destroying the property rights of individuals, it will reduce the volume of capital which otherwise would be at the service of industry, and thus reduce capital available for the employment of labor. The common interest of capital and labor requires the largest possible investment in industry and the minimum of Government expenditure. This administration seeks to accomplish exactly the reverse. While tearing down the Nation's capital structure it is building up the cost of Government and will load the people with a tax burden that cannot be dissipated for generations. Inflation and total collapse are the only alternatives.

Extremely high taxes are also proposed on the profits of corporations. These profits must come from the small holders of securities. Badly managed business will not have to pay. Well-managed ventures are to be penalized for being successful. It is proposed to punish thrift and good management and to place a premium on poor management and unwise financing.

The motive behind these new taxes reeks of politics. Any high-school boy, by examining the facts, can recognize the master stroke of Democratic politicians, who, by proposing a tax on wealth, hope to extend their political dominance over the followers of those who preach for a redistribution of wealth.

As a means of raising revenue the tax program demanded by the new deal is disgracefully inadequate. It seeks to decentralize industry and to break down capital, rather than to provide revenue for the expenses of the Government. The wasteful expenditure of public funds can never produce prosperity, but if we are to squander billions in borrowed money, we should proceed with something resembling good business practice. What right does this administration have to build up an enormous public debt which succeeding administrations will be forced to pay?

The taxes proposed will yield only $340,000,000 per year. At the present time the Government is spending in excess of $20,000,000 every day. These taxes would run the Government for only 17 days, and they actually constitute less than one-half of the interest on the public debt. If we are going to undertake a tax program, we should do so with a view to balancing the Budget. Taxes should be equally distributed among all groups of people in direct proportion to their ability to pay. To strike at capital for a doubtful purpose is neither good business nor conducive to the permanence of our Government.

The last Democratic President sent 3,000,000 young Americans into a bloody war. The slogan of that war was, "Make the world safe for democracy." Thousands of our fine young citizens gave their lives for this ideal. Today we are faced with the same perplexing problem. Our democracy is not endangered by any foreign power, but by a more destructive force which works silently from within. It is being whittled away before our very eyes. Somehow this movement must be stopped, and on the youth of the country rests this responsibility. Let us hope they will rise to the occasion.

There is more interest in politics today than ever before, and on almost every street corner we hear discussions of whether this administration will be returned. We hear the universal comment, "No man with $4,000,000,000 can be defeated." Have you heard that statement? "No man with $4,000,000,000 can be defeated".

The American people should bear these things in mind. Billions of dollars of your money are being squandered. Where will we be when the Federal credit is exhausted? The votes of the men who represent you in Congress are being demanded by the executive department of the Government. Where will we be when they are driven into complete submission?

Those persons responsible for the executive branch of the Government say they are undertaking a broad and long-range program of reform. To my mind, little good and much harm will come from these socialistic experiments.

A TRIBUTE TO AMERICA—SPEECH BY THE NORWEGIAN MINISTER

Mr. SHIPSTEAD. Mr. President, the Fourth of July is just past. On this occasion, as in other years, tribute was paid to the Declaration of Independence and American institutions.

Sixteen years ago, on the 4th of July, a young man then in the Diplomatic Service of his country delivered a beautiful tribute to America and American institutions. After having served his country in various capacities for a number of years, this man now has been advanced to the high position of Minister of Norway to the Government of the United States.

Since he first came to the legation of his country at Washington 25 years ago he has traveled extensively in America, and has acquired a remarkable knowledge and understanding of our people, our system of government, and institutions.

I ask unanimous consent that the Fourth of July oration which he delivered 16 years ago be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY HIS EXCELLENCY WILHELM MUNTHE DE MORGENSTIERNE, NOW MINISTER OF NORWAY TO THE UNITED STATES, AT A FOURTH OF JULY CELEBRATION IN 1919 ON BOARD THE STEAMSHIP "HELLIG OLAV"

Many of us present here tonight—probably a considerable majority—are not American citizens. But we are all, I believe, warm friends of America. And it seems that we all united in a desire not to let this day, the Day of Independence of the United States of America, go by unnoticed, but to take the opportunity to render our sincere homage to the great country which we have just left.

It was 143 years ago today that the famous Declaration of Independence was proclaimed at Philadelphia, severing the relations between the American Colonies and England, the mother country. However, the authors of the Declaration of Independence and the leaders of America in those days had a further and more ambitious aim: Theirs was a serious and enthusiastic desire to establish in the new world a really new and better order of things. A society unhampered by the traditions and prejudices of old Europe, a Nation dedicated to the great ideals of equality and liberty.

We know in the main what has taken place since that 4th of July 1776. We are all familiar with the astounding growth and development of the United States of America during the century and a half which has passed since then.

And we know, too, that all during that tremendous expansion and material development American public opinion and American statesmanship have endeavored to uphold the great fundamental principles upon which the Republic was founded. How far have they succeeded? Not fully, if we measure the success by a true and fearless interpretation of those principles—an interpretation which for a long time came from only a few and scattered voices, but which is now fast becoming everywhere the prevailing interpretation of human liberty and equality.

But nevertheless, it is a wonderful fact—and a historic fact—that all during these years the name of America has been to oppressed humanity all over the world the symbol of freedom and opportunity. And we have seen that from all countries of the world—and not the least from our own northern countries—a constant stream of people have crossed the great waters and in American found a hospitable welcome, a new home, and in many cases opportunities which their homeland—for all its love—could not offer them.

And now we see thousands and thousands of our former countrymen scattered all over the United States as useful, and loyal, and enthusiastic citizens of the great Republic.

What is it, this subtle influence which seems to take hold of everybody, regardless of former nationality, as soon as he has spent some little time on American soil and under American institutions?

What is the essence of this American spirit?

We see it, no, we feel the presence of this spirit everywhere we go in the States—even we who are perhaps only visitors of a short time.

I shall not here try to undertake any analysis; but is it not so that we all have a feeling of the promise of American life? Is not this American spirit a spirit of optimism, of confident faith in the ultimate destinies of the human race, and of the American people in particular? I think that perhaps we will realize this more clearly when we consider the future.

America—does it not stand in our imagination intimately bound up with the future of the world? Can we conceive of that future without America?

We have gone through a terrible experience. The foundations of civilization have been shattered and we are groping in the dark. It seems hard to find our bearings. But we all feel this, that if the nations of the world are to endure the near future must see a radical and far-reaching extension of the principles of equality and liberty. The social organization of the world as it was 5 years ago will no longer do. For some time there has been a whisper down the lands of the world—and it is now rising to an irresistible storm—that the equality and the liberty of the new day must rest on solid economic and social foundations. The way in which this world problem is met and solved will be the acid test of the reality and sincerity of all pronouncements of freedom and equality.

The world is waiting breathlessly for leadership. And millions in all lands look west, to the Nation dedicated to the high principles of the Declaration of Independence, to take the lead. Will she do it? Many, many are those who fondly hope that she will; that she will show the way in carrying to their just and

necessary—and tremendously difficult—conclusion the great, living ideals of equality and liberty.

And so we all turn our eyes westward, and we get the vision of a vast and wonderful country, stretching in tremendous expanse from ocean to ocean, with the intense, hustling life of its great cities, the vastness and the desolation of its prairies, the towering beauty of its mountains, and the majesty of its forests. We have seen it, or some of it, and it has become part of us, and we love it.

And so we citizens of foreign countries make it our privilege on this day of Independence of the United States, and of inspiration to all liberty-loving nations of the world, to render homage to that great country.

May the spirit of the Fourth of July inspire the coming days of reconstruction and may justice and happiness be the lot of the great and generous American people.

DELAWARE'S BALANCED BUDGET

Mr. TOWNSEND. Mr. President, in this year of our Lord, when it is the usual thing for municipalities and States to become bankrupt, when huge debts are being piled up for future generations to pay, it is with no little pride that I point to the financial status of my own State, as outlined in an excellent editorial in the Wilmington (Del.) Journal-Every Evening of July 6, 1935, which I ask leave to have inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wilmington (Del.) Journal-Every Evening, July 6, 1935]

DELAWARE'S ENVIABLE RECORD

Delaware is one of the few States of the Federal Union that not only start the new fiscal year with a balanced budget without resort to an artificial boost, but that also have weathered the depression storm successfully up to this time.

When all bills for the last fiscal year have been paid, and cash receipts for the year have been recorded, we learn from the fiscal officers in Dover, there will be a surplus of more than $100,000 in the general fund with which to start the new year. Besides that there will be substantial balances in the educational and highway funds.

Our State has met every obligation as it fell due, including pay rolls. The same is true with respect to Wilmington and other corporate communities, and also the counties.

In some other States there have been defaults on pay rolls and other obligations. Resort was had in some instances to fantastic financial boosting projects, some of which seriously jeopardized the future, and that certainly are not in keeping with good business principles.

Delaware has followed a sane course. It has regarded its obligations as sacred. It has kept its spending within its means. It is true that money has been borrowed within the period of the depression. But that borrowing, which was necessary, if the fiscal structure of the State was to be kept in balance, has been held within reasonable bounds and has not gone beyond the extent of actual needs.

It has also been found possible to shift the road and bridge expenses from the counties to the State, and to so limit the taxing authority in the counties as to materially ease the tax burden on real estate.

And so, the governing authorities of our State have done well. They have gotten the financial ship on an even keel. What the legislature did last winter assures continuance of this situation for 2 years.

This latter point, however, is something to think about. During the current biennium we must plan for the next one. We must conserve our resources. We are not quite certain what some heretofore dependable sources of revenue are going to produce. And so it is incumbent upon the people of the State to look ahead, with a view to choosing a legislature next year that can be depended upon to handle our financial problems in the same sensible manner as did the legislature of 1935.

It may be the present sources of revenue are not sufficient to carry on after the current biennium ends. Governor Buck has appointed a commission that will endeavor to determine whether or not new sources of revenue must be found. Whatever this commission's survey may show, the public must face the issue and meet it squarely.

It may be that within the next few months some of the uncertain sources of revenue may become more stable and productive than they seem to be now. In that event, it may be possible to carry on after 1936 without adding to the tax levy. Otherwise, more money will have to be forthcoming.

CONDITION OF LUMBER INDUSTRY IN THE NORTHWEST

Mr. SCHALL. Mr. President, I ask leave to have printed in the RECORD an open letter from C. C. Crow, editor of Crow's Pacific Coast Lumber Digest, to President Roosevelt, which was printed in the Pacific Coast Lumber Digest on May 13, 1935.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AN OPEN LETTER TO PRESIDENT ROOSEVELT

Hon. FRANKLIN D. ROOSEVELT,
President of the United States, Washington, D. C.

DEAR SIR: The Northwest's major industry lies prostrate, paralyzed with a strike for which you are responsible.

You have systematically nursed and encouraged into destructive flame every smoldering ember of radicalism on the Pacific coast.

You have bound and gagged the capable leaders of industry and set the enemies of law and order upon them to exercise their despotic insolence.

You have conducted a travesty on justice by sending from governmental departments alleged arbiters to settle disputes, when as a matter of fact you know they are but the master minds of this great revolutionary movement whom you have clothed with official authority, and their mission is not to arbitrate but to bludgeon.

While the crying need is for more employment and more pay rolls, you have openly invited men to give up their work and go on relief.

When you have completed the job of making beggars out of the many thousands of employees of the lumber industry in the Northwest, when you have completed the job of bankrupting those who have their money invested in mills and camps, when you have completed the job of turning the Pacific coast over to the American Federation of Labor racketeers, what next may we expect, Mr. President?

Respectfully yours,

C. C. CROW,
Editor Crow's Pacific Coast Lumber Digest.

REGULATION OF TRANSPORTATION BY WATER

The Senate resumed the consideration of the bill (S. 1632) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by water carriers operating in interstate and foreign commerce, and for other purposes.

Mr. WHEELER. I desire, Mr. President, this morning to discuss the pending bill and to point out the purposes of it. The chief opposition to the bill seems to grow out of the fear which some people entertain that the Interstate Commerce Commission is railroad-minded and should not have the regulation of water carriers nor should it have the regulation of busses and trucks.

At the outset let me say, with reference to the regulation of water carriers, of trucks and busses, and of the railroads, that the idea of the President, the idea of the Interstate Commerce Commission, and the idea of various other bodies is substantially that the regulation of all forms of interstate transportation should be placed under one jurisdiction; that that jurisdiction should be a reorganized Interstate Commerce Commission, and that, as reorganized, the Interstate Commerce Commission should have a division which should have charge of the regulation of water carriers, a division which should have charge of the regulation of motor carriers, and a division which should have charge of the regulation of railroads.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. COPELAND. If the Senator takes that position, why did he not bring in a proposal for the reorganization of the Interstate Commerce Commission before he sought to put water carriers under the Commission?

Mr. WHEELER. I will answer that question by saying that, as I have previously announced upon the floor, Coordinator Eastman—and these are not my bills; I introduced them only at the request of the Coordinator—suggested that 3 bills should be introduced, 1 for the regulation of water carriers, 1 for the regulation of busses and trucks, and 1 for the reorganization of the Interstate Commerce Commission along the lines which I have suggested to the Senate. I introduced the three bills at the request of the Coordinator and at the request of the administration.

The committee held hearings upon all three bills. From the committee I reported first the bill providing for the regulation of motor carriers, which passed the Senate and is now pending in the House. Secondly, I reported from the committee, after hearings, the pending bill, and hearings have also been held upon the third bill. I can say to the Senator that, in the event this bill shall pass, immediately thereafter we will recommend the passage of a bill for the reorganization of the Interstate Commerce Commission along the lines which I have suggested.

Mr. COPELAND. Mr. President, the Senator began his remarks by saying that there was objection to this measure because it would turn over the regulation of water carriers to a railroad-minded Interstate Commerce Commission. How can anybody question that? If the Senator had proceeded in an orderly fashion—I am not criticising him; I am criticising the sponsors of the plan—and the reorganization had been provided for so that there would be a place in the new and enlarged Interstate Commerce Commission for a section devoted to water carriers, that would be one thing; but that is not the plan at all. That bill is still in the discard. It is not on the "must" list. Instead, we have the bill which is now before us. The Senator from Montana is doing a very good job with the bill which he presented by request, because it takes a personal heart interest ordinarily to do a good job, and I know he has no such personal interest in this bill. He cannot have because, as a good American citizen, he is interested in ships as well as railroads. But this bill would turn over to a railroad-minded, unenlarged, and unchanged Interstate Commerce Commission the regulation of water carriers. Every Senator has had in his mail today letters from railroads urging that the bill be passed. I had a letter this morning even from the station agent in the little town in Michigan where I was born, pointing out how necessary it is to the particular railroad that this water-carrier bill should be passed. The bill which is before us will stifle and kill the American merchant marine and will turn over to a railroad-minded Interstate Commerce Commission the regulation of water carriers in America. That is my judgment.

Mr. WALSH. Mr. President——

Mr. WHEELER. I yield to the Senator from Massachusetts.

Mr. WALSH. I inquire if the bill now pending before the Senate is substantially the bill prepared for the committee by the Coordinator of Transportation?

Mr. WHEELER. No. The bill as finally reported is a committee bill. The bill as recommended by the coordinator contained a commodity clause which prevented a contract carrier from carrying goods in which it was interested. That provision has been eliminated from the bill. It likewise had several other stringent provisions which have been eliminated.

Mr. WALSH. The bill has been moderated and is less drastic than the bill which was originally introduced?

Mr. WHEELER. Very substantially moderated.

Mr. WALSH. Does the bill propose an increase in the membership of the Interstate Commerce Commission?

Mr. WHEELER. It does not.

Mr. WALSH. So that the nine members who now constitute the Commission would be divided into three groups, and one group would have charge of the regulation of water transportation, another of motor transportation, and the third of railroad transportation?

Mr. WHEELER. Yes. The bill for the reorganization of the Interstate Commerce Commission, S. 1635, which was suggested by Coordinator Eastman and which is now pending before the committee, provides for the enlargement of the Commission and for permanent divisions of the Commission.

Mr. WALSH. That bill has not as yet been reported?

Mr. WHEELER. No.

Mr. WALSH. It is still in the committee?

Mr. WHEELER. Yes; and I propose to press that bill just as soon as the bill now before the Senate shall have been disposed of.

Mr. WALSH. I thank the Senator.

Mr. WHEELER. The Senator from New York asked me why I do not take up these measures in an orderly way. I submit that I am taking up this bill in an orderly way, because if we should not pass the water-carrier bill and the motor-carrier bill, then there would be no excuse for enlarging the Interstate Commerce Commission at the present time or dividing it into divisions.

Answering the charge that the Interstate Commerce Commission is railroad-minded, that charge is based entirely upon mere suspicion. The facts do not bear it out, as I propose to show before I get through with my explanation of the bill now before us.

The question before the Senate at the present time is whether we want to have regulation of railroads and whether we want to let their competitors go entirely ungoverned. In my humble judgment we will be doing a national disservice to the shipping interests of the country, looking at it from that standpoint, and we will be doing a disservice to the shippers themselves if we do not have some form of regulation of these various types of transportation. The one way to do it is to coordinate them and not have one organization regulating water carriers, another bureau regulating motor carriers, and a third organization regulating the railroads, because if we do that we are bound to have jealousies creeping in between the various bureaus, and we are bound to have disorganized and disconcerted regulation of the transportation system of the United States.

A former member of the Shipping Bureau, which regulated water carriers, testified that in his opinion if we are going to have a bureau to control subsidies and if we are going to have a bureau to control these other matters we should not have that same bureau controlling the regulation of rates, but that the regulation of rates ought to be in a disinterested commission, free and separate from an executive body, and that the proper place for that regulation is in the Interstate Commerce Commision. So far as he was concerned, he said he preferred to have it in the Interstate Commerce Commission.

Mr. CONNALLY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Texas?

Mr. WHEELER. I yield.

Mr. CONNALLY. Does the Senator's bill propose regulation of foreign shipping rates on American ships—not simply coastal rates, but rates from the United States to foreign ports?

Mr. WHEELER. No; only to the extent that they are regulated now by the Shipping Board. All the bill proposes to do with foreign commerce is to transfer from the Shipping Bureau of the Commerce Department to the Interstate Commerce Commission the same powers which exist in the Shipping Bureau at the present time.

Mr. CONNALLY. It does not add any new powers?

Mr. WHEELER. It adds nothing new whatsoever in respect of rates on American ships engaged in foreign commerce.

Mr. CONNALLY. The Senator from New York [Mr. COPELAND] indicated that it was his view, if the bill were enacted into law, it would give the Interstate Commerce Commission the power to so regulate rates as to cripple shipping on American vessels to foreign ports.

Mr. WHEELER. I am glad the Senator brought up that point. Let me say further that the Senator from New York is in error in drawing such a conclusion.

Mr. CONNALLY. If it does not have that effect, I do not see how it can affect foreign shipping. The point I have in mind is that I would not want to give the Interstate Commerce Commission power to fix rates on American ships to foreign ports at such a figure as to make it impossible for our own ships to compete with the foreign lines which are not controlled as to rates.

Mr. WHEELER. The Senator is correct. As the bill originally came to the committee it did contain some provisions with reference to the regulating of foreign rates. The committee eliminated those provisions after hearings because we felt that neither the Interstate Commerce Commission nor the Shipping Board Bureau, which now regulates them, was sufficiently advised and had sufficient information upon which to base such regulation. While the bill with that recommendation came from Coordinator Eastman, as a matter of fact, the only reason that such provisions were put in the bill was because the Shipping Board Bureau of the Department of Commerce recommended to Coordinator Eastman that the regulation of interstate and foreign commerce should not be separated and that the foreign-commerce regulation needed strengthening. Such provisions were inserted

in the bill as received from Coordinator Eastman, but the committee eliminated these provisions before reporting the bill to the Senate.

Mr. COPELAND, Mr. KING, and Mr. NORRIS addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Montana yield; and if so, to whom?

Mr. WHEELER. I yield first to the Senator from Utah.

Mr. KING. Perhaps this is not along the line of the Senator's observations, but how far does the Senator's bill go? Would it, for instance, take jurisdiction over the boats which carry passengers from Jersey City to New York City in the morning and back in the evening, or of boats which in California carry passengers from San Francisco to Oakland?

Mr. WHEELER. No; the bill specifically provides exemption in respect of such local intraharbor operations, and it is intended that the Interstate Commerce Commission shall have no power over such rates.

Mr. KING. Would the Commission have jurisdiction over the boats upon the Great Lakes?

Mr. WHEELER. It would have jurisdiction over the common carriers by water upon the Great Lakes and the contract carriers insofar as they compete with the common carriers by water; that is all.

Mr. KING. It would have jurisdiction over the boats that ply up and down the Mississippi River, I suppose?

Mr. WHEELER. The common carriers upon the Mississippi River.

Mr. NORRIS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Nebraska?

Mr. WHEELER. I yield.

Mr. NORRIS. I desire to know if I have a correct understanding. As I understand, this bill is only part of a program, and another bill is to follow.

Mr. WHEELER. That is correct.

Mr. NORRIS. If the other bill shall follow and be enacted, will it remedy the evils pointed out by the Senator from New York [Mr. COPELAND]?

Mr. WHEELER. I think so. Let me say to the Senator that when the truck and bus people came before the committee, many of them objected to being placed under the Interstate Commerce Commission because some of them said, "The Interstate Commerce Commission is railroad-minded." If the Interstate Commerce Commission is railroad-minded, it is only because of the fact that in the law of 1920, which was passed by the Congress of the United States, the Congress said that the Commission must try to preserve the railroad structure of the United States. Practically all of the bus and truck people said, "We favor regulation but we are opposed to this bill unless you reorganize the Commission and set up a department for the purpose of regulating buses and trucks." We propose to do that in Coordinator Eastman's bill (S. 1635) which is to follow this bill.

The same thing took place with reference to the regulation of water carriers. Many of the water carriers said, "We object to the bill unless you pass another bill which will set up a separate water-carrier division in the Commission."

While I am on that subject, and before I proceed to an explanation of the bill, I wish to call attention to some errors which were made in the statements the other day by the Senator from Minnesota [Mr. SHIPSTEAD] and the Senator from New York [Mr. COPELAND].

The Senator from Minnesota, at page 10695 of the CONGRESSIONAL RECORD, said:

The common carriers on those rivers—

Speaking of the Mississippi and the Ohio—

carry only 3 percent, or less than 3 percent, of the total freight carried on those rivers. The remainder is carried by private carriers.

Senate Document No. 152, Seventy-third Congress, second session, at page 7, indicates, on the basis of a special count made by the Army engineers, the following percentage distribution for 1932:

Mississippi River: Common carriers, 31 percent; contract carriers, 39 percent; private carriers, 30 percent.

So that instead of only 3 percent being carried by common carriers on the Mississippi River, 31 percent was carried by common carriers, 39 percent by contract carriers, and 30 percent by private carriers, according to the figures furnished me by Coordinator Eastman in this statement.

On the Ohio River, the common carriers carried 3.6 percent, the contract carriers carried 8.4 percent, and the private carriers carried 88 percent.

On the Monongahela the common carriers' percentage was practically nil. It was three-tenths of 1 percent. The amount carried by the contract carriers was 2.7 percent, and the amount carried by the private carriers was 97 percent.

The statement has been repeatedly made here that we did not regulate the privately owned carriers because of their being so powerful. Then, on the other hand, it was said that the reason why we should not attempt to regulate them was that the Interstate Commerce Commission was railroad-minded. The people with whom the private and contract carriers chiefly compete are the railroads. The only people who could complain because of the fact that we amended the bill so as not to regulate the private carriers would be the railroads, because the business which the private and contract carriers carry on the Monongahela River and on the Ohio River and on the Great Lakes is bulk cargo, which does not at all compete with the common carriers by water, according to all the testimony given by the coordinator and others who testified before the committee.

Senator from Minnesota [Mr. SHIPSTEAD] said, at page 10698:

On the Mississippi River last year there were carried 57,700,000 tons, while the common carriers carried only 1,350,000 tons.

Coordinator Eastman comments on this statement as follows:

"Last year" refers to 1933. The figure cited represents gross tonnage on the Mississippi River system; eliminating all known duplications, the net tonnage carried was 44,302,000. The ton-mileage aggregated 5,131,343,000. The three principal companies classed as common carriers, the Federal Barge Line, American Barge Line, and Mississippi Valley Barge Line, report 2,092,184 tons of traffic in 1933. Using the lower figure cited by Senator SHIPSTEAD on the assumption that the difference represents contract tonnage, and using the 883-mile average haul shown by the Federal Barge Line as typical of the group, the ton mileage of the three companies is found to have aggregated 1,192,000,000. Therefore, in terms of actual transportation service rendered, the three companies did 23 percent of the 1933 business on the Mississippi River system. The explanation of the difference between this figure and the 3 percent cited by Senator SHIPSTEAD is found in the much longer average haul of the common carriers. The great bulk of the tonnage on the rivers consists of nonmetallic minerals, principally coal, stone, and sand gravel, most of which move short distances and often only within a local area.

The Senator from New York [Mr. COPELAND] said on page 10699:

I know from the testimony, and from private conversations with them, that outside of those shipping lines which are largely railroad-controlled there is opposition, and bitter opposition, to this bill.

The comment upon that statement is as follows:

This statement is in error. Returns to a detailed questionnaire sent to water lines indicated that 67 out of 220 respondents wanted effective regulation, 5 favored it with certain qualifications, 52 were opposed, and 96 took no position, apparently from lack of interest. (See S. Doc. 152, p. 169.)

Most of the opposition came from contract and private carriers, although a few of the former favored regulation. These answers were made prior to the preparation of last year's water carrier bill.

Contract and private carriers have been eliminated from this bill, except that contract carriers are regulated when they compete with common carriers on the rivers and in the intercoastal traffic.

The hearings held on the original S. 1632, a more far-reaching bill than the one now under consideration, indicated that it had the support of the following groups, among others:

Intercoastal, coastwise, and nearby foreign common carriers, relatively few of whom are under railroad control. Opposition of certain carriers (Nelson Steamship Co., Shepard Steamship Co., Weyerhaeuser Steamship Co., Calmar Line, etc.) has been largely met by elimination of commodities clause and other changes.

Great Lakes common carriers; none are railroad controlled. No appearances were made before committee, but of the 19 who responded to Coordinator's inquiry 10 favored effective Federal regulation, 1 with qualifications, 2 opposed it, and 6 did not answer this question. Many are now subject to considerable Interstate Commerce Commission control.

Canal Carriers' Association (New York Barge Canal): "This trade * * * has taken a position in favor of the principle of legislation insofar as it would be a stabilizing factor in our own trade and in our competition with other forms of transportation. The operators generally consider their operations to be of the nature of contract carriage." Suggestions for changes have in some cases been met.

Mississippi Valley: The two principal common carriers favored the bill.

Since the close of the hearings two groups of operators on Pacific coast rivers have recorded their favoring the principle of regulation.

There is attached a list of steamship companies, port officials, wharfinger operators, shippers, and others who supported the bill. A summary appears at page 3.

Alabama State Docks Commission.
American-Hawaiian Steamship Co.
American Short Line Railroad Association.
Association of American Railroads.
Association Marine Terminal Operators, Atlantic ports.
Atlanta Freight Bureau.
Atlantic, Gulf & West Indies Steamship Lines.
Bay Cities Transportation Co. (Oakland).
Bell, Hon. Thomas M.
Binghamton (N. Y.) Chamber of Commerce.
Braden, David S. (Philadelphia).
Brotherhood Locomotive Engineers.
Brotherhood Railway Trainmen.
Carolina Shipping Co. (Charleston, S. C.).
East Baltimore Business Men's Association.
Eastern Steamship Lines.
Galveston Wharf Co. (Galveston).
Gamble, John B. (Athens, Ga.).
Grace Line.
Greenwood (Miss.) Chamber of Commerce.
Hansen Storage Co. (Milwaukee).
Haslett Warehouse Co. (Oakland).
Hoboken (N. J.) Chamber of Commerce.
Howard Terminal Co. (Oakland).
Inland Waterways Corporation.
Interior Grain & Milling Conference.
International Mercantile Marine Co.
Lawrence Warehouse Co. (Oakland).
Luckenbach Steamship Co., Inc.
Manufacturers Association of Washington (State).
Marine Terminals Association (Jacksonville, Fla.).
Mays, H. F. (Roanoke, Va.).
Merchants & Miners Transportation Co.
Merchants Exchange (St. Louis).
Mississippi Valley Barge Line Co.
Missouri River Navigation Association.
Munson Steamship Co.
Nash Hardware Co. (Fort Worth).
National Association of Transportation Security Owners.
National Enameling & Stamping Co. (Milwaukee).
National League of Wholesale Fresh Fruit & Vegetable Distributors.
New Jersey Industrial Traffic League.
New Jersey Traffic Advisory Committee.
North Carolina Line, Inc., (Wilmington).
Northeastern States Feed Manufacturers Association (Linfield, Pa.).
Oakland (Calif.) Chamber of Commerce.
Ocean Steamship Co. of Savannah.
Oklahoma Cottonseed Crushers Association (Oklahoma City).
Oneonta (N. Y.) Chamber of Commerce—

And so forth.

Mr. COPELAND. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from New York?

Mr. WHEELER. I yield.

Mr. COPELAND. Did the Senator include, in his long list of those who approved the bill, the Mississippi Valley Association?

Mr. WHEELER. No; not the Mississippi Valley Association; the Missouri River Navigation Association.

Mr. COPELAND. Did the Senator also quote General Ashburn in favor of the bill?

Mr. WHEELER. Yes. I have a letter from him.

Mr. COPELAND. Very well. Now, I desire to comment for just a minute on that, if I may.

Mr. WHEELER. I do not wish to yield for a comment. If the Senator desires to ask a question, I have not any objection; but I do not like to have my speech interrupted by a comment.

Mr. COPELAND. What I wish to say is that General Ashburn modified his endorsement very materially by saying he was in favor of this bill provided the reorganization bill also should pass. He is not in favor of this bill in and of itself.

Mr. WHEELER. Of course. As I have said before, many of the truck and bus people were opposed to regulation by the Interstate Commerce Commission unless the Interstate Commerce Commission should be reorganized. I have said to the Senator, and I say upon the floor of the Senate, that if this bill passes, the next bill that will be reported out of the Interstate Commerce Committee will be a bill to reorganize the Interstate Commerce Commission, in accordance with the views of the Coordinator, so that three departments of the Commission will be set up for the purpose of regulating these different modes of interstate transportation.

It is all part of one scheme, and every member of the Interstate Commerce Committee knows it.

A few moments ago the Senator said that the reorganization of the Interstate Commerce Commission was not a part of the "must" program. Let me repeat, the administration is in favor of these two bills, S. 1629 and S. 1632, and it is also in favor of the reorganization of the Interstate Commerce Commission; so that the one is just as much a "must" bill as any of the rest of them. All three of them are a part of a program for the regulation of the carriers of interstate commerce of the United States. Among others are the Philadelphia & Norfolk Steamship Co.

Shippers Corporation of Greater New York.
J. Allen Smith & Co., Knoxville, Tenn.
M. Thierry, Roanoke, Va.
Trans-Atlantic Association Trade Conference.
Transporation Conference, 1932–35.
Virginia Bridge & Iron Co., Roanoke, Va.
H. Wade, Vinton, Va.
Warehousemen's Association, Port of New York.
S. Zorn & Co., Louisville, Ky.

The statement has been made that if this bill shall pass it will destroy the shipping interests of the United States. If it would destroy the shipping interests of the United States, is it not passing strange that out of all the shipping interests in the intercoastal traffic this long list of many of the leading shippers of the United States, both on the Atlantic and Pacific coasts, as well as on the Mississippi River, should favor the bill and urge its enactment?

It has been stated that they fear it because the Commission is railroad-minded. As a matter of fact, practically each and every one of them favors the bill and wants to see the Commission reorganized as a part of the program to which I have already called attention.

This morning I received the following telegram:

> Beg to remind you that on March 14 we appeared before Committee on Interstate Commerce representing 57 organizations, comprising chambers of commerce, service clubs, local unions, in favor of bill to provide regulations of water carriers by the Interstate Commerce Commission. We respectfully ask you to favor this bill.
>
> ONEONTA CHAMBER OF COMMERCE.

Mr. President, I have here a letter from the Luckenbach Steamship Co. I do not know the Luckenbach Steamship Co., but I assume it is one of the large steamship companies located in New York. I note they state in the letter that it is a personal communication to me and that they do not desire to have any publicity.

Mr. FLETCHER. Mr. President, does the Senator mind stating the point of the communication?

Mr. WHEELER. The letter states there ought to be an amendment to the bill providing a jail sentence for violation of any of the rules or regulations.

Mr. FLETCHER. They want it to provide penalties?

Mr. WHEELER. Yes.

Mr. FLETCHER. They are a very responsible shipping concern.

Mr. WHEELER. So I have understood.

I have here also a letter from the Chamber of Commerce of Sierra Madre, Calif., as follows:

SIERRE MADRE CHAMBER OF COMMERCE,
Sierra Madre, Calif., May 15, 1935.

Mr. BURTON K. WHEELER,
United States Senate, Washington, D. C.

DEAR SIR: At a regular meeting of the board of directors of the Sierra Madre Chamber of Commerce held on May 13, 1935, the following action was taken:

"*Resolved*, That this body urges its representatives in Congress to support Senate bill no. 1632 and House bill no. 5379 on water-carrier regulation, and Senate bill no. 1629 and House bill no. 5262 on motor-carrier regulation, as these bills embody the views of this chamber as expressed in a referendum of the National Chamber of Commerce, endorsed by this chamber a year ago."

Yours truly,

SIERRA MADRE CHAMBER OF COMMERCE,
By R. C. COPENHAVER, *Secretary.*

I have a letter from the Chamber of Commerce of Denver, Colo., which reads as follows:

DENVER CHAMBER OF COMMERCE,
Denver, Colo., May 3, 1935.

To the HONORABLE THE MEMBERS OF THE SENATE COMMITTEE ON INTERSTATE COMMERCE AND THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

GENTLEMEN: The Denver Chamber of Commerce requests your support in the passage of transportation legislation proposed in Senate bill 1632 and House bill 5379. These bills are identical in language and are entitled:

"To amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by water carriers operating in interstate and foreign commerce, and for other purposes."

This proposed legislation has had the extended consideration of the transporation committee and the board of directors of the Denver Chamber of Commerce. Shipping interests represented in the chamber recognize the urgent need for adequate regulation of water carriers in interstate commerce. Such regulation by the Interstate Commerce Commission is provided for in Senate bill 1632 and House bill 5379.

Shipping interests as well as the railroads are now and will continue to be at a great disadvantage in meeting competitive situations unless adequate control and regulation of water carriers is provided. The enactment of the proposed legislation will give stabilization to the rate situation. It will insure to the carriers of water-borne commerce just and reasonable rates for the services performed. It will eliminate cutthroat competition and furnish dependable service to patrons of water transporation.

The establishment of fixed and known charges for water transportation will be of very great benefit to interior shippers (who cannot on account of their location avail themselves of water transporation) in attempting to meet the competition of shippers who have access to water transporation.

Very truly yours,

DENVER CHAMBER OF COMMERCE,
By HARRY S. DICKINSON,
Commissioner, Transporation Department.

I have here also a letter from the Maritime Association setting forth their views with reference to the bill.

I hold in my hand a letter dated in 1935 from the Warehousemen's Association of the Port of New York, but regarding the water-carrier bill of last session, in which they state:

WATER CARRIER ACT—S. 3172

The warehousemen of the port of New York favor the passage of the above bill, since it will prevent discriminations that are now practiced by some of the lines. We trust you will shortly be able to have this bill brought up for consideration. If a public hearing is to be held, we would appreciate your notifying us.

S. 3172, Seventy-third Congress, was very similar to the present bill, S. 1632; it was introduced by Senator Dill, but, like S. 1632, it was prepared by Coordinator Eastman.

I have here a copy of a letter to Chairman BLAND, of the House Committee on Merchant Marine, from the Merchants & Miners Transportation Co., of Baltimore. I am reading some of these letters because the statement has been made that the bill would destroy the shipping interests of this country. This communication reads:

MERCHANTS & MINERS TRANSPORTATION CO.,
Baltimore, Md., June 27, 1935.

Hon. SCHUYLER OTIS BLAND,
Chairman Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D. C.

DEAR CONGRESSMAN: In reading the committee report on House bill H. R. 8555, my attention has been attracted particularly to the second paragraph on page 2, wherein the report says that:

"The other point of departure from the President's message is the proposed transfer of certain powers to the Interstate Commerce Commission. The committee seriously doubts the advisability of transferring such powers at any time to a body whose entire study and work has been devoted to railroad matters, which is not informed on the problems existing in the most highly competitive international trade in the world, which is not acquainted with transportation on the seas with foreign countries, and whose jurisdiction over all forms of transportation on land is still the subject of legislative study and probable action in some form."

Doubtless you have noticed that the President, in his transportation message of June 7, 1935, did not refer to the regulation of rates and practices in the foreign trades of the United States but did recommend the centralization of rate regulation dealing with interstate commerce in the Interstate Commerce Commission. The paragraph of your report quoted above gives one the impression that your objections to the exercise of this authority by the Interstate Commerce Commission relate solely to the exercise of such powers in our foreign trade. Notwithstanding this, the bill which you have reported transfers these powers with respect to both foreign and domestic trades to the proposed maritime authority. This treatment of the subject seems to me both confusing and misleading.

Your report speaks of the Commission as "a body whose entire study and work has been devoted to railroad matters." This statement would indicate that it is not fully realized that the Commission has had a great deal more experience in the regulation of water carriers than has the United States Shipping Board Bureau or its predecessor agency, the United States Shipping Board. The scope of the Commission's jurisdiction over water carriers was outlined to your committee by Federal Coordinator Eastman in the recent hearings on H. R. 5379, whereas the regulatory control exercised by the United States Shipping Board Bureau over domestic carriers has been of such limited character that its experience in these matters cannot be compared with that of the Commission, either in breadth or thoroughness. To illustrate, I understand it was necessary for the Shipping Board Bureau to obtain trained personnel from the Commission in order to carry out the powers delegated to it under the Intercoastal Shipping Act, 1933, and the only thorough investigation of rates and practices in the intercoastal trade ever made by the Bureau has been conducted by an examiner obtained from the Commission for that purpose.

There is no reason to believe that the members of the authority would be intimately acquainted with water transportation or with rate regulation. In fact, one gets the impression from section 201 (b) of the bill that the members of this authority probably would not be selected from the shipping industry. In contrast with this, the provisions of H. R. 5379 (Water Carrier Act) make it mandatory that all officers and employees of the Division of Regulation be transferred to the Commission, thus making certain that the Commission would have the benefit of the services of those in the Bureau who are familiar with, and have been handling, these matters.

It seems to me, Mr. Chairman, that particular significance should be attached to the fact that the coastwise and intercoastal steamship lines, representing most of the common-carrier investment in these trades (as distinguished from those carriers with industrial affiliations, and who, therefore, are opposed to the so-called "Water Carrier Act" for other reasons), have endorsed the provisions of this bill and strongly advocate the centralization of regulatory authority over domestic carriers in the Interstate Commerce Commission. It seems to me there can be no more striking evidence of the competency of the Commission, or of its fair dealing, than the advocacy of this bill by those steamship lines, the majority of whose rates have been subject to its regulation.

Moreover, the report does not deal with the vital question of competition between the various modes of transportation in interstate commerce. Unless rate regulation for competing forms of transportation can be centralized in a single Federal agency, and unless this agency is mandated by Congress "to recognize and preserve the inherent advantages" of each such form of transportation in the public interest, there will be no protection against competition that may destroy the water-carrier services which, I am sure, you and your committee are most anxious to maintain and develop.

Yours very truly,

A. D. STEBBINS, *President.*

Senate bill 1632 expressly provides that the Interstate Commerce Commission, in determining rates by water, must recognize and preserve the inherent advantages of water transportation over railroad transportation. There are persons who seem to be fearful that the Interstate Commerce Commission is railroad-minded; that it is going to wipe out the merchant marine; yet we have a letter from the Merchants & Miners Transportation Co.—a company with which I am not familiar, but which, I understand, is one of the substantial transportation lines of the United States—in which they ask that the pending bill be passed, and say that if it is not passed they fear that there will be rate cutting indulged in between the railroads and the water shipping interests which will prove fatal to the water shipping interests, and they desire that the regulation of both interests to be in the hands of one commission, and they also say they have faith in the fairness of the Interstate Commerce Commission.

Mr. BLACK. Mr. President——

The PRESIDING OFFICER (Mr. TRUMAN in the chair). Does the Senator from Montana yield to the Senator from Alabama?

Mr. WHEELER. I yield.

Mr. BLACK. I am interested in the Senator's statement as to what the Interstate Commerce Commission shall have authority to do, but I will state that from my reading of the bill I am not so much disturbed about the question of its destroying the shipping interests as I am that the provisions of the bill may not properly protect the public. I find on page 23 that in considering rates the Commission cannot under any circumstances consider the earning powers of the particular business. I find in the provisions with reference to penalties that the only penalties are for carrying goods too cheaply. I do not find any penalty provided for carrying goods at too high rates or for charging too much.

Mr. WHEELER. "In any proceeding to determine the justness or reasonableness of any rate"—that is the provision to which the Senator has reference on page 23 of the bill?

Mr. BLACK. Yes; on page 23 of the bill; and the other point I had in mind is with reference to the provisions on page 54.

Mr. WHEELER. On page 23 it is provided:

> In any proceeding to determine the justness or reasonableness of any rate, fare, or charge of any interstate common carrier by water there shall not be taken into consideration or allowed as evidence or elements of value of the property of such carrier either goodwill, earning power—

And so forth. In other words, the Commission shall not take into consideration goodwill and similar intangibles in determining rates.

Mr. BLACK. I agree to that.

Mr. WHEELER. And the Commission shall not take into consideration the earning power.

Mr. BLACK. Suppose a company is earning 300 percent?

Mr. WHEELER. Let us suppose that one company does earn 300 percent and should come before the Interstate Commerce Commission and say, "Because we earned 300 percent last year our property should be valued not according to what we have actually put into it, but should be valued based upon the earning power." The reason that provision was put into the bill was to provide a basis for the Interstate Commerce Commission upon which to fix minimum rates, so that no company could say that the value of its property for rate-making purposes is, let us say, $5,000,000, because the company earned during the past year 8 percent, or 10 percent, or 6 percent upon $5,000,000; but that the rate should be based upon the actual investment, insofar as Congress can prescribe what shall be considered as determining fair value for rate-making purposes; the fair-value rule is a rule established by the Supreme Court in the nineties in Smyth against Ames.

Mr. BLACK. If it is clear that the bill is limited to the purposes indicated by the Senator from Montana, that is all right; but I have looked in vain for anything which gives real authority to fix rates, so that it shall be unlawful to charge more than the rate fixed. In many places I find that it is unlawful to carry for less than a certain rate.

Mr. WHEELER. There is a provision in the bill, to which I cannot turn at the moment, but I shall have the expert find it for me, which provides that interstate common carriers by water must file their rates with the Interstate Commerce Commission, which may order them changed if unreasonable. At the present time there are no minimum water-carrier rates fixed at all. The water carriers simply file maximum rates at the present time, and they can cut them below them or change them by filing new ones upon 10 days' notice. Under the provisions of this bill the common carriers by water in interstate commerce must file rates within a certain time, and thereafter adhere to them until changed upon proper notice to the public. The rate provisions are similar to those at the present time applying with reference to the railroads engaged in interstate commerce.

Mr. BLACK. I do not think the present law with relation to interstate commerce goes far enough.

Mr. WHEELER. It may not go far enough, and in that I agree with the Senator. However, in my humble judgment we could not get anything through Congress which went further than to provide for water carrier's rate provisions similar to those governing the railroads as to the prudent investment. It is a question whether the Supreme Court of the United States would sustain anything which went further than what has been provided in this bill.

Mr. BLACK. Let me tell the Senator what I have in mind. The antitrust law is suspended. Competition is abandoned.

Mr. WHEELER. It is now.

Mr. BLACK. I am not sure that competition is completely abandoned with reference to rates, because one of the things intended to be covered by this bill is to give added guaranties that there will not be any cut rates. The antitrust law is suspended. I find no provision in the bill which gives the Interstate Commerce Commission authority to investigate anything except the original company. I find nothing to protect the people from the same holding-company system which has been used to rob the public in various lines of business activities. I find nothing in the bill which gives the right to investigate the books of the subsidiaries, the associates and affiliates, which, in connection with shipping, as in connection with other lines of business, are used to drain the profits of the operating companies and bleed the public.

In other words, it seems to me that this bill certainly needs to have in it some provision protecting the consumers. I am not saying this as being antagonistic to the bill, for I have an idea that it would be wise to coordinate all methods of transportation under one regulating unit, such as the Interstate Commerce Commission, but I think if we are going to bring these business activities under the Interstate Commerce Act it would be wise to bear in mind that since the old law was enacted we have discovered the evils of the holding company system, and we ought to place a provision in this particular bill protecting the public from such evils, because I know that the same practices are used in connection with shipping. I know that intercoastal shipping has a monopoly and that no foreign company can come in and compete with our intercoastal shipping. With reference to the intercoastal shipping we waive the antitrust law.

What I am interested in—and I should like to have the Senator explain this feature, for I have not studied the bill as thoroughly as I might have done—is this: What protection is offered by the bill against unfair rates? What provision is there as to ascertaining the percentage the companies are making on their investments? What limitation is made as to their profits? What protection is given under the provisions of the bill against draining the company's profits by means of inordinate salaries and bonuses, against which we should provide regulation when we abandon competition? In other words, when we abandon competition in any field, I take it we can regulate against selling any commodity too cheaply, and we must attempt to prevent the dissipation of the accumulations from unfair, unjust, and exorbitant profits, which can be brought about through various channels, holding companies, subsidiaries, salaries, bonuses, and all the methods which have been used.

Mr. WHEELER. I will say to the Senator that I am in thorough accord with his views. Instead of this bill going too far, as some people think it does, I am of the opinion that in its regulatory provisions with reference to rates it probably does not go far enough. However, the bill does provide and it does give the Commission the power, if properly exercised, to go into many of the things which are specified here, because when the Commission goes into the question of rate making, I think it has a right to figure the basis upon which the Commission can fix a reasonable rate under all the circumstances. If the Commission finds that companies are charging exorbitant rates, and paying inordinate salaries, and doing certain other things, then it has a right to take them into consideration.

Mr. BLACK. It has never done so.

Mr. WHEELER. I agree with the Senator that it has not gone so far with reference to the railroads. I think the Commission should have gone further with reference to the railroads. I think the Commission has taken the position with reference to the railroads that perhaps it did not have the power to go as far as some of the members of the Commission thought they should go.

Mr. BLACK. Why not impose that duty upon the Commission?

Mr. WHEELER. I do not have any objection to such a provision.

Mr. BLACK. On page 50, for instance, I find that the Commission would have authority to investigate the books, papers, accounts, and so forth. In my judgment, that would not give the Commission the right to investigate the books and accounts of associates and affiliates. Associates and affiliates are not outlawed by the bill. Therefore, we must carry our authority further; either to outlaw associates, affiliates, subsidiaries, and so forth, or the Interstate Commerce Commission must be given authority to go into their books and papers, and their profits must be considered as a part of the profits of the entire system.

Mr. WHEELER. If the Senator from Alabama will offer an amendment to give the Interstate Commerce Commission the authority and power to investigate such matters, I shall be perfectly willing to support it.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. NORRIS. I ask the Senator, in view of the question asked by the Senator from Alabama, whether this bill if enacted into law would give to the Interstate Commerce Commission the same power with reference to the matters mentioned by the Senator from Alabama as it has with reference to the railroads?

Mr. WHEELER. Yes; my understanding is that the Commission would have the same power over the rates and amounts of interstate commerce carriers by water as they have at the present time over the railroads.

Mr. NORRIS. The Senator from Alabama mentioned several provisions which I think ought to be in the Interstate Commerce Act and apply to railroads as well as to water transportation.

Mr. WHEELER. I also think so.

Mr. NORRIS. But I do not believe we ought now to go further with the shipping on the rivers, for instance, than we have already gone with the railroads.

Mr. WHEELER. I was going to say to the Senator that at the present session of Congress an investigation of the railroads has been ordered. I have appointed a subcommittee; we are starting out to undertake an investigation along the lines the Senator has suggested with reference to the financing and with reference to holding companies. After that investigation, we hope, I may say, to report back to the Senate some recommendations designed to prevent in connection with the railroads the milking operations on the part of some of the banking interests and holding companies. It seems to me that then would be the time to consider that phase of the subject.

Mr. NORRIS. It seems only fair that the Interstate Commerce Commission should have the same right in fixing rates to investigate anything that may be necessary as to a steamship company that they have as to a railroad company or a bus line or a truck line. I do not see how we can properly regulate all these means of interstate commerce unless the regulating body—and that, it seems to me, ought to be one body, and not five or six different bodies—has the same power in reference to every one of the various activities which are engaged in interstate commerce. If they have not now such authority, as, in some respects, I think they have not, as regards the railroads, there ought to be such authority provided in a general law, not in a specific one applying to one branch of interstate commerce only. There ought to be a general law giving them the authority properly to investigate as to every activity engaged in interstate commerce.

Mr. WHEELER. Let me call attention to the provision on page 46, which reads:

(2) Whenever a person who or which is not an interstate common carrier by water or an interstate contract carrier by water is authorized, by an order entered under paragraph (a) (1) of this section, to acquire control of any such carrier by water or of two or more such carriers, such person thereafter shall, to the extent provided by the Commission, for the purposes of section 315 relating to accounts, records, and reports, including the penalties applicable in the case of violations thereof, be subject to the provisions of this part.

In other words, that is intended for the purpose of covering the holding companies or a person who holds just as it does the common carrier itself.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. BLACK. Mr. President, I do not believe that provision will cover the situation. I say this because the Shipping Board has never investigated any associates or affiliates or subsidiaries under the old law, and all the companies have claimed that the law did not justify such investigation. The result was that in some instances as many as 50 stevedore companies and wharfage companies, and other kinds of companies, were discovered in a network. Their books had never been investigated. This bill would give the right to investigate certain companies where the Commission had granted them permission to secure control, but it would not cover other companies.

One other suggestion: Let us take the barge line down the Mississippi and let us suppose that that barge line can actually carry goods and make a reasonable profit at a certain rate. I do not want this proposed law to authorize the Commission to require them to raise their rates far above what would give them a reasonable profit and thereby deprive the shippers and the public of the benefit of the cheaper rates.

Mr. WHEELER. I do not think that the Commission could do that.

Mr. BLACK. The bill makes it a misdemeanor to carry goods at any less rate than that fixed, and it does not in any wise, so far as I can see, prescribe that the Commission shall take into consideration the profit that is being made by the shipping company.

Mr. WHEELER. Oh, I think it does. Let me call attention to the reference to affiliate holding companies, and so forth, on page 50, section B–1, which reads:

This provision shall apply to receivers of carriers and to operating trustees thereof and, to the extent deemed necessary by the Commission, to persons having control, direct or indirect, over or affiliated with any such carrier.

In other words, the purpose was to give the Commission the same power over affiliates and holding companies as it has over the carriers themselves.

With reference to the rates, there is, as the Senator knows and as everybody concedes, a chaotic condition in the shipping business at the present time. There may be some who argue—and I am not sure but that they are right—that we should let unrestrained competition continue. The reason why we adopted the Interstate Commerce Commission Act and the regulatory features of the Transportation Act was that if we allowed competition to go on unrestrained, while temporarily rates might be reduced below the cost of transportation, eventually when all competitors had been wiped out, then rates would be raised above what they should be. The railroads a few years ago did that very thing. They lowered their rates and, to a large extent, drove competition off the rivers and off the coastal routes. We have sought here since to build up the water carriers.

The railroads are constantly going to the Interstate Commerce Commission asking that their long-haul water-competitive rates be lowered, while maintaining higher intermediate rates on noncompetitive traffic, so that they may drive the water carriers off the Mississippi River and other waterways. They say, "Well, these forms of transportation are unregulated. You regulate us; you fix our rates; and you let them take our business away." There is some excuse for the Commission, which does not have anything to say about most port-to-port water transportation or about the conditions under which it is operated, at the present time

to permit lower long-haul railroad rates so as to let the railroads meet the water competition. The railroads are carrying on a propaganda from one end of this country to the other for the repeal of the long- and short-haul clause of the fourth section.

They do not think that the Interstate Commerce Commission is railroad-minded, because the Commission at the present time has the power under the long- and short-haul clause to permit the railroads to reduce rates to meet water competition; but they have not exercised that power nearly so much as the railroads have wanted. So the railroads desire to take away entirely that authority from the Interstate Commerce Commission in order that they may themselves regulate the question of long- and short-haul discrimination and lower only their long-haul water competitive rates and drive water competition off the coastal and intercoastal routes and off the rivers, all the while maintaining higher rates to intermediate points to recoup the loss. That propaganda has been carried on and is being carried on at the present time. A bill has been introduced in the House of Representatives to that effect. I have been appealed to by labor organizations, I have been appealed to by chambers of commerce, I have been appealed to by all classes to work for repeal of the long- and short-haul clause of the fourth section so as to give the railroads this power which they seek, and I have said that I would not do it. One of two things is going to take place in this country; either we are going to have no regulation of transportation or we are going to have some fair form of regulation of the transportation systems competing with the railroads. It is up to Congress to decide. If it be said we do not want the regulation of the competing carriers, then we cannot well continue to regulate one form of transportation and expect it to survive in competition with the others.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. BLACK. I may say to the Senator that so far as the talk about the Commission being railroad-minded is concerned, I am not disturbed about that, except that if I thought it was railroad-minded, since it is regulating the railroads, I think it would be a good idea to abolish it entirely or to impeach the members of the Commission or remove them. I think the trouble with too many commissions has been that they are minded in a certain direction. That is what I found to be the trouble largely with the shipping business. They were too shipping-minded from a shipping standpoint and the standpoint of profit; and I sometimes think it would be a wonderful thing to have the shipping interests regulated by the railroads and the railroads regulated by the steamship companies. In that way I think we would come nearer getting some kind of justice for the people who have their goods transported. So I am not disturbed about that.

Mr. WHEELER. It seems to me that it ill becomes any shipping interest to come here and say that he wants a special board just to regulate his particular business.

Mr. BLACK. That is what they all want.

Mr. WHEELER. Of course that is what they all want. The shipping interests want a board set up for themselves which not only first will give them a subsidy——

Mr. BLACK. A subsidy which they can suggest and which they can name.

Mr. WHEELER. Yes; they want first to have a subsidy, any kind of a subsidy, and that they shall be able to do anything they want with it, and then they want the same board to regulate them.

Mr. BLACK. Certainly. I found hundreds and hundreds of letters written in the effort to determine who should be named to succeed a certain person on the Shipping Board by the very people who were to be regulated. Efforts were frequently made, and frequently carried out, to name them and to name them all the way down to the subordinates who handled the smallest detail. I am not interested in that feature; I am not disturbed about the alleged railroad-mindedness of the Commission; but what I am interested in is that we do not have a repetition of what has happened with reference to the railroads. If we are going to undertake this regulation and do away with competition, there must be absolute safeguards to prevent the accumulation of huge profits or the diversion of funds into associates, affiliates, and subsidiaries to build up a capitalization, and then demand that the public shall pay rates on that excessive capitalization. That is one of the troubles with the railroads now. What I am interested in is to see that this bill—I am perfectly willing to have it to amend the whole act, as suggested by the Senator from Nebraska—shall give the Commission adequate authority. I should like to outlaw associates, affiliates, and subsidiaries and other devices for stealing; but if that is not to be done, then I do think we have got to be sure that we give complete power to regulate every contract and look at every book and every letter and every piece of correspondence which passes between these interests and those with whom they make the contracts.

Mr. WHEELER. Let me say to the Senator, first, I think this bill does give them the power to do what he suggests. On page 22 it is provided:

(b) Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of opinion that any individual or joint rate, fare, or charge demanded, charged, or collected by any interstate common carrier or carriers by water for transportation subject to this part or any regulation or practice whatsoever of such carrier or carriers relating to such transportation, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any provision of this part, it may determine and prescribe the lawful rate, fare, or charge, or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful regulation or practice thereafter to be made effective.

It gives them complete power to determine what is a just and fair rate and what is a discriminatory rate and what is a reasonable rate. It is practically the same provision that is found in the Interstate Commerce Act with reference to the regulation of the rates of railroads.

Mr. BLACK. I may say I read that provision, but on page 54 it is made a misdemeanor, not to get too much, but to charge too little. I find it is borrowed from the old Interstate Commerce Act, and the constant effort is to protect against too small a charge. I think there must be some kind of standard set-up which gives the Commission the right to consider, in determining what is a just and reasonable rate, not what some other carrier might think is a just and reasonable rate, but how much are the carriers making and how much profit goes to them directly or through their associates and subsidiaries and affiliates from the rates which are fixed. I do not find such a provision anywhere.

I know that the Senator's ideas and mine are exactly in accord on that line, and it is for that reason I wanted to suggest that somewhere the Commission ought to be compelled to take into consideration the earning power. The only place I find that referred to is where it is eliminated.

Mr. WHEELER. If the Commission finds that a rate is too high or too low, either one, and makes a rate which it says is just and fair and reasonable, and if a shipping company violates that order made by the Commission, it will be found in the general provisions of the bill that such violation is construed to be a violation of the law and may be punished as such. Also, I may say that if a common carrier by water charges too much the shipper may obtain reparation under section 308, if in interstate commerce, or under the reparation provisions of the present laws regulating shipping mentioned in section 323, if in foreign commerce.

Mr. BLACK. If the Senator will look at page 54 of the bill he will see that it is made a crime to give rebates of any kind or to transport at less than the rates and fares charged. I do not find anything that makes it a misdemeanor to charge more than the Commission says may be charged. It may be in the bill, but I cannot find it.

Mr. WHEELER. It is provided as follows:

SEC. 319. (a) Any person who knowingly and willfully violates any provision of the preceding sections of this part, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate or permit for which no penalty is otherwise provided, shall be deemed guilty of a misdemeanor and upon

conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was in whole or in part committed shall be subject for the first offense to a fine not exceeding $500, and for any subsequent offense to a fine not exceeding $2,000. Each day of such violation shall constitute a separate offense.

Mr. BLACK. When it comes to specifying in subdivision (b) it may be well to add the word "more", where it says it shall be a misdemeanor to transport at less than the rate, so it would read "at more or less than the rate."

Mr. WHEELER. I have no objection; but I think the first provision entirely covers it, because it provides that if a carrier shall violate any rule or regulation, where there is no other penalty provided, it shall be deemed to be guilty of a misdemeanor. I am sure it is covered.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. WHITE. It would be reached by the general authority to provide both maximum and minimum rates, so it would cover it whether it was above or below.

Mr. WHEELER. Yes.

Mr. COPELAND. Mr. President, will the Senator yield for a question?

Mr. WHEELER. I yield.

Mr. COPELAND. We have drifted somewhat away from the debate as it started. The Senator called attention in his remarks that the railroads wanted to get rid of section 4. Is that correct?

Mr. WHEELER. Yes.

Mr. COPELAND. And that there is a desire on their part to lower their rates, and that the Interstate Commerce Commission had disregarded that appeal; so we have to assume, since it is the same Commission, that they would continue to disregard the appeal for lower railroad rates. Then, of course, if there is not to be offensive and harmful competition by reason of the difference in the rates, and the Commission will not lower the railroad rates, in order to do away with the competition they would have to increase the ship rates.

That is a reason why I do not like the bill. That is exactly what would happen. If the Senator were here with a bill reorganizing the Interstate Commerce Commission so there would be a division devoted to water carriers, pipe lines, and so forth, that would be one thing; but to have the same Commission pass upon all these rates is another question. In spite of all that has been said, I continue to maintain that the Commission would be railroad-minded. How could it do otherwise than direct an elevation of the steamship rates and a destruction of the steamship companies?

Mr. WHEELER. As a matter of fact, what I said, and the Senator apparently did not understand what I said, was that what the railroads want is a repeal of the long- and short-haul clause of section 4. They have constantly appealed to the Interstate Commerce Commission to get the Commission to lower the long-haul rates where the railroads come in competition with the ship interests for the purpose of driving the ship interests off the Mississippi River and similar places, or at least to lower the rates to such a point that the railroads would be enabled to take a lot of the business. In some cases where the railroads have made a proper showing the Commission have authorized them to lower these long-haul rates, while maintaining higher intermediate rates, but the ship interests, the very people whom the Senator now mentions as being destroyed, were the ones who came before the Commission and protested against the railroads lowering those long-haul water-competitive rates because it would injure the ship interests and drive them out of business.

The point I make is that I do not believe a careful examination of what the Interstate Commerce Commission has actually done in these matters lays them open to the charge that they are railroad-minded to the extent which has been stated on the floor of the Senate. I do not believe it is fair to the Commission to say it, and I do not think it is true that they have been railroad-minded to that extent.

Mr. President, I want to proceed with an explanation of the bill because there has been so much misinformation given out as to what the bill actually proposes.

The bill under consideration builds for the most part on established precedents. It proposes to extend to other interstate common carriers the general type of regulation which was applied to intercoastal carriers by the Intercoastal Shipping Act of 1933, known as the "Copeland Act" in conjunction with the earlier shipping act, 1916. It perfects that regulation in certain particulars and provides a limited regulation of contract carriers. So far as shipping in foreign commerce is concerned, the bill works no change whatever in the laws now on the statute books. These go back for the most part to 1916.

This talk about the destruction of our American merchant marine and our foreign commerce is just so much nonsense, because there is nothing to it.

Two agencies now regulate domestic water carriers, the Interstate Commerce Commission and the Shipping Board Bureau of the Department of Commerce.

Let me say in that connection that part of the fight which is being waged here now is what we always find when we try to consolidate two or more bureaus into one organization. We find the people who are in one bureau opposing the loss of their power and their authority and having it given to some other department or bureau. Every time we establish a bureau in Washington, that little bureau becomes particularly jealous of its own jurisdiction over the work it is doing. If the President of the United States or the Congress should come to the conclusion that it ought to be consolidated and combined with another bureau, immediately we find that little bureau raising up its head and coming to some Senator or Representative and protesting against that being done.

I think every Member of the Senate who has come in contact with the long service of Coordinator Eastman has confidence not only in his honesty and his integrity, but his fairness.

There has not been a shipper, there has not been a person who has appeared before the committee, during all the time we have had hearings, who has not paid a tribute to Coordinator Eastman and his work, his fairness and his honesty—both the railroads on the one hand and the shippers on the other, the bus and truck people, and all of them.

As I said before, this is not my bill. This is the bill which was recommended by the Coordinator. The Office of the Coordinator was created by an act of Congress of the United States for the purpose of enabling him to make recommendations to the Congress as to what should be done with respect to regulating the various agencies of transportation.

Two major types of carriers are to be considered: the common carrier, who serves the public generally and especially the small shipper, and the contract carrier, who serves in the main the large industry or other shippers who can offer a sufficient volume of traffic to secure special rates. The bill undertakes to regulate the latter class of carrier only to the extent necessary to preserve and protect common-carrier service, which in most trades is in serious need of aid.

A brief explanation is necessary of the regulation now administered by the Interstate Commerce Commission on the one hand and the Shipping Board Bureau on the other, with indication of how and why the bill changes the existing set-up.

Domestic water transportation falls into a number of trades, which may be briefly indicated as the coastwise, the intercoastal via the Panama Canal, the Great Lakes, and the inland waterways, including principally the Mississippi River system and the New York Barge Canal. On these waters common and contract carriers ply in varying proportions. Alongside them is the private carrier, who may be anything from a local sand and gravel company to a great industry shipping its raw materials or finished prod-

ucts in competition with small industries. In each of these trades a distinction may also be drawn between the port-to-port operator and the operator who is a party to through routes and joint rates with the railroads. Carriers by water may also have joint rates with another.

If a water carrier enters into joint-rate arrangements with a railroad, these joint rates become fully subject to the Interstate Commerce Commission.

I desire to call the attention of the Senate to the fact that at the present time the Interstate Commerce Commission regulates joint rates between railroads and water carriers. Whenever a railroad and a water carrier enter into a voluntary joint rate the Interstate Commerce Commission has jurisdiction over that rate. At the present time the Interstate Commerce Commission also regulates most of the port-to-port rates of the coastal water carriers, because many of those coastal lines are owned by railroads. In many trades a very large volume of traffic moves on such joint rates. Such a carrier is not, however, regulated by the Commission in any other respect, except that the Commission may prescribe his accounting and require him to make reports. Though joint rates on the Mississippi and Warrior River systems date back to the period of Government operation of the railroads, their extensive use in this field dates from the passage of the Shipstead-Denison Act in 1928. By this act Congress mandated the Commission to permit such joint rates to become effective on application of the carriers and proof of their ability to render service. Such rates are now wide-spread in their application. Joint rates are of longer standing on the Great Lakes and in the coastal trades. Here the water carrier may petition the Commission to require the railroads to enter into such rates. Often, however, they are entered into on a voluntary basis. The Commission may also require the railroads to permit the construction of terminal trackage where necessary to facilitate the interchange of traffic between the rail lines and the vessels of the water carrier.

The Panama Canal Act, passed in 1912, required the railroads to relinquish their interest in boat lines in those instances where the Commission found such lines to be competitive with the parent company's rail lines. The railroad fleet was forced off the Great Lakes and their interests in certain other lines had to be relinquished. However, where the Commission found that continuance of railroad interests in steamship lines was justified the lines so exempted were required to come under thorough-going Commission control. In only their case are the port-to-port rates of water carriers subject to the jurisdiction of the Commission.

In short, the Commission can pass on the reasonableness of joint rail-water rates and prescribe maxima therefor and the divisions thereof; it can order such rates in over the objections of the railroads; it cannot prescribe minima for such rates. On the other hand, the port-to-port rates of railroad subsidiaries, which are not numerous but include several important operations along the Atlantic coast and between the Atlantic and Gulf coasts, are subject to the same regulation as railroad rates, and such companies are in most other respects subject to the Interstate Commerce Act.

The Commission has no jurisdiction at present over contract carriers or over carriers in foreign commerce.

Mr. WHITE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. BILBO in the chair). Does the Senator from Montana yield to the Senator from Maine?

Mr. WHEELER. I yield.

Mr. WHITE. The question I am about to ask is not a hostile one. On page 74 of the bill, section 321 transfers to the Commission the powers and duties vested in the United States Shipping Board by several enumerated sections. I notice that sections 18 and 19 of the Shipping Act of 1916 are not referred to in this enumeration; but on the following page, page 75, there is a provision repealing sections 18 and 19 of that act. I take it that in some other portions of the bill, in language appearing on pages 16, 17, and 18, there are reenacted some of the provisions of sections 18 and 19 which are repealed; but there is other language in section 18 of the Shipping Act of 1916 which I do not find, and I wondered whether it had been intentionally omitted or whether it had been overlooked.

I refer specifically to the language which gave to the Shipping Board authority over bills of lading, receipts, tickets, and the manner and method of presenting, marking, packing, and delivering property for transportation, and so forth. Such authority is found in section 18 of the act of 1916, which this bill repeals; and I have not been able to find, on reading the bill, that it is reinserted at any place. To repeat my question, I am wondering whether that was an intentional omission or whether it was overlooked.

Mr. WHEELER. If the Senator does not mind, I will pass over that matter now, and we will check up on it and come back to it.

The Shipping Board Bureau of the Department of Commerce has substantial control over common carriers in the intercoastal trade via the Panama Canal and limited control over common carriers operating on regular routes in the coastal trades and on the Great Lakes. As a practical matter, its only real power is in the intercoastal trade. In the other trades carriers are required to file with the Bureau their maximum rates and charge no more than the rates so filed. This requirement achieves little, however, as the rates filed are not the going rates but merely "paper" rates and are subject to change at the will of the carrier on 10 days' notice. Such carriers are forbidden to discriminate, but with rates made as they are there is little basis for effective action by the Shipping Board Bureau. The form of tariffs may be prescribed and reports may be required.

The greater authority the Bureau has over common carriers in the intercoastal trade is derived from the additions the Intercoastal Shipping Act, 1933, made to the Shipping Act, 1916. For the most part, the control exercised over rates is similar to that which the Commission has over railroad rates, except that it extends only to maximum rates. No power is given to prescribe minimum or specific rates. In this one trade carriers are now required to file their actual going rates and to adhere to them. Rates so filed are subject to suspension, and the Bureau may, after hearing, determine whether the rates proposed are justified. The Bureau has acted to remove discriminatory practices and has taken steps looking to the improvement of intercoastal tariffs, which, its investigations have indicated, are in a deplorably bad condition.

In this trade contract carriers are included in the definition of a common carrier, and are required to file and adhere to published rates, which are subject to suspension.

The Shipping Board Bureau has limited jurisdiction over common carriers—other than cargo tramps—engaged in shipping in foreign trade routes, and even more limited jurisdiction over persons furnishing wharfinger or other terminal service in connection with such common carriers. Its powers are derived from the Shipping Act, 1916, and, to a less extent, from the Merchant Marine Act, 1920. These acts were directed primarily to the promotion of our merchant marine; the powers of regulation conferred were such as were deemed necessary to protect our carriers and exporters against unfair competition of foreign operators. For many years this regulatory authority lay dormant, emphasis being placed on other matters. In recent years, however, the Shipping Board and its successor, the Shipping Board Bureau, have endeavored to use some of these powers to correct conditions in foreign shipping, which have become increasingly bad as world-wide trade depression has intensified the struggle for traffic. Rates may be altered to remove discrimination. Conference agreements are subject to approval, thus affording the Bureau a direct contact with domestic and foreign lines operating to and from our ports, and a limited but beneficial control over the rates and practices of such lines. It has the power to award reparation.

As the present bill proposes no change in the existing powers over foreign shipping but merely transfers them to the Interstate Commerce Commission, no further discussion of this field of regulation is necessary. It is expected that

if this bill is enacted the Commission will study the need for corrective measures and possible ways in which improvement can be brought about. Its recommendations can be considered at some future session of the Congress.

Before passing to the interstate section of S. 1632 it should be noted that the present jurisdiction of the Interstate Commerce Commission over water carriers is left undisturbed. Joint rates will be subject to part I, as will the port-to-port rates of railroad subsidiaries.

In preparing the interstate section of the bill much use was made of the Shipping Act, 1916, and the Copeland or Intercoastal Shipping Act, 1933. The general provisions of those acts and of S. 1632 relating to administrative procedure, enforcement, accounts, reports, and so forth, are substantially similar, and detailed comment is unnecessary. The same is true of many of the provisions relating to tariffs, rates, and discriminations. Where differences exist, the provisions of S. 1632 are more detailed and complete and therefore better adapted to securing effective results.

The respects in which S. 1632 adds to the existing regulation of water carriers, other than that now in the hands of the Interstate Commerce Commission, may be summarized as follows:

Rates: All common carriers, and not, as at present, only those in the intercoastal trade, will be required to file and adhere to their going rates; 30 days' notice of changes in rates, now required only in the intercoastal trade, supersedes the 10 days' notice required elsewhere; the Commission can, however, in its discretion, allow changes on less notice; rates are subject to a maximum suspension period of 7 months, compared with a 4 months' period in the intercoastal trade at present; to the present ineffective power to prescribe maximum rates is added the important power to fix minimum or specific rates. The Commission's control over rates is, however, subject to relaxation where this would be desirable and compatible with the purpose of the bill—see section 304 (e), which also has general application. The Commission is also directed by section 307 (e) to fix common carrier rates with a view to the inherent advantages of water transportation and to other circumstances surrounding such transportation.

The provisions with respect to contract-carrier rates are, for the most part, new. The only contract carriers now subject to regulation are those in the intercoastal trades. Under S. 1632, contract carriers are required to file schedules of minimum rates or charges, or, in the discretion of the Commission, copies of their contracts, but the Commission, in a proper case, may grant relief from this requirement. Contract carriers are forbidden to charge less but not more than the minimum, thereby preserving as fully as is consistent with the public interest, their freedom of contract with their patrons. No period of notice is specified for changes in rates. Upon complaint, or the Commission's own initiative, and after due hearing, the Commission may prescribe a minimum rate (307 (g)). There is no provision for the suspension of new or changed rates which may be filed by contract carriers. The Commission is expressly directed to consider the costs of service of such carriers and the effect which the minimum rates it may prescribe would have upon the movement of traffic by such carriers.

Certificates of public convenience and necessity, and permits: There are no precedents in existing regulations of water carriers for such certificates and permits, except that the Shipstead-Denison Act of 1928 requires the Commission to issue certificates to common carriers on certain inland waters on a showing that they are able to furnish service in cooperation with the railroads. Certificates and permits are an operating authority which define where the holders may operate. Operators in existence in 1934 are given certificates or permits as of right; others must prove that the addition of their services is necessary in the public interest. Operators who hold certificates or permits may add to their equipment "as the development of the business and the demands of the public shall require" (sec. 310 (d)). Revocation of certificates and permits can be made only for willful failure to comply with the terms of the act or the Commission's rulings thereunder and then only after proper notice.

Dual operation (sec. 311): Carriers may not conduct both common- and contract-carrier operations without the consent of the Commission. This control is needed to prevent unfair competitive practices and discriminations. Thus a common carrier could, if not checked, defeat his common-carrier rates by granting a special concession on shipments on a contract basis made by the same shipper.

Consolidations, mergers, and acquisitions of control (sec. 313): This provision is patterned after that of the Interstate Commerce Act and is intended to check the kinds of practices which have frequently had harmful effects in the railroad field. It applies only to common carriers and, in some respects, to companies authorized to acquire control of such carriers.

Issuance of securities (sec. 314): This provision has the same purpose as the foregoing. It also applies only to common carriers and will not reach the many small operators, and it does not come into play until a carrier's issues reached one-half a million.

Reparation (sec. 308): S. 1632, as amended on the floor last week, changes the period in which claims may be filed from 2 years, the present Shipping Act provision, to 1 year for reparation complaints and 1 year for overcharges. These changes correspond generally to those proposed to be made in the Interstate Commerce Act by a bill now before the committee (S. 1631), except that one provision of that bill would have made one time limit as short as 90 days.

Pooling and other operating agreements (sec. 309): The pooling or conference agreement section of S. 1632 applies only to earnings, losses, traffic, or service; section 15 of the Shipping Act embraces additional subjects of agreement, including the fixing of rates, giving special rates, accommodations, privileges, or advantages; controlling, regulating, or destroying competition; and preferential, exclusive, or cooperative working arrangements, and so forth. Many, if not all, of these matters are either unnecessary or inappropriate subjects of agreement under the provisions of this bill.

Prescription of accounts (sec. 315): S. 1632 adds to the present power of the Shipping Board Bureau to require reports, the important power to prescribe accounting for those water carriers not now subject to the Interstate Commerce Commission. This power, while discretionary with the Commission, is an essential one. Until it secured this power, in 1906, the Commission could exercise no effective control over carriers' accounting practices. There is every reason to believe that the accounts of water carriers are in as bad shape as those of the railroads formerly were and that they are even more lacking in uniformity. With the power to prescribe accounts goes the equally important power to inspect and audit the books of the carriers.

Other additions to present subject matter of regulation: The principal items to be mentioned here are the power to prescribe a uniform bill of lading (sec. 316); to impose penalties on shippers for soliciting or receiving rebates, and for making false claims, and on common carriers and their agents for disclosing information prejudicial to their customers (sec. 319 (f)); and for discriminatory practices with respect to the collection of freight charges (sec. 320). These additions are important but do not require explanation.

Mr. President, the bill amends the Interstate Commerce Act and is designated as part III thereof. A companion bill, Senate bill 1629, providing for the regulation of motor carriers in domestic and foreign commerce, was originally designated as part III. As that bill was reached first in the executive sessions of the committee, it was renumbered part II and as such was passed by this body on April 16. The water-carrier bill therefore becomes part III and all section numbers have been correspondingly changed.

SECTION 302, DECLARATION OF POLICY, DELEGATION OF JURISDICTION, AND APPLICATION

As is indicated in the committee's report on the bill, regulation of water carriers is at present very complete in some fields and incomplete or altogether lacking in others. Also, the administration of this regulation is divided between two Federal agencies—the Interstate Commerce Commission and the Shipping Board Bureau of the Department of Commerce. If common carriers by water, other than those owned by rail-

roads, enter into joint rates with the railroads, these rates, but not the port-to-port rates of such carriers, are subject to the jurisdiction of the Commission. On the other hand, steamship companies which were allowed to remain in railroad ownership after the passage of the Panama Canal Act in 1912 are subject to regulation by the Commission in all particulars, including their port-to-port rates. These companies are at present operating mainly along the Atlantic coast and between the Atlantic and Gulf coasts. The Shipping Act, 1916, vests in the Shipping Board, now a bureau of the Department of Commerce, a considerable measure of control over common carriers operating over regular routes on the high seas and Great Lakes in the domestic trades. The Intercoastal Shipping Act of 1933 materially strengthened the regulation of common carriers in intercoastal commerce by way of the Panama Canal and made contract carriers in that trade subject to the provisions of that act. Inland carriers, however, are under no regulation, except as they become parties to joint rates. Contract carriers, except in the intercoastal trade, are entirely unregulated. The Shipping Board Bureau has certain regulatory powers over shipping in foreign commerce, vested in it by the Shipping Act, 1916, and the Merchant Marine Act, 1920, as amended by the Merchant Marine Act, 1928.

The pending bill brings common carriers in all of the domestic trades under regulation and places contract carriers—those who do not hold themselves out to the general public but do business under charters, contracts, agreements, or arrangements—under a limited degree of regulation required to protect the common-carrier water service, in whose maintenance the general public has a vital interest. Such regulation is concentrated in one body, the Interstate Commerce Commission, to which also is transferred such regulatory authority as the Shipping Board Bureau now has over foreign shipping. The bill provides for the transfer of the regulatory personnel of the Shipping Board Bureau, as well as all of its records relating to matters of regulation. In this way the experience gained by the Shipping Board Bureau and the information it has collected are made immediately available to the Commission.

This explanation has been necessary in order that there may be proper understanding of the declaration of policy, which in this bill is particularly significant. Centralization of regulatory authority in a body whose duties, while they have embraced water lines, pipe lines, and other means of transportation and communication, have been primarily those of regulating the railroads, makes it essential that Congress give that body as definite directions as possible as to how it shall proceed in those instances where conflicting claims are made by the different agencies of transportation whose regulation is entrusted to it. These directions, embraced in the declaration of policy of this bill and also in that found in the companion motor-carrier bill, give assurance to these smaller but important carriers that their respective merits will be as fully recognized as possible and that the interests of one form of transportation will not be subordinated to those of another. The amendments made in committee strengthen the declaration of policy in this respect and emphasize the need for coordination between the water carriers themselves, between such carriers and other agencies of transportation, and in the regulation of all carriers. The provisions with respect to discrimination, preference, and unfair or destructive competitive practices are referred to in particular in subsequent sections of the bill and lay a stronger and more definite basis for administrative action.

Paragraph (b) of section 302 also contains an important statement of congressional policy. As originally drawn, the bill brought all interstate contract carriers within its terms. At the hearings various interests, particularly the Great Lakes bulk-cargo carriers and those operating tanker vessels, protested that they are conducting a special form of transportation and one which, because of its low costs and the specialized facilities used, is not competitive with common-carrier service by water, and therefore is not in need of Government regulation. It is said that competition assures the fixing of reasonable charges and without harmful effects on other agencies of transportation. The committee found that such claims are in large part justified, and considered the possibility of amending the bill to exempt carriers of bulk commodities. Difficulty was found, however, in drawing up such an exemption. For example, a commodity, such as coal, may not be competitive with common-carrier service on one trade route, but competitive with it on another. So also with grain. It was therefore concluded to lay down a precise statement of policy and to instruct the Commission to determine the transportation which, because of its not furnishing actual and substantial competition with common-carrier service, could reasonably be relieved from any regulation. This policy is declared in the following language:

> It is hereby expressly declared to be the policy of Congress to exclude from the provisions of this part transportation by interstate contract carriers by water which, by reason of the inherent nature of the commodities transported, their requirement of special equipment, or their shipment in bulk, is not actually and substantially competitive with transportation by interstate common carriers by water in the same trade or route. * * *

A very large portion of all traffic handled by contract carriers would be exempted under this provision. The Great Lakes ore carriers and the tankers may be cited as examples.

As heretofore stated, it is also the intent to regulate those contract carriers which do not fall within the exemption only to the extent necessary to protect common-carrier service by water. With this in mind, a number of changes, indicated presently, have been made in committee to lessen the scope of contract carrier regulation.

Section 302 (b) also makes it clear that, "unless and to the extent that the Commission shall from time to time find such application necessary to carry out the policy of Congress declared in section 302 (a)", the act shall not apply to interstate transportation, whether by common or contract carriers, within the limits of a single harbor or between places in contiguous harbors unless such transportation is part of a continuous through movement under a common control, management, or arrangement to or from a place without the limits of any such harbor or harbors. This conditional exemption also applies to transportation by ferry and by small craft of not more than 50 tons carrying capacity and to vessels carrying passengers only and equipped to carry no more than 16 passengers. Attention should be called to the fact that the material beginning at line 16, page 3, has been transferred from a later section of the bill. Paragraphs (c) and (d) have been shifted to section 323.

SECTION 303, DEFINITIONS

The only changes of importance in this section, other than those involving transfers of material, result from the elimination of all references to wharfingers (those, other than water carriers, who provide water terminal facilities) and private carriers and the curtailment of the provisions relating to shipping in foreign commerce. The reasons for these changes are discussed in the committee's report on this bill. The Coordinator is conducting additional investigations of the entire question of terminal charges and services; pending their completion, it seemed best to eliminate the provisions relating to wharfingers. With the elimination of the commodities clause, no need remained for the retention of other provisions relating to private carriers.

The definition of "interstate common carrier by water"—302 (d)—has been modified in order to make it conform to the legal conception of the term. The common carrier typically carries general traffic on regular schedules between designated termini, but he may also engage in irregular route service or confine his operations to one or a few commodities so long as he holds himself out to transport such commodities for all who apply. The terms "facility" and "transportation" are given broad meanings, as they are in the Interstate Commerce Act. The terminal operations of common carriers subject to regulation are thereby made expressly amenable to regulation, and a comprehensive coverage of all the incidental phases of transportation, such as storage, transfer in transit, refrigeration, and elevation, is assured. Otherwise the intent of the bill, to put all shippers requiring like service on an equal basis, might in this

respect be defeated by leaving loopholes through which concessions could be made.

The change in paragraph (j), eliminating the Philippine Islands and the Canal Zone from the terms of the bill, results in exempting transportation to or from or within such possessions from regulation as either interstate or foreign transportation. This result was not intended. Last week I offered an amendment, as follows:

[(m)] (*j*) The term "possession of the United States" shall include [the Philippine Islands and the Canal Zone, but this enumeration shall not be construed to exclude any such possession of the United States] *Puerto Rico, notwithstanding the provisions of the act of March 2, 1917, to provide a civil government for Puerto Rico, and any other act or acts which are inconsistent with the provisions of this part, and any other possession of the United States except as otherwise provided in this paragraph: Provided, That the transportation of property between any place in the Philippine Islands or the Canal Zone and any place in the United States or a Territory, District, or possession thereof shall be deemed transportation in foreign commerce, except that when property so transported is reconsigned or transshipped at any place in the Canal Zone to any place in the United States or any Territory, District, or possession thereof, such transportation shall be deemed transportation in interstate commerce: Provided further,* That nothing in this part shall be construed to affect the power of the government of the Philippine Islands vested in it by the second proviso of section 21 of the Merchant Marine Act, 1920, as amended, or by any other act or acts.

This change would, and properly, because of the special considerations which enter in in the case of both the Philippine Islands and the Canal Zone, exempt transportation within the islands or the Zone from regulation as interstate commerce.

SECTION 304, GENERAL POWERS AND DUTIES OF THE COMMISSION

This section confers general power on the Commission to make reasonable orders and regulations and to entertain complaints. The word "supervise" has been eliminated from paragraph (a) to meet the objection that it might place a responsibility on the Commission which more properly belongs to the managements of the carriers.

Paragraph (b) gives the Commission power to inquire into the organization of water carriers and the management of their business. This provision is similar to that found in the original Interstate Commerce Act, passed in 1887, which has frequently been resorted to by the Commission in making some of its most valuable investigations.

Paragraph (c) is of great importance. It enables the Commission to classify interstate common carriers and interstate contract carriers by water in special groups and to vary the regulatory requirements as to rates, accounts, reports, and other matters in accordance with the nature of the services rendered and the public need. Water transportation is a more varied form of transportation than rail and adjustments of the regulation and flexibility in its administration to satisfy special conditions will enable the Commission to avoid imposing unnecessary burdens upon the carriers. It is to the interest of carriers, shippers, and the public that this paragraph be retained.

Old paragraphs (d) to (g) are stricken because they relate to shipping in foreign commerce.

Paragraph (d) enables the Commission to relax the regulation where necessary to overcome the effects of the competition of carriers operating to or from a foreign port, where such competition is found to cause undue disadvantage to interstate common carriers or interstate contract carriers.

Paragraphs (e) and (f) empower the Commission to investigate and determine whether any water carrier has failed to comply with the terms of the act or the Commission's requirements thereunder, and provides for the rehearing of cases on which the Commission has rendered a decision. Paragraph (e) also enables the Commission to dismiss any complaint that does not state reasonable grounds for action on its part. This amendment was made to give assurance that water carriers will not be subjected to harassment by their competitors.

SECTION 305, INTERSTATE TRANSPORTATION—RATES, FARES, CHARGES, AND PRACTICES

Paragraph (a) imposes the duty on every interstate common carrier by water to furnish safe and adequate service at just and reasonable rates and charges and under reasonable regulations as to the services which the shipper or traveler is entitled to receive. Aside from the elimination of references to wharfingers, the principal change in this paragraph is the omission of the requirement that interstate common carriers by water enter into through routes and joint rates with common carriers by water in interstate commerce or with common carriers by railroad or motor vehicle. This change was made in committee in the belief that conditions in water transportation are not sufficiently stabilized to warrant putting this responsibility on water carriers. A similar change was made in the motor-carrier bill. However, the present Interstate Commerce Act authorizes the Commission to require a railroad to enter into through routes and joint rates with interstate common carriers by water on application of the latter. The latter carriers are permitted, by paragraph (b), to enter into through routes and joint rates with each other and also with common carriers by railroad or motor vehicles. Such joint rates, fares, and charges and, the divisions thereof, are required to be just and reasonable and to be free from prejudice to any carrier party thereto. Where these rates are made by water carriers and railroads they continue to be subject to part I of the act, and where they are made by water carriers and motor carriers they are subject to part II.

Paragraph (c) prohibits any interstate common carrier by water giving any undue or unreasonable preference or advantage to "any person, port, port district, gateway, transit point, locality, or description of traffic in any respect whatsoever", or from subjecting any such person, and so forth, to any unjust discrimination or any undue or unreasonable prejudice or disadvantage. Except for the addition of the words "port", "port district", "gateway", and "transit point", this paragraph conforms to the provisions of sections 2 and 3 of the Interstate Commerce Act, and is similar to sections 14 and 16 of the Shipping Act, 1916. The committee, in its report, has recommended the addition of the same words to the Interstate Commerce Act. The proviso has been added to protect carriers from claims of discrimination or prejudice by their competitors, though it is not absolutely essential in view of the interpretation put on section 3 of the Interstate Commerce Act.

SECTION 306, RATES, FARES, CHARGES, AND PRACTICES—CONTINUED

Paragraph (a) requires interstate common carriers by water to file with the Commission and keep open to public inspection tariffs showing all the rates and charges applicable to their services and all regulations which affect the value of such services. All references to the rates and charges of wharfingers have been eliminated.

Paragraph (b) enables the Commission to prescribe the form of publication and the manner of filing and posting such tariffs and to reject any tariff not complying with its requirements.

Paragraph (c) contains a rigid prohibition against any departure from lawful tariffs.

Paragraph (d) requires 30 days' notice of any change in any rate, charge, regulation, or practice except that "the Commission may, in its discretion and for good cause shown, allow changes upon less notice than that herein specified, or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special circumstances or conditions." This exception, which is comparable with section 6 (3) of the Interstate Commerce Act, and section 2 of the Intercoastal Act, will, as in the case of the railroads, afford a means of adapting the tariff requirements to conditions which require either immediate action or warrant special consideration.

Paragraph (e) applies to charges of contract carriers by water. Such carriers are required to file with the Commission and keep open to public inspection, in accordance with the regulations prescribed by the Commission, schedules showing their minimum rates or charges, or, in the discretion of the Commission, copies of every contract, charter, agreement, or undertaking to which such carriers are parties. Permission to file schedules of minimum charges was added by amendment to make the requirement less onerous,

An amendment was also made in committee which prohibits the charging of a less compensation than the minimum rates or charges thus established. This requirement is more in keeping with the nature of contract-carrier operations than would be a rigid requirement of adherence to a specific rate or charge. It is also in line with the Commission's authority to prescribe rates, given in section 307 (g). The proviso in this paragraph enables the Commission, "in its discretion and for good cause shown", to grant relief from the provisions of this paragraph. A more flexible and less burdensome administration of the regulation will thus be enabled, in line with the general policy of the act of not placing more regulation on contract carriers than is essential for the protection of common-carrier service by water.

SECTION 307, COMMISSION'S AUTHORITY OVER RATES, ETC.

Paragraph (a) provides for the reception of complaints against the rates, charges, or practices of interstate common carriers and interstate contract carriers by water. The elimination of reference to joint rates with motor carriers is made because jurisdiction over such rates is carried in part II. The last sentence has been transferred to section 304 (e) to give it general application, as indicated in an earlier paragraph.

Paragraph (b) empowers the Commission, on a finding after hearing, on complaint or on its own initiative, that any individual or joint rate, charge, or practice is unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of the provision of the part, to prescribe—

The lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful regulation or practice thereafter to be made effective.

The substitution of "may" for "shall", in line 17, is for the purpose of relieving the Commission from entering a mandatory order in cases where a recommendation or opinion would serve to correct the conditions complained of. The discretionary power thus conferred is similar to those given in section 15 (1) of part I.

Old paragraph (c) has been eliminated along with other provisions relating to mandatory through routes and joint rates.

New paragraph (c) is a protection against claims for rates based on goodwill or earning power and against setting up values based on the privileges conferred upon the carriers by the terms of the bill.

New paragraph (d) empowers the Commission to pass upon the divisions of joint rates to which carriers by water are parties and to prescribe proper divisions. The material eliminated is pertinent to joint rates with motor carriers and to mandatory joint rates.

New paragraph (e) should be read in connection with the declaration of policy in section 302 (a). The wording follows that of section 15 (a) of the Interstate Commerce Act, as amended in 1933, except that, as an additional protection to water carriers, it directs the Commission to give due consideration to the inherent advantages of water transportation. The intent is to require the Commission to fix water rates on a basis that, so far as possible, reflects the costs and advantages of water services. A similar paragraph is found in the companion motor-carrier bill.

Paragraph (f) gives the Commission the power to suspend proposed changes in rates, charges, regulations, or practices for a maximum period of 7 months beyond the time when they would otherwise go into effect. It is similar to section 15 (7) of the Interstate Commerce Act, and to section 3 of the Intercoastal Act, 1933, except that the latter provides a suspension period of 4 months. The change in the last two lines is made to protect the initial filing of tariffs by all carriers in operation when this section takes effect and not merely those of carriers covered by the grandfather clause of section 310.

Paragraph (g) empowers the Commission to find, upon a finding, after hearing upon complaint or its own initiative, that any rate, charge, regulation, or practice of a contract carrier or the form or provisions of any charter, contract, agreement, or undertaking contravenes the policy declared in section 302 (a), the minimum rate or charge or the regulation, practice, and so forth, to be observed for the future. The Commission is directed, however, in making such a determination, to give no undue advantage or preference to any such contract carrier in competition with any interstate common carrier by water, and also to give consideration to the cost of contract-carrier service and to the effect which its requirements may have upon the movement of traffic by such contract carriers.

The changes here suggested are for the purpose of giving further assurance that in fixing minimum rates the Commission will give due consideration to the costs of contract-carrier service and to the effect which such rates may have upon the movement of traffic by such carriers. The ability of many shippers to provide their own facilities, and thus to shift the movement of traffic from contract to private operation if the minimum should be made too high, is one factor of importance in that connection. In other words, the Commission is to afford reasonable protection to common-carrier service, but is to avoid prejudicing contract carriers by requiring them to charge rates which will drive their traffic to private carriers.

Old paragraph (i) has been transferred to section 304 (f).

SECTION 308, REPARATION

The awarding of reparation to shippers who are overcharged or who sustain damage through the application of unreasonable, discriminatory, or prejudicial rates or practices is provided for in this section of the bill. As originally drawn, these provisions applied to contract carriers and wharfingers as well as to common carriers. By committee amendment wharfingers and contract carriers were eliminated, the former for reasons already stated, and the latter because the power to award reparation against contract carriers would not be in keeping with the special contractual relationship between such carriers and their patrons and with other provisions of the bill which authorizes the Commission to prescribe only minimum rates for contract carriers.

Sections 22 and 30 of the Shipping Act confer upon the Shipping Board similar powers with respect to awards of reparation, but are less specific and ample in the matter of procedure and other details. This section of the bill is patterned upon section 16, paragraphs 1 to 4, inclusive, of the Interstate Commerce Act, but varies from the provisions of that act and also those of the Shipping Act with respect to the periods of limitation for bringing complaints or suits. The Shipping Act fixes a uniform period of 2 years for the filing of all complaints. The Interstate Commerce Act allows, subject to certain modifications, 3 years for the commencement of actions for overcharges or undercharges, and 2 years for the filing of reparation complaints which are not based on overcharges. The present bill limits the period for the commencement of actions for overcharges and also for undercharges, subject to the exceptions in paragraph (c) (4), to 1 year from the time the cause of action accrues, and the period for bringing other reparation complaints is shortened from 2 years to 90 days. Corresponding changes are proposed in the Interstate Commerce Act in a bill, S. 1631, now pending before the committee. The periods of limitation should be uniform for reparation proceedings against railroads and all common carriers by water in the interstate trades. The shortening of these periods as proposed would eliminate considerable injustice inherent in the present situation and would not subject shippers to any undue hardship or inconvenience.

The changes in paragraph (c) (8) of this section have been made in order to simplify the language and to provide a reasonable period for the beginning of proceedings where the cause of action has accrued prior to the passage of the bill.

SECTION 309, POOLING AND OTHER OPERATING AGREEMENTS

This section extends to interstate common carriers by water the right to pool or apportion traffic, service, earnings, or losses. The privileges accorded are somewhat broader than those granted the railroads in 1920 by amendment of section 5 (1) of the Interstate Commerce Act, but

are less inclusive than those accorded to water carriers under section 15 of the Shipping Act. The Commission is given authority to approve, disapprove, or modify any such agreement. The parties to agreements approved by the Commission are relieved from the provisions of the antitrust laws. The railroads have not to any great extent used their authority to pool traffic and earnings and water carriers may find less need for such authority under the regulation provided by the bill than they have had for it heretofore.

SECTION 310, CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND PERMITS

Paragraph (a) requires all interstate common carriers by water to obtain certificates of public convenience and necessity before engaging in operation. These certificates are to be issued as of right to all carriers which were in operation in the year 1934 over the route or routes or in the trade or trades for which application is made and have continued their operation to the date of application. The addition of the words " or in the trade or trades " is made to cover irregular route operations; omission of the word " continuous " and addition of the words " in either event " provide assurance that a merely temporary interruption of service will not debar the granting of applications under the so-called " grandfather clause." At the request of the operators, the period within which application may be made for a grandfather certificate has been extended from 60 to 120 days. All references to certificates for wharfingers have been eliminated in this and the remaining paragraphs of this section.

Paragraph (b) merely outlines the general procedure for making applications and, as amended, enables a carrier which is not covered by the grandfather clause to continue in operation until his application is considered by the Commission.

Paragraph (c) requires the Commission to issue a certificate if it finds that the applicant is fit, willing, and able properly to perform the service proposed and that the service, to the extent authorized, is or will be required by the present or future public convenience and necessity.

Paragraph (d) indicates that a certificate issued to any carrier is to show specifically the route or routes over which, the port or ports to or from which, or the trade or trades in which such carrier is authorized to operate. It also empowers the Commission to attach, at the time of issuance or thereafter, reasonable terms, conditions, and limitations, including those relating to the extension of the route or routes. By amendment in committee the provisions relating to certificates have been considerably liberalized by adding " trade or trades ", by striking out the authority to attach limitations and conditions as to the furnishing of additional service within the field authorized by the certificates, and by adding in the proviso the express right of the carrier to add to his equipment facilities or service within the scope of his certificate as the development of his business and the demands of the public shall require. As amended, this paragraph substantially curtails the powers conferred by the original provisions, but nevertheless will enable the Commission to exercise a considerable measure of control over the amount of service rendered. It will have authority to prevent the possible future overtonnaging of routes to the disadvantage of operators already providing adequate service, but will be without power unduly to restrict the managements of the companies in adapting their service to changing conditions.

Old paragraph (e), which gave the Commission authority to pass on the curtailment or abandonment of service, has been deleted. This change was made in view of the claim of the carriers that they must be able to adjust their services to changes in demand and abandon operations as occasion may require. The railroads are not allowed, under section 1 (18) of the Interstate Commerce Act, to abandon their lines without receiving the prior consent of the Commission, but conditions in that field of transportation are different. It should be noted, however, that a water-carrier certificate would be subject to lapse with the abandonment of operation and that under paragraph (d) of this section and under section 313, relating to suspension, change, revocation, and transfer of certificates, and section 307 (f), giving the Commission the power to suspend rates filed by interstate common carriers by water, the Commission can exert considerable control over unwarranted abandonments or curtailments of service. The first eight lines of old paragraph (c) are in any event unnecessary in view of the provisions in paragraph (d).

New paragraph (e) merely prohibits the setting up by a carrier of the claim that a certificate confers a proprietary or exclusive right in the use of public waterways.

New paragraph (f) covers the granting of permits to contract carriers. Such carriers are protected by a grandfather clause similar to that found in the common-carrier section, and carriers in operation at the time this section takes effect but which are not entitled to a permit as of right are permitted to continue operations until their applications have been passed on. The other changes are the same as those made in paragraph (a).

New paragraph (g) indicates the procedure to be followed in applying for permits and requires the Commission to issue such permits if it finds that the applicant is fit, willing, and able to perform the service proposed and that the operation for which authority is sought will be consistent with the public interest and the policy declared in section 302 (a). This paragraph will apply, of course, only to contract carriers whose operations are found to be actually and substantially competitive with those of interstate common carriers by water. The changes made in committee liberalize the terms of the permits in a manner similar to that indicated in the case of certificates and make clear the intent to recognize contract carriage as a continuing business rather than a restricted operation under a particular contract or contracts.

OLD SECTION 311, REGISTRATION FOR PRIVATE CARRIERS BY WATER

This section has been eliminated for reasons indicated elsewhere.

SECTION 311 (OLD SEC. 312), DUAL OPERATION

In some instances water carriers find it advantageous to operate both as common carriers and contract carriers. The combination of the two types of service in one operator should not, however, be permitted without prior authorization by the Commission. Therefore, all operators proposing to institute or continue such dual operations are required to secure special permission under the terms of this section.

SECTION 312 (OLD SEC. 313), SUSPENSION, CHANGE, REVOCATION, AND TRANSFER OF CERTIFICATES AND PERMITS

(a) This paragraph empowers the Commission to amend, suspend, or revoke a certificate or permit, in whole or in part, for willful failure to comply with any provision of the part or any rule or regulation of the Commission promulgated thereunder. By amendment made to afford the carriers the greater security of tenure which they, at least, regard as necessary, the Commission is not to exercise its power of revocation without giving ample warning and opportunity to conform to its orders.

Paragraph (b) allows the transfer of certificates or permits with the approval of the Commission.

OLD SECTION 314, COMMODITIES CLAUSE

The original draft of the bill contained a commodities clause which, in terms, was somewhat more restrictive than that which was applied to the railroads by the Hepburn Act of 1906. However, the commodities clause in the present bill gave the Commission authority to grant exemptions where these would not be contrary to the public interest or the policy declared in section 302 (a). The industrially owned carriers raised much objection to this clause, urging that its enforcement would work a severe hardship on them and discourage the building of ships which are necessary for an adequate merchant marine. The committee eliminated the section with the idea that the Commission could observe the effect of such carriers on the conduct of the shipping business and recommend at some future time such legislation as it may deem to be necessary in the public interest.

SECTION 313 (SEC. 215 OF ORIGINAL BILL), CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL

This section sets forth the conditions under which consolidations, mergers, and acquisitions of control of interstate common carriers by water will be permitted, prohibits unifications which are not thus sanctioned, and gives the Commission supervision over such transactions. The provisions are derived from section 5, paragraphs (4) (a) to (15), of the Interstate Commerce Act and are substantially the same as those now applicable to railroads. In consonance with the provisions of section 5, paragraph (19) to (21), of that act, this section of the bill prohibits carriers by railroad from merging their properties with or acquiring control of such common carriers by water. Experience has shown that governmental control over unifications of railroads and public utilities in general is necessary in the public interest, and there is good reason to believe that such control would be beneficial with respect to common carriers by water.

The original bill applied to any part of the properties of water carriers as well as to the merger or acquisition of control of the entire properties. As amended by the committee, it would only apply to unifications of entire properties or a major part thereof. This change removes from the scope of the bill minor transactions which are without any real significance to the public, such as the sale of a barge or small vessel or other small items of property by one carrier to another.

The original bill also applied to transactions which involved the unifications of common with contract carriers. As amended by the committee, the bill would apply only to common carriers. This change was made in view of objections urged and in the belief that the public interest will be adequately protected by limiting the scope of governmental control to unifications of common carriers.

Another amendment by the committee somewhat broadens the scope of the original provisions by substituting the term "persons" for the term "corporations", as in line 25, page 44, and lines 5 and 12, page 45. Without this change there would be a serious lack of jurisdiction over acquisitions of control by associations, partnerships, and so forth.

Subparagraph (e) relieves any carrier or person affected by orders of the Commission under this section from the operation of the antitrust laws.

SECTION 314 (SEC. 216 OF THE ORIGINAL BILL), ISSUANCE OF SECURITIES

Common carriers by water and corporations authorized to acquire control of any such carrier are made subject to the provisions of paragraphs (2) to (11), inclusive, of section 20 (a) of the Interstate Commerce Act where the par value of securities to be issued, together with that of the securities outstanding, does not exceed $500,000. In the original bill it was proposed to repeal the provisions of the Securities Act, 1933, insofar as that act related to such security issues. The amendment adopted by the committee accomplishes the intent of this section by amending section 3 of the Securities Act so as to exempt securities of water carriers herein subjected to regulation. Securities issued by railroads are exempted by section 3 of the Securities Act, and the committee's amendment provides like treatment with respect to such security issues of water carriers as are subject to regulation by the Commission.

SECTION 315 (SEC. 217 OF THE ORIGINAL BILL), ACCOUNTS, RECORDS, AND REPORTS

This section gives the Commission discretionary authority to require the filing of reports and to prescribe the form of such reports or of the records and accounts to be kept by interstate water carriers. It also carries authority for the inspection of records and accounts by the Commission or its examiners or special agents. The Commission now has like authority with respect to railroads, pipe lines, and such water carriers as are subject to its jurisdiction, and the Shipping Act also provides for the filing of such periodic or special reports, contracts, memoranda, and so forth, as may be required by the Shipping Board. Under this section and section 304 (c) of the bill the Commission would have authority to adjust its requirements in these respects to the different types of carriers and operations in order to avoid any unnecessary exactions.

SECTION 316 (SEC. 218 OF THE ORIGINAL BILL), RECEIPTS, BILLS OF LADING, MANIFESTS, ETC.

This section makes applicable to common carriers of property the provisions of section 20 (11) of the Interstate Commerce Act. These provisions require the issuance of bills of lading, prohibit limitations of liability for loss or damage, and authorize suits against the carrier that issues the bill of lading, for loss or damage occurring on the line of a connecting carrier. Except in this latter respect, the provisions of section 20 (11) of the Interstate Commerce Act are similar to those of the Harter Act (secs. 190–195, title 46, U. S. C.), which now applies generally to the issuance of bills of lading or shipping documents by common carriers by water. Water carriers now subject to the Interstate Commerce Act are governed by the requirements of that act with respect to bills of lading and in the interest of shippers and of uniform regulation the provisions of section 20 (11) should be extended to all interstate common carriers by water over which the Commission is given jurisdiction.

SECTION 317 (SEC. 219 OF THE ORIGINAL BILL), NOTICES, ORDERS, AND SERVICE OF PROCESS

This section provides that interstate water carriers shall file the name and address of persons upon whom service of notices or orders may be made. It also provides that no order may be made without due hearing and that orders shall take effect within such reasonable time, not less than 30 days, as the Commission shall prescribe and remain in force either for a specified period or until the Commission's further order. The Shipping Act does not require the designation of an agent and provides a maximum period of 2 years for the duration of orders. The bill provides for regulation of interstate water carriers in this respect like that now applicable to railroads. The same provision is found in the motor carrier bill.

SECTION 318 (SEC. 220 OF THE ORIGINAL BILL), ENFORCEMENT AND PROCEDURE

Paragraph (a) of this section incorporates by reference certain provisions of the Interstate Commerce Act which relate to the Commission's procedure and the enforcement of its orders. Section 12 of that act principally concerns procedure for procuring the attendance of witnesses and the production of documentary evidence and to proceedings under the direction of the Attorney General for enforcement of the act and for punishment of violations. The paragraphs of section 16 to which reference is made relate to the service and enforcement of orders. The "compulsory testimony act" provides that no person shall be excused from testifying or producing documentary material on the ground that such testimony or evidence may tend to incriminate him and provides for exemption from prosecution with respect to such testimony. In the immunity of witnesses act the exemption is restricted to natural persons. Section 17 of the Interstate Commerce Act concerns the internal organization of the Commission for the conduct of its business and authorizes the delegation of functions to divisions, individual commissioners, or boards of employees, and so forth.

Paragraph (6) of this section concerns enforcement of the act by injunction or other proper process and paragraph (c), the publication of reports by the Commission and their competency as evidence.

Most provisions of this section are in substitution for or amplification of similar provisions of the Shipping Act—sections 24, 25, 27, 29, and 31.

As in other parts of the bill, the committee has deleted from this section the reference to wharfingers appearing in the original bill.

SECTION 319 (OLD SEC. 221), UNLAWFUL ACTS AND PENALTIES

This section provides penalties for rebating and various other specific offenses and also contains a general provision for penalties applicable to violations of the act for which penalties are not otherwise provided. These penalty provisions are adapted from corresponding provisions contained in the Interstate Commerce Act or the Shipping Act, or both

(sec. 10 (1), (2), (3); sec. 20 (2), (6), (7), (8); and sec. 15 (11), Interstate Commerce Act; sec. 1, Elkins Act; secs. 14, 20, 21, and 32, Shipping Act, 1916). The amendments proposed by the committee eliminate wharfingers and private carriers.

SECTION 320 (OLD SEC. 222), COLLECTION OF RATES AND CHARGES

The provisions of this section correspond with those found in section 3 (2) of the Interstate Commerce Act. There are no similar provisions in the Shipping Act. These provisions have a twofold purpose, namely, the prevention of undue discrimination and preferences in the extension of credit for freight charges and the limitation of liability for undercharges on the part of commission merchants, brokers, or other agents of the shipper who have no beneficial interest in the property transported.

SECTION 321, TRANSPORTATION BY COMMON CARRIERS IN FOREIGN COMMERCE (OLD SECS. 223 TO 229, INCLUSIVE)

As explained in the report upon the bill, the committee has eliminated all the provisions contained in sections 223 to 229, inclusive, of the original bill and substituted therefor a new section, no. 321, which merely transfers to the Commission the regulatory powers and duties with respect to common carriers in foreign commerce and persons who are engaged in such commerce who are included in the term "other person subject to this act", now vested in the Shipping Board by certain sections of the Shipping Act enumerated in section 321 of the bill and section 19 of the Merchant Marine Act, 1920. Reference to the Merchant Marine Act, 1928, in lines 6 and 7, should be deleted, as this act does not concern any powers or duties transferred to the Commission by the provisions of this bill. The reference to the Intercoastal Act, 1933, in lines 8 and 9, is also in error and should be deleted, as repeal of this act is provided for in a following section of the bill (sec. 323 (a)). These amendments will require omission of the words "and the Merchant Marine Act, 1928, and the powers and duties vested in the United States Shipping Board by the Intercoastal Shipping Act, 1933", in lines 6 to 9, inclusive, and the insertion of the words "also those vested in such Board by", after the word "and", in line 9.

SECTION 322 (OLD SEC. 232), ADMINISTRATION

Paragraph (a) of this section authorizes the Commission to employ the necessary experts, special agents, and so forth, for the administration of the act. Paragraph (b), as amended by the committee, prohibits members or examiners of the Commission from having any pecuniary interest in water carriers, railroads, motor vehicles, or other forms of transportation. Section 3 of the Shipping Act prohibits any Commissioner of the Shipping Board from having any official relation to or pecuniary interest in carriers or other persons subject to that act. Section 11 of the Interstate Commerce Act contains similar restrictions upon the members of the Commission. The committee amendments extend the same principle to examiners of the Commission and broaden the prohibition to include motor vehicles or any other form of transportation.

SECTION 323 (OLD SEC. 233), REPEALS, TRANSFER OF EMPLOYEES, ETC.

This section, in paragraph (a), repeals the Intercoastal Shipping Act, 1933, and sections 18 and 19 of the Shipping Act and such other provisions of that act and of the Merchant Marine Act, 1920, as may apply to matters within the Commission's jurisdiction and which may be in conflict with the provisions of this bill.

The Intercoastal Act and sections 18 and 19 of the Shipping Act relate solely to interstate water carriers and the substance of their provisions is embodied in the rate sections of this bill, so far as deemed appropriate for inclusion. Other regulatory functions of the Shipping Board are covered by the various sections of the Shipping Act enumerated in section 321 of the bill and by section 19 of the Merchant Marine Act, 1920. The provisions of these sections concern transportation in foreign as well as in interstate commerce and, hence, are repealed only so far as they purport to apply to interstate transportation or conflict with the provisions for interstate regulation set forth in this bill.

Paragraphs (b), (c), and (d) of this section preserve the respective jurisdiction of the Commission and the Department of Commerce to exercise powers which are not inconsistent with the provisions of this act and also preserve in full force and effect any laws of navigation, the admiralty jurisdiction of the courts, and so forth, which are not in conflict with this act.

Paragraphs (e) and (f) transfer to the Commission the present employees and the files, records, property, and so forth, of the Division of Regulation of the Shipping Board Bureau and also any appropriations and unexpended balances available for the support of that division. As already suggested, this transfer of personnel and records will prevent any interruption or impairment of regulatory functions now exercised by the Division of Regulation.

Mr. President, I shall not further take up the time of the Senate to go into detail in explaining the bill. I feel that I have covered it as thoroughly as I can in a brief explanation. I hope that the bill will be passed.

Mr. WHITE. Mr. President, a moment ago I asked the Senator about section 18 of the 1916 act and its repeal. I rather think that section 316 of the pending bill answers my question.

Mr. WHEELER. Yes; I think that covers it.

Mr. WHITE. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GEORGE in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Clark	Johnson	Pittman
Ashurst	Connally	Keyes	Pope
Austin	Coolidge	King	Radcliffe
Bachman	Copeland	La Follette	Reynolds
Bailey	Davis	Lewis	Robinson
Bankhead	Dickinson	Logan	Russell
Barbour	Dieterich	Lonergan	Schall
Barkley	Donahey	McAdoo	Sheppard
Bilbo	Duffy	McGill	Shipstead
Black	Fletcher	McKellar	Smith
Bone	George	McNary	Steiwer
Borah	Gerry	Maloney	Thomas, Okla.
Brown	Gibson	Metcalf	Townsend
Bulkley	Glass	Minton	Trammell
Bulow	Gore	Murphy	Truman
Burke	Guffey	Murray	Tydings
Byrd	Hale	Neely	Vandenberg
Byrnes	Harrison	Norbeck	Van Nuys
Capper	Hastings	Norris	Wagner
Caraway	Hatch	Nye	Walsh
Carey	Hayden	O'Mahoney	Wheeler
Chavez	Holt	Overton	White

The PRESIDING OFFICER. Eighty-eight Senators having answered to their names, there is a quorum present.

ONE-MAN RAILWAY DOMINION OF THE WATERWAYS

Mr. SCHALL. Mr. President, as shown by the minority report submitted by my colleague, Senator SHIPSTEAD, the pending bill (S. 1632) transfers regulation of waterway transportation from War Department engineers to the Interstate Commerce Commission, which regulates the railways.

The Interstate Commerce Commission, as now constituted under the new deal, consists of one man, Eastman, who demands socialization of all railways under Federal rule, as in European kingdoms and governments, including Russia.

The future of American waterway transportation, if this bill shall pass, rests completely in the hands of a one-man railway bureau, whose term of office and whose rulings are subject to the pleasure of the President, who thereby is made the transportation dictator of the United States—a President who already has a $5,000,000,000 war club to swing over the heads of recalcitrant Senators and Representatives to force their obedience to his will; a President who with his bureau appropriations has $8,000,000,000 subject to his will in coercing the 48 States in the coming election; a President who has 7,000,000 Federal officeholders to carry out the Executive will in the 1936 expenditure of this $8,000,000,000; a President whose $10,000,000,000 of debt, deficits, and doles are now carying 22,000,000 people, or one-fifth of the population, as public charges.

All which seems to be needed to complete the picture of royal succession in making our dictatorship permanent is complete control of transportation. The President, through his one-man control of railways and highways by recent acts and Executive orders, now has Federal control of in-

terstate commerce and much of intrastate commerce by land transportation. But most of the States are anxious to develop their waterways—the waterways through which this country was settled and developed in the early days, and upon which they today hope for lower-cost transportation of heavy freight. This bill proposes to drive a nail into that hope by placing the waterways under the railway bureau and provide a complete one-man rule over all interstate transportation.

No man here needs to be told what such control of waterway transportation means. Royal favor is the price that every State must pay to secure the waterway development which it needs. Dictatorship means favoritism. Autocratic rule is a succession of acts of favoritism. The State which bows to the one-man ruler, kisses his feet, and gives him its vote in 1936 will get waterways. The State which refuses obeisance and withholds its electoral vote will have just as good a chance to get waterway transportation from the Federal one-man railway bureau as Henry Ford had to land a Government contract for motor cars under the late N. R. A. bureau.

My State of Minnesota protests against this bill. The Farm Bureau Federation, the National Grange, the Northwest Farmers' Union, the Farmers' National Grain Corporation, as well as the American Cotton Cooperative Association of the South, are all in protest against the dangers of this bill to American agriculture.

The shippers of my State and the Mississippi Valley are cpposed to this Senate bill 1632—the White House sudden substitute for Senate bill 1635, on which the hearings were held. This bill is a notable sample of the high-handed methods now in vogue under the new deal. As in the case of the recent Rayburn-Roosevelt utility electrocution bill, finally rejected by the House, one bill is laid before the committees for a hearing, and after the hearings are over a second bill, framed by the White House, is injected as an Executive substitute.

Among the protesting organizations of shippers of Minnesota and neighbor Mississippi Valley States against S. 1632 are:

The National Industrial Traffic League, through its representative at Duluth, Minn.

The Mississippi Valley Association, representing the States of the Middle West.

The Upper Mississippi Waterway Association, representing the grain and livestock States of Minnesota, Wisconsin, Iowa, North and South Dakota.

The Mississippi and St. Croix Improvement Commission, representing the farm and shipping interests of Minnesota and western Wisconsin.

They favored S. 1635 on which the hearings were held. They protest this Executive sleight-of-hand trick by which the Executive seeks to usurp the legislative functions of Congress.

In the majority report, submitted by the Senator from Montana [Mr. WHEELER]—the same Senator who had charge of the utility electrocution bill, the Rayburn-Roosevelt bill drafted by Cohen and Corcoran and now, fortunately, killed by the House—we find a letter from Franklin D. Roosevelt, of June 7, 1935, from which we learn:

First. That this bill which we are supposed to swallow—80 pages and 325 sections—at one gulp, was "prepared by the coordinator" and must be "pressed to early passage."

Second. Our Executive ruler tells us: "I can see no reason why the responsibility of the regulation of intercoastal, coastwise, and inland waterways should not be vested in the Interstate Commerce Commission." This means his one-man railway commission, named and subject to the will of the autocrat who swings a $5,000,000,000 war club over these deliberations and the vote of the 48 States.

If this bill passes and transfers the waterways to White House control, and the State of Minnesota votes against the reelection of Franklin D. Roosevelt in 1936—as it is morally certain to do—the State of Minnesota, at the headwaters of the Mississippi, has just as much chance for White House cooperation in waterway development as the State of Louisiana, at the mouth of the Mississippi, has to get work relief from the $5,000,000,000 Roosevelt allocation, or from the doles of the F. E. R. A. and C. W. A. or from the Ickes distribution of the P. W. A. billions.

If this coordinator bill from the Frankfurter, Cohen, and Corcoran law mill of the "brainstorm trust", which the President labels "must" and "pressed to early passage", is passed by Congress, there is only one remedy left for the 12 States of the Middle West, which produce two-thirds of the Nation's food, and that is to vote bureaucratic dictatorship out of Washington and turn the $5,000,000,000 Mussolini out of the White House. I am wondering if the Cotton States, which produce the bulk of our clothing fiber, are not rapidly approaching that same conclusion.

Wherein is there any semblance of democracy in this one-man autocracy? Take the whole line of Presidents born in the cotton-growing and tobacco-growing States of the South—Washington, Jefferson, Madison, Monroe, Jackson, Tyler, Polk, Woodrow Wilson—where do we find one who would stand for the autocracy which now seeks to override both Congress and the rights of the States?

Wherein is there any semblance between the autocracy of the present White House and its campaign against the Constitution, on the one hand, and the decision, past and present, of justices of the Supreme Court from the Southern States—the decisions of John Marshall, Rutledge, Blair, Iredell, Bushrod Washington, Wayne, Barbour, Campbell, Harlan, Lamar, the late Chief Justice White, and the present Justice McReynolds?

Look over the Democratic doctrines of the leaders of the once solid South, the speeches of the House Speakers, and Vice Presidents—John C. Calhoun, Breckinridge, Stevenson, Bell, Polk, Cobb, Carlisle, and Crisp—and see if you recognize in their democracy any of the autocratic demands of this administration in its assault upon government by the people and upon the rights of our sovereign States?

The distinguished Senator from Virginia [Mr. BYRD], in his great speech delivered at the foot of Washington Monument on July 4, 1935—the day when no new-deal exponent of this administration raised a voice for American liberty anywhere in this land—the Senator from Virginia, I repeat, expressed what I believe to be the true sentiment of both North and South when he declared, midst the cheers of this patriotic assembly, "the choice is between Constitution and chaos." That, Mr. President, is the choice which lies at the fundamentals of this bill.

Another Democratic leader, Albert C. Ritchie, four times Governor of Maryland, expressed the issue in these words:

> The bureaucratic centralization in Washington will, unless checked, destroy the self-governing function of the sovereign States, on which rests our entire governmental structure.

The House has checked the autocratic electrocution of utilities. It is the opportunity of the Senate to check this bureaucratic centralization of transportation powers, which vitally affects the progress and development of the vast majority of our States.

Governor Talmadge, of Georgia, on July 4 asked if we were going to "obey the orders of 72 bureaucracies in Washington" and aid their ruler to override the Constitution. Our vote on this bill carries our answer.

OUR CONSCIENCE AND OUR OATH, OUR GUIDE

Mr. President, why do we sit here mute while our country is being betrayed? Our conscience and our oath should be our guide, and we should denounce with all the vehemency at our command this administration's betrayal of our Republic.

If any President of the United States preceding this one had done or attempted to do what this administration has accomplished, would he not have been impeached?

Shall we sit here like dumb, driven cattle, waiting for the butcher's knife, hoping only to deflect the destructive knife through the gallant defense of the Supreme Court?

Oh, for a modern Patrick Henry to flame our Americanism again to the sticking point. "Why stand we here idle? What is it the gentlemen wish? Is life so pure", or the pretended personal security promised by the communistic

administration, "so sweet as to be purchased at the price" of regimentation and subserviency, "chains, and slavery"?

Why can we not see that this administration's so-called "war on depression" has been in reality a war on recovery? Every move he has made has been to create a planned chaotic condition. When that chaos has reached to sufficient riots and strikes will the mailed fist of the Commander in Chief of the Army and Navy appear? Meanwhile, why is it he wants our gold bullion amounting to half of all the gold in the world, of which no American citizen dare hold a fraction of a grain, under his edict, moved to the caves of Kentucky, where his picked regiments may defend it against the righteous wrath of our people, which wrath will furnish the excuse needed to put it down by the Commander in Chief of the Army and Navy? Will half the gold of all the world in the hands of the dictator cement the contemplated empire and fulfill his prophecy of being the last President of the United States? Shall history write the name of this administration as the last President of the United States and the first emperor?

Shall we sit here day after day blinded to the unbelievable evident purpose of the President and pass bill after bill at his command to further his conniving Fabian plan of ultimate destruction of our Republic founded upon the teachings of Christ and the individualism of man?

Why can it not be revealed to us before it is too late that when his planned chaos shall have reached such proportions of strife and revolution that his next move will be, in furtherance of his grandiose ideas, to take over this chaotic and riotous condition by the Commander in Chief of the Army and Navy and build his throne upon the shattered elements of our once glorious and free Nation?

He that hath eyes to see, let him see.
He that hath ears to hear, let him hear.

Let us reaffirm our oath to defend the Constitution and the sovereign power of the people that government of the people and by the people shall not perish from the earth.

Mr. President, I read an editorial from the Tonganoxie Mirror, of Tonganoxie, Kans.

[From Tonganoxie (Kans.) Mirror of June 27, 1935]

TEDDY'S VIEW OF FRANKFURTER

"The President is faced with dissention amongst the Democrats in Congress."

"The President accepts HUEY LONG's share-the-wealth plan."

"The President, being advised of the Supreme Court's N. R. A. decision, called Prof. Felix Frankfurter to the White House."

These headlines in the news are daily occurrences. The public mind is confused, perplexed. In some quarters there is a tendency to pooh-pooh as ridiculous attempts to find explanations in the backgrounds of unofficial leaders who influence constitutional officers of the Government.

Take the case of Mr. Frankfurter.

"Frankfurter is a foreign-born Jew, of Austrian birth. He is today head of the law department of Harvard University, and aside from Franklin D. Roosevelt, probably the most powerful figure in Washington. For 30 years he defended radicals, Communists, and I. W. W.'s."—Revealer, Wichita.

"Felix Frankfurter: National committee A. C. L. U. (anyone who has taken the trouble to learn what this organization is and does, knows it is directed by Communist-Socialist revolutionary leaders and that it furthers and legally protects the red movement in all its branches, strikes, atheism, sex freedom, opposition to deportation of reds, etc.); legal counsel for N. A. A. C. P., subsidized by Garland funds, headed by W. Z. Foster, Scott Nearing, other Communists."—Red Network, Milwaukee.

As far back as 1917 no less a personage than former President Theodore Roosevelt, in a letter to Frankfurter, said:

"Thank you for your frank letter. I answer it at length because you have taken and are taking * * * an attitude that seems to me to be fundamentally that of Trotsky and other Bolsheviki leaders in Russia; an attitude that may be fraught with mischief to this country."

This information is available (and more so) to constitutional Democrats in Congress as to the Mirror, but they are in the odd position of being unable to publicly explain their position both through retaliation and because their own party leaders are involved.

Certainly Republicans in calling attention to such angles, do so with great reluctance. There are thousands of patriotic American Democrats. They did not elect Felix Frankfurter. They have been as patriotic in their respect for the Stars and Stripes and constitutional Government in America as any patriotic Republican. They have contested with the Republican Party in domestic policies as to whom should best serve the popular welfare. The issue of Americanism is no more their choice than it is of those who are termed Republicans.

Mr. COPELAND. Mr. President, never, I think, have I with greater reluctance undertaken to debate a pending measure than the one now before the Senate. When one senses that everything is cut and dried and that the end is inevitable there is not much encouragement to make any effort to stand off the inevitable. I have the feeling that this bill has been sent down as a "must" bill and therefore that it must and will pass.

It is also distressing that many steamship lines, which, in my judgment, will be adversely affected by this proposed legislation, appear to favor it. Ever since I have been a Member of the Senate I have tried as best I could to favor the cause of the American merchant marine. I felt it my duty to do that because I in part represent the largest port in the world, and to and from that port sail vessels representing millions of tons of weight. It would be calamitous to my State to have any misfortune come to the American merchant marine. I think it has been generally recognized amongst shipping men that my inclination has been to help them in all the ways that I could. I am not saying on the floor of the Senate what I have not said to them individually and collectively, that there is a most remarkable lack of cooperation and coordination on the part of shipping in this country. I sometimes become so disgusted with the whole shipping outfit that I think I never again will raise my voice to help them. At the same time, however, we have the necessities of the country to consider, and I do not think any informed person can fail to realize how necessary a merchant marine is to a nation.

England has grown great by reason of her shipping. No nation can hold an important place in the sun without an efficient and effective merchant marine. One cannot read the history of England from the time of Alfred the Great without discovering how important has seemed to that little island the encouragement of its shipping. In the time of Alfred the Great there was issued a proclamation—I think in the year 891, if I remember correctly—that special honor should be conferred upon any citizens of his realm who crossed the seas three times in ships of their own. "The seas" in that day meant simply the channels to the Continent.

When we seek for the origin of the preamble to all our recent merchant-marine legislation, beginning with the act of 1920 and including the acts of 1924 and 1928, in which that preamble has been repeated, we find it in the early acts of Great Britain. One can go to the statutes of the time of Henry VIII and find written into the laws of Great Britain of that time the very sentiments which we have expressed in the preambles to our shipping acts, that in time of war the merchant marine should be used for the national defense and in time of peace should be used to promote trade and commerce. So to my mind nothing can be more important to the American people than an efficient, successful merchant marine.

Unfortunately, in our efforts to benefit American shipping, we enacted laws which were good in themselves but which were not well administered, and because of bad administration those laws have fallen into disrepute. I have no defense to offer of all that. There are explanations which can be made, and I venture to say that when the mail contracts go into court next fall it will be found that most of them were in the public interest and that all but a very few have been entered into in full accordance with the law. However, I am not here to defend what has taken place in the past. It is my ardent desire to do what I can, representing a maritime State, to further the cause of the American merchant marine.

On the 4th of March last the President of the United States sent to us a message advocating a frank and open subsidy to American shipping. It was essential that this law be speedily formulated because under the law as it then existed the mail contracts would terminate on the 30th of April. It took a long time to formulate a law.

In connection with that measure the Senate Committee on Commerce was aided by the distinguished Senator from Maine [Mr. WHITE], who has been an authority on the American merchant marine for many years. Starting his

career here as an assistant clerk to the Commerce Committee and afterward having a long and honorable career in the House of Representatives, where he served as Chairman of the Committee on Merchant Marine and Fisheries, he came to the Senate, where he has been an active and useful member of the Commerce Committee. We had his assistance.

We had the assistance of the Senator from Florida [Mr. FLETCHER], who has long been interested in the American merchant marine. We had the assistance of the Senator from Vermont [Mr. GIBSON]. We had the assistance of other members of the committee in the formulation of the bill.

Then we held joint hearings. Judge BLAND, the able Representative from Virginia, Chairman of the House Committee on Merchant Marine and Fisheries, with Mr. LEHLBACH, ranking Republican member, and other members from the House committee, met jointly with our committee, and we formulated the measures which were finally presented in the House and in the Senate.

The House has passed the Bland bill, the ship-subsidy bill. Upon the calendar of the Senate is its companion bill, which we discussed for a day and then turned aside because we found it was not one of the "must" bills.

Mr. President, I contend that it is unfair to Members of the Senate who have worked as hard as have these Members if no action is to be taken on that bill. Long and exhaustive hearings were held, day after day and week after week, and finally a bill was evolved which represented the views of the While House, so far as we could interpret them. I think it is unfortunate if we are not permitted to consider that bill upon its merits and determine whether or not we shall enter upon a plan for maintaining an effective American merchant marine. No one who is at all familiar with shipping can fail to realize that there cannot be a successful merchant marine under the American flag unless in some manner the United States shall assist both in the construction of the vessels and in their operation upon the high seas.

America has been very kind to labor. Congress has never failed when called upon to enact laws favorable to American workingmen. The strongest appeal that is made by any group to the Congress is made for those who labor. It is not surprising that in the formulation of laws for the protection of labor there should have been enacted measures for the protection of those who labor upon the high seas. The late Senator Robert M. La Follette—brilliant, kindly, humanitarian that he was; father of the present Senator from Wisconsin [Mr. LA FOLLETTE]—was the author of certain bills which are known to this day as the "La Follette Acts", and which have to do with the protection of American labor on the high seas. These laws demand, in the first place, that the 8-hour system, which we have recognized as the prevailing method of labor control on land, shall also apply at sea. They prescribe that seamen shall have ample facilities in the way of sleeping quarters and cubical content of air space where they sleep. They are not packed in like sardines as are sailors in foreign ships.

Our workmen upon the seas live under decent conditions and have decent air to breathe at night. Likewise there is an insistence that there shall be proper food for those who work upon the high seas, and certain rules regarding their payment and the protection of their rights. American seamen are protected and guarded as no other seamen in the world ever have been. It costs money to do this, and American shipowners have been obliged to compete with Japanese shipowners and with other foreign-flag ships where no such rules prevail, where a very much smaller crew operates the ships, working many more hours than American seamen work, where the wages paid are materially less, in some instances even 50 percent less than they are on American ships.

We cannot compete with foreign ships unless we do something as a nation to assist shipowners in maintaining their operation upon the high seas.

It is not only that it costs less to maintain and operate foreign ships, but foreign governments susidize their shipping. For example, consider the *Normandie*, which has just been sent across the sea on her initial trip, a great floating night club, which cost $52,000,000, the money for which was supplied by the French Government, the amortization of the amount being provided for by the French Government, and an ample subsidy being given for its operation. How can we hope to have liners upon the ocean if we are to compete with governments so liberal as in the case of the *Normandie?*

Further than all this, it is not alone that it costs more to operate our ships, but it costs more to build our ships in American yards.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Kentucky?

Mr. COPELAND. I yield.

Mr. BARKLEY. I am in full sympathy with what the Senator says with reference to building up the American merchant marine, but I wonder whether we would be justified in going far enough in that matter by the payment of a subsidy or through any subvention to put on the high seas a show boat, which the *Normandie* really is? It is a sort of show boat because of the pride of the French people to put on the ocean the fastest vessel possible.

The recent history of the merchant marine shows that large, fast boats do not make any money. One of the troubles with the *Leviathan* was that she lost $100,000 every time she made a trip. While I believe the Government should aid in any reasonable degree in the building up of the American merchant marine, I wonder if we are justified in going to the extent the French Government has gone in subsidizing the *Normandie?*.

Mr. COPELAND. I am very glad the Senator asked the question, because I should not want to leave the impression that I would favor such a thing.

Mr. BARKLEY. No; I did not think so.

Mr. COPELAND. I think it is a perfectly absurd thing. I have no objection if the French want to do that, but I should resent to the uttermost any effort on our part to compete with such a show boat as that.

Mr. BARKLEY. I am glad to hear the Senator say so.

Mr. REYNOLDS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from North Carolina?

Mr. COPELAND. I am glad to yield.

Mr. REYNOLDS. I should like to be permitted to add in connection, so to speak, with the inquiry directed by the Senator from Kentucky, that it is admitted, perhaps, that the steamship *Normandie* will lose money on every single trip she makes to American shores, where she gathers more patrons and secures more money in the form of transportation and patronage than from any other shores she could possibly visit.

In that connection, we must take into consideration the fact that only a few months ago the British Government constructed a great monster of the sea called the *Queen Mary*, which is said to have cost in the neighborhood of the cost of the *Normandie;* that is to say, about $50,000,000. Shortly after the completion by the British Government of the *Queen Mary*, which was subsidized, it was stated through the columns of the press of Great Britain that that Government proposed to build a sister ship to the *Queen Mary*.

I am of the opinion, as are a great many other people who have casually given this matter some thought, that such great sea monsters are not constructed initially for the purpose of making money in the transportation of passengers from the shores of continental Europe to America, but that they are built for the fundamental reason of having transports ready when this or that government is in need of transporting its soldiers from its shores to the shores of a country with which it may find itself in controversy.

For instance, it is my understanding that the steamship *Rex*, of the Italian line, has never really made any money for the Italian Government; but it is my further understanding that the *Rex* and the other large liners of the Italian Government were constructed for the purpose of having them available for use when the time came to transport their

troops from their land to the land of some nation with which they might be in controversy or at war.

We find that today the Italian Government, under the direction of Mussolini, is going to war with the Abyssinians, or the Ethiopians, of central eastern Africa. I have read in the press that they have transported some hundred thousand soldiers over there, who are encamped on the border line of Italian Somaliland and Ethiopian Somaliland at the present time. I noted a few days ago that this big ship, the *Rex*, and her sister ship are being put into commission for the purpose of transporting their soldiers, their warring factions, from Italy to the coast of Africa.

So, in line with what the Senator has to say, I am in accord with him to the effect that big passenger ships cannot make money. Therefore, I reason that the various nations build such great ships, and the governments help build them, because they have in view the idea that they may need them in case of war.

Mr. BARKLEY. Mr. President, I cannot imagine why the great Italian ship *Rex* should be used in transporting soldiers to Ethiopia unless it were for the purpose of carrying on one trip enough soldiers to end the war speedily, because it is inconceivable that any war between Italy and Ethiopia would be of such magnificent proportions as to draw into its vortex a great passenger ship such as the *Rex* or the *Conte di Savoia* or the *Normandie* or any similar ship. It may be that the Italian Government, in the event this great conflict shall occur between Italy and Ethiopia, will bring the *Rex* into service in order that only one trip will be necessary on the part of any ship.

Mr. REYNOLDS. I can hardly agree with the Senator upon that point, because I recall that several years ago there was difficulty between the Italians and the Ethiopians, and it ended by the Ethiopians boiling and eating up several thousand Italians. It is true that there is quite a difference between conditions of the day when they boiled and ate those Italians and the present time. For example, the airplane has been brought into great and prominent use; but, according to the press reports which we now have before us, some 100,000 engineers and fighting men and men of all descriptions essential to the formation of a modern army have already been landed in eastern Africa.

I do not know the passenger capacity of the *Rex*. I am sure the Senator from Alabama [Mr. BLACK] can tell us, because I consider the Senator from Alabama the finest authority in the Senate upon matters of this sort. I should surmise that the vessel has a capacity of about 5,000 passengers. I will ask the Senator whether that is not correct.

Mr. BARKLEY. How will Ethiopia get her soldiers into Italy? She has no ship like the *Rex*.

Mr. REYNOLDS. Ethiopia is not a conquering nation. It is said that Italy is waging a war of conquest; that Italy is waging the war for the sole purpose of gathering unto itself territory that it needs for the expansion of its nation.

Mr. BARKLEY. If I were an Italian, and happened to go to Ethiopia, and happened to be burned or boiled and eaten, I should consider that I had been conquered.

Mr. REYNOLDS. I did not get the point the Senator made about being burned and boiled and eaten.

Mr. BARKLEY. The Senator said Ethiopia is not a conquering nation.

Mr. REYNOLDS. No, sir; not at all.

Mr. BARKLEY. He has just referred to the fact that several thousand Italians were boiled and eaten by the Ethiopians.

Mr. REYNOLDS. In answer to that question, I will say that at that time Ethiopia was fighting in defense of her country. At this time, from all I can understand, Italy is waging nothing more nor less than a war of conquest. Incidentally, in that connection, I may mention the fact that I recall very vividly the controversy we had in this Chamber several months ago in regard to our entering the World Court, which eventually would have brought us into the League of Nations. I desire here to mention the fact that both Italy and Ethiopia are members of the League of Nations, and they both signed the pact; yet the fact that they are members of the League of Nations does not seem to have any effect upon their desire to get that which belongs to somebody else.

Mr. BARKLEY. The point I was attempting to make was that whereas the Senator said Ethiopia was not a conquering nation——

Mr. REYNOLDS. Not at all; it was acting then on the defensive.

Mr. BARKLEY. If the Senator had been one of the Italians who had been boiled and eaten, he would have been pretty well conquered.

Mr. REYNOLDS. In that event I should not be here today. [Laughter.]

Mr. COPELAND. Mr. President, after this very pleasant diversion we will continue the main argument.

I always refer to such ships as the *Normandie* as the night-club type; but there was one great vessel, the *Vaterland*, which was within the harbor of New York at the beginning of the war, which was interned there and afterward taken over by us and named the *Leviathan*. It did render us and our allies a great service, because that one ship carried 75,000 of our troops. It carried the very first members of the American Expeditionary Force who landed abroad; and except for the providence of God and the presence of that ship in our harbor, one wonders what might have happened without the very effective aid which America rendered.

At that time we had only 13 ships in transoceanic service. The lessons of the war caused us to build many, many more ships, and the various merchant-marine acts which have been presented and passed resulted in the building of ships. Now, however, there has been an end to that sort of thing, and we are building no ships. Ninety percent of all the ships under the American flag are now 13 years of age or over; and since the economic life of a ship is only 20 years, one can see that in 7 years the American flag will be swept off the seas unless we do something to assist American shipping.

That is a prospective calamity to every industry in America. It means everything to agriculture, it means everything to manufacturing, to have an American merchant marine; yet we are approaching the time when we shall have no American merchant marine.

It is because I feel so strongly on this subject that I have spoken rather bitterly about the failure of any plans to perpetuate the American merchant marine. Then, on top of that, we have the pending bill, which to my mind is sure to destroy the remaining ships under the American flag. I should not feel so uncomfortable about the bill before us if it were associated in its passage with the measure known as "Senate bill 1635", a bill to amend the Interstate Commerce Act and to enlarge the Interstate Commerce Commission to 16 commissioners. I say, I should not be so disturbed, because that bill provides for the creation of various divisions of this great group, almost as large as the Sanhedrin.

I am speaking now of Senate bill 1635. I quote from page 3 of that bill, line 10:

> The membership of the Commission shall be so organized as to include a Chairman; Coordinator of Transportation; Control Board; Finance Division, consisting of three members; Railroad Division, consisting of five members.

Then we come to the matter which is important in connection with the particular question under discussion.

> Water Carrier and Pipe Line Division, consisting of three members.

The other divisions are the motor carrier and air carrier division, consisting of three members; and such special divisions as may be created hereafter.

This is really a remarkable bill, in addition to the inclusion of what to my mind is the important part of the particular set-up as proposed by the coordinator.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WHEELER. If the Senator will offer Senate bill 1635 as an amendment to the pending bill, I shall be glad to accept it.

Mr. CLARK. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. CLARK. I have such an amendment prepared, and I will say to the Senator from Montana that I intend to offer it as an amendment to the pending bill.

Mr. COPELAND. That is an excellent suggestion.

Mr. WHEELER. I shall be glad to accept it.

Mr. COPELAND. I am glad to hear that.

Mr. CLARK. If the Senator will yield further, I should like to say to the Senator from New York that I have been in sympathy with the purpose of the bill now before the Senate, but only with the understanding that Senate bill 1635 will be passed first. In other words, I am very much interested in the development of the inland waterways of this country, and I am not willing to turn the regulation of those inland waterways over to a commission which any one on reflection will admit is, from experience and training, railroad minded at the present time.

Mr. WHEELER. I think it was the idea of the coordinator that Senate bill 1632 should be passed first. The only thought was that if the Congress did not pass S. 1632 and S. 1629 then there would not be any need for the reorganization of the I. C. C. provided in the other bill, S. 1635. It was just a question of which bill we should take up first.

Mr. CLARK. Mr. President, at the proper time I intend to offer the other bill as an amendment to the pending bill.

Mr. WHEELER. The coordinator desired to have the pending bill passed first, and if there is any responsibility for bringing that measure up first I take the responsibility.

Mr. COPELAND. Mr. President, as I understand, the Senator from Missouri will offer Senate bill 1635 in its entirety as an amendment to the pending bill?

Mr. CLARK. As part 4 of the pending bill.

Mr. COPELAND. That is very good. I approve of that very much. I cannot say that I approve of everything in Senate bill 1635, but I do approve of that particular part of it which sets up a special division for water carriers.

Senate bill 1635 is an amazing bill. It is founded on the present organization of the Italian Government.

Mr. WHEELER. I thought the Senator was in favor of it.

Mr. COPELAND. I am in favor of it.

Mr. WHEELER. I do not want the Senator to back away after he has said he would take it.

Mr. COPELAND. I am going to support it.

Mr. WHEELER. The Senator said he would withdraw his opposition to the pending bill.

Mr. COPELAND. I am for Senate bill 1635, but I want the Senate to understand just what it is. It is founded upon the present organization of the Italian Government. As I understand, Italy has a king as well as a dictator, Mr. Mussolini. Senate bill 1635, in addition to the good feature which I have pointed out, providing for a division of water carriers, provides for a "king." The "king" is to be the chairman of the commission. But besides the "king", it provides for a "Mussolini", the coordinator of transportation. He is to have coordinate power with the "king." He is to have all the powers the chairman will have. It will become a two-headed commission, presided over by the "king" on the one side and by "Mussolini" on the other.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WHEELER. I am quite sure the Senator has not read the bill carefully; otherwise he would not have made the statement which he has made. I am afraid that when the Senator said that he wanted to see Senate bill 1635 adopted as an amendment, he really was not serious about it, because he now attacks the very bill he said he wanted to see passed.

Mr. COPELAND. Oh, no.

Mr. WHEELER. The Senator is not in favor of a Mussolini dictator in this Government, is he?

Mr. COPELAND. I am, in the Interstate Commerce Commission.

Mr. WHEELER. Oh, the Senator is?

Mr. COPELAND. Yes; I want a Mussolini there. I want someone with power enough to say, "We are going to do thus and so", because the Interstate Commerce Commission as heretofore organized could do something in about 17 days. It takes just about that long to get action. But we will have a Mussolini there, in the form of a coordinator of transportion, who will have coordinate power with the "king", the chairman of the commission. So I am in favor of it. I think it is a splendid addition to the bill, and I am glad the Senator from Missouri intends to offer the amendment.

Mr. WHEELER. Then I assume the Senator will withdraw his opposition to Senate bill 1632?

Mr. COPELAND. Yes.

Mr. WHEELER. And vote for the bill?

Mr. COPELAND. No; I will not vote for the bill, but I will withdraw any opposition that I intended to raise to the bill as it is now before us.

Mr. WHEELER. I thought the Senator was going to be in favor of it in the event we adopted the amendment and thus passed Senate bill 1635.

Mr. COPELAND. No; I could not say that, but I will vote for the amendment.

Mr. WHEELER. The Senator will vote for the amendment?

Mr. COPELAND. Yes.

Mr. WHEELER. The reason why the Senator will vote for the amendment is that afterward he will vote against the bill.

Mr. COPELAND. I shall vote against the bill; but the amendment is a splendid amendment, and it ought to be added, and I am glad the Senator from Missouri intends to offer it. It will help the cause of the Senator from Montana.

Mr. WHEELER. The Senator from New York need not worry about the cause of the Senator from Montana. I will take care of that.

Mr. COPELAND. No; the Senator from Montana does not have to worry, because he has higher authority back of him than I have. He has a "must" bill, and I have an "unmust" bill. The Senator from Montana does not have to worry. I am the one who has to worry.

The Senator from Montana has been telling us about General Ashburn, and he waxed eloquent as he referred to the support General Ashburn had given his bill. General Ashburn did not support Senate bill 1632; he supported Senate bill 1632 plus the Clark amendment, Senate bill 1635. That is what he supported, and I will read the record to show that, because I wish to help the Senator from Montana, now that he is going to have a good bill.

Mr. WHEELER. If it is a good bill, I know the Senator will vote for it, because he will vote for any good bill.

Mr. COPELAND. If I had no interest whatever in the American merchant marine, or if my interest in the American merchant marine were not superior to my interest in the railroads, I would vote for it.

Mr. CONNALLY. A point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CONNALLY. The Senator from New York is not talking to the other Senators in the Chamber, only to the Senator from Montana. The Senate rules do not provide for private colloquies.

Mr. COPELAND. Mr. President, I call the attention of the Presiding Officer to the fact that the Senator from Texas is out of order. He did not rise in his place; he rose at some other Senator's place. [Laughter.]

Mr. CONNALLY. Mr. President, if the Senator from New York is going to invoke that rule it will stop his perambulating, because in making a speech he usually walks all over the Senate. [Laughter.]

Mr. COPELAND. Mr. President, it is well we can have something that is of a cheerful nature and causes us to smile a little. We need that in the Senate. If I had my way I would have the Senate adjourn tomorrow and go home. I have seen many a fine operation spoiled by a tired surgeon, and if we stay here long enough we will spoil all of our legislation by having tired doctors work upon it.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WHEELER. That is what I am afraid of. I am afraid the Senator is a tired doctor and that he is going to try to spoil the proposed legislation now pending before us.

Mr. COPELAND. If I had any way of spoiling this proposed legislation and defeating it I should certainly indulge in the practice necessary to that end, because I am interested in the American merchant marine; and the pending bill, even as modified by the Clark amendment, will be destructive of the American merchant marine. But the bill will be infinitely better with the Clark amendment, because under that amendment there will be new men added to the enlarged Interstate Commerce Commission; and as the railroad-minded men who are now on the Commission will probably want to continue to consider railroad problems there will be five new members appointed; and it may happen that they will not be unfriendly to the American merchant marine. But unless we can have friendly treatment at the hands of the Interstate Commerce Commission the American merchant marine will be ruined, as I see it.

I was about to speak of the enthusiastic recital of the testimony of General Ashburn. He did not say he was in favor of Senate bill 1632. I quote from page 788 of the hearings. General Ashuburn said this:

> I wish I had it in my power to impress this honorable committee with the gravity of this transportation situation and the necessity of the enactment of these bills.
> S. 1635—

Which is the bill which is to be offered by the Senator from Missouri as an amendment to the pending bill—

> S. 1635, taken in conjunction with the policies enunciated in S. 1632—

The pending bill—

> and S. 1629—

The bus bill—

> provides a means by which the situation may be remedied. It is to be presumed that the President, in his appointment of additional Commissioners, will select the most competent experts he can find to represent water carriers, pipe lines, motor carriers, and air carriers.
> These additional members will introduce new elements, new methods of approaching the vital problem of coordination and cooperation of all forms of transportation. They will not be handicapped by a habit of mind formed through the approach of the problem with the primary end of adding to the revenues of the railroads, but of giving to the public the best and cheapest form of transportation available. Naturally they—

The new members—

> will be assigned to the waterway carriers and pipe-line division.

General Ashburn never supported Senate bill 1632. No man who knows anything about shipping or is interested in shipping would support Senate bill 1632.

Furthermore, it is not alone the ship lines and informed persons in shipping who object to this proposed law, but various organizations which are informed on the subject are likewise in opposition to the bill. Even with the addition of Senate bill 1635 as an amendment, I think it is wise to mention the fact that we have here the opposition of the American Farm Bureau, represented by Chester H. Gray. We have the opposition of the National Grange, represented by Fred Brenckman.

I desire to inform the Senate as to the statements which they are signing, so there will not be any misunderstanding about what I am putting into the RECORD. This is an extract from a letter to the President of the United States dated February 14, 1935, with the signers' names attached, two of whose names I have already given:

> DEAR MR. PRESIDENT: The undersigned organizations are deeply concerned about the proposals of the Federal Coordinator of Transportation to subject inland waterway transportation services to the regulation of rates, routes, and schedules by the Interstate Commerce Commission. * * *
> 1. Regulation is sponsored by the rail carriers for the purpose of increasing water rates and costs to a point whereby they will regain the water-borne commerce.
> * * * * * * *
> 3. Under Interstate Commerce control, the yardstick of water rates would be the rail rates and not the cost of service.
> * * * * * * *
> 6. One of the reasons for railroad regulation was their monopolistic character. This does not exist in water transportation, as the waterways are free and open to all.
> 7. Inland waterway transportation benefits the entire Nation, including communities and population not located on water and including all railroads serving the interior of the United States.

I am going to give the names of those who signed this letter. I was interested in what the Senator from Montana [Mr. WHEELER] said awhile ago, that every Senator has had letters from the railroads urging the passage of this bill. I have had such letters and have been spoken to regarding the matter. Of course, the railroads desire this legislation. Does any Senator think the railroads of the country are satisfied to have competition by transportation on the Mississippi River and the Missouri River and the Ohio River, and on the Great Lakes, and by the intercoastal activities of American ships carrying freight from the Atlantic to the Pacific and the other way? Does not that take away from the railroads very much traffic?

I recall very well the opposition of the railroads to the building of the Panama Canal; but whatever the railroads suffered by the reduction of freight through the building of the Canal they will make up by the passage of this bill, because the competition which is now present, and which must be present if the ships are to prosper, will be done away with by reason of the fact that the railroad-minded—and I say that in spite of everything which has been mentioned to the contrary—the railroad-minded Interstate Commerce Commission will deal with the problem from the railroad standpoint. How can it be otherwise?

I think it was in 1887 that the Interstate Commerce Commission came into existence, for the express purpose of dealing with railroad problems. The first chairman of the Commission was from my own home town of Ann Arbor, Mich.—Judge Cooley. The Interstate Commerce Commission has been dealing with railroads. If it is not railroad-minded, I am amazed. It is bound to be just as much railroad-minded as a surgeon is surgical-minded, or a doctor medical-minded, or a lawyer legal-minded. For 50 years it has been doing nothing else than dealing with the railroads. So these writers, in their letter to the President under date of February 14, have called attention to the fact that they fear the effect of the transfer of regulation from a ship-minded group to a railroad-minded group. Who are the signers? I mentioned two—the American Farm Bureau, by Chester H. Gray, and the National Grange, by Fred Brenckman. The others are as follows:

The Northwest Farmers Union Legislative Committee, by O. N. Horsford.

The Farmers' National Grange Corporation, by M. W. Becker.

The American Cotton Cooperative Association, by N. C. Williamson.

The Mississippi Valley Association, by Robert Isham Randolph.

The Mississippi River System Carriers Association, by Andrew P. Calhoun.

The Intracoastal Canal Association of Louisiana and Texas, by Roy Miller.

The Missouri River Navigation Association, by A. J. Weaver.

The Upper Mississippi Waterway Association, by C. C. Weber.

The Ohio Valley Improvement Association, by Oscar F. Barrett.

Upper Mississippi and St. Croix Rivers Improvement Commission of Minnesota, by R. P. Warner.

Gulf Inland Waterways Conference, by Theodore Brent.

Let it not be said here that there is no opposition to this bill. There is opposition to it. There is opposition from every informed person who has not a direct interest in the passage of the bill. I desire to say that, in my opinion, great harm is sure to come to us by reason of this proposed transfer of regulation.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WHITE. I have no question the Senator has in mind that one of the purposes of the 1916 act, and the 1920 act, and the Transportation Act of 1920, was to encourage water transportation. It is significant that in the second section of this bill the words "promote and encourage" are stricken out, and there is left only the word "regulate." It seems to me that has a real significance.

Mr. COPELAND. I should like to ask the Senator from Maine, who apparently has been studying this bill, what is meant by the following words in the title?—

Regulation of the transportation of passengers and property by water carriers operating in interstate and foreign commerce.

Every time the matter of foreign commerce has come up, the Senator from Montana [Mr. WHEELER] has said that the bill has nothing to do with foreign commerce; but repeatedly in the bill I find language similar to that found, for instance, at the bottom of page 2:

The provisions of this part shall apply to the transportation of passengers or property by water in interstate and foreign commerce—

And so forth. Yet the statement is made that the bill has nothing to do with foreign commerce.

Mr. President, it is a bad bill. It is badly written. Of course, if I were to suggest that it should be recommitted to the committee for improvement and rewriting, I should be charged with seeking its death; but I would do anything honorable to bring about the death of the bill, because I am so sure that it is another blow at an already weakened and dying system—the water-carrier system of America.

I now desire to give a little more material concerning the attitude taken toward the bill. I do not wish to have the impression prevail in the Senate that even though we accept Senate bill 1635 as an amendment—and I shall vote for that because it will be an improvement—there is no opposition to the bill. Those who are informed on the subject are still in opposition, as I shall undertake to show by a letter from which I now quote:

In line with our conversation of Wednesday I am writing you in an attempt to present a clear picture of the positions taken by the various inland water carriers and inland shipping interests in regard to S. 1632 (the Eastman water-carrier regulation bill).

You will remember that during the course of the debate on Wednesday (particularly to be found on p. 10695 of the RECORD for July 3) certain statements were made regarding the position taken by the Federal Barge Line and the Mississippi Valley Barge Line Co., the only common carriers of any consequence on the Mississippi River system. It is quite true that representatives of these lines appear in favor of the bill, but it is equally true that their approval of the bill was based upon a reorganization of the Interstate Commerce Commission, as provided for in S. 1635—

Which, I assume, will be added now.

* * * The Mississippi River System Carriers' Association, whose members carry the tremendous preponderance of tonnage on the inland waterways, is whole-heartedly opposed to S. 1632 in any event—

It does not make any difference how much it may be improved by the addition of Senate bill 1635, the Mississippi River Carriers' Association continues in opposition—

and its representatives so testified both before the Senate and House committees.

I want to read a little more from this letter, because I am sure the Senator from Montana [Mr. WHEELER] did not wish to mislead the Senate, but, inadvertently, I fear he did so, because he said so much concerning testimony in support of the bill by certain carriers, when, as a matter of fact, they are in opposition. I quote from this letter further:

Quite a point was made of the fact that the Missouri River Navigation Association is supposed to have appeared in favor of this bill. I should like, if possible, to clear up that situation. It is true that Mr. George J. Miller, who is the executive secretary of the association, appeared before the Senate committee in support of the bill. His testimony appears on page 808 of the hearings, and you will note that, while he says he is executive secretary of the Missouri River Navigation Association, he does not say that he is speaking for the association.

And yet it was represented, inadvertently, of course, that he was speaking for the association.

At the time of the hearings before the House committee he again testified, and his testimony appears on page 238 of the hearings. During the course of that testimony he made it very clear that while he favored regulation, he did not favor the Eastman bill without proper provision being made for reorganization of the Interstate Commerce Commission.

On page 288 of the hearings before the House Committee appears the testimony of Hon. Arthur J. Weaver, former Governor of Nebraska, and president of the Missouri River Navigation Association ever since its organization. Mr. Weaver expressed opposition to the bill and made it clear that the association has taken no position on this question and that Mr. Miller was speaking in his personal capacity.

The position of the Mississippi River Valley Association in opposition to regulation of water carriers by the Interstate Commerce Commission is, I believe, too well known to you to require any further statement in that regard.

It is well known to me, Mr. President. I sat through all the hearings on the ship-subsidy bill. I had a few patient colleagues who came occasionally, but I happened to sit there all through, and it was made perfectly clear to me that the inland water carriers on the Great Lakes and rivers do not want this sort of regulation and are in bitter opposition to it.

I want the Senate to hear the statement of Mr. Gray, who is well known to us. He is the representative of the American Farm Bureau Federation, an organization highly respected by every Senator, and Mr. Gray is equally highly respected by all of us. This is what he said, which is found in the hearings on page 1143:

First, I want to state that the American Farm Bureau Federation * * * has taken the position that for the public welfare we do not need coordination of transportation nearly as much as we need competition in transportation.

To accomplish that objective our resolutions, only one of which we shall put into the record, state that we oppose not only the bills pending—

That is, bill no. 1629, the bus bill; 1632, which is the bill before us today; and bill 1635, which has been offered as an amendment by the Senator from Missouri. Mr. Gray continues:

We oppose not only the bills pending, but any others which have formerly been submitted and which may later be submitted, placing under one Federal regulatory body the regulation and control of all transporting agencies, which means to state that in the bill pending, S. 1632, we do not think it is good public policy to let the Interstate Commerce Commission regulate rates and services on the railroads, on the highways, on the waterways, or, if it should be imagined so, on the airways.

Mr. SMITH. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from South Carolina?

Mr. COPELAND. I yield.

Mr. SMITH. I have been interested in this discussion because it is a matter of surprise to me that under the fourth section of the interstate-commerce law complaint has gone forth all over the country that the railroads have driven the carriers off our inland waterways and have practically destroyed our coastal traffic for the reason that they were allowed whenever there was water competition to impose a rate which was as low as or lower than the water rate.

I have not had an opportunity to study this bill and its purposes, but I am a little confused as to how transportation on our inland waterways, our lakes and rivers, and coastal traffic may hope to survive so long as the railroads, which transport goods more swiftly and have a larger capacity, can be given a rate to all the competing water points which will take the business away from the water carriers. I have an idea that if the Interstate Commerce Commission or some other body could coordinate our different systems of transportation so that we might take advantage of the intrinsic merit of each and every one, and give each and every one a chance to survive and serve the public, it would be better than to have the competition—an unnatural competition—which has existed under the fourth section up until now. If we could secure a coordination of these different elements, the busses and trucks, the waterways and the railroads, which would recognize the inherent advantages of each system and give each a proportionate opportunity to serve the public, it would be highly desirable. I thought, perhaps, that was the object of the pending bill.

Mr. COPELAND. Mr. President, I may say to the Senator that the very laudable objective of which he speaks is the purpose of Senate bill 1635. I have already stated that I

would vote to add that bill as an amendment to the pending bill, although I would still vote against the pending bill, but I would vote to add Senate bill 1635 as an amendment because it would do exactly what the wise Senator from South Carolina suggests. It proposes a coordination of all these various activities; and under that bill we would have a Mussolini coordinator who would have all the powers which Mussolini has in Italy. Anyway, it provides for various divisions in the Interstate Commerce Commission, so that the railroads would be taken care of and the motor carriers would be taken care of and the water carriers would also be provided for. There would be a railroad division, a water-carrier division, a pipe-line division, an air-carrier division; there would be special divisions, and there would be exactly what the Senator proposes. That, however, is not in this bill, and will not be in the bill unless the amendment shall be adopted. This bill has only to do with the transfer to the present railroad-minded Interstate Commerce Commission of the function of regulation of waterway rates.

Mr. SMITH. I am sorry that, although I am a member of the committee, I have not had an opportunity to study the bill. The Senator's contention is, then, that the bill under discussion simply provides for regulation without specific order for a just coordination of the various elements of transportation?

Mr. COPELAND. The Senator has stated the situation exactly.

Mr. SMITH. I wish to state, Mr. President, that I have been a member of the committee ever since I have been a Member of the Senate, with the exception of about 4 or 5 years, and it has been a matter of marvel to me that with the facilities for water transportation we now have, with the facilities afforded by busses and trucks, in addition to the railroads, each having a peculiar advantage within its own domain, we have not so coordinated them as to give our coastal shipping, our inland waterways, our trucks and busses, and railroads due consideration, and then so to correlate them as to have each and every one of them give the public the full benefit of their peculiar intrinsic value. I say that we ought not to enact any legislation disturbing the present situation until we may have a bill that does have that objective in contemplation and clearly undertakes to coordinate all these elements of our transportation.

Mr. COPELAND. I think the Senator is essentially correct in his statement, and I want the Senator to know that when we wrote the unfortunate ship-subsidy bill—unfortunate, I assume, with regards to its fate—we had in mind exactly what the Senator from South Carolina is talking about. We had in mind that there come times when there is an interrelationship of railroad and steamship traffic. We did not seek selfishly to appropriate everything in the way of shipping rates.

There is a section in the ship-subsidy bill which is headed "Interrelation of Rail and Water Traffic" and which, in part, provides as follows:

(b) A board is hereby created, to be known as the "Joint Transportation Board", to be composed of the Secretary of Commerce and of 2 members selected by the Interstate Commerce Commission from among their members, and of 2 members selected by the Authority from among their members, of which Board the Secretary of Commerce shall be chairman.

This interrelation board, designed to deal with problems where the ship interests conflict, was to cope effectively by such an arrangement with any situation that might arise. We had that in contemplation. To my mind that is far superior even to the pending bill with the addition of Senate bill 1635, which will be offered as an amendment by the Senator from Missouri.

I wish to call attention a little further to what Mr. Gray said. Competition! How do the producers in Oregon and Washington and California get their food products to market? The apples of Washington and Oregon must compete with the apples from my State of New York. They could not do that if they had to be shipped by rail. They are enabled to compete because they can be shipped by cheap water transportation. That is the way such traffic is carried. That is the way it is made possible for the wheat farmers of the United States to compete with some degree of success with the wheat farmers of Canada and the Argentine. It is cheap transportation by water that does it. Representatives of the big farm bureaus see the point. They know if we have no longer free and frank and honest competition between the waterways and the railroads that there will be an interference with cheap transportation for the products of the farm and the orchard throughout our country and throughout the world.

The testimony of Mr. Brenckman, of the National Grange, is found at page 835 of the hearings. This is what he said, in part:

This bill would permit the Commission to limit the services and raise the rates of boats and barges on the lakes and waterways of the interior and on the high seas. We are opposed to all this legislation in principle. Some of the farmers' cooperative organizations use these cheaper services on the rivers and the savings are credited to them in the returns on their produce, or it enables the cooperatives to pay a higher price directly.

And yet we have here upon the "must" program a bill which takes away the certainty of free competition and the certainty of cheap rates by giving a railroad-minded body the power to determine what shall be the rates so fixed and so definitely determined. In writing the ship-subsidy bill we did not dare incorporate a provision that specific rates could be fixed. We said there might be maximum and minimum rates fixed, but we did not dare say specific rates. However, the authors of the bill now before us did not hesitate to say the Commission could fix specific rates so there would be a definite rate fixed on apples from Oregon and canned fruit from California to the Atlantic seaboard—a definite rate fixed by a railroad-minded Commission.

Mr. T. L. O'Connor, of the Farmers' Union Terminal Association and the Farmers' Union Legislative Committee, appeared before the Senate committee. His testimony is found at page 834 of the hearings, where he said:

We are appearing here in opposition to that portion of the Eastman bill which contemplates placing water carriers under the jurisdiction of the Interstate Commerce Commission for the purpose of determining rates.

I have just told the Senate how definitely the Commission can determine these rates—not on a sliding scale, not a maximum and minimum rate, but specific rates.

Mr. O'Connor continued:

Our waterways are public highways on which all who wish may travel. In no sense can they be compared with railroads, which are a private monopoly, though built, and to a considerable extent maintained, at public expense.

Are we going to disregard all these farm organizations merely because a handful of shipping men imagine they are going to be benefited and a few lines which are hand-in-glove with certain railroads will be benefited, and the railroads themselves, who want to get rid of water competition? They are the ones who want this bill enacted into law.

Every week I read a splendid little paper edited by a friend of mine, Railroad Data. I read it because I want to know what are the railroad loadings, for the railroad loadings, in my judgment—and that is the judgment even of distinguished economists, so Senators do not have to take my word for it—give evidence of whether we have prosperity or the reverse. So I read it every week to know how prosperity is coming along. Incidentally, when I have read the figures as to railroad loadings, I look the publication over to see what else my friend has said. He said recently:

"Do waterways need more study? How much more careful study and research are required to discover the economy and efficiency of railroad transportation in competition with the Mississippi, Missouri, and Warrior Rivers and Erie Canal?" asked the Wall Street Journal in a recent editorial.

I am for the railroads. We never could have had a country without them, and I have done everything I could within decency to help them all the time I have been in legislative life. But when there comes a conflict between the perpetuity of the shipping of this country and what the railroads regard as their welfare, there is no question of the position I am going to take. I am going to stand by the shipping. No one seeing the barges on the Rhine and the canals of Holland, realizing how one man can push or drag along a boat

loaded with as much as could be put on two or three of our motor trucks, can question how much cheaper that transportation is than is our rail transportation. I do not want such transportation to be used to the abuse and destruction of the railroads.

The railroads got along very well until by their own mismanagement they got into distress. They got along very well even with water competition and water transportation. I want to see that competition continued. Therefore I am opposed to turning the shipping interests of the country over to a railroad-minded Interstate Commerce Commission—and I say that without any disrespect or any intent of disrespect. It is their job to be railroad-minded. They were put there to be railroad-minded, and on the whole they have done a good job.

So far as Mr. Eastman is concerned, who is now the Coordinator of Railroads, and under Senate bill 1635 will be the Mussolini of the Commission, if we have to have a Mussolini, I am glad Mr. Eastman is to be the man, because I regard him highly as a man of integrity and character and great ability and devoted to the public service. But I do not disregard the fact that he has been engaged in the railroad-transportation business, that his interests are those of the railroads, and of necessity he is railroad-minded. That is no more a curse than it would be to say of the Senator now speaking that he might be medically-minded. Nevertheless, if we are to preserve our shipping we need to have it directed by those who have but one thought in mind, the perpetuity and development of a powerful American merchant marine which shall be used for the national defense in time of war, and for the promotion of commerce in time of peace.

Now, I wish to give the Senate the testimony of a man representing the Farmers' National Grain Corporation. It is always very refreshing and encouraging to one who is speaking either for or against a measure to have testimony substantiating the position he takes. Any one of us who is modest must believe that he could be mistaken; but when he finds that all the witnesses say the same thing he knows that he is not mistaken, and that his position is a sound one. Therefore, I take pleasure in quoting the testimony of these men who have made a life study of the needs of agriculture in our country.

Mr. McClintock, of the Farmers' National Grain Corporation, said:

> The public's interest is so allied with that of agriculture we believe it proper to state that speaking in behalf of agriculture is in effect speaking in the interest of the general public. This reference is made since the Coordinator repeatedly emphasizes and makes clear that the provisions of the bill now under consideration are drawn to conform to the public's interest.
>
> We are opposed—

Says Mr. McClintock—

> to extending authority affecting water transportation to the Interstate Commerce Commission.

Then the American Cotton Cooperative Association came forward to express the views of that organization. L. D. Estes—hearings, page 838—said:

> We are opposed to S. 1632, cited as the Water Carrier Act of 1935 * * * as such legislation will increase transporation charges, restrict service, and create monopolies.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. COPELAND. Yes.

Mr. WHEELER. That was before the bill was amended. Since the bill has been amended I may say that I have heard no opposition to it from these organizations, but the statements have been to the contrary effect.

It has been stated that the Farmers' National Union is opposed to the bill. Day before yesterday, or two or three days ago, I talked with Mr. Kennedy, the secretary of the Farmers' National Union, the largest farm organization of the West, and he told me that he had no opposition whatsoever to it.

Mr. COPELAND. That is very interesting. The letter and enclosure I am using are dated July 5, which is only Friday of last week.

I am glad to have the Senator from Montana state that he has amended this bill. Every time he strikes something from it or puts something in it he has improved it. If he could have another couple of weeks to modify and amend his bill, I think ultimately he would have a bill which, so far as I am concerned, I should be glad to vote for, because, as he said, he has had distinguished men converted by reason of the changes he has made. God bless him! I hope he will make some more changes, so that all the Members of the Senate may vote for a bill which as yet, as I view it, is quite unfit to receive the suffrages of Senators.

Mr. President, it must be encouraging to the Senator from Montana to know there is such a lobby in the gallery. They are all here—every one of them—and when we have the lobby investigation, I assume they will all be before the committee. I am going to go there and give my testimony. The members of the lobby who are up here now, hoping this bill will pass, think that after it is amended it ought to be passed; but they were enthusiastic for it even before it was amended. The men I am talking about, however—the farmers, the wheat growers, the orchardists of the country—are not for the bill, either amended or unamended.

Now, let us see what is said by the chairman of the traffic committee of the Mississippi Valley Association, Mr. C. E. Childe. He says:

> It is my belief, based upon study and experience, that regulation, as we have applied it to railroads in the United States, has worked badly and imperfectly, but it is needed by the railroads and, in the public interest, must be continued. I hope, however, that it may be continued in a modified form and under different rate policies than we have been following.

Then Mr. Childe goes on:

> I am convinced, however, that the same kind of regulation would work even worse than it has on rail transportation if it is attempted to be applied to water transport. I do not believe it is needed by water carriers, or even in the interest of the railroads, and certainly not in the interest of the public.

We ought, once in a great while, at least, to give some thought to the public. I suppose we do, in our subconscious minds, think about the public; but so many of our bills seem to have a selfish basis and to be founded on a desire to serve some interest.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WHEELER. I presume the Senator now has particular reference to the ship subsidy bill?

Mr. COPELAND. Yes; a bill conceived in the interests of the public, written with the purpose of serving the public, and which, if it could be enacted into law, would give the American people an effective American merchant marine which would keep America upon the map, put her flag upon the seven seas, and carry her products to every port of the world. Certainly the ship-subsidy bill is a bill written in the public interest; and when the time comes, as it will come, unless we have a way of subsidizing and making possible the operation of American ships, in 7 years from now there will be hardly an American ship upon the seas. Our ship operators will take their good American money and go to England and Japan and elsewhere and build ships at the low price for which they can build them there. They will send them out under the flag of Denmark or Great Britain or some other country and operate them under the conditions of labor common in those countries. The seamen will be packed in like sardines; they will be served the poorest kind of food; they will be paid starvation wages; and American products then will be carried in foreign bottoms, even though the ownership may be American.

I do not wish to see such a condition, Mr. President. I wish to see the fine products of Nebraska carried down to the Gulf and taken on American ships to every part of the world, and the raw products of foreign countries brought back in American ships and ultimately landed in Nebraska for the benefit of labor and the general population of that fine State.

I have before me the testimony of Fred S. Keiser, representing the National Industrial Traffic League, before the Senate Committee on Interstate Commerce, to be found in the hearings at page 1102. Now I shall call upon men who

are directly interested in order that we may have here testimony which is full and complete, made up, not of what I am saying about shipping or about the need of regulation by an appropriate body, but testimony of men who are directly interested in having the free competition of the seas and the cheap transportation rates given by the water carriers under the American flag.

Mr. Keiser said:

I am traffic director of the Duluth Chamber of Commerce and traffic manager of the Duluth Board of Trade. I represent in this proceeding not only those two organizations, but also the National Industrial Traffic League, and I am chairman of the inland waterways committee of the National Industrial Traffic League and have been for 10 years.

I quote what was said by this man, so highly respected that he has been honored by two rival organizations in his city, the chamber of commerce and the board of trade:

The league is the only national organization of strictly shipping interests in the United States. * * *

We believe that the adoption of the Eastman bill will mean heavy increases in transportation charges, a gradual decrease in shipping via the Great Lakes, less competition in the grain trade on boats of Canadian registry, and in the American grain trade it will penalize the shipper and the farmer.

Mr. President, the American wheat farmer is bound to have much trouble. He has had trouble and he is going to continue to have it. To begin with, the soil of Canada is more productive than is the soil of our country. It has not been wasted by long years of tillage without proper fertilization. Consequently in Canada the farmers can produce about 50 percent more wheat to the acre than can be produced in the United States.

In the next place, the land values and the overhead charges of the Canadian farmer are much less than they are in the United States, because land can be bought in Canada for a quarter of what it can be bought for in Nebraska.

Further, the labor costs in Canada are much less than they are in the United States. More than that, the National Railroad of Canada, a Government-owned railroad, has written into its charter a provision that the carriage on wheat from Saskatchewan and Alberta to the lakehead, Port Arthur, is, if I remember correctly, 18½ cents a hundredweight, while the rate on American wheat from Montana to Duluth is about 23 cents a hundredweight.

Mr. SHIPSTEAD. I think the differential is about 10 cents a bushel.

Mr. COPELAND. Ten cents a bushel; very well. More than that, the Canadian farmer has now a differential in the Liverpool market by reason of agreements. So, taking it all in all, I cannot see how the American wheat farmer can have anything else but a hard time. Furthermore, by our grain-grading laws we are sending much American wheat to be shipped out of Canada.

So it is a matter of great concern, as this witness says, what rate is to be had on the vessels, and if the railroad-minded Interstate Commerce Commission decides that too much wheat is being shipped by way of the Great Lakes, and in order to assure it being turned over to the railroads, it rules that the rates on the shipping shall be increased, once more the poor wheat farmer will have the knife placed under his seventh rib. That is what Mr. Keiser means when he says:

We believe that the adoption of the Eastman bill will mean heavy increases in transportation charges, a gradual decrease in shipping via the Great Lakes, less competition in the grain trade on boats of Canadian registry, and in the American grain trade it will penalize the shipper and the farmer.

That is so because, of course, at the lake head there is competition between the American-owned vessels and the Canadian-owned vessels, and if the railroad-minded Interstate Commerce Commission puts up the price on the American shipping, once more the American merchant marine will suffer.

This witness, Mr. Keiser, proceeded:

I want to urge upon this committee as strongly as I know how that all of these bills are the outgrowth of the most vicious railroad propaganda which has been practiced since 1930 against water transportation of every character for the sole purpose of restricting service via the water lines and of making rates via the water lines so high as to make that service unattractive as a transportation agency.

How can it be more strongly put? I am not surprised at the number of railroad men here today. This is a great measure for the railroads. I wish I could help the railroads. I do not want to commit murder for them, but I want to do what I can that is proper to help them. As compared with the amount of traffic upon the railroads, the freight carried by shipping is so infinitesimal that the railroads ought to be ashamed even to give it a thought, let alone to use any methods of lobbying to put over a bill which is in their interest.

Mr. President, these men are all friends of mine. I know what they will say to me; but I cannot help it. I want to see the American flag carried all over the world, and the only way that can be accomplished is by the encouragement of American shipping, and not by its discouragement. One blow after another has been given American shipping until, as I have said, in 7 years there will not be any American shipping.

Mr. Keiser closes by saying:

There is no public demand for regulation of inland waterway transportation except by those who have an ax to grind.

That is his testimony, and I know Mr. Keiser is telling the exact truth.

It was at this point that I read the letter to the President of the United States dated February 14, and gave a long list of farm organizations signatory to that letter.

In the Senate debate it was contended that the Missouri River Navigation Association favored the Eastman water-regulation bill. That was said here the other day. This assertion was based upon the testimony of George J. Miller.

Let us see what Mr. Miller said. Let us look at the record. It is a good idea once in a whole to see just what the record says. The record, at page 808, is as follows:

Mr. MILLER. I do not speak for the whole of the Missouri River interests. There is some disagreement amongst us as to this bill, and there will be other witnesses that may take a different view of this bill than the one I shall present here.

The CHAIRMAN. Whom do you represent?

Mr. MILLER. I am executive secretary of the Missouri River Navigation Association. But I might say that the Kansas City interests are in accord with my view on this bill.

So, Mr. President, there is another organization opposed to the bill. Everyone who knows what the effect of the bill will be, or what its effect may be, is opposed to it. There is no question about that. Everyone who is for the public interest and the welfare of those who produce and those who ship would be against this bill. It will be greatly improved when the amendment offered by the Senator from Missouri [Mr. CLARK] is attached to it.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. CLARK. Let me say to the Senator from New York that I had nothing to do with the preparation of the other bill, but I do insist that if one is to be passed, they should both be passed at the same time.

Mr. COPELAND. The Senator is correct about that, and therefore he can move the amendment. Then, if one is passed, both will be passed. That will be the least of the evils that might be perpetrated. There is an implication in what the Senator says that probably with that amendment on the bill he would not be for the bill anyway; and, so far as I am concerned, I should be against the bill.

Hon. Arthur J. Weaver, president of the Missouri River Navigation Association, appeared before the Merchant Marine Committee of the House in May 1935; and, referring to Mr. Miller's testimony before the Senate committee to which I have just made reference (see House hearings, p. 290), Mr. Weaver, ex-Governor, said:

I want to approve Mr. Miller's statement, except on the one point, namely, that we should go to the Interstate Commerce Commission. I do not believe that there should be any regulation at this time.

We hope that if there is any regulation that inland waterways will be placed under the supervision of the Merchant Marine Committee or under a separate inland waterways committee, outside of the Interstate Commerce Commission.

What the Governor had in mind there was the maritime authority which we are providing for in the ship-subsidy bill—that ill-fated bill, not on the "must" list. He said that if there is to be any regulation it should be under the supervision of the maritime authority. Certainly it should. Why? Because the maritime authority will be maritime-minded. We are going to have the railroads under a board which is railroad-minded. By the same token we should have shipping under a board which is merchant-marine-minded. That is what Governor Weaver thinks.

The other day there was a great deal of debate in the Senate between the able Senator from Minnesota [Mr. SHIPSTEAD], patient and faithful to his duties, and the Senator from Montana [Mr. WHEELER], the ardent, eloquent advocate of the bill. There was a great deal of conversation, which we speak of as a colloquy, between the two Senators about what the barge lines thought about this bill and what General Ashburn, the representative of the Army engineers, thought about the bill. The Senator from Minnesota—without intending, of course, to mislead the Senate—inadvertently got himself in the position of appearing to make General Ashburn in favor of the bill which is now pending. The point was not made that both General Ashburn, on behalf of the Federal Barge Line, and L. W. Childress, president of the Mississippi Valley Barge Line Co., severely criticized the rulings of the Interstate Commerce Commission as now constituted.

When we come to the question of criticizing the rulings of the Interstate Commerce Commission, I wonder how many Senators have ever read the testimony on the fourth section of the act before the Interstate and Foreign Commerce Committee of the House in the Seventy-fourth Congress. It is very illuminating. Here is a witness who quoted Judge Cooley at great length. Johnston B. Campbell, representing the Intermediate Rate Association of Washington, said:

> Let me say right there that the statement was made by one of the witnesses, or one of the members of the committee, I do not know which, that it took the Interstate Commerce Commission longer to decide the case than it does the Supreme Court. Well, there are nine men on the Supreme Court of the United States, and they have about 400 cases a year, and there are nine men on the Interstate Commerce Commission, and they dispose of, I think they disposed of, in 1928, when I was chairman of the Commission, disposed of 2,200 cases, and in addition to those 2,200 cases they also have to dispose of literally thousands and thousands of memoranda under the fourth-section relief that never went to a decision, and yet those nine men in 1928 disposed of four or five times the amount of business that the Supreme Court does.

Mr. President, we are not satisfied now to have the Interstate Commerce Commission loaded down, as its former chairman says it is, with railroad cases; but, in addition, we have to give it all the problems of the water carriers! I desire to say about the water-carrier problems that they must be settled at once. Problems which come up in connection with water carriers are imminent. There must be immediate action. There cannot be delay over a period of a year or 6 months or whatever it may be. The matter has to be decided overnight. Yet here we are proposing to transfer to an already overloaded commission the shipping industry, the shipping interests, involving a great problem which has to do with our welfare in time of war, and our trade and commerce in time of peace.

No wonder General Ashburn and Mr. Childress criticized the rulings of the Interstate Commerce Commission as now constituted and further charged the Commission with being unfair to waterways and with being railroad-minded. Every witness has done so.

Yet it is proposed here to turn over the shipping interests of America to the Interstate Commerce Commission which is already burdened with duties.

I do not believe the average American realizes how important American ships are to our country. When Theodore Roosevelt was President of the United States he sent the white fleet around the world. Every heart thrilled at our great warships being sent on that extended voyage. But it took the edge off the joy when we found that in order to maintain and support that fleet we had to hire 300 vessels from foreign-flag owners to carry the supplies, coal, and so forth, for the fleet.

We cannot have an effective Navy without an effective merchant marine. If I am correct in my dire prediction that 7 years from now the American flag will be off the waters of the world, we will not have any use for our Navy. It will not be any good except to look at on the Fourth of July. Our naval vessels could be moved up into the Hudson River and we would be glad to have them there, because we like to have the boys visit us. We are glad to have the battleships there. It gives us a holiday.

When we build the St. Lawrence Canal these great battleships can be floated up the St. Lawrence through the Great Lakes to Chicago and lined up there in front of the great parks of that beautiful city.

Mr. CLARK. Mr. President, whose battleships can be floated up the St. Lawrence?

Mr. COPELAND. Of course, the Senator from Missouri and I think alike on this matter. The battleships which will go up the St. Lawrence River, if that waterway shall ever be built, will be British battleships. There will be no American battleships except once in a while when Chicago may have a festive occasion and some of our battleships may be sent there for display.

That will be in times of peace. But when war comes on, the war vessels which go up the St. Lawrence will be British vessels and not American vessels. All the rest of the time the shipping upon this great canal about which we hear so much will be under the British flag and the Canadian flag. There will not be any American shipping there. By that time, if we shall have proceeded with our plans, there will not be any American ships in any event; so I suppose it will make no difference to us what use is made of this great imaginary prospective waterway which never will be built in the time of any man now living.

Mr. President, the hearings were extremely interesting. I find, for example, the testimony of representatives of the committee of the Maritime Association of the Port of New York in connection with the bill. The extract I shall quote will be found on page 931 of the hearings. I heard a little while ago that New York is for the bill. I am never much disturbed when I am told that New York is for something and I find myself opposed to it. The people of New York are the fairest-minded people in the world. They do not dislike a man who expresses his convictions even though they do not follow along the line of the convictions of some other men. Furthermore, they sometimes give us in Washington the benefit of the doubt, and they perhaps think that those of us in Washington have learned a little more about it than the folks at home.

The Maritime Association of the Port of New York, under the heading "Coordination of all forms of transportation", said, among other things, the following:

> Coordination of all forms of transportation: Your committee is not in agreement with respect to the method of coordinating all forms of interstate transportation. The minority viewpoint (a) is to give it to a single body, the Interstate Commerce Commission; whereas the opposite (majority) viewpoint (b) is that such concentration in the Interstate Commerce Commission, especially as presently constituted, would be dangerous to water transportation and wharfingers and not now under the Interstate Commerce Commission and that water transportation and wharfingers should be regulated by a separate, properly qualified body, with an appeal body composed of representatives from each of such bodies, which appeal body should pass upon any general question that involves more than one competing form of transportation and compose any differences necessary to prevent rate warfare between the different forms.

That is exactly what we did in the writing of the ship-subsidy bill. We recognized the necessity or at least the wisdom of having an appeal body composed of representatives to meet with such body. As I said a while ago and pointed out from the bill, that is what we did in section 702 of the ship-subsidy bill, where we provided for such an appeal body, or a body to deal with problems where there was interrelation of rail and water traffic. We provided that there should sit down on one side of the table the Interstate Commerce Commission, railroad-minded, and on the other side the maritime authority, merchant-marine-minded, and work out the problem. So, I repeat, the majority of the Maritime Association of the Port of New York said there should be—

An appeal body composed of representatives from each of such bodies, which appeal body should pass upon any general question that involves more than one competing form of transportation and compose any differences necessary to prevent rate warfare between the different forms.

That strikes me as a very sensible plan, even if it does come out of New York, which, so far as I am concerned, would make it even more important.

Under such a plan each form would be left to be developed to its fullest extent, subject only to restraint by the regulatory and appeal bodies. It is feared by those who oppose the first viewpoint that the concentration under one body would give such body under such a bill as S. 1632 dictatorial powers without adequate appeal. That would mean its decisions must inevitably react against one form or other of transportation. It seems to the majority members who held this view that with respect to rates the Interstate Commerce Commission is certainly not going to favor water carriers at the expense of the railroads and that any adjustment of rates affecting the diversion of higher-grade traffic that takes place must inevitably be at the expense of the railroad's competitors.

Mr. President, that is common sense. If we have two forms of traffic—railroad traffic and water-carrier traffic—there must always be a conflict between them, because, as I have repeatedly said, and as everybody knows, freight cannot be carried on a railroad so cheaply as it can be carried by water; and the only possible way for water carriers to survive is by reason of the lower rate by water. If a shipper has express traffic, if he has need of speed, he can afford to pay the higher price which must be paid for carriage on the railroads; but if it is a form of traffic where it does not particularly matter when the goods are delivered, the cheaper traffic by water will necessarily attract the shippers who would be benefited by such cheapness. There must always be this conflict. There must be the conflict between the higher-priced railroad establishment and the water carrier which can operate at a much lower rate. So I think the conclusion of the majority of the committee from the Maritime Association of the Port of New York is very logical.

The statement continues, under the heading "Majority for United States Shipping Board Bureau":

The United States Shipping Board has been charged by Congress since inception with the promotion and development of the merchant marine. It has consistently carried out such a policy and is essentially a "ship-minded" body.

It is rather interesting how that particular language slips into every statement regarding these regulatory bodies. It is said of the Interstate Commerce Commission that it is railroad-minded; and, on the other hand, the Shipping Board, which had to do with vessels upon the waters of the earth, was naturally ship-minded.

The report continues:

Despite certain criticism, the Shipping Board has consistently followed a policy generally beneficial to the public interest, the shipowners, and the development of the merchant marine.

The Shipping Board's general attitude toward shipowners, their problems, etc., has been sympathetic and cooperative.

The Shipping Board Bureau has accumulated experience over a number of years in dealing with the complex problems of shipping.

The Shipping Board Bureau serving as a nucleus could and should be expanded and enlarged to take care of proper regulatory functions.

Yet this bill specifically, by its very language, transfers to the Interstate Commerce Commission everything that is now in the Shipping Board. It takes all those things away from the Board which has learned the problems of shipping and has administered them with a reasonable degree of satisfaction, and turns them over to the Interstate Commerce Commission.

Then the report goes on with another heading, "Majority against Interstate Commerce Commission regulation of water transportation":

The Interstate Commerce Commission is a railroad-minded body, for the reason that for nearly 50 years it has had to deal substantially only with problems connected with the railroads. It, as a matter of practice, in regulating both rail and water carriers, undoubtedly would attempt to bring water regulation in strict conformity with railroad regulation and would, we fear, subordinate the water-carrier viewpoint. S. 1632, as drawn, closely parallels railroad regulation and appears to endeavor to conform all shipping practices to railroad practice.

Then the report continues, under the heading: "Attitude of Interstate Commerce Commission toward the railroads":

The attitude of the Interstate Commerce Commission toward the railroads is in marked contrast to the sympathetic attitude of the Shipping Board toward the water lines. The Interstate Commerce Commission has not been as sympathetic and cooperative as the railroads believe it should have been in dealing with the railroads' problems, nor has its attitude toward the railroads been comparable with the sympathetic attitude of the Shipping Board toward the steamship lines, viz:

Mr. Eastman on page 39 of his report (S. Doc. No. 152) states:

"However, there is little warrant for a belief that the Commission has been unduly favorable to the railroads as compared with water carriers. Certainly the railroads entertain no such thought."

A rather interesting statement.

The daily press and trade papers contain many criticisms of the Interstate Commerce Commission's unfavorable attitude toward the railroads, typical of which are the following:

* * * * * * *

An editorial in the New York Journal of Commerce, issue of June 6, 1932, states:

"The Interstate Commerce Commission originally was set up as a regulatory body which was expected to protect chiefly the interests of shippers. The Transportation Act of 1920 introduced a new doctrine of requiring the Commission to act as a protective agency for the railroads themselves. The Commission, however, has been very slow to shift its viewpoint and still shows a little concern for the carriers in many of its decisions. The Supreme Court has taken a step to enforce the Transportation Act of 1920 in its grain-rate order, insisting current conditions be given due weight in rate making and setting a limit to the application of the Hoch-Smith resolution in giving special treatment as regards freight rates to depressed industries."

The Interstate Commerce Commission is cited (Wall Street Journal, issue of June 6, 1934) as having always treated the industry (railroads) as "on parole and under suspended sentence." With such an attitude on the part of the Interstate Commerce Commission to the (railroad) industry with whose regulation and protection it is charged, what can the stepchild, water transportation, expect. Certainly not the sympathetic and benevolent attitude that the Shipping Board has displayed.

Criticism may be made that the Shipping Board has been altogether too considerate of the shipping industry. That may be true; the criticism may be well founded. Nevertheless, it must be borne in mind that in our various shipping acts there has been the express statement that each act was intended to build up an effective American merchant marine.

Regardless of the abuses which crept into the administration of those various acts—and I do not question that there were abuses—nevertheless, a real effort has been made to build up a merchant marine. Always when I get to that point I recur to the necessity of a merchant marine, the necessity to the shippers of the country, the necessity to agriculture, the necessity to the grain growers, and to the canners and the manufacturers.

We know very well what happened during the coal strike in England, when all the ships of Europe were used in carrying coal from the Continent to England. We know how there were piled up in Galveston and in Pacific ports the products of the farm, and if it had not been for the fact that we had a reserve fleet under the Shipping Board, I do not know what might have happened. The losses would have been tremendous.

Mr. WHEELER. Mr. President, will the Senator yield while I ask that the pending bill be temporarily laid aside so that the Senate may take up another matter? I dislike to interrupt the Senator's very interesting and illuminating discussion, of course.

Mr. COPELAND. If the Senator will wait just a moment I shall be very glad to yield. I have had the thought in mind of trying to contribute something to the debate. I may say that at the proper time I hope to continue the discussion. There is much that I desire to say relative to this matter.

Mr. President, if we do not encourage the American merchant marine we are going to have the American flag disappear from the seas. We cannot compete with the bad living conditions and the ill treatment of seamen upon foreign vessels, the bad food, and the bad sanitary surroundings. We cannot compete unaided with the underpaid labor of Europe in building up our shipping. If we are to have

an American merchant marine there will have to be some form of encouragement.

I think unquestionably the President is right when he says there must be a subsidy. But if we are to have a subsidy it should be frankly and openly given. So far as the pending bill is concerned, there is no doubt at all that it is a blow below the belt, and that if we turn over to the railroad-minded Interstate Commerce Commission the care of the American shipping it will be the last blow.

Of course, as I have said, with the addition of Senate bill 1635, as proposed by the Senator from Missouri, the bill will be greatly improved. But even so it will be detrimental and harmful in the extreme, and go far toward ending shipping under the American flag.

Mr. SHIPSTEAD. Mr. President, I wish to make a short statement in correction of a statement made by the Senator from Montana this morning. I am sure he did not intend to give the misinformation which was given. He read a statement given to him by the Interstate Commerce Commission, which sought to correct a statement made by me last Wednesday as to the tonnage carried by common carriers on the Mississippi River system.

I said at that time that the common carriers carried 3 percent or less of the tonnage on the Mississippi River system. According to the statement the Senator from Montana read this morning from the Interstate Commerce Commission, it would seem that the common carriers carried 31 percent of the tonnage.

The error comes in this way, that while the Interstate Commerce Commission talks about ton-miles, I talked about tons. I said they carried approximately one and three-quarter million tons. What the Interstate Commerce Commission statement refers to is ton-miles. They talk about miles traveled. I talked about tons carried.

We have here in the report of the Chief of Engineers of the Army, page 28, the next to the last column on the page, figures showing that the total tonnage carried on the Mississippi River system was 57,700,813.

Statement numbered 34127, file no. 48–C, of the files of the Interstate Commerce Commission, shows the water carriers reporting to the Commission. These data are selected for the calendar year 1933, showing what every barge line carried on the Mississippi River system—that is, common carriage.

The Interstate Commerce Commission makes the mistake of figuring in the tonnage of the American Barge Line. That barge line in 1933 carried 322,952 tons, of which only 5,000 tons were common carriage.

The total of all the tonnage listed on that page amounts to 2,205,514 tons, and when we subtract the 322,952 tons carried by contract by the American Barge Line we have a total tonnage of 1,882,562 of common carriage. That is just 3.2 percent of the 7,700,000 tons carried on the system.

I do not wish the RECORD to be closed for the day without that statement; and I am sure the Senator from Montana [Mr. WHEELER] would not desire it, either.

Mr. HARRISON. Mr. President, I have conferred with the Senator from Montana [Mr. WHEELER] with reference to one provision in this bill on page 34, as follows:

> No interstate common carrier by water shall engage in transportation subject to this part unless it holds a certificate of public convenience and necessity issued by the Commission.

Then the bill contains a proviso that—

> If any such carrier or a predecessor in interest was in bona fide operation as a common carrier by water in 1934 over the route or routes—

And so forth. It would seem to me that any of these lines which existed prior to the enactment of this bill into law ought to be excluded, instead of applying it and restricting it to those which were in existence prior to 1934; so I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). The amendment will be stated.

The CHIEF CLERK. On page 34, line 9, it is proposed to strike out "in 1934" and to insert in lieu thereof "prior to the date of enactment of this act."

On page 34, line 13, it is proposed to strike out "in 1934" and to insert in lieu thereof "prior to the date of enactment of this act."

On page 38, line 22, it is proposed to strike out "in 1934" and to insert in lieu thereof "prior to the date of enactment of this act."

And on page 39, line 1, it is proposed to strike out "in 1934" and to insert in lieu thereof "prior to the date of enactment of this act."

Mr. WHEELER. I have no objection to that amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

REGULATION OF PUBLIC-UTILITY HOLDING COMPANIES

Mr. WHEELER. Mr. President, I now ask unanimous consent that the pending measure be temporarily laid aside and that the Chair lay before the Senate the House amendments to the public-utility holding company bill.

The PRESIDING OFFICER. The Senator from Montana asks unanimous consent that the amendments of the House to the so-called "public-utility holding company bill" be laid before the Senate in lieu of the pending bill.

Mr. McNARY. Mr. President, I have no objection to that procedure, conditioned, however, on the amendments of the House going over until tomorrow. I have no objection to their being taken up tomorrow. However, under no circumstances should I wish to proceed with the matter at this time.

Mr. WHEELER. No, Mr. President; I do not propose that the Senate proceed with it at this time. I merely desire to have the amendments of the House laid down and then to have the Senate discuss the question involved tomorrow.

Mr. ROBINSON. I will state that the subject has been discussed with the Senator from Montana [Mr. WHEELER] and the Senator from Illinois [Mr. DIETERICH]. It is agreeable to me to proceed in the manner suggested by the Senator from Montana, and I understand it is also agreeable to the Senator from Illinois.

I will say it is expected that the subject will occasion considerable debate. There are Senators absent who will wish to be present when the matter is considered, so it is my purpose at this time to move an executive session and then a recess.

Mr. DIETERICH. Mr. President, will the Senator from Arkansas postpone for a moment his motion for an executive session?

Mr. ROBINSON. Certainly.

Mr. DIETERICH. I should like to move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The Chair lays before the Senate the amendments of the House of Representatives to the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating, or marketing securities, in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

Mr. WHEELER. Mr. President, I move that the Senate disagree to the amendments of the House, request a conference with the House on the amendments and the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

Mr. DIETERICH. Mr. President, I move that the Senate concur in the House amendments, which I understand is a preferential motion.

The PRESIDING OFFICER. The Senator from Illinois moves that the Senate concur in the House amendments.

Mr. McNARY. Mr. President, I understand the parliamentary situation to be that the motion made by the Senator from Illinois has precedence over the motion made by the Senator from Montana.

The PRESIDING OFFICER. It does.

Mr. McNARY. And that the whole subject goes over until tomorrow at 12 o'clock, and that the first vote will be on the motion to concur in the House amendments.

Is that the parliamentary situation?

The PRESIDING OFFICER. As the Chair understands the parliamentary situation, the motion of the Senator from

Illinois is a preferential motion and takes precedence, so that the question now before the Senate is whether or not the motion of the Senator from Illinois shall be adopted.

Mr. DIETERICH. Mr. President, may I have the floor at the convening of the Senate tomorrow noon?

The PRESIDING OFFICER. The Senator from Illinois now has the floor.

Mr. DIETERICH. I yield to the Senator from Arkansas [Mr. ROBINSON].

The VICE PRESIDENT. The Chair understands the parliamentary situation to be that the Senator from Illinois has the floor on the motion to concur in the House amendments.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of several officers for appointment in the Medical Corps of the Regular Army; also the nominations of several officers for appointment, by transfer, in the Regular Army.

The VICE PRESIDENT. The reports will be placed on the Executive Calendar. If there be no further reports of committees, the clerk will state the first nomination in order on the calendar.

NOMINATION PASSED OVER—POSTMASTER

The Chief Clerk read the nomination of Alice L. Woolman to be postmaster at Coweta, Okla.

Mr. ROBINSON. Mr. President, I understand there is some arrangement for the postponement of the consideration of that nomination. I ask that it go over.

The VICE PRESIDENT. Without objection, the nomination will be passed over.

DEPARTMENT OF COMMERCE—COAST AND GEODETIC SURVEY

The Chief Clerk proceeded to read sundry nominations for promotions in the Coast and Geodetic Survey.

Mr. COPELAND. I ask that the nominations on the calendar in the Coast and Geodetic Survey be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations in the Coast and Geodetic Survey are confirmed en bloc.

POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. ROBINSON. I ask that the nominations of postmasters, with the exception of the one passed over, be confirmed en bloc.

The VICE PRESIDENT. Without objection, with the exception noted, the nominations of postmasters are confirmed en bloc.

MISSISSIPPI POSTMASTERS

Mr. HARRISON. Mr. President, sundry nominations of postmasters in Mississippi have been reported today. I ask unanimous consent that those nominations may be considered at this time and confirmed by the Senate.

The VICE PRESIDENT. Is there objection to the request of the Senator from Mississippi that the nominations of postmasters in the State of Mississippi which have been reported today shall be considered at this time and confirmed by the Senate?

Mr. HARRISON. I wish to repeat that they are all Mississippi postmasters.

Mr. McNARY. That is against the course of practice, unless there is some great emergency.

Mr. HARRISON. The delay has been caused by my failure to approve the nominations sooner. There is no objection to these postmasters. My colleague and I have approved them. They have been considered by the committee and approved.

Mr. McNARY. Mr. President, I suppose that states an emergency.

The PRESIDING OFFICER. Without objection, the nominations of postmasters in Mississippi reported today by the Committee on Post Offices and Post Roads are confirmed en bloc.

RECESS

Mr. ROBINSON. As in legislative session, I move the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 37 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Tuesday, July 9, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 8 (legislative day of May 13), 1935

APPOINTMENTS IN THE NATIONAL ARCHIVES

Dorsey W. Hyde, Jr., of the District of Columbia, to be Director of Archival Service.

Solon J. Buck, of Pennsylvania, to be Director of Publications.

Thaddeus S. Page, of North Carolina, to be Administrative Secretary.

Collas G. Harris, of Virginia, to be Executive Officer.

DIPLOMATIC AND CONSULAR SERVICE

Addison E. Southard, of Kentucky, now a Foreign Service officer of class 1 and a consul general, to be also a secretary in the Diplomatic Service of the United States of America.

Leslie E. Reed, of Minnesota, now a Foreign Service officer of class 4 and a consul general, to be also a secretary in the Diplomatic Service of the United States of America.

APPOINTMENTS IN THE REGULAR ARMY

DENTAL CORPS

To be first lieutenants with rank from July 1, 1935

First Lt. Oscar John Ogren, Dental Corps Reserve.

First Lt. Marion Lawerence Mills, Dental Corps Reserve.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

TO FINANCE DEPARTMENT

First Lt. William Peyton Campbell, Cavalry (detailed in Finance Department), with rank from October 24, 1926.

TO COAST ARTILLERY CORPS

Second Lt. Thomas de Nyse Flynn, Infantry, with rank from June 13, 1933.

Second Lt. Charner Weaver Powell, Infantry, with rank from June 13, 1933.

PROMOTIONS IN THE REGULAR ARMY

To be colonels

Lt. Col. Robert Charlwood Richardson, Jr., Cavalry, from July 1, 1935.

Lt. Col. Francis Webster Honeycutt, Field Artillery, from July 1, 1935.

Lt. Col. Jay Leland Benedict, Infantry, from July 1, 1935.

To be lieutenant colonels

Maj. Julian Sommerville Hatcher, Ordnance Department, from July 1, 1935.

Maj. Benjamin Lafayette Carroll, Field Artillery, from July 1, 1935.

Maj. Bernard Robertson Peyton, Field Artillery, from July 1, 1935.

To be majors

Capt. Chambord Henry St. Germain, Infantry, from July 1, 1935.

Capt. Hardy Pate Browning, Signal Corps, from July 1, 1935.

Capt. John Webster Llufrio, Quartermaster Corps, from July 1, 1935.

To be captains

First Lt. Joseph Vincil Phelps, Field Artillery, from July 1, 1935.

First Lt. Charles Norton McFarland, Field Artillery, from July 1, 1935.

First Lt. Charles Alvin Pyle, Field Artillery, from July 1, 1935.

First Lt. John Ray Hardin, Corps of Engineers, from July 1, 1935.

First Lt. Maurice Place Chadwick, Field Artillery, from July 1, 1935.

To be first lieutenants

Second Lt. William Alexander Schulgen, Air Corps, from July 1, 1935.

Second Lt. Daniel Beckett White, Air Corps, from July 1, 1935.

Second Lt. Donald Harvey Baxter, Air Corps, from July 1, 1935.

Second Lt. Samuel Oswald Redetzke, Air Corps, from July 1, 1935.

Second Lt. Roy Thomas Wright, Air Corps, from July 1, 1935.

MEDICAL CORPS

To be captains

First Lt. Frank Anthony Minas, Medical Corps, from July 1, 1935.

First Lt. Henry Schuldt Murphey, Medical Corps, from July 1, 1935.

First Lt. Carl Robert Darnall, Medical Corps, from July 1, 1935.

First Lt. George Merle Powell, Medical Corps, from July 1, 1935.

First Lt. Charles Henry Morhouse, Medical Corps, from July 1, 1935.

First Lt. John Lemoin Crawford, Medical Corps, from July 1, 1935.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 8 (legislative day of May 13), 1935

PROMOTIONS IN THE COAST AND GEODETIC SURVEY

Carl Ingman Aslakson to be hydrographic and geodetic engineer (with relative rank of lieutenant in the Navy).

John Crawford Ellerbe, Jr., to be junior hydrographic and geodetic engineer (with relative rank of lieutenant (junior grade) in the Navy).

Harold John Seaborg to be aide (with relative rank of ensign in the Navy).

POSTMASTERS

COLORADO

Charles H. Rash, Dolores.
Erwin L. Regennitter, Idaho Springs.
Elmo C. Rowland, Ovid.

CONNECTICUT

Frederick J. Bielefield, Middletown.

MINNESOTA

Charles C. Young, Aitkin.
John L. Townley, Jr., Fergus Falls.
Hazel M. Stull, Mazeppa.
Roy Viall, Spring Valley.

MISSISSIPPI

William M. Ferrell, Ashland.
Mable C. Whitaker, Gunnison.
James S. Garraway, Hattiesburg.
Pink H. Morrison, Heidelberg.
Helene Clarke, Holcomb.
William Liston, Kilmichael.
John T. Miller, Myrtle.
Thomas J. Barnes, Noxapater.
Andrew Y. Sivley, Olive Branch.
James C. Edwards, Pontotoc.
Tommie A. Hamill, Sturgis.
William W. Milner, Vaiden.
William T. Byrd, Walnut.
Will S. Black, Weir.

MISSOURI

Joseph H. Degginger, Albany.

HOUSE OF REPRESENTATIVES

MONDAY, JULY 8, 1935

The House met at 12 o'clock noon.

The Reverend Clifford H. Jope, pastor of the Ninth Street Christian Church, Washington, D. C., offered the following prayer:

Our divine Father, we thank Thee today for every pure man, every servant and scholar, every true, earnest, and honest person in the land who adds to the righteous influence of this great Nation.

Continue, we pray, Thy merciful patience toward all who fail in the fulfillment of Thy divine purpose. May we be consumed with a sense of the supremacy of duty over pleasure, the beauty of sacrifice, and the high nobility of service. In the name of Jesus, the Prince of Peace and Good Will. Amen.

The Journal of the proceedings of Friday, July 5, 1935, was read and approved.

BILL PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on July 5, 1935, present to the President, for his approval, a bill of the House of the following title:

H. R. 8021. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On July 2, 1935:

H. R. 115. An act to amend section 27 of the Merchant Marine Act, 1920;

H. R. 1292. An act for the relief of Grace McClure;

H. R. 2987. An act for the relief of E. W. Tarrence;

H. R. 3556. An act for the relief of Sophie Carter;

H. R. 4034. An act for the relief of Charles Szymanski;

H. R. 4123. An act providing for the payment of $15 to each enrolled Chippewa Indian of the Red Lake Band of Minnesota from the timber fund standing to their credit in the Treasury of the United States;

H. R. 4651. An act for the relief of the Noble County (Ohio) Agricultural Society;

H. R. 4764. An act for the relief of the officers and men of the United States Naval and Marine Corps Reserves who performed flights in naval aircraft in connection with the search for victims and wreckage of the U. S. dirigible *Akron:*

H. R. 4808. An act for the relief of the Richmond, Fredericksburg & Potomac Railroad Co.;

H. R. 4811. An act for the relief of George W. Miller; and

H. R. 5809. An act to amend an act entitled "An act to control the manufacture, transportation, possession, and sale of alcoholic beverages in the District of Columbia."

On July 3, 1935:

H. R. 1438. An act for the relief of Carrie McIntyre;

H. R. 3012. An act to authorize the transfer of certain lands in Hopkins County, Ky., to the Commonwealth of Kentucky;

H. R. 4368. An act for the relief of E. C. West;

H. R. 4610. An act for the relief of John J. Moran; and

H. R. 7235. An act to amend the act entitled "An act to make provision for suitable quarters for certain Government services at El Paso, Tex., and for other purposes.

On July 8, 1935:

H. R. 8021. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1936, and for other purposes.

RIVERS AND HARBORS

Mr. MANSFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 6732, entitled "An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", with Senate amendments, disagree to the amendments of the Senate, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

Mr. MAPES. Mr. Speaker, reserving the right to object, a great many Members of the House are interested especially in amendments nos. 71 and 72 of this bill. They embody the same provisions as a bill reported by the Committee on Flood Control. That bill contains the provisions relating to the Parker Dam and Coulee Dam; but these amendments go further than that bill and include a dam on the Colorado River, in the State of Arizona. My understanding is that the Democratic leader is very much interested in that particular amendment.

This very important legislation has never been considered in the House. It provides for validating everything that has been done up-to-date with reference to the building of the Parker and Coulee Dams, and goes so far as to validate all plans that have been made, whatever that means. A great many Members of the House desire to have an opportunity to debate and to have a separate vote on these two amendments particularly.

Mr. MICHENER. Mr. Speaker, I shall object unless some opportunity is given to consider the merits of the Senate amendment. We are not going to consent willingly to validating all these vague plans. In the first place, to do so would be clearly unconstitutional; and, in the second place, surely this House has not yet reached the stage where it wants to validate matters about which it knows nothing.

Mr. O'CONNOR. Mr. Speaker, I demand the regular order.

The SPEAKER. The regular order is demanded. Is there objection to the request of the gentleman from Texas?

Mr. RICH. Mr. Speaker, I object.

Mr. TRUAX. Mr. Speaker, I make the point of order there is not a quorum present.

Mr. ELLENBOGEN. Mr. Speaker, will the gentleman withhold his point of order for a moment?

Mr. TRUAX. Yes. Mr. Speaker, I withhold my point of order for the time being.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—JOSEPH W. HARLEY (H. DOC. NO. 244)

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

I return, without my approval, H. R. 1119, entitled "An act for the relief of Joseph W. Harley."

This bill provides that in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Joseph W. Harley shall hereafter be held and considered to have been honorably discharged from the military service of the United States on November 10, 1903.

In view of the facts set forth in the accompanying report of the Secretary of War, I do not feel justified in approving this bill.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *July 8, 1935.*

The SPEAKER. The objections of the President will be spread at large upon the Journal.

Mr. McSWAIN. Mr. Speaker, I move that the message of the President and the bill be referred to the Committee on Military Affairs and ordered printed.

The motion was agreed to.

PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES REQUIRING THE SUPREME COURT TO RENDER OPINIONS AS TO THE CONSTITUTIONALITY OF ACTS OF CONGRESS

Mr. PARSONS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein an address made by my colleague the gentleman from California, Hon. JOHN H. TOLAN, on his proposed amendment to the Constitution, over a coast-to-coast network broadcast on July 5, 1935. Congressman TOLAN is an eminent attorney and has made a comprehensive study of the question he discusses, and it is with pleasure I extend my remarks with his address.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PARSONS. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address by Representative JOHN H. TOLAN, of California, made over a National Broadcasting Co. coast-to-coast network, Friday night, July 5.

The subject of this brief talk is a proposed constitutional amendment. The Constitution of the United States seems to be a live topic today, and rightfully so, for therein lies the salvation of the American people. We still have reverence for that great document and amid the hurry and worry of the present day, the heart of our people is still sound and beats to the tune played by the fathers of our country.

Why amend the Constitution? Well, the framers of it looked into the future and knew changing conditions would require it and provided in the Constitution itself for amendments.

You know, since the original 10 amendments in 1791, only 12 others have been ratified—one of which repealed another—out of about 3,500 that have been proposed during the 144 years.

For a first-term Congressman to take 1 chance out of 292 to put over a constitutional amendment would seem at first blush the height of absurdity. But the most humble might get an idea and you are the jury tonight to say whether or not there is anything to my proposed constitutional amendment. It is House Joint Resolution 317, and provides as follows:

"The President, or either House of Congress, at any time, may require from the Supreme Court an opinion upon the constitutionality of any act passed by Congress, and the Supreme Court shall render such opinion in writing."

Now, is there any background or authority for it, and will you please keep in mind the question, why cannot the Supreme Court of the United States tell us before and not afterward what is constitutional and what is not constitutional?

Why, the background of this constitutional amendment is calling to you tonight from the historic words and graves of John Adams, James Madison, Charles Pinckney, Oliver Ellsworth, Charles Morris, George Mason, and John Mercer. One hundred and forty-eight years ago in the Federal Convention at Philadelphia they fought and argued in favor of such a provision whereby the Supreme Court should render an opinion on legislation passed by Congress, but they failed by a close vote.

And down these one hundred and forty-eight years what has it cost our people in anxiety and in billions of dollars; in years of time and troubled business conditions; in thousands of cases on calendars of our Federal courts; in debates in Congress as to the constitutionality of acts?—and through it all sit nine black-robed figures, human beings, receiving $20,000 a year, the paid servants of 125,000,000 people, who have within their legal minds the answer, if they would only tell us before and not afterward what is constitutional and what is not constitutional.

Just listen to this: James Madison, a signer of the Constitution, proposed the following amendment in the Federal Convention on August 15, 1787:

"Every bill which shall have passed the two Houses shall, before it becomes a law, be severally presented to the President of the United States and to the Judges of the Supreme Court, for the revision of each."

Here is the proposed article submitted by Charles Pinckney, of South Carolina, August 20, 1787:

"Each branch of the legislature as well as the Supreme Executive shall have the authority to require opinions of the Supreme Judicial Court upon important questions of law, and upon solemn occasions."

Except for the substitution of the words "Supreme Executive" for "the Governor and Council", this proposed article was worded exactly as the provision for advisory opinions in the Massachusetts State Constitution as written by John Adams, the second President of the United States, in 1780, 7 years before the Federal Convention.

Had John Adams not been a special envoy to the Court of St. James from 1785 to 1788, there is no doubt that he would have added much support to Charles Pinckney in bringing this proposal to a vote. Proposed late in the convention, it was lost in the committee of detail and never considered in debate.

Seven States, however, followed Adams' leadership and incorporated the advisory-opinion clause in their constitutions. They were: New Hampshire, Maine, Rhode Island, Missouri, Colorado, Florida, and South Dakota.

Some of the States have not included the authority to request extra judicial advice in their essential law, but have provided by StateState statutes that the justices of their supreme courts may be called upon on important occasions. They are: Oklahoma, Vermont, Minnesota, Delaware, and Alabama.

Though not authorized by law, other States have recognized its advantages, and on important occasions have had recourse to opinions of their justices—New York, North Carolina, Illinois, Connecticut, Kentucky, Ohio, and Nebraska.

The advisory opinion is as old as the history of the English common law. Many other governments of the Western Hemisphere have placed it in their constitutions, including the Dominion of Canada and 7 of its 9 Provinces; also, Hawaii, Colombia, Panama, Salvador, Honduras, and Nicaragua.

In our State courts 410 advisory opinions have been rendered, and so far as the records disclose no court thereafter reversed itself.

May I ask why it is necessary for 125,000,000 people to remain in the dark, in uncertainty, and anxiety as to the constitutionality of legislation until some private citizen devotes his time and money to make a test case? No particular reason that I can see unless we wrap the mantle of mystery about our Supreme Court and forget that after all is said and done they are human beings like ourselves and the paid servants of the American people.

I maintain this proposed constitutional amendment is sustained by the common law, the very source of our statutory law, by laws in force in other nations, and by 12 of our own States.

As a matter of fact, there is not one single word in our Federal Constitution granting authority to our Supreme Court to declare an act of Congress unconstitutional. Chief Justice Marshall was the first to so hold, and it has been followed ever since. So this proposed amendment is really an addition and not an amendment, and would forever clarify the Supreme Court's authority in this regard.

It may be said, and rightfully, that it is necessary to keep our three branches of government independent of each other. In answer to this I quote from the book written by Albert R. Ellingwood, assistant professor of political science in Colorado College. He says:

"Lack of space forbids detailing more of the innumerable examples of a failure of our governmental organs to work together; they are within the knowledge of every reader. Embarrassments, tangles, missteps, inconsistencies, discords are of everyday occurrence in our public affairs, and they all spell waste.

"It is as if there were three cragsmen roped together for the ascent of a cliff. The success of the expedition depends upon the mutual helpfulness of all the individuals. If each one, instead of anticipating the difficulties ahead of his companions and suggesting methods for circumventing them, contents himself with commenting on reverses only when they are suffered and criticizing past errors, what a wealth of effort goes to waste; and surely no independence is sacrificed by such helpfulness—each is still a 'check' upon the others in time of necessity. Our present political problem is to build up a cordial sympathy and mutual cooperation between the three departments, without interfering with the domain of individual liberty under the Constitution or the independence of the judiciary."

No question but what this would be a helpful amendment, if passed by Congress and ratified by three-fourths of the States. Surely the 12 States which have provided by law for advisory opinions would promptly ratify this proposed amendment and others would follow.

What have we here in this country? Everything but the ability to think together and of what is best for all our people. We cannot solve the pressing and distressing problems of today by thinking in conflicting discordant groups, calling each other old names and coining new ones, but we can and must solve them by calm and united thinking, and in terms of the other fellow.

Hemmed in by two mighty oceans, we are impregnable from without. If we fall, it will come from within. There has been two much sacrifice and bloodshed by our fathers in creating and maintaining this Government for us to part with it now.

Take the picture today in regard to important legislation either passed or pending and which affects all our people: The Social Security Act, the Wagner Labor Disputes Act, the Tennessee Valley Authority, the Guffey coal bill, the Agricultural Adjustment Administration, the Wheeler-Rayburn holding-company legislation, and the Eccles banking bill. The dark cloud of unconstitutionality hovers over each and every one of these measures; and yet the judicial branch of our Government if given the constitutional authority provided by this proposed advisory-opinion amendment, could tell us before and not afterward and thereby dissolve this black cloud of uncertainty, anxiety, fear, and waste.

How helpful it would be to the entire Nation if the President, before signing any of these measures could request of the Supreme Court an opinion in writing, as to the constitutionality of any act? No one would be harmed—all our people would be benefited and it would remove from the shoulders of our private citizens the great burden of testing the constitutionality of legislation.

If you think this proposed constitutional amendment would be of assistance to the people of this country or if you have any criticisms concerning it, I would deeply appreciate it if you would kindly let me know.

ECONOMIC AND SOCIAL PROBLEMS OF THE ADMINISTRATION

Mr. WOODRUM. Mr. Speaker, I ask unanimous consent to extend my remarks and to insert therein a radio address over the N. B. C. hook-up on July 5 last.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. WOODRUM. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I delivered over the radio, over the National Broadcasting Co. hook-up, on July 5:

It would be impossible in the brief space of time allotted to do more than make passing mention of one or two of the matters of a political nature that are engaging the attention of the American people at the moment.

The policies of the present administration are under the critical and appraising eye of the American people. The average citizen will do well, however, to measure carefully the motives behind those who, at the present moment, are rushing into public print and availing themselves of every opportunity to criticize the President and his recovery efforts. Criticism prompted by partisan bitterness, however, may be easily recognized and taken for what it is worth.

It is needless to again catalog the overwhelming economic and social problems that confronted the President in March 1933. Not only was the business and industrial world suffering from economic prostration, but mortal and terrifying fear gripped the hearts of the American people. In their hour of extremity they turned to the President because they believed him to be a man of sincerity and courage and a leader not afraid to do and dare. In this estimate of the Chief Executive they have not been disappointed. There may be a difference of opinion about the efficacy of some of the remedies applied. It is undoubtedly true that experience has developed disappointments and weaknesses. This was no more than we expected. As experience has shown and developed these weaknesses, every effort has been made to remedy the defects.

It is manifestly unfair to focus attention on any one particular point in the President's program of recovery and undertake thereby to appraise the whole enterprise. We have heard much of late about the so-called "failure" of the N. R. A. and the famous sick-chicken case, but I think it may be said that notwithstanding the decision of the Supreme Court as to its constitutionality that the basic fundamentals involved in the N. I. R. A. were helpful in the emergency. The abolition of child labor, the fixing of maximum hours and minimum wages, and the protection of business and industry against cutthroat price cutting were certainly objectives to be desired in the effort to rehabilitate business and put men back to work. It is my firm belief that too much ballyhoo and an unfortunate interpretation and administration of this law—especially the effort to make it apply to small business—had more than anything else to do with its increasing unpopularity, which resulted in its ultimate defeat.

Let us not forget, however, the multitude of vastly beneficial measures that have been put into operation and which have undoubtedly and unmistakably set in motion the processes of ultimate recovery.

Mention might be made of the Civilian Conservation Corps; the financing of homes through the medium of the Home Owner's Loan Corporation and of farms and farm activities through the credit facilities of the Farm Credit Administration; assistance rendered to business and industry through credit facilities of the R. F. C.; efforts to rehabilitate agriculture through the activities of the Agricultural Adjustment Administration, which have beyond any question put new life and hope into the hearts of the farmers of America as well as added dollars in their pockets; the organization of the Securities and Exchange Commission for the regulation and supervision of securities for the protection of the investing public of America; the relief and Public Works programs, which have had for their primary purpose the relief of those in immediate distress, with the ultimate object of providing work for the unemployed in lieu of the dole and until they could be absorbed by industry. Time does not permit a careful analysis and description of these various recovery measures. I reiterate that no one has claimed perfection for them, but we do assert with unbounded confidence that the sum total of these efforts has been wholesome and helpful; and that notwithstanding the handicaps and obstacles, we are well on our way to economic solidarity and domestic tranquillity, all of which is just a highbrow way of saying that we are coming out of the depression.

As the time draws near for the American people to again select their national legislative body and Chief Executive, we find the air reverberating with all sorts of fantastic charges and accusations. Our political adversaries are charging us with breaking campaign promises and deserting our party platform. Of course, in true, old political fashion we deny the accusations and denounce the accusers; but this prompts me to make a more or less serious observation in this line, and that is that the present Chief Executive has refused to make partisan politics and political gain the guiding stars of his administration. Some of us more orthodox politicians have complained at times about this, but the President has steadfastly refused to depart for an instant from his announced purpose of guiding us out of our wilderness of confusion. For his attitude in this respect, the American people honor him; but suppose we should say for the sake of argument that he has departed from a campaign promise or a platform pledge. Is the purpose of his administration to carry out literally the Democratic platform, or is it to pursue such a course and apply such measures and remedies as may be reasonably expected to cure the evils with which we are beset? The question is its own answer. The President has had to meet changing con-

ditions brought about at times by warring factions, groups, and classes. He has in every instance conscientiously and sincerely applied the remedy that he thought would cure the disease.

The question is being asked now whether the recent action of the House of Representatives, in adopting the House version of the so-called "utility holding company bill" in preference to the Senate bill had shown an inclination to revolt the leadership of the President. I do not think any such assumption is warranted. Speaking entirely for myself, I don't think that there is nearly so much fundamental difference between the President's announced views and those of the House of Representatives as might appear at first blush. The President has said in substance that useless utility holding companies that were not performing any useful public service should abolished, and the Senate bill sought to abolish them at a given time by operation of law. That portion of the House bill dealing with this problem provided a tribunal in the form of the Securities and Exchange Commission and conferred upon it absolute authority to investigate and regulate utility holding companies, and where they are found not to be of any public value or by their manipulations and operations a menace to the economic and social order, to abolish them. Really, the only practical difference is that the House bill gives the holding company the right of trial which is denied it under the terms of the Senate bill.

It is not only the President's prerogative but his duty to advise the Congress of his views in the premises—which he has done. It is "likewise, however, the duty of the Congress as a legislative body to determine the ways and means and the mechanics for putting into operation any policy of government that may be agreed upon. To my way of thinking, it is utter nonsense to say that this vote in the House of Representatives indicates to any extent whatever any loss of prestige on the part of the President. The Members of the House of Representatives, certainly those of his own party, and undoubtedly many of the opposition party, as well as an overwhelming majority of the American people, still entertain for our great leader that same abiding faith and confidence that prompted the Congress in the days of stress and emergency to almost blindly follow his leadership. The processes of recovery are at work; the faith and perseverance of the American people under the guidance and leadership of the President will continue to carry us on and up to a higher and a more secure social and economic order."

IS THE PERSECUTION OF RELIGION BY THE MEXICAN GOVERNMENT JUSTIFIABLE?

Mr. BOYLAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to insert therein a radio address I delivered yesterday.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOYLAN. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following radio address which I delivered yesterday:

The first answer to this question may be given by one of the highest ranking Mexican officials in the United States. I refer to Mr. Eduardo Villasenor, the Mexican Consul General at New York City. A few weeks ago this gentleman tried to defend the anti-God policies of the Mexican Government. When I, in a speech in the House of Representatives on Friday, June 21, 1935, exposed the utter falsity of the position assumed by the Mexican Consul General, the latter official was so overcome with shame and humiliation that he was entirely unwilling to engage in debate with me upon this question this afternoon. Consequently, his default and his refusal to argue this question shows clearly that the Mexican Government itself and its agents are well aware that their campaign against religion and against God cannot be justified before the tribunal of world opinion.

The Mexican Government itself is the first witness, therefore, that I summon to refute the contention of the gentleman who has tried to defend the affirmative side of this question.

My next witness, gentlewomen and gentlemen of the radio audience, are the Mexican people. What have they to say upon this subject? Apart from the small clique of millionaire Socialists and corrupt military chieftains that dominate the Government of Mexico, there is a common unanimity of disapproval of the entire anti-religious policy of the Calles-Cardenas regime.

In order to establish the truth of this statement, I have only to refer to the magnificent demonstration in behalf of educational and religious liberty displayed by 30,000 Mexican men and women on the occasion of the convention of national rotary in the capital of the Republic of Mexico. Taking advantage of the presence of our freedom-loving American citizens, the Mexican populace was permitted to give a clear manifestation of its attitude on this important subject. The national press services of this country related that 1,500 Mexican citizens marched, demonstrated, and orated on this occasion. According to authentic reports from leading nonpartisan newspapers of Mexico, such as La Prensa and Excelsior, it is well established that more than 30,000 people took part in this splendid manifestation of divine faith.

In other parts of the Republic, such as Guadalajara, Puebla, Coyaocan, and Vera Cruz, Mexican men, women, and children have braved the murderous fire of machine guns and the sabers of cavalrymen in order to attend religious services. More than 5,000 citizens have shed their blood for their faith within the last 7 years, including 300 ordained ministers of religion. Can it be said that Christians at the time of the persecution under the Roman Emperor Nero displayed nobler courage or a more abiding faith in God than these martyrs of modern Mexico? These are witnesses whose voices come to us from beyond the grave and whose testimony is sealed by their own blood.

What do the Mexican people think of socialistic, atheistic, and sexual education? I will relate some concrete examples in order to give a frank, if not brutal, answer to this question. In some localities in Mexico, heads of families were so inflamed with indignation and resentment at the exposure of their daughters unclad in the classroom before immature children of both sexes that they pursued the godless government teacher who had attempted to corrupt the youth by a bloody and awful vengeance. It is neither my intention nor my obligation to justify these tragic reactions to the ruthless, debasing tendency of the Mexican governmental policy in education. It is my duty, however, to relate the facts as they have been presented to me in sworn statements by both Mexican and American citizens of unimpeachable character and a reputation for truth-telling. In certain instances the young girls who were thus exposed to the curious gaze of their classmates were so shocked with the experience that they fainted dead away, and in one authentic case actually the child for some days verged on the borderland between hysteria and permanent insanity. The mothers and fathers of Mexican children, who are revolted by the corrupt and corrupting policies of the Mexican officials, are star witnesses against the affirmative side of the question which we are debating this afternoon.

My third class of evidence will be compiled from the clear, undeniable statement of reputable American citizens who have lived in or visited Mexico within the past 10 months. I call into court that eminent Presbyterian minister, Dr. Charles S. MacFarland, secretary general emeritus of the Federal Council of the Churches of Christ in America. His book "Chaos in Mexico" is a crushing refutation of the falsity and misrepresentations of the Mexican Government, which they have been trying to propagate in the United States. It shows clearly that the warfare of President Lazaro Cardenas is a warfare upon Almighty God, Himself.

It throws into clear relief the fact that the National Revolutionary Party in Mexico seeks the extermination of all religion. This means that the radical governmental chiefs not only wish to destroy both Christianity and Judaism but that their hatred is directed in an intimate, personal manner even against the individual citizens, who without giving their allegiance to any particular organized church, nevertheless believe in their individual hearts and minds that there is a Supreme Being, the Creator and Ruler of the universe. In this sense it must be evident from reading Dr. MacFarland's book that President Cardenas desires to destroy the deeply human instinct to render Divine worship to the Infinite Majesty of God. His quarrel is with all religions, with all churches, and with all persons whose consciences oblige them to believe in God. The well-known American journalist, Robert Hammond Murray, reiterates this testimony of Dr. MacFarland in an even more emphatic form. He regards General Cardenas and his clique as nothing more or less than a group devoted to the ignoble purpose of exploiting the masses of their fellow citizens.

A few years ago there were five Methodist schools in Mexico City. Now the only one which has been permitted to eke out a precarious existence is the Sarah H. Keen School in Mexico City. Is the Mexican Government's persecution of religion justifiable? What justification can there be for a program of atheistic education that inaugurates the day in the classroom with the following interchange of salutation by the teacher and pupil: "Good morning teacher; there is no God"; "Good morning, children, there never was a God." According to Cardenas and his clique of greedy generals the child is the property of the state. The state alone has the right of education, while the rights of parents are not only disregarded but subject to ruthless violation. Is this justifiable?

In order to give a classic response to this question, I summon to the bar of judgment the overwhelming majority of the Justices of the Supreme Court of the United States, citing the fundamental concept of liberty upon which all questions in this Union repose, which excludes any general power of the state to standardize its children by forcing them to accept instruction from public-school teachers only. "The child is not the mere creature of the state. Those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize their proper traditional obligations." Every mother and father, not only in Mexico but in the United States, must rise up in judgment and, on the unchanging basis of the natural law which gives parents the right of education for their child, deliver a crushing refutation of the Mexican Government's assault upon fundamental, inalienable rights of man.

What is at the bottom of Mexico's trouble and against what groups should the measures of reform be directed? I quote from the book entitled "Mexico and Its Heritage", by Dr. Ernest Gruening, now director of the Division of Insular Possessions and United States Dependencies in Washington.

"The traditional lack of a public conscience among public 'servants' is one of the reasons for Mexico's stagnancy, for the generally squalid conditions of living, undrained and unpaved city streets, habitations unfit for human beings, wide-spread and needless ill health, high infant mortality."

I quote further from Dr. Gruening:

"In 1923 one of the most enlightened revolutionists said to me that out of 28 Governors there were just 2 for whose honesty he

could vouch. To two more he said he was willing to give a certificate of reasonable doubt."

Said he:

"The best that can be hoped for, generally speaking, is not a Governor who will not enrich himself through his office, for nearly all do, but one who while stealing will do something for his State. The majority take all they can and leave nothing. In half a dozen States the revolution Governors supposedly elected on the basis of 'uplifting the people' are closing State schools as fast as the national Government opens federal schools. The state contribution to education is either nothing or is diminishing, in the face of a national educational drive, in Campeche, Querétaro, Sianloa, Puebla, and Mexico.

"In one State Governor Carlos Riva Palacio, disregarding his informal agreement with the ministry of education that he would support village schools if the federation would take charge of rural education, has closed 75 village schools while the national government was opening a hundred new rural schools. Of course, he needs money—for his carousing in the capital; to pay his gambling losses, which have reached as high as ₱20,000 a night; for his high-powered cars with which he burns up the Toluca-Mexico road. And then his numerous relatives and the Gomez dynasty—which helped him into office and really rules the State—and its numerous relatives must be taken care of."

Who are the men who are persecuting religion in Mexico? One of the most notorious atheists and a bosom friend of General Calles and President Cardenas is Luis Leon, formerly secretary of agriculture and now editor in chief of the principal governmental newspaper in the whole of Mexico, the organ and mouthpiece of the National Revolutionary Party, El Nacional. This man is known as "Luis Leon"—and I quote the graphic description given of him by Dr. Gruening, who is by no means a prejudiced witness in favor of religion, inasmuch as it is known at the present time that he does not profess any faith at all.

"Luis Leon, best known for his oratory, had served during the post-revolutionary days in various posts. He was an active campaigner for Calles, to whom he was deeply devoted, and who reciprocated the young man's affection. Calles made him secretary of agriculture, for which his training as an agronomist gave him some claim. The appointment was personal rather than political. Calles with a very definite idea of agrarian reform, wanted an obedient executor of orders rather than an initiator. Leon did extraordinarily well. The Calles-Leon combination gave land distribution an impetus which it had lacked. Leon did his work efficiently until, in his case as in that of so many others, the Mexican heritage reasserted itself. He became enmeshed with one of the capital's well-known actresses. After a while even a Cabinet officer's income could not support her extravagances. The temptation to exploit his office became overpowering. After repeated admonitions, the President was compelled to ask for his friend and minister's resignation."

These are the men who are persecuting religion in Mexico and are waxing fat and rich on the profits of plunder and the fines they have illegally imposed upon citizens of Mexico who wish to worship God according to their consciences. The warfare on religion in Mexico is a racket, and the Mexican Government officials are the worst type of racketeer. There is an old proverb to the effect that a man can be known and respected for the enemies he makes. Religion in Mexico may be understood and interpreted in the light of her enemies. Luis Leon and criminals of his ilk close down orphanages, confiscate the property and revenues of hospitals, drive out the Little Sisters of the Poor, seize the possessions of the church which are the patrimony of the sick and afflicted and abandoned children of humanity and use them for their personal aggrandizement and political advancement for nights of wild dissipation and days of idleness in vain amusement. It is no exaggeration to say that Luis Leon and the other enemies of the church have wasted more wealth on their actress friends and upon the mistresses whom they adore in the last 20 years than all the religious institutions of Mexico by charity, frugality, and unselfish devotion to the people were able to amass in the previous 100 years. For men of this character to blaspheme God and try to destroy the ministers of religion is an outrage upon society and civilization. Of all people in the world Mexican politicians are least blessed with a sense of honor.

This, gentlewomen and gentlemen of the radio audience, is my answer to the question under debate: "Is the Persecution of Religion by the Mexican Government Justifiable?"

I thank you.

H. R. 8666—THE UNITED STATES HOUSING AUTHORITY BILL—BUILD HOMES AND REDUCE UNEMPLOYMENT

Mr. ELLEBOGEN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. ELLENBOGEN. Mr. Speaker, for over 2 years I have been devoting a large part of my time and of my work to, first, save home owners from loss of their homes by foreclosure; second, to bring about the building of modern and decent homes at low cost for those of low income.

The fight to obtain sufficient funds for the Home Owners' Loan Corporation has been largely won.

NEED FOR HOUSING PROGRAM REALIZED

Now, our aim is to secure the building, on a large scale, of modern and decent homes at low cost—a fight which is now going on and which must be won. This is the problem which I want to discuss with you today—the problem of securing the construction of modern homes full of light, sunshine, and air, to be leased at low rentals to families of low income.

Government experts who have studied this problem have come to the definite conclusion that there is now developing the largest shortage of homes that we ever had. They have come to this conclusion in spite of the fact that there are many to-let signs and many unoccupied houses.

A long-term program of housing must depend on the future needs. Future housing needs depend on the expected net increase in families, the rate of obsolescence in old dwellings, and the drifts of population.

MARRIAGE RATE FACTOR IN HOUSING

The most important single fact on which the housing program must be based during the next 10 years is the expected net increase in the number of families. The increase in the number of families depends mainly on the number of marriages. In many cases marriages have been delayed on account of unemployment.

In 1929 there were 1,233,000 marriages in the United States; in 1932 only 982,000; in 1933, 1,077,000. But in 1934 there were 1,245,000 marriages, which is more than there had been in 1929. The marriage rate will increase over the next 10 years much above what it has been last year and even during normal times.

WE NEED 14,000,000 NEW HOMES

Considering the probable marriage rate during the next 10 years, the need for rebuilding old and obsolete dwellings, vacancies, and other factors, Miss Catherine Bauer, a well-known housing expert in the United States, has come to the conclusion that during the next 10 years the total number of dwellings needed in the United States to meet decent standards is 14,066,000. Just think of it! Over 14,000,000 new homes should be constructed in the United States during the next 10 years, if we are to have decent housing conditions. This may appear excessive, but the tremendous need for proper housing is documented and proven by thorough studies which have been made by Miss Bauer and by other experts.

GOVERNMENT AID ESSENTIAL

It is calculated that of these 14,000,000 homes, 5,000,000 can be built by the ordinary channels of private enterprise, and that 9,000,000 homes will have to be built with the aid of some governmental agency. The construction of these 9,000,000 homes during a 10-year period would cost approximately thirty-one and a half billion dollars.

Let us stop for a moment and consider the situation.

ENERGY AND SKILL OF UNEMPLOYED UNUSED

On the one hand, we have an army of millions of unemployed men and women who are able, who are anxious to work, but who are unable to find jobs. By the millions they are maintained by the Government through the payment of relief, while still others are exhausting their meager savings. The energy of these millions of jobless is wasted—their skill, their knowledge, and their experience is unused. Millions of able-bodied men and women have been going idle for the last 4 or 5 years. Just imagine what they could have built. Just imagine how many homes they could have built; just imagine the millions of garden communities which they could have constructed.

SLUMS BREED CRIME AND DISEASE

While this energy was wasted, millions of others have had to live in slums and blighted areas, in old homes without much light and air and without sanitary plumbing facilities.

While a misguided society has permitted millions of able-bodied men and women to live in enforced idleness, it has forced other millions to live under conditions which breed crime and disease. The same forces of society which find no outlet for the strength and energy of the jobless, have

forced the children of the poor to play on busy thoroughfares under conditions which have sent many a promising young man or woman on a career of crime. Instead of leading these young citizens into channels of useful work for society, they have been led by these slum conditions into antisocial activities which tend to undermine society.

It is an absurd situation. On the one hand it forces the jobless and their wives and children to live in the slums in idleness, and on the other hand prevents them from building modern homes during those months and years of idleness.

MAJORITY OF FAMILIES HAVE LOW INCOMES

It is not only the unemployed, however, who live in substandard dwellings. The income of a large part of the population of the United States has always been much too small to permit the payment of rentals demanded for modern housing.

Even during 1929, a year of unexcelled prosperity, 42 percent of the families in the United States had an income of less than $1,500 a year. They were only able to pay up to $25 a month for rent, while modern homes with up-to-date conveniences could not be rented for that amount.

HALF OF POPULATION NEEDS HOUSING AID

Only with the aid of the Government can modern, decent homes be built for occupancy by families of low income. That means that between one-third and one-half of the population, and perhaps even a larger percentage, must have the aid of the Government, if they are to have decent and proper housing.

H. R. 8666—THE UNITED STATES HOUSING AUTHORITY BILL

With this in mind, I introduced in the Congress of the United States H. R. 8666, a bill to establish the United States Housing Authority.

This authority is to be a corporation wholly owned by the Government of the United States, which means by the people. The authority is to be established for the purpose of using the credit and, if necessary, the funds of the Government for the purpose of engaging directly or through local housing agencies on the large-scale construction of modern homes throughout this Nation, available for families of low income.

UNITED STATES HOUSING AUTHORITY IS TO ABSORB P. W. A. FORCES

The United States Housing Authority is to absorb the Housing Division of the P. W. A., its personnel, and the money which has been made available by Congress or which will be made available by the President for the building of low-cost housing. In addition it is to have the power to issue bonds up to $1,000,000,000, the payment of which is to be guaranteed by the Government.

The bill is designed to revive the building-trade industries and to give employment to hundreds of thousands of building workers and other employees. It provides specifically that prevailing wages must be paid to all workers on its projects. H. R. 8666 has been widely endorsed. It has been endorsed by the Labor Housing Conference, by the Pennsylvania Federation of Labor, by the New Jersey State Building Trades Council, by the Chicago Federation of Labor, by the Cleveland Federation of Labor, by the Central Labor Union of Toledo, by the Building Trades Councils of Chicago, Detroit, St. Louis, Miami, Seattle, Columbus, Pittsburgh, Philadelphia, and by many other organizations.

This bill is a recovery measure, but it is more than that. It would add to the physical wealth of the Nation by laying the foundation for the building of hundreds of thousands of homes, and it would aid to the well-being and happiness of large parts of our people by stamping out crime-breeding, health-destroying slums.

I hope that the Committee on Banking and Currency, to which H. R. 8666 has been referred, will soon hold hearings on the bill and make a favorable report. I hope that the Congress will pass it and thus defeat unemployment and build the new homes which the country needs.

FRAZIER-LEMKE FARM REFINANCING BILL

Mr. HILDEBRANDT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. HILDEBRANDT. Mr. Speaker, 12 of our colleagues who signed the petition to take the Frazier-Lemke farm refinancing bill out of committee and allow a vote on the floor of the House have requested that their names be withdrawn from the document. There are, I understand, 204 signatures remaining.

I take this opportunity to state with all possible emphasis and energy, that there is one Congressman from whom no request of this character will ever come. "What I have written, I have written." I want to assure my constituents and all others interested in this legislation that I have been for the Frazier-Lemke bill from the start and that neither promises dangled before my eyes nor threats hurled at me, will cause me to change my opinion. The 12 who withdrew from the petition had a right to do so—it is every man's privilege to change his mind. As for myself, I long ago recognized the value of such a bill in helping extricate the agriculturist from the morass in which he is imbedded. To me it seems that the plan does not go far enough and that more comprehensive and fundamental methods must eventually be utilized, but I am certainly 100 percent for the measure as far as it goes.

If this bill becomes a law, relief to a tremendously helpful degree will be available to agriculturists by the long-term handling of farm obligations at 1½-percent interest and applying 1½ percent annually on the principal sum of their debts. It is predicted that the increase in the sums available for farmers for commercial and industrial expenditures will be more than a billion dollars a year.

All over the United States there are hundreds of thousands of mortgage claims pending, many of them held in abeyance for several years, that will be disposed of if this bill becomes a part of the statute books of our land. Enacting it will bring to these unfortunate farmers a bright ray of sunshine. It will furnish them with a means whereby they may temporarily rehabilitate themselves. What will be their lot after that may be a debatable question, but it is certain that the law will give them a little longer occupancy of their homes and provide a course of procedure which, in some cases at least, will permanently save these homes for them.

Neither this nor any other law we have passed or may pass is a panacea for all ills. It will help the farmer in his time of distress, although it does not solve the economic problem at the base of his disaster that must sooner or later be considered. The farmer has suffered so severely that a measure of this type, affording temporary relief, should receive the whole-hearted support of all lawmakers who have a social conscience, regardless of the fact that other and more sweeping legislation must yet be enacted.

PERMISSION TO ADDRESS THE HOUSE

Mr. FISH. Mr. Speaker, I ask unanimous consent to proceed for 1 minute to make an announcement.

Mr. TRUAX. Mr. Speaker, I renew my point of order that there is not a quorum present.

The SPEAKER. The Chair will count. [After counting.] Evidently there is not a quorum present.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 117]

Amlie	Chapman	Dunn, Miss.	Harlan
Andresen	Claiborne	Eckert	Hart
Andrew, Mass.	Clark, Idaho	Eicher	Hartley
Andrews, N. Y.	Cochran	Engel	Hennings
Bacon	Collins	Evans	Higgins, Conn.
Bankhead	Corning	Ferguson	Higgins, Mass.
Barden	Crowe	Fernandez	Kerr
Beam	Culkin	Frey	Kimball
Bell	Darden	Gambrill	Kniffin
Berlin	Dear	Gasque	Knutson
Brown, Mich.	Dempsey	Gassaway	Kocialkowski
Buckley, N. Y.	Dickstein	Gifford	Lamneck
Bulwinkle	Dieterich	Gildea	Lea, Calif.
Cannon, Wis.	Dirksen	Goldsborough	Lesinski
Carter	Duffey, Ohio	Hancock, N. Y.	Lloyd
Casey	Duffy, N. Y.	Hancock, N. C.	McClellan

McKeough	O'Neal	Russell	Thomas
McLeod	Patton	Ryan	Tinkham
Maloney	Perkins	Sabath	Tobey
Marshall	Peterson, Fla.	Sadowski	Treadway
Martin, Mass.	Peyser	Sanders, La.	Turpin
Millard	Rabaut	Seger	Underwood
Montague	Rayburn	Shannon	Wadsworth
Montet	Reed, Ill.	Smith, W. Va.	Walter
O'Day	Reilly	Snell	Weaver
Oliver	Robertson	Stewart	Wigglesworth
O'Malley	Rogers, N. H.	Taber	

The SPEAKER. Three hundred and twenty-two Members have answered to their names. A quorum is present.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

Mr. FISH. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Speaker, pursuant to clause 4 of rule 27, I have filed a petition at the Clerk's desk to discharge the Committee on Appropriations from further consideration of House Joint Resolution 300, authorizing and directing the payment of adjusted-service certificates to World War veterans out of appropriations made for public works. There is still $1,000,000,000 left of appropriations for public works made by a previous Congress. Payment is to be made on the terms and conditions set forth in the so-called "Vinson bill" as reported from the Ways and Means Committee and sponsored by the American Legion. I hope the Members will see fit to sign this petition. [Applause.]

TRANSFER OF CERTAIN LANDS NEAR VALLEJO, CALIF.

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1206) authorizing the transfer of certain lands near Vallejo, Calif., from the United States Housing Corporation to the Navy Department for naval purposes and its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. MAPES. Mr. Speaker, reserving the right to object, I understand from the gentleman from Georgia that this is a unanimous report from the Committee on Naval Affairs.

Mr. VINSON of Georgia. I may say to the gentleman from Michigan that this is a Senate bill that was considered by the Naval Affairs Committee and unanimously reported to the House. It is a departmental bill.

Mr. MAPES. Mr. Speaker, I understand the gentleman from Georgia proposes to call up some other bills, and as far as I can see at the present time they are not of great importance, and I understand that they have all been unanimously reported by the Committee on Naval Affairs.

Mr. VINSON of Georgia. Each one of the bills which I shall ask unanimous consent to consider has been unanimously reported by the Committee on Naval Affairs. They have passed the Senate and are departmental bills.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the United States Housing Corporation, a corporation organized by authority of the President of the United States pursuant to the provisions of the act entitled "An act to authorize the President to provide housing for war needs", approved May 16, 1918, as amended, is authorized and directed to transfer, by appropriate conveyance, to the Navy Department, for naval purposes, that certain tract or parcel of land comprising 29 acres, more or less, designated as the unsold portions of the tideland lot no. 19, in Bay Terrace, near Vallejo, Solano County, Calif.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUITABLE SITE AT PEARL HARBOR, HAWAII, FOR A REAR RANGE LIGHT

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2230) to authorize the Secretary of the Navy to acquire a suitable site at Pearl Harbor, Territory of Hawaii, for a rear range light and its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized to acquire on behalf of the United States a perpetual easement in or use of a suitable site on lot no. A4–12, Pearl Harbor, Territory of Hawaii, for a rear range light for the waters of Pearl Harbor, Territory of Hawaii, and for said purpose there is hereby authorized to be appropriated the sum of $100.

The bill was ordered to be read a third time, was read the the third time, and passed, and a motion to reconsider was laid on the table.

BEQUEST OF LATE DR. MALCOLM STORER

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2378) authorizing the Secretary of the Navy to accept on behalf of the United States a bequest of certain personal property of the late Dr. Malcolm Storer, of Boston, Mass.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized to accept on behalf of the United States, without cost to the United States, a bequest of personal property, provided in the will of the late Dr. Malcolm Storer, of Boston, Mass., consisting of a collection of naval medals, together with the sum of $500 to be used to cover the expense of the installation of said collection of naval medals as an exhibit at the United States Naval Academy.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BEQUEST OF LATE PAUL E. M'DONNOLD

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2846) authorizing the Secretary of the Navy to accept on behalf of the United States the devise and bequest of real and personal property of the late Paul E. McDonnold, passed assistant surgeon with the rank of lieutenant commander, Medical Corps, United States Navy, retired.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized to accept on behalf of the United States the devise and bequest of the real and personal property, provided in the will of the late Paul E. McDonnold, passed assistant surgeon with the rank of lieutenant commander, Medical Corps, United States Navy, retired, or the proceeds from the sale thereof, for the benefit of the hospital fund, United States Navy.

SEC. 2. The funds accruing from the sale of property and the moneys authorized to be accepted by section 1 of this act shall be deposited into the Treasury to the credit of the trust fund account "Naval hospital fund (7 s 815)", subject to the provisions of the Act of June 26, 1934 (48 Stat. 1224, ch. 756).

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RETIREMENT OF ACTING ASSISTANT SURGEONS OF THE UNITED STATES NAVY

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 883) directing the retirement of acting assistant surgeons of the United States Navy at the age of 64 years.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. BLANTON. Mr. Speaker, reserving the right to object, may I ask the gentleman how many officers are involved?

Mr. VINSON of Georgia. Two, and this bill saves $4,000. It is recommended by the Department from the standpoint of economy.

Mr. BLANTON. This legislation will affect only two officers either now or hereafter?

Mr. VINSON of Georgia. The gentleman is correct. It affects two men who are 64 and 69 years of age and we propose to make the age limit 70 years.

Mr. BLANTON. If this bill is passed, it will not affect any other officers in the Navy?

Mr. VINSON of Georgia. The gentleman is correct, unless an officer gets to be 70 years of age and is in the position of these two men.

Mr. BLANTON. I am glad to know that the distinguished Chairman of the Naval Affairs Committee is raising the age limit to 70 years.

Mr. VINSON of Georgia. It also saves $4,415.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MAPES. Reserving the right to object, as the Clerk read the title of the bill, the age limit provided for is 64 years.

Mr. VINSON of Georgia. There will be an amendment offered.

Mr. MAPES. Raising the age limit to 70?

Mr. VINSON of Georgia. That is correct.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection the Clerk read the bill, as follows:

Be it enacted, etc., The acting assistant surgeons of the United States Navy who, on the date of the passage of this act, have reached the age of 64 years shall be placed on the retired list of the Navy with pay at the rate of three-fourths of their active-duty pay.

With the following committee amendment:

In line 5, strike out the word "sixty-four" and insert in lieu thereof the word "seventy."

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

The title was amended to read as follows: "An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 70 years."

PERMISSION TO ADDRESS THE HOUSE

Mr. HAMLIN. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

Mr. McSWAIN. Mr. Speaker, reserving the right to object, I am not going to object to the request for 2 minutes, but a number of gentlemen have asked those of us in charge of the legislation for today for our consent to make brief speeches, some as long as 15 minutes. We have had to notify them that in the interest of making progress it will be our duty to object. I am not going to object to this request, but I felt it was right and fair to the other Members to make this statement at this time.

Mr. MAPES. Mr. Speaker, reserving the right to object, in view of the statement of the gentleman from South Carolina, I think the House would be interested to know what the gentleman from Maine is going to discuss.

Mr. HAMLIN. I desire to ask a question relative to a quotation I find in a Maine paper this morning.

Mr. MAPES. On what subject?

Mr. HAMLIN. On the subject of Passamaquoddy.

Mr. MAPES. That is the matter that is going to be investigated by the Committee on Rules.

Mr. HAMLIN. I desire very much to ask my colleague the gentleman from Maine [Mr. BREWSTER] a question.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

Mr. MICHENER. I object, Mr. Speaker.

LOTTERY MOVEMENT LAUNCHED

Mr. KENNEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein an address made by me at the Waldorf-Astoria Hotel on July 2 on the occasion of the opening of a Nation-wide campaign in behalf of a legalized and honest lottery in the United States.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. KENNEY. Mr. Speaker, the National Conference for Legalizing Lotteries, Inc., of which Mrs. Oliver Harriman, of New York, is president, on July 2 last started a Nation-wide drive for membership in the organization which has for its purpose the legalizing of a lottery or lotteries in the United States. The movement was launched at a luncheon and meeting held at the Waldorf-Astoria Hotel. Many prominent men and women of the country were present to participate.

Howard Chandler Christy donated for use in the campaign a large painting which was unveiled at the luncheon. The design depicts a figure representing Charity, holding an infant in the left arm and resting the right arm on the shoulders of a crippled boy. A little girl clings to her skirts. In the background there is a group of unemployed and a hospital which is closed. Miss Elise Ford, of New York, was the model for the main figure.

As soon as a slogan is accepted for the design, facsimiles will be disseminated throughout the country in aid of the drive for membership in the organization. Sixty-eight prizes will be given for the best slogans. All who join in the membership of the organization will be entitled to submit a slogan. The first prize-winning slogan will appear on the picture which will be used in the lottery campaign.

Following is the address delivered by me on this occasion:

My compliments I extend to Mrs. Harriman and the representative women here assembled, splendid women who have already done much to banish hypocrisy from the land, you, who now with celebrated and prominent gentlemen open a grand membership drive in behalf of honest, legalized lotteries for America.

It is a good omen that there has been contributed for your plans one of the finest works of the creative art of the world's famous artist, Howard Chandler Christy.

This occasion, marked by the unveiling of his wonderful poster design, which will hereafter bear a prize-winning slogan, and facsimilies of which will be widely disseminated, auspiciously begins your Nation-wide campaign for the presentation to the country of the necessity of dealing with a problem which takes its place in the forefront of moral and economic questions. When your cause shall have been fully and completely presented, it will be accepted and adopted by the country more readily and more happily than was repeal of hypocritical prohibition which never would have been repealed except for the influence of President Roosevelt and the aid of the outstanding women of the Nation, many of whom are members of this group reuniting today in the interest of America and Americans.

You are a body of women who see things as they are, not as you and I would like to see them. You have not closed your eyes to that which is going on about you. You know that our people are participating in all sorts of lotteries not only in the large cities, but in the small hamlets and villages of every section of the country. The factual merit of this statement is undisputed and indisputable. Our people are spending on lotteries each year in the aggregate a gigantic sum ranging between three and six billions of dollars. As good moralists, as good economists, you are launching a movement to harness these billions of American dollars.

What becomes of the fabulous amounts of money now being spent by our people in the lottery markets of the Nation?

Firstly, a considerably part of it goes to foreign countries for the benefit of their governments and institutions.

Secondly, the greatest portion is spent in participation in illegal, dishonest, surreptitious number rackets, policy games, and other forms of lottery conducted, for the most part, by former beer barons, bootleggers, white-slave traders, and leaders of organized crime.

Our people have an urge to spend varying amounts of money for a chance to better their condition. They are doing so, will continue to do so, they persist in so doing. Our lottery laws, which are not gentle, prohibit, but they do not prevent. The racketeers have been quick to perceive it. Our legislators have not wished to see it. The racketeers have not made our laws, but our laws have made millions for the racketeers. The racketeering element has obtained control of every kind and form of unscrupulous domestic lottery. With foreign governments, the racketeers share the benefits of our lottery laws, Federal and State. Given a legal lottery or lotteries in this country, these benefits will pass from the present beneficiaries to the aid of worthy purposes here in America.

Is participation in an orderly lottery conducted for worthy purposes hurtful or destructive to the character, morals, or lives of our people?

Despite diligent research, I have yet to find that the self-respecting, sturdy patriots of the Revolutionary War took shame to themselves because George Washington fed and clothed his starving and suffering soldiers with lottery funds authorized by the Continental Congress in 1776. Nowhere have I read that consciences were impaired when a lottery furnished the means of paying the deficit incurred for providing a suitable meeting place for the first Congress under the Constitution in the city hall of this metropolis; nor again when in the early part of the nineteenth century the President of the United States approved a lottery legalized by Congress for the erection of public buildings in the National Capital in Washington. At no time has it come to my attention that the guiding sense of propriety was demoralized by any of the lottery participation which created funds for the building of churches, colleges, and edifices throughout the country.

Nevertheless, it may very well have been that zealous jailers of the public will cried out against these proclivities and called them "gambling." We have had, always, and very likely always shall have, sincere conscientious objectors who counsel extremely because they do not consider to think straightly. From befuddlement emerged the eighteenth amendment upon its tragic reign of mischief, which has been equaled only by the present-day rule of the policy, number, and lottery kings.

Until it fell into the hands of corrupt private individuals, as was the case in Louisiana, the lottery was viewed as a ready and wholesome method of raising funds, especially in emergencies. Let us take it out of the clutches of the racketeers where it now flourishes. Legalize it for the benefit of our hospitals, accredited charities and institutions, unemployment relief, relief of the taxpayers, or any worthy purpose. Legalize it for the benefit of the plain citizen who will then be given the opportunity, yes, the chance an approved lottery affords of potential happiness, independence, and self-reliance.

That the lottery when conducted for worthy purposes does not violate the moral law many foreign countries bear witness.

From authority high in the Italian Government comes this confirmation:

"I want to confirm to you that we have had a national lottery in operation since the organization of the Kingdom. It is conducted with weekly extractions in the 12 most important cities. The system in question has had no bad results on the general welfare of the people but has offered, on the contrary, a healthy method of contentment and happiness, with the possibility of drawing a fortune, especially on the part of the people of modest means. The system is under the strictest control of the Government, and since its operation its functioning has been most regular and efficient. Out of the operations of the lottery the Italian Treasury has realized a net average income of about 280,000,000 lire during the past few years."

A source high in the German Government sent me this communication:

"For many years legalized lotteries have been conducted in various German States under the auspices of the respective governments.

"As to the effect of these lotteries upon the citizenry, I can unhesitatingly state that they have been adding to the contentment of a large part of the population. Thus, their reaction upon the state of mind of the individual citizen has been a favorable one."

From the Turkish Government, I have this to convey:

"I may say that the Turkish lottery has had no bad effects whatever upon the general welfare of Turkish people, and has in no way increased crimes or misdemeanors.

"On the contrary, the lottery, which is conducted for the promotion of aviation, the purchase of planes, and the training of pilots, has been beneficial in arousing public interest in the cause which it supports."

Significantly, more than 30 other countries have lotteries, including France, Spain, Ireland, Russia, Belgium, Holland, Norway, and Sweden, and many more well-known nations. We have followed the example of other countries in granting equal suffrage to our women and well might we now adopt their sensible, practical view which permits of lotteries for worthy purposes.

Under existing law the billions yearly invested by our people in lotteries circulate outside the pale of our economic structure. Millions upon millions of our dollars going abroad annually to foreign countries never return. Billions yearly passing to the coffers of our public enemies are extracted from and remain outside the economic realm. Our penal laws keep lottery money from economic uses; they divert them to uneconomic uses.

This great wealth can, however, be reclaimed. The only requirement is a legal outlet. The States should join with the Federal Government to that end. Meanwhile, the laws of the States to the contrary notwithstanding, the United States Government, by Federal law, can establish a national lottery to garner funds for disposition for worthy purposes.

A Federal lottery would be a Federal instrumentality for raising revenue. A ticket in the hands of the purchaser would represent a right to participate in a governmental transaction which is not completed until the drawing. The States may not interfere with or burden the agencies and instrumentalities of the Federal Government and a State law prohibiting possession of a ticket would discourage the sale of the tickets, thereby hindering and placing a burden upon the means employed to carry into execution the powers of the Federal Government.

The task is yours. You have succeeded in establishing the full liberty and equality of women. You we have to thank for your part in taking from the Constitution the iniquitous prohibition amendment, constituting as it did the only constitutional restriction upon the liberties of our people. Upon you we must depend to restore the lottery to its proper sphere and place in our economic system. Reinforced by hosts of our countrymen and women, future members who will volunteer to serve as fellow members of your organization, you will win and register another notable victory for America and the American people.

THE TENNESSEE VALLEY AUTHORITY

Mr. O'CONNOR. Mr. Speaker, I call up House Resolution 279.

The Clerk read as follows:

House Resolution 279

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the whole House on the state of the Union for the consideration of H. R. 8632, a bill to amend an act entitled "An act to improve the navigability and to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933. That after general debate, which shall be confined to the bill and continue not to exceed 6 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Military Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Mr. O'CONNOR. Mr. Speaker, I yield 30 minutes to the gentleman from Pennsylvania [Mr. RANSLEY].

Mr. Speaker, this is a rule for the consideration of T. V. A., or the amendments to the Tennessee Valley Authority Act. It is an open rule, providing for 6 hours of general debate. It is not as open a rule as the one under which the public utilities bill was considered. That was an especially open rule, permitting votes in the House on any amendment which was adopted in the committee. That has rarely been done.

Now, in regard to the rules of the House, there has been so much confusion in respect of them that such misunderstanding has pervaded news articles, and even editorials, and I would like to take this opportunity to point out what that rule did as compared with this rule.

As I said when I called up that rule for the consideration of the public utilities bill, it provided for at least five record votes, and three of them were had. If the bill comes back from conference, there are opportunities for two more record votes on the "death sentence." The editors should count them.

Some of the editorials have been very vicious in their unwarranted attacks against me and other Members of the House for having done what they claim is against the rules of the House, when what we, in fact, did was to follow the rules of the House as they have been in existence for over a hundred and fifty years, except that we liberalized them in this particular instance.

I pick, for instance, an editorial from the Washington Daily News of July 5, headed "Let There Be Light." There certainly should be, and especially concerning the long-established rules of the House.

I am only concerned with the misstatements in the editorial, not its blackguarding attack on me. It states:

The House was not permitted to cast a record vote on the "death sentence" clause.

This is not correct, unless the editor means that he wanted a record vote in the Committee of the Whole, something that has never been done in the history of the Congress; unless he personally wanted a record vote on every amendment that was voted down in Committee of the Whole, so that on some bills you might have 150 or 200 record votes. If, after you have had your day in court, in Committee of the Whole, you feel you are entitled under the rules of any game to another chance, for instance, every time an amendment is voted down, that is all so inconsistent with the rules of the House that you might just as well tear up the rules and turn this gathering into a town meeting, and even let the galleries, including the press gallery, participate.

The editorial further inquires, "Why not? After all, that was about the shadiest performance in the whole show", meaning no record vote in the Committee of the Whole.

There was nothing shady at all about it. Every opportunity to vote, and more than usual, was afforded under that special rule.

The editorial goes on to say:

It is known that Representative RAYBURN, who had charge of the holding-company bill in the House, asked the Rules Committee for a rule permitting a roll-call vote on the so-called "death sentence" issue.

Mr. RAYBURN, as an individual and without any support from his committee at all, asked for two motions to recommit, but never in the history of the Congress was any rule ever brought in permitting two motions to recommit where the Committee had not authorized a representative of the committee to make the request.

In this connection, something has been said about some of the Democratic Members voting for the House bill as against the Senate bill and thereby "voting against the President" and the "death sentence." I voted for the House bill as against the Senate bill, but in doing so I followed the chairman of the committee, Mr. RAYBURN, who voted for the House bill as against the Senate bill containing the "death sentence", and he asked this House to follow him. This was correct parliamentary tactics. Although he had asked for two motions to recommit, he took the floor and asked that there not even be one vote on the House bill for fear it might be endangered in conference. This move shows he was wrong in his original request.

Although he had asked for two votes to recommit, he took the floor and asked that there be not even one.

With due credit to him, that was one of the finest parliamentary actions I have ever seen in the House. [Applause.] That is what should have been done. It was readily realized that two motions to recommit, if they had been granted, would have buried the "death sentence" worse than the Rules Committee or anyone else could have ever done, if they ever had such a desire, which the Rules Committee had not. The editorial further states:

It is reported that President Roosevelt made a similar request to Representative O'CONNOR, Tammany Chairman of the Rules Committee.

"Tammany" is always used every time after my name as a descriptive word. It is especially used whenever anybody wants to take a whack at me. [Laughter.] I wish "Tammany" thought as much of me as some newspapers think it does. I would have had less trouble in the past. [Laughter.]

The report that President Roosevelt made a similar request of me is not a fact. President Roosevelt never asked me as 1 member of the 14 members of the Committee on Rules for two motions to recommit; neither on that bill nor any other bill. The subject was never discussed. Let the editors in justice to me make that correction.

The editor further misstates:

It is rumored further that Mr. O'CONNOR never told his committee colleagues about the President's request.

Bosh! That is another absolute misstatement, as is likewise the following:

But inferred, instead, that a teller vote would satisfy the administration.

What has the administration, if the executive branch is meant, to do with the rules of the House of Representatives?

The President never sent any such message to me. Whenever the President wants to talk with me he knows how to do it. [Applause.]

Sir Editor further effuses:

We do not know whether this rumor is true. But we think Congress should find out.

There is another investigation for you—to find out whether the President spoke to O'CONNOR. [Laughter and applause.]

Again:

All we know is that the rule the committee brought out permitted a teller vote, but forbade a record vote.

Tommyrot! Of course, the Rules Committee had nothing to do with that at all. Under the ordinary rules of the House teller votes can be had on any amendment. The Rules Committee never attempted to stop or permit them, if it could.

Mr. BLANTON. Will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. BLANTON. The editorial speaks of a secret teller vote here in the Chamber. There was no secret teller vote. With the galleries full of people watching our teller vote, and the press gallery full of reporters, all watching and tallying our teller vote, how could there have been a secret vote? How could there have been anything secret about it?

Mr. O'CONNOR. Of course not, and the vote that went out to the country was about 75 percent correct.

Mr. BLANTON. Oh, no; they were 97½ percent correct in printing how Members voted in the teller vote, which is most remarkable, because there are few men in this Chamber who can call the names of all Members by sight. Every reporter in the crowded gallery saw every Member as he voted by passing through the tellers.

Mr. KVALE. I understand there were only three errors out of 425 votes.

Mr. BLANTON. There was nothing secret about it. Everybody in the crowded galleries could observe everything that went on in the House at that time, and all witnessed this teller vote.

Mr. O'CONNOR. I quote further from this editorial:

All we know is that the rule which the committee brought out permitted a teller vote, but forbade a record vote.

That is an entire misstatement. The rule did not do any such thing. No rule would attempt any such a thing.

And that of the 11 members of the Rules Committee who voted on the issue, 9 stood with the power interests and 2 with the administration.

These figures are absolutely incorrect. There is no way by which anybody could get any such information for any editorial as to how the Rules Committee voted. It is entirely the conjuring of some editorial writer.

Here is another statement from the New York Post about lobbying by the administration, and its investigation by the Committee on Rules to quote:

This outfit—

Referring to the Committee on Rules—

headed by Tammany's Mr. O'CONNOR, did more to save the day for the holding companies than any other group in Congress.

Well! Well!

Mr. Speaker, I followed the leadership of one of the most distinguished men of this House, the Chairman of the Committee on Interstate and Foreign Commerce [Mr. RAYBURN]. [Applause.] I joined with the vast majority of the Democrats on my side of the House, and when I do that I am never wrong. [Applause.] The only time I worry is when I am in the minority, especially of my own party, and then I usually say to myself, "You are wrong." In all, 165 or 170 Democrats followed the leadership of Mr. RAYBURN and voted for the House bill, so that a proper bill, with or without the "death sentence", might be brought out of the conference. I knew I was right, and I have no apologies to make.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. For a question.

Mr. RICH. If the chairman of the committee was right in that vote, then the President of the United States must have been wrong when he demanded the "death sentence".

Mr. O'CONNOR. I do not know about that, and do not believe it. I have not any information or knowledge that the President had any wishes in the matter. We hear a lot of rumors around here. It is a gossipy place.

The present rule, Mr. Speaker, for the consideration of the T. V. A. amendments is an open rule, although not as open as the rule for the consideration of the utility bill. The same unreasonable objections may yet be made as to this rule—that it is strangling something, that it is prohibiting or forbidding a record vote on something. That is not the truth. Nor was it the truth as to the public-utility bill, all the incorrect statements in the newspapers to the contrary notwithstanding. [Applause.]

Mr. RANSLEY. Mr. Speaker, I yield myself 10 minutes.

I am opposed to the rule and the bill which the rule brings forward for consideration.

The obvious purpose of the bill originally was to strengthen the hands of the Tennessee Valley Authority in its case which will eventually reach the United States Supreme Court.

Already the Tennessee Valley Authority has spread ruin to many families, for they innocently invested in the bonds and stocks of utilities, and have lost millions of dollars.

This bill and the vicious Wheeler-Rayburn bill have caused a decline in leading public utilities in the past year—by fool legislation, you are impoverishing the people and seriously retarding business recovery.

During the past year and a half the people of this great country paid as much in processing taxes as all the homes in the United States paid for electricity in 1934. The tax on a single cigarette will pay for a 60-watt electric light for 3 hours. The cost of government, Federal, State, and local, now absorbs about 28 percent of our national income. Who will pay the taxes if you kill business and destroy income? This bill is an effort to bring about public control of all the utilities in the United States, in spite of the fact that the industry contributes over $250,000,000 in taxes to the Government each year.

I am opposed to the Government embarking in business—it is un-American—it is opposed to our form of government—it is a long stride toward socialism. Imagine a government of the people competing in business with its own people.

If you pass this bill, you will destroy the Commonwealth & Southern Co., which produces one-third more power than than they are now using, and make it impossible to ever pay dividends to thousands that own stock in that and other companies. What equity can there be in using the funds of all the taxpayers for the purpose of destroying the business of some of the taxpayers?

Mr. MITCHELL of Tennessee. Will the gentleman yield?

Mr. RANSLEY. Not now. The Authority will destroy all power and light companies in the States that the Tennessee Valley Authority operates. Like many of the new-deal projects, it helps with one hand but destroys with the other.

The Tennessee Valley Authority is now making a wasteful duplication of existing plants at the expense of the taxpayer. It will strike a withering blow at coal mining and railroads. It will throw a quarter of a million miners and laborers out of work.

The testimony given before the Committee on Military Affairs during the 5 months of the hearings by the officials of the Authority and their proposals in the form of Senate 2357, amending existing law, justifies the conclusion that the Tennessee Valley Authority has exceeded the powers delegated to it, and at the same time they attempted to obtain additional powers to extend its activities.

There is no indication of what the cost is going to be. Its program will commit the United States to large expenditures to furnish electric power to communities far removed from the Tennessee Valley.

The Authority, in its program for dam construction for generating electric power, for which they have no market, have disregarded the plans of the engineers of the Army providing for navigation dams, and propose to build higher dams, increasing the cost 75 percent.

For 2 years the Authority has experimented in the production of fertilizers. It is still in the experimental stage. Although much money has been spent on the construction of furnaces, no fertilizer has been sold, the Authority undoubtedly looking upon the development only as a power proposition.

Let us for a moment look into the future. The Tennessee Valley Authority, Boulder Dam, the determination of the President to develop power from the St. Lawrence will permit a hook-up of Government power lines that will not only compete but will destroy the investments of the people in existing power stocks and bonds.

I beg of you to leave the Tennessee Valley Authority as it is today and do not strengthen this fool project and make it more difficult to unscramble, for it will be unscrambled some day.

What right has our Government to create for itself a huge holding company when the President and his "brain trust" propose in another bill to deny to our citizens the same privilege? Benjamin Franklin said "experience is a dear school, but many will learn in no other."

Mr. MITCHELL of Tennessee. Will the gentleman yield?

Mr. RANSLEY. Mr. Speaker, I yield back the remainder of my time.

[Applause.]

Mr. O'CONNOR. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRUAX].

Mr. TRUAX. Mr. Speaker, I am glad to state that I shall support this rule. There are not many rules offered by the gentleman from New York [Mr. O'CONNOR] that I have supported in the past, particularly gag rules, but I think this is a wide-open rule, and should be supported.

I would say also that in the proposed lobby investigation I should like to read in some of the newspapers where some of the feudal barons, the Power Trust lords, have been, or will be, summoned to appear before the committee as well as certain men who are associated with the Roosevelt administration. We have heard much from friends of the Power Trust who are clamoring for the scalps of Mr. Charles West, liaison officer for President Roosevelt, and Messrs. Cocoran and Cohen, Presidential legal aides. I would much rather, for instance, see Mr. Wendel Wilke, formerly of Akron, Ohio, formerly a prominent Democrat, now the chief lobbyist for the Commonwealth & Southern Edison Co., in their lobbying here in Washington, appear before the committee to investigate the real lobbying efforts of the multimillionaire Power Trust in this country. That trust should be given full credit for the victory which it won last week and for the defeat that President Roosevelt suffered at the hands of the power octopus.

Mr. Speaker, I ask unanimous consent to speak for 1 minute out of order.

The SPEAKER. Is there objection?

There was no objection.

Mr. TRUAX. I want to say a word about the remarks of the gentleman from New York [Mr. FISH], who says that he has filed a petition and is now asking us to sign that petition so that the soldiers' bonus may be paid. I ask the gentleman from New York how much he has done to see that the soldiers had their bonus paid and I ask the gentleman from New York if he voted for the Patman bill in the Seventy-fourth Congress.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. TRUAX. Not now.

Mr. RICH. The gentleman from New York [Mr. FISH] is not in the Hall.

The SPEAKER. The gentleman declines to yield.

Mr. TRUAX. I should like to know if it is not a fact that the gentleman voted against the Patman bonus bill every time it was passed in this House. On one occasion he was absent at the time the bill was passed. What right has he, when he voted against the Patman bill consistently and persistently, to file a petition and ask Members of this House, who have voted for the soldiers and gone down the line for the soldiers, to ask them to sign this petition.

I am not criticizing the gentleman's own record in the World War. I am condemning his record of opposition to the immediate cash settlement of the adjusted-service compensation certificates. Invariably he praises and eulogizes World War veterans and then votes against them. That record speaks for itself.

H. R. 8632, a bill "to amend an act entitled 'An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes', approved May 18, 1933", outlines five fundamental premises that should be endorsed and approved by

the House of Representatives, by every Member who has at heart the welfare of the citizens menaced by floods of the Tennessee River, who has in mind the reforestation and the proper use of marginal lands in the Tennessee Valley, who thinks of the proper development of agricultural resources and industrial facilities of the Tennessee Valley, and who manifests an interest in the national defense of the country by the creation of a corporation for the operation of Government properties at and near Muscle Shoals, in the State of Alabama.

The vast majority of Members of this House represent to a greater or lesser degree our basic industry, agriculture; therefore, there is no question but that those Representatives of these agrarian sections should welcome the opportunity to support a Government-owned plant that can be used economically and advisably for the manufacture of fertilizer and nitrates and for the more efficient and more economical growing and production of farm products. Finally, every Member of this body who does not wear the stamp, brand, and insignia of the plundering utility holding companies as personified by the Insulls, the Morgans, the Dohertys, and the Mellons, should embrace with open arms this added opportunity to vote for cheaper electric energy and power to the millions of consumers of electric energy, the home owner, the home renter, the farmer, the small manufacturer, producer, and business man. I say "added opportunity" because there has just been witnessed in this House a shameful and shocking spectacle of power and corrupt political influence wielded by the Public Utility Trust and the superpower lobby that brought about the ignominious defeat of the Roosevelt-Wheeler-Rayburn utility bill on July 2, 1935.

To those Members who either through mistaken motives, misguided purpose, or allegiance to these millionaire utility cracksmen and burglars voted against the President and the people, I plead with you to avail yourselves of this opportunity to right yourselves with the Roosevelt emancipation program for utility-service consumers and to square yourselves with the voters back home.

I have carefully scanned the committee report, consisting of 12 pages of explanation of the bill. In that report, I am sorry to state, I find no hearty, unqualified, enthusiastic endorsement of the bill by the Committee on Military Affairs. I find 14 pages devoted to "Compliance with Ramyseyer rule." Then I find the "Supplemental views of certain members of the committee" on the bill who state that they voted to favorably report this bill so that the House should have the opportunity to discuss and amend it, as well as vote for or against its enactment into law.

These Members state that they are heartily in accord with all attempts to improve the Tennessee Valley along the lines recommended by President Roosevelt and adopted by the Seventy-third Congress. They frown, however, upon the provisions of this bill, uniformly believing that the passage of said bill will retard rather than advance the program now under way. We find we are unfortunately in the same position as we were in regard to the Rayburn-Wheeler bill. The President of the United States was for the Wheeler bill. The chairman of the committee [Mr. RAYBURN] was for the Wheeler bill. The public was for the Wheeler bill. Many free and independent Members, undominated by any power trust, were for the Wheeler bill. I was for the Wheeler bill, but the Wheeler bill went down in defeat in the hands of the Power Trust. The purposes of certain members of the Committee on Military Affairs are most commendable and should receive the thanks of all. Their names are listed herewith: Hon. LISTER HILL, Hon. EWING THOMASON, Hon. CLARENCE W. TURNER, Hon. MAURY MAVERICK, and Hon. PAUL JOHN KVALE.

The supplemental views herein outlined are followed by the "supplemental views of Mr. KVALE and Mr. MAVERICK"; and in these views will be found the gist of the argument, the crux of the issue, the meat of the morsel so greedily sought for by the avaricious Power Trust and utility holding-company pirates. There are 10 pages of material covering the views of the gentleman from Minnesota and the gentleman from Texas, Mr. KVALE and Mr. MAVERICK, respectively. It will pay you to carefully read and consider these views. If you are one of those Members who honestly believe that the natural resources of the country belong to all the people instead of the overprivileged few, then you will agree with these gentlemen, as I agree, that certain amendments which will be offered to the bill when it is read under the 5-minute rule should be adopted.

Returning to the committee report I note that the same old fears of constitutionality are stressed in this report, so I assume that through the course of this debate we will hear much about the Constitution and the nine men in black. I desire to reiterate the statement that I have often made on the floor of the House, namely, that on any paramount issue the people can divide usually on two sides; on one side of the issue will be found those who are for the common people and on the other side will be found those who are for the vested interests. I am loathe to believe that those Members who might be suspected of being on the side of the vested interests in this particular case, on the side of the holding companies and the Power Trusts, use the Constitution merely as an alibi or a cloak to shield their servility to those vested interests. Yet, I am constrained to remark that when any legislative issue cuts a clear line of cleavage between the millions of common people who create all the wealth and ultimately pay all the taxes, and the vested interests, the aristocracy of money, too often the Constitution is stretched and warped for the sole benefit of the moneyed aristocracy.

To those who fondly believe that the future welfare of this great Nation of ours should be based upon the Supreme Court decision in respect to the "sick chicken" case, I would say that the Committee on Military Affairs have been most painstaking in charting the course of those legislators who swallow without batting an eye and consume in toto the Constitution as written 156 years ago. It is agreed that under the basic act of May 18, 1933, the authority created by Congress rests upon two basic constitutional powers, namely, the regulation of interstate commerce and provisions for national defense.

The unquestioned constitutional prerogative of Congress to regulate navigation and to provide for flood control in navigable waters and the improvement of navigable water, not as emergency measures but for permanent policies, rest upon premises so broad that none can deny the right of the Representatives of the people in this instance. When the Tennessee Valley Authority Act was passed in 1933 Congress was definite in its purpose that the creation of that agency should fit in as an integral part of a permanent national-defense policy. Not so many weeks ago the House of Representatives in its wisdom adopted a number of salutary amendments to the McSwain war profits bill. Some of these amendments included the conscription of wealth and the services of industrialists and of the confiscation of all excess profits. When those amendments were adopted those Members voting for said amendments believed that the legislation being written was constitutional, but because of the provision which drafted men into military service in times of peace, that entire section was later stricken out by a vote of the House, and the bill as finally enacted into law was a bill completely emasculated and quite powerless of achieving the ends sought.

By the same process of reasoning and same logic it can be stated without fear of successful contradiction that Congress has just as much right, just as much precedent to declare that the Government of the United States, composed of all the people, supported by all the taxpayers, possesses the constitutional right and prerogative of producing chemicals such as nitrogen and phosphoric compounds not alone for war munitions and explosives but also for the betterment and improvement of agricultural commodities which would be just as valuable in times of war, foreign invasion, and for national defense as in the war munitions themselves. Many of us believed when we passed this bill in 1933 that the cost of fertilizer to the farmers of the country would be materially

reduced, that they would be cut in half. Many of us knew that the farmers have been robbed by the Fertilizer Trusts for decades. We felt that this was the only method in sight to reduce that cost. As a consequence, we hailed the enactment of this legislation with enthusiasm, and today I feel that if for no other reason than this one the amended bill should be enacted into law.

I am happy to note that the chairman of the committee expresses the hope and belief that the Tennessee Valley Authority would eventually prove to be an effective yardstick to also measure the cost of producing electric energy by water power owned by all the people. I contend that it not only establishes a yardstick but it also establishes a mammoth Government-owned property for the generation of electric power that will be made available to millions of our citizens at less than half the charges and tolls now collected by the privately owned utility overlords.

Again I urge you to not only read but to carefully study the aforementioned views of certain members of the committee. Such reading and study will convince you as it convinced me that the bill, if adopted as written, will result in a complete and bloody emasculation and castration of the principles, premises, and policies laid down in the original enactment of the Tennessee Valley Authority. It will result in another victory that will be paid for in the toil, sweat, and blood of the millions of consumers of electric power, light, and current. On the other hand, if certain amendments are adopted, then it will be a bill of which we can be proud. It will be a bill that we can point to with pride; it will be a bill with which we can go to our constituents and say, "We come to you with clean hands, with hands that are not soiled nor smudged by the tarbrush of the public-utility holding companies." [Applause.]

The SPEAKER. The time of the gentleman from Ohio extend his remarks in the RECORD.]

Mr. RANSLEY. Mr. Speaker, I yield 10 minutes to the gentleman from New Jersey [Mr. McLEAN].

Mr. McLEAN. This resolution will bring before the House for consideration a bill which is entirely out of time. It provides that on the adoption of the resolution it shall be in order to move the consideration of Senate bill 2357, the purpose of which is to amend Public, No. 17, of the Seventy-third Congress, better known as "the act creating the Tennessee Valley Authority." The bill, except as modified by Senate amendments, was drafted at the instance of the Tennessee Valley Authority, for the single purpose of extending and liberalizing the powers of the Board, and to legalize certain irregularities to which attention has been directed by court proceedings. It is impossible to determine the proper disposition of this measure without taking into consideration the legislation under which the Authority is acting and that proposed and pending in Congress at this time.

A few days ago when the second deficiency bill was pending I made some observations on this subject in which I pointed out that the Tennessee Valley Authority has defied the mandate of Congress and has exceeded its authority, referring particularly to sections 22 and 23 of the act under which they are operating. I pointed out that this Board was created for the purpose of taking charge of and operating the Government facilities at Muscle Shoals, to build the Norris Dam, and make a plan for further development to be reported to the President to be transmitted to Congress, in order that Congress could legislate intelligently and authorize such activities as seemed proper; that, in spite of this provision of the law, the Tennessee Valley Authority had proceeded with a program of development and dam construction far beyond the authority which Congress had granted or had the power to convey, and that they had ignored the method of financing provided by Congress, under which their expenditures were to be limted to $50,000,000, and had spent or obligated the Government to a program which contemplated the expenditure of hundreds of millions. It is my contention that Congress should deny the Board further consideration until it complies with the provisions of the law under which it is acting, and comes to Congress in a frank and sincere manner with a program for the development of the Tennessee River Valley which, to quote the act, "will assist Congress in controlling the extent, sequence, and nature of the development", and, therefore, the pending resolution should not be adopted.

The answer of the Tennessee Valley Authority to this argument is that they have by statements before the Appropriations Committee made such a report and outlined such a program. This, of course, is untrue. If it were true, there would be no occasion for the differences of opinion that have arisen between members of the Board of the Authority and Senator McKELLAR over the location of dams and which dams should and should not be constructed at this time. At best it is not the orderly procedure which Congress embodied in the act of 1933.

If, however, sufficient Members of the House are so favorably inclined to this undertaking that they are willing to adopt the suggestions of the Authority and condone all the irregularities and disdain for Congress practiced by the directors of the Authority, and they feel that some legislation should be passed, this bill in its present form is far better than the bill as it passed the Senate, but the time allowed for its consideration under the rule is wholly insufficient. This activity has been going on for 2 years, over $100,000,000 has been spent, and $34,000,000 more authorized; Congress is charged with knowledge of all that is going on under the direction of these men who are its creatures and agents, and should take ample time to gain sufficient actual knowledge to vote intelligently before further powers are granted. The responsibility for the success or failure of this undertaking is the responsibility of Congress; Congress is charged with full knowledge of all the expenditures made and obligations created by the Tennessee Valley Authority. The Authority recognizes this fact when it suits its pleasure or advantage to do so; otherwise it holds Congress in contempt and arrogates to itself full legislative authority.

Instead of this resolution and the adoption of any legislation along the lines of either the Senate or the House, two things should be done: There should be adopted a resolution similar to the resolution introduced by me, and which has been pending in the Committee on Rules since April 26, authorizing a committee to inquire into the activities of the Tennessee Valley Authority and to make known to Congress just what has been accomplished, what money has been spent, what the program is, how far it is going to go, the nature, sequence, and extent of the improvement, and the approximate cost and time of completion; the Authority should be prevented from undertaking any new construction work until it complies with the law and reports to Congress as required by sections 22 and 23 of the act of May 1933.

When members of the authority say the passage of this bill will stop the Tennessee Valley development they pay those of us who criticize the manner in which the activities are being proceeded with too great a compliment. For obvious reasons it would be as futile as it would be foolish to entertain such purpose. No harm can come from postponing further consideration of the pending legislation until we are better informed.

Mr. McGROARTY. Will the gentleman yield?

Mr. McLEAN. I yield.

Mr. McGROARTY. What has the Tennessee Valley Authority cost up to date? What amount has been spent on it?

Mr. McLEAN. If the gentleman will read my observations contained in the CONGRESSIONAL RECORD of June 20 he will there find that I pointed out that, in my judgment, from the various sources, from which they have obtained money, their expenditures and obligations contracted will exceed $121,000,000.

Mr. CAVICCHIA. Will the gentleman yield?

Mr. McLEAN. I yield.

Mr. CAVICCHIA. Does that take into account the moneys granted by the President through the P. W. A.?

Mr. McLEAN. That takes into consideration $50,000,000 appropriated by the deficiency act; $25,000,000 assigned from the P. W. A. fund; $1,000,000 given for the invested capital of the Electric Home and Farm Authority, which was incor-

porated under the laws of the State of Delaware; $10,000,000 appropriated by the Reconstruction Finance Corporation; $300,000 that was granted to the Tennessee Valley Associated Cooperatives; and obligations which Dr. Morgan admitted before the committee had been contracted without any authority from the Congress.

The SPEAKER. The time of the gentleman from New Jersey [Mr. McLEAN] has expired.

Mr. O'CONNOR. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. MAVERICK].

Mr. MAVERICK. Mr. Speaker, I am rising to speak in favor of this rule. This is a fair rule and gives opportunity for full consideration by the Congress in a sufficient amount of time. However, I want to rise here today to say that the board members of the T. V. A. have never been contemptuous of Congress, and have always answered fairly and freely everything asked of them. It is said that they have not told anything. That is not so. Here are 3 full books on the subject of the Tennessee Valley Authority, 2 from the Military Affairs Committee, and 1 from the Appropriations Committee. Various committees have taken hundreds of pages of testimony for week after week and month after month. It has been before the Congress all this time. I do not say this impolitely, but Mr. McLEAN himself asked probably one-third of the questions asked in the hearing before the Military Affairs Committee, and he says in his minority report that he is opposed to the bill and the entire philosophy of government behind it. In other words, gentlemen on the Republican side of the Chamber are absolutely opposed to this bill. They are trying to put the bill in such a way as to cripple it and make it impossible of execution.

Mr. KVALE. Will the gentleman yield?

Mr. MAVERICK. I yield.

Mr. KVALE. They are not only in opposition to this bill, but they state their opposition to the principles of the original legislation which is now on the statute books?

Mr. MAVERICK. Yes. They are opposed entirely to the philosophy of the bill. But I want to read something that the Republicans said when they were in power. This comes from the United States Department of the Interior under Ray Lyman Wilbur during the reign of Herbert Hoover. Talking about hydroelectric power, they say:

> The place which hydroelectric power holds in irrigation-project income led one project to urge the extension of an existing power plant and others to suggest investigations of the possibilities of hydroelectric development as a source of revenue.

That is what the Republicans wanted when they were in power. Then they go on and say:

> Hence, instead of scrapping the existing power lines and plants, these facilities were in general utilized by local organizations of farmers to retail to their members electricity purchased at wholesale from the Bureau.

That is what they said when they were in power. Those are the things they were in favor of; but now, because the Tennessee Valley Authority is possible of becoming a self-liquidating project and becoming a successful project in raising the standard of living in six or seven States, and probably the whole United States, they are opposed to it.

Mr. RANKIN. Will the gentleman yield?

Mr. MAVERICK. I yield.

Mr. RANKIN. The T. V. A. has also reduced the electric light and power bill to the American people about $350,000,000 a year.

Mr. MAVERICK. That is right. I thank the gentleman from Mississippi. I also want to call attention to what the gentleman stated, that the Tennessee Light & Power Co. was given the prize by the Edison Electric Institute as being the best power company in the United States. That is where they get some competition from T. V. A. That is where the yardstick of the T. V. A. means something. The people need cheap power and are now getting it in the Tennessee Valley due to the T. V. A. Due to the decrease in rates, more power was consumed, and it has not hurt anybody's business.

The gentleman from New Jersey [Mr. McLEAN] spoke of irregularities. Of course, everything was not right; some things were wrong; but Mr. McCarl said he found absolutely no evidence whatever of fraud.

It is time we forgot about the "death sentence" for utilities. Men may honestly disagree on the subject of a utility power company, and I think they may honestly agree on this. This is something that the President of the United States wants, and what I want to say to all of us is: Let us give the T. V. A. a "life sentence" instead of a "death sentence." [Applause.]

Mr. McLEAN. Mr. Speaker, will the gentleman yield?

Mr. MAVERICK. I yield.

Mr. McLEAN. I am very much interested in the gentleman's statement. Will the gentleman give me the authority for his statement that the Tennessee Valley Authority and development is going to be self-liquidating? Does the gentleman mean that we are going to get all our money back?

Mr. MAVERICK. I do not know whether we are going to get back all the money that was spent there during war times. It would take me a little time to answer the gentleman, more time than I have at my disposal. The self-liquidating features are fully covered in the hearings in questions asked by Mr. WILCOX, of our committee, and other testimony before the Military Affairs Committee and the Appropriations Committee. I am not a prophet, but the sale of power is of a self-liquidating nature; it is not money thrown away; it is not a dole.

[Here the gavel fell.]

Mr. RANSLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, while I was out of the Chamber the gentleman from Ohio [Mr. TRUAX] propounded certain questions to the House and asked what right I had to initiate a petition to discharge the Appropriations Committee from consideration of a resolution to pay the adjusted-service certificates to World War veterans out of public-works funds.

Mr. Speaker, it is not necessary for me to state to the House——

Mr. MAVERICK. Mr. Speaker, I make the point of order that the gentleman is out of order, that the gentleman should confine his remarks to the rule under consideration. We have heard a great many statements which had absolutely nothing to do with the subject matter under consideration. I do not think the gentleman should speak out of order.

Mr. FISH. Mr. Speaker, I hope the gentleman will not press his point of order. I admit I am speaking out of order, but I feel I should be given this opportunity to reply to the statements made by the gentleman from Ohio.

Mr. MAVERICK. Mr. Speaker, I shall not press my point of order, for I think the gentleman should have an opportunity to reply.

Mr. TRUAX. Mr. Speaker, will the gentleman yield for a question?

Mr. FISH. I would rather answer the gentleman first, but I yield for one question.

Mr. TRUAX. Did the gentleman vote for the bonus bill at any time since he has been in Congress?

Mr. FISH. The trouble with the gentleman from Ohio is that he has been here such a short time that he knows almost nothing about the record of other Members of Congress.

Mr. TRUAX. Answer my question.

Mr. FISH. Sit down and I will answer you.

Mr. TRUAX. No; I will not sit down.

Mr. FISH. Mr. Speaker, I call for order; I ask that the gentleman be required to sit down.

If he wants to do something worth while for the veterans let him sign the petition I have filed at the desk that provides for the immediate payment of the adjusted-service certificates.

The gentleman has an unfortunate habit of attacking the records of Members of this House without knowing anything about them himself. The fact is that I have voted three times to override Republican Presidents to pay the bonus.

I voted to override the veto of President Harding, President Coolidge, and, lastly, of President Hoover, to permit a 50-percent loan on the adjusted-service certificates. Everybody but the gentleman from Ohio knows that I have been a friend of the veteran for the 16 years I have been in Congress. I voted against the Patman bill last year and I paired against it this year, because I am against inflation and printing-press money. That is why I am opposed to it. [Applause.]

If the gentleman from Ohio is impugning my record, I call the attention of the House to the fact that I am a veteran, that I served in the World War overseas while the gentleman from Ohio was raising hogs to feed the soldiers. [Applause.]

Mr. TRUAX. Mr. Speaker, will the gentleman yield?

Mr. FISH. No; sit down.

Mr. TRUAX. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I do not yield. Again I say to the gentleman, sit down. The gentleman is nothing but a chocolate soldier, a cream-puff soldier, now masquerading as a friend of the veteran.

Mr. Speaker, I started this petition in good faith and with no reflection on those who voted for the Patman bill. I hope that those on the Democratic side who voted for the Patman bill will sign this petition so we can pay the adjusted-service certificates before we adjourn, but we cannot do this without the help of the Democrats. [Applause.]

[Here the gavel fell.]

Mr. RANSLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania [Mr. FADDIS].

Mr. FADDIS. Mr. Speaker, this is a rule for the consideration of a bill that in my opinion is going to have a far-reaching effect upon the American Nation.

Eighteen months ago we established the T. V. A., to be used as a yardstick in the United States in the measurement of utility rates; and now they have come back to us and asked to be converted from a yardstick into a 100-foot chain. [Applause.] This, my colleagues, is a fine example of the trend of bureaucracy in the United States today. In 1932, shortly after I was elected to Congress, I received a copy of a book entitled "Our Wonderland of Bureaucracy", written by a former distinguished and able Member of this House, Mr. James M. Beck. As I read that book I began to wonder, and being a very strong Democrat and knowing that Mr. Beck was a very ardent Republican, I doubted the authenticity of a great many of the statements in that book; but I am here to make the statement to my colleagues today that after having been a Member of Congress since that time I do not doubt one single word in that book. [Applause.]

We are today face to face with an example that transcends any that Mr. Beck portrays in his book. Here is a Board which has been set up by an act of Congress to administer the affairs of the T. V. A., which we have given a certain territory to work in which to work and a certain amount of money to do this work with. Now they come back to us wanting more territory, more money, as well as extraordinary and unreasonable power. They are asking for the right to buy and dispose of real estate in their own name. They are asking to be free from the control of the Comptroller General of the United States. They are asking to be allowed to go throughout the United States and compete with private business. They have bought in the Tennessee Valley a herd of cattle, 25 cows and 1 bull, for which they have paid on the average $372 apiece.

Mr. McLEAN. Will the gentleman yield?

Mr. FADDIS. I yield to the gentleman from New Jersey.

Mr. McLEAN. The bull cost $950.

Mr. KVALE. Will the gentleman yield?

Mr. FADDIS. I yield to the gentleman from Minnesota.

Mr. KVALE. The gentleman has referred to certain prices paid for these cattle down there; and coming from an agricultural section, I want to say that the herd-upbuilding project of the Tennessee Valley Authority is one of the finest things they have undertaken, even though it is one of the smallest. [Applause.]

Mr. FADDIS. I may say to the gentleman that it might be a fine thing, but it is not what we established the T. V. A. for. [Applause.]

The original intention of the T. V. A. was to promote the national defense, to provide cheap fertilizer, and to be used as a yardstick to measure utility rates, and not to engage in a lot of theoretical enterprises to satisfy the whims of some academic college professor. [Applause.]

Mr. KVALE. The gentleman may be correct in his statement; but if the gentleman had flown over the South as I have, and had covered hundreds of miles of territory that I have covered and not seen a single cow but a lot of hound dogs coming from underneath the cottages or shacks down there, he would be glad to see a dairy cow here and there to combat the undernourishment that exists down there.

Mr. FADDIS. May I say to the gentleman that I have not flown over the South, but if I wanted to make a proper investigation I would not fly over the territory. I would go down through the byroads and highways to make the investigation. [Laughter and applause.]

Mr. TAYLOR of Tennessee. Mr. Speaker, coming from the South, I resent the insinuation of the gentleman from Minnesota. I am here to boast that we have as fine dairy cattle in the State of Tennessee as there is in Minnesota, or anywhere else in the Union. While I am strong for the T. V. A., I cannot permit to go unchallenged this unwarranted aspersion on the people of Tennessee.

Mr. ROBSION of Kentucky. And may I say that we have as fine cattle in Kentucky as they have in Minnesota or anywhere else?

Mr. FADDIS. Mr. Speaker, in addition, the Board that wants to be freed from the Comptroller General's Department is renting houses in connection with the T. V. A. that cost almost $8,000 for $20 a month. They are renting houses that cost almost $16,000 for $30 a month. Any man who knows anything whatever about the real-estate business knows that you must realize at least 1 percent a month out of real estate before you are able to make a penny upon the investment. I have always been taught in connection with enterprises that any man who is able to manage an enterprise must be one who is able to take care of the pennies; and if he does take care of the pennies, the dollars will take care of themselves.

The Comptroller General of the United States has made the statement that there is no fraud or dishonesty in connection with their dealings; but no man of any intelligence whatsoever could look over the report of this Board and fail to note that there is a great deal of incompetency reflected therein.

Mr. Speaker, when we pass this bill for the further guidance of this Board which we have set up, it is incumbent upon us as guardians of the money of the taxpayers of the United States to see that in their further dealings they are surrounded by regulations which will not permit the practices that have been carried on in the past. Unless we insure protection of the pockets of the taxpayers of the United States from further incompetency, we are not doing our duty as Members of Congress. [Applause.]

Mr. O'CONNOR. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WILCOX].

Mr. WILCOX. Mr. Speaker, in answer to the request of the gentleman from New Jersey [Mr. McLEAN] for the authority of the statement made by the gentleman from Texas that the income from the power sold by the T. V. A., if amortized at the cost apportioned to that part of the plant devoted to the manufacture and sale of electric current, will be self-sustaining, may I call the attention of the gentleman to the testimony of two members of the Board.

Mr. McLEAN. Will the gentleman yield?

Mr. WILCOX. I yield to the gentleman from New Jersey.

Mr. McLEAN. That was not the situation. The gentleman from Texas made quite a clear statement to the effect that it had been established that the T. V. A. was going to be self-liquidating.

Mr. WILCOX. In answer to the statement and doubt expressed by the gentleman from New Jersey in reference to

the statement made by the gentleman from Texas that this plant would be self-liquidating, I call attention to the testimony of two members of the Board, Mr. Lilienthal and Dr. Morgan. I have been greatly interested in the T. V. A. development for several reasons, not the least of which is the establishment of a true yardstick by which the American people can determine the equity of power rates being charged by private utility companies. In my opinion one of the greatest services which has been or can be rendered by the T. V. A. is the establishment of a real true yardstick. The evidence shows that we have established such a measure. The members of the committee will recall that I devoted practically all of my time in committee hearings interrogating witnesses as to the rate bases and as to what was included in those rate bases in order that we might determine whether or not the rates charged actually pay the cost of production or whether the taxpayers of the balance of the country were paying a deficit involved from the sale of electricity; I call the gentleman's attention to the testimony of Dr. Morgan as reported on page 80 of the transcript of the hearings, in which I asked these questions and Dr. Morgan made these answers.

[Here the gavel fell.]

Mr. O'CONNOR. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. WILCOX. I am going to place in the RECORD several excerpts from the testimony on this point, but just now I read one question and answer. I asked Dr. Morgan this question:

On the point of your amortization and your depreciation reserves, is it true that insofar as that portion of your investment is concerned, which deals with the manufacture and sale of electricity, that at some period, 43 years, I believe, your returns on your present base will have paid for your investment?

Dr. MORGAN. Yes.

Mr. WILCOX. As well as paid the operating costs?

Dr. MORGAN. That, of course, assumes that the policy of interference is not permanent. We can be interfered with in such a way that we cannot operate in a normal manner, and that would make more difficult the normal amortization.

Mr. WILCOX. Assuming that you are permitted to go along with your program, charging your present rate base or changing it in case conditions should change, but on the same set-up of depreciation and amortization and the same set-up of charging delivery costs, the manufacture and sales expense, taxes, and all other things, at the present rates the property will pay itself off in a period which you set up?

Dr. MORGAN. Yes; and that is in contrast to the private utilities, who are making no amortization and who 40 years from now will have old properties which are unpaid, as in the case with the streetcar company.

From these questions and answers it can very readily be seen that the rates charged by the T. V. A. not only pay all operating costs but that these rates will completely pay for the plants in a period of 43 years. Not only that but even after paying all these costs the people of that section are now getting electricity at one-half of what they previously paid for it.

EXCERPTS FROM THE TESTIMONY OF MR. DAVID E. LILIENTHAL, A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY, AS DELIVERED BEFORE THE COMMITTEE ON MILITARY AFFAIRS OF THE HOUSE OF REPRESENTATIVES AND REPORTED IN THE TRANSCRIPT OF THE HEARINGS HELD BEFORE THE COMMITTEE IN MARCH, APRIL, AND MAY 1935

On pages 29 and 30 of the hearings of March 28, 1935, Mr. Lilienthal testified:

Mr. WILCOX. What is the rate per kilowatt-hour charged to the rural user?

Mr. LILIENTHAL. The basic Tennessee Valley Authority rate which is charged in the situation that I have described is 3 cents for the first 50 kilowatt-hours, 2 cents for the next 150 kilowatt-hours, 1 cent for the next 200 kilowatt-hours, and 4 mills in excess of 400 kilowatt-hours.

Mr. WILCOX. The basic rate is 3 cents?

Mr. LILIENTHAL. It is a simple block rate; the maximum kilowatt rate is 3 cents.

Mr. WILCOX. The maximum rate is 3 cents?

Mr. LILIENTHAL. Yes, sir.

Mr. WILCOX. You deliver the power to the house, having provided the lines to bring it to his house, and your maximum rate is 3 cents for the first block of kilowatt-hours, which includes amortization and the cost of the extension line, and depreciation on equipment?

Mr. LILIENTHAL. No; the amortization is set up separately in this Alcorn County arrangement.

Mr. WILCOX. Where do you get the money to amortize the cost of that?

Mr. LILIENTHAL. Every member of the association, every consumer, in addition to this basic rate, which provides for the cost of electricity, pays 1 cent per kilowatt-hour for not to exceed 100 kilowatt-hours, a maximum of $1 a month, as a means of quickly amortizing the investment.

In comparing these rates with those previous charged, I can furnish typical bills to certain kinds of users.

That 1 cent has been included, which is really not a payment for current, but a partial payment for property.

Mr. WILCOX. In other words, you simply finance the extension and he pays it back on the basis of the power that he uses?

Mr. LILIENTHAL. That would be one way to explain it.

Mr. WILCOX. And you get that money back? You simply finance the cost of it, and get it back from the consumer?

Mr. LILIENTHAL. That is it. Interest is paid immediately, currently, and then the repayment of investment proceeds at once, from the first time the consumer begins to use electricity.

Mr. WILCOX. And this rate that you are charging includes depreciation, interest on investment, taxes, and all of the other things that ordinary rate-making bodies take into consideration as the basis for rate-making?

Mr. LILIENTHAL. All of the elements of costs necessary to consider in an undertaking of this kind.

Mr. WILCOX. And you still make a profit of 38 cents?

Mr. LILIENTHAL. The association does. I call the Representative's attention to the fact that the Authority furnishes power at wholesale, in bulk, at some place in the county, and the county association then distributes it and charges the retail rates. The T. V. A. charges the association the wholesale rate.

Mr. WILCOX. What I am trying to get at is the fact that, with all of these charges, the rural consumer is still able to procure his power at 50 percent of what he previously would have had to pay, and this rate yields a very considerable profit—38 cents out of every dollar.

Mr. LILIENTHAL. Exactly.

Mr. WILCOX. And that is made off of the sale of this electricity at a rate less than 50 percent of what he previously paid?

Mr. LILIENTHAL. That is correct.

Chairman Morgan calls my attention to the fact that this rate schedule, which begins at 3 cents, is, at its bottom step, a 4-mill rate for very large domestic consumption.

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[From pp. 73, 74, and 75 of the transcript]

Mr. WILCOX. Those of us who have had more or less experience with utility rate-making and determination of a fair return on fair value have been somewhat confused from time to time by various regulations of the public-utility rate-making bodies as to what constitutes fair value and a reasonable return on fair value.

Do I understand that the rate which you make yields to the T. V. A. a return which includes not only the actual cost of production but in that figure you have included depreciation charges on what you consider to be the fair present-day reproduction cost of your equipment, less depreciation?

Mr. LILIENTHAL. Yes. It produces on the basis of the estimated revenues of the communities that have indicated a desire to purchase this electricity a surplus of $436,000 a year over expenses, including interest charges, depreciation, and retirements.

Mr. WILCOX. Now, those who oppose in thought the public ownership of utilities have constantly made the charge that publicly owned utilities have the unfair advantage of not having to pay taxes.

Have you made a provision in your rate base which would offset that item?

Mr. LILIENTHAL. Yes. Congress, in the act, estimated that, at least to begin with, 5 percent of the gross revenues would be a fair amount to pay to the State of Alabama, and later the State of Tennessee, by way of taxes. But in order to avoid any question the Authority has set up in its accounts for taxes, in addition to the 5 percent on gross revenues provided by law, the difference between 5 percent and 12½ percent which at the time was the latest information as to the average percentage of the gross revenues which the utilities of the United States as a whole paid in taxes. That is an item of $240,000 a year on generation. It is set up on the books to furnish information that may be desired in comparing these rates with other rates, but, of course, only 5 percent is actually paid.

Mr. WILCOX. To set aside, out of your gross income, an amount equivalent to the amount required to be set aside for taxes by a public utility?

Mr. LILIENTHAL. That is correct, and, in the case of local communities, those communities likewise are required either to pay, themselves, taxes—that is to say, to take from the revenues from electric-light operations an amount that would be paid if a private utility were operating and to pay it into their general funds and relieve the tax burden to that extent. The rates to consumers, therefore, contain that item of taxes on their distribution system, as well as the percentage to which I have referred, which is included in the wholesale rate paid by the municipalities to the T. V. A.

Mr. WILCOX. What percentage do you set up in your valuation for depreciation?

Mr. LILIENTHAL. It is an item of $137,000 a year, on the basis of retirement in 43 years. That is on the sinking-fund method, at 3.5 percent interest rate, and it runs about $138,000 a year. That is a composite—in other words, the component depreciation rates vary on generators and turbines and physical structures. Those

various rates are the components of the composite rate, on a 43-year basis.

Mr. WILCOX. You set up a depreciation reserve which in 43 years will completely replace your plant on present-date value?

Mr. LILIENTHAL. That is substantially correct.

Mr. WILCOX. Including lands, and everything else?

Mr. LILIENTHAL. I doubt whether lands are treated as depreciable. Land values are amortized, but not depreciated.

Mr. WILCOX. Is that amortization set up also in your rate base?

The point that I am trying to develop is whether or not by reducing the rates to the consumer of this particular vicinity, you are giving them a low rate at the cost of the taxpayers of the balance of the country, or whether or not in making your rate base, you have used the same things that would be required of a privately owned concern in fixing a fair rate?

Mr. LILIENTHAL. The surplus constitutes an amortization reserve intended completely to amortize the investment. That is in addition to anything that private utility does. As you know, the utility practice is to refinance, not retire securities, and that is causing a lot of trouble now.

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[From pp. 78, 79, and 80 of the transcript]

Mr. WILCOX. There is one other question that I want to ask on that rate base. You said that you set up an amortization fund and also a depreciation reserve. Do I understand that both are charged in your rate base?

Mr. LILIENTHAL. Charges against revenues; yes.

Mr. WILCOX. Of course, your rate base is a rate which you prescribe that will pay all of your operating costs, taxes, tax reserves, depreciation reserves, amortization reserves, and all other charges, and leave some reasonable profit?

Mr. LILIENTHAL. Of course, all of the profit goes to amortization.

Mr. WILCOX. You are not operating for a profit?

Mr. LILIENTHAL. That is right.

Mr. WILCOX. Your rate is fixed at a sum which will give you a return including all of these items which we have mentioned—amortization, depreciation, and so forth?

Mr. LILIENTHAL. Yes. I would like to call your attention, however, to the fact that the wholesale rate which we have been discussing is, of course, only a small portion of the total cost of serving electricity. Most of the expense is occasioned by the distribution within towns, and that part is furnished, generally speaking, not by T. V. A. or any Federal agency, but by the towns, like the town of Tupelo or the county of Alcorn. They are fully separated from the Federal Government.

Mr. WILCOX. As I explained a moment ago, the point that I was trying to develop here was that I had heard some criticisms from various sources that the United States Government is engaging in unfair competition with privately owned utilities, in that you can make a very low rate because of the fact that you do not have to include in your rate base many of the things that privately owned utilities would have to include, and I am trying to develop whether or not that criticism is well founded, or whether you include in your rate base the things that a private utility would have to include.

Mr. LILIENTHAL. The Representative probably has heard the story about the great favoritism to T. V. A., because, for example, we receive land-grant railroad rates lower than those charged to private concerns.

Just to illustrate the ridiculous nature of that kind of criticism, the difference between the railroad transportation costs which we pay because of the land-grant freight rates and those that would result if we did not have that privilege was three ten-thousandths of a cent per kilowatt-hour. Likewise, in the use of the frank, which is often cited, the fact is that the T. V. A. pays postage on all bills sent directly to customers.

Mr. WILCOX. You pay your postage?

Mr. LILIENTHAL. We pay postage on bills to consumers.

Mr. WILCOX. Do you enjoy any other privilege that would serve to reduce your cost of operation?

Mr. LILIENTHAL. We do not have any holding-company charges, for one thing. [Laughter.]

Mr. WILCOX. I was going to ask you about that.

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[From pp. 830 and 831 of the transcript, hearings of May 23, 1935]

Mr. WILCOX. Yesterday, when it looked as if I might not get back today, I left with Mr. Lilienthal a series of questions that I think he can answer perhaps in one answer.

Mr. Lilienthal, when you were on the stand before, I asked you something about your rate base, and you explained it briefly at that time. It appears that a good many people have not fully understood your answer, and I want to ask you about your rates and what is included in your rate base.

As I understand, you have two rates for power—a wholesale rate which applies to municipalities and to utilities and farm organizations, and the like, to whom you sell power at wholesale for the purpose of resale.

Then you have a retail rate at which you sell power directly to consumers.

If your rates are to be used as a fair measure, a yardstick, as we have been using the term, necessarily you must have included in that rate the sort of charges that a private utility would make, including a reasonable profit. That is, if that rate is to be used as a yardstick to judge the rates of private utilities.

I want to ask you what you include in your rate base for your wholesale rate?

Mr. LILIENTHAL. In the wholesale rate, the operating expenses; the expenses of operating the plant and the other facilities related wholly to power are included.

In other words, there is a charge for interest on the present value of existing investment at Wilson Dam, as the law expressly provides, of the property devoted to power operations.

There is a provision made for depreciation, so that at the end of the useful life of the facilities there will be a fund available with which to replace the property new.

There is an item of taxes, which is divided into two parts. One, a 5-percent tax on the basis of gross revenues provided expressly by the act of Congress and an account—not a payment but an account, since there is no further obligation to pay taxes on wholesale operation—of 7½ percent of the gross revenue, in addition to the 5 percent, making a total of 12½ percent of gross revenues chargeable to taxes.

Those are the major items that have been included in determining what the rate shall be.

Mr. WILCOX. Replacement of worn-out machinery?

Mr. LILIENTHAL. As depreciation; yes, sir.

Mr. WILCOX. In other words, your rate is sufficient to pay your operating costs, interest on the value of the property used and useful in the production of electric current, 12½ percent of your gross revenue to offset taxes, which would be paid by a private utility, and a reasonable depreciation to replace the entire property devoted to the production of electric current at the expiration of its useful life?

Mr. LILIENTHAL. Yes. In addition to that there is on the basis of estimates of probable volume of business—and, of course, it must be an estimate, because we took the property over without a market—on the basis of estimates of probable volume of business there is available in addition to those items of expense a surplus in the neighborhood of a half a million dollars a year.

Mr. WILCOX. What does your retail rate include?

Mr. LILIENTHAL. The retail rate, for the most part, is the one that is charged in a contract between the Authority and purchasers at wholesale; there are some instances of direct operation, particularly farms in isolated communities. But on the whole it is a rate charged not by the T. V. A. but by contractors with the T. V.A., and that rate includes by the express provisions of the contract this: It requires the municipality to devote its revenue to operating expenses. It requires it to set up adequate depreciation, take care of the interest on its bonds devoted to the electric operations, and to provide adequate amortization for its bonds.

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[From p. 833 of the transcript]

Mr. WILCOX. There is one other question, Mr. Chairman. Have there been any reductions in rates charged by private utilities in this same territory as the result of the competition afforded by the T. V. A.?

Mr. LILIENTHAL. What the reasons were I am not certain. But the fact is that in the States in that area, of which there are eight that would be directly affected, there were 30 companies that during this period reduced electric rates, totaling $7,067,000.

Mr. WILCOX. In this territory since the T. V. A. began its operations?

Mr. LILIENTHAL. Yes.

[Here the gavel fell.]

Mr. WILCOX. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD and to include therein excerpts from the testimony of Mr. Lilienthal and Dr. Morgan on the subject of the rate base.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. O'CONNOR. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. KELLER].

Mr. KELLER. Mr. Speaker, I rise for this purpose. This rule is a good rule, and this bill, with proper amendments, is a good bill, but the thing I want to call to the attention of the House is this: The Members who have given long years of study to this subject will not be permitted to address the House on this matter at the present time, because a sufficient amount of time has not been allotted for debate. The chairman informs me that the members of the committee will absorb practically all the time. It seems to me that hereafter when a bill of this importance comes before the Rules Committee a certain amount of time should be given to the committee members, and a certain amount of time should be given to the other Members of the House who are not members of that particular committee. I believe this is a matter that should be considered.

[Here the gavel fell.]

Mr. O'CONNOR. Mr. Speaker, in answer to the remarks of the distinguished gentleman from Illinois [Mr. KELLER] I may say that when application was made to the Rules Committee for consideration of this bill, practically everybody from the Committee on Military Affairs suggested 4

hours, and the Rules Committee, on its own initiative, increased the time to 6 hours.

As to the division of time, many different methods have been used in the past, but years ago the Rules Committee found it was not practical to divide the time between proponents and opponents of a measure but settled upon a practice which has continued for years, under Republican administration as well as Democratic administration, that the time be divided equally between the chairman of the committee and the ranking minority member, with the understanding that the fair thing to do is to divide the time equally between those in favor of the bill and those opposed to it. All the Rules Committee can do is to follow the usual practice of dividing the time between the chairman and the ranking minority member of the committee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

TENNESSEE VALLEY AUTHORITY

Mr. McSWAIN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8632, with Mr. DRIVER in the chair.

The Clerk read the title of the bill.

Mr. McSWAIN. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. McSWAIN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I ask my colleagues to permit me to proceed for the 10 minutes without interruption, in order that I may review very briefly the situation that has presented itself to the committee and to the Congress with reference to this legislation at this session of the Congress.

It is a matter of common knowledge that legislation relating to this general subject was in the committee for several months. I introduced a bill that was prepared by the representatives of the Tennessee Valley Authority, at the request of the President of the United States, known as "H. R. 6793." Before this bill had the full consideration of the committee the Senate passed a bill which came to the House and was referred to the committee. There were other bills pending before the committee relating to some phases of the general subject of the Tennessee Valley Authority. Finally, after extended hearings the committee, by a very close vote, to wit, 13 to 12, voted to lay all of these bills on the table.

Then, after the matter had remained in this situation for some time, at the suggestion of the President, I invited all Democrats to join me in a conference to see if we could agree upon a bill to be reported from the full committee.

As a result of this conference I introduced the bill (H. R. 8527), but when that came before the full committee, as it must, the bill was so amended that it was deemed desirable to introduce another bill incorporating all of the amendments that had been made to the bill (H. R. 8527), and this new bill became the present bill (H. R. 8632) and it was ordered reported by the committee by a very close vote, to wit, 13 to 12, without amendment. So the bill is here before the House.

We heard a very interesting statement a little over a week ago by a distinguished gentleman that a certain bill reported by a committee was an orphan. Well, this bill is no orphan. It might have had too many fathers, but it is not an orphan.

The committee directed me to report the bill, and the committee did not say what part of the bill, by my report, I should recommend the House to adopt and what part, if any, I should recommend that the House amend. I reported the bill as it was ordered to be reported by the 13 members of the committee who had directed me to do so, and I am here trying to be a good soldier, trying to represent the majority of the committee, and I have brought the bill here for your consideration.

Now, I am authorized to say by this majority who voted this bill out that they request the House, in Committee of the Whole, to consider this bill from end to end, to vote upon such amendments as a majority of the Committee of the Whole may see fit to adopt, but not to undertake to strike out the entire bill following the enacting words, and to insert the language of any other bill drawn anywhere or in any other body, but to consider this bill from end to end, and then, after you have considered it and after you have amended it, as in your wisdom you see fit, of course, it will be up to you to decide whether or not you want to support the bill as it will then be amended.

But whatever the Committee of the Whole does with this bill I will still be for the bill. I was for the bill that I was asked to introduce, and did introduce—which the President asked me to introduce. I was for the bill which my Democratic colleagues asked me to sponsor. I was for the bill that the majority of the committee ordered me to report, and I will be for this bill which the Committee of the Whole shall recommend to the House to pass, and I will be for the bill the House will pass. I am that sort of a Democrat.

I say it is in the interest of orderly legislation to consider this bill line by line and section by section, and pass on it irrespective of what may have been done anywhere else, whatever may have been said in any other legislative body—let this House act on its own judgment in reference to this matter.

Now, as to the paternity of the bill, if anybody must assume it let it rest on my shoulders. I take the full responsibility. This is neither an orphan child nor an illegitimate child; it is the product of what? It is the product of parliamentary government. Parliamentary government means, if there is a difference of opinion, that these differences shall be compromised—first in the committee and then in the legislative body itself.

No one who subscribes to that doctrine in government can expect to have his way with reference to the details of legislation. I have never had my way, and I do not expect to, but will lay my cards on the table.

Now, I want to say one thing, and that is that I have a fealty higher than party fealty, a fealty higher than committee fealty, and that is the fealty to the Constitution of the United States. [Applause.] I will not trifle with my oath to support the Constitution.

I have some pride in the Tennessee Valley Authority. I will during the course of this general debate tell something perhaps about the origin of the Tennessee Valley Authority. It has been described as the "brain child" of this man and the "brain child" of that man. I will tell something about whose "brain child" it is and who gave it a name when it was legislatively christened by the Congress of the United States. I will tell this at the proper time.

I have practiced law now for nearly 40 years, and I cannot claim innocence of the meaning of the Constitution of the United States. If it is proposed here to inject into this bill provisions which were in the bill I was requested to introduce and did introduce, I would be obliged under my oath, having since studied it, and perceived in my judgment that it contravened the provisions of the Constitution of the United States—I would be opposed to it.

I have stood here, my colleagues, and have taken that oath eight times that I would support and defend the Constitution of the United States. I declared that I did it "freely and voluntarily without any purpose of evasion or mental reservation."

The T. V. A. must come under two provisions in the Constitution. One is national defense and the other is the regulation of interstate commerce.

And there is nothing else in that Constitution upon which you can hang it. If it is proposed here to make the Tennessee Valley Authority a merchant for buying and selling retail distributing systems of electricity and electrical power, I will have to say that within my judgment that is too remote from the constitutional power to regulate commerce. [Applause.] It is too far from the act of deepening a channel or building and operating locks. I believe under the decisions of the Supreme Court of the United States that it is a part of the regulation of interstate commerce to put a power wheel in a navigation dam that is built to regulate interstate commerce.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. I am sorry I cannot yield. I have had to notify all that I wish to make an uninterrupted statement. I believe it is within the power of Congress to provide that the power generated at this dam, which was built to regulate interstate commerce, is itself within the scope of proper regulation of interstate commerce shall be sold, but when it is proposed to go not a step further than that, but many steps further than that, and say, here is a hundred million dollars with which you can buy or build a distributing system in order to create a market and then sell parts of that distributing system as you see fit to this and that city, to this and that municipality or farming district, I say with all solemnity of one partly responsible for the paternity of this original act, in a measure, for which I fought for 13 years, that I think that that is going too far. [Applause.] I must uphold the Constitution which I swore to defend.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. RANSLEY. Mr. Chairman, I yield 15 minutes to the gentleman from Vermont [Mr. PLUMLEY].

Mr. PLUMLEY. Mr. Chairman, I am one of that group, numerically representing at least a third of this House, which labors under the disadvantage of not having had the benefit of the opportunity to listen to the discussion of Muscle Shoals and, incidentally, the Tennessee Valley Authority, which has been held in Congress for so many years. I am also of that smaller group which has come to Congress since the enactment of the Tennessee Valley Authority legislation at the first session of the Seventy-third Congress. When the original McSwain bill was taken up and hearings were commenced thereon before the Committee on Military Affairs of the House, I was an interested and unprejudiced listener. Such conclusions as I have reached with respect to the necessary legislation undertaken to be accomplished by H. R. 8632 are the result of a calm, dispassionate consideration of the subject matter after hearing all the testimony and studying the hearings heretofore had, which culminated at last in the enactment of the T. V. A. Act.

It is to be regretted that every Member of Congress has not had the opportunity to familiarize himself with the situation as it now obtains and with all the various elements leading up thereto. In what I have to say I shall attempt to direct your attention to some of the matters and things which have struck me forcibly as being especially deserving of our consideration in connection with the action to be taken on the measure now before us.

Some things have been said about the treatment accorded in committee hearings to those who appeared in favor of the original or Senate bill. I believe that a careful reading of the testimony refutes any statement to the effect that anybody was treated unfairly or in any manner to which any justifiable exception may be taken.

I wish to take this occasion to pay my respects to Dr. Arthur E. Morgan, who heads the T. V. A., and to his associates. In anything I may say I do not wish to be misunderstood or as intimating that they are not 100-percent honest and sincere in what they are undertaking to do or in what they have done, however mistaken or misguided I may believe them to be with respect to their construction of the law under which they are operating, their usurpation of unwarranted and undelegated authority, and, as I see it, their failure to comply with the intent and purpose of Congress and the strict and unambiguous letter of the law.

They are right in believing that a great responsibility rests upon them and that there is a wonderful opportunity to render a great service to humanity; but like all idealists, however, they have scant use for those who oppose them or their ideas. Being absolutely honest intellectually and actually, having decided what ought to be done and how it should be done, their conclusions become a conviction which renders them impervious to any suggestion that they are wrong, and inclined to be intolerant of anything and everything with which they do not agree. I do not say this unkindly. I am appreciative of the enthusiasm and almost religious zeal which actuates them, as they undertake to make come true a dream of Dr. Morgan's for the betterment of humanity, in the accomplishment of which, in my judgment, their zeal and enthusiasm has led them to ignore the fact that as a Federal agency created by an act of Congress it was their obligation to carry out the intent of Congress as specifically provided in the act, and that they would be held responsible for their failure so to do. While they hitch their wagon to a star, they should drag at least one foot along the ground. They have assumed great liability as well as responsibility in the construction which they have given to the law.

The policy which they have pursued is explained by the fact that the estimable gentlemen have construed the law to mean, and are laboring under the obsession, that as a board they are above and beyond the law; that they are responsible to nobody. This may be an exaggeration, but to me their testimony discloses such a state of mind. In this I believe they are wrong. To urge that they should not be held as any other Federal agency to a strict accounting is to admit that Congress unlawfully delegated to them power and authority for the unlimited and uncontrolled expenditure of the taxpayers' money. There can be no greater fallacy. The friends of the original act cannot wish to be so understood. I am not undertaking to discuss the question as to whether or not it was wise or unwise at this time to establish the policy of experimentation or to authorize the expenditure of so many millions of dollars to carry out the provisions of the T. V. A. Neither am I undertaking to discuss the legal questions which are involved in the original act.

It is time to protest and to protest vigorously against such a policy as is being followed, for without accountability there can be no stability and we would be plunged into a bottomless sea of speculation. Only a bold prophet would dare to predict what might happen unless some action is taken now. We must not overlook the fact that the Board may not always be composed of men of such high purpose and integrity as now constitute it. Without an audit and the strictest financial supervision and the knowledge that both of these impend, an opportunity is offered to dishonest men to use the power and authority given them under the act in such a way as to create a debacle and a scandal beside which Teapot Dome and like episodes will shine as does a candle against the searchlight in the lighthouse in New York Harbor.

If the imposition of these regulating and restricting amendments will retard rather than advance the great program under way, I suggest to you that it should be retarded rather than advanced, unless such advancement is had under the supervision of and with responsibility for reporting to Congress as was originally intended by the original act. Congress knew what it was doing when it provided that the program should not go on without its approval. It proposed to know what was being undertaken. I do not know why it is highly objectionable to either the President or the Board that the law should be complied with. Why should they oppose the regulation, restriction, and limitation as well as supervision, all of which are for the protection of the people of this country and for the conservation of their money as against unwise or unwarranted or reckless spending? If you were on the Board and charged with the responsibility with which its members are now charged, you would insist that such amendments as are proposed in

this bill were enacted, solely for your own protection as against the tongue of slander and to avoid even the appearance of evil.

What is the great program that is now under way? Have you been informed? Has it had your approval, or, have you turned over to this Board and to the President the key to the Treasury, disregardful of your sworn duty and without knowledge of what has been done or is planned for the future? If properly to protect the taxpayer, and at the same time, in their own interest to hold the Board to strict accountability, the program about which we know nothing has to be retarded, it must appeal to responsible and sensible men that such necessary delay, if any, as may be involved, should not be avoided but sought in the interests of all concerned.

There must be some well-established limitations and restrictions in order that the stability of the project may be guaranteed. To such restrictions and limitations as Congress sought to impose in the original act the administrators demur, deny their responsibility, and ignore the plain letter and the spirit of the law. To correct this situation is one of the purposes of this act.

It should be understood by the proponents and friends of the original act that one is not necessarily opposed to it and all its ramifications because he insists upon the administration and enforcement of it according to its very terms.

The integrity of no man or group of men is impugned or attacked because it is insisted that an accounting be had and rendered showing how the funds are going to be or have been expended. It is not to be taken as a hostile intent or attitude to the original act because one insists that in his judgment those charged with its administration have exceeded the authority delegated to them by Congress.

So the act—H. R. 8632—which we are now considering, among other things, is proposed for the purpose and with the intent forcibly to remind these gentlemen of the responsibility which rests on them to check their unwarranted usurpation of powers not delegated to them and to make impossible a further extension of their improper use of authority which is delegated under the act.

Among other provisions in the original McSwain bill to which we of the committee objected are those in section 2, which can only be construed as validating the acts of the Board in constructing the Wheeler and Pickwick Dams, the authority for the construction of which, so far as I can ascertain, never has been granted by Congress. This same section also grants in advance a blanket approval of any and all plans which the Board may have in mind looking toward the building of more dams, power houses, transmission lines, and any and all navigation projects without any limitation as to the expense to be incurred or any knowledge as to what any or all the plans may be or when the projects will be commenced or completed. Could you logically vote to so centralize power and authority in the Board or to validate what has been already accomplished and is being undertaken in contravention of the statute as it has already been construed by one judge and by many others who are competent to construe such laws?

Then when you look at sections 5, 7, and 9 you are bound to discover that therein and thereby they undertake to broaden and extend the powers of the Board far beyond any granted by the original act, and in so doing to avoid the effects of the recent decision of Judge Grubb.

The original act creating the T. V. A. entrusted the Board with the responsibility for the operation of the Government-owned properties at Muscle Shoals and the Cove Creek Dam. Congress reserved the right to and has insisted that the administrators should make a report, based upon careful study, as to plans for future development, and to proceed thereafter only so far as Congress should determine. Congress reserved to itself the right "to regulate, guide, and control the extent, sequence, and nature of development that was to be advanced by this authority through the expenditure of public funds—section 22, Public 17, Seventy-third Congress.

Can anything be plainer or more unambiguous? Yet these plain provisions of the statute have been purposely disregarded. The Board has gone ahead to commit the Government to the expenditure of many millions for many projects, irrespective of cost and without the submission of plans to Congress as is required by the law. It is their program, the Board's, covering navigation, flood control, soil erosion, town planning and building, reforestation, the construction of dams and all necessary incidentals for electrical power production, and the sale and distribution thereof, that they have followed, not that of or approved by Congress.

Have you Members of Congress seen any report as to what their plans are? Do you know how much all these things are going to cost, or how long it will take to complete the program, or what we will have to show for the money of the taxpayers that they are unauthorizedly spending? As representatives of the taxpayers, having reserved the right to pass upon the wisdom and expediency involved in a program which by the terms of the act was to be submitted to you for your approval or disapproval, are you content that your mandate be disregarded and that no report has been made? Are you going to vote to validate what has been done or is to be done without your knowledge or consent and in defiance and contravention of the expressed will of Congress?

Concerned to find out for myself exactly what Congress had in mind when after protracted hearings it finally enacted the T. V. A. Act, I studied the hearings before the Committee on Military Affairs had during the first session of the Seventy-third Congress. I commend to your consideration the following excerpts from such hearings found on pages 30, 42, 45, 50, 51, and 52 of the printed volumes thereof:

Page 30:

Mr. JAMES. According to the bill, so far as I have read it, the Board is only authorized to construct the Cove Creek Dam, and that would mean, including what we have now, about 150,000 horsepower. I am not able to discover from the language of the bill authority for the construction of any other dam down there.

Mr. HILL. If you will turn to page 19, line 8, in the section providing for the construction of the Cove Creek Dam, you will find this language:

"They shall have like power to construct other dams and power houses and navigation projects in the Tennessee River and its tributaries, and for that purpose may exercise the right of eminent domain."

Then, in at least two other places in the bill you will find provisions dealing specifically with the right of eminent domain in connection with the construction of these other dams.

Mr. MONTET. I have not had an opportunity to read the bill.

Mr. JAMES. Do you mean to say they would not have to come to Congress with that?

The CHAIRMAN. No.

Mr. WILLIAMS. They would have to get an appropriation.

The CHAIRMAN. Yes.

Mr. LLOYD. Do you think there is a general grant implied there or a specific grant, to incur additional obligations?

Mr. HILL. Yes; I think so.

Mr. LLOYD. It has not been specifically mentioned.

Mr. HILL. I think that under these words the Board could build any dam it saw fit to the Tennessee River or its tributaries.

Mr. RANSLEY. Has the gentleman figured on the cost?

Mr. HILL. That would depend upon how much was required. Outside of the $50,000,000 worth of bonds, every other dollar would have to be obtained from Congress. They would have to come to Congress for that.

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Mr. JAMES. Mr. Chairman, I want to call the attention of the committee and the chairman to this language on page 28, as follows:

"SEC. 28. The President shall, from time to time, as the work provided for in this act progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section and for the especial purpose of bringing about in said Tennessee Drainage Basin in conformity with said general purposes (1) the maximum amount of flood control; (2) the maximum development of said Tennessee River and its tributaries for navigation purposes; (3) the maximum generation of electric power consistent with flood control and navigation; (4) the proper use of marginal lands; (5) the proper method of reforestation of all lands in said drainage basin suitable for reforestation; (6) the most practical method of improving agricultural conditions in the valleys of said drainage basin; and (7) the economic and social well-being of the people living in said river basin and all adjacent territory."

Now, as I understand that, the President shall from time to time submit legislation to Congress which shall be referred to the appropriate committee. Is that the way you understand it?

The CHAIRMAN. Certainly.

Mr. JAMES. If that is done, that is a safe and sane way. The other proposition of turning this over to somebody to go ahead and develop 3,000,000 horsepower on the Tennessee River, without coming back here for approval, and so forth, is an entirely different proposition. There is a good deal of difference between that and the language that I have just read, in that each year we have always got the matter under control. Not only does the Appropriations Committee have the matter under control but the appropriate legislative committee, whichever it may be. The other proposition would be entirely different.

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The CHAIRMAN. This language here is nothing but a signboard. It does not grant the President any power. The President could do that without any such language.

Mr. JAMES. It says here that the President shall——

The CHAIRMAN. Shall submit suggestions.

Mr. JAMES. Not suggestions, but——

The CHAIRMAN. Recommendations.

Mr. JAMES. Shall recommend to Congress such legislation.

The CHAIRMAN. But Congress does not have to enact the legislation.

Mr. JAMES. No; we do not have to, but we would have a chance to pass on it. The other way we would not have a chance to pass on it. These gentlemen who form this Board, once they were confirmed, would be able to go ahead and do as they pleased.

Mr. THOMASON. They would need appropriations, though.

Mr. MAY. What Mr. James has in mind is that this vests in the proper congressional committees the power to determine the methods and provide the legislation to do what they are supposed to do, as they go along, whereas the other proposition was to appropriate a certain amount of money on which there would be no strings except supervision.

Mr. JAMES. I do not object to the $60,000,000 proposition, but my objection is to a proposition where they might be able to spend a billion dollars or $2,000,000,000 without consulting us.

Mr. MAY. I think this is a wise provision.

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Page 50:

Mr. TABER. Mr. Goss, if you will look on page 30 of the bill before the committee, section 28, following what I have just read, provides:

"The President shall, from time to time, as the work provided for in this act progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section and for the especial purpose of bringing about in said Tennessee Drainage Basin in conformity with said general purposes (1) the maximum amount of flood control; (2) the maximum development of said Tennesseee River, and its tributaries, for navigation purposes; (3) the maximum generation of electric power consistent with flood control and navigation; (4) the proper use of marginal lands; (5) the proper method of reforestation of all lands in said drainage basin suitable for reforestation; (6) the most practical method of improving agricultural conditions in the valleys of said drainage basin; and (7) the economic and social well-being of the people living in said river basin and all adjacent territory."

Mr. GOSS. That is practically the language of the Norris bill.

Mr. TABER. It is a little more elaborate.

Mr. GOSS. Yes.

Mr. TABER. Section 29 provides:

"That all appropriations necessary to carry out the provisions of this act are hereby authorized."

It would not take another authorization bill of any description to provide for the reclamation of that whole valley.

Mr. JAMES. Where do you find any authorization for reclamation?

Mr. TABER. In sections 28 and 29.

Mr. JAMES. All it says is that the President shall recommend to Congress, and he would first have to come to Congress, and the bill would go to the appropriate committee and be reported out.

Mr. TABER. Certainly.

Mr. JAMES. It would require additional legislation all the way through.

Mr. TABER. Certainly it would for any appropriation; there is no question about that. I am not raising any such question as that. It would require an appropriation.

Mr. JAMES. And it would require legislation.

Mr. TABER. Just an appropriation. It would require no other legislation. This would be sufficient authority for any appropriation within the scope of sections 27 and 28.

Mr. MONTET. For anything and everything whatever.

Mr. TABER. Absolutely.

Mr. JAMES. Not under section 28.

Mr. GOSS. It says in section 29:

"That all appropriations necessary to carry out the provisions of this act are hereby authorized."

That is the entire act; that covers the whole act—"are hereby authorized."

Mr. TABER. That is broad enough to cover anything that is hinted at in this bill.

Mr. MONTET. The bill hints at everything, does it not?

Mr. TABER. Very nearly.

The CHAIRMAN. Section 24 of the Rankin bill, or the Norris bill, is the same as the language in section 28 of the bill before the committee.

Section 28 provides:

"The President shall, from time to time, as the work provided for in this act progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section."

He can rcommend legislation; that is the same thing, under the bill I have introduced.

Mr. TABER. He could recommend legislation.

The CHAIRMAN. That is not an appropriation.

Mr. TABER. But you have already, by section 29, authorized all appropriations necessary to carry out the provisions of this act. And all the legislation he has to recommend, with that section 29 in there, is the appropriation.

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Mr. MAY. You mean to ascertain the amount of the appropriation necessary.

Mr. TABER. That is all he has to do under the rules of the House with this language here.

Mr. JAMES. I am sure that the chairman did not intend anything except that the President should have the right to send a message to Congress proposing legislation, which would be referred to the appropriate committee, the legislation after passing both Houses of Congress to be signed by the President.

Mr. MAY. The Constitution provides for that.

Mr. GOSS. You would have to amend the bill and knock out section 29.

Mr. JAMES. I think section 29 only means where something specifically authorized under this bill such as the enlargement of machinery at the dam, and nothing else.

The CHAIRMAN. The section, which is section 24 in the Rankin bill, is nothing more than a pathway making a suggestion for future action. It is not a paved road over which appropriations may proceed, but an indicated course of future development. It may mean nothing if the President never acts on it, or if he does act on it, it may mean the culminating in actual legislative authority to do something along that line. It would have to proceed in the usual legislative way, and if there is any doubt about that, I will certainly encourage an amendment to make it effective only to that extent.

* * * * * * *

The CHAIRMAN. If you were Chairman of the Committee of the Whole House on the state of the Union and a point of order was made that the appropriation was not authorized by previous legislation, your view is now that you would hold it to be in order and the point of order not well taken?

Mr. TABER. On that question I would answer "Yes."

The CHAIRMAN. We will tighten that up so that you and all other Members of the House would have no doubt about it, whoever might be in the chair.

Mr. TABER. That helps some.

* * * * * * *

In my judgment, the express intent and purpose of Congress was to reserve to itself the right to approve or disapprove the plans to be submitted by the Board, and by so doing to keep its hand on the control against wasteful, extravagant, or unnecessary expenditure of the people's money.

You should support H. R. 8632, because it modifies and restricts the further unauthorized proposed extension of the powers heretofore usurped by the Board and curbs, regulates, and controls its activities beyond shadow of doubt, as Congress originally intended should be done.

The T. V. A. should be required to put its financing on the same open, aboveboard basis as is now required of public utilities generally; be prohibited from the sale of surplus power and chemicals below production cost; be required to account for its expenditures; be subject to a rigid system of auditing, such as it will have under the control of the Comptroller General. Then and only then its yardstick may mean something. It does not now; it is misleading, and its friends know it as well as do I. The Board should render a full account of its stewardship; take Congress into its confidence with respect to its plans; cease to arrogate to itself a nondelegated power and authority; lay all these things before Congress for its consideration in order that Congress may exercise, as it reserved to itself the power to do, the right to regulate, guide, and control the extent, sequence, and nature of development that was to be advanced by this Authority through the expenditure of public funds. [Applause.]

Mr. McSWAIN. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. HARTER], a member of the committee.

Mr. RANSLEY. Mr. Chairman, I also yield 10 minutes to the gentleman from Ohio [Mr. HARTER].

Mr. HARTER. Mr. Chairman, let me say that I am fully in accord with the sentiments expressed by the able and conscientious lawyer who is the Chairman of the Committee on Military Affairs of this House in the opening statement which he made this afternoon. The committee has labored many, many hours in the preparation of this bill which it brings to the House, and most of us feel that we have brought to you a bill which is in accord with the Constitution and one which will be upheld by a test or any test that may be made of its constitutionality.

The Government during the World War laid the foundation for the development upon the Tennessee River which is now taking place. Under the National Defense Act of 1916 the President was authorized to establish a plant for the production of nitrates or of the products needed for munitions in war and useful in the manufacture of fertilizers and other useful products.

Under this authorization the President ordered the commencement of the construction of a dam and certain improvements which came to be known as "Muscle Shoals."

Since that legislation originated in the Military Affairs Committee, all subsequent legislation relating to the Tennessee River development has been referred to the committee.

For many years following the war efforts were made by private interests to acquire the plant and improvements instituted and erected by the Government. These efforts were always frustrated by those who believed that the cause of national defense and the navigability of the Tennessee River should be in the hands of all of the people rather than some private monopoly.

Those of us who voted to bring out of the committee the original Tennessee Valley Authority Act approved May 18, 1933, were of this same mind, and I believe that it is the opinion of all or nearly all of the majority members of the House Committee on Military Affairs that we wish to preserve, through Government ownership and operation, the future development of the Tennessee River for the purposes of national defense, improve its navigability, and provide for proper flood control therein.

We have had long and extended hearings before the committee upon a bill similar to that passed by the Senate, and we have read carefully the decision of Judge Grubb, which enjoins the doing of certain things by the Government agency known as the "Tennessee Valley Authority" created by the act of 1933.

This decision of the district court has been submitted to the circuit court of appeals for review, and it is expected that it will be argued before the Supreme Court of the United States at its next term.

Briefly, Judge Grubb restrained, first, consummation of the contract under which the Tennessee Valley Authority proposed to acquire electrical distributing properties from the Alabama Power Co.; second, restrained various Alabama municipalities from buying power from T. V. A. and from negotiating loans from any Government agency to finance construction of electric plants as outlets for T. V. A. power; and third, restrained the Alabama Power Co. from acting as an agency of the Electric Home and Farm Authority, Inc.

The meat of the decision is contained in the following two paragraphs:

The United States is a government of enumerated powers conferred in express terms or by necessary implication on it by the Constitution. No power is conferred on it to engage in any private business, unless incidental to some power specifically granted. The power to produce, distribute, and sell electric power or any other commodity generally is not in terms granted, and must be connected with a granted power in order to exist. In this case it is sought to be connected with the power to improve navigable rivers, the power to provide for the national defense, or the power to make needful regulations concerning Government-owned property. The Government has the right to create electric power to aid its operations under any one or all of these granted powers. It also has the implied right to dispose of any surplus power not used for the named purposes to prevent waste. It has no power to produce and sell electric power except as incidental to a granted power, as in case of the disposition of such surplus. This is especially true within the limits of a State of the United States. If the program of the Tennessee Valley Authority involves only the salvaging of excess or unused electric power produced in aid of its operations in improving the navigation of the Tennessee River, or in relation to its operations at the Wilson Dam or the nitrate plants, there located for the national defense, or for the benefit of lands owned by it in the Government reservations at or in the vicinity of Muscle Shoals, its right to dispose of such excess electric power cannot be questioned. This implies the existence of a surplus in its legitimate operation, and the power of disposition would be so limited. If its program is more extensive and amounts to an engaging in and carrying on, independent of the question of surplus power and without relation to a granted power, the general business of producing and selling electric power within the limits of Alabama, it is ultra vires of the power actually conferred or that could have been conferred by Congress on the Tennessee Valley Authority by its act of incorporation.

The solution of the question depends upon the extent of its program in this respect. If a substantial relation is shown between the granted power and the surplus, it is enough. If there is no substantial relation between the granted power and the creation of the surplus electric power, the courts should declare the creation and disposition of it, unauthorized. The distinction is between a salvaging of unused or excess power created in aid of operations under a constitutional power and so incidental and related to it, and an engaging in the production and sale of electric energy, as any other utility would do, independently of any constitutionally granted power and unrelated to it. A corporation created by Congress would have no greater authority to do this than would the Government itself. It would be the instrument of the Government and its functions restricted to what was within the power of the Government.

None of us but realize that the Federal Government, under the Constitution, is one of delegated powers. Unless there has been specific authority given to the Federal Government or incidentally through powers specifically granted, can there be any extension of such delegated power, and then only such as may be said to logically follow and be a necessary adjunct to the carrying out of the enumerated power or powers.

Following this intensive consideration of the whole subject, your committee rewrote the original bill and now presents to you H. R. 8632 as the product of its labors. It has taken great care to recommend only such a measure as the committee thinks to be within the powers of Congress to enact under the Constitution.

The bill which it sponsors is more limiting in nature than the Senate bill, but is not such as to tie the hands of the Authority in the further lawful, orderly, and sound development of the entire project. This despite articles appearing in the press to the effect that the House bill will cripple T. V. A. If soberly and carefully analyzed, it will be found that it will have no such effect.

In the judgment of the majority of the committee, it is high time to limit the activities of this Corporation, make it amenable to the accounting methods enforced upon other departments and agencies of Government and to bring its activities clearly within the scope of the Constitution.

Sections 1 of the Senate bill and of H. R. 8632 are identical, this merely broadening the modes of procedure in condemnation suits.

Sections 2 of the bills do not differ materially, except that the House bill sets forth that the Authority shall be guided by the report of the Chief of Engineers, dated March 15, 1930—House Document No. 328, Seventy-first Congress, second session—and authorized by act of Congress approved July 3, 1930—Public, 520, Seventy-first Congress. This section of the House bill further directing the T. V. A. to include in its next annual report its directors' recommendations for the unified development of the Tennessee River system. These changes are designed to have the T. V. A. take advantage of the extensive research of the Army Board of Engineers and to lay before Congress its plans so that the country may know what further developments it contemplates.

Sections 3 are the same, except that the House provision contains this additional language, "but no land shall be conveyed on which there is a permanent structure heretofore or hereafter built for the United States or the Authority." There is no reason why parcels of land, no longer needed for the project, should be held and the Board, with the approval of the President, may dispose of such excess land, but an exception is made in the House bill when the land has been developed by the erection of a permanent structure thereon. In such instance the further express

authorization of Congress to dispose of the land should be required.

Sections 4 of the two acts differ. The Senate bill authorizes the Board to experiment in the production of chemicals and other modes and methods for the extermination of noxious weeds and the destruction of plants injurious to agriculture, while the House act does not permit the Board to experiment in the production of chemicals, but limits its experimenting to the extermination of noxious weeds by means of the application and use of chemicals.

In both drafts this section takes into account the importance of checking the inroads of soil erosion.

Sections 5 and 6 of both bills are the same.

Sections 7 of the two proposals are different. The authority granted under the Senate bill to the Board to acquire, within transmission distance from any dam where power is generated, any existing distribution facilities and incidental works, including generating plants and interconnecting transmission lines, and to dispose of them to States, counties, municipalities, and nonprofit organizations, is of doubtful constitutionality.

On the other hand, section 7 in the House bill directs the Board to aid, wherever possible, States, counties, and municipalities in the purchase of power and the acquisition of the facilities for its distribution.

Sections 8 of the contemplated acts differ somewhat in that the Board, under the House bill, is directed to keep accounts not only of data relating to electrical energy but to the production of chemicals necessary to national defense and useful in agriculture.

This provision of the House bill is considerably broader than the Senate proposal. The same section in the Senate bill provides that a complete account of the total cost of generating, transmission, and distribution facts shall be kept according to the uniform system of accounting for public utilities accepted by the Bureau of Internal Revenue.

Upon investigation by the House committee, it was found there was no system of public utilities accounting accepted by the Bureau of Internal Revenue, and the Military Affairs Committee substituted a provision to the effect that a complete account of the total cost should be kept, according to such uniform system of accounting for public utilities as the Federal Power Commission has and if it had none, then it is empowered and directed to prescribe such uniform system of accounting.

It is to be hoped that under this provision and the one contained in the latter part of the House bill, subjecting T. V. A. to the check of the General Accounting Office will result in making the Tennessee Valley Authority a real yardstick for the measurement of the cost of the production of electric power and remove and eliminate the criticism which one reads in such leading journals as the Chattanooga Daily Times and other papers over the country, that the T. V. A. yardstick is but a rubber yardstick.

The House bill section also contains a provision that after July 1, 1937, the Authority shall not sell surplus power or chemicals produced by it annually below the cost of the aggregate production for each year. In other words, this gives the Board 2 years in which to assemble its plant, put it on an operating basis, and then it will be required to sell all of its power and chemicals produced in any one year at not less than the total cost of production in any one year.

Sections 9 of the two bills differ considerably. The Senate bill authorizes an issue of $100,000,000 in bonds, which is an increase of $50,000,000 over the provision of original section 15 of the act. This additional money was to have been used under the provisions of section 7, which contained the amendment to section 12 (a) of the original act.

You will remember that under the Senate draft, the Authority is given power to acquire existing distribution facilities, interconnecting transmission lines, and so forth. House section 7, which in this speaker's judgment follows constitutional lines, witholds any grant of power for this purpose, thus eliminating the necessity of the authorization of additional bonds.

The House section also limits the rate of interest to be paid upon such bonds to 3 percent annually, while the Senate provision permits payment of interest up to 3½ percent.

Sections 10 of the two bills are nearly identical, slight changes in phraseology constituting the only differences.

Section 11 of the Senate bill is deleted from the House bill. Its constitutionality is seriously in doubt and the provisions of section 2 of the House bill, authorizing construction of dams, enumerated in the report of the Army Board of Engineers, is ample for all public necessity.

Section 11 of the House bill and section 12 of the Senate bill are not the same. The language of both sections is practically identical to the end of the Senate section. The House draft then adds a provision to the effect that no real estate shall be acquired or held by the Authority except what is actually necessary to carry out plans and projects decided upon requiring the use of such land.

The Authority is then given power to dispose of such land, after advertisement, at public auction, to the highest bidder. There is no reason why the Authority should go into the real-estate business, and if land is no longer needed or necessary to its purposes it should be disposed of. Private owners will pay taxes thereon. T. V. A. does not.

Section 12 of the House draft is identical with section 13 of the Senate bill.

Section 13 of the House bill is new matter and needs little argument. The Board of the Tennessee Valley Authority is a creature of government. Its funds come from the people of the United States. It has already received and expended millions of dollars. It has not been held accountable to section 3709 of the Revised Statutes, which is the section relating to purchasing by Government authority from the lowest responsible bidder.

This section provides that after July 1, 1936, section 3709 shall be applicable to purchases of the Authority; that accounts of all transactions involving receipts or disbursements shall be reported to the General Accounting Office at such times and in such substance and form as may be prescribed by the Comptroller General of the United States. In other words, this section places disbursements by the Corporation under the wing of the Comptroller General of the United States.

Section 14 of the House draft is new. It is not included in the Senate bill. Briefly, this section provides that the Board shall build no duplicating transmission line, and if it deems the acquisition of such line necessary, it shall first negotiate for the use or purchase of such duplicate, parallel line, and in the event of failure to agree upon a satisfactory price, it shall acquire it through condemnation.

Senate section 14 gives the Authority the same jurisdiction and power over the Cumberland River and Cumberland River Basin as it now has over the Tennessee River and the Tennessee River Basin. In the opinion of the House committee, it would be unwise to extend T. V. A.'s authority until we are confronted with what measure of success attends its present undertaking.

House section 15 is merely a saving clause, providing that should any one or more of the sections of the act or parts thereof be held unconstitutional, such holding shall not affect the validity of other parts or sections of the act.

So much for the variances and differences which exist in the Senate and House bills. It is the sincere, profound, and thoughtful judgment of the majority of the House Military Affairs Committee that the House draft in nowise hamstrings the Tennessee Valley Authority, nor was the committee motivated by any such desire when this bill was drafted. As I said in the beginning, it is the result of the taking of much testimony, careful consideration of judicial opinions, and the desire to continue T. V. A. as a public agency under the limitations imposed by the Constitution of the United States.

We are writing permanent legislation. The development of the Tennessee Valley is a work of lasting nature. It was not designed for the emergency to put people to work. When we legislate for it we plan for the future.

Needless to say, the residents of that portion of the country—some 2,000,000 in number—are bound to realize much

good during the prosecution of this great work and thereafter. Numbers of them have had the advantages of employment not given to less-favored sections of the country, and in addition the entire population should in years to come enjoy the use of the surplus electric energy generated at a very low cost. This should be a fair cost.

There is no reason why all the remainder of the people of the United States and the bulk of its taxpayers should subsidize what has been termed a "socialistic experiment" so that 2,000,000 people may have cheap power delivered to them largely at the expense of the rest of our population.

We come to certain unescapable conclusions in this matter. When we read the testimony of the idealists who constitute the board of T. V. A.; when we review their public utterances, we realize they vision the development of a vast power Utopia in the Tennessee Valley. National defense was a minor detail with them. Until they became involved in litigation they gave no thought of cooperating with the War Department in its plans for the use of industry in a possible emergency.

Here is what Mr. Lilienthal, one of the directors, said in an address at Chattanooga, April 21, 1934:

> Although we are bending every effort to greatly increase the use of electricity in the home and on the farm, it is obvious that only a large scale industrial expansion will absorb the great pool of power which is thus being created. As we lay our plans for developing this cheap power in great quantities, it seems to me to be mandatory that we also lay plans for utilizing it in an industrial expansion program.

As late as October 31, 1934, Mr. Lilienthal stated at Birmingham, Ala.:

> But industries don't set themselves up in a region automatically. There must be some organizing force, with technical and research facilities. We believe it is appropriate that some of this technical and research work should be undertaken by T. V. A. as an agency of all the people.

By letter, dated May 26, 1934, Mr. Lilienthal wrote Mr. W. C. Keeley, vice president National Carbide Corporation, making a specific offer to supply his company with firm power for a period of 10 years beginning January 1, 1935.

If there is to be created this huge supply of electric energy just how is it to be disposed of? The population in the area, the domestic customers available, can utilize but a small portion of the total to be generated if we let these gentlemen proceed under a blanket authorization with no responsibility to Congress or the people. First thing we know the manufacturers and business men of Ohio, Pennsylvania, Michigan, Indiana, Illinois, and other States are going to be told of the cheap power, the tremendous advantages which will accrue to them if they will move their plants and manufacturing facilities to the Tennessee Valley or at least establish branch operations there.

Then what will we do in industrial centers of the North, with our laboring population endeavoring to hold their homes with present unemployment further increased by the migration of industry to the utopian Tennessee Valley. And remember, they must have an outlet for this power; if they are not able to increase industrial activity sufficiently in the area, the next step will be the construction of distribution lines to large centers, such as Louisville, Cincinnati, Pittsburgh, and others where T. V. A. power will come into competition with privately produced energy.

What I have said is not visionary; it is just what we may logically expect. I could go on and talk at length of some of the extra activities which this Tennessee Valley Authority has found time to engage in and invest the public's money in, but I shall leave that to others.

The expenditures by the Federal Government for T. V. A. are mounting into the hundreds of millions of dollars. Let us place this venture on a fair and proper business basis, as this House bill seeks to do. Let this agency conform to the law requiring the letting of contracts to the lowest bidder; let it make an accounting annually according to the rules, regulations, and forms prescribed by another governmental agency, the Federal Power Commission; let it be held under the accountability of the office of the Comptroller General of the United States; and let it be an aid and a helpmate to private business and enterprise rather than an agency of destruction to private initiative.

Mr. RANSLEY. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. FADDIS].

Mr. McSWAIN. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. FADDIS].

Mr. FADDIS. Mr. Chairman, I think if there is anything to honest and conscientious work on the part of a committee in drafting legislation to bring before this House, there has been an honest attempt on the part of the Committee on Military Affairs to draft a bill that will do justice not only to the Board in control of the Tennessee Valley Authority but also to do justice to the people of the United States. In addition to the great volume of evidence that has been taken before our committee in former years, in addition to the knowledge that the distinguished chairman of this committee and other members of the committee have had at hand, we have this year twice held extensive hearings upon this matter. All of the members of the Board were present at those hearings. The statement has been made on the floor of the House by the gentleman from Texas [Mr. MAVERICK] that this Board had freely furnished the Congress with information. I wish to state that this Board has not freely furnished Congress with information, but that the members of the Committee on Military Affairs dragged from the Board all the information that they received, and it was given most reluctantly. There is no reason in the world why they should not have complied with the provisions of the original act to report to the Congress of the United States in full regarding their activities, but they have not done so. They are an agency set up by the Congress of the United States in order to administer the affairs of the Tennessee Valley Authority 2 years ago, but so far they have failed to fulfill the requirements of that act by reporting to the Congress. With that and other ideas in view, the Committee on Military Affairs, after a great deal of labor and after a great deal of dissension among the members of the committee, finally came to the position which all legislation must finally reach, a compromise upon this subject. I repeat, that in reaching this compromise I feel that we have brought out a piece of legislation which is just to the Tennessee Valley Authority Board and just to the people of the United States.

Two years ago, as those of you who were at that time Members of the House will remember, the Committee on Military Affairs, after months of hearings, reported out legislation and it was passed on the floor of this House. At that time I was very enthusiastic about the T. V. A. I still believe it is a wonderful project for what it was set up to accomplish; but, sad to say, 2 years ago that legislation met the fate of a great deal of other legislation. It went to the Senate, and in conference we had the present T. V. A. bill crammed down our throats. At that time I did not realize the seriousness of this occurrence, but in listening to the testimony before the committee and in studying the activities of this Commission and noting the effect upon the country as a whole I am quite well satisfied how serious it was 2 years ago, when the House of Representatives allowed the Senate bill to be rammed down our throats in conference.

There is no reason in the world why the Tennessee Valley Authority should ask to be free from the control of the Comptroller General of the United States. Why should it, any more than any other department in connection with this Government, ask for special privileges that not another bureau enjoys? Why should it be granted the right to buy and dispose of real estate when not another bureau enjoys that right? If the War Department wishes to dispose of a parcel of land the size of a blanket, it must come before the Congress of the United States and receive permission to do so. So it should be with every bureau which the Congress of the United States sets up to be the servant of the people. That is all this or any other bureau is. Why should any bureau be set up in the United States to socialize industry? Why should they be allowed to send their agents into various industrial sections of the United States, into my section and into your section and the other man's section, to

induce industry to move into another section of the United States?

We all grant that might be very favorable to the section into which this industry moves, but it is bound to be very detrimental to the section from which the industry is taken. It is only robbing Peter to pay Paul, at the very best. There can be no sound business sense in connection with a policy that carries on in that manner.

Mr. PETTENGILL. Will the gentleman yield?

Mr. FADDIS. I yield.

Mr. PETTENGILL. Is my friend thoroughly convinced that the Tennessee Valley Authority, despite denials, has been soliciting industry in my State and in his State to move down into the Tennessee Valley?

Mr. FADDIS. I think there is not a particle of doubt in the matter, although I am free to say we cannot fasten upon the Board the fact that they are actually doing so; but certainly the situation is one that makes it very easy to do, and certainly we know that some influence is soliciting industry to move into that section.

Mr. PETTENGILL. Even if it has not been done, that would be the inevitable tendency in developing potential production beyond the present capacity of industry to absorb?

Mr. FADDIS. Absolutely. There could be absolutely no other result except that.

Mr. MAY. Will the gentleman yield?

Mr. FADDIS. I yield.

Mr. MAY. The gentleman recognizes that it was developed in evidence before our committee that direct communications and solicitation had been made by the Tennessee Valley Authority to the Union Power Co. to move their plant from West Virginia down into the Tennessee Valley?

Mr. FADDIS. Yes; I believe that is true.

Mr. CRAWFORD. Will the gentleman yield?

Mr. FADDIS. I yield.

Mr. CRAWFORD. On page 24 of the hearings, Mr. Lilienthal makes this statement:

> In the first place, the law under which we operate puts upon us a duty to market this power; not only to generate it but to dispose of it. This waste is not to continue.

If the Government furnishes the money with which to build the dam and with which to install the generators and the water creates the power, how does this bill provide that the power shall be disposed of?

Mr. FADDIS. The House bill, as we have written it, does not allow them to go out and force competing companies out of business. It provides that when they desire to acquire property they must do so through condemnation proceedings. Have I answered the gentleman's question?

Mr. CRAWFORD. No. The information I want is what provision is there in the House bill, which we are now considering, for the disposition of this electricity after it is produced.

Mr. FADDIS. None, as I understand the bill. We cannot reach out and provide a potential market ahead for that power any more than we can for any other commodity.

Mr. CRAWFORD. In other words, does this bill contemplate that Congress shall provide the funds with which the Authority can produce electricity and then leave the production of the electricity hanging there in the air? Does it propose that the Authority shall dispose of this electricity at the bus bar, for instance, at wholesale, to private interests which extend their lines into the bus bar, or does this bill propose that the Authority shall acquire transmission lines from the bus bar to the different communities throughout the different States as far as they may reach? In other words, just what does this bill propose shall be done with the electricity to be produced insofar as the T. V. A. is concerned?

Mr. FADDIS. This bill does not provide against the sale of the electricity when it is produced.

Mr. CRAWFORD. Does it provide for a wholesaling of the electricity at the bus bar?

Mr. FADDIS. No; not specifically; not according to my understanding of the bill.

Mr. CRAWFORD. Does it provide for a retailing of the electricity on transmission lines by the T. V. A.?

Mr. FADDIS. Not specifically. Under the bill they are allowed to dispose of their products. That is left to the jurisdiction of the Board.

Mr. CRAWFORD. Under what conditions; under such provisions as the Board may set up?

Mr. MICHENER. Mr. Chairman, will the gentleman yield at this point?

Mr. FADDIS. I yield.

Mr. MICHENER. As a matter of fact, the bill is based upon the fiction that there is to be no electricity manufactured except as it develops as a surplus; and, this being true, the bill does not go into the detail of the disposition as inquired about by my colleague from Michigan.

Mr. FADDIS. No; that is an impossibility; that is far in advance. This bill merely provides that the Board may go ahead and complete the development which has already been started.

Mr. CRAWFORD. And that consists of the building of certain dams, the installation of certain generating machinery, and the experimental production of fertilizers.

Mr. FADDIS. Yes; the experimental production of fertilizer and the control of obnoxious weeds; it also provides a 9-foot channel to Knoxville.

Mr. CRAWFORD. From the mouth of the Ohio River to Knoxville?

Mr. FADDIS. Yes.

Mr. CRAWFORD. But it does not in any way go into detail as to the marketing of the electricity which is to be generated.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. FADDIS. I yield.

Mr. SHORT. Was not the main purpose originally that of national defense with the disposition of surplus electrical power a secondary matter?

Mr. FADDIS. Yes; exactly.

Mr. SHORT. The Authority, however, has paid very little attention to the feature of national defense, but has made the fundamental purpose one of development of electrical energy.

Mr. FADDIS. Yes. I was going to touch on that in a minute. That was one of the reasons I was fundamentally interested in the original bill, and I still believe that it is entirely justified in that respect; but the Board has neglected the original purpose of national defense and has developed it along lines to suit these new theoretical fancies. They want to run wild on the buying of cows for $372 apiece, and fine bulls for $900 apiece, and paying other fancy prices for flocks of fine chickens. They let men drive "U Drive It Yourself" cars when they could travel cheaper by train. There are instances where men have taken "drive yourself" cars at a cost of $45 when the trip could have been made by train at a cost of about $16. They are forgetting the original purpose of the act. They even wanted to get away from the yardstick idea.

This bill as written by the committee is an attempt to put the reins on this fanciful, theoretical Board and bring it back into the channels laid out for them 2 years ago. [Applause.] I ask the members of this committee to suport the House bill as written.

Mr. McSWAIN. Mr. Chairman, I yield to the distinguished gentleman from Kentucky [Mr. MAY], a member of the committee, 10 minutes.

Mr. McLEAN. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. MAY].

Mr. BELL. Mr. Chairman, I raise the point of order there is not a quorum present.

Mr. RANKIN. Mr. Chairman, I move that the Committee do now rise, and on that I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. RANKIN and Mr. MAY.

The question was taken, and the Committee divided; and the tellers reported that there were—ayes 6, noes 67.

So the motion was not agreed to.

Mr. CRAWFORD. Mr. Chairman, I make the point of order there is not a quorum present.

Mr. RANKIN. Mr. Chairman, I call the attention of the Chair to the fact there were 30 or 40 Members on the other side of the aisle who did not vote, and that there is a quorum present.

Mr. KVALE. Mr. Chairman, I make the point of order that the gentleman's motion is dilatory.

Mr. CHURCH. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and eight Members are present, a quorum.

Mr. McLEAN. Mr. Chairman, I yield the gentleman from Kentucky 20 minutes in addition to the 10 minutes already yielded him.

Mr. MAY. Mr. Chairman, I hope that those of you who have to remain to be punished by me for 30 minutes will not hold me responsible. When I came to Congress 5 years ago, and for many years theretofore, the chief subject and chief topic of discussion in and out of Congress was the subject of national defense as related to a project called "Muscle Shoals." For many years the question at issue in the Tennessee Valley was the question of whether the Government of the United States should provide for the common defense and general welfare of the country by the creation and operation of a war plant known as "Muscle Shoals."

Mr. Chairman, since I have been in Congress and since the enactment of the original T. V. A. Act, the subject has changed entirely. It is no longer a question of Muscle Shoals. The question before the country today is the question of a national power policy. The issue has been diverted, I should say, from the proper, legitimate, constitutional functions of the Federal Government, that of national defense, flood control, and navigation, to that of engaging, or having the Government of the United States engage, in a proprietary business within the domain of a sovereign State.

During the 5 years which I have been a member of the Committee on Military Affairs of the House, I have deemed it an honor and a privilege to serve under the leadership of the distinguished statesman and scholar from South Carolina, the Chairman of the Military Affairs Committee. [Applause.] During all of the hearings held by that committee on every bill for all of these years he has been uniformly just, fair, and liberal to every member of the committee. He has treated me with courtesy at all times; and in the heat of argument with respect to the power policy of the present administration, he has never at any time undertaken to limit the right of a single member of that committee. He has brought to this House the committee's bill, and he has brought here a bill which I am going to support as a member of the committee, if it is not amended, although I am against the idea of the Tennessee Valley Authority.

Mr. Chairman, I am supporting this measure not because I am willing to see the practices and principles, as they call it, of the Tennessee Valley Authority inculcated and promulgated into the hearts and minds of the people of this country but because I know that it is the first good attempt on the part of a committee of Congress to draw the lines on a bunch of bureaucrats that have gone mad and run wild with the people's money. I am supporting it solely and only upon that ground and the ground that it possibly cures the unconstitutionality of the original act. I am going to undertake, in the few minutes I have at my disposal, to show the Members of the House who are willing to stay here and listen to me that if the amendments that are proposed to be attached to this bill are adopted, the bill immediately becomes an unconstitutional measure and will not be entitled to the support of a single man or woman upon the floor of this House who still regards their oath of office.

That is the first step that they took; and what is the purpose in the hearts and minds of the directors of the Tennessee Valley so far as this bill is concerned? They came to the committee and said to us in substance in plain, unbroken, unmistakable, and unquestioned English that the judges of the courts of this country had stayed their hands in engaging in a commercial enterprise in connection with the sale, distribution, and marketing of electricity throughout the South, either by retail or otherwise, and that they did not propose to have that right restricted or taken away from them. David Lilienthal, the chief counsel of the Tennessee Valley Authority, and the electrical engineer in charge of the electrical branch of the Corporation told the House Military Affairs Committee in open session and in a spirit of defiance that "we want this legislation to make clear our rights in order that we may circumvent the opinion of Judge Grubbs, a judge of the United States District Court in Alabama." I say if Judge Grubbs had held, as he did, that the activities of the Tennessee Valley Authority in engaging in the power business and proposing to crush and stamp out of existence every industry that impeded its way were ultra viries acts and beyond the authority of the Tennessee Valley Authority, we as Members of Congress ought to have the courage of conviction and ought to have enough respect for our oaths of office to defer this legislation until the circuit court of appeals or the Supreme Court of the United States determines what their rights are. But the directors of the Tennessee Valley Authority are not willing to await the sanction of the court. They say, "We will go on anyhow, and we ask the Congress of the United States to override the decision of the court and give us the necessary authority." That is where we started.

Mr. Chairman, I am not only opposed to the Tennessee Valley Authority as an institution upon its conduct and acts in the past but I am fearfully alarmed for the future of the Federal Government of the United States, and particularly the States, and I am dreadfully alarmed for the safety of democracy in this great Republic of ours. I fear that we have already gone farther than we can ever hope to come back from so far as legislation in this country is concerned.

We are verging closely onto a dangerous and deadly state socialism and ultimate Government ownership of all public utilities.

Why am I fundamentally opposed to the activities of the Tennessee Valley Authority? I say that everything it has done and everything it proposes to do is the most vicious sort of paternalism, that it is contrary to the fundamental principles of liberty, and it is a throttling and divesting of the States of their sovereign rights by the Federal Government.

What have they done? What are the evidences that the Tennessee Valley Authority is overriding the powers of the States? They have had thrust through the Legislature of Tennessee, the law-making body of the people of that sovereign State, an act of the general assembly surrendering the rights of the State public utilities commission to control and regulate utilities and turning it over to the Tennessee Valley Authority.

The State has the right to grant to a certain utility within its jurisdiction a franchise for 20 years. They have granted to power companies in every municipality, in every town, and in every county seat of Alabama and Tennessee this right, yet the Tennessee Valley Authority says that "We and not the public service commission of the State will regulate your rates. We will say how you shall operate. We will say what you shall charge." If the States, counties, and municipalities do not submit, what do they do? Then they apply to the Public Works Administration in Washington for funds. To do what? To enable each municipality to go out and construct a plant and put it in competition with the private plants. Then the Tennessee Valley Authority comes to Congress, after some 300 or 400 municipalities have taken the taxpayers' money to build like plants for themselves in the various communities, and says, "We want you to authorize us to spend $100,000,000 more to construct transmission lines in order to bring the electricity into these towns", thereby destroying the business of the people who have put money into these private plants and who own the certificates of stock of the private concerns doing an electrical business.

Mr. Chairman, I am opposed to this unjust principle of taking the people's money to destroy private business and put it out of business. That is what the Federal Government proposes to do by the Tennessee Valley Authority.

Another thing, did you know that when Russia decided it was going to commandeer and supervise all business that

Russia got a Stalin as a czar and a dictator? Did you know that when Germany decided she would take over industry and control the activities of the people within the states, she got a dictator, and when Italy decided she would restrict and control industry she got a Mussolini, and it has led to dictatorship in all of the countries where it has been resorted to, and this thing is the first vicious, open, notorious effort upon the part of the Government of the United States to establish a powerful bureau and finance it with taxpayers' money to destroy the businesses of the people within the States? [Applause.]

Oh, it leads to dictatorship. It leads to the mailed fist instead of the great doctrine of democracy that declares that all men are born free and equal and have certain inherent and inalienable rights, among which is the right of life, liberty, and pursuit of happiness. It is contrary to the teachings of Thomas Jefferson and it would be infamous in the sight of Andrew Jackson if he were living today, and I am wondering how it is that Tennessee statesmen, if you please, can sit in Congress and tolerate the tearing down of the great doctrine of State rights for which their fathers and their forefathers fought.

Oh, this is no little institution. It has terrorized Members of Congress. It has boasted of their defeat on the issue of the T. V. A. in several States, and it has not only done this, but, at an expense of $40,000 of the taxpayers' money, last week they had the Governors of three States toadying after them like a lot of pug dogs following a bulldog to the circus. [Laughter.] Oh, yes; the Governors of States surrendering, if you please, the doctrine of local self-government to Federal bureaus.

I wonder if I have any authority for this position. I wonder if I can give you some authority that will count for anything in the House of Representatives. I am standing by the President again, as I have in the past, and I wonder what he said about States rights and the doctrine of local self-government in a great radio address over a coast-to-coast network on March 2, 1930:

> It was clear to the framers of our Constitution that the greatest possible liberty of self-government must be given to each State. That is what we call the doctrine of home rule, and the whole spirit of the Constitution is to carry this great principle into the relations between the National Government and the government of the States.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. MAY. I now yield to the gentleman from Minnesota.

Mr. KVALE. I wanted to make a point of order against the gentleman reading, and I should like to know if the gentleman wants to go along with the President on States rights, if he is willing to go with the President on the T. V. A. bill which is now before us.

Mr. MAY. I am going with the President on the fundamental principles and letting the details take care of themselves.

There is another thing I am here to oppose. I am objecting to a lot of Communists and wild sons of wild jackasses, if you please, capturing the Democratic Party and carrying it into captivity and then demanding the surrender of the great principles taught by Thomas Jefferson and Andrew Jackson as a ransom to get it back.

I wonder if the President can stand with me today again as he stood in 1930 when he said this:

> The conduct of public utilities, of banks, of insurance, of business, of agriculture, of education, of social welfare, and a dozen other important features—in these Washington must not be encouraged to interfere.

This is from the same radio address. But what else? Why, the President of the United States is the greatest believer in State rights and constitutional government there is in Washington today, and I am standing with him on that doctrine.

> The United States Constitution has proved itself the most marvelously elastic compilation of rules of government ever written. The preservation of this home rule by the States is a fundamental necessity if we are to remain a truly united country.

I wonder if there are any other dangers or breakers in this institution. Why, we have undertaken to say to them that when you establish a yardstick you must establish an honest yardstick, you must establish a fair yardstick, you must establish a yardstick that is 36 inches long and not 24 inches, you must establish a yardstick that will stick itself, and how do they propose to do it? They take a $46,000,000 power plant and write it down to $19,000,000. They take a steam plant that is worth $12,000,000 and write it down to $1,500,000.

These write-downs are made by a Government bureau while they are jumping on the private utilities for write-ups. They are writing down in order to establish an honest yardstick and they say that we will figure our electric power based on these investments and not on the actual investments.

Now, what would have been the other side of the picture—and I want some of my colleagues who are going to propose amendments allowing them to do these things to answer this question: If the Alabama Power Co., if you please, had gone around the country and sold 7-percent or 6-percent or 5-percent stock and gathered out of the pockets of 300,000 investors $46,000,000 and put it in the Wilson Dam, could they have written it down and refused to pay the interest on it? No.

But the Tennessee Valley Authority says, "Write it down and not put it at $46,000,000, which it cost."

Mr. KVALE. Will the gentleman yield?

Mr. MAY. I yield.

Mr. KVALE. The gentleman does not insist that the Government has not the same right as private utility companies to write under cost in order to try to get by?

Mr. MAY. No; I am in favor of putting the Government of the United States on a level; I should like to put it on the square. [Applause.]

Mr. ARNOLD. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Illinois.

Mr. ARNOLD. Is it the gentleman's position that all the cost of navigation and flood control should be carried into the original cost in making the yardstick, or should there be a reasonable deduction for those things?

Mr. MAY. I think there ought to be a separation in the proper proportion. I think this is not a fair proportion between electricity and navigation and flood control.

I take the position that the Federal Government has no power or authority under the Constitution to go any further than to produce with the Wilson Dam enough power to operate the locks necessary to control the floods and assist navigation. [Applause.]

Mr. ARNOLD. I think that is the gist of this matter, and I am sure the Membership of the House would be delighted to have the gentleman discuss that particular phase of the question.

Mr. PETTENGILL. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Indiana.

Mr. PETTENGILL. The fact is, when a public utility built a dam on private streams, like the Keokuk Dam, it was not permitted to make deductions for navigation and flood control.

Mr. MAY. Not at all; the whole thing, investing $25,000,000 in putting in the dam that contains locks to control floods and regulate the passage of vessels they have to charge it all to electricity, but here is another phase where the yardstick gives 20 inches instead of 36.

Now, I want to further answer my friend from Illinois. I am going to answer him in the language of the Supreme Court of the United States in the case of Ohio against Helvering. In discussing the right of the Federal Government to engage in proprietary or commercial business, the Supreme Court of the United States said:

> The police power is and remains a governmental power, and applied to business activities is the power to regulate those activities, not to carry them on.

Mr. ARNOLD. That is interesting, but what I want is a discussion by the gentleman with facts and figures to the effect that the cost of manufacture of fertilizer and the cost of navigation and the cost of flood control should not be separated from the cost of power in order to make a fair yardstick.

Mr. MAY. They should not be deducted from the amount of invested capital upon which they are required to earn a return in determining what is a fair rate between a private utility that cannot deduct them and the T. V. A., which undertakes to do so.

Mr. ARNOLD. Do I understand it is the gentleman's position that in making this a basis for determining the cost of manufactured current the Government should take into consideration and include all the expense that is there for navigation, for flood control, and for the manufacture of fertilizers in addition to that feature particularly applying to power?

Mr. MAY. Yes, I do; and, in the first place, I say this to the gentleman, that they testified before our committee and took a flat-footed stand that they were not selling any fertilizers or going to sell any; that they did not contemplate it; and, on the other hand, their chemical engineer said that the plant was now entirely obsolete and worthless for that purpose, and the whole problem is this: They have determined to go into the business of producing, manufacturing, distributing, and selling electricity to the disregard of national defense and flood control or navigation.

Mr. ARNOLD. Mr. Chairman, will the gentleman yield?

Mr. MAY. Oh, I cannot yield further; my time is limited and I want to discuss another matter.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield for a short question?

Mr. MAY. I have just declined to yield.

Mr. COOPER of Ohio. Just for a short question.

Mr. MAY. Very well.

Mr. COOPER of Ohio. Is it not a fact that Mr. Lilienthal stated that the T. V. A. is spending more money in developing electrical energy than on all the rest of the projects put together?

Mr. MAY. That is true; but not only that, but it is being done in a territory where the evidence shows that there is already a surplus of 38 percent more than the present needs of the entire valley.

Mr. COOPER of Ohio. And is it not a fact that the Army engineers stated that so far as flood control is concerned it would not reduce the floods in the Mississippi more than one one-thousandth of an inch?

Mr. MAY. That is the testimony of the Army engineers; but Dr. Morgan stated about 2 feet, I think, or 1 foot.

On this constitutional question of the right of the Federal Government through the T. V. A. to engage in proprietary business within a State I want to read what the Supreme Court of the United States said in the case of South Carolina against United States.

> Certain it is that if the responsibility of a government usurping the ordinary business of individuals, driving them out of the market, and maintaining place and power by means of what would have been called, in the heated invective of the times, "a legion of mercenaries" had been in the public mind, the Constitution would not have been adopted, or an inhibition of such power would have been placed among Madison's amendments.

That is conclusive of the fact that the Tennessee Valley Authority has no constitutional authority to go down into Tennessee and Alabama and engage in the business of distributing electricity as a constitutional right, and the Congress has no power to grant them that right.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. MAY. Not now. As to amendments that will be proposed, we have restricted them to selling power, and that the surplus only, and to sell it after a certain date at not less than cost, and the amendment that will be proposed will be to let the reins loose and allow them to go out and acquire local distributing systems, transmission lines, in their own way, to resort to the power and authority and control by going to them and saying, "If you do not yield to us and sell, we will get public-works funds and put you out of business", as it did to eight different municipalities in northern Mississippi. They yielded under the pressure of destruction of their own property, and the Tennessee Valley Authority is asking this Congress to take away from the private owner of a private utility the right and authority to have a jury impaneled to pass on the value of his plant and equipment, but to leave it to the Board of the Tennessee Valley Authority.

In other words, in violation of the Constitution that guarantees due process of law, they say, we will set up an institution where the purchaser shall fix the price. Why, Mr. Chairman, market price has been defined by the courts time and again to be "a price at which the seller who wants to dispose of his property but is not obliged to do so will take, when offered by one who desires to purchase but who is not obliged to do so." In the face of that wholesome rule, in the face of that fundamental principle of law, the Tennessee Valley directors have gone down into northern Mississippi and they have coerced the Alabama Power Co. into turning over to them under a contract made last January, a year ago, eight different distributing systems that cost the power company $2,700,000, and they are taking it over at $680,000.

I wonder if this has any significance to this House, and for fear some of my friends on this Committee may question the accuracy of my statement, I call attention to what Mr. Morgan said before the House Committee on Appropriations, when he was asked by one of the members of that committee if they had not in fact through coercion of those people secured the sale of the franchises by duress, and he said they had.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAY] has expired.

Mr. McLEAN. Mr. Chairman, in view of the interruptions of the gentleman from Kentucky, I yield him 5 additional minutes.

Mr. MAY. I thank the gentleman.

The Constitution, prohibiting as it does, the Federal Government going into business within the domain of a sovereign State, would prohibit the operations of the T. V. A. to the same extent. You and I, when we were sworn as Members of this Congress, could not open our mouths to say one word until we had put up our hands and said unto God that we would do what? Protect, not circumvent; defend, not defy; preserve, and not destroy the Constitution of the United States, yet we hear it said that regardless of that oath we must accept the provisions and let the courts pass upon it.

Mr. ROBSION of Kentucky. Will the gentleman yield?

Mr. MAY. I yield.

Mr. ROBSION of Kentucky. If this policy is pursued and carried to its logical conclusion, will it aid business recovery or retard it? Will it aid unemployment or add to it?

Mr. MAY. If it is possible to aid recovery by destroying the property of 280,000 stockholders and an investment of $600,000,000, and throw out of employment forever, so far as that industry is concerned, 75,000 working people, then I say to my colleague from Kentucky that it is a recovery measure; but if, upon the other hand, we can say to the people, "We are going to destroy outright a billion dollars' worth of investment in the stocks of the power companies, and we will put 400,000 employees on the Government relief rolls and take them off of private pay rolls—take out of taxation and out of the realm of revenue production $600,000,000 worth of property and deprive the Treasury of the taxes that come from it—I call it a destruction program rather than a construction program and one that will retard recovery rather than aid recovery. I have no interest in the power companies in Tennessee, Alabama, North Carolina, South Carolina, Mississippi, or Georgia, but I want to see justice done; and if the United States Government can do this kind of thing there, they can do it anywhere.

Mr. PETTENGILL. Will the gentleman yield?

Mr. MAY. I yield.

Mr. PETTENGILL. At the same time the Senate bill is asking for $100,000,000 to extend hydroelectric power. We have a bill before the Congress to spend $320,000,000 to take coal mines out of production; so that the more money we take out of the taxpayers' pockets to develop hydroelectric power the more money we will have to take out of those same pockets to retire coal mines?

Mr. MAY. Yes. But that is not all. I think there are some men here who remember that last winter a year ago we passed an act called the "National Industrial Recovery Act." Under section 7 (a) of that act we struck down unfair competitive practices in every business from the smallest to the greatest. We said that cutthroat competition must go. Yet we say we will turn loose the T. V. A. to engage in cutthroat competition with private industry, as a

bureau of the Government, in violation of the very principles by which we throttled and took control of all industry in this country from one end to the other. [Applause.]

Mr. GREGORY. Will the gentleman yield?

Mr. MAY. I yield.

Mr. GREGORY. A question was propounded by the gentleman from Indiana [Mr. PETTENGILL] with reference to the Guffey coal bill. I understand the gentleman is for that bill, is he not?

Mr. MAY. I am for that bill, provided when it appears on the floor of this House it has the unconstitutional features out of it that I think are in it now.

Mr. ARNOLD. Will the gentleman yield?

Mr. MAY. I yield.

Mr. ARNOLD. Would the gentleman mind telling us what those features are?

Mr. MAY. One feature is that it provides a penalty of 25 percent on the sales price of your coal at the tipple as a means of coercing and forcing the coal company to submit to the provisions of the act; punitive and coercive. That was declared unconstitutional in a hundred cases, and if the gentleman wants to know them I can give them to him. [Applause.]

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. McLEAN. Mr. Chairman, I yield the gentleman from Kentucky 2 additional minutes.

Mr. MAY. May I go a little further in answering the gentleman from Kentucky [Mr. GREGORY]? I want to say to my colleague from Kentucky and to the amiable gentleman from Illinois [Mr. ARNOLD] that the difference between the Tennessee Valley Authority bill and the Guffey coal bill is that the T. V. A. has as its object and purpose the destruction of investment; and the Guffey coal bill has as its objective and purpose the preservation of a great industry that employs 600,000 men in this country. One destructive and the other constructive. I want my party to belong to the construction crew and not the wrecking gang.

Mr. ARNOLD. May I suggest to the gentleman that I was simply thinking of those two bills from a constitutional aspect?

Mr. MAY. I hope the gentleman continues to think about it. [Laughter and applause.]

Mr. ROBSION of Kentucky. Will the gentleman yield?

Mr. MAY. I yield.

Mr. ROBSION of Kentucky. Can the gentleman tell us what effect this T. V. A. measure will have on the coal industry?

Mr. MAY. My colleague from Kentucky desires to know what effect this bill will have upon the coal industry. I will take as my witness Dr. A. E. Morgan, and I will tell you that although they built 350 plastered and electrified houses at a cost of $10,000 and more each to establish a housing plant at Norris Dam, when they get through with it, with from $36,000,000 to $40,000,000 invested, it will employ 20 men on the dam. The same amount of money invested in coal plants would employ 30,000 men and would feed 30,000 families. Besides, Dr. Morgan says the coal industry is doomed and must go.

Mr. McREYNOLDS. Will the gentleman yield?

Mr. MAY. I yield.

Mr. McREYNOLDS. Speaking of the Guffey coal bill, I want to inquire if the gentleman favors that portion of the bill which provides for the spending of some $300,000,000 to buy submarginal coal land?

Mr. MAY. I am opposed to that feature of the bill for the reason that it is going to open up some more T. V. A. activities and the sale of a lot of cheap mines to the Federal Government for good money out of the Treasury. [Applause.]

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I yield 15 minutes to the gentleman from Texas [Mr. THOMASON].

Mr. THOMASON. Mr. Chairman, I have seen and heard a good many strange things on the floor of this House during the 5 years I have been a Member, but I have never yet heard so many mean things said about a bill and then hear the gentleman who said them say he was going to vote for the bill. He has openly and vigorously opposed this legislation both in and out of the committee. I admire his frankness. He has done it on the floor and in letters and newspapers. Not only that, but may I say that if this bill now before the Committee is so vicious and so unconstitutional as the gentleman claims it to be, then I submit in all fairness that the original bill which passed 2 years ago was much more unconstitutional. If you refer to the CONGRESSIONAL RECORD of that session, page 2341, you will find that my friend from Kentucky, for whom I feel the deepest and most sincere attachment, voted for the bill. Then if you will go a little further in the same session of Congress, you will find that when the conference report came back to the floor of the House on the 17th day of May 1933, that the gentleman from Kentucky [Mr. MAY] again voted "aye." This is not said in a spirit of criticism but only stating a fact. [Applause.]

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. THOMASON. I yield.

Mr. MAY. Mr. Chairman, I wish to correct the gentleman's statement inasmuch as it is utterly incorrect. I did not say unqualifiedly that I was going to vote for this bill. I said that if this bill was not amended, I was going to vote for it because I did not think it contained unconstitutional features.

Mr. THOMASON. The gentleman is going to vote for the bill as brought in here by the committee.

Mr. MAY. Yes.

Mr. THOMASON. That is more than the gentleman did in the committee.

Mr. MAY. Yes; I voted against it in the committee.

Mr. THOMASON. In other words, the gentleman's position has changed again.

Mr. MAY. No. I voted against it in the committee, and I am against what the Tennessee Valley Authority asks here.

Mr. THOMASON. I think, my friends, we might just as well let the lines be drawn early. I noticed the gentleman received loud and even prolonged applause by our good friends on the Republican side, for whom I have a great admiration on account of their frankness; but let me remind you that in 1917, when the World War was on and there was a great man down in the White House, the question of national defense came up, and it seemed to be the rather unanimous policy of the Members of this House at that time, if you will read the RECORD, that there had to be something done in the way of building a plant for the manufacture of munitions. That was the instigation and inception of the Muscle Shoals project. In the very limited time the chairman has assigned me I cannot go through the entire history of this development. Suffice it to say that after the armistice came and that great investment was left idle at Muscle Shoals, agitation began as to whether there should be tacked onto it the question of flood control, the prevention of soil erosion, the production of fertilizer, and such things that very well could be conducted in times of peace. And so on down through 17 or 18 intervening years we have continued to fight over this issue. Along came Mr. Coolidge and gave it a pocket veto; along came Mr. Hoover and gave it a direct veto. It remained for the man who now sits a mile down Pennsylvania Avenue in the White House, together with a friendly Congress 2 years ago, to say that the Tennessee Valley should be developed for the American people as it ought to be. [Applause.]

One of the very first sentences the gentleman from Kentucky uttered—and I have for him a sincere esteem and affectionate friendship, because we came here together and we sit next to each other on the committee—was the statement in substance that we might just as well determine what the national power policy is going to be. For my part I am ready to meet that issue. The rivers and the water-power sites of this country belong to the people and not to the power interests [applause], and I will say further that, in my judgment, since he wants the lines formed and the issues drawn, he may rest assured one of the great issues of the campaign next year will be this question. Way out in the

front line leading the forces, and if necessary ready to die in the front-line trenches on behalf of the people as opposed to selfish interests, will be a man by the name of Franklin D. Roosevelt. [Applause.] As for me, I am going down the line with him. Not only that, but I believe this Congress will back him in that position. If they will not, I think the people will see to it that there will be a Congress that will. When argument and reason fail, the cry always goes up that it is unconstitutional. Do not forget there is a welfare clause in that sacred document. Also, do not forget there was no electricity until 50 or more years after the Constitution was written.

Talk about destroying private property, there has been no effort of that kind. As I say, I have no time in which to recount the history of this project, but it is not so material anyway. That is a matter of record. Suffice it to say that 2 years ago Congress by an overwhelming majority settled the policy to be followed, and I do not believe we will now reverse that action. The T. V. A. had not even organized; they had not got started until the attack began. The President in his effort to get competent men who knew something about the subject, went over into Ohio and picked a great engineer and educator by the name of Dr. Arthur E. Morgan as chairman of the Board.

He had built more than 50 water-power plants with never the breath of suspicion against his name or a question about his ability and integrity. Another man selected was another Morgan from down in Tennessee, who had been president of the University of Tennessee for years, fighting all the time the battles of the down-trodden farmers of that soil-eroded country. Another one was a young chap from up in Wisconsin by the name of Lilienthal, who had made a success as a public-utility commissioner. When the T. V. A. was organized, I understand the President did not ask their politics or religion. He wanted to know if they were capable of doing the job. They had scarcely begun until war was opened upon them, and it has continued ever since. They have been criticized and cross-examined as if they were under indictment.

Mr. Chairman, may I say to the Members on both sides of the aisle, if they want to be fair about this matter, read the hearings that were held on this bill before our committee or read the hearings held by the Appropriations Committee on the deficiency bill. You will not find a breath of suspicion against any of these men. I undertake to say, Mr. Chairman, they are doing a big job in a big way. Maybe I am a little partisan; maybe I am a little prejudiced on this question; but it is my honest, sincere conviction that no government in the history of the world has ever undertaken such a constructive program as this one. [Applause.]

Not only that, but it is just the beginning. I call to this battle, since my friend from Kentucky [Mr. MAY] has issued the challenge, all of my friends from the Northwest, up in the Grand Coulee country, the gentleman from Maine [Mr. BREWSTER] and his colleagues with their "Quoddy" project, and all of those Members from the western country with reclamation projects who have been endeavoring to secure for their people cheap power and cheap electricity. I summon you to the conflict. In my humble opinion the greatest possible development in America today is putting cheap electricity into every home in this Nation. [Applause.] Next to water it is the greatest necessity of modern everyday life.

Mr. MAY. Will the gentleman yield?

Mr. THOMASON. I yield to the gentleman from Kentucky.

Mr. MAY. At whose expense would the gentleman put that in?

Mr. THOMASON. I would put it in at the expense of a fair, just rate, no matter who pays the bill. I would put it in reach of every home. This Government is not undertaking to sell that power down there directly to consumers but is increasing the consumption to such an extent that the price has already been reduced from 40 to 50 percent.

Mr. Chairman, in this country there are but 4 percent of the rural homes that have electricity. I believe Denmark boasts of some 60 percent. Talk about your slums! I know city slums are bad and we must eradicate them, but I know of no people in this land who suffer the drudgery and hardships of the average run of country people. I do not mean the plantation owner, the rich farmer, or the man who has a fine home in the country. I am talking about the man who has a little home out in the country, or the tenant farmer, with no running water, no sewerage, and no electricity. His wife and children know nothing but a life of drudgery. They have no electric lights or churns, no electric milkers, no refrigeration, no power for their barns, no radio, no nothing in the way of modern conveniences that we enjoy. Why, Mr. Chairman, this program itself has in mind the bringing of cheap electricity to 5,000,000 country homes in America. Tell me that is not constructive? Who would tear it down now? The gentleman from Kentucky seemed to take violent umbrage at a statement that I wrote myself. I hope I do not display the feeling about this bill that the gentleman does.

Mr. MAY. Since the gentleman has mentioned my name, will he yield?

Mr. THOMASON. I yield to the gentleman from Kentucky.

Mr. MAY. The gentleman says that we have not given this concern the power to sell electricity in the country. I call the gentleman's attention to the power granted under section 2.

Mr. THOMASON. The gentleman will have to ask a very brief question.

Mr. MAY (reading):

> And shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines.

Mr. THOMASON. I see what the gentleman is getting at. The bill provides for the sale of electricity to municipalities and some 27 municipalities have by an overwhelming majority voted that they want this power. The gentleman talks about destroying private property. Why, the stockholders were tickled to death with it, and still they talk about "bamfoolizing" the Alabama Power Co.

Mr. Chairman, I am one of those who signed the statement in the report that I was for the Senate bill. In fact I wrote the statement that the House bill would retard, rather than advance, this great program. I said it in committee, and there was no deception about it. In spite of that, in a circular letter that the gentleman sent out to every Member of the House, he saw fit to close with this question, "What is retarded, except deceit, confiscation, and tyranny?" My friend has not only invited but provoked the argument.

Mr. Chairman, there are three or four important amendments which are going to be offered to this bill by the distinguished gentleman from Alabama [Mr. HILL], who is not only the ranking Democrat on the committee, but he has lived loyally and faithfully with the Muscle Shoals and T. V. A. projects every since their inception and ever since he came back from France and was elected to this House. I hope the members of the committee will support the gentleman from Alabama [Mr. HILL] when he offers these amendments, because I undertake to say that he and the other members of the committee will be able to convince anyone who is unprejudiced that they are just and meritorious. One of the amendments is in reference to selling power at less than cost. What new business in the history of America that is being run on a big scale did not start out probably by selling their products at less than cost of production?

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. MICHENER. Does the gentlemen advocate that here in view of the codes?

Mr. WILCOX. Will the gentleman yield?

Mr. THOMASON. I yield to the gentleman from Florida.

Mr. WILCOX. I was greatly interested in the statement the gentleman was making a few moments ago relative to his belief that water-power sites should be owned by the people and not by private interests. May I ask the gentleman if it is not a fact that in the course of these hearings it developed that the Aluminum Co. of America has already

acquired practically the entire course of one of the main tributaries of the Tennessee River?

Mr. THOMASON. Let me tell you about that.

Mr. WILCOX. That is one of the principal criticisms of this report.

Mr. THOMASON. Instead of 5 minutes, I wish I had 20 minutes to discuss this matter. This is not only a contest, Mr. Chairman, between the people and the Power Trust, it is more than that. It is also a contest between the people and the Aluminum Trust. The reason I say this is this: The Aluminum Trust, headed by Mr. Andrew Mellon, thinking they had gobbled up all the power sites on the Little Tennessee River, woke up to find there were some other brains in this country, and I have respect for brains, even if they are called "brain trusters." The Tennessee Valley Authority has gone up into the Little Tennessee River Basin and bought two little sites up there, which it is claimed they paid entirely too much for, but, nevertheless, they fixed it so that the Aluminum Trust could not absolutely control the flood waters as well as all the power on the Little Tennessee River. Was there anything so bad about that?

Mr. McGROARTY. Mr. Chairman, will the gentleman yield?

Mr. THOMASON. I yield.

Mr. McGROARTY. Is it not a fact that the Authority is buying aluminum in preference to copper?

Mr. THOMASON. I cannot answer that.

Mr. McGROARTY. It is true.

Mr. THOMASON. I do not think that is material, but I do not know. Mr. Davis, the head of the Aluminum Trust, came before the committee. He seemed to think it was all right for his company to have a monopoly, but it was all wrong for T. V. A. to try to protect the rights of several million people.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. THOMASON. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. I do not want to break the gentleman's line of thought, but if the gentleman will do so, I am very much interested, as I am sure other Members are, to hear the other three amendments that the gentleman from Alabama [Mr. HILL] proposes to offer.

Mr. THOMASON. That is what I hoped I would have time to discuss; but, of course, the gentleman will appreciate that my time is very limited.

One is with respect to the matter of selling power below the cost of production, the other is on the matter of their disposing of these tracts of land which they bought in the Little Tennessee River Basin in order that the Aluminum Trust may not have a monopoly, not only on the flood waters but on the power in that basin, including every power site in the Tennessee Valley, and the other is on the matter of turning all accounting over to Comptroller General McCarl, for whom I have sincere admiration. However, do not be misled about that. When you read the hearings you will find that when the Tennessee Valley Authority was set up Dr. Morgan went to McCarl and said, "We want your office to have a check on our affairs"; and Mr. McCarl sent 10 of his expert men down there, and they checked every dollar of that money.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. THOMASON. I must decline to yield for just a second.

Not only this, but Mr. McCarl himself later came before the committee and said there was not the slightest evidence of fraud in any transaction they had had, and yet some of my friends would want the Tennessee Valley, if they had to buy a $10 roll of wire, to come here to Washington and take it up personally with Mr. McCarl and take 3 or 4 months to do it.

Mr. MAY. Mr. Chairman, will the gentleman now yield?

Mr. THOMASON. I yield.

Mr. MAY. If there was nothing wrong in the past about the Authority being put under the Comptroller General, and if they are spending money at the rate of $2,000,000 a month, and have already spent $101,000,000 and propose to spend two or three hundred million dollars more, why does the gentleman oppose putting them under such regulation?

Mr. THOMASON. I want them thoroughly checked and double checked, but when they are building a big dam and the flood season is near I do not want the T. V. A. directors, just to satisfy some people who want to wreck this whole program, to have to come to Washington to get Mr. McCarl to O. K. every forty or fifty dollar item that may come along.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. THOMASON. I yield.

Mr. KVALE. Is it not true that a representative of the General Accounting Office, who is in the field now and on the scene of actual operation, stated that they are steadily falling behind in the work of keeping up with their audits?

Mr. THOMASON. Absolutely; and do not be misled about this talk about buying a dairy herd about which there is so much exaggerated talk. They have 15,000 people employed in this valley now, and 85 percent of them came off of relief. They started the little town of Norris, and those houses cost from $2,200 to $7,000 or $8,000. They are renting these cheaper houses to the workers and giving them decent houses with electricity and sewerage and running water for $22 a month. There are 4,000 people in this model community and they bought a little dairy herd, and like they do in my country, where we raise registered Herefords, they went out and bought registered cattle, paying the average price that any stockman pays in this country for good cattle when he wants to build up a good herd. That is just pure bunk, and that is all there is to it. [Applause.]

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I yield 20 minutes to the distinguished gentleman from Alabama [Mr. HILL].

Mr. HILL of Alabama. Mr. Chairman, the Congress has been talking about the Tennessee River ever since James Monroe was President of the United States. It was not, however, until the year 1916 that, under the leadership of Woodrow Wilson, the great dam and nitrate plants were built at Muscle Shoals on the river, the Government investing $150,000,000 in the project.

As I sat here this afternoon and heard my good friends the Republicans applaud with such glee the speech of the gentleman from Kentucky [Mr. MAY] I could not but remember that during the 12 long years the Republican Party was in power in this country, in spite of our pleas, our petitions, and our entreaties, the Republicans refused to do one single thing with the great project on the Tennessee River. Those 12 years of Republican rule so far as the Tennessee River is concerned is a skeleton of disappointment, defeat, and disaster.

In 1932 there came in this country a peaceful revolution, and the people elected as their President Franklin D. Roosevelt. He went down to the Tennessee River and made a personal inspection of that great valley and the great project at Muscle Shoals.

He then went to his home at Warm Springs, Ga., and from there he issued a statement to the people, through the press, in which he outlined the great development of the Tennessee River and the Tennessee Valley, to the end that we might have there flood control, navigation, national defense, reasonable electric power, soil conservation, agricultural rehabilitation, and regional planning—that we might have there a great laboratory, not only for the benefit of the people of the valley but for the benefit of all the people of the United States. When he became President, Mr. Roosevelt sent to Congress a special message asking Congress to pass legislation to carry out the plan.

So the great plan that is now being carried out has been well called "the brain child of Franklin D. Roosevelt." But, as the gentleman from Texas [Mr. THOMASON] so truly stated, the legislation embodying that plan had hardly been passed by Congress before a campaign was started by the selfish interests of this country to thwart and defeat the plan. Throughout the country there has been a whispering campaign undertaking to destroy the T. V. A.

Periodicals and the press under the influence and control of selfish interests, which have heretofore exploited the resources of the country for their own selfish benefit, have kept up a drumfire of criticism against the Tennessee Authority program. On all hands we hear whispers, misstatements, and all kinds of misinformation, cunningly conceived and calculated to undermine the program of the Tennessee Valley Authority. My friends, those who would strike down and defeat Franklin D. Roosevelt would strike down and defeat the Tennessee Valley program. Those who would wipe out and undermine the great plans of Franklin D. Roosevelt would wipe out and undermine the great program in the Tennessee Valley, because there is nothing in the plans of Mr. Roosevelt that is dearer to his heart, nothing that he contributed more to bring into being than the great development in the Tennessee Valley.

This afternoon on the floor we have heard much talk about Hitler and Stalin and Mussolini and dictatorship from the gentleman from Kentucky [Mr. MAY] because Franklin D. Roosevelt has seen fit to establish this great program in the Tennessee Valley. Mr. Roosevelt is waging a battle to conserve for the people of this country those great riches and resources which God Almighty intended should be used for all of our people and not for the benefit of a few favored ones, and history shows that whenever any man has waged the battle for the people he has been denounced and condemned.

In the days of George Washington there were those who hurled their anathemas of malignity at him and cried out that he wanted to be king, but he held fast to his course and he laid deep and strong the foundations of our Nation. When Thomas Jefferson was fighting the battles of the people there were those who denounced him as a radical and a demagogue, but he kept the faith, and he made this Government of ours in truth a democratic government. In the days of Andrew Jackson there were those who villified and sought to defame him, but he held to the ridge pole and we know his part in keeping the Government, a Government of all the people. There are those today who would denounce and villify Franklin D. Roosevelt, but let me say to you that the glory of Franklin D. Roosevelt will shine with the stars when those who seek to denounce and defame him will have gone down to "the tongueless silence of dreamless dust." [Applause.] The wonder is not that there have been some mistakes in the program of the Tennessee Valley Authority, but the wonder is that there have been so few mistakes.

The Tennessee Valley Authority has gone forward with the construction of its dams and in not one single instance has it spent one dollar or done one single thing that the Congress of the United States did not appropriate for or authorize. Why, the Tennessee Valley Authority is even criticized on this floor because it did not exercise the authority given to it in the basic act to issue $50,000,000 worth of bonds. Instead of issuing those bonds as it could have done under the basic act the Authority said, "No, we will go to Congress, we will lay our plans for these dams before the Congress and then let the Congress decide whether or not the dams should be built", and when it has built these dams, the Authority has strictly followed the law so far as the allocation of cost among navigation, flood control, national defense, and power is concerned. The gentleman from Kentucky [Mr. MAY] criticized the Tennessee Valley Authority because it wrote down the original cost of the Wilson Dam. If it wrote down that cost, it did so in response to the clear mandate of the Congress. The Congress wrote into the basic act that the Tennessee Valley Authority should fix the present value of the Wilson Dam. The Congress wrote that into the law because the Congress knew that the original cost of the Wilson Dam was far too great. The dam was built on a war basis.

It was built under one of those cost-plus contracts, and it was built over several years of time and there were 12 different appropriations made, with all kinds of unnecessary delays, and we paid far too much for the dam. Furthermore, in 1930, when the Congress adopted the United States Engineers' report for the Tennessee River dam-construction program the Congress then and there said that so much should be charged for navigation, so much for flood control, and so much for power; and the Congress even went so far as to say that if private power companies built dams on the Tennessee River the Government of the United States should pay to the private power companies the part of the cost of the dams which should be allocated to navigation and flood control.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. Yes.

Mr. CRAWFORD. In allocating these costs, has the Tennessee Valley Authority submitted any evidence which shows that the cost that shall be allocated to the cost of navigation will be set up in the capital structure, on which they will base transportation charges when the Tennessee River becomes navigable?

Mr. HILL of Alabama. Sure. They have figured all of that out, and if the gentleman will take time to read the hearings before the congressional committees, he will find they have worked out that whole proposition. I do not want to be discourteous, but I cannot yield any more.

In the building of the different dams on the Tennessee River the Tennessee Valley Authority, acting under the direction of the President, has saved the taxpayers of the country millions of dollars by adopting a high-dam plan instead of the low-dam plan approved by Congress in 1930. In 50 years the saving in the cost of maintenance and operation of the dams alone would be $50,000,000, and in 100 years the saving would be $100,000,000. In the cost of construction the Tennessee Valley Authority has saved the taxpayers some $350,000 a year, or over a period of 100 years some $35,000,000 by building the high dams, and in its construction of the Norris Dam and the Pickwick Landing Dam the Tennessee Valley Authority has increased the power value of the Wilson Dam alone to the taxpayers in the amount of some $2,200,000 a year. We see the Tennessee Valley Authority has proceeded on a sound business basis, saving millions of dollars to the taxpayers of the country.

It is nothing new for the Government to build dams. We have spent $140,000,000 constructing dams to make the Ohio River navigable. We bought the Cape Cod Canal. We have put dams in rivers, and we have improved harbors everywhere. The only difference between the Tennessee Valley development and these other projects is that in the other projects we have not gotten one single dollar back to the taxpayers, and we never will get a single dollar for the taxpayers, whereas in the Tennessee River development we will get the interest on our money, and we will get back every dollar we have invested.

Gentlemen have spoken of destroying the property of the stockholders of private utilities. You will recall that the greatest boom that ever happened to life insurance in this country was when the Government established war-risk insurance. It made the people of the United States insurance-minded, and they bought and bought and bought insurance, and instead of destroying these private power companies where the Tennessee Valley Authority has come in competition with them, the Tennessee Valley Authority has so largely increased the business and the load of the private power companies as to offset any business that might have been taken away from them.

Mr. STARNES. Will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. STARNES. Is it not a fact that in connection with that industry during the past year the Tennessee Electric Co. made the greatest increase it has ever shown in its history?

Mr. HILL of Alabama. Absolutely. The Tennessee Electric Power Co. is that private company with which the Tennessee Valley Authority comes more largely and more directly in competition. What happened? The Tennessee Electric Power Co. has increased its business so much, sold so much more electric power than it had been selling, that that increase has practically offset any loss of business.

Mr. MAY. Will the gentleman yield?

Mr. HILL of Alabama. Not just now. The Edison Electric Institute, just a few weeks ago, gave the so-called "Coffin medal" to the Tennessee Electric Power Co. as having the finest record of any power company in the United States.

Mr. MAY. Will the gentleman yield now?

Mr. HILL of Alabama. I yield for a question.

Mr. MAY. I hope the gentleman will be courteous enough to allow me to preface my question with a short statement. The gentleman realizes, of course, there was a million dollars appropriated by the T. V. A.——

Mr. HILL of Alabama. Oh, I cannot yield for a statement.

Mr. MAY. All right.

Mr. HILL of Alabama. That is about the Home and Farm Authority. The Reconstruction Finance Corporation loaned $1,000,000 to the Electric Home and Farm Authority, which was a corporation set up separate and distinct from the Tennessee Valley Authority. The Electric Home and Farm Authority has financed the purchase of electric equipment and appliances that must be had, such as electric refrigerators, electric irons, electric stoves, and the like, and the Electric Home and Farm Authority has rendered as much service to the private power companies, has helped them as much in their business as it has the Tennessee Valley Authority.

Mr. MAY. Now will the gentleman yield?

Mr. HILL of Alabama. I yield for a question.

Mr. MAY. Is that not the very reason the Tennessee Electric Power Co. was able to gain this prize, because it had Government money to buy the notes of the people who purchased electric equipment?

Mr. HILL of Alabama. No, no. That was only a small factor. Why, the Tennessee Electric Power Co. increased its business an average of 200 kilowatt-hours per customer per year, while the average increase throughout the country was only 35 kilowatt-hours per customer per year.

I cannot yield further. I do not want to be discourteous, but my time is short.

In the town of Athens, Ala., the Tennessee Valley Authority reduced rates 45 percent. What happened? There was an increase of some 300 percent in the consumption of electricity. The gross revenues of the city of Athens derived from the sale of power after it started getting its power from the Tennessee Valley Authority were greater than they had been when the city was generating its own electricity, in spite of the 45-percent reduction in rates.

Mr. MICHENER. Will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. MICHENER. That would not have happened had it not been for the Authority which loaned the people the money with which to buy equipment.

Mr. HILL of Alabama. Oh, yes. The Electric Home and Farm Authority did help, but let me say to the gentleman, the bill that we passed extending the Reconstruction Finance Corporation carried an authorization of something like $100,000,000, as I recall, that we might have the Electric Home and Farm Authority not only down in Alabama and Tennessee, but throughout the country. If there is any one thing that I want to try to impress upon this Committee, it is that that project down in Alabama and Tennessee is not a local project. Franklin D. Roosevelt is not interested in it because it is helping the people in Alabama and Tennessee, but because it is there setting an example, and a yardstick that will be of benefit to the entire Nation. [Applause.]

Mr. McCORMACK. Will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. McCORMACK. I am going to vote for some bill and I hope the gentleman, before he gets through, if he can, will reserve a little time to discuss the four amendments he is going to offer, because my mind is open, and I am sure the minds of some of the others are open.

Mr. HILL of Alabama. The gentleman from Texas [Mr. THOMASON] discussed, as I recall, three of the amendments. I hope the gentleman from Massachusetts heard him. The fourth amendment, which to my mind is a very important amendment, would strike section 14 from the bill. Section 14, as now written in the bill, provides that if the Tennessee Valley Authority needs a transmission line to distribute or dispose of any of its power, if there be a private power line it has to first go and negotiate with the private power company and try to buy that line. Then if it cannot buy that line, it has to go into court and condemn that line. In other words, the Tennessee Valley Authority cannot distribute one single kilowatt of power without first negotiating to buy a private line and then going into court and going through all the long delays and harassments of court action, which would mean that the Tennessee Valley Authority would likely be tied up in court anywhere from 3 to 10 years without being able to distribute a kilowatt of power.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. KVALE. The gentleman spoke of the yardstick. I simply wanted him to make perfectly clear the fact that unless the amendments proposed to be offered by the gentleman from Alabama are adopted, all talk of a yardstick is futile.

Mr. HILL of Alabama. The gentleman is absolutely right. Unless these important amendments are put on this bill then this House had better throw the bill in the waste basket.

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I yield 10 additional minutes to the gentleman from Alabama.

Mr. HILL of Alabama. Mr. Chairman, I submit with all due courtesy to my friend from Kentucky, that there is no better evidence of my statement that the bill should not pass without the amendments than the fact that the gentleman from Kentucky, Mr. MAY, himself has stated on this floor this afternoon that he would vote for the bill if it comes up for passage in its present form.

Mr. MAY and Mr. ARNOLD rose.

Mr. HILL of Alabama. Mr. Chairman, I yield first to the gentleman from Kentucky, having mentioned his name.

Mr. MAY. I wish to correct any erroneous impression of my attitude; I want the House to get it straight.

Mr. HILL of Alabama. Mr. Chairman, I am sorry I cannot yield for this purpose; the gentleman can secure time to make his position clear.

Mr. MAY. I want to clear up the idea that the Electric Farm and Home Authority——

Mr. HILL of Alabama. I have spent all the time I can on that. I yield briefly to the gentleman from Illinois.

Mr. ARNOLD. We are very much interested in the amendments the gentleman expects to offer. Would not the gentleman be so kind as to put them in the RECORD today so we can make a study of them in the morning?

Mr. HILL of Alabama. Yes, I shall be pleased to put in all the important amendments so they will appear in tomorrow's RECORD.

Mr. Chairman, I ask unanimous consent to insert these amendments in the RECORD.

The CHAIRMAN. Without objection it is so ordered. There was no objection.

Mr. WILCOX. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. WILCOX. The gentleman has discussed the yardstick established by the T. V. A. Is it not a fact that the record discloses that since the establishment of the T. V. A. rates in this vicinity privately owned utility companies have voluntarily reduced their rates to a point that has already saved to the people of those four States more than $7,000,000 this year?

Mr. HILL of Alabama. The gentleman is absolutely right. The first thing the Tennessee Electric Power Co. did when the Tennessee Valley Authority arrived there was to make a 20-percent reduction in its rates. [Applause.]

Mr. Chairman, we have seen this afternoon certain gentlemen attempt to throw a scare into some members of the committee by declaring that we were trying to take industries from other States and establish them in Tennessee and Alabama. Let me say again, and as emphatically as I can, that this is neither the purpose nor the intent of the Ten-

nessee Valley Authority, and no Member can arise on this floor this afternoon and name a single industry that has left any other section of this country to go into Tennessee or Alabama on account of the cheap rates of the Tennessee Valley Authority. On the other hand on November 7 last, Mr. Wendell Wilkie, president of the Commonwealth & Southern Power Co., which is the holding company of the Tennessee Electric Co., the Alabama Power Co., and the Georgia Power Co., speaking at Birmingham, Ala., stated that the Alabama Power Co. had brought industries from Northern, Western, and Eastern States into Alabama, and boasted of the fact that during the last 10 years the Alabama Power Co. had brought 245 industries into some 143 different cities in Alabama. Mr. Wilkie in his speech emphasized the fact that the Tennessee Valley Authority had not brought and could not bring a single new industry in Tennessee or Alabama.

The Tennessee Valley Authority has an industrial section, sure; but what is this section for? This section is to develop those things which are indigenous to the great valley and which we are in such large measure today importing from foreign countries. We have in the valley such things as kaolin, out of which ceramics are made. We have pulpwood, that we are now importing in vast quantities from other countries; we have manganese. And, Mr. Chairman, as is well known, we are just entering into the era of the use of light metal in the field of transportation, an era in which manganese will play a tremendous part. We have in northern Mississippi and in Arkansas bauxite from which aluminum is made. A great part of the aluminum we use in this country today comes not from the aluminum plant on the Little Tennessee River but from Canada. These are the things the Tennessee Valley Authority would develop—not taking industry from some other section of this country—just as the development of the water powers of the West at Boulder Dam, at Grand Coulee, at Bonneville, at Fort Peck will not take industry from the South.

Mr. Chairman, we have heard much about the Comptroller General; the papers are full of alleged charges of his with reference to the Tennessee Valley Authority. Let me read you what the Comptroller General said. These are his words to the Committee on Military Affairs:

I think it is premature for you to question me with respect to these exceptions. I think it is unfair to the Authority, and I think it unfair to me. I think the Authority should have an opportunity, and must be given an opportunity, to answer that.

Those were some exceptions he had noted where there had been not 1 but 20,000 transactions. Why, that is his business; that is what he does all the time—note exceptions to the financial transactions of all the departments of the Government—and to seize upon exceptions which the Tennessee Valley Authority had had no opportunity whatever to explain or justify was most unfair.

We have heard much and we will hear more about cows, pigs, and hogs during this debate. The men operating the Tennessee Valley Authority are pretty sensible men; they have some common sense. When they started to construct the great Norris Dam, far away from Knoxville or any other city or town, they built a city to house the workers, just as any big private construction company would have done, and along with that city they operated a big mess hall.

They bought some hogs and then said: "We will take these pigs and feed them the garbage from the mess hall and later we will eat the hogs." They bought some chickens and said they would eat them. They bought some cows, and they paid a pretty good price for those cows; but when they bought those cows they bought them not only for the purpose of furnishing milk, butter, and cream for the mess hall, but also to encourage the people locally in the breeding and raising of high-grade cattle on their own farms and for their own homes.

Surely the Tennessee Valley Authority should not be criticized for adopting what everybody recognizes today as being the proper system under which you work part of the time on the construction job and the other part of the time you do your farming at home.

Mr. Chairman, I happen to have here a little pamphlet that was issued about 60 days ago. It is called "Aluminum at Alcoa." I do not want any of you gentlemen to be prejudiced against our cause, because I am going to call Mr. Andrew W. Mellon as a witness in our behalf. Here is a little bulletin published by his company and here is what it says. Alcoa is the town of the Aluminum Company on the Little Tennessee River.

In planning Alcoa and developing it into an attractive residential place, Aluminum Company of America recognized that the leisure hours of people who work are just as important to their well-being as the conditions under which they work. The company considers it a high compliment that the great Government agency, the Tennessee Valley Authority, is now doing in a large way many of the forward-looking things which have been carried on at Alcoa for a number of years on a more modest scale.

Among these, aside from the building of a community in which comfort and health shall be paramount, is the diffusion of agriculture and industry. At Alcoa 45 percent of the employees reside on farms and do part-time labor in the aluminum plants, with the remainder of their time free to engage in agriculture.

In bad times as well as good, employees' interests must be safeguarded in an intelligent manner if an industry is to succeed.

[Applause.]

[Here the gavel fell.]

Mr. HILL of Alabama. Under leave granted to extend my remarks, I insert herein the four necessary amendments to which I have referred, together with comments thereon.

AMENDMENT BY MR. HILL OF ALABAMA

Page 8, line 4, strike out all after the period, beginning with the word " after ", to the end of the section and insert in lieu thereof the following:

It is hereby declared to be the policy of this act that, in order, as soon as practicable to make the projects self-supporting and self-liquidating, the surplus power shall be sold at rates which, when applied to the normal capacity of the Authority's power facilities, will produce gross revenues in excess of the cost of production of said power.

COMMENTS ON AMENDMENT

This amendment is a substitute for the last sentence of present section 8, which now reads as follows:

After July 1, 1937, the Authority shall not sell the surplus power or chemicals produced by it annually below the cost of the aggregate production for each year.

This one sentence would completely destroy the electric and fertilizer programs of the Authority.

No private company could ever begin to sell power or chemicals if it had to charge the first customers the entire cost of the whole plant designed to serve many more customers. As to the annual cost, that cannot be determined until the year is past; it would therefore be impossible to determine in advance whether the Board was complying with the law.

This provision at one stroke repeals all of the law as it now stands, which provides for experiments in new forms of fertilizer, concerning which the Authority has made substantial progress and is now in production. Clearly no research program for cheaper forms of fertilizer as is provided for by existing law can be carried on if the Corporation is required from the very beginning of its operation to cover the full cost of production, such costs including research expenditures. Such provision would force the T. V. A. to produce a presently known and proven commercial product and abandon research, thus terminating the most promising development in the field of new and improved plant food in the past quarter century.

Moreover, it is obvious that as to the electrical program this provision would merely open the door to endless litigation involving all the perplexing and vexatious questions of fair value which for so long have obstructed the efforts of the public to secure reduction in electric rates.

This alone should be enough to defeat the proposal.

It is well known that the private-utility interests have followed the practice of harassing with protracted litigation practically every venture by the public to set up their own electric plants. This provision is an invitation for such attacks against the Tennessee Valley Authority.

In order for any electric current to be sold, it is of course necessary to make contracts. The present Tennessee Valley

Authority Act provides for such contracts with States, counties, municipalities, nonprofit organizations of farmers and other citizens, and with private companies.

The new provision would prevent the making of a single contract because it would not be possible to determine the actual cost until after the end of the year. Is it conceivable that any municipality or other customer would make a contract for the purchase of current and build a plant for distributing it if the cost of power were entirely unknown and could be changed the year after an expensive plant were constructed? Thus, by its terms, this provision defeats the carefully deliberated provisions of the original act.

In proposing an alternative provision, we have gone as far as is possible in meeting the spirit of this provision of the bill without destroying the power and fertilizer programs of the T. V. A.

AMENDMENT BY MR. HILL OF ALABAMA

Page 11, line 23, strike out all of section 13 and insert in lieu thereof the following:

SEC. 13. That section 9 (b) of said act of May 18, 1933, being Public Law No. 17, Seventy-third Congress, be, and the same is hereby, amended to read as follows:

"(b) All purchases and contracts for supplies or services, except for personal services, made by the Corporation shall be made after advertising in such manner and at such times sufficiently in advance of opening bids as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required when, in the judgment of the Board, (1) the public exigency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen: *Provided further*, That in comparing bids and in making awards the Board may consider such factors as the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

"The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositaries. He shall make report of each such audit in quadruplicate, 1 copy for the President of the United States, 1 for the chairman of the board, 1 for public inspection at the principal office of the Corporation, and the other to be retained by him for the uses of the Congress: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report. The expenses for each such audit may be paid from moneys advanced therefor by the Corporation, or from any appropriation or appropriations for the General Accounting Office, and appropriations so used shall be reimbursed promptly by the Corporation as billed by the Comptroller General. All such audit expenses shall be charged to operating expenses of the Corporation. The Comptroller General shall make special report to the President of the United States and to the Congress of any transaction or condition found by him to be in conflict with the power or duties intrusted to the Corporation by law."

COMMENTS ON AMENDMENT

Section 13, as now written in the bill, would hamstring the operations of the Authority.

The present Tennessee Valley Authority Act provides for a comprehensive audit of all Tennessee Valley Authority transactions by the Comptroller General. Such independent audit is consistent with businesslike operations; it compares with the independent audits which private business corporations subject themselves to, but is far more searching. But the audit provided in the present Tennessee Valley Authority Act is very different from the control contemplated by this bill. Indeed, it provides for control of T. V. A. by the General Accounting Office more far-reaching and rigid than that to which any Government department is now subjected. Under the proposed bill every transaction of the Tennessee Valley Authority, every claim by or against it, could be held up for weeks and months while the Comptroller's auditors, accustomed to auditing the operations of ordinary Government departments, sought to judge transactions involving wholly unfamiliar business and engineering problems. The work and methods of operation of the Tennessee Valley Authority are necessarily very different from the regular Government departments.

The work of dam building is scheduled like clockwork for a period of 2 years or more. A delay of a month or more may mean being unprepared for high water and may cost hundreds of thousands of dollars. Such delay would necessarily result from the control provided in section 13 of the bill. The Authority estimates that the additional cost of work now under way which would result from the delays necessarily incident to this proposed change would amount to millions of dollars.

This provision of the bill is entirely inconsistent with the purpose of the original T. V. A. Act.

In proposing the creation of the Tennessee Valley Authority the President had definitely in mind an effort to secure on public work the efficiency of private enterprise. He said:

I therefore suggest to the Congress legislation to create a Tennessee Valley Authority—a corporation clothed with the power of government but possessed with the flexibility and initiative of a private enterprise.

The purpose of the Congress in passing the original act was well expressed in the report of the House conference committee recommending the acceptance of the conference report. The conference committee said, "We intend that the Corporation shall have much of the essential freedom and elasticity of a private business corporation." It was the clear hope of the President and the intent of the Congress that the Tennessee Valley Authority should be free from that extra cost of doing Government business which results from routine Government procedure.

That this aim is entirely proper is clear from the language of the Supreme Court in holding that the expenditures of the Emergency Fleet Corporation are not subject to the approval of the Comptroller General. The Supreme Court said:

Indeed, an important, if not the first reason, for employing these incorporated agencies was to enable them to employ business methods and to conduct their operations with a freedom supposed to be inconsistent with accountability to the Treasury under its established procedure of audit and control over the financial transactions of the United States.

With its freedom to exercise judgment and discretion, the Tennessee Valley Authority has made a remarkable record of high wages and good living conditions, combined with remarkably low costs and rapid construction on two of the largest dams ever built by man. Seldom has any great engineering work been built as rapidly and as economically. The engineering profession and the engineering press of the country have been unstinted in their praise of this accomplishment.

The Comptroller General, in his testimony before the Military Affairs Committee, regarding the 20,000 transactions covered by his report, involving millions of dollars, said:

I certainly have found no fraud. If I had, I would have been up here long ago.

He also said:

I think it is premature for you to question me with respect to these exceptions. I think it is unfair to the Authority, and I think it unfair to me. I think the Authority should have an opportunity, and must be given an opportunity to answer that.

Until the Tennessee Valley Authority has had opportunity to review this report with the Comptroller, it is grossly unfair to revise the policy requested by the President, emphasized and approved by the Congress, and approved by the Supreme Court.

The amendment which I am proposing in lieu of this provision of the bill meets all reasonable requirements and at the same time preserves the policy of the original T. V. A. Act. The chief complaint of the Comptroller General has been that the Authority has not conformed as rigidly as he believes it should to the law requiring competitive bidding in purchases by Government departments. In view of the somewhat unique character of the Authority, as described above,

it would be impracticable to apply the existing law to its transactions. However, the amendment which I propose is modeled after this law and other existing laws with such slight changes as are necessary to meet the special requirements of the Authority.

The proposed amendment also substantially reenacts that provision of the present T. V. A. Act which now provides for a comprehensive, independent audit by the Comptroller General. At the same time, in line with his own suggestion that it was unfair to discuss his report publicly before T. V. A. had an opportunity to answer it, an express proviso is added in order to assure the T. V. A. of such opportunity to answer.

AMENDMENT BY MR. HILL OF ALABAMA

Page 14, line 1, strike out all of section 14.

COMMENTS ON AMENDMENT

Section 14 should be stricken from the bill because otherwise the private power companies surrounding the dams, and not the general public, will be the sole beneficiaries of the public investment in the Tennessee Valley.

The present T. V. A. Act of May 18, 1933, authorizes the T. V. A. to build transmission lines between its dams in order to maintain and regulate the supply of current from Wilson and other dams on an efficient and stable basis. It also authorizes T. V. A. to build transmission lines as the means of bringing the public property developed at its dams to a market. The proposed amendment, however, as set out in section 14 of H. R. 8632, restricts the T. V. A. by providing that it may not construct such transmission lines which substantially parallel the transmission lines of existing utilities, but that the Authority must first negotiate for the purchase of such existing lines. In the event of failure to reach an agreement for purchase, it is then required to condemn them. The proposal in effect removes the Authority's existing power to build transmission lines.

In practical effect the section would destroy any possibility of Tennessee Valley Authority construction of transmission lines, as long as the power companies wish to block the sale of Tennessee Valley Authority power. Endless litigation would be sustained by selfish interests on the basis of this provision.

Suit would first be brought against the Corporation on the ground that lines which it proposed to build "duplicated" existing lines, even though the existing lines were small and unimportant and the claims unsupportable. Where negotiations had been tried, suits would then be brought on the ground that they had not been adequately pursued.

Experience with condemnation of utility properties convinces us that when the stage of condemnation was finally reached the proceedings would drag out for from 3 to 10 years. Meanwhile prospective Tennessee Valley Authority customers, the municipalities and counties and other organizations which now seek Tennessee Valley Authority power, would suffer such delays that they could make no definite plans for such purchase; in practical effect their desire to get the power would be defeated.

Utility companies will undoubtedly seriously endeavor to establish in condemnation proceedings that the properties taken should be valued on the same excessive and inflated valuation basis which they have utilized in fixing rates. The inevitable tendency of condemnation proceedings will thus be to require in effect that the consumers shall be permanently burdened with the inflated capitalization.

Moreover, in view of the fact that this provision fails to define what constitutes duplication, it might be impossible for the Corporation even to use its own power in constructing its own dams because in building lines to the sites of such dams it might be held to be duplicating existing facilities.

In short, the effect of this section will be to compel the Tennessee Valley Authority to sell all of its power to those private power companies, particularly the Alabama Power Co. and other subsidiaries of the Commonwealth & Southern Power Co., which have lines to or in the vicinity of the Tennessee Valley Authority, and thus to perpetuate the private monopolistic condition which for so many years has burdened the Government at Muscle Shoals.

AMENDMENT BY MR. HILL OF ALABAMA

Add a new section to the bill, to be known as "Section 15", and to read as follows:

SEC. 15. That said act of May 18, 1933, being Public Law No. 17, Seventy-third Congress, be, and the same is hereby, further amended by adding after section 26 of said act a new section, as follows:

"SEC. 26. (a) The unified development and regulation of the Tennessee River system requires that no dam, appurtenant works, or other obstruction, affecting navigation, flood control, or public lands or reservations, shall be constructed, and thereafter operated or maintained across, along, or in the said river or any of its tributaries until plans for such construction, operation, and maintenance shall have been submitted to and approved by the Board; and the construction, commencement of construction, operation, or maintenance of such structures without such approval is hereby prohibited. When such plans shall have been approved, deviation therefrom either before or after completion of such structures is prohibited unless the modification of such plans has previously been submitted to and approved by the Board.

"In the event the Board shall, within 60 days after their formal submission to the Board, fail to approve any plans or modifications, as the case may be, for construction, operation, or maintenance of any such structures on the Little Tennessee River, the above requirements shall be deemed satisfied, if upon application to the Federal Power Commission, with due notice to the Corporation, and hearing thereon, such plans or modifications are approved by the said Commission as reasonably adequate and effective for the unified development and regulation of the Tennessee River system.

"Such construction, commencement of construction, operation, or maintenance of any structures or parts thereof in violation of the provisions of this section may be prevented, and the removal or discontinuation thereof required by the injunction or order of any district court exercising jurisdiction in any district in which such structures or parts thereof may be situated, and the Corporation is hereby authorized to bring appropriate proceedings to this end.

"The requirements of this section shall not be construed to be a substitute for the requirements of any other law of the United States, or of any State, now in effect or hereafter enacted, but shall be in addition thereto, so that any approval, license, permit, or other sanction now or hereafter required by the provisions of any such law for the construction, operation, or maintenance of any structures whatever, except such as may be constructed, operated, or maintained by the Corporation, shall be required, notwithstanding the provisions of this section."

COMMENTS ON AMENDMENT

The original McSwain bill contained a specific section designed to protect the interests of the public in the unified development of the Tennessee River system. The above amendment is suggested in order to take the place of this section of the original McSwain bill, which is entirely omitted from the present bill.

The only substantial objection to the original provision was made by the Aluminum Co. of America. This company is undertaking to control completely the Little Tennessee River. Its representatives stated at the hearings that when their plans for a series of dams were finished they could absolutely control the flow of that stream. The Little Tennessee is one of the larger tributaries of the Tennessee River in a region of heavy rainfall. If the Aluminum Co. can control it without any requirement of cooperation or coordination, it will be in a position to dictate conditions to the Tennessee Valley Authority.

At present that company is absolutely without effective Federal supervision in the building and operation of dams. With a series of large dams below, it is essential that the safety from failure of up-river dams be insured by adequate Federal inspection, as provided in this proposed amendment. Under existing law neither the Federal Power Commission nor the Army Engineers can effectively protect the interests of the United States in this regard. The Aluminum Co. is a private kingdom in itself.

It is an engineering fact that if private interests can build dams in the river and its tributaries when and as they please, can operate such dams without regard to the paramount public interest in the water resources, the efforts of the Government through the Tennessee Valley Authority may be largely thwarted, and the value of its dams for navigation, flood control, and power will be seriously impaired.

Unless such private dams are required to be built and to be operated in harmony with the series of Government and other private dams, the improvement of navigation and the control of floods will be menaced. For example, unless some control is exercised over private dams they may withhold

water in dry seasons when water stored in reservoirs should be let out in the interest of navigation. In the same way uncontrolled private operation can interfere with the requirements for flood control and the safety of citizens and property over a large area.

A purpose of the present Tennessee Valley Authority Act is to promote unified development of the Tennessee River system. In line with this policy and in order to avoid domination by the Aluminum Co., the Tennessee Valley Authority has already taken preliminary steps in the region of the Little Tennessee to protect the public interest. We believe, however, that comprehensive and specific legislation like that contained in the Senate bill is required to meet the situation adequately. This amendment follows the Senate bill, except that a provision is added to avoid any possible adverse effect which the Aluminum Co. might claim by giving it a right to appeal to the Federal Power Commission from any requirements of the Authority.

Mr. RANSLEY. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania [Mr. RICH].

Mr. RICH. Mr. Chairman, I wish to voice my sentiments, as I always have, against the Government being in business. I think when the Government of the United States goes into business in competition with its own citizens it is doing one of the greatest injustices to this country and to its people that it is possible to do. It makes no difference whether we speak about the Tennessee Valley Authority or any other Government project. So far as I am concerned, I have always opposed the Government being in business, and I hope I will have the ability and the nerve to continue my opposition to the Government being in business, no matter of what kind or form. I think we are socializing this country today. We are not only socializing it but we are Russianizing it, and since the President recognized Russia a year or so ago I think he has been trying to pattern after them.

Mr. Chairman, we are today discussing the Tennessee Valley Authority. I want to make a prediction today, as I did a year or two ago when the House voted for the Tennessee Valley Authority. I thank my lucky stars that I voted against the proposition at that time. As I said before, I want to make a prediction, and that is that we will find the Tennessee Valley Authority will be one of the greatest boomerangs and one of the greatest monstrosities that has ever befallen the American people. We are spending the money of the taxpayers of this country to develop a project which is going to ruin individual citizens and the States of this country, who are paying the taxes and who will have to pay the bills created for the benefit of two of our States, namely, Tennessee and Alabama. When we think of the States of Tennessee and Alabama receiving 5 percent of the gross earnings of the Tennessee Valley Authority we may realize that this is one of the greatest injustices that has ever fallen on the other States of this country—a ridiculous custom to establish.

Mr. Chairman, why should the States of Pennsylvania, New York, Ohio, or any other State, tax their people to go down into Alabama and Tennessee and build this great monstrosity which will sell power at less than cost? The operation of T. V. A. taxes the people of every State because they want to benefit the people of two or three States at the expense of the taxpayers of every other State. I cannot for the life of me see why we should do that, and, as far as I am concerned, I do not intend to vote in favor of such a proposition. It is wrong in principle besides being unconstitutional.

When the Tennessee Valley Authority was created 2 years ago by the Congress of the United States, it was through the persuasion of the President, Mr. Roosevelt, and Senator NORRIS. Mr. Roosevelt's responsibility is going to be the responsibility of the taxpayers of my State, and I want them to know who is responsible for this monstrosity, this socialistic business. When I think of the Members of Congress doing those things that are directly against the welfare of the people of their States, then I know where else to place the responsibility as well.

When we authorized this $50,000,000 corporation, the question arose in my mind where, why, and when will the corporation dispose of these bonds. Why have they not done so up to this time? The reason is because nobody will buy the bonds. No one wants the bonds of a Government corporation, because they know that the Government's business is run for less than cost, and eventually the corporation will go out of business unless the Federal Government continues to pile in money in order to keep it up. This happens to all political corporations operating business. We have spent, under the Public Works Administration, $25,000,000. The committees of Congress have granted $50,000,000; the Emergency Relief, $1,000,000; the R. F. C., $10,000,000; and they have turned over the earnings of the corporations amounting to over $548,000. All of the money that has been expended down there since the creation of this Authority runs well over $86,000,000. With the $150,000,000 we already had invested in there it seems to me eventually we will have more money invested in the Tennessee Valley Authority than anyone in this Congress or in any past Congress ever dreamed of having invested there. And we have just started to spend money on the T. V. A. It will be a drain on the Federal Treasury for years to come.

The statement is being made by the gentleman from Mississippi [Mr. RANKIN] that if the power interests of this country would charge the same rates as are charged in the Tennessee Valley Authority the people of the States of Pennsylvania and other States would save so much money. There is nothing that does me more good than to note that the gentleman from Mississippi is in the Chamber at this time, because if he were absent I would not want to make these statements. The statement which the gentleman from Mississippi [Mr. RANKIN] makes about the savings to the people of the various States is one of the greatest fallacies and one of the most absurd statements that anyone could possibly make. There is not a word of truth in the statement, because of the fact that he bases his whole premise on the fact that he would charge the same rates as the Tennessee Valley Authority, which throws the whole thing out of the realm and bounds of good, sensible business.

[Here the gavel fell.]

Mr. RANSLEY. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. RANKIN. Will the gentleman yield?

Mr. RICH. I will yield after I conclude my 3 minutes.

Mr. RANKIN. The gentleman ought to yield.

Mr. RICH. I am going to yield just as soon as I get through making this statement. I want to show why the statements of the gentleman from Mississippi [Mr. RANKIN] are incorrect, why they are in error.

The Tennessee Valley Authority does not know how to figure costs. It refuses to allow a proper system of bookkeeping to be established. When we said we were going to make that a yardstick, it seems to me we made nothing but a toothpick. No share of the overhead or the general expense of the Federal Government, as figured by good business, is reckoned with.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. RICH. I do not yield until I get through.

No financing expenses and no interest charges except 3½ percent on part of the investment are figured. They do not have any insurance charge, as the Government carries this risk. They have no State or Federal workmen's compensation expense to pay. They do not figure in this project any real-estate taxes, which every private corporation has to pay, because the Government is not supposed to pay such a tax, because the Federal Government does not pay such taxes. It is wrong in principle. They pay no automobile taxes. They do not have the 3 percent utility tax that a corporation pays. They do not figure on any capital-stock tax which a corporation has to pay. They do not figure on any income tax which the Government charges all other corporations. The Tennessee Valley Authority also gets rebates on freight and express. The Tennessee Valley Authority gets free postage under the Government franking privilege. You know there is no corporation that gets anything like this. They have free use of the Government departments here in Washington. They have free use of Government offices and of Federal offices for use in the operation of the administration here in Washington. They keep the accounts of the

Tennessee Valley Authority as they see fit, not in accordance with good business custom. Now, who are these people who are keeping all these accounts and doing all this figuring? Are they men having experience in business, or are they college professors, or inexperienced, unsuccessful people?

[Here the gavel fell.]

Mr. RICH. I yield now to my colleague from Mississippi.

Mr. RANKIN. I will get time from the gentleman from South Carolina.

Mr. RICH. I want to yield to my colleague from Mississippi and answer his question. Give me 1 minute, so I can yield to my colleague from Mississippi.

Mr. RANKIN. I will answer the gentleman in my own time.

Mr. RANSLEY. I yield to the gentleman from Pennsylvania 1 minute.

Mr. RICH. Now, I want to answer the gentleman's questions, because I have always contended they are nothing but fallacies, and I would like to have the gentleman ask me the questions, because I would like to answer them for him.

Mr. RANKIN. If I thought the gentleman could answer any questions, I would not mind asking them, but he has so deliberately misrepresented what I said here that I shall get my time from the gentleman from South Carolina.

Mr. RICH. Then I decline to yield, because I do not believe the gentleman can ask an intelligent question. [Laughter.]

Mr. McSWAIN. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi.

Mr. RANKIN. Mr. Chairman, my wailing friend from Pennsylvania [Mr. RICH], who has just left the floor, so thoroughly misrepresented what I said a few days ago that I take this time to answer him.

In the first place, he jumps on the Tennessee Valley Authority yardstick. I thought the Power Trust would come back at me if I simply used the T. V. A. figures, and I therefore put into the RECORD the amount the people in each State would save if under the Tacoma, Wash., rates. Tacoma has a plant that cost $23,000,000, and that has paid down to $7,000,000. In a few years it will be paid out entirely and will be able to further reduce all electric light and power rates to the people of Tacoma. According to the Tacoma rates the people of Pennsylvania are overcharged $74,907,000 a year.

The gentleman from Pennsylvania does not know anything about this question. These figures have been in the RECORD for weeks, and have not been questioned by anyone who does know.

With a gross revenue of $1,940,994 the Tacoma plant paid $145,575 taxes last year; gave to the city of Tacoma $200,545 worth of free service, set aside for depreciation $400,053; paid interest on its indebtedness to the amount of $435,322, and still made a net profit of $508,190; and at the same time gave the people of Tacoma the lowest light and power rates in the United States.

According to the Tacoma rates, the people of Pennsylvania are overcharged $74,907,000 a year for electric lights and power.

The people of New York are overcharged $127,618,000 a year.

The people of the State of Ohio are overcharged $47,529,000 every year.

The people of the State of Oregon are overcharged $6,510,000 every year.

The people of the State of Maine are overcharged $5,229,000 every year.

The people of the State of New Hampshire are overcharged $3,459,000 every year.

The people of the States of Vermont and Rhode Island together are overcharged $8,367,000 a year.

The people of the State of Massachusetts are overcharged $37,557,000 every year.

The people of the State of Connecticut are overcharged $14,397,000 every year.

The people of the State of New Jersey are overcharged $39,563,000 every year.

The people of the State of Indiana are overcharged $19,189,000 every year.

The people of the State of Illinois are overcharged $59,261,000 every year.

The people of the State of Michigan are overcharged $33,768,000 every year.

The people of the State of Wisconsin are overcharged $17,787,000 every year.

The people of the State of Minnesota are overcharged $13,911,000 every year.

The people of the State of Iowa are overcharged $11,808,000 every year.

The people of the State of Missouri are overcharged $20,249,000 every year.

The people of the State of North Dakota are overcharged $1,860,000 every year.

The people of the State of South Dakota are overcharged $2,345,000 every year.

The people of the State of Nebraska are overcharged $6,770,000 every year.

The people of the State of Kansas are overcharged $8,954,000 every year.

The people of the States of Delaware, Maryland, and West Virginia, together with the District of Columbia, are overcharged $24,762,000 every year.

The people of the State of Virginia are overcharged $9,698,000 every year.

The people of the State of North Carolina are overcharged $11,653,000 every year.

The people of the State of South Carolina are overcharged $6,292,000 every year.

The people of the State of Georgia are overcharged $9,900,000 every year.

The people of the State of Florida are overcharged $8,465,000 every year.

The people of the State of Kentucky are overcharged $8,398,000 every year.

The people of the State of Tennessee are overcharged $10,201,000 every year.

The people of the State of Alabama are overcharged $6,344,000 every year.

The people of the State of Mississippi are overcharged $4,117,000 every year.

The people of the State of Louisiana are overcharged $7,477,000 every year.

The people of the State of Oklahoma are overcharged $8,946,000 every year.

The people of the State of Texas are overchargd $24,922,000 every year.

The people of the States of Montana and Utah together are overcharged $6,589,000 every year.

The people of the State of Idaho are overcharged $2,789,000 every year.

The people of the State of Wyoming are overcharged $1,323,000 every year.

The people of the State of Colorado are overcharged $6,461,000 every year.

The people of the States of Arizona and New Mexico are together overcharged $4,344,000 every year.

The people of the State of Nevada are overcharged $1,046,000 every year.

The people of the State of Washington are overcharged $11,661,000 every year.

The people of the State of Arkansas are overcharged $4,211,000 every year.

Mr. DUNN of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. RANKIN. I am sorry, but I cannot yield now.

Mr. DUNN of Pennsylvania. I want to say that I am a Pennsylvanian and I agree with what the gentleman from Mississippi says.

Mr. RANKIN. These figures have been in the RECORD and every Power Trust engineer has been on them and no man who understands the question has up until today questioned these figures.

Not only this, I put in the figures from Ontario and from Winnipeg, Canada.

No; the trouble is the gentleman from Pennsylvania is aiding and abetting the Power Trust in robbing everyone in Pennsylvania who turns on an electric light to the extent of seventy-four or seventy-five million dollars a year.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. RANKIN. No; I do not yield. It does not do any good to talk to him.

The gentleman from Pennsylvania has a mind like the pupil of the eye, the more light you pour on it the more it contracts. So I am not going to waste any more time on him. [Laughter.]

Another thing about the utilities in Pennsylvania. As I pointed out the other day, while the Republicans were in control of that State, they passed laws that exempted all real estate owned by these utilities from taxation and, today, they own $100,000,000 worth of real estate in Pennsylvania that is escaping taxation, and this tax is piled back onto the shoulders of the people of Pennsylvania who are paying these enormous electric light and power charges.

Mr. RICH. I may say to the gentleman from Mississippi that I do not represent any power interests of any kind.

Mr. RANKIN. I did not say the gentleman did represent them directly, but when he comes on the floor of this House and attacks this measure and undertakes deliberately to misrepresent the facts as they are in the record, in order to try to keep down this legislation, whether he is conscious of it or not, he is aiding and abetting the Power Trust that is robbing the people of Pennsylvania of from seventy-five to one hundred million dollars a year. [Applause.]

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I yield to the gentleman from California [Mr. FORD].

Mr. FORD of California. Mr. Chairman, the statement has been made that the T. V. A. encourages the building of competing electric plants in the Tennessee Valley. This is false.

Although more than 250 communities have applied to the Tennessee Valley Authority for electricity supply, and although many of these have voted bonds with which to construct a competing distributing plant, there is not a single instance in the entire Tennessee Valley region in which competition between the existing private utility and a duplicate municipal plant has taken place. The Authority has exercised its influence to the utmost to this end. Furthermore, although T. V. A. has statutory power to build competing lines, the Authority has not spent a single dollar in this way. Transmission lines and distributing systems have been purchased from existing utilities.

In Knoxville, Tenn., competition will be avoided by the purchase of the entire electric properties of the Tennessee Public Service Co. by the Tennessee Valley Authority.

There has been a deliberate misstatement of fact with respect to the price paid by T. V. A. for the Tennessee Public Service Co.'s property. The facts are a matter of public record and are generally available. The T. V. A. paid dollar for dollar for all the company's useful electric property.

The Tennessee Public Service Co. has been operating its electric properties very profitably and without complaint, except from rate payers, for years upon the basis of a valuation fixed by the Tennessee Railroad and Utilities Commission. The price paid by T. V. A. coincides with this rate base, less an item of $700,000 for property no longer used or useful.

The price paid by T. V. A. was approved as fair by the bondholders' committee. That committee, composed of representatives of large institutions holding the company's bonds, was formed to represent the bondholders informally in this transaction. On July 14, 1934, the chairman of this committee, himself a public-utility operator and also the chairman of the public utilities securities committee of the National Association of Mutual Savings Banks, made the following written statement to holders of these bonds:

While the committee has no direct personal knowledge on the subject, we are told, and have no reason to doubt, that the existing facilities in and around Knoxville can be duplicated for less than the amount the company is to receive if Mr. Lilienthal's recommendations are adopted.

He also said:

The hope all along has been that Mr. Lilienthal would make good his expressed purpose of dealing fairly with the owners of existing facilities. The informal committee is satisfied that he has.

Institutions represented on the committee referred to include the Equitable Life Assurance Society of the United States, the Massachusetts Mutual Life Insurance Co., the Washington Trust Co. of Westerly, R. I., the Columbian National Life Insurance Co., and the New Hampshire Savings Bank.

The price paid was fair to the stockholders of the company. These stockholders, preferred and common, cannot reasonably complain so long as a fair price was paid for the properties. To further insure against any valid claim that the transaction was not fair to the stockholders, T. V. A. agreed to assume the remaining term of a contract between the Tennessee Public Service Co. and the affiliated Carolina Power & Light Co., both Electric Bond & Share companies. This contract involved an obligation of almost $800,000 which would have otherwise fallen on the stockholders. A total of almost $3,300,000 of cash and liquid receivables is to be retained by the stockholders, in addition to a street railway and other property.

The T. V. A. rightfully refused to pay for watered stock. The charge from some sources that the deal is confiscatory because common-stock holders receive nothing and preferred-stock holders less than par raises this issue: Are stockholders in a quasi-public enterprise entitled to be paid out on stock which represents no investment and on property no longer used?

The common stock of $5,000,000 represents no equity, and the representatives of stockholders at no time during the negotiations seriously urged payment to take care of common stock. The facts are as follows:

As of December 31, 1933, the total capitalization of the Tennessee Public Service Co. amounted to $18,514,653. As of the same date the valuation of the company's property by the Tennessee commission, upon which it was entitled to earn a return, deducting for working capital, was $12,123,576. This discrepancy led the President to request the Federal Trade Commission to make an investigation and report. This report submitted to the President establishes—and it is undisputed—that the capital accounts were written up by $4,388,157 between October 31, 1930, and the following day, November 1, 1930, and that the company write-ups altogether total more than $5,000,000, the amount of the common stock.

Without any investment and in the face of a long, unbroken record of liberal dividends, the holding company which had this common stock issued to it, received a total of $846,000 in the four depression years, 1930–33, as dividends on stock representing no investment.

T. V. A. refused to pay for nonuseful property that added nothing to the company's assets. T. V. A. excluded from the rate-base purchase price items to cover superseded electric property amounting to about $700,000. This figure includes an item of $125,000 of property which had already been charged off against the depreciation account, an account which had been furnished from sums paid in by consumers for this very purpose. The balance of the deduction is principally represented by an antiquated and nonuseful steam generating plant, superseded for years by other sources of supply.

In addition to its electric system the company operated a street railway, which was subsidized by electric users. This street railway was in the rate base at $4,042,606. This railway, once profitable, has not recently earned a net return after depreciation. Nevertheless, the electric consumers had subsidized the street railway by paying rates high enough to permit an 8-percent return on the street railway. Sound financial practice in industrial and public-utility operation is to amortize, out of current earnings, investment in obsolete or inefficient properties. Instead of conforming to this principle of good management, this company continued to accumulate millions of dollars in its surplus account which

it paid out in dividends, without taking steps to write down the capital value of the street railway or to retire it. There is no obligation on the part of any public agency acquiring the electric property to pay for the street railway property under such circumstances.

The negotiations between the Tennessee Valley Authority and the owners of the Tennessee Public Service Co. were conducted on a basis of the facts, and with an expressed desire on both sides to reach a conclusion fair to investors and the public alike. It was desirable that controversy be avoided and everyone's energy be concentrated upon constructive matters. But the false, unfounded, and hysterical statements and innuendo in David Lawrence's articles were designed to injure the standing of all public utility securities, and lead the uninformed and credulous to sell sound securities at stampede prices. This would enable the insiders to make a clean-up and would be used to discredit T. V. A.

The facts of the Knoxville transaction show that T. V. A., in the words of a leading banker and utility executive, did "deal fairly" and that actual investment in useful property was at all times protected.

Here are typical quotations from the Lawrence articles considered in the light of the actual facts:

1. The T. V. A. ignored both the preferred- and common-stock holders altogether.

The common-stock holders had no equity, as disclosed by the report to the President by the Federal Trade Commission. No company representative ever seriously urged payment to take care of common stock. They put no money into the property, they received tremendous dividends on their watered stock, and obviously T. V. A. should have "ignored" them. The preferred-stock holders retained about $3,300,000 in cash and liquid assets receivables, a street railway on the books at $4,042,000 (which T. V. A. and Knoxville agree they will aid toward profitable operation), and other property which Mr. Lawrence entirely overlooked. Mr. Lawrence makes this ridiculous and entirely false statement:

2. The investors remain. Why should they take punishment? They saved their money and invested it. They had the protection of the laws of the several States and of the Federal Government * * *. And if there is disregard of a large part of the capital invested by the preferred-stock holders and total indifference to all common stock—which represents the opportunity or hope of reward for risks already taken—then what is to become of the whole wealth-producing and tax-paying economic system?

The inference here is that the stock of the Tennessee Public Service Co. represented investment. The facts are that on the night of October 31, 1930, at a time when all other prices had dropped abruptly, this company wrote up its books and issued common stock representing not one penny of investment. Dividends on this water were paid during the depression. On this stock, representing no investment whatever, the people of Knoxville, in the midst of the most desperate depression in the history of the United States, paid dividends in 1930 of $396,000; in 1931, $200,000; in 1932, $200,000; in 1933, $50,000. In other words, the people of Knoxville in these 4 years paid a total of $846,000 to stockholders who had not invested a dollar. In 12 years the return on the common stock alone was $3,388,000.

Third. Mr. Lawrence goes on to say this:

Consumers save, but pay higher taxes. This presumably would be passed on to the consumers. But something else more expensive would be loaded on the consumers. * * * Municipal power plants are usually tax-free. So there must be some way of replacing lost revenue.

The inference here is that T. V. A. plans to operate tax-free. This is misleading, and deliberately so, inasmuch as public records show that T. V. A. pays taxes in the form of 5 percent on its gross revenues to the States in which it operates hydro plants; that where it operates within municipalities or counties T. V. A. is committed to paying to the counties and cities, as compensation for the use of highways and streets, the same amount as a privately owned utility would pay as taxes on the same property; that the contracts between T. V. A. and the municipalities purchasing from it expressly provide that the municipality will pay to the general fund of the city and the county the same amount of taxes that would be paid by a privately owned utility; and that this principle is in actual practice today in the Tennessee Valley.

Fourth. From these false statements Mr. Lawrence goes on to the very height of ridiculousness when he says:

The Roosevelt administration has embarked upon a plan which, if applied to all the utilities of the country, will mean a loss of approximately $7,000,000,000 to the security holders of America.

If the $14,000,000,000 capitalization of the public-utility industry of the country coincides with the fair value of useful property, then, under the Knoxville procedure, the investors would receive dollar for dollar of useful property. If the fourteen billions of securities outstanding are partly water, and not useful investment, the people of the country under decisions of the Supreme Court are under no obligation to pay rates on this structure, and to that extent the value is diminished.

Mr. Lawrence's reckless hint of a $7,000,000,000 loss may be based upon the fact that the preferred-stock holders of Tennessee Public Service Co. will not have a hundred dollars returned on each hundred-dollar share and that this measure should then be applied to the $14,000,000,000 capitalization of the American public-utility industry. But the loss to preferred-stock holders in Tennessee Public Service Co. is due to the fact that about 33⅓ percent of the total capital assets of this company was not in the electric business at all but in the street-railway business. In determining the effect on the electric investor of this transaction as a precedent, obviously investment in street railway has no bearing. Or does Mr. Lawrence think that the electric consumers of the United States should continue to pay a return on street railways, many of which have long since been abandoned or written off against surplus, according to recognized sound financial practice? If this company, having a total net corporate income during only the past 12 years of $5,782,870.27, had made some provision for the depreciation in value and earning power of the street railway out of this sum instead of paying out substantially all of it in dividends, even the street railway would not now be troubling the stockholders. [Applause.]

Mr. McSWAIN. Mr. Chairman, I yield 15 minutes to the gentleman from Tennessee [Mr. TURNER].

Mr. TURNER. Mr. Chairman, it is not necessary to go into any historical discussion with reference to the T. V. A., because it is one of the best-known public projects ever undertaken in the United States. It was only a few years ago that our great humanitarian President and a friendly Congress decided upon this great development in the interest of not only the people who reside within the seven States in which this project is located but in the interest of all the people in every State in the Union.

The territory under consideration is located on the Tennessee River and its tributaries, and in area contains 44,000 square miles, or 26,000,000 acres. The Tennessee River is one of the finest streams in the United States. Rising in the mountains of Virginia, it flows a distance of more than 650 miles, through Tennessee, Georgia, Alabama, and Kentucky, and on into the Ohio River near Paducah, Ky.

No better place could have been selected in the United States for the beneficial experiments now under way in the Tennessee Valley, and I believe all parties who have accurate knowledge of the location and who are free from prejudice will agree with me on this point.

Some people say we have no right to tax people in the New England States and the States of the North and the West for a project located entirely in the South. This might be true if only people of the South were benefited, but we cannot benefit one section of the country with great public improvement without, to a certain extent, helping all other sections. Under former administrations millions and billions of dollars have been appropriated by Congress and spent on public improvements in all sections of this great land of ours, and perhaps the South has received less consideration than any other section, yet she has paid her taxes to help others, without complaint, to build up and improve

this Nation regardless of location of improvement. I have often wondered what would have been the position of the critics of the Tennessee Valley Authority had the project been located in their States or section of the country.

There has been some criticism of members of the Tennessee Valley Authority that they were men of poor judgment, that in their work they have deviated from the spirit and letter of the law, that they have entered into certain developments never contemplated by law, and so forth. They may have departed from the letter of the law in some minor instances, but not the spirit. In so doing, I venture to say their actions were for the best interest of the country and met with the approval of those who are in a position to know what they have done.

Severe criticism was registered against the Authority a few days ago by some Members of Congress because they had invested a few hundred dollars per head in fine-blooded cows in order to give the natives of that section and the thousands of daily visitors from all sections of the United States an object lesson in the production and worth of good marketable, registered cattle as compared with scrubs, such as are now found in various parts of the United States. Dr. H. A. Morgan, one of the most honorable and best-loved men in Tennessee, who has been identified with the University of Tennessee and the agricultural interests of that State for the past 40 years, has charge of this department, just as he had charge of a similar department while connected with the university. Dr. Morgan will be successful in his work with the Authority if let alone and will give to the world an object lesson that will be worth millions to the poor and uninformed farmers of the country who have never had an opportunity of knowing the difference in the value of a scrub and a blooded steer.

I believe the members of the Tennessee Valley Authority are honest men and that their greatest ambition is to make a success of the work the President, through appointment, has given them to do. No other three men in the entire history of our Nation have ever had placed on their shoulders such an enormous burden. The average man has no conception of the magnitude of the undertaking. The uninformed often criticize on false reports of some small expenditure of money without investigating to see whether such expenditure was wise or unwise. Such men seldom see any good in anything and never praise and encourage men for the great deeds they accomplish. Of course the T. V. A. is spending enormous sums of money, but it has not been shown that the expenditures were out of proportion to the work that has been done.

We have heard much in recent years about flood control and we have appropriated billions of dollars for that purpose, much of which has been wasted because it was not spent in a businesslike and systematic way. The T. V. A. proposes to, and will, give the country a practical lesson in flood control by the erection of high dams on the Tennessee River. Had this system of flood control been in existence a few years ago on the Tennessee and other rivers whose waters flow into the Mississippi or its tributaries, untold wealth would have been saved in the Mississippi Valley in 1927. In that disastrous flood I am sure there was more valuable property destroyed at an average cash value than it will take to complete the T. V. A. project. Should the people who happen to live in the great valley of the Mississippi bear all the loss of these disastrous floods that originate in other sections of the country? Of course not! We, as a generous nation, should be willing and anxious to do our part to help our fellow man in all cases of great emergency and distress. It is to be desired that the work in flood control begun by the T. V. A. will not cease until relief is given, not only to the citizens of the Tennessee and Mississippi River Valleys but to the entire country. For this reason alone, there should be no cessation of work on this project until it is finally completed.

There are other reasons, however, why this work should continue uninterrupted. I have often heard it said that the Tennessee River could be made one of the finest streams for navigation in the United States. The erection of dams for flood control will give to the business interests of the country a 9-foot channel from Knoxville to where it empties into the Ohio, a distance, as I have before said, of more than 650 miles. There is much heavy freight along this river, such as lumber, crossties, marble, coal, iron ore, and other valuable metals, that cannot be transported to the markets of the world except by water transportation. The people who own this vast amount of valuable products can never get relief except by Government assistance.

But there is something more to be done. After this stream is made navigable, if we want it to remain so for the use and benefit of future generations, we must stop erosion of the soil near the river. The T. V. A. has recognized this and has already begun the work. The valleys of the Tennessee River are comparatively narrow and the owners of the land along the Tennessee have not only cleared and put into cultivation the bottom lands, but have cleared and put into cultivation the hills along the river. The owners of these hill farms are ignorant of how to protect these lands from erosion. The result is that many of these farms have practically been denuded of the once rich soil that covered the rocks beneath. Years of neglect have wrought much damage. Heavy rains have washed great gullies down the hillsides and deposited silt and rocks in the river bed; thus from year to year the river is gradually becoming less useful for navigation. Under the guiding hand of the T. V. A. this eroded land will be redeemed and the river protected for future and present generations.

So far I have not mentioned one of the most important and disturbing factors connected with the project. After the completion of all the dams contemplated for flood control and navigation what shall we do with the power that can be easily and cheaply generated? This question has given the people more concern than all others combined. Shall we legislate in the interest of the great and powerful corporations who have engaged in the distribution of electrical energy or for the masses of the people who are groping in darkness and who have heretofore, on account of excessive rates, been unable to acquire the luxuries of life flowing from the use of electrical appliances? I do not want to do the power companies any damage if it can be prevented, neither do I want to deprive the masses and poorer classes of their just dues; therefore, I hope the disturbing questions we have had to deal with may some day be settled in a just and fair way to all concerned.

The power companies were not as much interested in the welfare and happiness of the people they served, and others they might have served, before the T. V. A. was established, as they are today. They never thought of reducing excessive rates until they saw the handwriting on the wall. Since the T. V. A. started operations the power companies in many instances have reduced their rates to consumers from one-half to two-thirds of former rates. Now, who is entitled to the difference between their former and present rates, or the power rates and an equitable rate established by the T. V. A.? I, for one, feel like the people are entitled to the benefit of the doubt. I am looking forward to a day when electric energy will sell so cheap that all classes can afford to buy and receive benefits therefrom. I hope to see the day when the farmer who dwells in the valley or on the hilltop may have all the advantages arising from the generation and use of electricity that his brother in the city now enjoys. When we light the byways and the highways of country life the farm question will, to a great extent, be solved.

The reduction of electric rates by the power companies has, in my opinion, already saved the consumers of electricity in the United States more than the entire cost of the Tennessee Valley improvement. To show what is being saved to consumers of electricity where T. V. A. power has been installed, I insert and make a part of my speech two short articles from the Pulaski Citizen and the Tennessee Farm Bureau News.

[From the Pulaski Citizen, Pulaski, Tenn., Wednesday, Feb. 20, 1935]

A COMPARISON

For information of any who may be interested, we present the following comparisons of electric current used in Pulaski, and cost of same, for January 1935, the first month under T. V. A. contract, as compared with December 1934, the last month using current generated by local municipal plant.

Total kilowatts generated in December, 97,900.

Total kilowatts bought of T. V. A. for January, 119,900.

Increase 22,000 kilowatts.
Used for pumping water in December, 13,700 kilowatts.
Used for pumping water in January, 14,400 kilowatts.
Used for street lighting in December, 5,010 kilowatts.
Used for street lighting in January, 6,610 kilowatts.
Used for White Way, lights about the Square, in December, 2,475 kilowatts.
Used for White Way in January, 2,364 kilowatts.
Sold to all consumers, residential and commercial, in December, 65,847 kilowatts.
Sold to consumers in January, 67,197 kilowatts.
Receipts from consumers for December, counting all bills paid, $4,792.47.
Receipts for January, on same basis, $1,899.87.
Total cost of production for December, counting fuel oil, labor, etc., but not counting depreciation on plant or interest on investment, $2,128.18.
Total cost of current bought of T. V. A. for January, $765.70.

It is apparent that the citizens used more current in January than they did in December at a cost of less than half the amount paid for December. At the same time the city received for current sold more than double the cost of all current bought. As heretofore, citizens paid for current used for pumping water, street lighting, and White Way, and got current for use at less than half the former cost. And this without any investment in a generating plant.

Of current produced by oil engines, the selling price was a fraction over 225 percent of the cost of production. Of the current bought at the substation of T. V. A. the selling price is a fraction over 248 percent of the cost.

If a private citizen could make 23 percent more net profit in 1 month by changing his method of doing business, would you say he is justified in making the change? Especially when prospects are decidedly good for still better results in future?

[From the Tennessee Farm Bureau News, published by the Tennessee Farm Bureau Federation at Columbia, Tenn., Thursday, July 4, 1935]

T. V. A. YARDSTICK WORKS, SAYS LILIENTHAL—ATHENS, ALA., WITH T. V. A. POWER RATES, SHOWS NICE PROFIT—GREAT INCREASE IN SALE OF BOTH POWER AND ELECTRIC EQUIPMENT

If the Tennessee Valley Authority was created to establish a yardstick for measuring fair costs of electric power, it has certainly proven itself out, according to David E. Lilienthal, T. V. A. director and general counsel. In an address to members of the American Society of Mechanical Engineers on June 22 he cited specific instances of communities that were making handsome profits from the sale of T. V. A. power at the low T. V. A. rates that were established shortly after this body came into existence.

"The American people are not interested in theories", said Director Lilienthal. "What they want is results. The real test of any Government or private activity is: Does it work? * * * You can't stop a fact."

While there are a number of communities that have made T. V. A. rates pay, he made particular mention of results obtained in Athens, Ala., after its first full year of operation with T. V. A. current. "Previously the average domestic rate in the city of Athens", continued Mr. Lilienthal, "was about 5½ cents a kilowatt-hour, which is about the national average for such service. On June 1, 1934, the rates were cut 45 percent. Immediately the consumption of electricity began to increase. People began to buy and enjoy electric-using equipment. Today Athens uses three times the amount of electricity for residential purposes as was used at the time the rate cut was put into effect a year ago.

"The average residential cost per kilowatt-hour in Athens is now 2 cents, as compared to the 5½-cent rate that prevailed before T. V. A. entered the picture."

One fallacy exploded by Mr. Lilienthal was the oft-repeated assertion of power companies that no community or corporation could sell power at the rates established by T. V. A. without going broke. "What is the fact of the matter?" he asked, and then proceeded to answer the question. "The city of Athens received 20 percent more total revenue in May of 1935 under the low T. V. A. rates than it received in May 1934 under rates about twice as high. Not only that, but Athens, in a single year, is making more profit under 45 percent lower rates than it made a year ago. This profit results after paying all operating expenses, setting aside an adequate amount for depreciation, paying interest on bonds, and paying every nickel of taxes which a private utility would."

In mentioning the taxes that were paid he exploded another charge put out by many power companies to the effect that no taxes were required to be paid on T. V. A. current and that this placed upon private power companies an unfair competition.

"The electric consumers in their rates," explained Mr. Lilienthal, "pay into the General Treasury an amount equivalent to every kind and description of taxes, property taxes, sales taxes, etc., and after paying all these amounts and setting up these reserves the city of Athens has a surplus available as a dividend to the people of the community of 19.3 percent of gross revenues; that is, out of every dollar paid in by the electric users of Athens, 19 cents is available as a surplus for extensions, improvements, or further rate reductions."

Another very pleasing effect of low rates in Athens was the tremendous increase in the sale of electric equipment, such as refrigerators, water heaters, electric ranges, etc. During the year of T. V. A. operation dealers in electric equipment sold electric appliances to the power consumers of Athens to the amount of $112 per residential customer.

"There are 20,000,000 residential power consumers in the United States", continued Mr. Lilienthal. "Think of the terrific impulse to the stimulation of industry in the durable goods field if by reduced rates following the T. V. A. principle these 20,000,000 consumers, as a result of these sound and sensible rates, were to make an average expenditure of $112 per customer for equipment. At even $100 per customer, there would be an added column of production in the durable goods field of $2,000,000,000."

While Athens was the town used as an example of the T. V. A. yardstick, it is known that other towns in the valley area are able to show similar results. Among these towns might be named Tupelo and Corinth, Miss., and others.

Time will not permit me to mention or dwell upon all the useful experimental work that will be done by the T. V. A. I want to see nitrates, phosphates, and high-class fertilizers manufactured at Muscle Shoals for the benefit of the farmers throughout the Nation. Nothing should be and will be neglected by the Authority that will be to the interest of national defense in case of war.

Now, the results accomplished in the towns above mentioned will some day be accomplished in every progressive town and city in the United States. You Representatives of the East, North, and the West join hands with your brother Representatives of the South and help us put over this great project that will in a few years mean as much or more to your people than it means to ours.

Let us look at this proposition from a business standpoint. We are supposed to be average business men; if not, we are not competent to be good Representatives. Up to date millions of dollars have been spent toward the completion of this great enterprise. Would it be good business sense to stop the work now and throw away the millions already invested? I think not. As I see the situation, we should not hesitate to make the necessary appropriations to complete the job and thus give to the world the greatest object lesson, for the benefit of all the people, ever conceived in the minds of men.

I will not discuss the bill under consideration at length. The bill, if passed as it came from the Military Affairs Committee, will greatly hamper the T. V. A. in the progress of its work. In fact, some portions of the bill, if enacted into law, will be absolutely destructive to future developments. It is nothing more than fair to the T. V. A. and to the people they represent that we pass a bill that will help rather than hinder the progress of this great work.

The people of this country, like the Three Wise Men of the East, have seen the star of hope and will not cease their onward march until they reach the place where they may receive some of the rights, lights, and benefits that God made possible for them when he created the hills and the rivers of the Nation. [Applause.]

Mr. WILCOX. Will the gentleman yield?

Mr. TURNER. I yield.

Mr. WILCOX. I did not want to interrupt the excellent speech of the gentleman from Tennessee, but I could not let the Committee rise for the evening without making this observation in answer to the statement made by the gentleman from Pennsylvania [Mr. RICH], in which he outlined certain advantages that he claimed the Tennessee Valley Authority had. The record of the hearings discloses the fact that the rebate on freight rates from the land-grant railroad does not amount to more than three ten-thousandths of a cent per kilowatt-hour. And as to the further statement he made that the Tennessee Valley Authority was not required to pay postage, this is not true, as the record of the hearings discloses that the Tennessee Valley Authority pays postage on its bills that it mails out, and that it does not enjoy any other advantages not enjoyed by privately owned public utilities.

Mr. McSWAIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DRIVER, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee had had under consideration the bill (H. R. 8632) to amend an act entitled "An act to improve the

navigability and provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933, and had come to no resolution thereon.

ALLOTMENT OF FUNDS TO THE UNITED STATES FOREST SERVICE

Mr. HOOK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. HOOK. Mr. Speaker, ladies and gentlemen of the House, I am very much interested in the United States Forest Service, and in prefacing my remarks with regard thereto let me quote from a speech given by our great leader, Franklin D. Roosevelt, the President of the United States:

It is common sense and not fantasy to invest money in tree crops just as much as to grow annual agricultural crops. The return on the investment is just as certain in the case of growing trees as it is in the case of growing potatoes or cotton or wheat or corn; and judging by present-day fluctuations in the prices of agricultural crops the tree crop is often a safer investment.

Because we are a young Nation, because apparently limitless forests have stood at our door, we have declined up to now to think of the future. Other nations whose primeval forests were cut off a thousand years ago have been growing tree crops for many hundreds of years.

I am convinced that herein lies a fertile field, not only for the legitimate investment of capital but also for the employment of labor.

Well I remember the days of my youth at L'Anse, Mich., reared in the midst of what people now refer to as the "whispering pines." I recall the old-time lumberjack who went into the virgin forests to log out the timber which, at that time, people thought was inexhaustible. Well I remember the hum of the sawmills as I worked in that great industry of the logging of timber. Well I remember how the timber was slashed and cut without any regard to the future of the industry.

Well I remember those logging officials who had no thought for the social security of those communities but had only a thought of making money fast and leaving nothing behind but sawdust and scrap iron, the remains of what was once a hustling, busy sawmill town. Well I remember the old slashings that were left behind, only to be a fire hazard and the cause of many devastating forest fires that destroyed thousands of acres of valuable timber and endangered the lives of thousands of people. Well I remember the working in the sawmills, the woods, logging camps, and planing mills at Odanah, Wis., for the J. S. Stearns Lumber Co., where the finest stand of white pine and Norway timber in the United States was slashed out, leaving nothing but barren land and a ghost town. An example of what these monsters, devastation and ignorance as to forestry, have done to one of our greatest of all industries.

If you men and women could only go through my district in northern Michigan and see the thousands of people on the relief rolls, put there by the monsters just mentioned, people practically starving through no fault of their own, you could readily agree with me that the remarks I made on March 7, 1935, with regard to the resolution introduced by me, asking for a basic-data survey of the natural resources of the Upper Peninsula of Michigan are correct.

I hope you will give real consideration to the attempt I am making in behalf of that great worthy governmental agency to have a proper allocation of funds from the $4,880,000,000 fund, toward the end that the program of the United States Forest Service may be effective.

The Democratic Party has recognized the fact that we must preserve our forests, and Franklin D. Roosevelt during his campaign for President said:

We also know, as a practical matter, that unless something is done with this land the timber on it will have comparatively little value when it comes to maturity. It needs the aid of man to clear out the dead wood and encourage only the growth that will best serve the national need in the days to come.

Is there any good reason, financial, common sense, or otherwise, why the Federal Government should not undertake the proper care of its own property? Here again is another field for the employment of great numbers of our citizens.

I know that this is one of the things that our great leader of the Democratic Party believes in. I know this project is close to his heart, because he knows that the very lives of thousands of people depend on it. Almost too late people have awakened to the fact that their forests are not inexhaustible. Reforestation is not a lost art, even though some of our so-called "professional sociologists" would lead us to believe that the better plan of rehabilitation lies in other forms of work relief.

It seems to me, and I know that this is the thought of the great majority of this House, that the work-relief funds should be spent on projects from which the Nation and the people will derive the most benefit. I mean lasting, constructive benefit; not the temporary benefit of a little work now and back on the relief when the $4,880,000,000 has been spent, but spent in a way that it will help the wheels of industry to begin to move and save some of the industries that are now being threatened with extinction (including forestry). I cannot understand why the Allotment Board did not grant the $156,000,000 for the Forest Service. If they would consider it now, it is not too late to preserve our forests, one of our greatest natural resources.

I trust that the members of that Board will give consideration to the Forest Service and allot the proper amount of money so that the Forest Service can carry out the carefully laid plans. If they do, I assure you we will take 90 percent of the people of my district off the relief rolls and keep them off.

For your information let me say that over 50 percent of the people in my district are on relief.

I am asking, in the name of humanity, to help us to help ourselves. Give us the proper amount to develop the lumber industry under scientific plans and you will have no need for relief directors or agents in my district. Oh, possibly that may have something to do with the present plans. The social-service workers would be out of a job, and that would be just too bad.

THE UNITED STATES FOREST SERVICE

The United States Forest Service was established by act of Congress in 1905, by enlargement of the old Bureau of Forestry of the Department of Agriculture and the transfer to it of the forest reserves previously administered by the General Land Office of the Department of the Interior.

Prior to that time the technical forestry work of the Government had been carried on by the Department of Agriculture, while the forest reserves, which had been created under the acts of 1891 and 1897 to protect the remaining timber and important watersheds on the public domain from destruction, had been without an adequate administration based upon knowledge of the principles of forestry. Government administration of the reserves had made apparent the necessity for scientific forestry to make their use adequately serve public needs. It had been the duty of the Secretary of the Interior to prescribe regulations which would insure the fulfillment of the objects aimed at in creating the reserves. Timber cutting must provide for the growing of a new timber crop.

Unrestricted grazing had seriously injured the range; it was necessary to devise methods for increasing the forage crop. Both timber use and grazing use must be so managed that water supplies would be maintained and bettered. All the resources of the forests needed to be given careful consideration and plans devised for their best development. Without such plans little of the value of the forests to the public could be secured. Technical problems were involved which the officials of the Interior Department felt to be outside their province. They, therefore, at first requested the aid of the forestry experts of the Department of Agriculture as advisors and soon recommended the transfer of administration of the reserves to the Department of Agriculture.

In 1907 the name "forest reserves" was changed to "national forests" by act of Congress, to indicate that their resources are not locked up as "reserves" for a distant future. National forests are under Government management for the purpose of securing sound development of large

areas of timberland in the best interests of the public, socially and economically.

The policy under which the national forests are administered by the Department of Agriculture through the Forest Service was laid down by the Secretary of Agriculture in a letter to the Chief of the Forest Service, dated February 1, 1905, in which he said:

In the administration of the forest reserves it must be clearly borne in mind that all land is to be devoted to its most productive use for the permanent good of the whole people and not for the temporary benefit of individuals or companies. All the resources of the forest reserves are for use, and this must be brought about in a thoroughly prompt and businesslike manner, under such restrictions only as will insure the permanence of these resources. * * * You will see to it that the water, wood, and forage of the reserves are conserved and wisely used for the benefit of the home builder first of all, upon whom depends the best permanent use of lands and resources alike. The continued prosperity of the agricultural, lumbering, mining, and livestock interests is directly dependent upon a permanent and accessible supply of water, wood, and forage, as well as upon the present and future use of these resources under businesslike regulations enforced with promptness, effectiveness, and common sense. In the management of each reserve local questions will be decided upon local grounds, the dominant industry will be considered first, but with as little restriction to minor industries as may be possible; sudden changes in industrial conditions will be avoided by gradual adjustment after due notice, and where conflicting interests must be reconciled the question will always be decided from the standpoint of the greatest good of the greatest number in the long run.

Lands which are more valuable for agriculture than for forestry purposes have been excluded from the national forests either by changes in the forest boundaries or by being opened to settlement and entry under the Forest Homestead Act of June 11, 1906. The act of August 10, 1912, which directed that the national-forest lands be classified for the purpose of determining those which are chiefly valuable for agriculture, has resulted in practically all agricultural lands within the national forests being listed for entry in the United States land offices.

Mineral deposits within national forests, except such forests as were purchased under the act of March 1, 1911, are open to development exactly as on unreserved public land unless otherwise provided by special acts of Congress.

By the time the national-forest system began, virtually all except some inferior remnants of the public domain within the States east of the Great Plains had passed to State or private ownership. The poor lands remaining in Federal control were inadequate to meet public needs. The purchase of additional lands valuable for the protection of the headwaters of navigable streams or for timber production and their reorganization as national forests were therefore authorized by Congress, first by the act of March 1, 1911, called the "Weeks law", and later by the amendatory act of June 7, 1924, known as the "Clarke-McNary law." For the conduct of this purchase work the Weeks law established the National Forest Reservation Commission, which consists of the Secretary of War, the Secretary of the Interior, the Secretary of Agriculture, 2 Members of the Senate, and 2 Members of the House of Representatives.

Under this purchase program, as the Government obtains title the forests are put under systematic management with the object of improving their regulative effect upon streamflow and of increasing the supply of forest products. The timber alone on the eastern national forest lands purchased up to 1933 has a present value greater than the entire cost to the Government of acquiring these lands, although much of the land had been depleted by lumbering and fires before it was purchased. Under the practice of forestry the stands of timber are increasing at the same time that the protective value of the cover as a regulator of stream flow is materially improved.

The purchase program for national forests in the East was greatly enlarged when, on May 20, 1933, the President allotted by an Executive order $20,000,000 of emergency funds for the acquisition of lands for national-forest purposes. A supplement allotment of $10,000,000 was made in 1934.

These funds were exhausted on March 31 of this year. Approximately 8,000,000 acres were approved for purchase under these allotments, bringing the total area of lands Federally owned or in process of acquisition for national-forest purposes east of the Great Plains to a little over 14,000,000 acres.

Along with the administration of the national forests, the Forest Service has had the responsibility of promoting and aiding the development of State forestry and private forestry.

There are in the United States some 420,000,000 acres of land owned by States and private individuals, the principal value of which is for growing forests. In order to bring about the protection of these lands from fire and the replanting of the forests where they have been destroyed, the Federal Government offers financial aid to the States under the provisions of the Clarke-McNary law of 1924.

The number of cooperating States in fire protection is 39, and the total area of State and private land covered by this protection is approximately 266,000,000 acres, a little over half of the total area in need of protection.

During 1932 the total area of forest land in the United States which was reported as having been burned over was 43,500,000 acres. By far the larger part of the area burned over—40,000,000 acres—was unprotected land, an indication of the value of organized protection.

The funds provided by the Federal Government for this work in the fiscal year ending July 1, 1935, were $1,436,987 and State and private funds budgeted for the same period totaled $4,508,248. These projects are administered by the State forestry departments, with which the United States Forest Service cooperates in developing plans and inspecting the work. Under the terms of the law the Federal Government limits its expenditures in a given fiscal year to a sum not greater in each State than the funds expended by the State and private owners.

The Forest Service is also cooperating under the Clarke-McNary law with 40 States, including Puerto Rico and Hawaii, in the production and distribution of forest planting stock for windbreaks, shelter belts, and farm woodlands. A total of approximately 25,000,000 trees is distributed each year in these projects.

Another form of assistance offered by the Government under the Clarke-McNary law is aid to farm-woodland owners in the management and care of their timber. In this project Department of Agriculture and the Forest Service are cooperating with 31 States and Puerto Rico. The work is focused particularly on the more efficient management of farm woodlands, the reforestation of those farm lands not now suitable for agricultural crops, and the marketing and utilization of farm timber. Approximately 127,000,000 acres, or about one-third of the forest land of the country is in farm woodlands.

Comparable in importance with the administration of the national forests are the many investigative activities in field, laboratory, and office that are grouped under the heading of forest research. These investigations cover a wide range of subjects, including the growth, management, and protection of the forests, the management of livestock range within forest areas, and the conservative and effective utilization of forest products, as well as the economic features of forest ownership, production of lumber and other products, and the country's present and future need for timber.

By far the greater part of the investigative work is conducted at 11 forest experiment stations in regional units that roughly correspond to the major forest regions of the country. In each, so far as the needs of the region require, are represented the investigative activities relating to forest management and protection, forest products, forest economics, and range research.

The research work of the Forest Service has built up, and continues to build up, a vast fund of knowledge of forestry methods necessary to proper administration of the national forests, and it is rendering great service to other agencies of the Government and to State and private agencies concerned with related problems, such as erosion control, livestock grazing, and so forth. A number of younger governmental agencies are developing important phases of their programs on the basis of knowledge and technique developed by

Forest Service research. By making available to the public the results of its research in the fields of wood utilization, silviculture, range management, and forest economics the Forest Service has helped wood-using industries, ranchers, and others to save millions of dollars.

In the past 30 years the Forest Service has amply demonstrated its capacity to meet the responsibilities of public service it was charged with in 1905. It has developed an organization of trained men, an organization of high ideals and high professional standards, universally recognized for its honesty and efficiency.

The decentralized organization of the Forest Service enables it to transact business with the public directly on the ground and keep in close contact with the needs of the public it serves. As the Chief Forester, Mr. F. A. Silcox, said in a statement to a group of his men at Ogden last fall:

> I firmly believe that it is essential to tie and integrate the Forest Service to the local communities on a democratic basis. And I want the citizens of the United States to watch the person pushing the action button; to have wide-open the channels by which those processes and their effects can be seen. For we have an opportunity to prove that it is possible to keep a governmental bureaucracy, if you please, so closely related, through decentralization and through closely integrated contact with the people of the community, that they have a real and an actual voice—not merely a gesture—in vital questions of policy which affect them.
>
> I firmly believe the Forest Service, through its experience of over 30 years, is going to maintain that point of view. I know we have the group spirit. I find, in the management of forest lands, a great opportunity to prove conclusively that you can go along operating a bureaucracy which does not become hidebound, inaccessible, and crystallized in a set mold. We have proved, and we can prove, that the dangers of bureaucracy can be avoided; that it can keep itself close and responsive enough to the citizens of the United States so that they can feel that the organization is their servant and is doing its job for the citizens of the United States rather than superimposing on them regimentation and regulation.

The efficiency and flexibility of its organization and its long experience in meeting emergency situations enabled the Forest Service in 1933 to expand almost overnight its program of forest improvement and protection work many times over, to take care of some 80 percent of the work program of the C. C. C. On top of this it provided some 26,000,000 man-days of useful work in the national forests last year as a contribution to unemployment relief, through public-works funds allotted to it. Through all this vastly expanded work program the Forest Service has stuck to its old established policy of getting a dollar's value for every dollar spent.

The Forest Service was the first group in this country which emphasized, and kept on emphasizing, the need for conservation of timber, soil, grass, water power, and the need for planned land use. It has successfully carried on planned land-use management for 30 years in the national forests. Under the so-called "multiple use" system by which the national forests are administered, all areas within a given unit are devoted to the use for which they are best suited and by which they can best contribute to the social and economic welfare of the local communities and the Nation as a whole. Such uses might be timber production, grazing of livestock, watershed protection, range for wildlife, or recreation, or a combination of these, and all these uses are coordinated within the given land unit under carefully worked out, long-term management plans that look always to the fullest utilization of the resources on a sustained or continuing basis, and the greatest good to the greatest number of people.

The plan of management for the national forests seeks to make them the nucleus around which sound communities can be developed and maintained. Through the sustained and orderly use of their resources, local communities dependent upon those resources may be assured of continuous life instead of "boom and bust"; they are assured of stable industries giving stable employment, and thus of sound social and economic life. Through the program of land purchases for national-forest purposes the Forest Service is extending such beneficial management into many forest areas that otherwise would sooner or later be destined to become vast rural slums. In most of these areas the job of rehabilitation the Forest Service must undertake is a huge one, but the processes of orderly public management of substantial areas in these regions will from the start provide a groundwork for the development of stable communities.

In 30 years the United States Forest Service has built up a splendid record of leadership in conservation. It has led the way in showing by successful, large-scale demonstration that the basic resource, the land, and its products can be utilized and yet maintained, that they can be managed for permanence instead of being exploited and destroyed.

THE OTTAWA NATIONAL FOREST

This forest lies in the western portion of the Upper Peninsula of Michigan and includes a gross area of 1,738,553 acres. Of the gross area, 347,619 acres have either been purchased by the Government or have been optioned and the options approved by the National Forest Reservation Commission.

A study was made of the problems that confronted the Twelfth District of Michigan, and upon the basis of this study, coupled with my efforts and the efforts of the citizens of my district, that National Forest Reservation Commission approved the inclusion of Ontonagon and Gogebic Counties as a part of the Ottawa National Forest. It is my hope that we will extend this purchase to every other county in my district.

There are at this time in Gogebic, Ontonagon, Iron, Houghton, Keweenaw, Marquette, Baraga, and Dickinson Counties approximately 105,000 people on relief, costing approximately $650,000 per month. The total population of these counties is 204,608.

A development of the area from a forestry standpoint, if acquired by the Government, will provide 5,963,000 man-days of work; 9,800 employables, or two-thirds of the total number on relief, could be absorbed in national-forest work for the next 2½ years at a cost per man a year of $700. That is as to the immediate situation. These men would be working on Government property increasing its value, and in the long run the job would be liquidating.

Within the Ottawa National Forest the major remnant of virgin timber in the State of Michigan exists. Within Ontonogan and Gogebic Counties and immediately adjacent to these counties there are six sawmills plus a considerable industry engaged in the removal of pulpwood and other forest products. Approximately half of the people are dependent upon the wood-using industries for a livelihood. Within 10 to 15 years these industries will pass out of the picture, and the 20,000 people now supported by wood utilization will have to migrate elsewhere. The schools, the churches, and roads, and the communities themselves will of necessity be liquidated, and there will exist six more ghost towns to the credit of exploitation of renewable natural resources.

According to the analysis of the Forest Service, if under Government control or ownership, this timber could be operated under good forestry principles, the present employment could be continued, and in fact increased somewhat immediately and to a greater extent as time went on. The choice clearly indicated lies between the ultimate destruction of the means of livelihood of 20,000 people or the initiation of forestry methods that will insure permanent woods work for all time.

The Ottawa National Forest including the major extension in Ontonogan and Gogebic Counties was recommended to the National Forest Reservation Commission for approval on the basis of the economic and social security of the people and the industries lying within its confines. The success of the whole plan is contingent upon the carrying to a successful conclusion the acquisition program as approved by the Commission. It is the hope of the Forest Service that if through partial ownership of the available stumpage the Government can carry some of the load, the industrial structure will carry the remainder and operate the timber under proper cutting methods.

The opportunity exists within this area to establish a public forest comparable to the best European forests, with a sustained yield of forest products that will support 20,000 people in the production and fabrication of wood. By the

same token, if remedial action is not taken, the area will follow the course that has been universal in the remainder of the timberlands of the State, with no employment and the ultimate destruction of all values now existing.

Relief statistics and other data with regard to the immediate situation and what might be done are attached.

County	Population	Relief families	Persons on relief	Percent on relief	Employables	Relief load, month of May
Iron	20,045	3,000	14,000	70	2,800	$70,000
Houghton	54,000	5,300	21,600	40	2,000	180,000
Gogebic	31,577	4,200	17,900	55	2,500	140,000
Ontonogan	11,114	2,775	7,400	65	2,000	60,000
Baraga	10,000	852	3,608	36	580	19,200
Total	126,736	16,127	64,508	----	9,880	469,200

The purchase objective for the next year on this forest is set at 800,000 acres. Including mature timber cases, the average cost per acre is estimated to be $10.76.

The above acreage, on basis of planned work, will provide 3,556,000 man-days of work, or 177,800 man-months, on basis of 20 days to the month.

At $44 per month, the cost of work relief for the 9,800 employables now on relief amounts to $5,174,400 for 1 year.

At $44 per month, the total work available on the 800,000 acres to be purchased in the next 12 months would cost $7,823,200.

PAYMENT OF ADJUSTED-SERVICE CERTIFICATES

Mr. FISH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. FISH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following copy of a letter sent to Members of the House of Representatives urging them to sign a petition at the Clerk's desk to discharge the Committee on Appropriations from consideration of House Joint Resolution 300, directing the payment of the adjusted-service certificates to World War veterans out of the appropriation of $4,800,000,000 for public works:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., July 8, 1935.

MY DEAR COLLEAGUE: I am writing to notify you that I filed today, at the Clerk's desk, a petition to discharge the Committee on Appropriations of House Joint Resolution 300, authorizing and directing the payment of the adjusted-service certificates to World War veterans out of the appropriations of $4,000,000,000 and the unexpended balance for Public Works made by the previous Congress. The payment of the certificates to be made under the terms and conditions set forth in the so-called "Vinson bill", reported by the Ways and Means Committee and sponsored by the American Legion.

Most veterans are in debt and in need and are apprehensive if they are not paid now that the certificates may be paid within a few years on the basis of a third of the present value of the dollar or less.

The reduction of the value of the dollar has already violated the contract made with the veterans in 1925. In view of the fact that billions of dollars have been doled out of the Treasury to various groups throughout the country there should be no discrimination against the World War veterans nor should the obligation due them be paid in further depreciated currency.

From information I have received, veterans and business men generally would favor the adoption of the above proposal. Trusting you will take the first opportunity to sign your name to the petition and expedite favorable action, I am,

Sincerely yours,

HAMILTON FISH, Jr.

LABOR MUST KNOW WHAT THEY WANT

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. MAVERICK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech which I delivered June 28, 1935, at the John Marshall High School, Richmond, Va., before the Central Trades and Labor Council and several other labor organizations of Virginia:

Friends and fellow Americans, I am appreciative of the wonderful introduction that has just been given me and to be once again called a "war hero." It's a great thing to be a war "hero." You can go off to another country, get killed, a leg shot off, get your eyes shot out, your nose and ears off, or come back with a disease, and then be a hero. That might be called the "fruits of war", or preferably, "the glories of war." I can remember when I came back from the war, that it was the first time that I ever had my picture in the paper. I was mighty proud. But before long I got to thinking and when I got to thinking and saying what I thought, they called me other kinds of things. And that makes me think that you are not always what they call you. Of course, I wasn't a hero—I just got ordered to France and got in the way of some high explosive. It is only when you do something independent and use your own head that you get called what you are not. It is only when you get your head shot off that you get to be a hero; but if you "shoot your own head off" you're a Bolshevik.

Which brings me to this point, that I am over here to speak before the labor organizations of Virginia and to help you organize into a strong union or unions, and I assure you that if you do you are not going to get called "heroes." You may get called anarchists, Communists, cutthroats, criminals, and murderers, but not heroes. I suppose that in this audience that about 90 percent of you come from old American stock, and to call you radicals, or the things I mentioned, is simply ridiculous. But I'll guarantee you that they will call you plenty, as they did me when I began to say what I thought, and at first it burned me up. But now, since I've met a few real men in Washington, like Senators WHEELER, COSTIGAN, LA FOLLETTE, BONE, and Senator NORRIS—who, by the way, is the greatest living American—and realize the persecution through which they have gone and always will go as long as they live and stand up for what is right, for real constitutional liberties, and for trying to make this a decent country to live in—well, now, I can take anything.

You see, the way they try to end an argument now is to call a man a Communist. Ordinarily, the man who says it is a coward or a fool and to call any man who is born in this country, who doesn't know any more about Russia than he does about the tenth dimension, is just silly. So I guarantee you in advance that you are going to be called everything if you organize, but I say organize, and when you get called things you are not, don't get burned up—just tell them to "go to hell" and go on and organize.

I might as well start out by saying that the labor movement is not anywhere nearly as strong as it ought to be; that it is not unified, and I doubt very much whether many of its members know exactly what they are fighting for, except higher wages. What economic principles are they for? How do they stand on constitutional questions? Well, I should say that they have taken no definite stand, and don't know exactly what they want.

There's been a lot of talk lately about the Constitution, about our forefathers, and so on. I haven't come into Virginia to give you any particular advice, but I hope that Virginia, with its rich heritage of liberalism and some of the real great men in America, can again join the vanguard of the liberal States and liberal citizens of this country and help save the country once again. Virginia has done it before, and there's no reason why she can't do it again. Anyhow, we hear so much talk about the Constitution now, that we might go into some of the details of it, and also some details of the Declaration of Independence, and of things in general.

I really don't think its necessary to go into all these details, except that the matter has been discussed; because whenever the American people know what they want, whenever they have in their minds exactly how they can get out of this depression and work together, they can succeed in doing it. No constitution and no law can keep them from doing that, because when they know what they want, the Constitution and laws will be made to suit the people. In the meantime, they must live under the Constitution our forefathers made around a hundred and fifty years ago and laws enacted in accordance with that instrument.

But let us first consider the Declaration of Independence. We talk a lot about the Declaration of Independence and being free-born Americans, but it seems to me people have stopped reading it and have almost forgotten what is in it. Now, the Declaration of Independence at least means one thing: That we should have a right to work hard enough to live as free people, and that we should have a right to be happy with a decent standard of living. Also, that we should be independent and free-thinking, free-speaking, free-living American citizens. I think we can all agree to that. But we are told by great lawyers that the Declaration of Independence doesn't mean anything; that it was merely written, and that when the Articles of Confederation were adopted and the Constitution was adopted, that the rights called for and the aspirations expressed in the Declaration were eliminated.

Now, of course, from a viewpoint of the interpretation of what is actually written, that is literally true. However, we must remember that the Declaration of Independence was of a free people from the British Empire, and that we are no longer a part of the British Empire. If the Declaration is not in effect, at least in spirit, we are still a part of the British Empire. I'm here to say that we had a Declaration of Independence; we got our independence, and the spirit of the Declaration should still be in effect.

Now, fellow Americans, especially Virginians, all know about the Declaration of Independence, and you all know that it was largely written by Thomas Jefferson, great American and Virginian. We all know that it is one of the greatest documents that the world has ever known, and I am going to read just 110 of these immortal words to you. It tells the whole story, and everybody ought to read it over as often as they can. They are as follows:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and pursuit of happiness. That to secure these rights governments are insti-

tuted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish and institute a new government, laying its foundations on the principles and organizing its power in such form as to them shall seem more likely to effect their safety and happiness."

You will see that this document refers to rights—and to inalienable rights—that means that rights cannot be alienated or taken away from you; it refers to life, and when it says life it doesn't mean merely to exist, to half starve to death, with ignorant and sick children having no chance for an education or no chance in life at all. You will see also that it says liberty, and it doesn't mean the liberty to starve to death, but the liberty to live in a decent country where we have plenty of everything if we are willing to work. It says we are entitled to happiness, and we can't be happy when we are half starved and our children are growing up in ignorance and disease. It means full political freedom, and it also says that you have a right to change as you see fit, any government. There is absolutely nothing wrong with that and, as we know, if, before the Civil War, we could have effected certain changes and understandings through the Constitution and law, why, then, we might have saved ourselves that war. I do not say that we are likely now, or any time in the future, to have a civil war, or a revolution, even disorders, but I do say that it's plain, ordinary common sense to have a right to alter or change or improve your government if the government doesn't suit you. There's nothing radical about it; that's common sense; and, moreover, it's guaranteed to us in the Constitution. The citizens of this country who are really destructive of the government, and destructive of the right of the continuity of our national life, are the reactionaries who call themselves "conservatives"—who conserve nothing for the country and who are not willing to give up anything whatsoever, and who would keep all the abuses of today rather than make a change and give fair government to the people. They want to keep their cake and eat it, too, and cannot even realize the only way they can continue to eat is for everybody to eat.

Let us pass to the Constitution. We are speaking tonight in the John Marshall High School, named after a famous man who is revered by millions of Americans, but I suggest that sometimes you read something of his decisions, particularly *Marbury* v. *Madison*, and that you discuss its meaning and implications with your lawyers. As for John Marshall, he was the greatest enemy that Thomas Jefferson, the progressive, ever had. They despised each other and they had reasons for it. I shall not have time to go into all the details tonight, but at least, it is worthy of your future thought.

Now, I'm going to quote Thomas Jefferson on the Constitution. You will understand that I'm not saying this; it is something that Thomas Jefferson said a long time ago. No good Virginian can object to a Texan quoting Jefferson, and especially in what was once the national capital of Texas. The reason I quote this is that there is a great deal of discussion now about the powers of the courts of the country and the powers of Congress. Anyhow, here is what Thomas Jefferson said:

"It has long, however, been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our Federal Government is in the constitution of the Federal judiciary; an irresponsible body, working like gravity by night and day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction, et cetera."

Again, he said:

"Some men look at constitutions with sanctimonious reverence, and deem them like the Ark of the Covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human and suppose what they did to be beyond amendment. I know that age well; it was very like the present, but without the experience of the present; and 40 years of experience in government is worth a century of book-reading; and this they would say for themselves were they to arise from the dead." Listen closely, fellow Americans—he uses the words, "Were they to arise from the dead." Suppose Thomas Jefferson should rise from the dead, would he recognize some of the people using his name in vain? But he continues, "But I know also, that laws and institutions must go hand in hand with the progress of the human mind, as that becomes more developed, more enlightened, as new discoveries were made, new truths disclosed, and manners and opinions changed with the change of circumstances, institutions must advance also, and keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regiment of their barbarous ancestors."

That was what the great progressive Jefferson said over a hundred years ago. Jefferson is quoted by the reactionaries to prove we should never change or advance, but we have his own words that we should. He was a fair man; and he did not want to rule us from the tomb for a hundred and fifty years hence. Neither should we try to do it for those who will live a hundred and fifty years from now. Let us leave our descendants a decent place to live in and let them alone.

He also said:

"To lose our country by a scrupulous adherence to written law would be to lose the law itself with life, liberty, property, and all those who are enjoying them with us; thus absurdly sacrificing the end to the means, * * *. The unwritten laws of necessity, of self-preservation, and of the public safety control the written laws of mine and thine."

In discussing the Constitution, I suggest that you study the general-welfare clause and all its implications. The general-welfare clause has been forgotten in a maze of technicalities and it is hard to discuss in this speech. Give it study sometime.

But let us jump completely from Thomas Jefferson to Abraham Lincoln. He said:

"This country with its institutions belong to the people who inhabit it."

I suppose it is fortunate he is dead—he would be called a Socialist or a Communist for saying that now.

I repeat, fellow Americans, that the only reason I am quoting these famous Americans is to show some of the true light of history and also because our opponents and our enemies are always quoting our ancestors to suit their own ends. They take the bones of our ancestors out and rattle them around, and they generally always give out a hollow sound, because they are not quoting the true beliefs of the person, or else they are perverting the true ideas. Let's take Jefferson again, who is being misquoted now by the reactionaries: Time after time he has criticized any invasion of the liberties of the people; he always stood for economic justice; he opposed white ignorance and black slavery; he always, in numerous statements, wanted it so that the Constitution could be changed; stated that there would be a scientific advance, and changes should be made to meet this advance. Undoubtedly, he had some idea of the scientific advance that was to come, because he was something of a scientist himself. Even at that it was impossible for him to foresee the gigantic advance that was to be made, and the tremendous changes of modern industrial life. Have our people an inferiority complex? We hear people say, "Here are we, an ignorant people, trying to amend the Constitution written by Thomas Jefferson!" Then, if somebody suggests a progressive idea, some reactionary or half-wit says: "They must think they are smarter than Thomas Jefferson"—and so on; but Thomas Jefferson himself, as I have shown you, had no such idea. He wanted society to progress; he was himself a believer in constant change to meet the demands of the people. To the Constitution, he demanded that the Bill of Rights be added, which is principally known because it proclaims liberty of speech, conscience, and religion, and prevents arbitrary searches and seizures; this is a fundamental part of the philosophy of Jefferson, and, I should say, of true Americanism.

Now to go on about our Government here, and the Declaration of Independence written by Jefferson. As you know, he called himself a "Republican", but a Republican in those days meant Democrat, and he was the father of the Democratic Party. So let us consider what the mission of that party is. Yes, what is the mission of the Democratic Party? Is it to confuse the voters and give them misquotations of our ancestors and keep them starving for the sake of their ancestors? Are you people in Virginia, who have more ancestors per square foot than any other part of the country; who as a matter of fact have more real Americans per capita (at least, historically) in your history than any other State; are you to give up your rights because you had ancestors? Are we in Texas, at the same time, to turn all of our rights over to the bankers of Wall Street and let them drain our State of all its agricultural resources, take away our mineral resources, our oil and our gas, and ship it out of the State without even paying adequate taxes on it? That's really what's happening, fellow citizens, not just in Virginia and Texas, but all over the United States. This Declaration of Independence, in the early days of our history, was kept, except for the period of the Adams administration, when they had the alien and sedition acts; when they tried to keep people from talking and even criticizing the Government.

And what are we doing now? There is before Congress now a so-called "military disaffection bill" worse than the alien and sedition acts—this in a Democratic administration. This modern alien and sedition act, or I might say "military disaffection bill", makes it so that you cannot criticize the Army and Navy and, in effect, makes the Army and Navy supreme over the citizens of the country. This has always been since our beginning, a country in which the civil population is supposed to be superior to the military population; in fact, the military is supposed to take orders from the civilian population or the civil government. There seems to be an effort, and a concerted one at that, to take away the liberties of the people. You should be very jealous of this and should guard your liberties. The same people, the Tories of yesterday and the National Chamber of Commerce of today, are advocating this infamous, un-American bill. You hear the Tories of today yelling about the Constitution when it concerns some real or fancied property right, but they are actively favoring the violation of the Constitution in the military disaffection bill. They get very pious and self-righteous about it, too.

But to go on about liberty—what did Jefferson say after he got to be President? He said:

"I am for freedom of the press and against all violations of the Constitution to silence by force and not by reason the complaints and criticisms, just or unjust, of our citizens against the conduct of their agents."

Thomas Jefferson before, during, and after being President was what we call in Texas "puro hombre"—a good man—and "muy gallo"—very courageous.

Then, on the general subject of liberty and the rights of the people, and the Declaration of Independence, right of freedom of speech, and to live like human beings, let us quote again that eminent Virginian of recent years, Hon. Woodrow Wilson, who

was born in Staunton, and who later became President of the United States. He said as follows:

"I can imagine no greater disservice to the country than to establish a system of censorship that would deny the people of a free republic like our own their indisputable right to criticize their own public officials."

Then, after that, Woodrow Wilson, discussing the criticism of the acts of public officials, said that they had tried to make it unlawful to criticize the Government. He said: "Well, if it is, then there is a deep disgrace resting upon the origin of this Nation. This Nation originated in the sharpest thought of criticism of public policy." In other words, he suggested that the American people criticize just as much as they please.

And then they tell us we shouldn't talk too much nowadays—it used to be all right, but it isn't any more—and, again, I'm not saying this, it's Woodrow Wilson talking again in his book the New Freedom. Here's what he says: "Why are we in the presence, why are we at the threshold of a revolution? Because we are profoundly disturbed by the influences which we see reigning in the determination of our public life and our public policy."

Now, my friends, I have talked to you a long time and have said a lot about history. We discussed the Declaration of Independence, which means, I hope, that we have a right for liberty and independence; I mentioned the Constitution and the Bill of Rights and the right to talk, think, and pray as we please; I have mentioned the general-welfare clause in the Constitution, and, in general, have taken up a good deal of time. The main reason, however, that this is important is to refute some of the statements ordinarily made by people who are continuously ranting about the past. They misinterpret, as I said, the sayings of these ancestors, and they misinterpret the Constitution and the Declaration of Independence; they take the corpses of our ancestors and turn them backward and upside down; but they know no more than we do about history.

I cannot come to Virginia with the idea of telling you people of Virginia what to do. However, as I said once before, I'm an American, and so are you. With your aristocratic traditions you can go on and on if you want to. You can have your coats of arms, but I want my potatoes. I would rather have decent clothes and educate my children and live in freedom and cleanliness than to starve as a moldy aristocrat. I think this is true also of 99$^{44}/_{100}$ percent of the people of Virginia. I believe in an aristocracy of intellect, of courage, and of knowledge, but do not believe simply in an aristocracy which holds people down by yelping about ancestors. Thomas Jefferson was an aristocrat and didn't want to keep the people down. He was an aristocrat of courage and intellect.

Therefore let me try to get down to business. I hate to make a big speech and then have people go off and say, as they do about some speeches, "He made a good speech" or "He made a rotten speech", and you walk down the street and you can't even remember what the speaker had to say.

So I'll get down to what our problems are now, also making historical references. After the Civil War—and I know what I'm talking about, because I lived in Virginia and have talked to the people who lived there, including my mother—and the Yankees had burned things up and had caused plenty of havoc and waste—over in Albemarle County, when General Sheridan left, it was a pretty badly knocked out place. But you take in those days, they went in the back yard and the well was still there, and they got some water. The Yankees hadn't killed all the cows because they had wanted some milk, I suppose, or possibly some cream for the Yankee captain's coffee. So as soon as the Yankees left, they could still get water and they could still get milk, there were a few razorback hogs left, a couple of barrels of molasses, and maybe a little corn to make corn bread with—and maybe a little corn whisky, too. The old mill, down by the river, was still there—I can remember that mill as plain as yesterday, because it was still standing back in 1905, when I was a kid visiting there. So they went to work and made tallow candles, and they had light; they still had a few books, and they had learning. But what happens now? The first thing that happened when a man loses his job, he lives in the fifteenth story of a tenement house or an apartment house, or maybe just in a little house. He doesn't own it anyway, and the first thing they do is turn his water off, so his children and family can famish. Then he hasn't got a candle any more, so they turn his lights out. Finally they chuck him into the street.

Now, why is that? The answer is plain as day: The national resources are no longer in the hands of the people.

Remember that, if you remember nothing else. So, that is a problem which is different now than before.

Now, what could a man do in the old days? If they robbed him and took away his money and he got poor, he could move farther West.

He could move up over the mountains, or out over the plains. The resources were there; there were fertile fields to farm; there was game to kill and eat and a chance always for the people. That's the reason it didn't make much difference about laws and how often a man was robbed by exploiters. Then, we talk again about our ancestors! They tell us about how Thomas Jefferson says: "Those are best governed who are least governed." The reactionaries always tell about that. And, of course, government should not interfere with everything, but in those days the resources were where the people could get at them, and they could live on these resources, but now they can no longer do this. Therefore, I must tell you that the resources of the people, having been taken away from them, should be returned to them; and what Jefferson said would then still be true, for if the resources are in the hands of the people, and they have a chance to live decently by their own work, you do not have to have many laws with which to govern them.

The platforms of the Democratic Party and various parties—and I am not here praising my party—the ideas of our predecessors, the ideas of all honest men are that there should not be monopolies. I think it well established that if there is such a thing as a monopoly, that it should not belong to unregulated private hands for unregulated private profit. If it is unregulated, it is the power to govern and tax without the consent of the governed. Your light company is a monopoly. Your water company is a monopoly, and is probably owned by your city. So these monopolies which control natural resources are in your way and they keep you from making a living. They let wealth accumulate in a few hands; and with profit in so few hands the cost to the consumer is either prohibitive or exorbitant and there is less chance for employment.

So I am going to suggest to you a program for your labor organizations here in Richmond, and over the State of Virginia, and you don't have to take it if you don't want to. It's just for discussion. I'll give you my ideas, and if you want to adopt them it's all right; and if you don't, it's all right. But do something; get some idea and stick to it a while. Your duty is not only to you and your organization, but to all the people of all classes. I feel there's no use in making a speech and then simply going out with no suggestions. So I'm suggesting a five-point program. If you have just five objects, you can remember those five objects and remember why you're for them.

First. The first thing is to organize, and then keep on organizing and organizing and getting up the spirit, so the people will remember what it's all about, and don't just organize for a carpenters' union, or some other kind, but organize everybody you can. Make it so that the people understand they have some common objective; that they are working together for the common welfare; and make it so that people have some respect for the other man, including the "white collar" worker; and that's the only way that any of you are going to be able to see to getting things for yourself. But organizing means nothing unless you can do something with your organization.

In consideration of organizations, I think that you should immediately study industrial unionization. An industrial union, of course, covers a whole industry; it is stronger, it has more power, and it cuts out jurisdictional strife and is fairer to the employer. I am not here to tell you the details of your organization, but it seems to me the day of the old craft union is about over, and that old-time squabbles and rows about who's going to do what should be ended forever.

Second. I will take up this matter of monopolies and national natural resources. I explained to you how, in the old days and after the Civil War, still to a certain extent up to the Spanish War, the natural resources were in the hands of the people. But they are now in the hands of the utility holding companies and giant corporations of all kinds, so that you have little chance of economic opportunity for you or your children. Therefore, you must be for the abolition of these monopolies, or else you should be for the governmental ownership of them, or at least the strictest type of regulation. I am frank to say that I personally believe that eventually we should have Government ownership of public resource monopolies.

Third. Then there's this thing of machines. They say it takes about 10 percent of the farm labor to run a farm that it used to. So all over the country they were laying off farm labor, and the result was that the purchasing power of these laid-off people was almost entirely cut off; industries couldn't sell anything because people could not buy; and so industry began to break down. Then you take industry itself. Take a man up in Milwaukee, where he has a manufacturing business with 2,300 employees. He got it down to where he only had to have something like 35 to handle the automatic machinery. So he laid all but the 35 off, figuring he would pocket the difference in the salaries and get the extra profit. But the same thing was happening all over the country, and when it got through happening the result was that the purchasing power of the people was broken and there were less and less jobs. Now, what we've got to do is not be slaves to machines, but make the machines slaves to us. That will be accomplished, to a certain extent, by the public ownership of monopolies and by labor organizations. But in any economy we must have low prices, high wages, and almost unlimited production, it seems to me. Poor people don't get the use of much wealth or live very high on curtailed production, high prices, and low wages.

So in talking about machines, we pass to the fourth point and that is the hours of labor. Personally, I think it is a good thing for people to work hard and to work a reasonable length of time. However, machines work so fast in comparison to how things were before, that it's impossible for a man to work as long as he even wants to. We must thus reduce the hours of working in order that labor can be distributed. But when we reduce the hours, we should not reduce the wages for a given week's or month's work. People tell me, when I say this, that I'm "off." However, there's absolutely nothing to that at all. If labor is paid decent wages all over the United States of America; if the machine is controlled by shorter hours of labor; if there is a large amount of money paid out to labor; these laborers and workers, "white collar" and otherwise, will spend that much money. And spending that much money, they will keep the looms and the mills working, and the farmers busy. The idea of restricting production and of killing pigs does not seem to be correct from an

economic viewpoint. Yes; I repeat, that if we have more production, with high wages, this production can keep going on. The people have not suffered from overproduction but from underconsumption; they simply couldn't buy, because they didn't make enough money to buy, or they had no jobs at all, and had no money at all, and couldn't buy anything.

I have now brought up four points. The fifth point is money. The money system that we have in this country must be made to suit the needs of the people. I'm not going into that detail, because I'm not well enough informed and not a money fanatic. Some people think that all the evils of humanity can be stopped if we just have enough money. But we have to work and we want to work. The thing to do is to find out how we can have the right kind of money with which to exchange our labor for goods. Don't let them accuse me or you of being "inflationists." We know that if you issue paper money and issue it by the billions that there will be inflation, and it will ruin labor as well as the man who happens to be rich. I repeat, we want to work and have a right to a system of money that will guarantee it.

There is one point which has not been brought out, so far as I know, and that is that our money system is entirely different from any money system ever yet known in the history of the world. In the old days, when there was inflation, as recently in Germany and other countries, the national treasury was cleaned out of all gold or silver, and there was no backing whatever, and then they would issue paper money with nothing behind it. Naturally the paper money didn't mean anything and wasn't worth anything, according to the way the people understand money. But in this case the President has impounded all the gold into the Treasury. You don't see any gold anywhere. There's billions and billions and billions of dollars' worth of gold in the Treasury.

So with all the gold in the Treasury, where nobody can get at it, then what is money? It becomes what it was originally intended to be in this country, and that is a medium of exchange. I have heard debates in the Senate where they would say a $5 bill is not money; that it's a piece of paper with a lie written on it. But if I can take $5 and go in and get my wife and children some ham and eggs and some socks and shoes with it, I won't argue about it. Money can be paper or it can be sea shells or anything else, but if it's good for exchanging labor for merchandise, in my opinion it's money. The idea is that we should have money which is a medium of exchange for our labor, our work, for goods and merchandise, and we don't care what they call it. In addition to this, the country should not be in the hands of the private bankers and to give them concessions of interest, and to be able to exploit this Government and this country. We should have a central bank of issue, where the United States owns and controls its own banks; where Congress does as the Constitution requires it; that is, to issue currency and coin money, which constitutional duty Congress surrendered a long time ago and which they should now resume.

Now, fellow Americans, I have talked to you on these five points, and I'll repeat them again:

First. Organize.

Second. Own or control the monopolies.

Third. Make the machines slaves of ourselves and not ourselves slaves of the machines.

Fourth. Control the hours of labor and working conditions in order to maintain purchasing power.

Fifth. Have a money system in which we can work.

Fellow Americans, it has given me great pleasure to come over here in Virginia and talk to you. Sentimentally, I love this State of Virginia, second to my own. Naturally, I do because my mother and my people came from here and it's a beautiful place. Of course, I think the beauty of the place would be enhanced if more people were making good wages and working and had good jobs; I love the history of Virginia, and can enjoy the beauty of Monticello and Mount Vernon and the various historic places as much as you or anybody else can, and I've introduced a bill to that effect to preserve the antiquities and the ancient historic shrines, and I do this from sentimentality, and possibly, a love of our history. But I think those same ancestors will probably think a lot more of us if we had the nerve and the stamina and the courage to get up on our hind legs and demand decent places in which to live;—yes, I think you have fine roads in Virginia, but like any other State, it might be wise to have still more roads and put more men to work; in fact, the truth of the matter is that Virginia is probably like any other State, with the same kind of Americans living in it, with the same kind of ideas; but the thing that we must do is realize that the old-time age has gone forever; that we are faced with modern industry, with modern science, with modern machinery; that we must adapt ourselves to the new age. Unless we do so, we will have permanent unemployment; we will sink into a peonage and peasantry that the world has yet never seen. The depression has lasted quite a while already; the dark ages lasted some 500 to 700 years, as has the depression in China already lasted some six or seven hundred years. Wars have been fought that have lasted 30 years, where human beings became cannibals. And this is a really serious situation, and I should ask every man in this audience, and every woman and child, to interest themselves in the welfare of their fellow man in order to preserve civilization.

LOBBYING INVESTIGATION

Mr. O'CONNOR. Mr. Speaker, I submit a privileged report from the Committee on Rules, and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 288

Resolved, That the Committee on Rules, as a whole or by subcommittee, is authorized and directed to investigate any and all charges of attempts or attempts to intimidate or influence Members of the House of Representatives with respect to the bill S. 2796 or any other bills affecting utility holding companies during the Seventy-fourth Congress by any person, partnership, trust, association, or corporation. The committee shall report to the House as soon as practicable the results of its investigation, together with its recommendation.

That said committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, by subpena or otherwise, and to take such testimony as it deems necessary. Subpenas shall be issued under the signature of the chairman and shall be served by any person designated by him. The chairman of the committee or any member thereof may administer oaths to witnesses. Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties provided by section 102 of the Revised Statutes of the United States.

The SPEAKER. The question is, Shall the House now consider the resolution?

Mr. BLANTON. Mr. Speaker, the Chairman of the Rules Committee ought to yield for some questions before we vote to consider the resolution. It will cost $50,000 and accomplish nothing of any value.

The SPEAKER. The subject is not debatable. The question is, Shall the House now consider the resolution?

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that the Chairman of the Rules Committee be given 15 minutes to answer some questions, because certain questions ought to be answered.

Mr. O'CONNOR. There will be plenty of opportunity. This is a matter of consideration by a two-thirds vote.

Mr. BLANTON. But that means the passage of the resolution.

Mr. O'CONNOR. I shall be glad to answer any questions.

Mr. BLANTON. I ask unanimous consent that the gentleman from New York have 15 minutes to answer questions.

The SPEAKER. The gentleman from Texas [Mr. BLANTON] asks unanimous consent that the gentleman from New York may have 15 minutes in which to speak to the resolution. Is there objection?

Mr. MAPES. Mr. Speaker, I reserve the right to object to make a parliamentary inquiry. I understood the gentleman from New York, the Chairman of the Committee on Rules, to ask unanimous consent that the report be considered at once.

Mr. O'CONNOR. Oh, no; I asked for its immediate consideration.

Mr. MAPES. Under the regular rule which provides for the consideration of a report from the Committee on Rules, it takes a two-thirds vote?

Mr. O'CONNOR. That is correct.

Mr. MAPES. And the gentleman is proceeding under the regular rules of the House?

Mr. O'CONNOR. Yes.

Mr. MAPES. I understood the gentleman to ask unanimous consent.

Mr. O'CONNOR. I do not think I did. I did not intend to.

The SPEAKER. Is there objection to the gentleman from New York proceeding for 15 minutes, speaking to the resolution?

Mr. BLANTON. Preceding, of course, the question of consideration, because I want to ask some questions.

Mr. MAPES. Is it necessary to consume 15 minutes?

Mr. BLANTON. I do not know. It may not take 2 minutes, but we ought to ask some questions and have them answered before the question of consideration is adopted.

Mr. MAPES. I have no objection.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from New York [Mr. O'CONNOR] is recognized for 15 minutes.

Mr. O'CONNOR. Mr. Speaker, this resolution which I have just submitted has been reported out of the Rules Committee this afternoon after thorough consideration of the matter. Last week, when the gentleman from Maine [Mr. BREWSTER] made certain charges as to being approached in reference to his vote on the utility bill, a resolution was passed under privileged status directing the Rules Committee to conduct an investigation. It was known at that time that that resolution was inadequate to meet the entire situation. That resolution did provide for an investigation of both the proponents and the opponents of the bill, but it had no provision as to subpena power or the swearing of witnesses. It has been recognized since that time that a carefully drawn resolution should be passed. Thereupon the Rules Committee reported out a resolution authorizing a thorough inquiry of all lobbying or attempt to influence by anyone—any person, a copartnership, corporation, association, or what not—the vote of any Member of the House in reference to the Public Utility Act—S. 2796—or any utility bills during this session of Congress.

It is the intention of the Rules Committee to start hearings tomorrow morning at 10 o'clock. That is the reason for calling this matter up at this time, in order to get this authority to go into a thorough investigation. At the same time, I have introduced today a resolution, which will be referred to the Committee on Accounts, asking for $50,000 to conduct this inquiry into lobbying in connection with this utility bill.

Mr. BLANTON. Will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. BLANTON. How long is it contemplated this investigation will continue?

Mr. O'CONNOR. Of course we have no idea. As these things go on further matters develop.

Mr. BLANTON. It is limited to this session of Congress?

Mr. O'CONNOR. To this Congress.

Mr. BLANTON. Then it could be pursued after we adjourn sine die?

Mr. KVALE. Certainly.

Mr. O'CONNOR. The Rules Committee does not invite this investigation. It was passed by a vote of everybody except one Member of this House. We are busy enough without this. It is our duty. That is all.

Mr. BLANTON. Well, I want to get a little information. Mr. Speaker, today we have 29 Members of this House either stricken or in bad health from overwork. A number of them are in hospitals. The balance of the Membership, no one will deny, are on the frazzled edge. There are many of us here who have worked here continuously day and night since the 1st of December. It has just been a continuous grind.

Mr. O'CONNOR. That is true of the Rules Committee.

Mr. BLANTON. Well, it is specially true of the Appropriations Committee. I have been here since last November.

Mr. O'CONNOR. So have I.

Mr. BLANTON. And worked all through December holding hearings.

Mr. O'CONNOR. And so did I.

Mr. BLANTON. Everyone is worked down and with nerves on the frazzled edge. Now, are we going to just continue on until a score of the Members of this House are seriously stricken and pass away? Another prominent Member was seriously stricken today. Shall Members be overworked this hot weather so that they will never regain their health? Now, there are a number of colleagues who, if we continue this strenuous session much longer, it will be dangerous to them and their future health.

Mr. Speaker, the Chairman of the Rules Committee, the leader of this House, our distinguished friend from Colorado, Mr. TAYLOR, and the Speaker of this House ought to provide some means of finishing our work here and adjourn sine die and go home [applause] and let the people back home recover from this session of Congress. [Laughter.] We ought to ask the President to sidetrack this tax bill and we ought not to consider it at this session.

This $50,000 proposed to be spent on this investigation sounds little, but it is a big sum after all.

Mr. O'CONNOR. It may not be used at all.

Mr. BLANTON. Comparable to $4,800,000,000 it is a bagatelle, but coupled with another $150,000 to be wasted somewhere else on the same subject, it is going too far.

It is simply a question of veracity between the gentleman from Maine [Mr. BREWSTER] and Mr. Corcoran. It is simply a question of veracity between them. The Rules Committee ought to call those men in and find out who told the truth on that matter and report back to Congress, and that is all there is in that. Then let the Senate take whatever action they desire.

We ought to quit this investigating and foolishly spending public money, and quit and go home. I have never seen any good come from any House investigation in 20 years, with large expense money appropriated. Remember the futility of the $600,000 coal commission and the $500,000 Wickersham Commission, down to the smaller ones. I have never seen a bit of good come from any expensive House investigations, and no good will come from this one. Everyone knows all about the lobbying. We know that every utility company in existence did lobbying or had lobbyists here. I doubt the wisdom of passing this resolution.

Mr. O'CONNOR. Now, Mr. Speaker, I do not yield further. The Rules Committee is a fairly hard-working committee. We have been here since December. Many of us are frazzled or worse than that. [Laughter.] We are not looking for work. We have enough to do, especially toward the close of a session. This duty was thrust upon us by the House. Now, this is not solely a question of veracity as between the gentleman from Maine [Mr. BREWSTER] and a gentleman named Corcoran, whom I never saw or met, or any other person. The original resolution authorized an inquiry into all lobbying activities.

Members have stood on this floor and said the galleries were filled with the power lobbyists, here to try to intimidate and influence Members of Congress. We propose, if the House so directs, to go through with this and to see it through and find out what propaganda, what influences of an undue nature have been used in this House. We are not concerned with what another body does. This is a reflection on our House and ourselves, and we are going to see it through.

Mr. BLANTON. Will the gentleman yield for a question?

Mr. O'CONNOR. For a question; yes.

Mr. BLANTON. Suppose the Rules Committee should find out that Mr. Corcoran made a threat to the gentleman from Maine, what are you going to do about it?

Mr. O'CONNOR. He will be confronted with a penal statute which makes it a crime.

Mr. BLANTON. Oh, it is no crime to make a threat.

Mr. O'CONNOR. Oh, the gentleman had better examine the statutes.

Mr. BLANTON. I have seen 100,000 Government employees in Washington threaten Congress if they did not do so-and-so they would march on the Capitol. I saw a march by them on the Capitol back in war times. Not one of them was ever prosecuted.

Mr. O'CONNOR. The gentleman had better peruse the criminal statutes and find out.

Mr. Speaker, I yield now to the gentleman from Minnesota.

Mr. KVALE. Mr. Speaker, I want the gentleman in the course of his remarks to answer this query: In view of the fact that public statements in the last day or two have insinuated that the gentleman from New York would not be a proper, an impartial, and vigorous chairman of the committee to make this investigation——

Mr. BLANTON. That is all bunk.

Mr. KVALE. I would be glad if the gentleman from New York would make the statement that this inquiry will be directed not only as an inquisitorial agency against Mr. Corcoran but that it will operate as an impartial investigating agency into all utility lobbying.

Mr. O'CONNOR. I never thought that reiteration added anything to an original statement, and from the first time this investigation was proposed I stated that it would be fair and impartial. I have not seen one of these power buzzards that are alleged to be around the Capitol Building. If they

have been, so far as the Rules Committee is concerned, we are going after them.

Mr. KVALE. I did not mean to hurt the gentleman's feelings; I wanted to be helpful to him.

Mr. O'CONNOR. I appreciate that; I appreciate the gentleman's intentions.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. MICHENER. The gentleman has suggested that it was stated from the floor that the galleries were full of lobbyists and it is the purpose to investigate lobbying activities. I take it, then, that the gentleman will call before his committee, as a matter of duty, the Members of Congress who made the statements on the floor and who sent the word to the country that the galleries were full of lobbyists, so that these gentlemen will have an opportunity to name these lobbyists and assure the country that they told the truth and knew what they were talking about and were not trying to arouse prejudice by untrue statements? [Applause.]

Mr. BLANTON. After you have done that you will have accomplished nothing.

Mr. O'CONNOR. In reply to the gentleman, let me state that it is the purpose of the Rules Committee, as I gathered from sentiments this afternoon, to welcome the cooperation of any Member of this House who can furnish information as to any improper conduct of any person either for or against this legislation. We shall pursue it within our power as far as we can, and we will spare nobody.

Mr. BLANTON. Mr. Speaker, only about 40 Members are now present. We ought to have a quorum present when we vote to consider a resolution of this kind. The Membership ought to know about a resolution calling for the expenditure of $50,000.

Mr. O'CONNOR. This is not the $50,000 resolution; that will come tomorrow.

Mr. BLANTON. The $50,000 one tomorrow is corollary to it.

Mr. O'CONNOR. Yes; it is supplemental.

Mr. BLANTON. It follows as a natural sequence.

Mr. Speaker, I make the point of order there is not a quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. TAYLOR of Colorado. Mr. Speaker, I would like to ask the Chairman of the Rules Committee if he desires me to move a call of the House.

Mr. O'CONNOR. Yes; we have our meeting tomorrow. It is important that we pass this resolution tonight. I am sorry. We did not anticipate this because there was no opposition evidenced to the passage of it.

The SPEAKER. The Chair would remind the gentleman that all this is out of order, a point of no quorum having been made.

CALL OF THE HOUSE

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 118]

Adair	Claiborne	Doutrich	Guyer
Amlie	Clark, Idaho	Duffey, Ohio	Hamlin
Andresen	Cochran	Duffy, N. Y.	Hancock, N. Y.
Andrew, Mass.	Collins	Duncan	Hancock, N. C.
Andrews, N. Y.	Colmer	Dunn, Miss.	Hart
Bacon	Connery	Eckert	Hartley
Bankhead	Cooper, Ohio	Eicher	Hennings
Barden	Corning	Engel	Hess
Beam	Cox	Faddis	Higgins, Conn.
Berlin	Crowther	Fernandez	Higgins, Mass.
Brennan	Culkin	Fish	Hill, Ala.
Brown, Ga.	Cummings	Focht	Hoeppel
Brown, Mich.	Darrow	Ford, Calif.	Hull
Buckley, N. Y.	Dear	Frey	Kahn
Bulwinkle	Delaney	Gambrill	Kelly
Burdick	Dempsey	Gassaway	Kennedy, Md.
Caldwell	DeRouen	Gifford	Kerr
Cannon, Wis.	Dickstein	Gildea	Kimball
Carter	Dietrich	Gingery	Kniffin
Casey	Dirksen	Gray, Pa.	Knutson
Celler	Dockweiler	Greenwood	Kocialkowski
Chapman	Dondero	Griswold	Lamneck
Lanham	Millard	Reilly	Stubbs
Lesinski	Montague	Robinson, Utah	Taber
Lewis, Md.	Montet	Robsion, Ky.	Taylor, Tenn.
Lloyd	Moran	Rogers, N. H.	Thomas
Lucas	Moritz	Romjue	Thompson
McAndrews	Nichols	Russell	Tinkham
McClellan	Norton	Ryan	Tobey
McFarlane	O'Connell	Sabath	Treadway
McGrath	Oliver	Sadowski	Turpin
McKeough	O'Malley	Sanders, La.	Underwood
McLeod	O'Neal	Sears	Utterback
McMillan	Owen	Seger	Vinson, Ga.
Maloney	Palmisano	Shannon	Wadsworth
Marshall	Perkins	Smith, Wash.	Walter
Martin, Colo.	Peterson, Fla.	Smith, W. Va.	Weaver
Martin, Mass.	Peyser	Snell	Wigglesworth
Mead	Polk	Somers, N. Y.	Withrow
Meeks	Rabaut	Stefan	Woodruff
Merritt, Conn.	Ramsay	Stewart	

The SPEAKER. Two hundred and sixty-six Members have answered to their names. A quorum is present.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

The SPEAKER. The question before the House is, Will the House now consider the resolution offered by the gentleman from New York [Mr. O'CONNOR]?

Mr. BLANTON. Will the Chair permit a parliamentary inquiry?

The SPEAKER. The gentleman will state it.

Mr. BLANTON. It will require a two-thirds vote to consider this resolution?

The SPEAKER. It will require two-thirds to consider the resolution.

Mr. BLANTON. If this resolution is not passed the one that we adopted the other day is still in effect and will authorize the Rules Committee to go ahead tomorrow with the investigation?

The SPEAKER. That resolution, of course, is still in effect, subject to its own provisions. The question is, Will the House now consider the resolution offered by the gentleman from New York [Mr. O'CONNOR]?

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 197, noes 3.

So, two-thirds having voted in favor thereof, the House determined to consider the resolution.

Mr. O'CONNOR. Mr. Speaker, I yield 30 minutes to the gentleman from Pennsylvania [Mr. RANSLEY].

Mr. RANSLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. LEHLBACH].

Mr. LEHLBACH. Mr. Speaker, the reason that this resolution is before us today for consideration is because the resolution adopted by the House at the time of the occurrences which gave rise to the resolution is not broad enough upon which to really base an investigation. The resolution gave no power of subpena, the compulsory attendance of witnesses, the administration of the oath, or any of the necessary functions that an investigating committee should have.

I think this resolution before us at this time is subject to criticism in the respect that it does not in any way mention the incident out of which the original resolution grew and which is the primary cause of the investigation, namely, the charges of coercion that were made on the floor of the House by the gentleman from Maine [Mr. BREWSTER].

Mr. O'CONNOR. Will the gentleman yield?

Mr. LEHLBACH. I yield to the gentleman from New York.

Mr. O'CONNOR. Of course, the original resolution, which was really ineffectual, is still in existence.

Mr. LEHLBACH. But this supersedes the other one when we pass it.

Mr. O'CONNOR. It does and it does not. Everyone in the world knows that this resolution we are considering today follows as a necessary consequence.

Mr. LEHLBACH. I assume the first thing the Committee on Rules will do, if empowered to make this investigation, will be to go into the charges made by the gentleman from Maine [Mr. BREWSTER]?

Mr. O'CONNOR. That is the plan. The gentleman from Maine will appear before us tomorrow morning at 10 o'clock.

Mr. LEHLBACH. The second criticism I would make is that the language is so broad that it enables the Rules Com-

mittee, if it sees fit, to summon anyone for any sort of questioning, concerning whom they may or may not have read some rumor in a newspaper. I think in that respect it is too broad. I trust that the well-known good sense of the Committee on Rules will impose the limitation that ought to be imposed in such a resolution.

In the third place, the resolution reads specifically to the effect that trusts be investigated, if it is apropos to investigate them, but it does not specify whether that means "brain" or otherwise.

Mr. McCORMACK. Will the gentleman yield?

Mr. LEHLBACH. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. I understood the gentleman to say that the Rules Committee were going to question people on mere rumor?

Mr. LEHLBACH. I said I hoped they would not, but the resolution would permit that.

Mr. McCORMACK. May I say that as chairman of a special committee for 7 months I refused to call men before me on mere rumor. I called them in to an executive session, got evidence, then had the committee make an independent investigation. I believe that investigating committees are too prone to call witnesses before them on mere rumor and in public hearings, which is likely to destroy the character of innocent persons who may have to appear before them. There should be an independent investigation made before any witness is called.

Mr. O'CONNOR. In answer to the gentleman from Massachusetts, may I say that with such a conservative gentleman as the gentleman from New Jersey on the Rules Committee, there is no fear that the Rules Committee will ever call anyone on the word of a mere scandalmonger.

Mr. McCORMACK. I did not say that the Committee on Rules would. However, I thought the gentleman from New Jersey unconsciously used the word "rumor", and I wanted to find out to what extent they were going to do that.

Mr. LEHLBACH. I said that the resolution would permit of such procedure if the Rules Committee saw fit.

[Here the gavel fell.]

Mr. RANSLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Speaker, I quite agree with the gentleman from New Jersey [Mr. LEHLBACH] with reference to calling witnesses on mere suspicion and rumor. But here we have a matter wherein Members of Congress purport to have information and knowledge about lobbyists not based upon rumor. I refer to the Members who, during the discussion of the holding-company bill, stated on their own responsibility on the floor of the House, that the galleries were full of Power Trust lobbyists, that these lobbyists were in the hall and that they were stopping Members, talking with them, and attempting to influence the Members. If we are going to have an investigation, it seems to me a resolution of that kind is not only proper, but advisable, because those speeches made on the floor of the House were given wide publicity throughout the country. I read one article suggesting that between 500 and 600 utility lobbyists were here trying to defeat the bill. We all know that is not so and if some of these Members are called upon to produce the facts it will at least make for accuracy in the future. Every Member who has any such information should welcome the opportunity to talk specifically before the committee, and not in general terms for publicity.

The people in my State and your State, when they read that Representative So-and-so said that the lobbyists were down here doing certain things, have the right now to have the Representative who made these statements come before the committee and give the committee the information upon which he based his statements, and I ask and request, as a Member of the Congress, that the investigating committee call all Members making these statements on the floor of the House. You will have the right to subpena, and the country should know the facts upon which such serious charges are based.

Mr. MARCANTONIO. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. Mr. Speaker, I move the previous question on the resolution.

Mr. KVALE. Mr. Speaker, I make the point of order that the gentleman from Michigan has 5 minutes, and his time has not expired, and the gentleman has been asked to yield.

Mr. MARCANTONIO. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. Yes; I yield.

Mr. MARCANTONIO. I would like to ask the chairman of the committee a question. Under this resolution, will the inspired propaganda which was conducted by the utilities be investigated?

Mr. O'CONNOR. Under the authority granted in the resolution it can be, and that matter has been discussed. The resolution permits the investigation of any attempt to influence Members of Congress, and this could be by propaganda.

Mr. MICHENER. I have the floor, and I may say that I have no objection——

Mr. O'CONNOR. I was trying to explain what the resolution does.

Mr. MICHENER. I have no objection to investigating propaganda. I suppose what you mean by "propaganda" is letters received from folks living in our districts.

Mr. MARCANTONIO. Yes; and who was responsible for sending tons and tons of telegrams and literature. It is very important to know that so we can legislate that kind of business out of existence.

Mr. MICHENER. Mr. Speaker, I do not want to be considered as subscribing to any kind of doctrine that makes it more difficult for constituents to advise Representatives of their desires or their fears concerning legislation in which they are interested.

[Here the gavel fell.]

Mr. O'CONNOR. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, who made the point of no quorum.

Mr. BLANTON. Mr. Speaker, the Senate is arranging to appropriate $150,000 to make its investigation. This proposed $50,000 House investigation will be duplicated effort at great expense and will not accomplish anything whatever of value.

I have seen $600,000 wasted on the coal investigation and nothing accomplished. I saw $500,000 wasted on the Wickersham investigation—nothing accomplished. I saw nearly $200,000 wasted on the Graham, of Illinois, investigation—nothing accomplished. I saw nearly $100,000 wasted on the Joe Walsh Pacific coast investigation—nothing accomplished. I have seen hundreds of thousands of dollars wasted on House investigations, with nothing of value accomplished. Nothing will be accomplished by the spending of $50,000 on this House investigation that will be of any value. The House investigations that have been worth while, and have been of great value to the people, have been the ones that carried no appropriations whatsoever.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield to me?

Mr. BLANTON. I regret I cannot in 3 minutes. Not one single thing will be accomplished of any value to the taxpaying people, and when it is over I am going to get up on this floor and show you that nothing of any value has been accomplished. Remember that. It is just a money-spending proposition. Every Member of this House can vote for wasting this $50,000, but I am not going to do so. I am getting tired of seeing the people's tax money wasted, and we ought to adjourn sine die and go home. [Applause.]

Mr. O'CONNOR. Mr. Speaker, the gentleman from Texas has just complained about a possible expenditure—no amount may be expended, much less than the amount that will be asked for may be expended, but I saw the gentleman voting on the floor the other day in behalf of a $3,000,000 expenditure to celebrate something in Texas. I voted for that resolution and I voted to report it out of the Rules Committee and I personally brought out the rule, so that $3,000,000 might be contributed to the great Lone Star State. I was happy to support it. I think it was a great thing, but $3,000,000 is just 60 times $50,000

Mr. BLANTON. And we Texans brought into the Nation many billions of dollars worth of property.

Mr. RANKIN. Mr. Speaker, will the gentleman yield me 1 minute?

Mr. O'CONNOR. Mr. Speaker, I yield the gentleman from Mississippi 2 minutes.

Mr. RANKIN. Mr. Speaker, I want to answer what the gentleman from Texas [Mr. BLANTON] has said. The gentleman stated that he has never seen any of these investigations amount to anything. I wonder if the gentleman from Texas has forgotten the Teapot Dome investigation. [Applause.]

Mr. BLANTON. That was not a House investigation. The Teapot Dome investigation was one conducted by the Senate, although a number of Members of the House contributed much valuable information to it. Not one dollar was appropriated by the House of Representatives on that investigation.

If you will review back, and carefully look up all of the numerous House investigations that have been had during the last 20 years, where large sums of money for expenses of investigation have been provided by the House, you will find that not one thing of value worth mentioning has ever been accomplished.

Attorneys have been employed at high pay. Investigators have been employed at high pay. Helpers have been employed at high pay. Much money has gone to railroads, and dining cars and pullman accommodations, and hotels, and other traveling expenses, but after the money has been spent, not one thing of value has been accomplished.

The taxpayers back home are getting tired of it. It is their hard-earned money wrung from their pockets through Federal taxation that has paid the bills. Can any sane man tell me one good reason why we should spend $50,000, or any sum whatever on this investigation?

A Member from Maine asserted that Thomas G. Corcoran told him that if he should vote against the "death sentence" for public-utility holding companies, he would find it necessary to stop construction on the Passamaquoddy Dam in his district. The gentleman from Illinois said, "I challenge that statement." The gentleman from Texas [Mr. MAVERICK] challenged the statement. The gentleman from Maine [Mr. MORAN] said that he had implicit faith in Mr. Corcoran. He said that he did not believe there is a man connected with this administration who is more honest, who is more truthful, and one who is more interested in the best kind of public service for the people of America than Mr. Corcoran. He said that nothing had occurred in his many dealings with Mr. Corcoran which has given him the slightest reason to believe any such charge against Mr. Corcoran. He said that Mr. Corcoran plays the game square. He said that no one had ever charged Mr. Corcoran with being a double-crosser. He said that Mr. Corcoran fights toe-to-toe, courageously, honestly, enthusiastically, but always fairly.

Why is there any necessity of spending $50,000 over such an issue? This Rules Committee has authority already to proceed with an investigation. Why does it not call before it the gentleman from Maine, who made the charges, and Mr. Corcoran, and Mr. Keller, and Mr. Maverick, and Mr. Moran, and any other witnesses the above parties might ask to be heard, and then determine whether or not the charge against Mr. Corcoran is true; and if true, what should be done about it; and if not true, what should be done about it? Why is it necessary to spend $50,000 on it? Why is it necessary to spend any money? It is needless money spending that the people want stopped.

Mr. O'CONNOR. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMITTEE ON ACCOUNTS—LEAVE TO SIT DURING THE SESSIONS OF THE HOUSE

Mr. WARREN. Mr. Speaker, I ask unanimous consent that the Committee on Accounts be permitted to meet tomorrow during the sessions of the House; and if this request is granted, I give notice there will be a meeting at 2 o'clock in the afternoon.

The SPEAKER. The gentleman from North Carolina asks unanimous consent that the Committee on Accounts be permitted to sit tomorrow during the sessions of the House; and if consent be granted, he gives notice that the committee will meet at 2 o'clock in the afternoon. Is there objection?

There was no objection.

FOURTH OF JULY ADDRESS

Mr. RANSLEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein an address delivered at Independence Hall on July 4, 1935, by the gentleman from Pennsylvania [Mr. WILSON].

The SPEAKER. Is there objection?

There was no objection.

Mr. RANSLEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech of Hon. WILLIAM H. WILSON, of Pennsylvania, at Independence Hall, Philadelphia, July 4, 1935:

We gather today on this sacred soil which once felt the beat of the footsteps of our immortal forbears, and in the shadow of that noble shrine which heard their voices in the formulating and building of a nation of free people, dedicating their lives to the principles of liberty and the right to worship God according to the dictates of one's own conscience. Voices which have come down to us through the ages, still vibrant with the patriotic zeal which characterized their utterances and still pregnant with philosophic wisdom just as applicable today in these trying times as they were then when they were shaping the destinies of a new nation.

One hundred and fifty-nine years ago, half a hundred men gathered within those sacred walls to strike off the shackles of a despotism which had become unbearable. A committee of three, Thomas Jefferson, John Adams, and Benjamin Franklin, laid before that assemblage a piece of parchment upon which is written the Declaration of Independence. Silently, one by one, the signatures were affixed, and then there burst forth the clarion notes of the bell, then hanging in yonder belfry, a message the like of which had never before been heard, in language as "startling as the trump of the archangel, as terrible as the flaming syllables on Belshazzer's wall." A voice of a new birth, childlike in its weakness but colossal in its godlike faith.

And how that child grew. Eleven years later it had reached its full maturity by the adoption at the self-same place of the Constitution, which has been the bulwark of our Nation for almost a century and a half. This "the most wonderful work ever struck off at any given time by the brain and purpose of man."

When this great document was experiencing the trials and tribulations of ratification, the Father of our Country wrote to Lafayette that there would be no danger of the Government lapsing into any form of despotism "so long as there shall remain any virtue in the body of the people."

Later he wrote:

"This Government (the Constitution), the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its power, uniting security with energy and containing within itself a provision for its own amendment, has a just claim to your confidence and support. Respect for its authority, compliance with its laws, acquiescence in its measures are duties enjoined by the fundamental maxims of true liberty. The bases of our political systems is the right of the people to make and alter their constitutions of government; but the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government."

And again he said—

"It is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown."

What a wealth of meaning in his advice to officialdom and how applicable to this our own day when he said—

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments into one, and thus to create, whatever the form of government, a real despotism. But let there be no change (in the Constitution) by usurpation; for though this in one instance may be the instrument for good, it is the customary weapon by which free governments are destroyed."

Those words, almost prophetic in their utterances, are a challenge to us today, not to be led astray by specious reasoning or Utopian dreams.

Today we cannot shut our eyes to the fact that the States are growing increasingly dependent on Federal funds and consequently increasingly subservient to Federal dictation and control, all due to the fact that the Federal Government has become the largest and most powerful element in our American system of government, although it started out with both prestige and power inferior to those of the States.

There is not the slightest doubt in my mind that present-day tendencies, which are leading us no one can tell where, are creating real consternation and dread in the country, that the principles, tried and true, of our immortal forefathers, are slowly being stifled and are being relegated to the forgotten past.

Of course, we must appreciate the fact that our country cannot stand still and expect to maintain its proud place in the galaxy of nations. It is likewise essential that we must make haste slowly, and while we progress we must at the same time be conservative enough to insure the safety of our well-being, and in doing so we must properly weigh the possibilities flowing therefrom. These are tumultuous times. The whole world is sitting on top of a seething volcano.

Office holders, office seekers, and those who live and thrive on dissension, both by written word and demagogic mouthings, are attempting to tear down overnight that great institution to the erection of which there has been given over 150 years of sacrifice and struggle.

Never was there a greater need for upholding the sound principles of our constitutional government than now.

I do not believe the American people will readily forsake the wise policies of government handed down to us by our ancestors, and that they are going to permit their great destinies to be lastingly controlled by an autocratic, bureaucratic domination founded upon wild, socialistic schemes that can only be a menace to the Union of the States.

Just 20 years ago today I had the proud privilege and honor to be one of a committee representing the city and State in escorting from this spot the Liberty Bell to the Pan American Exposition held at San Francisco. The bell was mounted upon a specially constructed car, arranged so that it could be seen as it passed upon its way. It took 3 weeks to make that trip, stops being made in all large communities en route and in many smaller places.

Never have I witnessed such loyalty, such devotion to the things for which the old bell stood. Tottering old men and women were helped to the platform where they could touch the sacred emblem with the tips of their gnarled fingers while they breathed a prayer of thanksgiving that ere they had passed to the Great Beyond they had been permitted to see and touch the sacred relic of liberty. Young men and young women, many of whom had ridden horseback for miles and miles across the prairie, stood in awed wonder, with bowed heads and speechless in the presence of this symbol; babes in arms were lifted on high so they could see it, and the youth of the land were told what it represented. In its presence one was constantly reminded of the voice from the burning bush which spoke unto Moses, telling him he was standing on holy ground. I knew then, as I know now, that such an outpouring of souls that came for a glance and remained to do homage foretold in them the existence of a spirit that would withstand all onslaughts, be they from within or from without, made upon the principles upon which the Nation was founded, because virtue still remains in the body of the people.

We are living in an age of experimentation, one after another, each in turn leading us farther astray from sound principles that have stood the test of time.

We cannot continue in these unjustified, unwarranted, and untried fields of guessing.

In approaching with serious thought the momentous questions of the day, one must not lose sight of the fact that we are a Nation unique in every respect; covering a vast expanse of territory, some sections of our country separated from others by thousands of miles, varying in their climatic conditions; some with an abundance of natural resources, while others struggle for the necessities of life in the interminable battle with the elements of nature. Utopian schemes based upon the false principle that the results of the labor of the energetic, that the savings of the thrifty, that the brains of the thinker should only be permitted insofar as they tend to produce a wealth to be divided with the shiftless, the improvident, and the irresponsible, are mere designs for a false sense of citizenship calculated to bring power to the blatant demagogues who thrive upon human distress and find in industrial unrest a fertile field in which to sow the seed of discontent with the avowed desire that it will blossom into a universal desire to undermine the foundations of a glorious nation, and see it crumble into dust.

We have always been a generous and receptive people believing in the brotherhood of man. We have stood upon our shores and welcomed the advent of the oppressed of other nations. We have taken them to our bosom and shared with them the opportunities we possessed. The opportunity to earn a living; the opportunity to receive an education; the opportunity to worship God in the manner each saw fit; the opportunity to reap and retain the benefits of their own industry; but there seems to be creeping into our national life a desire on the part of some to abandon the principles, long tried and not found wanting, that have made us the foremost Nation on the face of the globe, and substitute therefor "isms" that wherever tried have left in their wake ruin and desolation.

On this hallowed ground, where our patriots dared to do or die, on this our national natal day, and in the shadow of this sacred edifice, let us dedicate our future, our lives, our all, that only one "ism" shall be permitted to exist in the length and breadth of this land, and that one—Americanism.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. CLARK of Idaho, for 3 days, on account of illness.

To Mr. MALONEY, for 10 days, on account of official business and illness in family.

To Mr. DUNN of Mississippi, indefinitely, on account of illness.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1633. An act to amend the Interstate Commerce Act, as amended, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 5 minutes p. m.) the House adjourned until tomorrow, Tuesday, July 9, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

407. Under clause 2 of rule XXIV, a letter from the Secretary of War, transmitting, pursuant to section 1 of the River and Harbor Act, approved January 21, 1927, and section 10 of the Flood Control Act, approved May 15, 1928, a letter from the Chief of Engineers, United States Army, dated June 28, 1935, submitting a report, together with accompanying papers and illustrations, containing a general plan for the improvement of Big Sandy River, W. Va., Ky., Va., for the purposes of navigation and efficient development of its water power, the control of floods, and the needs of irrigation (H. Doc. No. 245), was taken from the Speaker's table, referred to the Committee on Rivers and Harbors, and ordered to be printed with nine illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ADAIR: Committee on the Judiciary. S. 1277. An act to amend section 24 of the Judicial Code by conferring on district courts additional jurisdiction of bills of interpleader; with amendment (Rept. No. 1437). Referred to the House Calendar.

Mr. O'CONNOR: Committee on Rules. House Resolution 288. Resolution to authorize an investigation of lobbying activities with respect to holding companies; without amendment (Rept. No. 1438). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUCK: A bill (H. R. 8759) to amend the act known as the "Perishable Agricultural Commodities Act, 1930", approved June 10, 1930, as amended; to the Committee on Agriculture.

By Mr. COFFEE: A bill (H. R. 8760) to amend section 93 of the Judicial Code as amended; to the Committee on the Judiciary.

By Mr. COLDEN: A bill (H. R. 8761) to provide for the establishment of a naval athletic field at San Pedro, Calif.; to the Committee on Naval Affairs.

By Mr. FIESINGER: A bill (H. R. 8762) to preserve and protect the gold standard through establishment of an auxiliary monetary reserve of silver and the issuance of silver certificates payable in their gold value equivalent and under such regulations as will provide protection to gold from being cornered and protection from inflation in gold values during periods of excessive demands; to the Committee on Coinage, Weights, and Measures.

By Mr. MORITZ: A bill (H. R. 8763) to provide that every editorial article be signed by the writer thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. SOMERS of New York: A bill (H. R. 8764) to fix standards for till baskets, Climax baskets, round-stave baskets, market baskets, drums, hampers, cartons, crates, boxes, barrels, and other containers for fruits or vegetables, to consolidate existing laws on this subject, and for other purposes; to the Committee on Coinage, Weights, and Measures.

By Mr. WHELCHEL: A bill (H. R. 8765) making eligible, under the Relief Appropriation Act of 1935, for admission to the Civilian Conservation Corps camps or for any other governmental work, veterans otherwise qualified, but whose names do not appear on the relief rolls; to the Committee on World War Veterans' Legislation.

By Mr. DIMOND: A bill (H. R. 8766) to authorize municipal corporations in the Territory of Alaska to incur bonded indebtedness, and for other purposes; to the Committee on the Territories.

Also, a bill (H. R. 8767) to authorize the use of funds collected for services rendered by the Washington-Alaska Military Cable and Telegraph System, and for other purposes; to the Committee on Military Affairs.

By Mr. HUDDLESTON: A bill (H. R. 8768) to extend the times for commencing and completing the construction of a railroad bridge and/or a toll bridge across the water between the mainland at or near Cedar Point and Dauphin Island, Ala.; to the Committee on Interstate and Foreign Commerce.

By Mr. IGLESIAS: A bill (H. R. 8769) to amend the act of June 27, 1934, entitled "An act to amend the act of March 2, 1917, entitled 'An act to provide a civil government for Puerto Rico, and for other purposes'"; to the Committee on Insular Affairs.

By Mr. MOTT: A bill (H. R. 8770) to extend the times for commencing and completing the construction of a bridge across the Columbia River at Astoria, Clatsop County, Oreg.; to the Committee on Interstate and Foreign Commerce.

By Mr. CELLER: A bill (H. R. 8771) to repeal titles I and II of the National Prohibition Act, to reenact certain provisions of title II thereof, to amend or repeal various liquor laws, and for other purposes; to the Committee on the Judiciary.

By Mr. ELLENBOGEN: Resolution (H. Res. 287) providing for an investigation of Allegheny County Authority; to the Committee on Rules.

By Mr. O'CONNOR: Resolution (H. Res. 289) providing for the method of payment of the expenses incurred by House Resolution 288; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ARENDS: A bill (H. R. 8772) granting a pension to Benjamin F. Pence; to the Committee on Invalid Pensions.

By Mr. BRUNNER (by request): A bill (H. R. 8773) to restore Charles N. Liqued to the retired list of the Navy as a lieutenant, United States Navy; to the Committee on Naval Affairs.

By Mr. COCHRAN: A bill (H. R. 8774) granting a pension to Delia Reister; to the Committee on Pensions.

By Mr. DEEN: A bill (H. R. 8775) for the relief of Ralph B. Sessoms; to the Committee on Claims.

By Mr. FULMER: A bill (H. R. 8776) for the relief of D. W. Robinson, Jr.; to the Committee on Claims.

Also, a bill (H. R. 8777) for the relief of J. M. Cantey, Jr.; to the Committee on Claims.

By Mr. HALLECK: A bill (H. R. 8778) granting an increase of pension to Lucretia J. Jaques; to the Committee on Invalid Pensions.

By Mr. McCORMACK: A bill (H. R. 8779) for the relief of Thomas A. Rhodes; to the Committee on Claims.

By Mr. PARSONS: A bill (H. R. 8780) granting a pension to Rocina Olliver; to the Committee on Invalid Pensions.

By Mr. RAYBURN: A bill (H. R. 8781) for the relief of John B. Jones; to the Committee on Military Affairs.

By Mr. RUDD: A bill (H. R. 8782) for the relief of Joseph Preston Bryers; to the Committee on Naval Affairs.

By Mr. WILCOX: A bill (H. R. 8783) for the relief of J. H. Medlin; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9083. By Mr. CONNERY: Resolutions of the General Court of Massachusetts, favoring the granting of funds by the Federal Government for the immediate removal of elevated-railway structures in the city of Boston, and the construction of subways in substitution therefor; to the Committee on Appropriations.

9084. By Mr. CULLEN: Petition of the Catholic War Veterans, Inc., Long Island City, N. Y., urging Congress to use every means within its power to stamp out communistic activities in this country; to the Committee on Foreign Affairs.

9085. By Mr. DOBBINS: Petition of J. L. Fitzpatrick and 94 other citizens of Decatur, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9086. Also, petition of E. H. Brinkman and 26 other citizens of Champaign and Urbana, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9087. Also, petition of W. W. Wolff and 14 other citizens of Cerro Gordo, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9088. Also, petition of J. E. Miles and six other citizens of Homer, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9089. By Mr. HALLECK: Petition of citizens of Lafayette, Ind., favoring enactment of Senate bill 1629, for the regulation of motor vehicles in interstate commerce, as it was passed by the Senate; to the Committee on Interstate and Foreign Commerce.

9090. Also, petition of citizens of Cass County, Ind., favoring enactment of Senate bill 1629, for the regulation of motor carriers in interstate commerce, as it was passed by the Senate; to the Committee on Interstate and Foreign Commerce.

9091. Also, petition of citizens of Rockfield, Ind., favoring enactment of Senate bill 1629, for the regulation of motor carriers in interstate commerce, as it was passed by the Senate; to the Committee on Interstate and Foreign Commerce.

9092. Also, petition of citizens of Delphi, Ind., and vicinity, favoring Senate bill 1629, as passed by the Senate, for the regulation of motor vehicles in interstate commerce; to the Committee on Interstate and Foreign Commerce.

9093. By Mr. KVALE: Petition of 513 residents of Lincoln County, Minn., urging Congress to enact legislation continuing corn-loan provisions of the Agricultural Adjustment Act and amending the act so as to include all varieties of small grain; to the Committee on Agriculture.

9094. By Mr. LUNDEEN: Petition of T. P. Gorman, chairman general grievance committee, Brotherhood of Locomotive Firemen and Enginemen, of Minnesota, urging the enactment of House bills 8651 and 8652, providing for the establishment of a retirement system for all railroad employees in the United States; to the Committee on Interstate and Foreign Commerce.

9095. Also, petition of P. F. DeMore, chairman Railroad Brotherhood Legislative Board of Minnesota, protesting against the adjournment of Congress until House bills 8651

and 8652 and Senate bills 3150 and 3151, Aged Railroad Men's Retirement Act, is enacted into law; to the Committee on Interstate and Foreign Commerce.

9096. Also, petition of the Minneapolis City Council, Minneapolis, Minn, protesting against provisions of the Eastman bill (S. 1632, H. R. 5379) which invest in the Interstate Commerce Commission control and jurisdiction over commerce by water; to the Committee on Interstate and Foreign Commerce.

9097. Also, petition of Upper Mississippi Waterway Association, Minneapolis, Minn., protesting against provisions of the Eastman bill (S. 1632, H. R. 5379), which invest in the Interstate Commerce Commission control and jurisdiction over commerce by water; to the Committee on Interstate and Foreign Commerce.

9098. Also, petition of the Minnesota Farmers Holiday Association, opposing Agricultural Adjustment Administration amendments; to the Committee on Agriculture.

9099. Also, petition of Farmer-Labor Club of Marshall, Minn., urging the enactment of legislation, considering certain fixed minimum prices on farm products; to the Committee on Agriculture.

9100. By Mr. TRUAX: Petition of Orphan's Hope Lodge, No. 466, by their recording secretary, L. E. Barth, urging support of House bills 8651 and 8652, providing for a retirement annuity to all employees of the railroad industry; to the Committee on Interstate and Foreign Commerce.

9101. Also, petition of the Sons and Daughters of Liberty, Dayton, Ohio, by Jessie Lacy, recording secretary, opposing House bill 6795 which has for its object the weakening of the present alien deportation law and places the power in the hands of the Secretary of Labor, Madam Perkins, to use her own pleasure as to who should or should not be deported; to the Committee on Immigration and Naturalization.

9102. Also, petition of C. W. Bell, employee of the New York Central Railroad Co., asking that the House enact the bill as passed in the Senate for the regulation of bus and truck traffic by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

9103. Also, petition of the United Rubber Workers, Willoughby, Ohio, by their president, Wilson Brunson, desiring the passage of the Black-Connery 30-hour-week bill, and the Lundeen unemployment insurance bill; also endorsing the workers' rights amendment as introduced by Representative MARCANTONIO; to the Committee on Labor.

9104. Also, petition of the board of managers of the Toledo Federation of Women's Clubs, by the chairman of the Department of Education, Mrs. Julius H. Jacobson, endorsing the Kerr bill (H. R. 8163); to the Committee of the Whole House.

9105. By Mr. KENNEY: Resolution of the United Brotherhood of Carpenters and Joiners of America, Jersey City, N. J., requesting immediate assistance from the Federal Government by the construction of small-cost housing projects in the city of Jersey City and urging activity be shown for the purpose of alleviating conditions in the county of Hudson; to the Committee on Appropriations.

9106. Also, resolution of the State Council of New Jersey, Sons and Daughters of Liberty, representing 174 councils comprising a membership of 23,035, urging defeat of House bill 6795; to the Committee on Immigration and Naturalization.

SENATE

TUESDAY, JULY 9, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, July 8, 1935, was dispensed with and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House has passed without amendment the following bills of the Senate:

S. 1206. An act authorizing the transfer of certain lands near Vallejo, Calif., from the United States Housing Corporation to the Navy Department for naval purposes;

S. 2230. An act to authorize the Secretary of the Navy to acquire a suitable site at Pearl Harbor, Territory of Hawaii, for a rear range light;

S. 2378. An act authorizing the Secretary of the Navy to accept on behalf of the United States a bequest of certain personal property of the late Dr. Malcolm Storer, of Boston, Mass.; and

S. 2846. An act authorizing the Secretary of the Navy to accept on behalf of the United States the devise and bequest of real and personal property of the late Paul E. McDonnold, passed assistant surgeon with the rank of lieutenant commander, Medical Corps, United States Navy, retired.

The message also announced that the House had passed the bill (S. 883) directing the retirement of acting assistant surgeons of the United States Navy at the age of 64 years, with amendments, in which it requested the concurrence of the Senate.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Reynolds
Ashurst	Coolidge	La Follette	Robinson
Austin	Copeland	Logan	Russell
Bachman	Davis	Lonergan	Schall
Bailey	Dickinson	McAdoo	Schwellenbach
Bankhead	Dieterich	McGill	Sheppard
Barbour	Donahey	McKellar	Shipstead
Barkley	Duffy	McNary	Smith
Bilbo	Fletcher	Maloney	Steiwer
Black	George	Metcalf	Thomas, Okla.
Bone	Gerry	Minton	Townsend
Borah	Gibson	Moore	Trammell
Brown	Glass	Murphy	Truman
Bulkley	Gore	Murray	Tydings
Bulow	Guffey	Neely	Vandenberg
Burke	Hale	Norbeck	Van Nuys
Byrd	Harrison	Norris	Wagner
Byrnes	Hastings	Nye	Walsh
Capper	Hatch	O'Mahoney	Wheeler
Caraway	Hayden	Overton	White
Carey	Holt	Pittman	
Chavez	Johnson	Pope	
Clark	Keyes	Radcliffe	

Mr. ROBINSON. I announce that the Senator from Nevada [Mr. MCCARRAN] is absent from the Senate because of a death in his family, and that the Senator from Colorado [Mr. COSTIGAN], the Senator from Illinois [Mr. LEWIS], the Senator from Utah [Mr. THOMAS], and the Senator from Louisiana [Mr. LONG] are absent on important public business.

Mr. VANDENBERG. I announce that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent because of illness.

Mr. NYE. I wish to announce that my colleague the senior Senator from North Dakota [Mr. FRAZIER] is necessarily absent.

The VICE PRESIDENT. Eighty-nine Senators have answered to their names. A quorum is present.

ELECTRIC RATE SURVEYS

The VICE PRESIDENT laid before the Senate letters from the Vice Chairman of the Federal Power Commission, transmitting, pursuant to law, compilations completed through the electric rate survey of the domestic and residential rates in effect in the States of Idaho, South Carolina, Vermont,

and Washington on January 1, 1935, which, with the accompanying papers, were referred to the Committee on Interstate Commerce.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following joint resolutions of the Legislature of the State of California, which were referred to the Committee on the Judiciary:

Senate joint resolution relative to the application to Congress to propose an amendment to the Constitution of the United States relating to tax-exempt securities

Whereas article V of the Constitution of the United States provides that the Congress shall, on the application of the legislatures of two-thirds of the several States, call a convention for proposing amendments to the Constitution of the United States; and

Whereas the Legislature of the State of California deems it necessary to the well-being of the Nation that no securities heretofore or hereafter issued by the Federal Government or any State or political subdivision be exempt from taxation: Now, therefore, be it

Resolved by the Senate and the Assembly of the Legislature of the State of California, jointly, at its fifty-first regular session, commencing on the 7th day of January 1935, a majority of all the members elected to each house of the legislature voting in favor hereof, That the Congress of the United States be requested to call a convention upon the adoption by two-thirds of the several States of a resolution similar to this resolution, for the purpose of proposing an amendment to the Constitution providing that no securities heretofore or hereafter issued, either by the Federal Government or any State or political subdivision, shall be exempt from taxation; and be it further

Resolved, That certified copies of this resolution be forwarded by the Governor of the State of California to the President of the United States, the Secretary of State of the United States, the President of the Senate of the United States, the Speaker of the House of Represenatives of the United States, and the Governor of each of the several States.

Senate Joint Resolution 23

Senate joint resolution relative to the application to Congress to propose an amendment to the Constitution of the United States relating to the power of the Congress to regulate hours, wages, terms, and conditions of employment of labor

Whereas article V of the Constitution of the United States provides that the Congress shall, on the application of the legislatures of two-thirds of the several States, call a convention for proposing amendments to the Constitution of the United States: Now, therefore, be it

Resolved by the Senate and the Assembly of the Legislature of the State of California, jointly, at its fifty-first regular session, commencing on the 7th day of January 1935, a majority of all the members elected to each house of the legislature voting in favor hereof, That the Congress of the United States be requested to call a convention upon the adoption by two-thirds of the several States of a resolution similar to this resolution, for the purpose of proposing an amendment to the Constitution providing that the Congress of the United States shall have the power to regulate hours of labor and prescribe minimum wages in any and all industries engaged in intrastate, as well as interstate, commerce; and be it further

Resolved, That certified copies of this resolution be forwarded by the Governor of the State of California to the President of the United States, the Secretary of State of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and the Governor of each of the several States.

The VICE PRESIDENT also laid before the Senate resolutions adopted by the First Quadrennial Convention of the Brotherhood of Railroad Trainmen, favoring the enactment of the so-called "Lundeen bill", being the bill (H. R. 2827) to provide for the establishment of unemployment, old-age, and social insurance, and for other purposes, which were ordered to lie on the table.

Mr. CAPPER presented a petition of sundry citizens of Greenwood County, Kans., praying for the enactment of the bill (S. 3150) to levy an excise tax upon carriers and an income tax upon their employees, and for other purposes, which was referred to the Committee on Finance.

He also presented a resolution adopted by the convention of the Kansas State Council of the Knights of Columbus, held in Newton, Kans., favoring the adoption of the so-called "Borah resolution", being Senate Resolution 70, protesting against religious persecutions by the Government of Mexico, and authorizing an investigation thereof by the Committee on Foreign Relations, which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry citizens of Dearing, Kans., praying for the enactment of legislation to establish a retirement system for railroad employees, which was referred to the Committee on Interstate Commerce.

Mr. COPELAND presented petitions of sundry citizens of the State of New York, praying for removal of the Federal tax on the sale of gasoline, which were referred to the Committee on Finance.

He also presented a petition of sundry citizens, being employees of the Albany Knitting Co., Inc., of Albany, N. Y., praying for the enactment of the bill (H. R. 8603) to foster industry and fair competition, to promote and encourage employment, and to prevent the dumping of foreign merchandise on the markets of the United States, which was referred to the Committee on Finance.

He also presented resolutions adopted by the quarterly meeting of the Catholic War Veterans, Long Island City, N. Y., protesting against the introduction or spread of communism in the United States, which were referred to the Committee on the Judiciary.

He also presented a resolution adopted by the New York (N. Y.) Produce Exchange, protesting against the enactment of certain proposed amendments to the Agricultural Adjustment Act, which was ordered to lie on the table.

STATUE OF GEN. ROBERT E. LEE

Mr. WALSH presented the petition of the Boston (Mass.) Chapter, United Daughters of the Confederacy, praying for the erection of a statue of Gen. Robert E. Lee in the Arlington National Cemetery, which was referred to the Committee on the Library and ordered to be printed in the RECORD, as follows:

To the Senate and the House of Representatives of the United States:

We respectfully petition your honorable bodies that you enact into law the bill now pending to provide for a statue of Gen. Robert E. Lee to be placed in the national cemetery at Arlington.

Your petitioner is the Boston Chapter of the United Daughters of the Confederacy, and is composed of women of southern birth or association who are now resident in the Commonwealth of Massachusetts, and are enjoying the rights and privileges of this grand old State which led the way to liberty at the outbreak of the American Revolution.

To a united country we give our absolute loyalty and affection just as in the Spanish War and the World War we gave ourselves, our sons, and daughters in defense of that country.

But we of southern blood cannot forget the glorious sacrifices of our fathers and mothers in defense of what they conceived to be their rights. We cherish with pride the memories of the marvelous military skill of our leaders, the gallantry of our soldiers, and the noble self-sacrifice of our women. It is to keep alive these memories that our organization was formed, and we would be faithless to our fathers and mothers and untrue to ourselves if we allowed those memories to become dimmed.

We cherish the flag of the Confederacy, not as an emblem of nationality but as the emblem of remembrance of gallant deeds and unselfish sacrifice, and of our matchless leader, Robert E. Lee, great in war, sublime in peace, and enshrined forever in the hearts of the southern people.

It is with deep emotion that we recognize that the North accords to him, for his greatness and nobility, a place among our country's immortals. We feel it most fitting, therefore, that his statue should be erected in the national cemetery at Arlington, where it will become a shrine for all who revere spotless character.

We recall that many years ago that gallant soldier of the North, Col. Charles Francis Adams, proposed such a statue and suggested the following inscription:

"Robert Edward Lee, erected by the contributions of those who wearing the blue or wearing the gray recognize brilliant military achievements and honor lofty character evinced by humanity in war and by devotion and dignity in defeat."

BOSTON CHAPTER, UNITED DAUGHTERS OF THE CONFEDERACY,
By LOUISE LONGAKER, *Chairman.*
ERNESTINE DAVIS.
MENA V. FRENCH.
MARGARET A. TAYLOR.
LOUISE J. WARE.
LOUISE C. RIDER, *President.*
CLARA F. DANIELS, *Recording Secretary.*

ERADICATION OF THE TENT CATERPILLAR

Mr. BARBOUR. Mr. President, I present and ask unanimous consent to have printed in full in the RECORD and appropriately referred a resolution adopted by the Board of Chosen Freeholders of the County of Passaic in the State of New Jersey, urging the enactment of House bill no. 8212,

authorizing an appropriation for the eradication of the tent caterpillar.

There being no objection, the resolution was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD as follows:

Be it resolved, That the Board of Chosen Freeholders of the County of Passaic in a regular meeting convened this 3d day of July 1935 does hereby go on record as supporting the House of Representatives bill no. 8212, introduced by Congressman KENNEY, of Bergen County, relative to an appropriation of $25,000 to be expended by the Secretary of Agriculture for the eradication and control of the tent caterpillar in the State of New Jersey; and be it further

Resolved, That a certified copy of this resolution be forwarded by the clerk to the Board of Freeholders to the United States Senators of the State of New Jersey and to our local Congressman.

E. T. SCHEIDEMANN.

REPORTS OF COMMITTEES

Mr. ASHURST, from the Committee on the Judiciary, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 7680. A bill to amend the act of May 18, 1934, providing punishment for killing or assaulting Federal officers (Rept. No. 1033); and

H. R. 7909. A bill to amend the act creating a United States Court for China and prescribing the title thereof, as amended (Rept. No. 1029).

Mr. SHEPPARD, from the Committee on Commerce, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 3050. A bill granting the consent of Congress to the States of New York and Vermont to construct, maintain, and operate a bridge across Lake Champlain between Rouses Point, N. Y., and Alburg, Vt. (Rept. No. 1030); and

S. 3105. A bill to amend the act approved June 12, 1934, relating to the granting of the consent of Congress to certain bridge construction across the Tennessee River at a point between the city of Sheffield, Ala., and the city of Florence, Ala. (Rept. No. 1031).

Mr. SCHWELLENBACH, from the Committee on Military Affairs, to which was referred the bill (S. 2929) for the relief of Frank I. Otis, reported it with amendments and submitted a report (No. 1032) thereon.

Mr. CONNALLY, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 3192) to increase the limit of cost for the Department of Agriculture Extensible Building, reported it without amendment and submitted a report (No. 1034) thereon.

Mr. OVERTON, from the Committee on Commerce, to which was referred the bill (S. 3111) to authorize the Secretary of Commerce to grant to the State of Louisiana an easement over certain land of the United States in Natchitoches Parish, La., for highway purposes, reported it without amendment and submitted a report (No. 1035) thereon.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LOGAN:

A bill (S. 3215) to permit certain special-delivery messengers to acquire a classified status through noncompetitive examination; to the Committee on Post Offices and Post Roads.

By Mr. NEELY:

A bill (S. 3216) for the relief of the Zoar Baptist Church, of Kesslers Cross Lanes, Nicholas County, W. Va.; to the Committee on Claims.

A bill (S. 3217) for the relief of Lexie Hagy; to the Committee on Finance.

By Mr. BONE:

A bill (S. 3218) to amend section 201 of the Merchant Marine Act, 1928; to the Committee on Commerce.

By Mr. SHEPPARD:

A bill (S. 3219) fixing the computation of travel distances; and

A bill (S. 3220) to authorize the Secretary of War or the Secretary of the Navy to withhold the pay of officers, warrant officers, enlisted men, and nurses of the Army, Navy, or Marine Corps to cover indebtedness to the United States under certain conditions; to the Committee on Military Affairs.

(Mr. MCKELLAR introduced Senate bill 3221, which was referred to the Committee on Post Offices and Post Roads, and appears under a separate heading.)

By Mr. COPELAND:

A joint resolution (S. J. Res. 158) to extend the time within which applications may be filed under the Home Owners' Loan Act of 1933, as amended; to the Committee on Banking and Currency.

By Mr. COPELAND, Mr. WAGNER, Mr. BARBOUR, Mr. MOORE, Mr. LONERGAN, and Mr. MALONEY:

A joint resolution (S. J. Res. 159) granting the consent of Congress to the States of New York, New Jersey, and Connecticut to enter into a compact for the creation of the Interstate Sanitation District and the establishment of the Interstate Sanitation Commission; to the Committee on the Judiciary.

HOURS OF DUTY OF POSTAL EMPLOYEES

Mr. MCKELLAR. Mr. President, I ask consent to introduce for appropriate reference a bill fixing the hours of duty of postal employees, and also ask that the bill may be printed in full in the RECORD.

The VICE PRESIDENT. Without objection, the bill will be received, printed in the RECORD, and appropriately referred.

The bill (S. 3221) to fix the hours of duty of postal employees, and for other purposes, was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That when the needs of the service require supervisory employees, special clerks, clerks, and laborers in first- and second-class post offices, and employees of the motor-vehicle service, and carriers in the city delivery service and in the village delivery service, and employees of the Railway Mail Service, employees of the mail equipment shops, cleaners, janitors, telephone operators, and elevator conductors, paid from appropriations of the First Assistant Postmaster General, and all employees of the Custodial Service except charwomen and charmen and those working part time, to perform service on Saturday they shall be allowed compensatory time for such service on 1 day within 5 working days next succeeding the Saturday on which the excess service was performed: *Provided*, That employees who are granted compensatory time on Saturday for work performed the preceding Sunday or the preceding holiday shall be given the benefits of this act on 1 day within 5 working days following the Saturday when such compensatory time was granted: *Provided further*, That the Postmaster General may, if the exigencies of the service require it, authorize the payment of overtime for service on the last three Saturdays in the calendar year in lieu of compensatory time, except cleaners, janitors, telephone operators, and elevator conductors paid from the appropriation of the First Assistant Postmaster General, and custodial employees who shall be given compensatory time in lieu of overtime pay within 30 days next succeeding: *And provided further*, That for the purpose of extending the benefits of this act to railway postal clerks, the service of said railway postal clerks assigned to road duty shall be based on an average not exceeding 8 hours per day for 254 days per annum, including a proper allowance for all service required on lay-off periods as provided in Post Office Department Circular Letter No. 1348, dated May 12, 1921, and railway postal clerks required to perform service in excess of an average of 8 hours per day as herein provided, shall be paid in cash at the annual rate of pay or granted compensatory time, at their option, for such overtime.

SEC. 2. The ratio of substitute post-office clerks, substitute city letter carriers, substitute laborers, substitutes in the motor-vehicle service, and substitutes in the Railway Mail Service, shall be not more than 1 substitute for 8 regular employees: *Provided*, That at post offices with receipts of more than $500,000 per annum, and less than $10,000,000 per annum, the ratio of substitutes shall not be more than 1 substitute for 10 regular employees: *Provided further*, That at post offices with receipts of less than $500,000 the ratio shall be not more than 1 substitute for 12 regular employees, and at offices having less than 12 employees 1 substitute shall be provided: *Provided further*, That where the ratio of substitutes on the date of the enactment of this act is in excess of the ratio provided for herein no additional substitutes shall be appointed until these ratios are established: *And provided further*, That the provisions of this act shall not operate to furlough or dismiss any regular substitute.

This act shall take effect October 1, 1935.

THE AGRICULTURAL ADJUSTMENT ACT—AMENDMENTS

Mr. BORAH and Mr. DUFFY each submitted an amendment intended to be proposed by them, respectively, to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. VAN NUYS submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page —, under the heading "Judgments, Court of Claims", after "House Document No. 199", to insert the following: "and the judgment for $11,900 in favor of Albert C. Dalton, reported in House Document No. 174 of the Seventy-second Congress."

CONSTITUTIONALITY OF BITUMINOUS COAL CONSERVATION BILL

Mr. BYRD submitted a resolution (S. Res. 167), which was ordered to lie over under the rule, as follows:

Resolved, That the Attorney General is requested to transmit to the Senate, as soon as practicable, his opinion in writing with respect to the constitutionality of the bill (H. R. 8479, 74th Cong., 1st sess.) to stabilize the bituminous coal-mining industry and promote its interstate commerce; to provide for cooperative marketing of bituminous coal; to levy a tax on bituminous coal and provide for a drawback under certain conditions; to declare the production, distribution, and use of bituminous coal to be affected with a national public interest; to conserve the bituminous coal resources of the United States and to establish a national bituminous coal reserve; to provide for the general welfare, and for other purposes; and providing penalties.

THE PHILOSOPHY OF THE DECLARATION OF INDEPENDENCE

Mr. TYDINGS. Mr. President, there appeared in the press on the Fourth of July a short article written by the senior Senator from Idaho [Mr. BORAH] touching on American liberty, which is so splendidly conceived and expressed that I think it is worthy the reading of every citizen of the United States. The article begins with these words:

The Declaration of Independence was something more than an avowal of separation between peoples and a severance of political ties between governments. It was the announcement as a basis of government of a wholly new political philosophy.

I ask that the article be printed in full at this point in the RECORD.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARTICLE BY HON. WILLIAM E. BORAH, SENATOR FROM IDAHO

The Declaration of Independence was something more than an avowal of separation between peoples and the severance of political ties between governments. It was the announcement, as a basis of government, of a wholly new political philosophy. Even the democracy of Athens rested upon the theory of inequality in political rights and all governments from the beginning of time had utterly rejected the inalienable right of the common people to life, liberty, and the pursuit of happiness. They were the mudsills of the social structure. They were to be managed. For them the government was to plan. Their rights, privileges, and duties were circumscribed and limited or wholly denied by rules and regulations, sometimes called orders and decrees, issued from time to time by those in power, all based upon the theory that the judgment of the people was unreliable and their enjoyment of liberty dangerous. Even Runnymede was an adjustment between the annointed over their respective jurisdictions in the matter of controlling the lives, liberties, and happiness of the people.

Had the moving spirits of those early American days been content to merely break the political ties which bound them to a parent government and to set up here a government upon the old theory, the great body of the people would have simply exchanged one yoke for another—they would have remained silent and their rights the plaything of arbitrary power. But something more than this was to be done. Something more was done. A government based upon the consent of the governed was to be established and it was established.

In defiance of all the teachings, the practices, and philosophies of the past, it was declared that there were rights and privileges belonging to and possessed by the individual which no government could bestow and hence, no government could take away. The Declaration of Independence found the average person exhausted of all influence, of all power, and without hope, and it made him a sovereign. It released the creative, constructive forces of the individual, it unchained his energies and aroused his ambitions, and of these things has been built a civilization without precedent. In popular parlance, we are wont to say: Our venture in government had its origin in the rejection of the divine right of kings. It seems even more accurate to say that it had its origin in the acceptance of the divine right of the individual.

But the old struggle lives on. The rights and the privileges of the individual are always in jeopardy. Encroachment of government upon the liberty and freedom of the citizen seems to be a natural law, if such term may be applied to a rule of politics. In the last analysis, the American Revolution was a fight against swollen, ruthless, bureaucracy—in trade, in commerce, in business, and in individual initiative, all were circumscribed and planned and controlled and enforced by arbitrary power.

The totalitarian state, in all its varied forms, is not new. It is something very old. It does not mark an advance but a retreat. It is not progress, but reaction. Whether in fact or in fiction, the very conception of such a state involves restraint, repression, and, at last, persecution, torture, and death. From Plato, with his ideal state resting upon the submerged masses, down to the modern bureaucratic, or totalitarian, states, with their island prison or frozen regions of exiled humanity, there has never been any room for the initiative, the individuality, of the average man or woman, no chance for those who would break through arbitrary environments in search for a fuller and better life. If history reveals one truth, it is that all schemes to bring about and hammer down into uniformity, into standardization, all that is individual, results in stagnation, retrogression, mediocrity, and universal misery.

The cornerstone of American civilization is the liberty of the citizen, the right to choose his own avocation, calling, or profession, to worship according to his own beliefs, to conduct his personal affairs according to his own judgment—under a regime of just and equal laws.

PROBLEMS OF GOVERNMENT—ADDRESS BY SENATOR BARKLEY

Mr. CLARK. Mr. President, I ask unanimous consent to insert in the RECORD a speech delivered on June 27, 1935, before the town meeting of New York City by the senior Senator from Kentucky [Mr. BARKLEY].

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, in the discussion of problems of government, which in these complex days means the problems of society, we are usually quite prone to approach all questions from the standpoint of partisan politics. While I am, as you probably suspect, an ardent Democrat, I hope I am not blind enough to claim that all virtue resides in the bosoms of those who agree with me and all evil in the bosoms of those who disagree.

In discussing the question of national recovery we must keep constantly in our minds what it is we are trying to recover from and what caused it.

I cannot in the time allotted to me go deeply into the causes of the depression from which we have been suffering since 1929.

A portion of the responsibility may be ascribed to the World War and its consequences.

A portion of it may be ascribed to the short-sighted nationalistic policies out of which grew trade barriers, insurmountable tariffs, quotas, and all the restrictions imposed on international trade. In that process our own Nation must acknowledge its guilt.

A portion of it may be ascribed to the speculative mania which drew millions of our people toward the mirage of easy wealth, which in turn inflated the prices of securities far above their intrinsic value. This speculative mania was fostered and encouraged by men in the highest positions in the Government of the United States. After the collapse of 1929 these men continued to insist that our economic condition was sound and that securities should go higher yet.

There are other causes which contributed to the long night of despair through which we have passed. I cannot go further into them. Neither is it worth while to discuss anything that was done from 1929 to 1933 to stem the tide or alleviate the conditions. Very little was done. I desire to recall to your minds the conditions which existed 2 years ago, when real efforts at recovery were inaugurated.

Our commerce with other nations had dwindled from $10,000,000,000 per annum to little more than two billions.

The smoke of industry had faded from the skies and millions of men were vainly searching for work.

Agriculture had collapsed and was selling its products below the cost of their production; and the agencies of credit set up for its benefit had ceased to function.

The pillars had fallen from our banking system, as evidenced in the failure of more banks in the 4 years following 1929 than had failed in the Nation's history or had failed in all the rest of the world in the same period.

Millions of people had lost billions of dollars in the value of their property and their securities.

As a result of all this the American people were losing confidence not only in their economic, industrial, and social structures, but in the political institutions for which they had sacrificed in peace and war alike.

In the midst of this national gloom a new leader came into authority, and new policies were inaugurated which have come to be described collectively as the new deal.

One of the first questions which confronted those charged with the responsibility of action was the same question we are discussing tonight: Which road to recovery?

Those who have found fault with what we have done and are doing cannot satisfy the American people with pointing to mistakes here and there, or to a mistaken policy as a whole. In fair-

ness they must also give a bill of particulars as to what they would have done or would not do.

The history of our effort to restore confidence in the Nation's banking system is one of the brightest chapters in the annals of financial history. There was opposition to this effort. Men and institutions flat on their back came down to Washington to insist that we do nothing. Others came to aid in the work of reconstruction.

But a new charter for a stronger banking system was enacted into law, which restored banking to its normal and proper functions, guaranteed to depositors the return of their money, and increased the deposits in all banks in 2 years by more than $6,000,000,000. Before this session of Congress shall have adjourned, I confidently predict that we shall still further increase and safeguard the strength and serviceability of our banking institutions.

I have referred to the break-down of the farm-credit system. For more than a year prior to the change of policy which I am discussing the farm-credit system, established under the Wilson administration in 1916, designed to furnish credit to agriculture suitable to its needs, had ceased to function at all. Its funeral was being preached in public forum and private drawing room.

But within the past 2 years the farm-credit agencies have been revived and resumed their activities, and the confidence of the American farmer in their efficiency has been likewise renewed. Hundreds of thousands of farms have been rescued from the auctioneer. In the cities and towns the Home Owners' Loan Corporation has done the same for hundreds of thousands of small-home owners.

Two years ago we found a vast unsalable surplus of farm products, increasing the cost to the farmer and depressing the price which he received. Unless our world markets could be restored, we could not continue to produce these quantities without disaster to the producers. As foreign markets could not be restored by magic, some way had to be found for reducing the surplus until the American farmer could find a normal market for the result of his toil. The Agricultural Adjustment Administration was the means by which this effort was and is made.

Critics will condemn what they do not understand or wilfully misrepresent. But during the past 2 years the income of the American farmer has been increased by more than $2,000,000,000 per annum. The prices of his products have increased in many instances more than 100 percent. He has seen the vision of a new hope. He is beginning to pay his debts, and to purchase again the things which he needs for a fuller and happier life, and to continue that indispensable partnership between agriculture and industry.

As a result of the industrial paralysis which existed 2 years ago, unprecedented unemployment stalked over the land like the march of death. More than 13,000,000 workers were without employment. This presented a serious social and economic difficulty which could not be ignored with impunity. It was a task of the first magnitude to attempt to restore men and women to remunerative employment.

The effort to deal with this and correlated evils took the form of the National Industrial Recovery Act. One of the objectives of this new experiment was the spreading of all available labor among as large a number of men as possible, by reducing the hours of labor. Another was the abolition of the curse of American industry, child labor. Another was the elimination of unfair trade practices which were wide-spread and acknowledged, but which no other agency had been able to abolish.

No one ever claimed that this act was a perfect piece of legislation. No one claims or ever claimed that it was or could be administered without error, friction, misunderstanding, or injustice.

But those who from the beginning criticized it without benefit of clergy, offered nothing in its place, and they have offered nothing since its nullification by the Supreme Court. They hug to their bosoms the sacred policy of negation. They are charter members of the fraternity of laissez faire.

Whatever may be said about it, it did for the time abolish child labor. Hundreds of thousands of children have been taken from sweatshops and placed in school and on playgrounds. Between three and four million men secured employment who were idle and many of them objects of national or local charity. Cutthroat competitive practices were to a large extent eliminated. In spite of its admitted defects of administration, which grew out of an effort to cover too much territory, both labor and industry appealed to Congress to preserve what had been found to be useful and constructive.

Whether we give credit to this act or some other act or to a combination of acts, the rolls of unemployment have been vastly curtailed, wages were increased, shorter hours were inaugurated, children ceased to be ground into profits, the purchasing power of the people expanded, and business was and is being conducted on a more elevated plane of ethics and integrity.

But the Supreme Court held the act unconstitutional, not because the codes were bad, not because the act had not or could not accomplish worthy and laudable reforms and improvements, but because Congress adopted the wrong method in bringing about the codes.

And because the Supreme Court declared this and some other acts of Congress unconstitutional, the anvil chorus has been chanting the doleful prophecy that we are destroying the Constitution itself and departing from the form of government set up under it.

During the 150 years of our history Congress has enacted more than 25,000 laws. Altogether, 59 of them have been declared unconstitutional by the Supreme Court. From 1920 to 1930, 19 acts of Congress were declared unconstitutional. But nobody became excited or predicted the downfall of the Republic or announced that Congress or the administration then in power were about to plunge the Nation into the abyss.

Since 1930 the Supreme Court had declared 10 acts of Congress to be unconstitutional, and the noise which has been aroused would lead the unthinking or the uninformed to believe that no such catastrophe had ever before occurred in the history of the Nation.

Growing out of the conditions which I have been describing has been the question of relief for unemployment among the people.

Previously for the most part charity and public relief had been local, dispensed by local authority or by local private institutions.

I need not discuss whether a reversal of this policy could have been avoided. But the President and Congress were soon confronted with the dilemma of permitting men, women, and children to go without food, shelter, or clothing on the one hand, or bringing the agencies of the National Government to their rescue through public funds. There was only one answer to this dilemma.

If cities, counties, and States had exhausted their funds or their power to raise funds, the Federal Government could not close its eyes to the conditions. It was compelled to respond.

The discharge of this obligation has been a great burden upon our public revenues. It will continue so until normal conditions and local agencies can resume the task.

But in the effort to bridge the chasm until private enterprise shall absorb idle men and idle money, we have adopted a work program intended to place 3,500,000 men to work in useful occupations and useful projects which will add permanent values to the social and economic structure of the Nation. Not only will men be called from idleness to work and self-respect, but the number of young men who have been taken from the streets and possible crime and placed in conservation camps to learn something of civic and social responsibility will be doubled in the new set-up for these unique and useful agencies of this new conception of public service.

What, then, does the ledger show to the credit of these past 2 years since the inauguration of a drive against the depression on its entire battle front? How shall the people assess the value of these 2 years? How shall they determine whether the investment has been worth while and whether it ought to be continued?

What has it been worth to establish and improve a sound banking system in which the people have confidence?

The first 4 months of 1935 show an increase in deposits over the same period of 1933 of 43 percent. Will those who criticize what has been done destroy this; and, if so, what will they substitute for it?

What has it been worth to restore the faith and the purchasing power of the American farmer and to save his home and the home of his neighbor in the city?

The cash income of the American farmer for the first 4 months of 1935, over the same period for 1933, shows an increase of 61 percent. Will those who denounce what has been done tell the American people they will reverse this policy?

What has it been worth to the future of America to have eliminated, even for a while, the evils of child labor? Will those who find no good in us return these children to the factories?

What has it been worth to spread among many millions of workers the opportunity to work at all, and at shorter hours and increased wages? And what boots it to say that there are yet other millions who are unemployed?

According to the Bureau of Labor Statistics the first 4 months of 1935 show over the same period of 1933 an increase in employment of more than 35 percent in factory employment. For the same period there was an increase in factory pay rolls of 76 percent.

What have they done, are they doing, or will they do who dwell in the realms of the destructive critic to bring work to a single man or woman?

What has it been worth to teach American business something of the doctrine of cooperation and good will in the field of tense competitive struggle?

During the same period referred to above industrial production increased 41 percent according to the Federal Reserve Board. Mining production increased 22 percent, while earnings in 25 selected typical industries increased 40 percent and farm prices increased 21 percent. Can anybody guarantee that a better result would have ensued from anything they have offered or now offer?

What is it worth to have taken nearly half a million young men from the devil's workshop and taught them the immeasurable values of training of body and mind and heart? And will those who ridiculed these efforts tell us what they would have done or would now do for these young men?

What has it been worth to have protected millions of men and women in the investment of their savings as represented in stocks in corporations, by regulating their issue and their sale in the market place? And will those who froth in generalities because of the fancied intrusion into their private contrivances advocate lifting this protection from the people of the Nation?

For the first 4 months of 1935 total domestic capital issues increased over the same period in 1933 by 346 percent, and new issues alone by 168 percent, while for the same period the price of securities increased 45 percent and bonds 26 percent.

What has it been worth to inaugurate a great movement for the construction and repair of homes for the people, not with money from the Treasury, but with money from private sources under the stimulation and encouragement of the Federal Government

through the Housing Administration? Today this agency alone is bringing about the expenditure of nearly $2,000,000 per day for housing and all that goes with housing in this country.

But we are told that the Budget is unbalanced. So it is.

For a century and a half we had no Budget. Now that we have one, we can neither balance it nor leave it unbalanced.

We should all like to balance our National Budget and our personal budgets. But there has never been in the Nation's history a great crisis when the National Budget could have been balanced.

It was not balanced during the Civil War, or the Spanish-American War, or the World War. It was not balanced in the depressions of 1873, or 1893, or 1907. During the World War we spent $30,000,000,000 and increased our national debt from two billion to twenty-six billion dollars. By 1929 it had been reduced to seventeen billions, but by 1933 had been increased again to nearly twenty-two billions and by 1935 to nearly twenty-nine billions. These increases have not been made because of the ordinary expenditures of the Government, but because of the extraordinary expenditures because of relief and other results of the depression. But we are now considering a tax measure which will contribute toward the balancing of the Budget and the reduction of our debt.

But our national debt today in proportion to population and wealth and resources is smaller than that of any great nation in the civilized world. And if, as I believe, we shall soon witness a great revival of business and industry in this Nation and our income increases in proportion, we shall be able to discharge our national obligations promptly and in order, which are today selling above par in the financial markets of the world.

But we are told by those who suffer from a sort of intellectual imperviosity that liberty has departed from our midst and that the Constitution is deader than the dodo, because Thomas Jefferson is supposed once to have remarked that "That government is best which governs least." He also said once that the Constitution ought to be revised every 30 years in order to keep it up to date.

Every man who is a part of civilized society has surrendered something of his original liberty in order that orderly society may exist; in order that the orderly progress of the race under guidance and restraint may be guaranteed to the people.

Every time I approach a red light at the corner I surrender some of my liberty. Every time I observe the speed limit on street or highway I surrender some of my liberty. The same is true of a thousand relationships which exist in every civilized community.

In surrendering unrestrained liberty to do as we please we acquire a greater and more enduring liberty; the freedom to live under law and the protection of government; the freedom to work; the freedom to support one's family and to educate one's children; to enjoy all the necessities and some of the comforts of life; the freedom to travel, to vote, to participate in government; the freedom to be unhampered by the strong or the unscrupulous because of the weakness or the indifference of government.

I challenge those who complain that we have robbed the people of their liberty to point to a single example not based on public welfare. I challenge those who weep over the destruction of the States and the demise of the Constitution to indicate where we have stabbed it and where it is buried.

Controversies over the interpretation of the Constitution have raged ever since it was adopted. It was not a perfect document when framed, for it was ratified only on the condition that it should be amended at once in at least 10 particulars, which was done at the first session of Congress after its adoption. It has been amended an equal number of times since. It will probably be amended as many times in the future.

We have not destroyed the Constitution. We are not destroying it. But if the time ever comes when it shall be preserved only by assigning it to a shelf in some museum where it may be seen but never used, then the people themselves will destroy it and make another in its place.

The task of the statesman is not an easy task today. The distress and uncertainty of the people everywhere give rise to all manner of nostrums and of political quackery. In every age of hardship and bitter experience the charlatan, the shallow purveyor of cure-alls, and even the serious but misguided zealot of political upheaval finds it easy to spread the poison of suspicion and misunderstanding. He finds it easy to prey upon ignorance and superstition and lead trusting men and women into a vanishing mirage because it looks like water.

We see all about us today the effort to do this. We hear the noise and confusion; we see the eager faces of millions of people who do not understand the tangled web of economics, of finance, of industry, of government, or of society itself, but who want and deserve a better lot than they have thus far enjoyed.

It is the duty of men who bear the responsibility of leadership, and of parties which are intrusted with power, to chart a course sufficiently liberal and farsighted to enable the people to move steadily toward the goal of a fuller life without destroying the pillars of the temple. It is the duty of those who lead the people to steer the safe course, not worshipping the idols of antiquity nor losing their way in search of the fantastic.

We have been and are seeking the safe course. We are seeking the constructive approach to the solution of the economic relationship between government and people. We are seeking to preserve the stimulus of private initiative, while protecting the less fortunate from some of the rapacity from which they have suffered in the past.

But we seek to do this not by destroying liberty but by enlarging it in the truest sense; not by destroying the Constitution of our country but by making it the instrument of a truly popular government.

THE GUFFEY COAL BILL

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Philadelphia Record of July 8, 1935, and an editorial from the Pittsburgh Press of the same date, dealing with the so-called "Guffey coal bill."

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Record of July 8, 1935]

PASS THE GUFFEY COAL BILL

President Roosevelt follows the only logical and honorable course open to him in calling upon Congress to pass the Guffey bill to regulate the soft-coal industry, and let the question of its constitutionality be decided by the Supreme Court.

Typical of Tory hypocrisy is the ranting of reactionary newspapers that Mr. Roosevelt is putting the Supreme Court "on the spot."

What other course would the Tories have him pursue?

It is not the function of Congress to settle questions of constitutionality. That is solely the prerogative of the Supreme Court. And until we have some system by which that Court may render advisory opinions on legislation, either to Congress or to the President, the only method of determining constitutionality of legislation is to pass it and then institute a test case.

That is precisely what Governor Earle did in Pennsylvania on the antiparty raiding bill and the bill authorizing the State to borrow $50,000,000 in anticipation of taxes, both of which our State supreme court upheld.

That is what President Roosevelt will have to do—unless our whole legislative machine is to be stalled every time some legislator questions the constitutionality of a measure.

It is clear what the Tories want. They want the President to do nothing.

Those Tories offered no remedy during the many years they were in power. Nor do they offer a remedy now.

They know that while there are a few profitable bituminous mines in practically constant operation, there are many more marginal mines which operate only when the demand is heavy, and then suffer heavy handicaps economically. The Tories know also that the chaotic situation in the bituminous industry has worked horrible hardships on hundreds of thousands of miners; that the conditions in that industry are even worse expressed in human terms than they are expressed in economic terms.

The Guffey coal bill marks the first constructive effort anyone has made to end this demoralization of a vital industry.

Yet the Tories cry: "No, no! This bill may be unconstitutional." Yet when the President acts to determine whether the Guffey bill is constitutional, they yawp that he is challenging the Supreme Court.

The public will not be fooled by this insincere clamor. The people who gave Mr. Roosevelt one liberal mandate in 1932 and another liberal mandate in 1934 will answer that clamor in 1936.

Go forward, Mr. President. You are on the right path.

The Tories are not the Supreme Court.

[From the Pittsburgh Press of July 8, 1935]

WHO CAN SAY?

President Roosevelt's plea for immediate passage of the Guffey coal bill should not go unheeded.

Twice the United Mine Workers of America have postponed a Nation-wide walkout in order to give Congress sufficient time to act on the Guffey bill. It is not likely the union will wait after July 31—the deadline fixed by the latest truce.

Unless the Guffey bill becomes a law by then, 400,000 coal miners probably will throw down their picks and shovels and quit their jobs. The giant bituminous-coal industry will be crippled. Allied industries, such as steel and rails, will be hard hit. And coal-producing districts like western Pennsylvania will suffer great economic loss and will see much human suffering.

Moreover, the Guffey bill is supported whole-heartedly by the miners and has the backing of a substantial majority of the operators. It is the one new-deal measure that seems to have the approval of the industry affected by it.

Congressional leaders say the reason why the House and Senate have been so reluctant to act is because of doubts as to the Guffey bill's constitutionality. As the President points out, that is no reason for holding up a vote on the bill.

Who can say in advance of a decision by the Supreme Court itself whether the bill is unconstitutional? True, the N. R. A., which the Guffey bill follows in principle, was held invalid. But, on the other hand, the Court endorsed price-fixing and marketing agreements—both features of N. R. A.—in the famous Appalachians decision of 1933.

Neither congressional nor coal company lawyers, therefore, are qualified to pass on the legality of the Guffey bill. It may or may not be constitutional. Only the Supreme Court can say definitely, and it will not hand down a decision until the bill is passed and contested.

The President points this out in a letter to Representative HILL, of the House Ways and Means Committee. He declares:

"No one is in a position to give assurance that the proposed act will withstand constitutional tests, for the simple fact that you can get not ten but a thousand differing legal opinions on the subject."

But, he says, "The situation is so urgent and the benefits of the legislation so evident that all doubt should be resolved in favor of the bill, leaving to the courts, in an orderly fashion, the ultimate question of constitutionality."

The President's advice is sound and worth heeding. In the interest of industrial peace and for the salvation of one of America's great industries, Congress should complete action immediately on the Guffey bill and avert the Nation-wide strike now threatening.

REGULATION OF PUBLIC-UTILITY HOLDING COMPANIES

The VICE PRESIDENT. The question is on the motion of the Senator from Illinois [Mr. DIETERICH] that the Senate concur in the amendments of the House to the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating, or marketing securities, in interstate and foreign commerce through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

The amendments of the House of Representatives are to strike out all after the enacting clause and insert the following:

That this act may be cited as the "Public Utility Act of 1935."

TITLE I—CONTROL OF PUBLIC-UTILITY HOLDING COMPANIES

NECESSITY FOR CONTROL OF HOLDING COMPANIES

SECTION 1. (a) Public-utility holding companies and their subsidiary companies are affected with a national public interest in that, among other things, (1) their securities are widely marketed and distributed by means of the mails and instrumentalities of interstate commerce and are sold to a large number of investors in different States; (2) their service, sales, construction, and other contracts and arrangements are often made and performed by means of the mails and instrumentalities of interstate commerce; (3) their subsidiary public-utility companies often sell and transport gas and electric energy by the use of means and instrumentalities of interstate commerce; (4) their practices in respect of and control over subsidiary companies often materially affect the interstate commerce in which those companies engage; (5) their activities extending over many States are not susceptible of effective control by any State and make difficult, if not impossible, effective State regulation of public-utility companies.

(b) Upon the basis of facts disclosed by the reports of the Federal Trade Commission made pursuant to S. Res. 83 (70th Cong., 1st sess.), the reports of the Committee on Interstate and Foreign Commerce, House of Representatives, made pursuant to H. Res. 59 (72d Cong., 1st sess.) and H. J. Res. 572 (72d Cong., 2d sess.) and otherwise disclosed and ascertained, it is hereby declared that the national public interest, the interest of investors in the securities of holding companies and their subsidiary companies and affiliates, and the interest of consumers of electric energy and natural and manufactured gas, are or may be adversely affected—

(1) when such investors cannot obtain the information necessary to appraise the financial position or earning power of the issuers, because of the absence of uniform standard accounts; when such securities are issued without the approval or consent of the States having jurisdiction over subsidiary public-utility companies; when such securities are issued upon the basis of fictitious or unsound asset values and of paper profits from intercompany transactions, or in anticipation of excessive revenues from subsidiary public-utility companies; when such securities are issued by a subsidiary public-utility company under circumstances which subject such company to the burden of supporting an overcapitalized structure and tend to prevent voluntary rate reductions;

(2) when subsidiary public-utility companies are subjected to excessive charges for services, construction work, equipment, and materials, or enter into transactions in which evils result from an absence of arm's-length bargaining or from restraint of free and independent competition; when service, management, construction, and other contracts involve the allocation of charges among subsidiary public-utility companies in different States so as to present problems of regulation which cannot be dealt with effectively by the States;

(3) when control of subsidiary public-utility companies affects the accounting practices and rate, dividend, and other policies of such companies so as to complicate and obstruct State regulation of such companies, or when control of such companies is exerted through disproportionately small investment;

(4) when the growth and extension of holding companies bears no relation to economy of management and operation or the integration and coordination of related operating properties; or

(5) when in any other respect there is lack of economy of management and operation of public-utility companies or lack of efficiency and adequacy of service rendered by such companies, or lack of effective public regulation, or lack of economies in the raising of capital.

(c) When abuses of the character above enumerated become persistent and wide-spread the holding company becomes an agency which, unless regulated, is injurious to investors, consumers, and the general public; and it is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted, to prevent the adverse effect upon the public interest and the interest of investors and consumers referred to in subsection (b), and to meet the problems and to eliminate the abuses connected with public-utility holding company systems.

DEFINITIONS

SEC. 2. (a) When used in this title, unless the context otherwise requires—

(1) "Person" means an individual or company.

(2) "Company" means a corporation, a partnership, an association, a joint-stock company, a business trust, or an organized group of persons, whether incorporated or not.

(3) "Electric utility company" means any company which owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale, other than sale to tenants or employees of the person operating such facilities for their own use and not for resale. The Commission, upon application, shall by order declare a company operating any such facilities not to be an electric utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of an electric utility company, and (B) by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company for the purposes of this title. The filing of an application hereunder in good faith shall exempt such company (and the owner of the facilities operated by such company) from the application of this paragraph until the Commission has acted upon such application. As a condition to the entry of any such order, and as a part thereof, the Commission may require application to be made periodically for a renewal of such order, and may require the filing of such periodic or special reports regarding the business of the company as the Commission may find necessary or appropriate to insure that such company continues to be entitled to such exemption during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke such order whenever it finds that the conditions specified in clauses (A) and (B) are not satisfied in the case of such company. Any action of the Commission under the preceding sentence shall be by order. Application under this paragraph may be made by the company in respect of which the order is to be issued or by the owner of the facilities operated by such company. Any order issued under this paragraph shall apply equally to such company and such owner.

(4) "Gas utility company" means any company which owns or operates facilities used for the distribution at retail (other than distribution only in enclosed portable containers, or distribution to tenants or employees of the person operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power. The Commission, upon application, shall by order declare a company operating any such facilities not to be a gas utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of a gas-utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered a gas utility company for the purposes of this title. The filing of an application hereunder in good faith shall exempt such company (and the owner of the facilities operated by such company) from the application of this paragraph until the Commission has acted upon such application. As a condition to the entry of any such order, and as a part thereof, the Commission may require application to be made periodically for a renewal of such order, and may require the filing of such periodic or special reports regarding the business of the company as the Commission may find necessary or appropriate to insure that such company continues to be entitled to such exemption during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke such order whenever it finds that the conditions specified in clauses (A) and (B) are not satisfied in the case of such company. Any action of the Commission under the preceding sentence shall be by order. Application under this paragraph may be made by the company in respect of which the order is to be issued or by the owner of the facilities operated by such company. Any order issued under this paragraph shall apply equally to such company and such owner.

(5) "Public-utility company" means an electric utility company or a gas utility company.

(6) "Commission" means the Securities and Exchange Commission.

(7) "Holding company" means—

(A) any company which directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a company which is a holding company by virtue of this clause or clause (B), unless the Commission, as hereinafter provided, by order declares such company not to be a holding company; and

(B) any person which the Commission determines, after notice and opportunity for hearing, directly or indirectly to exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this title upon holding companies.

The Commission, upon application, shall by order declare that a company is not a holding company under clause (A) if the Commission finds that the applicant (i) does not, either alone or pursuant to an arrangement or understanding with one or more other persons, directly or indirectly control a public-utility or holding company either through one or more intermediary persons or by any means or device whatsoever, (ii) is not an intermediary company through which such control is exercised, and (iii) does not, directly or indirectly, exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this title upon holding companies. The filing of an application hereunder in good faith by a company other than a registered holding company shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a holding company, until the Commission has acted upon such application. Within a reasonable time after the receipt of any application hereunder, the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of, such application. As a condition to the entry of any order granting such application and as a part of any such order, the Commission may require the applicant to apply periodically for a renewal of such order and to do or refrain from doing such acts or things, in respect of exercise of voting rights, control over proxies, designation of officers and directors, existence of interlocking officers, directors and other relationships, and submission of periodic or special reports regarding affiliations or intercorporate relationships of the applicant, as the Commission may find necessary or appropriate to ensure that in the case of the applicant the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. The Commission, upon its own motion or upon application of the company affected, shall revoke the order declaring such company not to be a holding company whenever in its judgment any condition specified in clause (i), (ii), or (iii) is not satisfied in the case of such company, or modify the terms of such order whenever in its judgment such modification is necessary to ensure that in the case of such company the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. Any action of the Commission under the preceding sentence shall be by order.

(8) "Subsidiary company" of a specified holding company means—

(A) any company 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company (or by a company that is a subsidiary company of such holding company by virtue of this clause or clause (B)), unless the Commission, as hereinafter provided, by order declares such company not to be a subsidiary company of such holding company; and

(B) any person the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies.

The Commission, upon application, shall by order declare that a company is not a subsidiary company of a specified holding company under clause (A) if the Commission finds that (i) the applicant is not controlled, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) either through one or more intermediary persons or by any means or device whatsoever, (ii) the applicant is not an intermediary company through which such control of another company is exercised, and (iii) the management or policies of the applicant are not subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies. The filing of an application hereunder in good faith shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a subsidiary company of such specified holding company until the Commission has acted upon such application.

Within a reasonable time after the receipt of any application hereunder, the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of, such application. As a condition to the entry of, and as a part of, any order granting such application, the Commission may require the applicant to apply periodically for a renewal of such order and to file such periodic or special reports regarding the affiliations or intercorporate relationships of the applicant as the Commission may find necessary or appropriate to enable it to determine whether in the case of the applicant the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke the order declaring such company not to be a subsidiary company whenever in its judgment any condition specified in clause (i), (ii), or (iii) is not satisfied in the case of such company, or modify the terms of such order whenever in its judgment such modification is necessary to ensure that in the case of such company the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. Any action of the Commission under the preceding sentence shall be by order. Any application under this paragraph may be made by the holding company or the company in respect of which the order is to be entered, but as used in this paragraph the term "applicant" means only the company in respect of which the order is to be entered.

(9) "Holding-company system" means any holding company, together with all its subsidiary companies.

(10) "Associate company" of a company means any company in the same holding-company system with such company.

(11) "Affiliate" of a specified company means—

(A) any person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of such specified company;

(B) any individual who is an officer or director of such specified company; and

(C) any person that the Commission determines, after notice and opportunity for hearing, to stand in such relation to such specified company that there is such an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this title upon affiliates of a company.

(12) "Registered holding company" means a person whose registration is in effect under section 5.

(13) "Director" means any director of a corporation or any individual who performs similar functions in respect of any company.

(14) "Security" means any note, draft, stock, treasury stock, bond, debenture, certificate of interest, or participation in any profit-sharing agreement or in any oil, gas, other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, receiver's or trustee's certificate, or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guaranty of, assumption of liability on, or warrant or right to subscribe to or purchase, any of the foregoing.

(15) "Voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company, or any security issued under or pursuant to any trust, agreement, or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a company; and a specified percent of the outstanding voting securities of a company means such amount of the outstanding voting securities of such company as entitles the holder or holders thereof to cast said specified percent of the aggregate votes which the holders of all the outstanding voting securities of such company are entitled to cast in the direction or management of the affairs of such company.

(16) "Utility assets" means the facilities, in place, of any electric utility company or gas utility company for the production, transmission, transportation, or distribution of electric energy or natural or manufactured gas.

(17) "Service contract" means any contract, agreement, or understanding whereby a person undertakes to sell or furnish, for a charge, any managerial, financial, legal, engineering, purchasing, marketing, auditing, statistical, advertising, publicity, tax, research, or any other service, information, or data.

(18) "Sales contract" means any contract, agreement, or understanding whereby a person undertakes to sell, lease, or furnish, for a charge, any goods, equipment, materials, supplies, appliances, or similar property. As used in this paragraph the term "property" does not include electric energy or natural or manufactured gas.

(19) "Construction contract" means any contract, agreement, or understanding for the construction, extension, improvement, maintenance, or repair of the facilities or any part thereof of a company for a charge.

(20) "Buy", "acquire", "acquisition", or "purchase" includes any purchase, acquisition by lease or exchange, or other acquisition.

(21) "Sale" or "sell" includes any sale, disposition by lease, exchange or pledge, or other disposition.

(22) "State" means any State of the United States or the District of Columbia.

(23) "United States", when used in a geographical sense, means the States.

(24) "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State which under the law of such State has jurisdiction to regulate public-utility companies.

(25) "State securities commission" means any commission, board, agency, or officer, by whatever name designated, other than a State commission as defined in paragraph (24) of this subsection, which under the law of a State has jurisdiction to regulate, approve, or control the issue or sale of a security by a company.

(26) "Interstate commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(27) "Integrated public-utility system" means—

(A) As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and distributing facilities, whose utility assets, whether owned by one or more electric-utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management and efficient operation; and

(B) As applied to gas utility companies, a system consisting of one or more gas-utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management and efficient operation, provided that gas-utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.

(b) No person shall be deemed to be a holding company under clause (B) of paragraph (7) of subsection (a), or a subsidiary company under clause (B) of paragraph (8) of such subsection, or an affiliate under clause (C) of paragraph (11) of such subsection, unless the Commission, after notice and opportunity for hearing, has issued an order declaring such person to be a holding company, a subsidiary company, or an affiliate. Such an order shall not become effective for at least 30 days after the mailing of a copy thereof to the person thereby declared to be a holding company, subsidiary company, or affiliate. Whenever the Commission, on its own motion or upon application by the person declared to be a holding company, subsidiary company, or affiliate, finds that the circumstances which gave rise to the issuance of any such order no longer exist, the Commission shall by order revoke such order.

(c) No provision in this title shall apply to, or be deemed to include, the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto.

POWER TO MAKE PARTICULAR EXEMPTIONS REGARDING HOLDING COMPANIES, SUBSIDIARY COMPANIES, AND AFFILIATES

SEC. 3. (a) The Commission, by rules and regulations upon its own motion, or by order upon application, shall exempt any holding company, and every subsidiary company thereof as such, from any provision or provisions of this title, unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors or consumers, if—

(1) such holding company, and every subsidiary company thereof which is a public-utility company from which such holding company derives, directly or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such holding company and every such subsidiary company thereof are organized;

(2) such holding company is predominantly a public-utility company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto;

(3) such holding company is only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company and (A) not deriving, directly or indirectly, any material part of its income from any one or more subsidiary companies, the principal business of which is that of a public-utility company, or (B) deriving a material part of its income from any one or more such subsidiary companies, if substantially all the outstanding securities of such companies are owned, directly or indirectly, by such holding company;

(4) such holding company is temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona fide debt previously contracted or in connection with a bona fide arrangement for the underwriting or distribution of securities; or

(5) such holding company is not, and derives no material part of its income, directly or indirectly, from any one or more subsidiary companies which are, a company or companies the principal business of which within the United States is that of a public-utility company.

(b) The Commission, by rules and regulations upon its own motion, or by order upon application, shall exempt any subsidiary company, as such, of a holding company from any provision or provisions of this title, unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors or consumers, if such subsidiary company derives no material part of its income, directly or indirectly, from sources within the United States, and neither it nor any of its subsidiary companies is a public-utility company operating in the United States.

(c) Within a reasonable time after the receipt of an application for exemption under subsection (a) or (b), the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of such application. The filing of an application in good faith under subsection (a) by a person other than a registered holding company shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a holding company until the Commission has acted upon such application. The filing of an application in good faith under subsection (b) shall exempt the applicant from any obligation, duty, or liability imposed in this title upon the applicant as a subsidiary company until the Commission has acted upon such application. Whenever the Commission, on its own motion, or upon application by the holding company or any subsidiary company thereof exempted by any order issued under subsection (a), or by the subsidiary company exempted by any order issued under subsection (b), finds that the circumstances which gave rise to the issuance of such order no longer exist, the Commission shall by order revoke such order.

(d) The Commission may, by rules and regulations, conditionally or unconditionally exempt any specified class or classes of persons from the obligations, duties, or liabilities imposed upon such persons as subsidiary companies or affiliates under any provision or provisions of this title, if and to the extent that it deems the exemption necessary or appropriate in the public interest or for the protection of investors or consumers.

TRANSACTIONS BY UNREGISTERED HOLDING COMPANIES

SEC. 4. (a) After December 1, 1935, unless a holding company is registered under section 5, it shall be unlawful for such holding company, directly or indirectly—

(1) to sell, transport, transmit, or distribute, or own or operate any utility assets for the transportation, transmission, or distribution of, natural or manufactured gas or electric energy in interstate commerce;

(2) by use of the mails or any means or instrumentality of interstate commerce, to negotiate, enter into, or take any step in the performance of, any service, sales, or construction contract undertaking to perform services or construction work for, or sell goods to, any public-utility company or holding company;

(3) to distribute or make any public offering for sale or exchange of any security of such holding company, any subsidiary company or affiliate of such holding company, any public-utility company, or any holding company, by use of the mails or any means or instrumentality of interstate commerce, or to sell any such security having reason to believe that such security, by use of the mails or any means or instrumentality of interstate commerce, will be distributed or made the subject of a public offering;

(4) by use of the mails or any means or instrumentality of interstate commerce, to acquire or negotiate for the acquisition of any security or utility assets of any subsidiary company or affiliate of such holding company, any public-utility company, or any holding company; or

(5) to engage in any business in interstate commerce.

(b) Every holding company which has outstanding any security any of which, by use of the mails or any means or instrumentality of interstate commerce, has been distributed or made the subject of a public offering subsequent to January 1, 1925, and any of which security is owned or held on October 1, 1935 (or, if such company is not a holding company on that date, on the date such company becomes a holding company) by persons not resident in the State in which such holding company is organized, shall register under section 5 on or before December 1, 1935, or the thirtieth day after such holding company becomes a holding company, whichever date is later.

REGISTRATION OF HOLDING COMPANIES

SEC. 5. (a) On or at any time after October 1, 1935, any holding company or any person purposing to become a holding company may register by filing with the Commission a notification of registration, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. A person shall be deemed to be registered upon receipt by the Commission of such notification of registration.

(b) It shall be the duty of every registered holding company to file with the Commission, within such reasonable time after registration as the Commission shall fix by rules and regulations or order, a registration statement in such form as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such registration statement shall include—

(1) such copies of the charter or articles of incorporation, partnership, or agreement, with all amendments thereto, and the by-laws, trust indentures, mortgages, underwriting arrangements, voting-trust agreements, and similar documents, by whatever name known, of or relating to the registrant or any of its associate companies as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers;

(2) such information in such form and in such detail relating to, and copies of such documents of or relating to, the registrant and its associate companies as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the

public interest or for the protection of investors or consumers in respect of—

(A) the organization and financial structure of such companies and the nature of their business;

(B) the terms, position, rights, and privileges of the different classes of their securities outstanding;

(C) the terms and underwriting arrangements under which their securities, during not more than the 5 preceding years, have been offered to the public or otherwise disposed of and the relations of underwriters to, and their interest in, such companies;

(D) the directors and officers of such companies, their remuneration, their interest in the securities of, their material contracts with, and their borrowings from, any of such companies;

(E) bonus and profit-sharing arrangements;

(F) material contracts, not made in the ordinary course of business, and service, sales, and construction contracts;

(G) options in respect of securities;

(H) balance sheets for not more than the 5 preceding fiscal years, certified, if required by the rules and regulations of the Commission, by an independent public accountant;

(3) such further information or documents regarding the registrant or its associate companies or the relations between them as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) Whenever the Commission, upon application, finds that a registered holding company has ceased to be a holding company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall, upon such terms and conditions as the Commission finds and in such order prescribes as necessary for the protection of investors, cease to be in effect. The denial of any such application by the Commission shall be by order.

UNLAWFUL SECURITY TRANSACTIONS BY REGISTERED HOLDING AND SUBSIDIARY COMPANIES

SEC. 6. (a) Except in accordance with a declaration effective under section 7, it shall be unlawful for any registered holding company, or for any subsidiary company thereof which is a public utility company the issuance of whose securities is not subject to regulation by a State commission or State securities commission, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly (1) to issue or sell any security of such company; or (2) to exercise any privilege or right to alter the priorities, preferences, voting power, or other rights of the holders of an outstanding security of such company.

(b) The provisions of subsection (a) shall not apply to the issue, renewal, or guaranty by a registered holding company or subsidiary company thereof of a note or draft (including the pledge of any security as collateral therefor) if such note or draft (1) is not part of a public offering, (2) matures or is renewed for not more than 9 months, exclusive of days of grace, after the date of such issue, renewal, or guaranty thereof, and (3) aggregates (together with all other then outstanding notes and drafts of a maturity of 9 months or less, exclusive of days of grace, as to which such company is primarily or secondarily liable) not more than 5 percent of the principal amount and par value of the other securities of such company then outstanding, or such greater percent thereof as the Commission upon application may by order authorize as necessary or appropriate in the public interest or for the protection of investors or consumers. In the case of securities having no principal amount or no par value, the value for the purposes of this subsection shall be the fair market value as of the date of issue. The provisions of subsection (a) shall not apply to the issue, by a registered holding company or subsidiary company thereof, of a security issued pursuant to the terms of any security outstanding on January 1, 1935, giving the holder of such outstanding security the right to convert such outstanding security into another security of the same issuer or of another person, or giving the right to subscribe to another security of the same issuer or another issuer. Within 10 days after any such issue, renewal, or guaranty, such holding company or subsidiary company thereof shall file with the Commission a certificate of notification in such form and setting forth such of the information required in a declaration under section 7 as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) It shall be unlawful for any registered holding company, by the use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to cause any officer or employee of any subsidiary company of such holding company to sell or cause to be sold any security of such holding company.

DECLARATIONS BY REGISTERED HOLDING AND SUBSIDIARY COMPANIES IN RESPECT OF SECURITY TRANSACTIONS

SEC. 7. (a) A registered holding company or subsidiary company thereof may file a declaration with the Commission, regarding any of the acts enumerated in subsection (a) of section 6, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such declaration shall include—

(1) such of the information and documents which are required to be filed in order to register a security under section 7 of the Securities Act of 1933, as amended, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers; and

(2) such additional information, in such form and detail, and such documents regarding the declarant or any associate company thereof, the particular security and compliance with such State laws as may apply to the act in question as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) A declaration filed under this section shall become effective within such reasonable period of time after the filing thereof as the Commission shall fix by rules and regulations or order, unless the Commission prior to the expiration of such period shall have issued an order to the declarant to show cause why such declaration should become effective. Within a reasonable time after an opportunity for hearing upon an order to show cause under this subsection, unless the declarant shall withdraw its declaration, the Commission shall enter an order either permitting such declaration to become effective as filed or amended, or refusing to permit such declaration to become effective. Amendments to a declaration may be made upon such terms and conditions as the Commission may prescribe.

(c) The Commission shall not permit a declaration regarding the issue or sale of a security to become effective unless it finds that—

(1) such security is (A) a common stock having a par value and being without preference as to dividends or distribution over, and having at least equal voting rights with, any outstanding security of the declarant; (B) a bond adequately secured by a lien on assets of the declarant; (C) a guaranty of, or assumption of liability on, a security of another company; or (D) a receiver's or trustee's certificate duly authorized by the appropriate court or courts; or

(2) such security is to be issued or sold solely (A) for the purpose of refunding, extending, exchanging, or discharging an outstanding security of the declarant and/or a predecessor company thereof or for the purpose of effecting a merger, consolidation, or other reorganization; (B) for the purpose of financing the business of the declarant as a public-utility company; (C) for the purpose of financing the business of the declarant, when the declarant is neither a holding company nor a public-utility company; and/or (D) for necessary and urgent corporate purposes of the declarant where the requirements of the provisions of paragraph (1) would impose an unreasonable financial burden upon the declarant and are not necessary or appropriate in the public interest or for the protection of investors or consumers; or

(3) such security is one the issuance of which was authorized by the company before January 1, 1935.

(d) If the requirements of subsection (c) are satisfied, the Commission shall permit a declaration regarding the issue or sale of a security to become effective unless the Commission finds that—

(1) the security is not reasonably adapted to the security structure of the declarant and other companies in the same holding company system;

(2) the security does not bear a proper relation to the fair value of the property of the declarant and its subsidiary companies;

(3) financing by the issue and sale of the particular security is not necessary or appropriate to the economical and efficient operation of a business in which the applicant lawfully is engaged or has an interest;

(4) the fees, commissions, or other remuneration, to whomsoever paid, directly or indirectly, in connection with the issue, sale, or distribution of the security are not reasonable;

(5) in the case of a security that is a guaranty of, or assumption of liability on, a security of another company, the circumstances are such as to constitute the making of such guaranty or the assumption of such liability an improper risk for the declarant; or

(6) the terms and conditions of the issue or sale of the security are detrimental to the public interest or the interest of investors or consumers.

(e) The Commission shall permit a declaration to become effective regarding the exercise of a privilege or right to alter the priorities, preferences, voting power, or other rights of the holders of an outstanding security unless in the judgment of the Commission such exercise of such privilege or right will result in an unfair or inequitable distribution of voting power among holders of the securities of the declarant or is otherwise detrimental to the public interest or the interest of investors or consumers.

ACQUIRING INTEREST IN ELECTRIC AND GAS UTILITY COMPANIES SERVING SAME TERRITORY

SEC. 8. Whenever a State law prohibits, or requires approval or authorization of, the ownership or operation by a single company of the utility assets of an electric-utility company and a gas-utility company serving substantially the same territory, it shall be unlawful for a registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise—

(1) to take any step, without the express approval of the State commission of such State, which results in its having a direct or indirect interest in an electric-utility company and a gas-utility company serving substantially the same territory; or

(2) if it already has any such interest, to acquire, without the express approval of the State commission, any direct or indirect interest in an electric-utility company or gas-utility company serving substantially the same territory as that served by such companies in which it already has an interest.

ACQUISITION OF SECURITIES AND UTILITY ASSETS AND OTHER INTERESTS

SEC. 9. (a) Unless the acquisition has been approved by the Commission under section 10, it shall be unlawful for any registered holding company or any subsidiary company thereof, by

use of the mails or any means or instrumentality of interstate commerce, or otherwise, to acquire, directly or indirectly, any securities or utility assets or any other interest in any business.

(b) Subsection (a) shall not apply to—

(1) the acquisition by a public-utility company of utility assets the acquisition of which has been expressly authorized by a State commission; or

(2) the acquisition by a public-utility company of securities of a subsidiary public-utility company thereof, provided that both such public-utility companies and all other public-utility companies in the same holding-company system are organized in the same State, that the business of each such company in such system is substantially confined to such State, and that the acquisition of such securities has been expressly authorized by the State commission of such State.

(c) Subsection (a) shall not apply to the acquisition by a registered holding company, or a subsidiary company thereof, of—

(1) securities of, or securities the principal or interest of which is guaranteed by, the United States, a State, or political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing;

(2) such other readily marketable securities, within the limitation of such amounts, as the Commission may by rules and regulations prescribe as appropriate for investment of current funds and as not detrimental to the public interest or the interest of investors or consumers; or

(3) such commercial paper and other securities, within such limitations, as the Commission may by rules and regulations or order prescribe as appropriate in the ordinary course of business of a registered holding company or subsidiary company thereof and as not detrimental to the public interest or the interest of investors or consumers.

APPROVAL OF ACQUISTION OF SECURITIES AND UTILITY ASSETS AND OTHER INTERESTS

SEC. 10. (a) A person may apply for approval of the acquisition of securities or utility assets, or of any other interest in any business, by filing an application in such form as the Commisson may by rules and regulatons prescribe as necessary or appropriate in the public interest or for the protection of investors and consumers. Such application shall include—

(1) in the case of the acquisition of securities, such information and copies of such documents as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers in respect of—

(A) the security to be acquired, the consideration to be paid therefor, and compliance with such State laws as may apply in respect of the issue, sale, or acquisition thereof;

(B) the outstanding securities of the company whose security is to be acquired, the terms, position, rights, and privileges of each class and the options in respect of any such securities;

(C) the names of all security holders of record (or otherwise known to the applicant) owning, holding, or controlling 1 percent or more of any class of security of such company, the officers and directors of such company, and their remuneration, security holdings in, material contracts with, and borrowings from such company and the offices or directorships held, and securities owned, held, or controlled, by them in other companies;

(D) the bonus, profit-sharing and voting-trust agreements, underwriting arrangements, trust indentures, mortgages, and similar documents, by whatever name known, of or relating to such company;

(E) the material contracts, not made in the ordinary course of business, and the service, sales, and construction contracts of such company;

(F) the securities owned, held, or controlled, directly or indirectly, by such company;

(G) balance sheets of such company for not more than the 5 preceding fiscal years, certified, if required by the rules and regulations of the Commission by an independent public accountant;

(H) any further information regarding such company and any associate company or affiliate thereof, or its relations with the applicant company; and

(I) if the applicant be not a registered holding company, any of the information and documents which may be required under section 5 from a registered holding company;

(2) in the case of the acquisition of utility assets, such information concerning such assets, the value thereof and consideration to be paid therefor, the owner or owners thereof and their relation to, agreements with, and interest in the securities of, the applicant or any associate company thereof as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers; and

(3) in the case of the acquisition of any other interest in any business, such information concerning such business and the interest to be acquired, and the consideration to be paid, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) If the requirements of subsection (f) are satisfied, the Commission shall approve the acquisition unless the Commission finds that—

(1) such acquisition will tend toward interlocking relations or the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interest of investors or consumers;

(2) in case of the acquisition of securities or utility assets, the consideration, including all fees, commissions, and other remuneration, to whomsoever paid, to be given, directly or indirectly, in connection with such acquisition is not reasonable or does not bear a proper relation to the fair value of the utility assets to be acquired or the utility assets underlying the securities to be acquired; or

(3) such acquisition will unduly complicate the capital structure of the holding-company system of the applicant or will be detrimental to the public interest or the interest of investors or consumers.

The Commission may condition its approval of the acquisition of securities of another company upon such a fair offer to purchase such of the other securities of the company whose security is to be acquired as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) Notwithstanding the provisions of subsection (b), the Commission shall not approve—

(1) an acquisition of securities or utility assets, or of any other interest, which is unlawful under the provisions of section 8; or

(2) the acquisition of securities or utility assets of a public-utility or holding company unless the Commission finds that such acquisition will serve the public interest by tending toward the economical and efficient development of an integrated public-utility system. This paragraph shall not apply to the acquisition of securities or utility assets of a public-utility company operating exclusively outside the United States.

(d) Within such reasonable time after the filing of an application under this section as the Commission shall fix by rules and regulations or order, the Commission shall enter an order either granting or, after notice and opportunity for hearing, denying approval of the acquisition unless the applicant shall withdraw its application. Amendments to an application may be made upon such terms and conditions as the Commission may prescribe.

(e) The Commission, in any order approving the acquisition of securities or utility assets, may prescribe such terms and conditions in respect of such acquisition, including the price to be paid for such securities or utility assets, as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

(f) The Commission shall not approve any acquisition as to which an application is made under this section unless it appears to the satisfaction of the Commission that such State laws as may apply in respect of such acquisition have been complied with, except where the Commission finds that compliance with such State laws would be detrimental to the carrying out of the provisions of section 11.

SIMPLIFICATION OF HOLDING-COMPANY SYSTEMS

SEC. 11. (a) It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding-company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of one or more integrated public-utility systems.

(b) It shall be the duty of the Commission, after notice and opportunity for hearing, by order to require each registered holding company and each subsidiary company thereof to take such action (either by divesting itself of any interest in or control over property or persons, or otherwise) as the Commission finds necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system; except that if the Commission finds that it is not necessary in the public interest to so limit the operations of such holding-company system, the order of the Commission shall require such company to take only such action (either by divesting itself of any interest in or control over persons or property, or otherwise) as the Commission finds necessary to limit such operations to such number of integrated public-utility systems as it finds may be included in such holding-company system consistently with the public interest. The Commission shall not, under the foregoing provisions of this subsection, require any company to divest itself of any interest in or control over (1) persons or property other than a public-utility company or the utility assets of a public-utility company unless the Commission finds that such interest or control may not be retained consistently with the public interest, or (2) any person doing business exclusively outside the United States, or property located outside the United States.

(c) The Commission may proceed under subsection (b) either upon its own motion or upon application of any registered holding company and all subsidiary companies thereof, but no such proceeding shall be begun upon the Commission's own motion prior to January 1, 1938.

(d) The Commission is authorized, if appointed by the court, to act as trustee or receiver in any proceeding instituted under subsection (f) of section 18 for the enforcement of an order issued under subsection (b) of this section.

(e) Any order under subsection (b) shall be complied with within 1 year from the date of such order; but the Commission shall, upon a showing (made before or after the entry of such

order) that the applicant has been or will be unable in the exercise of due diligence to comply with such order within such time, extend such time for an additional period not exceeding 1 year if it finds such extension necessary or appropriate in the public interest or for the protection of investors or consumers.

(f) It shall be unlawful for any person to solicit or permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, authorization, or power of attorney, in respect of any reorganization plan of a registered holding company or any subsidiary company thereof under this section, or otherwise, or in respect of any plan under this section for the divestment of control, securities, or other assets, or for the dissolution of any registered holding company or any subsidiary company thereof, unless—

(1) the plan has been proposed by the Commission, or the plan and such information regarding it and its sponsors as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers has been submitted to the Commission by a person having a bona fide interest (as defined by the rules and regulations of the Commission) in such reorganization;

(2) each such solicitation is accompanied or preceded by a copy of a report on the plan which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it, or by an abstract of such report made or approved by the Commission; and

(3) each such solicitation is made not in contravention of such rules and regulations or orders as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers.

Nothing in this subsection or the rules and regulations thereunder shall prevent any person from appearing before the Commission or any court through an attorney or proxy.

INTERCOMPANY LOANS; DIVIDENDS; SECURITY TRANSACTIONS; SALE OF UTILITY ASSETS; PROXIES; OTHER TRANSACTIONS

SEC. 12. (a) It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to borrow, or to receive any extension of credit or indemnity, from any public-utility company in the same holding-company system or from any subsidiary company of such holding company, but it shall not be unlawful under this subsection to renew, or extend the time of, any loan, credit, or indemnity outstanding on the date of the enactment of this title.

(b) It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to lend or in any manner extend its credit to or indemnify any company in the same holding-company system in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(c) It shall be unlawful for any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to declare or pay any dividend on any security of such company or to acquire, retire, or redeem any security of such company, in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate to protect the financial integrity of companies in holding-company systems, to safeguard the working capital of public-utility companies, to prevent the payment of dividends out of capital or unearned surplus, or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(d) It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to sell any security which it owns of any public-utility company, or any utility assets, in contravention of such rules and regulations or orders regarding the consideration to be received for such sale, competitive bidding, fees and commissions, accounts, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(e) It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding the voting of any security of a registered holding company or a subsidiary company thereof in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(f) It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into or take any step in the performance of any transaction not otherwise unlawful under this title, with any company in the same holding-company system or with any affiliate of a company in such holding-company system in contravention of such rules and regulations or orders regarding reports, accounts, costs, competitive bidding, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules and regulations thereunder.

(g) It shall be unlawful for any registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly—

(1) to make any contribution whatsoever in connection with the candidacy, nomination, election, or appointment of any person for or to any office or position in the Government of the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing; or

(2) to make any contribution to or in support of any political party or any committee or agency thereof.

The term " contribution " as used in this subsection includes any gift, subscription, loan, advance, or deposit of money or anything of value, and includes any contract, agreement, or promise, whether or not legally enforceable, to make a contribution.

(h) It shall be unlawful for any person employed or retained by any registered holding company, or any subsidiary company thereof, to present, advocate, or oppose any matter affecting any registered holding company or any subsidiary company thereof, before the Congress or any Member or committee thereof, or before the Commission or Federal Power Commission, or any member, officer, or employee of either such Commission, unless such person shall file with the Commission in such form and detail and at such time as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the subject matter in respect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received by such person, directly or indirectly, in connection therewith. It shall be the duty of every such person so employed or retained to file with the Commission within 10 days after the close of each calendar month during such retainer or employment, in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the expenses incurred and the compensation received by such person during such month in connection with such retainer or employment.

SERVICE, SALES, AND CONSTRUCTION CONTRACTS

SEC. 13. (a) After April 1, 1936, it shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof which is a public-utility company.

(b) The provisions of subsection (a) shall not apply to such transactions, involving special or unusual circumstances or not in the ordinary course of business, as the Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) It shall be unlawful for any subsidiary company of a registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any service, sales, or construction contract with any other company in the same holding-company system, in contravention of such rules and regulations or orders regarding the consideration to be paid and other terms of such contracts, accounts, reports, costs, competitive bidding, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(d) It shall be unlawful for any person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, by use of the mails or any means or instrumentality of interstate commerce to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company, or for any such person, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company engaged in interstate commerce, or with any registered holding company or any subsidiary company of a registered holding company, in contravention of such rules and regulations or orders regarding reports, accounts, costs, competitive bidding, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(e) The Commission, in order to obtain information to serve as a basis for recommending further legislation, shall from time to time conduct investigations regarding the making, performance, and costs of service, sales, and construction contracts with holding companies and subsidiary companies thereof and with public-utility companies, the economies resulting therefrom, and the desirability thereof. The Commission shall report to Congress, from time to time, the results of such investigation, together with such recommendations for legislation as it deems advisable. On the basis of such investigations the Commission shall classify the different types of such contracts and the work done thereunder, and shall make recommendations from time to time regarding the

standards and scope of such contracts in relation to public-utility companies of different kinds and sizes and the costs incurred thereunder and economies resulting therefrom. Such recommendations shall be made available to State commissions, public-utility companies, and to the public in such form and at such reasonable charge as the Commission may prescribe.

PERIODIC AND OTHER REPORTS

SEC. 14. Every registered holding company shall file with the Commission such annual, quarterly, and other periodic and special reports, the answers to such specific questions and the minutes of such directors', stockholders', and other meetings, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such reports, if required by the rules and regulations of the Commission, shall be certified by an independent public accountant, and shall be made and filed at such time and in such form and detail as the Commission shall prescribe. The Commission may require that there be included in reports filed with it such information and documents as it finds necessary or appropriate to keep reasonably current the information filed under section 5, and such further information concerning the financial condition, security structure, security holdings, assets, and cost thereof, wherever determinable, and affiliations of the reporting company and the associate companies and affiliates thereof as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

ACCOUNTS AND RECORDS

SEC. 15. (a) Every registered holding company and every subsidiary company thereof shall make, keep, and preserve for such periods, such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules, regulations, or orders thereunder.

(b) Every affiliate of a registered holding company or of any subsidiary company thereof, or of any public-utility company engaged in interstate commerce or not so engaged, shall make, keep, and preserve for such periods, such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records relating to any transaction of such affiliate which is subject to any provision of this title or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules, regulations, or orders thereunder.

(c) Every person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies shall make, keep, and preserve for such periods, such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records, relating to any transaction by such person which is subject to any provision of this title or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules and regulations thereunder.

(d) After the Commission has prescribed the form and manner of making and keeping accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records to be kept by any person hereunder, it shall be unlawful for any such person to keep any accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records other than those prescribed or such as may be approved by the Commission, or to keep his or its accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records in any manner other than that prescribed or approved by the Commission.

(e) All accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records kept or required to be kept by persons subject to any provision of this section shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. The Commission, after notice and opportunity for hearing, may prescribe the account or accounts in which particular outlays, receipts, and other transactions shall be entered, charged, or credited and the manner in which such entry, charge, or credit shall be made, and may require an entry to be modified or supplemented so as properly to show the cost of any asset or any other cost.

(f) It shall be the duty of every registered holding company and of every subsidiary company thereof and of every affiliate of a company insofar as such affiliate is subject to any provision of this title or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such holding company, subsidiary company, or affiliate, as the case may be, to such examinations, in person or by duly appointed attorney, by the holder of any security of such holding company, subsidiary company, or affiliate, as the case may be, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(g) It shall be the duty of any person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, insofar as such person is subject to any provision of this title or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such person to such examinations, in person or by duly appointed attorney, by any public-utility or holding company for which such person performs service, sales, or construction contracts, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

LIABILITY FOR MISLEADING STATEMENTS

SEC. 16. (a) Any person who shall make or cause to be made any statement in any application, report, registration statement, or document filed pursuant to any provision of this title, or any rule, regulation, or order thereunder, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, shall be liable in the same manner, to the same extent, and subject to the same limitations as provided in section 18 of the Securities Exchange Act of 1934 with respect to an application, report, or document filed pursuant to the Securities Exchange Act of 1934.

(b) The rights and remedies provided by this title, except as provided in section 17 (b), shall be in addition to any and all other rights and remedies that may exist under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, or otherwise at law or in equity; but no person permitted to maintain a suit for damages under the provisions of this title shall recover, through satisfaction of judgment in one or more actions, a total amount in excess of his actual damages on account of the act complained of.

OFFICERS, DIRECTORS, AND OTHER AFFILIATES

SEC. 17. (a) Every person who is an officer or director of a registered holding company shall file with the Commission in such form as the Commission shall prescribe (1) at the time of the registration of such holding company, or within 10 days after such person becomes an officer or director, a statement of the securities of such registered holding company or any subsidiary company thereof of which he is, directly or indirectly, the beneficial owner, and (2) within 10 days after the close of each calendar month thereafter, if there has been any change in such ownership during such month, a statement of such ownership as of the close of such calendar month and of the changes in such ownership that have occurred during such calendar month.

(b) For the purpose of preventing the unfair use of information which may have been obtained by any such officer or director by reason of his relationship to such registered holding company or any subsidiary company thereof, any profit realized by any such officer or director from any purchase and sale, or any sale and purchase, of any security of such registered holding company or any subsidiary company thereof within any period of less than 6 months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the holding company or subsidiary company in respect of the security of which such profit was realized, irrespective of any intention on the part of such officer or director in entering into such transaction to hold the security purchased or not to repurchase the security sold for a period of more than 6 months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company entitled thereto or by the owner of any security of such company in the name and in the behalf of such company if such company shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not cover any transaction where such person was not an officer or director at the times of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Commission by rules and regulations may, as necessary or appropriate in the public interest or for the protection of investors or consumers, exempt as not comprehended within the purpose of this subsection. Nothing in this subsection shall be construed to give a remedy in the case of any transaction in respect of which a remedy is given under subsection (b) of section 16 of the Securities Exchange Act of 1934.

INVESTIGATIONS; INJUNCTIONS, ENFORCEMENT OF TITLE, AND PROSECUTION OF OFFENSES

SEC. 18. (a) The Commission, in its discretion, may investigate any facts, conditions, practices, or matters which it may deem necessary or appropriate to determine whether any person has violated or is about to violate any provision of this title or any rule or regulation thereunder, or to aid in the enforcement of the provisions of this title, in the prescribing of rules and regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this title relates. The Commission may require or permit any person to file with it a statement in writing, under oath or otherwise as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish or make available to State commissions information concerning any such subject.

(b) The Commission upon its own motion or at the request of a State commission may investigate, or obtain any information regarding the business, financial condition, or practices of any registered holding company or subsidiary company thereof or facts, conditions, practices, or matters affecting the relations between any such company and any other company or companies in the same holding-company system.

(c) For the purpose of any investigation or any other proceeding under this title, any member of the Commission, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in any State at any designated place of hearing.

(d) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. And such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than 1 year, or both.

(e) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the Commission, or in obedience to the subpena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(f) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper district court of the United States, the Supreme Court of the District of Columbia, or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this title or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the necessary criminal proceedings under this title.

(g) Upon application of the Commission, the district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission thereunder.

HEARINGS BY COMMISSION

SEC. 19. Hearings may be public and may be held before the Commission, any member or members thereof, or any officer or officers of the Commission designated by it, and appropriate records thereof shall be kept. In any proceeding before the Commission, the Commission, in accordance with such rules and regulations as it may prescribe, shall admit as a party any interested State, State commission, State securities commission, municipality, or other political subdivision of a State, and may admit as a party any representative of interested consumers or security holders, or any other person whose participation in the proceedings may be in the public interest or for the protection of investors or consumers.

RULES, REGULATIONS, AND ORDERS

SEC. 20. (a) The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as it may deem necessary or appropriate to carry out the provisions of this title, including rules and regulations defining accounting, technical, and trade terms used in this title. Among other things, the Commission shall have authority, for the purposes of this title, to prescribe the form or forms in which information required in any statement, declaration, application, report, or other document filed with the Commission shall be set forth, the items or details to be shown in balance sheets, profit and loss statements, and surplus accounts, the manner in which the cost of all assets, whenever determinable, shall be shown in regard to such statements, declarations, applications, reports, and other documents filed with the Commission, or accounts required to be kept by the rules, regulations, or orders of the Commission, and the methods to be followed in the keeping of accounts and cost-accounting procedures and the preparation of reports, in the segregation and allocation of costs, in the determination of liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the keeping or preparation, where the Commission deems it necessary or appropriate, of separate or consolidated balance sheets or profit and loss statements for any companies in the same holding company system.

(b) In the case of the accounts of any company whose methods of accounting are prescribed under the provisions of any law of the United States or of any State, the rules and regulations or orders of the Commission in respect of accounts shall not be inconsistent with the requirements imposed by such law or any rule or regulation thereunder; nor shall anything in this title relieve any public-utility company from the duty to keep the accounts, books, records, or memoranda which may be required to be kept by the law of any State in which it operates or by the State commission of any such State. But this provision shall not prevent the Commission from imposing such additional requirements regarding reports or accounts as it may deem necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) The rules and regulations of the Commission shall be effective upon publication in the manner which the Commission shall prescribe. For the purpose of its rules, regulations, or orders the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. Orders of the Commission under this title shall be issued only after opportunity for hearing.

(d) The Commission, by such rules and regulations or order as it deems necessary or appropriate in the public interest or for the protection of investors or consumers, may authorize the filing of any information or documents required to be filed with the Commission under this title, or under the Securities Act of 1933, as amended, or under the Securities Exchange Act of 1934, by incorporating by reference any information or documents theretofore or concurrently filed with the Commission under this title or either of such acts

EFFECT ON EXISTING LAW

SEC. 21. Nothing in this title shall affect (1) the jurisdiction of the Commission under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934 over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder.

INFORMATION FILED WITH THE COMMISSION

SEC. 22. (a) When in the judgment of the Commission the disclosure of such information would be in the public interest or the interest of investors or consumers, the information contained in any statement, application, declaration, report, or other document filed with the Commission shall be available to the public, and copies thereof may be furnished to any person at such reasonable charge and under such reasonable limitations as the Commission may prescribe: *Provided, however,* That nothing in this title shall be construed to require, or to authorize the Commission to require, the revealing of trade secrets or processes in any application, declaration, report, or document filed with the Commission under this title.

(b) Any person filing such application, declaration, report, or document may make written objection to the public disclosure of information contained therein, stating the grounds for such objection, and the Commission is authorized to hear objections in any such case where it finds it advisable.

(c) It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, declaration, report, or document filed with the Commission which is not made available to the public pursuant to this section.

ANNUAL REPORTS OF COMMISSION

SEC. 23. The Commission shall submit annually a report to the Congress covering the work of the Commission for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this title as it may find advisable.

COURT REVIEW OF ORDERS

SEC. 24. (a) Any person or party aggrieved by an order issued by the Commission under this title may obtain a review of such order in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 60 days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the Commission, or upon any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to

affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission or unless there were reasonable grounds for failure so to do. The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Commission shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

JURISDICTION OF OFFENSES

SEC. 25. The district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this title or the rules, regulations, or orders thereunder, and, concurrently with State and territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this title or the rules, regulations, or orders thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this title or rules, regulations, or orders thereunder, may be brought in any such district or in the district wherein the defendant is an inhabitant or transacts business, and process in such cases may be served in any district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 225 and 347). No costs shall be assessed for or against the Commission in any proceeding under this title brought by or against the Commission in any court.

VALIDITY OF CONTRACTS

SEC. 26. (a) Any condition, stipulation, or provision binding any person to waive compliance with any provision of this title or with any rule, regulation, or order thereunder shall be void.

(b) Every contract made in violation of any provision of this title or of any rule, regulation, or order thereunder, and every contract heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this title, or any rule, regulation, or order thereunder, shall be void (1) as regards the rights of any person who, in violation of any such provision, rule, regulation, or order, shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule, regulation, or order.

(c) Nothing in this title shall be construed (1) to affect the validity of any loan or extension of credit (or any extension or renewal thereof) made or of any lien created prior or subsequent to the enactment of this title, unless at the time of the making of such loan or extension of credit (or extension or renewal thereof) or the creating of such lien, the person making such loan or extension of credit (or extension or renewal thereof) or acquiring such lien shall have actual knowledge of facts by reason of which the making of such loan or extension of credit (or extension or renewal thereof) or the acquisition of such lien is a violation of the provisions of this title or any rule or regulation thereunder, or (2) to afford a defense to the collection of any debt or obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation, or lien in good faith for value and without actual knowledge of the violation of any provision of this title or any rule or regulation thereunder affecting the legality of such debt, obligation, or lien.

LIABILITY OF CONTROLLING PERSONS; PREVENTING COMPLIANCE WITH TITLE

SEC. 27. (a) It shall be unlawful for any person, directly or indirectly, to cause to be done any act or thing through or by means of any other person which it would be unlawful for such person to do under the provisions of this title or any rule, regulation, or order thereunder.

(b) It shall be unlawful for any person without just cause to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, record, or account required to be made, filed, or kept under any provision of this title or any rule, regulation, or order thereunder.

UNLAWFUL REPRESENTATIONS

SEC. 28. It shall be unlawful for any person in issuing, selling, or offering for sale any security of a registered holding company or subsidiary company thereof, to represent or imply in any manner whatsoever that such security has been guaranteed, sponsored, or recommended for investment by the United States or any agency or officer thereof.

PENALTIES

SEC. 29. Any person who willfully violates any provision of this title or any rule, regulation, or order thereunder (other than an order of the Commission under section 11), or any person who willfully makes any statement or entry in any application, report, document, account, or record filed or kept or required to be filed or kept under the provisions of this title or any rule, regulation, or order thereunder, knowing such statement or entry to be false or misleading in any material respect, or any person who willfully destroys (except after such time as may be prescribed under any rules or regulations under this title), mutilates, alters, or by any means or device falsifies any account, correspondence, memorandum, book, paper, or other record kept or required to be kept under the provisions of this title or any rule, regulation, or order thereunder, shall upon conviction be fined not more than $10,000 or imprisoned not more than 2 years, or both, except that in the case of a violation of a provision of subsection (a) or (b) of section 4 by a holding company which is not an individual, the fine imposed upon such holding company shall be a fine not exceeding $200,000; but no person shall be convicted under this section for the violation of any rule, regulation, or order if he proves that he had no knowledge of such rule, regulation, or order.

EMPLOYEES OF THE COMMISSION

SEC. 30. For the purposes of this title, the Commission may select, employ, and fix the compensation of such attorneys, examiners, and other experts as shall be necessary for the transaction of the business of the Commission in respect of this title without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States; and the Commission may, subject to the civil-service laws, appoint such other officers and employees as are necessary in the execution of the functions of the Commission and fix their salaries in accordance with the Classification Act of 1923, as amended.

SEPARABILITY OF PROVISIONS

SEC. 31. If any provision of this title or the application of such provision to any person or circumstances shall be held invalid, the remainder of the title and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SHORT TITLE

SEC. 32. This title may be cited as the "Public Utility Holding Company Act of 1935."

TITLE II—AMENDMENTS TO FEDERAL WATER POWER ACT

SECTION 201. Section 3 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 3. The words defined in this section shall have the following meanings for purposes of this act, to wit:

"(1) 'public lands' means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public land laws. It shall not include 'reservations', as hereinafter defined;

"(2) 'reservations' means national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws; also lands and interests in lands acquired and held for any public purposes; but shall not include national monuments or national parks;

"(3) 'corporation' includes any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. It shall not include 'municipalities' as hereinafter defined;

"(4) 'person' includes an individual or a corporation;

"(5) 'licensee' means any person licensed under the provisions of section 4 of this act, and any assignee or successor in interest of such person;

"(6) 'State' means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States;

"(7) 'municipality' means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power;

"(8) 'navigable waters' means those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids, together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or

shall have been recommended to Congress for such improvement after investigation under its authority;

"(9) 'municipal purposes' means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality;

"(10) 'Government dam' means a dam or other work constructed or owned by the United States for Government purposes with or without contribution from others;

"(11) 'project' means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water rights, rights-of-way, ditches, dams, reservoirs, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit;

"(12) 'project works' means the physical structures of a project;

"(13) 'net investment' in a project means the actual legitimate reasonable original cost thereof as defined and interpreted in the 'classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission', plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment: (a) Unappropriated surplus, (b) aggregate credit balances of current depreciation accounts, and (c) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term 'cost' shall include, insofar as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or others, and said classification of investment of the Interstate Commerce Commission shall insofar as applicable be published and promulgated as a part of the rules and regulations of the Commission.

"(14) 'Commission' and 'Commissioner' means the Federal Power Commission, and a member thereof, respectively;

"(15) 'State commission' means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy to consumers within the State or municipality;

"(16) 'security' means any note, stock, Treasury stock, bond, debenture, or other evidence of interest in or indebtedness of a corporation subject to the provisions of this act."

SEC. 202. Section 4 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 4. The Commission is hereby authorized and empowered—

"(a) To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water-power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the Commission may deem necessary or useful for the purposes of this act.

"(b) To determine the actual legitimate reasonable original cost of and the net investment in a licensed project, and to aid the Commission in such determinations, each licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission in such detail as the Commission may require, a statement in duplicate showing the actual legitimate original cost of construction of such project, addition, or betterment, and of the price paid for water rights, rights-of-way, lands, or interest in lands. The licensee shall grant to the Commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto. The statement of actual legitimate reasonable original cost of said project, and revisions thereof as determined by the Commission, shall be filed with the Secretary of the Treasury.

"(c) To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the Commission to furnish such records, papers, and information in their possession as may be requested by the Commission, and temporarily to detail to the Commission such officers or experts as may be necessary in such investigations.

"(d) To make public from time to time the information secured hereunder and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The Commission, on or before the 3d day of January of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this part, and in each case the parties thereto, the terms prescribed, and the moneys received, if any, or account thereof. Such report shall contain the names and show the compensation of the persons employed by the Commission.

"(e) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: *Provided*, That licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation: *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War. Whenever the contemplated improvement is, in the judgment of the Commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate of foreign commerce, a finding to that effect shall be made by the Commission and shall become a part of the records of the Commission: *Provided further*, That in case the Commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until 2 years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June 10, 1920: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection.

"(f) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 9 hereof: *Provided, however*, That upon the filing of any application for a preliminary permit by any person, association, or corporation the Commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application, and shall also publish notice of such application once each week for 4 weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

"(g) Upon its own motion to order an investigation of any occupancy of or evidenced intention to occupy public lands, reservations, or streams, or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, by any person, corporation, State, or municipality, and to issue such order as it may find appropriate, expedient, and in the public interest to conserve and utilize the water resources of the region."

SEC. 203. Section 5 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 5. Each preliminary permit issued under this part shall be for the sole purpose of maintaining priority of application for a license under the terms of this act for such period or periods, not exceeding a total of 3 years, as in the discretion of the Commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained. Such permits shall not be transferable, and may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing."

SEC. 204. Section 6 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 6. Licenses under this part shall be issued for a period not exceeding 50 years. Each such license shall be conditioned upon acceptance by the licensee of all the terms and conditions of this act and such further conditions, if any, as the Commission shall prescribe in conformity with this act, which said terms and conditions and the acceptance thereof shall be expressed in said license. Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this act, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after 30 days' public notice. Copies of all licenses issued under the provisions of this part and calling for the payment of annual charges shall be deposited with the General Accounting Office, in compliance with section 3743, Revised Statutes, as amended (U. S. C., title 41, sec. 20)."

SEC. 205. Section 7 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 7. (a) In issuing preliminary permits hereunder or licenses where no preliminary permit has been issued and in issuing licenses to new licensees under section 15 hereof the Commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the Commission equally well adapted, or shall within a reasonable time to be fixed by the Commission be made equally well adapted, to conserve and utilize in the public interest the water resources of the region; and as between other applicants, the Commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

"(b) Whenever, in the judgment of the Commission, the development of any water resources for public purposes should be undertaken by the United States itself, the Commission shall not approve any application for any project affecting such development, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the proposed development as it may find necessary, and shall submit its findings to Congress with such recommendations as it may find appropriate concerning such development."

SEC. 206. Section 10 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 10. All licenses issued under this part shall be on the following conditions:

"(a) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes; and if necessary in order to secure such plan, the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

"(b) That except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works constructed hereunder of an installed capacity in excess of 100 horsepower without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct.

"(c) That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health, and property. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto, constructed under the license, and in no event shall the United States be liable therefor.

"(d) That after the first 20 years of operation, out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the net investment of a licensee in any project or projects under license, the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the Commission, be held until the termination of the license or be applied from time to time in reduction of the net investment. Such specified rate of return and the proportion of such surplus earnings to be paid into and held in such reserves shall be set forth in the license.

"(e) That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of the administration of this part; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as herein provided is reached, and in fixing such charges the Commission shall seek to avoid increasing the price to the consumers of power by such charges, and any such charges may be adjusted from time to time by the Commission as conditions may require: *Provided*, That when licenses are issued involving the use of Government dams or other structures owned by the United States or tribal lands embraced within Indian reservations the Commission shall fix a reasonable annual charge for the use thereof, and such charges may be readjusted by the Commission at the end of 20 years after the project is available for service and at periods of not less than 10 years thereafter upon notice and opportunity for hearing: *Provided further*, That licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation, licenses therefor shall be issued without charge; and that licenses for the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects of not more than 100 horsepower installed capacity may be issued without charge, except on tribal lands within Indian reservations; but in no case shall a license be issued free of charge for the development and utilization of power created by any Government dam and that the amount charged therefor in any license shall be such as determined by the Commission. In the event an overpayment of any charge due under this section shall be made by a licensee, the Commission is authorized to allow a credit for such overpayment when charges are due for any subsequent period.

"(f) That whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for such part of the annual charges for interest, maintenance, and depreciation thereon as the Commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the Commission. The licensees or permittees affected shall pay to the United States the cost of making such determination as fixed by the Commission.

"Whenever such reservoir or other improvement is constructed by the United States the Commission shall assess similar charges against any licensee directly benefited thereby, and any amount so assessed shall be paid into the Treasury of the United States, to be reserved and appropriated as a part of the special fund for headwater improvements as provided in section 17 hereof.

"Whenever any power project not under license is benefited by the construction work of a licensee or permittee, the United States, or any agency thereof, the Commission, after notice to the owner or owners of such unlicensed project, shall determine and fix a reasonable and equitable annual charge to be paid to the licensee or permittee on account of such benefits, or to the United States if it be the owner of such headwater improvement.

"(g) Such other conditions not inconsistent with the provisions of this act as the Commission may require.

"(h) That combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited.

"(i) In issuing licenses for a minor part only of a complete project, or for a complete project of not more than 100 horsepower installed capacity, the Commission may in its discretion waive such conditions, provisions, and requirements of this part, except the license period of 50 years, as it may deem to be to the public interest to waive under the circumstances: *Provided*, That the provisions hereof shall not apply to annual charges for use of lands within Indian reservations."

SEC. 207. Section 14 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 14. Upon not less than 2 years' notice in writing from the Commission the United States shall have the right upon or after the expiration of any license to take over and thereafter to maintain and operate any project or projects as defined in section 3 hereof, and covered in whole or in part by the license, or the right to take over upon mutual agreement with the licensee all property owned and held by the licensee then valuable and serviceable in the development, transmission, or distribution of power and which is then dependent for its usefulness upon the continuance of the license, together with any lock or locks or other aids to navigation constructed at the expense of the licensee, upon the condition that before taking possession it shall pay the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus such reasonable damages, if any, to property of the licensee valuable, serviceable, and dependent as above set forth but not taken, as may be caused by the severance therefrom of property taken, and shall assume all contracts entered into by the licensee with the approval of the Commission. The net investment of the licensee in the project or projects so taken and the amount of such severance damages, if any, shall be determined by the Commission after notice and opportunity for hearing. Such net investment shall not include or be affected by the value of any lands, rights-of-way, or other property of the United States licensed by the Commission under this act, by the license or by goodwill, going value, or prospective revenues; nor shall the values allowed for water rights, rights-of-way, lands, or interest in lands be in excess of the actual reasonable cost thereof at the time of acquisition by the licensee: *Provided*, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this act at any time by condemnation proceedings upon payment of just compensation is hereby expressly reserved."

SEC. 208. Section 17 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 17. (a) All proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder, except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of this part, shall be paid into the Treasury of the United States, subject to the following distribution: 12½ percent thereof is hereby appropriated to be paid into the Treasury of the United States and credited to 'Miscellaneous receipts'; 50 percent of the charges arising from licenses hereunder for the occupancy and use of public lands and national forests shall be paid into, reserved, and appropriated as a part of the

reclamation fund created by the act of Congress known as the 'Reclamation Act', approved June 17, 1902; and 37½ percent of the charges arising from licenses hereunder for the occupancy and use of national forests and public lands from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 percent of the charges arising from all other licenses hereunder is hereby reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States. The proceeds of charges made by the Commission for the purpose of reimbursing the United States for the costs of the administration of this part shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

"(b) In case of delinquency on the part of any licensee in the payment of annual charges for a period of 30 days a penalty of 5 percent of the total amount so delinquent may be added to the total charges which shall apply for the first month or part of month so delinquent with an additional penalty of 3 percent for each subsequent month until the total of the charges and penalties are paid or until the license is canceled and the charges and penalties satisfied in accordance with law."

SEC. 209. Section 18 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 18. The Commission shall require the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of War, and such fishways as may be prescribed by the Secretary of Commerce. The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure built under the provisions of this act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of War; and for willful failure to comply with any such rule or regulation such licensee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 316 hereof."

SEC. 210. Section 23 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 23. (a) The provisions of this part shall not be construed as affecting any permit or valid existing right-of-way heretofore granted or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality holding or possessing such permit, right-of-way, or authority may apply for a license hereunder, and upon such application the Commission may issue to any such applicant a license in accordance with provisions of this part and in such case the provisions of this act shall apply to such applicant as a licensee hereunder: *Provided*, That when application is made for a license under this section for a project or projects already constructed the fair value of said project or projects determined as provided in this section shall for the purposes of this part and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value shall be determined by the Commission after notice and opportunity for hearing.

"(b) It shall be unlawful for any person, State, or municipality to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States, or upon any part of the public lands or reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this act. Any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this act. If the Commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws."

SEC. 211. Section 24 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 24. Any lands of the United States included in any proposed project under the provisions of this part shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this part, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites, or in connection with water-power development, or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained.

SEC. 212. Sections 1 to 29, inclusive, of the Federal Water Power Act, as amended, shall constitute part I of that act, and sections 25 and 30 of such act, as amended, are repealed: *Provided*, That nothing in that act, as amended, shall be construed to repeal or amend the provisions of the amendment to the Federal Water Power Act approved March 3, 1921 (41 Stat. 1353), or the provisions of any other act relating to national parks and national monuments.

SEC. 213. The Federal Water Power Act, as amended, is further amended by adding thereto the following parts:

"PART II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTERSTATE COMMERCE

"DECLARATION OF POLICY; APPLICATION OF PART; DEFINITIONS

"SECTION 201. (a) It is hereby declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of that part of such business which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public interest, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.

"(b) The provisions of this part shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

"(c) For the purpose of this part, electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof; but only insofar as such transmission takes place within the United States.

"(d) The term 'sale of electric energy at wholesale' when used in this part means a sale of electric energy to any person for resale.

"(e) The term 'public utility' when used in this part or in the part next following means any person who owns or operates facilities subject to the jurisdiction of the Commission under this part.

"(f) No provision in this part shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto.

"INTERCONNECTION AND COORDINATION OF FACILITIES; EMERGENCIES; TRANSMISSION TO FOREIGN COUNTRIES

"SEC. 202. (a) For the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources, the Commission is empowered and directed to divide the country into regional districts for the interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the

judgment of the Commission, can economically be served by such interconnected and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and between such districts by voluntary action of the private and public owners and operators of such electric facilities. Such interconnection and coordination shall be imposed only by voluntary action on the part of such public utilities. Before establishing any such district and fixing or modifying the boundaries thereof the Commission shall give notice to the State commission of each State situated wholly or in part within such district, and shall afford each such State commission reasonable opportunity to present its views and recommendations, and shall receive and consider such views and recommendations.

"(b) Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.

"(c) During the continuance of any emergency requiring immediate action, any person engaged in the transmission or sale of electric energy and not otherwise subject to the jurisdiction of the Commission may make such temporary connections with any public utility subject to the jurisdiction of the Commission or may construct such temporary facilities for the transmission of electric energy in interstate commerce as may be necessary or appropriate to meet such emergency, and shall not become subject to the jurisdiction of the Commission by reason of such temporary connection or temporary construction: *Provided*, That such temporary connection shall be discontinued or such temporary construction removed or otherwise disposed of upon the termination of such emergency: *Provided further*, That upon approval of the Commission permanent connections for emergency use only may be made hereunder.

"(d) After 6 months from the date on which this part takes effect, no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.

"DISPOSITION OF PROPERTY; CONSOLIDATIONS; PURCHASE OF SECURITIES

"SEC. 203. (a) No public utility shall sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $100,000, or by any means whatsoever, directly or indirectly, merge or consolidate such facilities or any part thereof with those of any other person, or purchase, acquire, or take any security of any other public utility without first having secured an order of the Commission authorizing it to do so. Upon application for such approval the Commission shall fix a time and place for a public hearing upon the application and shall thereupon give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable. After such public hearing, if the Commission finds that the proposed disposition, consolidation, acquisition, or control will be consistent with the public interest, it shall certify to that effect; and thereupon any act or acts of Congress making the proposed transaction unlawful shall not apply.

"(b) The Commission may grant any application for an order under this section in whole or in part and upon such terms and conditions as it finds necessary or appropriate to secure the maintenance of adequate service and the coordination in the public interest of facilities subject to the jurisdiction of the Commission.

"ISSUANCE OF SECURITIES; ASSUMPTION OF LIABILITIES

"SEC. 204. (a) No public utility shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorizes such issue or assumption of liability. The Commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes. The provisions of this section shall be effective 6 months after this part takes effect.

"(b) The Commission, after opportunity for hearing, may grant any application under this section in whole or in part, and with such modifications and upon such terms and conditions as it may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any security so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of subsection (a) of this section.

"(c) No public utility shall, without the consent of the Commission, apply any security or any proceeds thereof to any purpose not specified in the Commission's order, or supplemental order, or to any purpose in excess of the amount allowed for such purpose in such order, or otherwise in contravention of such order.

"(d) The Commission shall not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract.

"(e) Subsection (a) shall not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing not more than 1 year after the date of such issue, renewal, or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of 1 year or less on which such public utility is primarily or secondarily liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issue. Within 10 days after any such issue, renewal, or assumption of liability, the public utility shall file with the Commission a certificate of notification, in such form as may be prescribed by the Commission, setting forth such matters as the Commission shall by regulation require.

"(f) The provisions of this section shall not extend to a public utility organized and operating in a State under the laws of which its security issues are regulated by a State commission.

"(g) Nothing in this section shall be construed to imply any guarantee or obligation on the part of the United States in respect of any securities to which the provisions of this section relate.

"(h) The provisions of the Securities Act of 1933, as amended, shall not apply to any security issue which is subject to the jurisdiction of the Commission under this section; and any public utility whose security issues are approved by the Commission under this section may file with the Securities and Exchange Commission duplicate copies of reports filed with the Federal Power Commission in lieu of reports, information, and documents required under sections 12 and 13 of the Securities and Exchange Act of 1934.

"RATES AND CHARGES; SCHEDULES; SUSPENSION OF NEW RATES

"SEC. 205. (a) All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

"(b) No public utility shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

"(c) Under such rules and regulations as the Commission may prescribe, every public utility shall file with the Commission, within such time and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection, schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

"(d) Unless the Commission otherwise orders, no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after 30 days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the 30 days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

"(e) Whenever any such new schedule is filed the Commission shall have authority, either upon complaint or upon its own initiative without complaint, at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of

such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, but not for a longer period than 5 months beyond the time when it would otherwise go into effect; and after full hearings, either completed before or after the rate, charge, classification, or service goes into effect, the Commission may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made at the expiration of such 5 months, the proposed change of rate, charge, classification, or service shall go into effect at the end of such period, but in case of a proposed increased rate or charge, the Commission may by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.

"FIXING RATES AND CHARGES; DETERMINATION OF COST OF PRODUCTION OR TRANSMISSION

"SEC. 206. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

"(b) The Commission upon its own motion, or upon the request of any State commission whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy.

"FURNISHING OF ADEQUATE SERVICE

"SEC. 207. Whenever the Commission, upon complaint of a State commission, after notice to each State commission and public utility affected and after opportunity for hearing, shall find that any interstate service of any public utility is inadequate or insufficient, the Commission shall determine the proper, adequate, or sufficient service to be furnished, and shall fix the same by its order, rule, or regulation: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel the public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers.

"ASCERTAINMENT OF COST OF PROPERTY

"SEC. 208. (a) The Commission may investigate and ascertain the actual legitimate cost of the property of every public utility, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation, and the fair value of such property.

"(b) Every public utility upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, extensions, and new construction.

"USE OF JOINT BOARDS; COOPERATION WITH STATE COMMISSIONS

"SEC. 209. (a) The Commission may refer any matter arising in the administration of this part to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The board shall be appointed by the Commission from persons nominated by the State commission of each State affected, or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient reason exists therefor, revoke any reference to such a board.

"(b) The Commission may confer with any State commission regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of public utilities subject to the jurisdiction of such State commission and of the Commission; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this act to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

"(c) The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of public utilities. Whenever the Commission can do so without prejudice to the efficient and proper conduct of its affairs, it may upon request from a State make available to such State as witnesses any of its trained rate, valuation, or other experts, subject to reimbursement to the Commission by such State of the compensation and traveling expenses of such witnesses. All sums collected hereunder shall be credited to the appropriation from which the amounts were expended in carrying out the provisions of this subsection.

"PART III—LICENSEES AND PUBLIC UTILITIES; PROCEDURAL AND ADMINISTRATIVE PROVISIONS

"ACCOUNTS, RECORDS, AND MEMORANDA

"SECTION 301 (a) Every licensee and public utility shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this act, including accounts, records, and memoranda of the generation, transmission, distribution, delivery, or sale of electric energy, the furnishing of services or facilities in connection therewith, and receipts and expenditures with respect to any of the foregoing: *Provided, however*, That nothing in this act shall relieve any public utility from keeping any accounts, memoranda, or records which such public utility may be required to keep by or under authority of the laws of any State. The Commission may prescribe a system of accounts to be kept by licensees and public utilities and may classify such licensees and public utilities and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular outlays and receipts shall be entered, charged, or credited. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof.

"(b) The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of licensees and public utilities, and it shall be the duty of such licensees and public utilities to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested so to do. No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

"(c) The books, accounts, memoranda, and records of any person who controls, directly or indirectly, a licensee or public utility subject to the jurisdiction of the Commission, and of any other company controlled by such person, insofar as they relate to transactions with or the business of such licensee or public utility, shall be subject to examination on the order of the Commission.

"RATES OF DEPRECIATION

"SEC. 302. (a) The Commission may, after hearing, require licensees and public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may, from time to time, ascertain and determine, and by order fix, the proper and adequate rates of depreciation of the several classes of property of each licensee and public utility. Each licensee and public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed. The licensees and public utilities subject to the jurisdiction of the Commission shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such licensee or public utility shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any public utility, the percentage rate of depreciation to be allowed, as to any class of property of such public utility, or the composite depreciation rate, for the purpose of determining rates or charges.

"(b) The Commission, before prescribing any rules or requirements as to accounts, records, or memoranda, or as to depreciation rates, shall notify each State commission having jurisdiction

with respect to any public utility involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

"REQUIREMENTS APPLICABLE TO AGENCIES OF THE UNITED STATES

"SEC. 303. All agencies of the United States engaged in the generation and sale of electric energy for ultimate distribution to the public shall be subject, as to all facilities used for such generation and sale, and as to the electric energy sold by such agency, to the provisions of sections 301 and 302 hereof, so far as may be practicable, and shall comply with the provisions of such sections and with the rules and regulations of the Commission thereunder to the same extent as may be required in the case of a public utility.

"PERIODIC AND SPECIAL REPORTS

"SEC. 304. (a) Every licensee and every public utility shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this act. The Commission may prescribe the manner and form in which such reports shall be made, and require from such persons specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, net investment, and reduction thereof, gross receipts, interest due and paid, depreciation, and other reserves, cost of project and other facilities, cost of maintenance and operation of the project and other facilities, cost of renewals and replacement of the project works and other facilities, depreciation, generation, transmission, distribution, delivery, use, and sale of electric energy. The Commission may require any such person to make adequate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.

"(b) It shall be unlawful for any person willfully to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, memorandum, record, or account required to be made, filed, or kept under this act or any rule, regulation, or order thereunder.

"OFFICIALS DEALING IN SECURITIES; INTERLOCKING DIRECTORATES

"SEC. 305. (a) It shall be unlawful for any officer or director of any public utility to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by such public utility of any security issued or to be issued by such public utility, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.

"(b) After 6 months from the date on which this part takes effect, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant any such authorization in respect of such positions held on the date on which this part takes effect, unless application for such authorization is filed with the Commission within 60 days after that date.

"COMPLAINTS

"SEC. 306. Any person, State, municipality, or State commission complaining of anything done or omitted to be done by any licensee or public utility in contravention of the provisions of this act may apply to the Commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such licensee or public utility, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission. If such licensee or public utility shall not satisfy the complaint within the time specified or there shall appear to be any reasonable ground for investigating such complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall find proper.

"INVESTIGATIONS BY COMMISSION; ATTENDANCE OF WITNESSES; DEPOSITIONS

"SEC. 307. (a) The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of this act or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this act relates. The Commission may permit any person to file with it a statement in writing under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish or make available to State commissions information concerning any such subject.

"(b) For the purpose of any investigation or any other proceeding under this act, any member of the Commission or any officer designated by it is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. Witnesses summoned by the Commission to appear before it shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(c) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found or may be doing business. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than 1 year, or both.

"(d) The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation pending before the Commisison, by deposition, at any time after the proceeding is at issue. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person authorized to administer oaths not being of counsel or attorney to either of the parties, nor interested in the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commisison, as hereinbefore provided. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

"(e) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

"(f) Witnesses whose depositions are taken as authorized in this act, and the person or officer taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States.

"(g) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the Commission, or in obedience to the subpena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"HEARINGS; RULES OF PROCEDURE

"SEC. 308. (a) Hearings under this act may be held before the Commission, any member or members thereof or any representative of the Commission designated by it, and appropriate records thereof shall be kept. In any proceeding before it, the Commission, in accordance with such rules and regulations as it may prescribe, may admit as a party any interested State, State commission, municipality, or any representative of interested consumers or security holders, or any competitor of a party to such proceeding, or any other person whose participation in the proceeding may be in the public interest.

"(b) All hearings, investigations, and proceedings under this act shall be governed by rules of practice and procedure to be adopted by the Commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation issued under the authority of this act.

"ADMINISTRATIVE POWERS OF COMMISSION; RULES, REGULATIONS, AND ORDERS

"SEC. 309. The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this act. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this act; and may prescribe the form or forms of all statements, declarations, applications, and reports to be filed with the Commission, the information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective 30 days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours.

"APPOINTMENT OF OFFICERS AND EMPLOYEES

"SEC. 310. The Commission is authorized to appoint and fix the compensation of such officers, attorneys, examiners, and other experts as may be necessary for carrying out its functions under this act, without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; and the Commission may, subject to civil-service laws, appoint such other officers and employees as are necessary for carrying out such functions and fix their salaries in accordance with the Classification Act of 1923, as amended.

"INVESTIGATIONS RELATING TO ELECTRIC ENERGY

"SEC. 311. In order to secure information necessary or appropriate as a basis for recommending legislation, the Commission is authorized and directed to conduct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, including the generation, transmission, distribution, and sale of electric energy by any agency, authority, or instrumentality of the United States, or of any State or municipality or other political subdivision of a State. It shall, so far as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for such generation, transmission, distribution, and sale; the capacity and output thereof and the relationship between the two; the cost of generation, transmission, distribution, and sale; the capacity and contracts in respect of the sale of electric energy and its service to residential, rural, commercial, and industrial consumers and other purchasers by private and public agencies; and the relation of any or all such facts to the development of navigation, industry, commerce, and the national defense. The Commission shall report annually to Congress the results of investigations made under authority of this section.

"PUBLICATION AND SALE OF REPORTS

"SEC. 312. The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and is authorized to sell at reasonable prices copies of all maps, atlases, and reports as it may from time to time publish. Such reasonable prices may include the cost of compilation, composition, and reproduction. The Commission is also authorized to make such charges as it deems reasonable for special statistical services and other special or periodic services. The amounts collected under this section shall be deposited in the Treasury to the credit of miscellaneous receipts. All printing for the Federal Power Commission making use of engraving, lithography, and photolithography, together with the plates for the same, shall be contracted for and performed under the direction of the Commission, under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe, and all other printing for the Commission shall be done by the Public Printer under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe. The entire work may be done at, or ordered through, the Government Printing Office whenever, in the judgment of the Joint Committee on Printing, the same would be to the interest of the Government: *Provided*, That when the exigencies of the public service so require, the Joint Committee on Printing may authorize the Commission to make immediate contracts for engraving, lithographing, and photolithographing, without advertisement for proposals: *Provided further*, That nothing contained in this or any other act shall prevent the Federal Power Commission from placing orders with other departments or establishments for engraving, lithographing, and photolithographing, in accordance with the provisions of sections 601 and 602 of the act of June 30, 1932 (47 Stat. 417), providing for interdepartmental work.

"REHEARINGS; COURT REVIEW OF ORDERS

"SEC. 313. (a) Any person, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this act to which such person, State, municipality, or State commission is a party may apply for a rehearing within 30 days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing. Unless the Commission acts upon the application for rehearing within 30 days after it is filed, such application may be deemed to have been denied. No proceeding to review any order of the Commission shall be brought by any person unless such person shall have made application to the Commission for a rehearing thereon.

"(b) Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the Circuit Court of Appeals of the United States for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the Court of Appeals of the District of Columbia, by filing in such court, within 60 days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon any member of the Commission and thereupon the Commission shall certify and file with the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

"(c) The filing of an application for rehearing under subsection (a) shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"ENFORCEMENT OF ACT, REGULATIONS AND ORDERS

"SEC. 314. (a) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this act, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper District Court of the United States to enjoin such acts or practices and to enforce compliance with this act or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the necessary criminal proceedings under this act.

"(b) Upon application of the Commission the district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this act or any rule, regulation, or order of the Commission thereunder.

"(c) The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission.

"GENERAL FORFEITURE PROVISION

"SEC. 315. (a) Any licensee or public utility which willfully fails, within the time prescribed by the Commission, to comply with any order of the Commission, to file any report required under this act or any rule or regulation of the Commission thereunder, to submit any information or document required by the Commission in the course of an investigation conducted under this act, or to appear by an officer or agent at any hearing or investigation in response to a subpena issued under this act, shall forfeit to the United States an amount not exceeding $1,000 to be fixed by the Commission after notice and opportunity for hearing. The imposition or payment of any such forfeiture shall not bar or affect any penalty prescribed in this act but such forfeiture shall be in addition to any such penalty.

"(b) The forfeitures provided for in this act shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States, brought in the district where the person is an inhabitant or has his principal place of business, or if a licensee or public utility, in any district in which such licensee or public utility transacts business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures under this act. The costs and expenses of such prosecution shall be paid from the appropriations for the expenses of the courts of the United States.

"GENERAL PENALTIES; VENUE

"SEC. 316. (a) Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this act required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than 2 years, or both.

"(b) Any person who willfully and knowingly violates any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this act, or any rule or regulation imposed by the Secretary of War under authority of part I of this act shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine of not exceeding $500 for each and every day during which such offense occurs.

"JURISDICTION OF OFFENSES; ENFORCEMENT OF LIABILITIES AND DUTIES

"SEC. 317. The district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this act or the rules, regulations, and orders thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this act or any rule, regulation, or order thereunder. Any criminal proceeding shall be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this act or any rule, regulation, or order thereunder may be brought in any such district or in the district wherein the defendant is an inhabitant, and process in such cases may be served wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 225 and 347). No costs shall be assessed against the Commission in any judicial proceedings by or against the Commission under this act.

"CONFLICT OF JURISDICTION

"SEC. 318. (a) If, with respect to the issue, sale, or guaranty of a security, or assumption of obligation or liability in respect of a security, the method of keeping accounts, the filing of reports, or the acquisition or disposition of any security, capital assets, or facilities any person is subject both to a requirement of the Public Utility Holding Company Act of 1935 or of a rule, regulation, or order thereunder and to a requirement of this act or of a rule, regulation, or order thereunder, the requirement of the Public Utility Holding Company Act of 1935 shall apply to such person, and such person shall not be subject to the requirement of this act, or of any rule, regulation, or order thereunder, with respect to the same subject matter, unless the Securities and Exchange Commission has exempted such person from such requirement of the Public Utility Holding Company Act of 1935, in which case the requirements of this act shall apply to such person.

"(b) If, with respect to the issue, sale, or guaranty of a security, the method of keeping accounts, the filing of reports or the valuation, acquisition, or disposition of any security, capital assets, or facilities, or any other requirement of this part or the next preceding part, or of any rule, regulation, or order thereunder, any person is subject to the law of any State or regulation by a State commission, such person shall not be subject to the requirements of this part or the next preceding part, or of any rule, regulation, or order thereunder with respect to the same subject matter.

"SEPARABILITY OF PROVISIONS

"SEC. 319. If any provision of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"SHORT TITLE

"SEC. 320. This act may be cited as the 'Federal Power Act.'"

And to amend the title so as to read: "A bill to provide for regulation in the public interest of public-utility holding companies, to regulate the transmission and sale of electric energy in interstate and foreign commerce, and for other purposes."

Mr. DIETERICH. Mr. President, addressing myself to the pending motion to concur in the House amendments to Senate bill 2796, commonly known as "the utilities regulation bill", I am speaking solely for myself; I am presenting my own views. I am not assuming to speak for any of my colleagues in the Senate.

In the beginning, I desire to say that I yield to no one in my loyalty to the administration in charge of the Government and my loyalty to the President of the United States in carrying out the pledges contained in the Democratic platform adopted at the Democratic National Convention in Chicago in 1932. I yield to no one in the loyalty of my support in carrying out those emergency measures which have been necessary in order to meet the exigent conditions which have existed since the administration took charge of the affairs of government.

I am not one of those who have stayed with the President during the sunny hours and on popular measures and deserted him when unpopular economies were to be effected. I believe that my record in his support has been a record as loyal as that of any Member of the Senate, and I here and now reaffirm that loyalty.

We are living in a constitutional Republic, a Republic whose Constitution provides the form of government for these United States. In that Constitution is provided a Government of three departments—the legislative, the executive, and the judicial. The Congress being the legislative department, composed of the representatives elected by the people, is charged with the responsibility of legislating; the executive is charged with the administration and enforcement of those laws which are passed by the Congress, and it is charged with seeing that the will and direction of the Congress are carried into effect. The judicial department of the Government, under our Constitution, is charged with the duty of seeing that the Congress passes no unreasonable laws, no discriminatory laws, and passes only such laws as it has authority to pass under the Constitution of the United States.

This has been the people's Government since the beginning of the Republic; it is the people's Government now; and it is my opinion that it will be the people's Government of these United States for all time to come. To that form of government I know that the President of the United States subscribes. He has never in any act of his violated or indicated that he is not in sympathy with that Constitution, which he swore to protect and uphold.

When the sovereignty was taken from the King and from the dominant factions in the pure democracies and placed upon the sovereign people of this country there had to be ways devised in which the sovereign people might express their will. In order to do that we adopted the party system; that is, those of similar beliefs and similar political persuasion would meet in convention through their representatives and declare the principles which should govern them in the event they were intrusted with the affairs of government. That declaration of principles or platform was their contract with the sovereign people who elected them to office.

It is my impression, it is my belief, and it is my principle that when I accepted the nomination of a party which had adopted a declaration of principles it becomes my duty as the representative and agent of that party to do whatever I could to see that those principles and policies were enacted into law and become the principles and policies of our Government. It is not for me, after I have submitted myself to the people representing that those are the policies for which I stand, afterward to change my mind on account of the fact that some of them may not be as popular as had been anticipated or on account of any political philosophies which I might later cherish as my own.

Mr. President, I voted against the Senate bill because I believed it violated my party platform pledge. In my activities in this Chamber—and each Senator hearing me may be my judge—I have never asked a Senator what his position was upon the bill or upon the House substitute. I did no lobbying. I would not jeopardize my friendship with any colleague by making some matter in which I was interested a personal matter and embarrassing him in his vote one way or the other. I do not believe in that method of enacting legislation.

I said I voted against this measure because I felt it was in violation of my party platform pledge. I wish to take the time now to review briefly and recall to the minds of Senators what that platform provided as adopted by the Democratic Party at Chicago. It provided first:

> We believe that a party platform is a covenant with the people to be faithfully kept by the party when intrusted with power, and that the people are entitled to know in plain words the terms of the contract to which they are asked to subscribe. We hereby declare this to be the platform of the Democratic Party.

Turning to the pledge affecting this particular legislation, the Democratic Party assembled in national convention adopted this plank:

> We advocate the strengthening and impartial enforcement of the antitrust laws, to prevent monopoly and unfair trade practices, and revision thereof for the better protection of labor and the small producer and distributor; * * * the removal of Government from all fields of private enterprise except where necessary to develop public works and natural resources in the common interest.
>
> We advocate protection of the investing public by requiring to be filed with the Government and carried in the advertisements of all offerings of foreign and domestic stocks and bonds true information as to bonuses, commissions, principal invested, and interests of the sellers.

By the passage of the Securities Act we have fulfilled that part of our party platform pledge.

Further, and this appertains particularly to the pending measure:

> Regulation—

Note the word "regulation"—

> Regulation to the full extent of Federal power—

Again recognizing there is a limit to which we could go even with regulation—

> Regulation to the full extent of Federal power of—
> Holding companies which sell securities in interstate commerce;
> Rates of utility companies operating across State lines; and
> Exchanges in securities and commodities.

Mr. President, I have made an examination, as best I could in the limited time at my disposal, of the amendment which was substituted by the House for the Senate bill. I have particularly examined the provisions of section 11. That amendment covers every pledge which was made in the Democratic Party platform. To go beyond the amendment submitted by the House would be as much a violation, in my opinion, of the declaration of party principles and the platform adopted at Chicago as if we should refuse to take any action whatsoever.

Let me call attention briefly to section 11. I am reading this in view of the propaganda which has gone over the country, put forth by those who would make the people believe that the purpose of the bill had been nullified by the adoption of this amendment. I submit to my colleagues that it provides not only for regulation but for most drastic regulation. I doubt very much if we have not exceeded our Federal power even though we adopt the substitute, yet that doubt is not such that I would withhold my support from the House substitute for the Senate bill.

Section 11 provides:

> It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding-company system of every such company, and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of one or more integrated public-utility systems.

Then follow more regulations—regulations which I say are drastic in their nature; regulations which permit this Commission to make the corrections that the public interests may require; regulations to bring them to a point where they deal fairly, where they constitute no monopoly, where they constitute one integrated system of utilities.

I submit that that is a fair and a full compliance with the platform of my party; and to go further than that, let me repeat, would be as unfair as to disregard this pledge.

In view of some things that have been said—most of them unauthenticated—in view of some word that has come to the floor of this body by letter and otherwise, I am constrained to believe that the President of the United States is not correctly informed as to the purport of this bill and the amendments to it. I know that he would not wish to do anything other than carry out his party pledges contained in a platform of which he said, in his speech of acceptance, "That noble document, the platform which you have adopted, I accept 100 percent." I know that so far he has been faithful to that promise. I know that he would not disregard that promise if he correctly understood the provisions of this bill. Needless to say, with the many responsibilities of his office, he must rely upon advice which he thinks to be correct. We have had in this Chamber the experience of knowing that this utility legislation is so complicated that two experts had to sit through the hearings of the committee, that two experts had to sit in this Chamber in order properly to direct and advise the chairman as to what it was, because it was so complicated in its nature that I doubt whether any Member of the Senate correctly understands its every provision.

I desire to say as a personal matter that I was a candidate at the same time for United States Senator from the State of Illinois. I addressed my fellow citizens of that State upon the issues involved in the campaign. I was met by the same thing that all Senators have met—groups trying to find out and get a pledge as to how I would stand, if elected, on certain issues and on certain matters which might be presented for legislation. My reply to them invariably was that I had no pledges to make outside of my party platform. I said, "If you wish to know what I stand for, read the platform of my party adopted in Chicago, and it will tell you the principles which will govern me if elected to office."

You wonder, then, why is this protest; why is all this bitterness thrown into the matter of enacting this proposed legislation? In order to answer that question we must go back to political history, most of it very recent.

In 1924 a group of our fellow citizens met in the city of Cleveland. They styled themselves "Progressives." They adopted a platform declaring what their policies and their principles would be if intrusted with the affairs of government. This particular group had as its moving and guiding spirit the distinguished former Senator from the State of Wisconsin, Robert M. La Follette, Sr., whose utterances in the Congress and whose political philosophies of long standing were such a departure from the philosophies of the other two parties that they attracted considerable attention. It was under his direction, and in order to translate those philosophies into policies of government, that this group met, not satisfied with the philosophies of either one of the other two parties. I say this with every respect to the former Senator from Wisconsin, whose distinguished and honorable son now holds a seat in this body, because in the matter of advocating those philosophies he was sincere, he was conscientious, he was persistent; and, differ as one might from his beliefs, one was obliged to cherish a wholesome respect for his sincerity.

The platform adopted by that group in Cleveland provided for these unusual and strange policies of government:

They declared themselves upon the power question; they declared themselves upon the resources of the country; and after taking from the other two platforms those provisions and those policies which were popular, they went a step further, and we find in this platform that they say:

> We favor public ownership of the Nation's waterpower and the creation and development of a national superpower system, including Muscle Shoals, to supply at actual cost light and power for the people and nitrate for the farmers, and strict public control and permanent conservation of all the Nation's resources, including coal, iron and other ores, oil, and timberlands, in the interest of the people.

In their campaign book, which was given out to the public as an explanation of their platform, they say:

> This is the electric age. Within the next 10 years every home should be heated and lighted with electricity and every railroad and industry should be electrically operated.
>
> They will be if our great water-power resources are fully developed and if the power generated is sold at cost so as to bring it within the reach of the people's purse.

Further, they say—and I desire to have strict attention paid to this—

> The Progressives propose, therefore, to maintain public ownership of the Nation's water power and to develop a great national superpower system to furnish light and power at cost to the people.

Realizing that this might meet with objection in this constitutional Government of ours, realizing that these things that they intended to do could not be done under our present Constitution, they placed in their platform a provision in which they said:

> We favor submitting to the people, for their considerate judgment, a constitutional amendment providing that Congress may by reenacting a statute make it effective over a judicial veto.

They further say:

> We favor such amendment to the Constitution as may be necessary to provide for the election of all Federal judges, without party designation, for fixed terms not exceeding 10 years, by direct vote of the people.

And in their explanation in the campaign book that they put out, they say—and I should like to have Senators pay attention to this:

> The only remedy is for the people to take the selection of the Federal judiciary into their own hands. Punishment by repudiation at the polls should be the penalty for those who demonstrate a hostile attitude toward popular rights. The remedy is to make the judges responsible to the people.

In other words, they realized that in order to carry out these policies they must tear the veil from the goddess of justice; they must desecrate her temple by taking down from the walls those axioms which have become a part of American life and American manhood:

> Do justice, though the heavens fall.
> Protect the weak against the strong.
> Protect the minorities against the majority.

Yes; they would have the courts subservient to the popular will, subservient to politics. Yes; they would revolutionize and destroy the Constitution of the fathers.

One has to understand this philosophy if he would understand what is back of the bill, because, unfortunately for the Democratic Party, there succeeded, by seniority, to the chairmanship of the Committee on Interstate Commerce, one who was at that time a Democratic Senator, and who accepted the nomination for the Vice Presidency and declared himself for these policies and these purposes.

That is why the talk goes out, and we see it mentioned in the papers, but never emanating from the President of the United States, emanating, however, from this particular group, that they are going to carry this issue to the people. The statement was made by the Chairman of the Committee on Interstate Commerce that if the death sentence, the sentence which would destroy private ownership, the sentence which would open the road for public ownership and public control, were taken from this particular bill, the matter would be carried as an issue to the people, and those who opposed it would be branded as the tools of a Power Trust.

I do not believe that any Power Trust can find any consolation in the amendment which the House adopted to the Senate bill, and if they want to make that an issue, let the issue be fairly stated; let the issue be stated as being whether or not we shall adhere to the pledges contained in the Democratic platform adopted in Chicago, or the State socialism of industries as adopted by the platform at Cleveland.

I do not know that I care to make any further presentment of this matter. I believe I have said, briefly, all I care to say. I do not know how any Senator in the Chamber is going to vote, except those who voluntarily told me how they would vote. I am sure I have made no canvass of the situation. I do not know what arguments will be presented for the defeat of the motion. I hope that every Senator will vote as he understands it, and I can conscientiously say that I feel that I am standing on the Democratic platform, and I feel that the administration is with me on this proposition.

There are whispers around as to what may happen. Letters have been written in response to conferences, with no opportunity of our knowing what was said in the conferences, or what representations were made. Let it be remembered that insinuations, accusations, vilification, and slanders do not constitute arguments and are no answer.

Mr. SHIPSTEAD. Mr. President, I have been endeavoring to obtain a copy of the text of the House amendment, and I am informed it has not been printed. It seems to me this is a matter of such importance that we should have the printed text before us. I personally have not seen the House amendment.

Mr. WHEELER. Mr. President, I have no objection to its being printed. Of course, it came over in the usual form of a message and was laid before the Senate and, following the usual custom, it was not printed. I have no objection to its being printed and a vote being taken on it tomorrow.

Mr. SHIPSTEAD. Is there any objection to having the House text printed in a matter of such importance as this?

The PRESIDENT pro tempore. Is request made for unanimous consent to have it printed?

Mr. ROBINSON. I inquire if the print striking out the Senate bill and inserting the House bill is not available?

Mr. WHEELER. I assume it is. I am frank to say that I am not sure.

Mr. ROBINSON. Copies were supplied. I do not find one on my desk at the moment.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. JOHNSON. When I first came in this morning I asked the secretary to the minority if he would not obtain for me a copy of the House bill. It was reported to me subsequently that he was unable to obtain it.

Mr. ROBINSON. Mr. President, what the House did was to strike out the Senate bill and to insert an amendment in the nature of a substitute. There were the usual number of copies available when the amended measure was first brought over to the Senate. There was no separate print of the House bill, because there was no separate bill reported. Of course, there has been considerable demand for copies of the House amendment. I am not informed whether the supply has been exhausted, but I know copies have been available since the measure was messaged back to the Senate from the House.

Mr. SHIPSTEAD. Mr. President, I should like to obtain a copy somewhere; and if I can, I will not press the point further now.

Mr. ROBINSON. I am informed by the clerk that there is an abundance of copies, and I now submit one to the Senator from Minnesota which is in the form I described.

Mr. WHEELER. Mr. President, the Senator from Illinois [Mr. DIETERICH] has seen fit in his discussion of the pending motion to comment on what he terms my political philosophy and the political philosophy of the late Senator La Follette. I am informed that while I was absent from the Chamber the Senator said it was unfortunate that the rules of the Senate were such that I had become Chairman of the Committee on Interstate Commerce.

Mr. President, I shall not answer that statement. I might say to the Senator from Illinois that if he wishes to object to my being Chairman of the Committee on Interstate Commerce of the Senate he can object when the matter comes up at the first meeting of the next Congress, when a vote will be taken in the Senate. That has happened on a previous occasion, and such a vote will be taken again. I can assure the Senator that if the majority of the Senate were opposed to my serving as Chairman of the Committee on Interstate Commerce, I would be the last one to accept the position.

I appreciate the fact that the philosophy of the Senator from Illinois and my philosophy are quite different; but that has nothing to do with the pending bill. At the outset, let me say to the Senator that the bill was not drafted by me; it was drafted by the administration, to which he has proclaimed he is so loyal, and for which he has said he has such high respect. It was handed to me, as the Senator knows, and as every other Member of the Senate knows, by the administration, and the President of the United States has written me a letter, which I presented on the floor of the Senate, in which he stated that he was entirely familiar with

section 11 and that he wanted it to remain in the bill. So there can be no question with reference to that matter.

It is not my philosophy which is embraced in the bill. I say to the Senator further that if I could have had my way about it, if I had been drafting the bill, I would have drafted a very different bill from the one before us, because I do not think it reaches the "racket" which has been carried on. I do not think the bill goes far enough.

I may say to the Senator that men in his own State who have been carrying on "rackets" have been sent to the penitentiary. There are other men in his State, namely, the Insulls and their group, who were, in my judgment, far more guilty of carrying on a much more reprehensible "racket" than the racket carried on by Al Capone and his crowd in the city of Chicago.

Mr. President, I shall not discuss my political philosophy. I should be glad to go into the State of Illinois and discuss with the Senator the philosophy contained in the bill we are considering, and differentiate the philosophy which he represents and that which is proposed in the bill and for which the administration has asked.

First, I wish to call to the attention of the Senate the fact that if the pending motion shall be defeated, I intend to ask for a conference upon the disagreeing votes of the two Houses on the bill. I wish to read a letter which I received this morning by special messenger from the chairman of the Securities Commission, Mr. Kennedy. It will hardly be said that Mr. Kennedy is a Liberal or one who entertains in many respects the same political philosophy which I entertain. His letter is as follows:

MY DEAR SENATOR: In accordance with your request of this morning, I am writing to express my views regarding the holding company bill as it passed the House. This is to be taken merely as an expression of my individual views on the administrative features of this bill and is in no sense intended to be an expression of opinion regarding the legislative policy implicit in the draft passed by either branch of Congress.

As you know, the bill which passed the Senate and the House bill propose to give our commission a variety of duties and confer, even apart from section 11, wide powers of discretion in the administration of this act. These bills, among other things, require us to register holding companies, to regulate all security transactions, with power to supervise even the underwriting arrangements. In addition, the Commission is to regulate the acquisition of all securities and capital assets of companies subject to the act.

These duties while enormous can be discharged, I believe, with reasonable efficiency, by a trained and competent personnel, but the burden cast upon us by section 11 of the House bill is simply staggering. I cannot be too vehement in urging upon you my feeling that this section, as now drawn, is most unfortunate. I urge my objection to this section upon two grounds. The first is simply the limitations upon human capacity to achieve results. The second objection is based upon my conception of what is wisdom in government.

The task with which the Commission is confronted under section 11 of the House bill is that of determining whether it is "necessary in the public interest" to limit the operations of a holding-company system to a single "integrated" public-utility system. If the Commission finds that such limitation is not necessary it is then under a duty to require limitation to "such number of integrated public-utility systems as it finds may be included in such holding-company system consistent with the public interest."

The phrase "public interest" is not defined in the House bill. Thus this bill furnishes no effective standard to guide the Commission in the momentous decisions it must make as to which of the holding systems are to be broken up, and how such process is to be effected. I do not believe it is fair or practical to expect any five men to shoulder the grave responsibility for deciding which of these systems are to be reorganized and into what size and character the ultimate groupings shall evolve.

The administrative burden involved in the duties required under section 11 will just be overwhelming, no matter what the appropriation, no matter the size or the technical equipment of the staff.

The second reason and by far the more important one is my strong conviction that it is not a wise policy to vest in any one group of men the tremendous responsibility involved in this grant of power. Certainly, this is true unless such a grant is hedged with precise and defined standards set up by the Congress itself.

I have an appreciation of the great need in our modern life of flexible language in statutes, so that the administration of the law may be responsive to an ever-changing existence. Both bills wisely contain grants of discretionary power over the details of implementing the statute. This discretion is desirable in order to attain a practical and efficient administration. But so far as the vital decision as to the size and character of the holding company systems of the future are concerned, which decisions will affect the interests of millions of people, investors, and the consuming public alike, I do not believe that any commission should be given unfettered discretion to decide matters of such transcendent importance.

It is also my opinion that from an administrative point of view section 13 of the House bill is open to serious objection.

Incidentally, let me call the Senate's attention to the fact that the House not only amended section 11, and gave to the Commission the discretion to say what company should be wiped out and what company should be permitted to operate without setting any standards to guide their determination, but the House emasculated section 13, which was adopted by the Senate, without a single speech being made against it, without one suggestion of amendment being made to it; and Senators who voted against section 11, but said they were in favor of the strictest kind of legislation, now find a situation where not only is the so-called "death sentence" eliminated, but they find also that strict regulation is not provided by the House bill.

Mr. Kennedy's letter continues:

It is also my opinion that from an administrative point of view section 13 of the House bill is open to serious objection. The comparable section in the Senate bill was very definite and explicit to the effect that intrasystem service transactions should be on a cost or mutual basis. The administration of such a law involves no great burden.

That is, as it was written in the Senate.

Section 13 of the House bill, however, while intending doubtless to reach a similar result, provides that profits may be realized in intercompany transactions.

Mr. President, that is something which was denounced by some of the forward-looking utility men before the Interstate Commerce Committee of the Senate. As a matter of fact, the utility men themselves offered an amendment to the Senate bill which was not so far-reaching as is the provision which was adopted by the House of Representatives.

I continue reading from the letter:

The language of section 13 (of the House bill) seems to indicate that our Commission is required to pass on—

What?—

intercompany service contracts to determine whether their terms are fair and involve no unreasonable profit. It appears to me that this task which will devolve upon the Commission will be an impossible one. There is no objective standard as to what is a fair and reasonable profit.

As a matter of fact, one of the great utility-holding systems itself has gone on record as being against such profits in intercompany transactions.

I continue reading from Mr. Kennedy's letter:

There are not comparable precedents on which the Commission may rely. As you know, most of the large holding companies have an elaborate system of service contracts and the companies furnishing the services are merely corporate shells controlled by the group dominating the holding-company system. These service companies have little capital and normally there is a complete absence of arm's length dealing. All these factors prompt me to urge very strongly the undesirability of retaining the language of the House bill in these sections.

One further thought occurs to me in connection with the attainment of the statutory objectives, to wit, the simplification of holding-company structures. The Senate bill provides machinery whereby voluntary reorganizations and simplifications can be attained under the control of the Commission. The House bill has no such provision. This omission is unfortunate because it appears to me to be highly desirable that efficient and expeditious machinery be made available in order to facilitate the voluntary simplification of the corporate structures of holding companies.

I am sure that if the machinery for voluntary reorganizations were enacted into law many systems, promptly upon passage of the bill, would proceed to simplify their organizations on their own initiative under the Commission's direction. This should have a beneficial effect upon the investors whose anxieties would thereby be resolved. It should be advantageous to the companies themselves whose permanent status will thereby the sooner be determined.

The Commission will be prepared at a later date, if requested, to furnish specific recommendations affecting the administrative problems of the proposed legislation.

Respectfully submitted,

JOSEPH P. KENNEDY, *Chairman.*

Also, Mr. President, I asked the Federal Power Commission for a letter with reference to title II. I have a letter addressed to me, dated July 8, as follows:

MY DEAR SENATOR: The House substitute for the Senate public utility bill (S. 2796) carries two amendments to title II that effectively destroy the regulatory powers intended to be given by the bill and make the bill unworkable.

Section 201 (b) (the jurisdictional section, p. 103) of the House bill materially differs from the Senate bill. It takes from the Commission jurisdiction over generating plants and facilities. It not only strikes from the Senate bill the language conferring such jurisdiction upon the Commission but contains a positive declaration that "the Commission * * * shall not have jurisdiction over facilities used for the generation of electric energy."

If we take away the Commission's power to investigate the generating cost we take away from them absolutely the power to determine the proper kind of regulation of the interstate character of the power lines, and it would be an impossible task for them to find what the cost would be of producing electricity which was transmitted in interstate commerce unless they could go to the base and find what it cost to generate electricity there.

When it is recognized that the jurisdiction conferred upon the Commission is primarily investigatory in character, the seriousness of this amendment is realized.

Section 318 (b) of the House bill also differs very substantially from the corresponding section (316 (b)) of the Senate bill. This subsection provides that where a State commission has jurisdiction over security issues, accounts, reports, acquisitions, or disposition of property, or any other matter made subject to Federal regulation under this bill, the persons subject to such State regulation shall not likewise be subject to Federal regulation as to the same subject matter. The effect of this amendment is to take from the Federal Power Commission much of the jurisdiction conferred upon it in other sections of the bill, and no doubt the contention will be made that it takes from the Commission all jurisdiction except over those utilities operating in States where there are no State commissions. This amendment makes all of title II, except the amendments to the Federal Power Act, substantially unworkable.

There are numerous other differences in the two bills, but these are the most far-reaching in effect. They can only be corrected by the bill going to conference, and they are undoubtedly of sufficient importance to justify sending the bill to conference.

The Solicitor of the Commission has prepared and placed in your hands memoranda with respect to the major, as well as the other differences, and the purpose of this letter is to emphasize the seriousness, from the standpoint of this Commission, of the changes above referred to.

FEDERAL POWER COMMISSION,
BASIL MANLY, *Vice Chairman.*

Mr. President, it seems to me that the procedure sought to be taken here is exceedingly unusual. Since I have been in the Senate I have never known House amendments to a bill to be adopted in full without the Senate ever reading them, without the Senate over knowing anything about them, and when the majority of the committee oppose such action and ask that the bill go to conference. It is almost, in my judgment, an unheard-of procedure.

What the Senate is asked to do is to adopt the House amendments, some of which were adopted upon the floor of the House, without any debate, without any consideration, under the theory that the bill was going to conference. Some of the amendments were adopted under those conditions and circumstances.

The House amendment departs radically from the Senate measure in many vital particulars. The departures are by no means confined either to section 11 or to section 13, and no attempt to justify them was made upon the floor of the House of Representatives. Some of these departures are not apparent from a casual reading of the bill itself. They appear at first glance to follow the Senate provisions almost identically; but they succeed, by the omission of a few words or the adding of a new subsection, in changing the policy and effect of many of the Senate sections.

I shall discuss briefly the principal variances between the House amendments and the Senate bill. First, I want to stress two very vital sections which the House rejected entirely in favor of substitutes which purport to deal with the same subject matter. In reality, the House substitute sections are so different from the Senate provisions that they amount to a complete reversal of the Senate bill.

I refer, as probably all Senators know, to section 11, which deals with the simplification and reorganization of holding-company systems, and to section 13, which deals with intra-system service, sales, and construction contracts. These vital differences are thoroughly explained and the Senate provisions fully justified in the "additional views" filed at the end of the House committee's report by Mr. EDWARD C. EICHER. It is known that Mr. EICHER expressed not only his own views but those of other members of the House committee, including Chairman RAYBURN.

Section 11. Simplification of holding-company systems: Section 11 of the House substitute bill departs radically from the President's policy regarding the whittling down of these giant utility holding companies to a size and power where they will be susceptible of effective regulation and where they will be responsive to the community which their companies service. The Senate bill in section 11 met this issue clearly. It was not at all a "death sentence", as the utilities and a large portion of the press, which have reaped rewards from advertisements, have tried to make the country believe.

Mr. President, referring to the newspapers, let me say that many of the little country newspapers have been filled with full-page paid advertisements which ordinarily would never have been put in those newspapers at all; and on the following day would appear an editorial denouncing the holding-company bill and denouncing the "death sentence." Almost every little weekly newspaper in the United States had an advertisement paid for by the great holding companies, by the Associated Gas & Electric Co., for instance, denouncing and misrepresenting the bill, lying about the bill. The Associated Gas & Electric Co. was one of the worst offenders in the whole utility system of the United States of America, but they wrote to their stockholders whom they had robbed—and there is no other term for it—the stockholders, if you please, whom they had robbed, from whom they have pilfered, and asked them to write to their Senators and Representatives in Congress.

Then Senators and Representatives stand in their places and say, "I have received so many letters from poor widows and orphans that I do not dare to vote for the bill." Do not dare to vote for it—why? Because of the lies and the misrepresentations of those who have robbed their stockholders and yet requested them to write to their Senators and Representatives in Congress. Are Members of the Senate, are Members of the House of Representatives, going to subject themselves to such kind of propaganda and then weaken because of that sort of thing going on in this country?

I repeat, section 11 of the Senate bill was not a "death sentence." It only provided that companies which have sprawled from one end of this country to the other must do one of two things; they had to get rid of the control which they have over the operating companies; and if they would get rid of their control over such companies then they could remain in existence. They would be required, however, to stop the service, sales, and construction contracts whereby they have robbed the operating companies. If they would do that they could remain in existence and become simply investment trusts under the regulation of the Securities Commission. The section further provided that if they desired to continue to be holding companies they might do so; that they could control other companies, provided they controlled them in integrated sections where the people themselves could reach them and where there could be effective regulation.

Section 11 was, as the President termed it, an emancipation proclamation, emancipating the local operating companies from holding-company control and enfranchising the security holders, the real holders of the operating companies. It was nothing else and nothing more.

We have heard much about "fear of the investors." Who was it that instilled that fear into the investors? Was it the Congress of the United States? Was it this bill? Not at all. The fear that was instilled into the investors was instilled into them by the lying propaganda of men of the Insull type, of the Associated Gas & Electric Co., of Harley Clarke, of the Electric Bond & Share, who want to retain their power over the operating companies and to maintain their great, fat jobs.

I say to you, Mr. President, that the Democratic Party cannot go before the people of the United States and say that it has not the courage, that it has not the backbone to stop this thievery which has been going on in the holding companies and let them to emasculate this proposed legislation upon the floor of Congress.

Those who may entertain that fear may think that this propaganda is not fairly understood, but I venture the assertion that when they return home and face their constituents, whether it be in Illinois or Iowa or whatever it may be, they will find that the great rank and file of the people of the United States know what is going on; they know that the newspapers of this country are being subsidized by these fat advertisements; they know that some of the writers who are sending out pro holding-company articles are being paid by the utility companies and have been hired to write such special articles. They know it and everybody else knows it.

I repeat that the section as passed by the Senate did not pass a "death sentence" on the holding companies. It merely required the companies to give up their control over the operating companies scattered all over the country and confine their appetite for power and their greed for profits to running a single economically integrated system within the confines of a geographic area. That section when it left this body was in full accord with the President's message. The Senator from Illinois, however, stands on this floor and says that the President did not know about it; that he did not know what was in the bill. The President not only put it in his message but he put it in a letter to me. Yes; it is fine to get up and say you want to stand by the President, that you are always standing by him, and then say that he did not know what was in his message, that he did not know what was in the bill, and did not know what was in the letter written to me, when he said that he wanted section 11 included in the bill.

Section 11, I repeat, as adopted by this body was in full accord with the President's message and it met the issue of effective regulation. It did not set up a deceptive method of reform to protect rather than control the Power Trust.

Mr. ROBINSON. Mr. President, will the Senator yield for a question?

Mr. WHEELER. Certainly.

Mr. ROBINSON. The statement has been made repeatedly that the House amendment would vest in the Commission discretion as to whether holding companies may be abolished or permitted to survive. What is the rule fixed in the House amendment for governing the conduct of the Commission in determining whether a holding company shall be abolished or whether it may be continued?

Mr. WHEELER. The only guide is the public interest. It is simply provided that if the five members of the Commission decide that a company is in the public interest, it may continue; if they decide it is not in the public interest, it may not continue.

Mr. ROBINSON. It leaves in the Commission the discretion as to what constitutes the public interest?

Mr. WHEELER. That is correct.

Mr. ROBINSON. It gives no definition as to what may govern their action in determining when the public interest is involved?

Mr. WHEELER. That is correct.

Mr. ROBINSON. Does the Senator think that would meet the test of constitutionality which is so often raised in connection with legislation?

Mr. WHEELER. I have not a doubt that the Supreme Court would say that was unconstitutional, because there is no guide by which the Commission may determine that this company is too large or that company is just large enough. I feel there is no possibility of doubt that the Court would say to the Congress, "You have abdicated your legislative powers and turned them over to the Commission"; and Mr. Kennedy says it is not humanly possible for the Commission to exercise such powers.

Mr. ROBINSON. Of course, the instruction that the Commission shall be governed by the public interest is a slight direction, but that of itself involves the exercise of a very broad discretion. I doubt if any two members of the Commission would be able to agree in a given case as to just what public interest was involved or how it should be conserved in connection with the continuance of a holding company. If holding companies are to be regulated within the meaning of the Democratic platform which has been referred to here, it may be necessary, in cases where a dozen holding companies have been superimposed one upon another, to abolish at least some of them.

Mr. WHEELER. Of course, there is no question that the Senator is right.

Mr. ROBINSON. We cannot wisely give a narrow definition to the term "regulation" and make it effective in that connection. If we should vest in the Commission a discretion as to when a holding company is rendering a public service and when its continuance is in the public interest, we would probably be confronted with a decision of the Supreme Court nullifying the whole action and declaring that we have delegated legislative power. Why should not the rule for the government of the Commission in determining that very vital question be specified in the act? If it cannot be written, if it is impossible to write a rule, it is all the more important that Congress shall legislate directly on the subject rather than to leave it to an undefined and unrestricted discretion.

Mr. WHEELER. I fully agree with the Senator.

Mr. ROBINSON. That of itself constitutes a substantial reason for not departing from the customary procedure. There has never been another instance during my service in the Senate when a bill of this importance, involving such important changes in a Senate bill, has been disposed of by a motion to concur in the House amendment. Always it has been the practice to send the bill to conference and give the conferees an opportunity to work out an agreement as to the differences in the two bills.

Permit me to say, while I am speaking on the subject, that it is entirely possible and even probable that some provisions in the House amendment might be found useful and helpful. I am certain there are provisions in the Senate bill which ought to be retained, but which have been eliminated from the House substitute. It is impossible to make improvements by a mere motion to concur in the House amendment.

The subject involves many technical considerations. It is not possible for a Senator who is busy with other legislation to be familiar with the details of the controversy unless he takes a great amount of time to study the subject. Very few of us have been able to do that. The motion involves a choice between the House substitute and the Senate bill. It involves more than that. It denies to the two Houses the opportunity to reconcile their differences, the opportunity to take advantage of wholesome provisions in both measures.

It is entirely conceivable to me, as one somewhat experienced in legislative matters, that there may be some things in the Senate bill which are desirable, and there may be some things in the House bill which are desirable, but which are not in the Senate bill. Why deny the two Houses the opportunity to take advantage of the study which has been given to the subject in both branches of the Congress? What is the benefit of having the two Houses of Congress if we are to pursue any other course?

It seems to me there is no sound reason for basing a motion to concur on a single provision in the bill. The effect of the motion made by the Senator from Illinois [Mr. DIETERICH] is to determine the whole question of this proposed legislation, all the questions involved in it, on a single proposition as to whether the commission shall be vested with jurisdiction to determine when holding companies may survive or whether they shall be abolished under certain conditions.

There are other features involved in the controversy which are of the very greatest importance and which cannot be intelligently and fairly resolved on a mere motion to concur.

I think it should be added that all of us who are familiar with the course this proposed legislation has already taken and with the situation as it exists in the two Houses recognize the fact that there will be difficulty in conference. It is not

going to be an easy matter to work out an agreement between the two Houses. However, that is no reason why either House or why both Houses should pursue a course entirely different from that which is normal in the enactment of important legislation.

It appears to me conclusive that the wise course to be pursued is to send the bill to conference and let the representatives of the two Houses come together and work out the best agreement they can. We will probably have a better bill than if we accept the House substitute on the motion to concur.

I apologize to the Senator for taking so much of his time.

Mr. WHEELER. I thank the Senator very much for his remarks, and I concur in what he has said.

Undoubtedly there are provisions in the House bill which are better than some of the provisions of the Senate bill. Likewise there are provisions in the Senate bill with which most of the House Members will agree, and which are far better than provisions in the House bill. When the bill passed the House it was the belief of the Chairman of the Committee on Interstate and Foreign Commerce of that body that it would go to conference and that it would be worked out in conference if it was humanly possible to do so.

There is nothing in section 11 of the House bill which provides for simplification of the corporate structure of the holding system and the removal of unnecessary complexities therein. It does not even go so far in this particular as did the amendment offered by the Senator from Illinois [Mr. DIETERICH]. It places no limitation on holding companies to the second, third, or even the fourth degree. There is nothing in the House bill which provides that a holding company may not have one, two, three, or four different holding companies, one on top of the other. There are no restrictions of any kind or character, but the Commission is left entirely without any standards at all or any direction from the Congress as to what they shall do under such circumstances.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. ROBINSON. From the beginning of the debate on this measure I have been looking for someone who has the information, and is willing to supply it, to inform me and the country what is the justification for superimposing one holding company on another to an almost unlimited number. During the course of the debate it developed that in some instances there were as many as 10 or 12. What is the reason, sounding either in private interest or in public interest, unless it is desired to gain some advantage over investors or the operating company?

Mr. WHEELER. Let me say to the Senator that, as a matter of fact, no utility witness appeared before the Interstate Commerce Committee who was willing to justify or attempted to justify the set-up of some of the holding companies. I do not wish to quote from memory from the testimony of any particular witness; but my recollection is that each and every one of them who testified before the committee admitted that there were holding companies upon holding companies which could not be justified, and they had to be eliminated, and the structure had to be simplified.

Mr. DIETERICH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Illinois?

Mr. WHEELER. I yield.

Mr. DIETERICH. I may say that the House amendment provides that if the Commission determines that it is not for the public interest to have these holding companies, as the Senator from Arkansas has said, one superimposed upon the other, they may make that elimination.

Mr. ROBINSON. Mr. President, will the Senator from Montana yield to enable me to ask a question of the Senator from Illinois?

Mr. WHEELER. Certainly.

Mr. ROBINSON. While the Senator from Illinois was temporarily absent from the Chamber, and in the time of the Senator from Montana, I asked a question which I should like now to submit to the Senator from Illinois. His experience and ability as a lawyer are generally recognized.

Does the Senator from Illinois believe that the rule set forth in the House substitute is sufficiently definite to enable the proposed legislation to withstand the test of constitutionality? In other words, is it sufficient to say that if the Commission finds that it is not in the public interest to permit a holding company to continue it shall take certain action, and if it finds that it is in the public interest not to take that action it shall refrain from doing so? Does not the Senator recognize the fact that the mere statement "in the public interest" represents a conclusion rather than a fact? Men differ about what constitutes the public interest. There are some Senators in this Chamber with whom I have never agreed on any subject as to what constitutes the public interest. There are other Senators in this Chamber with whom I usually agree, and the Senator from Illinois is one of them.

Assuming, however, that that difference of opinion which always exists will reflect itself in the attitude and action of the members of the Commission, what is the constitutional justification for giving the Commission unlimited authority to say that one holding company in one section of the country may continue in existence because under its operations it is serving the public interest, and in another section of the country a different holding company—or, for that matter, the same holding company—may not continue to operate? I think it involves a question which we ought to be particularly anxious to avoid at this juncture, and that is the question of constitutionality.

Mr. DIETERICH. I will answer the distinguished Senator from Arkansas by saying that that was my exact criticism of the original bill.

Mr. ROBINSON. How does the Senator escape applying it with more force to the House provision in which he moves to concur?

Mr. DIETERICH. Let me answer further that the criticism which the Senator from Arkansas is making of this bill is the criticism I made of the original bill.

Mr. ROBINSON. Very well.

Mr. DIETERICH. Neither one of them——

Mr. ROBINSON. Wait a minute. Will the Senator yield?

Mr. DIETERICH. Yes.

Mr. ROBINSON. If the Senator's motion shall be agreed to, there will be no opportunity to correct either the House provision or the Senate provision; but if the bill shall be sent to conference there will be at least an opportunity to revise whichever one may be agreed upon and make it conform to constitutional requirements.

Mr. DIETERICH. In answer to the Senator from Arkansas, if the Senator from Montana will further yield to me——

Mr. WHEELER. I yield.

Mr. DIETERICH. I will say that I understand the disposition of those in charge of the Senate bill. Those matters were pointed out. We asked them to make the bill definite. I made the statement in the Senate at that time that no one could know, and no lawyer could advise, what the rights of a client would be under the provisions of the original bill. I have not particularly examined the amendment, but it could not be any worse. That is why I think it is proper to adopt the amendment; it could not possibly be any worse.

Mr. WHEELER. Oh, yes, Mr. President.

Mr. ROBINSON. If the Senator from Montana will permit me to interrupt his colleague from Illinois, I think this debate indicates that the House provision is even more subject to the criticism to which we are referring than the Senate provision could be; but, admitting that both of them are subject to the criticism, what is the objection to taking the opportunity to make a correction? The only way in which that opportunity can be obtained is by defeating the Senator's motion and sending the bill to conference.

Mr. DIETERICH. In response to the Senator from Arkansas, I will say that the objection is this: As I understand, the able Senator from Montana will be one of the conferees and the two ranking members of the Interstate Commerce Commission will be the other conferees of the majority party. I think I pretty well understand their attitude on that subject; and I agree with the Senator that in

this entire legislation it is hardly a question of which measure is the best. It is a question of which is the worst; and, of the two evils, I think the House bill is the lesser.

Mr. BYRNES. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. BYRNES. The Senator from Montana has been quoted in the newspapers as making the statement that if the bill were sent to conference and the so-called "death sentence" section were not included there would be no legislation. I desire to know whether the Senator was correctly or incorrectly quoted.

Mr. WHEELER. That is not correct. I have not seen the reports to which the Senator refers, but I do not think that is correct. What I have said was that, so far as I was personally concerned, I would rather have no legislation than to have the House bill passed in its present form. Of course, if the bill goes to conference, the purpose of having a conference is to try to have a bill worked out by both the House and the Senate. I do not know whether or not that can be done, but that will be the aim of the conferees if the bill goes to conference.

Mr. BYRNES. May I ask the Senator another question? When he says he would rather see no legislation at all than to see enacted into law the House bill, does he have reference to the entire bill or only to that one section? Does he mean that rather than see one section omitted from the bill he would let all the regulatory features of the bill die?

Mr. WHEELER. No; what I said was, as I shall point out before I conclude, and as Mr. Kennedy has pointed out, that the House has not only emasculated section 11 with reference to the so-called "death sentence", but it has provided a "death sentence", if Senators wish to call it that. I do not call it that; but the only difference between the House bill and the Senate bill is that the House bill leaves the "death sentence" up to the Commission. The Commission could say that the Electric Bond & Share Co. should go out of business because it was against the public interest; they could say that the United Corporation should stay in business because it was in the public interest; they could say that the Insull Co. was in the public interest and that the Commonwealth & Southern was against the public interest. I say to the Senator that if ever there was an unconstitutional discretion placed in the hands of a commission, that, in my opinion, is a delegation of power which is unconstitutional.

Mr. BYRNES. There are 150 pages of the House bill. I do not know what is contained in it. I doubt if any Senator on the floor knows. I do not desire to concur in a bill which we have not had the opportunity to read or to consider. At the same time, I think the Senate is entitled to know the Senator's views, and whether or not he takes the position that if he cannot secure the adoption of one section of the bill in which he is interested he will let the measure die.

Mr. WHEELER. In the first place, let me say to the Senator from South Carolina that, as I have explained, I have no personal interest whatsoever in this matter.

Mr. BYRNES. Oh, no; of course not. I refer to the Senator's views.

Mr. WHEELER. I feel that the administration went too far in recommending that we permit any of these holding companies to continue to exist, because I agree with the Senator from Alabama that holding companies generally should be eliminated; but the administration did not go that far. It proposed to permit holding companies to exist in integrated sections of the country. I can see no good purpose in permitting the existence of holding companies to any extent. However, as was pointed out to me by some of the departments, there are cases where they felt that holding companies in certain instances served practical purposes.

It is immaterial to me whether or not the bill goes to conference. I simply wish to explain to the Senate the House bill, the position taken by the Securities Commission and the Federal Power Commission, to present their views to the Senate, and then if the Senate wishes to adopt the House amendment it is perfectly agreeable to me. It seems to me, however, that as chairman of the committee it is my duty to point out to the Senate what are the objections to the House amendment, as I see the matter.

Mr. BYRNES. And is the Senator about to proceed to point them out?

Mr. WHEELER. I am; yes.

Mr. CLARK. Mr. President——

Mr. WHEELER. I yield to the Senator from Missouri.

Mr. CLARK. I do not wish to interrupt the trend of the Senator's thought, but my feeling in the matter is exactly like that of the Senator from South Carolina [Mr. BYRNES]. Nobody is anxious to vote to concur in the amendment striking out all after the enacting clause of an important measure and inserting a bill in itself comprising one-hundred and-forty-odd pages as a substitute for a bill comprising 154 pages, I believe, which in itself was so complicated that very few Senators were ever able to understand exactly what its provisions were; and I think that was by design. Nevertheless, in my judgment very few Senators are anxious to concur, sight unseen, in an amendment of this magnitude. On the other hand, as the Senator from South Carolina [Mr. BYRNES] says, the Senator from Montana has been repeatedly quoted in the newspapers to the effect that it was his purpose to send the bill to conference and, unless he could secure the Senate provisions of section 11, to kill the bill.

So far as I am concerned, while I should be very much disinclined to vote for the motion to concur, I would rather vote for the motion to concur in the House amendment, with its important regulatory features, than to kill the bill by sending it to conference, if that is the purpose of the Senator from Montana.

Mr. WHEELER. Mr. President, that is not the purpose. I have not seen the quotations to which the Senator refers, but it is inconceivable to me that I was quoted to that effect. I have said repeatedly that, so far as I am concerned, the bill, not only as to section 11, but as to section 13, which I explained a moment ago, gives the Commission discretion to permit service contracts, to permit the companies to make profits on them, and as Mr. Kennedy, the Chairman of the Securities Commission, has pointed out, it places a task upon the Commission which is impossible of being performed, both with reference to section 11 and with reference to section 13.

Mr. President, I would rather have no bill passed than to have a burden placed upon a commission which was impossible of fulfillment, which would mean a complete breakdown, and would mean that the practices sought to be cured would be allowed to continue.

Mr. CLARK. As the Senator well knows, if the bill were sent to conference the Senator would be the head of the Senate conferees. Would it be the Senator's purpose, if the bill were sent to conference, to carry out the purpose expressed to me on yesterday by another distinguished member of the Committee on Interstate Commerce, the Senator from Kentucky [Mr. BARKLEY], to really undertake to get together in a conference report with an idea of bringing in a bill which would be acceptable to everybody, possibly, who believes in the essential reforms contemplated in the bill, or would it be the Senator's purpose to insist on section 11 to the point where it would kill the bill?

Mr. WHEELER. Of course not. As I said a moment ago, the purpose of a conference is to try to work out a bill satisfactory to the conferees of both Houses.

Mr. CLARK. If the Senator will yield just a moment further for another question, I do not desire to impugn the motives of the Senator from Montana, of course, because I know them to be of the highest, but on the day after the bill originally passed the Senate, the Senator from Montana was quoted in the New York Herald Tribune to the effect that the amendment which I had offered on the day before, restoring to the operation of the proposed law the Standard Oil Co. of New Jersey and the Koppers Co., a Mellon holding company, would be stricken out in conference.

Mr. WHEELER. I think they have been stricken out in the House bill.

Mr. CLARK. That may be.

Mr. WHEELER. If the bill goes to conference, I am going to try to maintain the Senate's position. That would be my duty, and that is what I would do.

Mr. CLARK. I agree entirely with the Senator from Montana.

Mr. WHEELER. A Senator came to me and said that he would vote to send the bill to conference provided he could have my assurance that I would yield on section 11. I said to him that I would not do anything of the kind, because I would not be carrying out the instructions of this body if I should do that.

Mr. CLARK. Of course, the Senator from Montana is entirely correct in that, and no Senator would have the hardihood to stand on this floor and ask him to take any other position. But that is an essentially different thing from the effect of the newspaper quotations which have appeared all over the country, and I am amazed that the Senator from Montana has not seen them, because nearly all other Senators have, quotations to the effect that, if the House did not include section 11 in the bill, it was the Senator's purpose to take the bill to conference and kill it. I am entirely satisfied with the Senator's assurance on that question.

Mr. WHEELER. I probably have stated my personal views, but what my personal views may be is quite a different thing in a matter of this sort from my duty acting as the representative of the Senate in trying to reach a satisfactory agreement.

Mr. CLARK. So far as I am concerned, the Senator's assurance is entirely satisfactory to me.

Mr. BARKLEY. Mr. President, regardless of any newspaper quotations, which, if they have been properly described here, were unfortunate, but probably did not represent the sentiment of the Senator from Montana, regardless of any misquotations or newspaper articles, I understand the Senator's attitude to be that as a conferee representing the Senate it would be his duty and his purpose to represent the Senate, and to maintain the Senate's position in the conference, so far as possible, hoping, of course, to persuade other conferees to yield at least to a reasonable degree in order to reach an accommodation, but recognizing that conferees on a highly controversial matter like this must get together in some way if legislation is enacted. If I understand the Senator, his purpose would be to seek, in a reasonable and satisfactory way, with the conferees to write a bill, especially the controversial portions of the bill, which would be reasonably satisfactory, and carry out the essential purposes of the legislation now under consideration.

Mr. WHEELER. Of course, there could not be any question about it.

Mr. BARKLEY. I do not see how anyone could ask anything further.

Mr. DIETERICH. Mr. President, perhaps I may simplify this proceeding. I appreciate the force of what the Senator from South Carolina has said and what other Senators have said, and I stand somewhat in the same position. I want to be honest about the proposition; I do not believe anyone knows exactly what is in all these bills, and what the differences are. I am willing to come to this agreement and understanding, that I will withdraw my motion to concur generally if permitted to make a motion, after the motion to appoint the conferees shall have been agreed to and before the conferees are appointed, that the conferees be instructed not to insist on section 11.

Mr. CLARK. Mr. President, no one can deprive the Senator of that right; that is a parliamentary right the Senator has.

Mr. WHEELER. Mr. President, let me say to the Senator from Illinois that, so far as I am concerned, if the conferees were instructed to yield upon something the Senate had already done, I should refuse to serve upon the conference.

Mr. DIETERICH. Then, if the Senator were instructed not to insist on section 11 he would refuse to serve on the conference?

Mr. WHEELER. Absolutely.

Mr. DIETERICH. That is what the Senator has given out in the publications in the papers.

Mr. WHEELER. Not at all.

Mr. BARKLEY. Mr. President, will the Senator from Montana yield?

Mr. WHEELER. I yield.

Mr. BARKLEY. The Senate might as well in the first instance concur in the House amendment as to instruct its conferees in advance to yield on the Senate provision.

Mr. WHEELER. Of course.

Mr. DIETERICH. Then, the contention is that the Senator wants the "death sentence" in section 11, and that is why he wants it to go to conference? Of course, if he would not obey the instructions of the Senate on it, he certainly would not yield in conference.

Mr. WHEELER. Think of the position in which the Senator is seeking to put the Senate conferees! The House did not have a record vote on section 11. The Senate had a record vote on it, and the Senate voted section 11 into the bill. Now the Senator is asking that the Senate conferees go into the conference and yield before the conference begins. I say that to me that would be stultifying, and I should not under those circumstances serve on the conference committee.

Mr. ROBINSON. Mr. President, will the Senator from Montana yield?

Mr. WHEELER. I yield.

Mr. ROBINSON. It does not seem to me that the suggestion made by the Senator from Illinois is a practicable one. What I think ought to happen is that the bill should go to conference, and that the conferees, as they are required to do by the rules of the Senate, should make a bona fide effort to work out the disagreements between the two Houses. If they shall do that, I am satisfied that the legislation will be improved rather than made worse by a conference.

Of course we all know that there will be difficulty in reaching an agreement, but it seems to me to be unreasonable to ask the Senate conferees, who have been instructed by the Senate on the provisions of the bill, to recede as a condition to their appointment. I should not at all blame the Senator from Montana for refusing to serve on the conference under such conditions.

The Senate had a contest on the subject matter of the amendment of the Senator from Illinois, and the vote was close. The amendment was rejected. What the Senator from Illinois is asking to have done in order to get the bill to conference is that he be permitted to win his major proposition, so as to make certain that it could not be resolved by the conference, and that suggestion, it seems to me, is so unreasonable that it is surprising the Senator from Illinois should expect to have it accepted.

Mr. CLARK. Mr. President, will the Senator from Montana yield to me?

Mr. WHEELER. I yield.

Mr. CLARK. I was merely going to ask the Senator from Montana if he would be willing to agree to a proposition of this sort. I have not consulted the Senator from Illinois about it, and do not know whether or not it meets with his approval, but it seems to me that an agreement might be made that the bill be sent to conference and a substantial agreement be arrived at on other sections than section 11, and that rather than unduly delay the conference in the consideration of section 11, or rather than report a disagreement, the conferees should make a partial report.

Mr. WHEELER. So that the Senate may have a correct picture of the situation, let me make a brief statement. I do not know how many Senators were present when I read the letter from Chairman Kennedy, of the Securities Commission, in which he stated that the House bill is absolutely unworkable.

Mr. CLARK. I heard the Senator from Montana read the letter, and it seems to me that it presents a question for very serious consideration. But if it were possible for the conferees to arrive at a substantial agreement as to the features of the bill outside of section 11, or possibly any other matters which might transpire, would the Senator be willing to bring back the question of the disagreement as to the "death sentence" provision, so-called, for a vote in the Senate? It seems to me that is not an unreasonable suggestion.

Mr. ROBINSON. Mr. President, will the Senator from Montana yield to me?

Mr. WHEELER. I yield.

Mr. ROBINSON. What I cannot understand is why Senators are not willing that there shall be a free conference, as the rules of the Senate contemplate, and as is usually required. Why attempt now to tie the hands of the Senate conferees? The Senate can always, within the discretion of a majority of its Members, control its conferees. The Senate can require its conferees to report. The Senate can discharge its conferees and appoint new conferees. But I think the suggestion made by the Senator from Illinois is unusual and that it should not be agreed to. I should prefer that we go ahead and fight this out now, if the Senate is to be required to recede from its position as a condition to having a conference. I should prefer that we fight it out and let the Senate resolve the question on the motion of the Senator from Illinois. It is the most intelligent way to proceed.

Mr. BARKLEY. Mr. President, I agree entirely with the Senator from Arkansas [Mr. ROBINSON]. It seems to me to be ridiculous to ask the Senate to tie the hands of its conferees by practically serving notice on the conferees of the House that they need not yield on anything; that all they would need to do would be to "stand pat", and under an agreement which we have made here we would have to bring the bill back to the Senate for instructions. When I say "we", I mean the conferees. I do not know who the conferees will be, outside of the Senator from Montana [Mr. WHEELER]. On a proposition with respect to which the Senate spoke and made decision, even though by only one vote—I have reason to believe it would be decided by a greater majority if it were to be again considered—it seems to me unusual to ask us to do what has been proposed at this time as a condition for agreement.

So far as I am concerned, I do not ask any conditions. I do not seek to impose any conditions. If the Senate desires to do the unusual thing in an important matter such as this, where the other House has stricken out all of the Senate bill and substituted in its place its own bill—if the Senate desires to concur in that, it is the Senate's business. If, however, the bill should go to conference, as it ought to go, it should go without assuming that the Senate does not have sufficient confidence in its conferees to believe that they will do the reasonable thing.

Mr. CLARK. Mr. President, I agree with the Senator from Kentucky that the Senate ought not to concur in a measure of this length and complication with whose provisions they are not familiar. On the other hand, I very violently disagree with the Senator from Kentucky that there is anything unusual or anything improper in asking the Senate to have an opportunity to reconsider its action in view of the vote in the House as to a partcular section which was adopted in the Senate by practically a tie vote.

So far as I am concerned, let me say that I propose to vote against the motion of the Senator from Illinois [Mr. DIETERICH] to concur in the House amendment, because it is a very complicated measure. On the other hand, if the Senator from Illinois shall offer the kind of motion which he has just suggested, that the Senate conferees be instructed not to insist on section 11, I propose to vote for that motion. That seems to be an entirely consistent position.

Mr. BARKLEY. Mr. President, that is the Senator's privilege, and I have no criticism to make of him for voting in that way if it is his honest judgment that he should do so. Certainly, however, where either House, in the case of an important and complicated measure such as this, struck out the entire bill after the enacting clause and wrote another bill of its own, I do not recall any instance since I have been a Member of this body, nor do I recall reading about any instance before that time, where there was concurrence on the part of either House. Always, these measures go to conference. With reference to the Transportation Act of 1920, which I as a member of the Committee on Interstate Commerce of the House helped to frame, that bill came over to the Senate, and the Senate struck out the entire language of the House bill and wrote in the Cummins bill. The bill went to conference, and it took 6 weeks to work it out so as to secure the enactment of the Transportation Act in its present form.

Mr. BYRNES. Mr. President, I think there is a misunderstanding. I did not understand the Senator from Illinois to state that he desired to make his request as a condition of the bill going to conference. On the contrary, I understood the Senator from Illinois to say he intended to withdraw the motion to concur, and that if he could be assured that from a parliamentary standpoint he had a right to offer the motion to instruct the conferees he intended to do so. Am I correct in my statement?

Mr. DIETERICH. Mr. President, the Senator from South Carolina is correct. All I asked in connection with withdrawing the motion to concur generally in the amendment of the House—the House substitute—was that I be given the opportunity to make a motion; that the Senate be given the opportunity to pass upon a motion which I shall make after the adoption of the motion to appoint conferees; and, before their appointment, which I understand I have the parliamentary right to do, that the Senate shall not insist on section 11.

That is all I ask. I am not trying to do anything except what the majority of the Senate desire done. If it should happen that the Senate should vote for the motion to instruct the conferees not to insist on section 11, I asked the Senator from Montana [Mr. WHEELER] if he would be willing to serve on the committee under those instructions, and he said "No."

Mr. WHEELER. Why, of course, I should not.

Mr. DIETERICH. So I understood the Senator. I will stop the debate on my motion to concur generally now, and I will withdraw that motion if I may have the assurance that I shall be given the opportunity to make a motion—which I understand I have a parliamentary right to make—that the conferees be instructed not to insist on the Senate's position on section 11.

Mr. BYRNES. Mr. President, I may say that I understand the Senator from Illinois has propounded a parliamentary question as to whether he will have the right to make the motion he has suggested when that parliamentary situation shall arise. I ask the Senator from Illinois if that is not correct.

Mr. DIETERICH. That is correct. That is all I am asking for.

The VICE PRESIDENT. If the present occupant is in the chair at that time, he will recognize the Senator from Illinois to move that the conferees be instructed in accordance with the request of the Senator from Illinois, before the Chair appoints the conferees.

Mr. BYRNES. Mr. President, then I ask the Senator from Illinois if he withdraws his motion.

Mr. DIETERICH. I withdraw my motion.

The VICE PRESIDENT. The Senator from Montana [Mr. WHEELER] asks unanimous consent that the Senate disagree to the House amendment, ask for a conference with the House, and that the Chair appoint the conferees on the part of the Senate. Is there objection?

Mr. McNARY. Mr. President, I do not rise for the purpose of expressing disapproval. I desire to know a little more about the parliamentary situation which exists since the Senator from Illinois has withdrawn his motion, in view of the fact that yesterday we all agreed that the motion of the Senator from Illinois had precedence over the motion of

the Senator from Montana. With the withdrawal of the motion of the Senator from Illinois, will the vote be taken upon the motion of the Senator from Montana for a conference and the appointment of conferees? Is that the situation?

The VICE PRESIDENT. The Chair will state that that is a correct statement of the situation. The Chair asked whether there was objection to the request of the Senator from Montana, which would do just as well as if it were made in the form of a motion.

Is there objection to the request of the Senator from Montana for unanimous consent that the Senate disagree to the House amendment, ask for a conference with the House, and that the Chair appoint the conferees on the part of the Senate? The Chair hears none.

Mr. DIETERICH. Mr. President——

The VICE PRESIDENT. The Senator from Illinois is recognized.

Mr. DIETERICH. I move that the conferees appointed on the pending measure be instructed not to insist upon section 11 as contained in the Senate bill.

The VICE PRESIDENT. The motion is not in writing, so the clerk cannot state it. As the Chair understands it, the Senator from Illinois moves to instruct the conferees on the part of the Senate not to insist upon the Senate's position with reference to section 11 as contained in the Senate bill.

Mr. ROBINSON. Mr. President, the motion of the Senator from Illinois is equivalent to a recession on the part of the Senate on section 11. If the Senate conferees shall be instructed not to insist upon the provision, it will be taken by the conferees on the part of the body at the other end of the Capitol to mean that all they are required to do is to oppose the Senate's provision.

I wish to say that is such an extraordinary proceeding that it deserves to be clarified. Never in the history of the Senate during my service has the Senate, after passing upon a proposition, informed the other body that it was not in earnest about it; that it did not stand for it; that it would not insist upon it. I apprehend that no Senator wishes to establish the precedent which would exist if this motion should prevail.

I am speaking now without regard to the merits of the proposition of my friend the Senator from Illinois. I am speaking now in the name of the integrity and good faith of the Senate of the United States.

The issue involved in section 11 was fought out at great length in the Senate on the amendment proposed by the Senator from Illinois. He lost on that proposition, and section 11 became the Senate's provision. How do Senators who just a moment ago impliedly questioned the good faith of the prospective conferees on this bill justify their course in asking the Senate to yield in advance of the conference?

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Idaho?

Mr. WHEELER. I yield.

Mr. BORAH. The motion of the Senator from Illinois, if adopted, would eliminate section 11 from consideration at all?

Mr. ROBINSON. Certainly.

Mr. BORAH. Its adoption would be practically the same as if we accepted the House provision.

Mr. ROBINSON. It would be the same as if we reconsidered the bill and adopted an amendment striking out section 11.

Mr. BORAH. Why should not section 11 be permitted to receive conference consideration the same as any other provision of the bill?

Mr. ROBINSON. That is the point. If this bill shall go to conference—and it will go to conference—section 11 should be considered together with all other provisions.

What happened was the proponents of the motion to concur found that they did not have sufficient votes to carry it, and then they sought to accomplish a more affirmative purpose by removing section 11 from the consideration of the conference. That is the practical effect of the motion of the Senator from Illinois. Do you imagine, Mr. President, that the House, which also had a serious contest over this subject, would for a moment consider section 11 if we should agree to the motion of the Senator from Illinois? It is a ridiculous proposition, unless it be assumed that the Senate wishes to reconsider its action and abandon the position it has taken.

Why not let this bill go to conference? As I said a few moments ago, why not have a free conference and why not give the conferees the chance to work out the best provision practicable in the light of the debate which has occurred?

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. ROBINSON. Certainly; I yield to the Senator from Kentucky.

Mr. BARKLEY. The Senator knows, of course, as every other Senator knows, that after the conferees have made a sincere effort to get together on any great controversial matter involved in a bill, and they find it impossible in conference to do that, they not only can but frequently do bring the proposition back and ask for the sense of the Senate with respect to their future attitude on that controversy?

Mr. ROBINSON. Oh, yes; but the point I am making now is that there should be a good-faith conference. Let the whole subject matter in dispute go into the conference and let the representatives of the two Houses in conference have a fair chance to work out these propositions. If they shall have such a chance, and shall take advantage of it, probably they will improve section 11. They certainly will improve the corresponding section in the House bill before we are required to vote upon the conference report.

The point I wish to emphasize, in conclusion, is that this whole proceeding today has been extraordinary. Do Senators recall, long as they may have served here, a time when a bill involving as many changes in the Senate action as the House substitute involves was concurred in with not a single Senator knowing what is in the House bill? There has not been such an instance heretofore. Then, after debate had proceeded, and the proponents of the proposition found they were whipped and did not have the votes to carry it, they came in and asked for a more absurd action on the part of the Senate, namely, that the Senate surrender before the fight begins. It will not do.

Mr. WHEELER. Mr. President, it seems to me, in view of the motion of the Senator from Illinois [Mr. DIETERICH] which is now pending, that I ought again to call the attention of the Senate to the letter from Mr. Kennedy, Chairman of the Securities Commission, because there are many Senators now present who were not here when the letter was originally read. Among other things, he says:

> As you know, the bill which passed the Senate and the House proposes to give our Commission a variety of duties and confer, even apart from section 11, wide powers of discretion in the administration of this act. * * * These duties, while enormous, can be discharged, I believe, with reasonable efficiency, by a trained and competent personnel; but the burden cast upon us by section 11 of the House bill is simply staggering.

Section 11 is the section on which the Senator from Illinois wants the Senate to yield.

> I cannot be too vehement in urging upon you my feeling that this section, as now drawn, is most unfortunate. I urge my objection to this section upon two grounds. The first is simply the limitations on human capacity to achieve results. The second objection is based upon my conception of what is wisdom in government.
>
> The task with which the Commission is confronted under section 11 of the House bill is that of determining whether it is necessary in the public interest to limit the operations of a holding-company system to a single integrated public-utility system. If the Commission finds that such limitation is not necessary, it is then under a duty to require limitation to such number of integrated public-utility systems as it finds may be included in such holding-company system consistent with the public interest.
>
> The phrase "public interest" is not defined in the House bill. Thus this bill furnishes no effective standard to guide the Commission in the momentous decisions it must make as to which of the holding-company systems are to be broken up, and how such process is to be effected. I do not believe it is fair or practicable

to expect any five men to shoulder the grave responsibility for deciding which of these systems are to be reorganized and into what size and character the ultimate groupings shall evolve.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. ROBINSON. What I wish to know and what I have been trying to find out all morning is why any Senator objects to trying to correct that patent deficiency in the House provision. Manifestly, it has suggested itself to every lawyer who has considered it, and to some who are not lawyers. No definite standard is set up in the House provision for the government of the conduct of the Commission; so that it may constitute an unwarranted delegation or attempted delegation of legislative power and be held invalid.

Mr. WHEELER. Mr. Kennedy, in his letter, proceeds:

The administrative burden involved in the duties required under section 11 which will just be overwhelming, no matter what the appropriation, no matter the size or the technical equipment of the staff.

The second reason, and by far the most important one, is my strong conviction that it is not a wise policy to vest in any one group of men the tremendous responsibility involved in this grant of power. Certainly, this is true unless such a grant is hedged with precise and defined standards as set up by the Congress itself.

I have an appreciation of the great need in our modern life of flexible language in statutes, so that the administration of the law may be responsive to an ever-changing existence. Both bills wisely contain grants of discretionary power over the details of implementing the statute. This discretion is desirable in order to attain a practical and efficient administration. But, so far as the vital decisions as to the size and character of the holding-company systems of the future are concerned, which decisions will affect the interest of millions of people, investors and the consuming public alike, I do not believe that any Commission should be given unfettered discretion to decide matters of such transcendent importance.

It is also my opinion—

Then he goes on to discuss section 13.

So the chairman of the Commission that is going to administer this bill says it is impossible to administer it as it is phrased in the terms of the House substitute.

Mr. President, I venture the assertion that the Senator from Illinois and other Senators do not know what other provisions are in section 11 besides the specific one to which he has referred. Section 11, however, does not only provide for the so-called "death sentence", but it provides for numerous other things relating to the reorganization of the holding-company systems.

Section 11 of the House substitute bill departs radically from the President's policy; and that section as adopted by the Senate did not impose a "death sentence."

There is nothing in section 11 as adopted by the House—and I want to call this point to the attention of the Senate—which requires an equitable distribution of the voting rights among the security holders in a holding-company system. That was entirely eliminated from section 11 of the House bill. It does not go as far in that particular as the utility executives themselves suggested. The utility executives themselves, as a matter of fact, when they appeared before the Senate committee were more liberal in their viewpoint with reference to the bill than is the provision of the House amendment.

Mr. DIETERICH. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Illinois?

Mr. WHEELER. I yield.

Mr. DIETERICH. I think the Senator from Arkansas and the Senator from Montana are both laboring under a misapprehension as to what my motion was. My motion was not to accept the House amendment to section 11, but my motion was not to insist upon the Senate provision to section 11.

Mr. WHEELER. It seems to me that the effect of the Senator's motion would be that the House would simply stand pat and insist upon the provision it has inserted in the bill; and I would not blame it.

Mr. ROBINSON. Mr. President, if the Senate refuses to insist upon its provision, there only remains the House provision, and technically there is nothing in dispute.

Mr. WHEELER. Exactly.

Mr. ROBINSON. The Senator from Illinois can readily see that the whole effect of his motion would be to surrender before we have begun to fight, assuming there is anyone here who wishes to sustain the position taken by the Senate.

Mr. DIETERICH. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield further to the Senator from Illinois?

Mr. WHEELER. I yield.

Mr. DIETERICH. I do not want to take up the time of the Senator from Montana, but I think I am capable of judging of the effect of my motion. I can see a good many things that might be discussed and might be changed and might be rectified in section 11 under my motion which could not be changed or rectified if I moved to accept the House amendment and the motion were agreed to. I do not think it takes a great stretch of the imagination to understand that particular position.

Mr. WHEELER. What the Senator from Illinois really objects to is having me serve on the conference committee. Let me say to the Senator——

Mr. DIETERICH. Mr. President——

Mr. WHEELER. Let me make my statement so that there may be no misunderstanding about this matter at all. I have acted in good faith with reference to this bill to carry out the administration's policy. If the Senate, or the Democratic Members of the Senate, do not want me on the conference committee, I have not any desire to be on it. Let me say further to the Senator, right now, that if he has any objection to my serving upon the conference committee, I will not serve upon it. Then he and the utilities can have the kind of bill they want.

Mr. DIETERICH. Mr. President, will the Senator yield again?

Mr. WHEELER. I yield.

Mr. DIETERICH. In reply to that statement, the Senator is putting something into the discussion that I have never for a moment suggested.

Mr. WHEELER. I am getting a little bit weary of——

Mr. DIETERICH. The Senator himself has announced his position. He announced his position that if the "death sentence" was eliminated from section 11 he would not serve. In other words, his mind is not open to try to come to a composition or compromise on this matter.

Mr. WHEELER. The Senator is entirely wrong. That is not what I have announced. I simply said I would not serve if the Senate of the United States wanted to stultify the members of the conference committee by sending them to the conference with the direction that they should yield on section 11 even before they had read the bill; that I, as one Member of the Senate, would not submit to a stultification of that kind by the Senator from Illinois or by anybody else.

I know what is back of these motions. I am getting weary, let me say to the Senator from Illinois, of all this harangue about my political philosophy and going back to the fact that I ran upon a ticket with "Bob" La Follette. Let me say to the Senator from Illinois and to other Members of the Senate that I never did anything of which I was more proud in my life. I went before the people of my State and said so, and they reelected me to the Senate on the Democratic ticket, and reelected me again by a majority of 73 percent of the entire votes of the State. Whether or not the Senator likes my political philosophy, the vast majority, the overwhelming majority of the people of my State like it, and I do not care what the Chicago democracy thinks of my democracy.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. ROBINSON. I think the debaters ought not to be permitted to descend to the level commonly occupied by mediocre personalities. [Laughter.]

Mr. BARKLEY. Mr. President, does the Senator mean mediocre level of personalities?

Mr. ROBINSON. No; I said what I meant. There is no occasion for personal animadversions and for petty personal allusions.

I think there is no justification for the motion now pending. The Senate should vote it down, and do so emphatically. I do not think the Senator from Montana should take exception to anything the Senator from Illinois has said.

I hope we may settle this matter on the basis of sound legislation. It is not sound to do what the Senator from Illinois has moved we should do. It is not right for the Senate, after taking a position on this subject and after the two Houses have expressed their views on the legislation, when a conference is being created, to ask the Senate to tell its conferees that they cannot stand for the position which their body has taken. It is a very unusual proposal, one which I think has never before been injected in the proceedings of the Senate and which should not be injected except upon the theory that the Senate had discovered some new facts or circumstances which make it desirable to change its position.

Mr. President, this morning, while the Senator from Montana was speaking, the Senator from Minnesota [Mr. SHIPSTEAD] raised the question that there was available no print of the House bill. I made the statement that there was a print available. Looking into the subject afterward I found that the only available print is a print of the bill which was reported to the House by the Committee on Interstate and Foreign Commerce of the House. This print does not show the amendments which were agreed to in the House. Therefore I may say to the Senator from Minnesota that his suggestion was justified. I think there ought to be made available, if the debate is to continue, a print of the House bill showing the amendments adopted by the House.

Mr. WHEELER. Mr. President, I desire to explain further the various differences in section 11. I agree with the Senator from Arkansas that the idea of indulging in personalities in the discussion of the bill is out of place in the Senate; but, let me say, in justification of my position, that during the entire debate on the bill, both when it was before the Committee on Interstate Commerce and before the Senate, I attempted to keep the discussion free from personalities from start to finish. Notwithstanding that effort on my part, my political philosophy was repeatedly attacked on the floor of the Senate by the Senator from Illinois. I am going to wave that aside and discuss the facts with reference to the bill.

If we adopt the motion of the Senator from Illinois, we say to the Senate conferees that they must recede from the position of the Senate, and then where do we find ourselves?

There is nothing in section 11 of the House bill, I repeat, which provides for simplification of the corporate structures of holding systems and the removal of unnecessary complexities therein. It does not even go so far in this particular as the amendment offered by the Senator from Illinois [Mr. DIETERICH], which was voted down in the Senate. It places no limitations on holding companies in the second, third, or even fourth degree.

Section 11 as adopted by the House permits holding companies in the first, second, third, or fourth, or fifth, or any other degree that the Commission of five men might say was in the public interest.

It will be remembered that the Senate adopted without even demanding a roll call the amendment offered by the Senator from Idaho [Mr. BORAH] confining holding companies to those of the first degree.

I also wish to recall to members of the Banking and Currency Committee who are present the testimony given before that committee by Mr. Owen D. Young, in which he made reference to holding companies in more than the second degree or possibly the third degree.

The testimony which was given before the Banking and Currency Committee of the Senate was to the effect that Insull's corporations and his structure were such that nobody, not even Insull himself, could understand the set-up. The bill as it comes to us from the House would leave that set-up exactly as it is, except it would place the duty and burden upon the Commission to ferret out the facts and say that this particular holding company must go or that one may remain, or that all of them may be left as they are constituted at the present time.

There is nothing in section 11 of the House bill which requires an equitable distribution of voting rights among the security holders in a holding-company system. It does not go as far in this particular as the utility executives themselves suggested.

There are numerous other respects, in addition to the big question of effective simplification or readjustment of holding-company systems, in which section 11 of the House substitute bill has taken the teeth out of the realistic approach and solution to the holding-company problem.

Section 11 of the House bill not only does not require utility holding companies to get out of the myriad of speculative nonutility adventures in which they have been promiscuously active in the past, but it specifically hampers the Commission in dealing with these nonutility interests. The section expressly discards the principle that utility holding companies shall confine themselves to gas and electric service and not continue to mix into all manner of other businesses, and not continue to hold themselves and their securities out as representing a stable, regulated public-service industry, when in reality their resources are being thrown into and drawn upon by these speculative enterprises. The House has discarded this principle and adopted in its stead the principle that although there shall be a sort of attempt at regulation of the gas and electric activities of these companies, the Commission shall not, except in rare instances, interfere with the nonutility aspects of the business, no matter how far-flung they may be, and no matter how unrelated to the purported public service these companies render in the fields of gas and electricity. Instead of Congress adopting a definite policy with regard to these speculative, nonutility activities the House section shifts the entire burden to an administrative Commission, and then makes it practically impossible for the Commission to do anything about cleaning up the situation. I shall point out a little further on, in commenting on section 8, how the House bill also discards this policy even with regard to future acquisitions.

Let me say to the Senator from Illinois that if the Senate should recede from its position, and the other of the provisions of the Senate bill should be adopted, with section 11 eliminated, it would leave the bill in an absolutely unworkable condition.

Mr. DIETERICH. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. DIETERICH. There is nothing in my motion which would prevent the conferees from defining "public interest" as the words are used in that section.

Mr. WHEELER. Oh, yes, there is, because the intention and the practical effect of such a course would be that when the Senate conferees entered the conference the House conferees would insist upon the House amendment. They could not do anything else, as I see it, except to insist upon the amendment adopted by the House, because we would notify them in advance that the Senate conferees must recede from their position in the matter.

I doubt if the Senator from Illinois, or any other Member of the Senate, appreciates what was done in the House bill with reference to foreign holding companies.

With regard to foreign holdings, the situation is even worse. The House, in section 11 (b), has made it absolutely impossible for anything at all to be done to prevent a supposedly regulated domestic utility holding company from embarking upon or continuing their most romantic and speculative foreign ventures. The Senate bill proceeded on the theory that foreign utility enterprises should be exempted from the act except for the sale of their securities in interstate commerce, but that as a necessary condition to exemption, uncontrolled and speculative enterprises should not be mixed up with regulated utility holding companies in this country. The House bill completely exempts these foreign utility ventures, but leaves them undisturbed as a part of the supposedly regulated American utility holding companies. In other words, what it does is simply to say to an American company, which is using American money with which to

build up a utility in this country, "You can take that money and go to Argentina, to China, or anywhere else, and you can mix up with your American company the highly speculative, unregulated public-utility companies in foreign countries, and unload them on the public of the United States without any regulation whatsoever." It makes the whole system so complicated that the American public, when they think they are buying American utilities, are in fact buying only partially American utility stocks, and are buying partially the highly speculative utility stocks of South American or other foreign countries.

The House entirely eliminated that provision. As a matter of fact, the representatives of the utilities themselves, when they appeared before our committee, did not contend or ask that we go as far as the House went in the adoption of that provision of section 11.

As I have said, the Senate bill adopts a very definite public policy on this question. It requires the segregation of foreign holdings so that the American investor, when he buys a security in what is held out to him as the stable, regulated gas and electric industry of this country, will get that, and will not get a hybrid security, the assets behind which are located partly in foreign countries and subjected to any number of risks about which he knows nothing and over which neither he nor his Government nor any State government has the slightest control. This policy has been categorically reversed by the House bill—not only in section 11 but in the House amendments to sections 3, 8, and 10, which I shall discuss in a moment. An absolutely clean bill of health is now given all holding companies in regard to any foreign ventures on which they have embarked in the past, or which they may cook up in the future. They may continue to pour their investors' and consumers' funds into any speculation outside of this country that they like.

Does the Senate wish us to accept that kind of an amendment? Does the Senate wish us simply to recede from the Senate's position with reference to section 11? If so, then the Senators who have stood upon this floor and said, "I am in favor of regulation but not of elimination", certainly could not be consistent.

Section 11 of the House bill leaves the matter of enforcing the Commission's orders for simplification to the wholly inadequate procedure of injunctive relief. There had been worked out in the Senate bill a thorough and effective procedure for placing the whole matter of reorganization and readjustments in the Federal courts of equity when court action was necessary or desired, with express provisions to enable the courts to carry out the process of simplification and reorganization with every possible safeguard for investors and all interested parties. This was a sound and essential provision of the Senate bill, and is in accord with the policy that these orders shall be enforced civilly in Federal equity courts, which shall have full and complete powers to meet all contingencies, and deal with every aspect of these complex holding-company reorganizations. I submit that the House section 11 is inadequate, not only from the point of view of protecting investors and the general public, but particularly from the point of view of the companies themselves, and the need to provide for them machinery which will enable them voluntarily to comply with the policy of the legislation.

Furthermore, the House substitute section no longer affords investors the necessary protection in the way of reorganization plans. The Senate bill was carefully patterned after the Interstate Commerce Act in this regard to assure that a plan must be made public in a hearing before the Commission, or else must have been proposed by the Commission, before it can be put into effect. These provisions have been deleted by the House, and there remain only the partially effective provisions for Commission regulation of proxies, but not of the reorganization plans themselves. The Senate provisions were fair and necessary provisions. They did not take jurisdiction over reorganization plans away from the courts. The House deleted those provisions entirely.

We all know how the investors have been robbed in the reorganizations of railroads which have been brought about in the past. We sought to protect investors in the public utilities as Congress sought to protect the investors in railroads, and the House deleted the provisions. They merely set up the prerequisite and additional check of having the plan passed upon and subjected to the spotlight of a public hearing, first by the Commission. Ultimate approval or disapproval remained in the courts. I cannot find any justification for this obvious weakening of the administrative procedure originally provided in section 11.

Mr. President and Members of the Senate, I have now explained the differences in section 11, not only with reference to the so-called "death sentence", but with reference to the reorganization plan, with reference to the protection of investors who have invested in utilities securities. It is inconceivable to me that the Senate of the United States will direct its conferees to go into a conference with the House and notify the House in advance that we are going to break down all the safeguards we tried to put around investors and the general public in section 11 in the event and when the companies are reorganized. It is a well-known fact that some of the great holding-company systems are on the verge of reorganization at the present time. If no legislation at all shall be passed providing for their elimination, if none of the provisions of section 11 shall be retained in the bill, the investors who have invested in such companies are going to find themselves out on a limb, with no protection at all from the Government of the United States. We sought to put in this bill a protection, not only when the companies are reorganized under section 11, but when they are reorganized by reason of their own financial difficulties.

Do Senators who have been talking about protecting the widows and orphans, and about protecting the investors in these companies, wish to see those people left at the mercy of the heads of holding companies who have exploited them and robbed them in the past? Does the Senate wish to turn over the investors again to their tender mercies?

I am sure the Senator from Illinois has not read the changes in section 11, because, if he had done so, it is inconceivable to me that he would stand on the floor of the Senate and ask that the Senate adopt the House amendment to section 11, particularly in view of the fact that the Chairman of the Securities Commission himself says it is an impossibility for the Commission to work out the matter in a satisfactory way.

Mr. NORRIS. Mr. President, it happened to be my lot to be chairman of the committee 10 or 12 years ago to which was referred the so-called "Muscle Shoals" legislation. As a result of my study of that question, running over a great many years, I have reached some definite conclusions in regard to holding companies. I do not want to be understood as criticizing in any way, even indirectly, the ideas of any other Senator who may have reached a different conclusion, or who may not have studied the subject for the same length of time. So that what I shall say, although I want to say it plainly, reveals only my own personal ideas, reached after what I believe has been an unbiased, candid, unprejudiced investigation and consideration of the objects soughts to be attained and the objects which have been attained by holding companies.

In my humble judgment, there is no place in our civilization for the holding company, unless we except some holding companies in the first degree. Not all holding companies, even in the first degree, are justifiable, but there is, in my opinion, no justification whatever for a holding company beyond the first degree.

Holding companies were conceived in sin, they have been managed in total disregard of the public good, and of the interests of honest consumers of electricity and honest investors. There is no public service they can render. They are parasites upon our civilization.

Even though we concede, as I will concede for the argument's sake, that a holding company could be organized which would do nothing wrong, still the same things they

do could be better done and more efficiently accomplished and with a more complete knowledge on the part of the investing public if the holding-company machine were eliminated.

The Senator from Alabama [Mr. BLACK] the other day in the discussion of the bill said that he would as soon think of regulating a den of rattlesnakes as to attempt to regulate holding companies. Once upon a time, Mr. President, there was in the vicinity of a village a den of rattlesnakes which at various times bit some of the inhabitants and caused the death of a few of them, until there was a feeling in the village that something should be done. A meeting of the inhabitants was called to discuss what should be done with the rattlesnakes. Some of the people at the meeting said, "Let us kill them. Let us exterminate them. They perform no useful service." But other members of the community said, "Oh, no; don't kill them. They kill mice; they kill vermin of various kinds. They are a help to agriculture. Let us regulate them." After discussing the subject a good while, they decided that they would regulate the rattlesnakes. So they put up a sign at the edge of the rattlesnake den which read: "It shall be unlawful for any rattlesnake to bite any human being more than 150 years old." [Laughter.] Thus they regulated them. They permitted them to exist.

Here come the holding companies, with their palms covered with pennies which have been stolen from God's poor, which in the aggregate amount to millions of dollars, and they say, "Regulate us. Regulate us. We have been destroying the honest investors. We have been robbing the honest consumers; we did it illegally; but we want you to regulate us now. We want to rob people according to law. We want to steal according to the statute. Regulate us. Regulate us, because it is possible there may exist somewhere a holding company which for a day may not be guilty of some of the evils which can be ascribed to them generally. Regulate us", they say; "we are going to be good because hereafter we are going to sin according to law."

"Regulate us," says Insull from Chicago. "I have robbed the people by the millions. I have robbed the consumers by the millions. But a Chicago jury said I was not guilty, when all the world knew that I was. But now I am going to rob people according to law."

They say, "Save these holding companies. Let us now continue our simple course according to statute. Regulate us. Regulate us."

I think the Senator from Alabama was right. There is no reason why a holding company, with the exception I have noted, should exist anywhere, either in the electric field or in any other field. The holding company exists because it enables dishonest men to charge rates for electricity and to conceal their sins by a multitude of corporations, one built on the other, pyramids of corporations, all to no use except to deceive honest people.

It seems to me, therefore, Mr. President, that when we meet this contingency and do not solve the question by the elimination of holding companies, we are not doing our duty, a duty we owe to millions of consumers of electricity and to other millions of honest investors.

Holding companies have robbed more widows and orphans than could be enumerated in a week. Yet they are calling upon us in the name of widows and orphans to save investors. The bill provides that every honest dollar in every corporation shall be saved, but that we shall put up a sign which will say, "We will not permit this to continue in the future. We will outlaw the holding company."

On the path they have traveled they have left misery and suffering, burdens put upon innocent people, burdens which the people themselves cannot see or understand because of great pyramids of corporations which always becloud the issue.

There is no man who at this time or at any time can give a reason for the existence of the holding company, beyond those I have excepted. I believe that to be true. Perhaps I ought not to state it as an absolute fact, because I base my assertion upon my own study, upon my own word, upon my own investigation, made after many years of hard labor and work, and I have never as yet found one such company which had any honest excuse for existence beyond the first degree.

There is no reason why they should be given an extension of life and be placed under regulation which would permit them to continue to rob and to cheat, to steal and to deceive the people whose hard-won earnings they filch into their own itching palms.

We have had the evidence piled up mountain high from time to time showing their sins and their corruption. Do we want more evidence? Do we want to go further and permit them to continue in their illegal and unmerciful course?

Who is going to pay for the propaganda, which cost them millions of dollars, to defeat this very section 11? The student who is studying his lessons by the light of an electric light, the washerwoman who is using electricity to earn her bread, to keep her children in school, and perhaps pay off the mortgage on her home—they are going to pay for it in pennies. Their children are going to pay for it, unless we now stop the nefarious, illegal practice.

Do we wish to pass to our children this burden which has been upon our shoulders during all these years? Do we now wish to say to them that these great holding companies are so powerful and rich that they can buy newspapers, they can corrupt professors in the colleges, they can creep secretly into the schools and poison the minds of the little children, they can get into the lodges, they can go all over the country with their deceptive practices? Are we going to permit such a condition longer to exist in a free country? Are we going to hesitate now, when it is within our power to stop this unholy tribute which dishonest men are levying upon God's poor? Has not the time come when we should cease to hesitate? Has not the time come when our duty is plainly written upon the canopy of heaven, that no longer will a suffering people be permitted to be held down in practical bondage by one of the greatest trusts ever put together by the mind of man?

The PRESIDENT pro tempore. The question is on the motion of the Senator from Illinois [Mr. DIETERICH].

Mr. DIETERICH. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Reynolds
Ashurst	Coolidge	La Follette	Robinson
Austin	Copeland	Logan	Russell
Bachman	Davis	Lonergan	Schall
Bailey	Dickinson	McAdoo	Schwellenbach
Bankhead	Dieterich	McGill	Sheppard
Barbour	Donahey	McKellar	Shipstead
Barkley	Duffy	McNary	Smith
Bilbo	Fletcher	Maloney	Steiwer
Black	George	Metcalf	Thomas, Okla.
Bone	Gerry	Minton	Townsend
Borah	Gibson	Moore	Trammell
Brown	Glass	Murphy	Truman
Bulkley	Gore	Murray	Tydings
Bulow	Guffey	Neely	Vandenberg
Burke	Hale	Norbeck	Van Nuys
Byrd	Harrison	Norris	Wagner
Byrnes	Hastings	Nye	Walsh
Capper	Hatch	O'Mahoney	Wheeler
Caraway	Hayden	Overton	White
Carey	Holt	Pittman	
Chavez	Johnson	Pope	
Clark	Keyes	Radcliffe	

The PRESIDENT pro tempore. Eighty-nine Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from Illinois [Mr. DIETERICH].

Mr. HOLT rose.

Mr. ROBINSON. Mr. President, I understand that the Senator from West Virginia [Mr. HOLT] wishes to take the floor.

The PRESIDENT pro tempore. The Chair recognizes the Senator from West Virginia.

Mr. ROBINSON. Mr. President, will the Senator from West Virginia yield?

Mr. HOLT. I yield to the Senator from Arkansas.

Mr. ROBINSON. Mr. President, with the approval of both the Senator from Montana and the Senator from Illinois, I desire to submit a request for unanimous consent. I may be permitted to preface it with a brief statement.

Earlier in the day, when the motion to concur in the House amendments was pending, a number of Senators said they had committee and departmental engagements which they were compelled to meet; and it was then thought that in all probability the vote pertaining to this question would not be reached today. In addition to that, a number of other Senators are absent who wish to be here when the vote shall be taken.

I therefore, with the approval, as I have said, of the Senator from Montana [Mr. WHEELER] and the Senator from Illinois [Mr. DIETERICH], ask unanimous consent that the Senate proceed to vote at not later than 1 o'clock tomorrow on the motion of the Senator from Illinois.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent request of the Senator from Arkansas?

Mr. McNARY. Mr. President, I am sorry the proposal of the Senator from Arkansas was not made prior to the quorum call. There are some Senators who would like to be present before action is taken. Therefore, I suggest that the Senator make his proposal after a quorum call, as provided in the Senate rules. Personally I have no objection, but I desire a full attendance when the matter is considered.

Mr. ROBINSON. Mr. President, the rule does not require a roll call; but, if the Senator from Oregon wishes it, I will suggest the absence of a quorum.

Mr. McNARY. I wish to have a quorum call.

Mr. ROBINSON. Very well. I suggest the absence of a quorum.

Mr. DIETERICH. Mr. President, the unanimous-consent request of the Senator from Arkansas was that the Senate vote on my motion at 1 o'clock tomorrow?

Mr. ROBINSON. Yes.

Mr. DIETERICH. Let there be included in the unanimous-consent request a provision that there shall be a roll call on the motion.

Mr. ROBINSON. Very well. I will submit the request again when the quorum call shall have been completed.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Reynolds
Ashurst	Coolidge	La Follette	Robinson
Austin	Copeland	Logan	Russell
Bachman	Davis	Lonergan	Schall
Bailey	Dickinson	McAdoo	Schwellenbach
Bankhead	Dieterich	McGill	Sheppard
Barbour	Donahey	McKellar	Shipstead
Barkley	Duffy	McNary	Smith
Bilbo	Fletcher	Maloney	Steiwer
Black	George	Metcalf	Thomas, Okla.
Bone	Gerry	Minton	Townsend
Borah	Gibson	Moore	Trammell
Brown	Glass	Murphy	Truman
Bulkley	Gore	Murray	Tydings
Bulow	Guffey	Neely	Vandenberg
Burke	Hale	Norbeck	Van Nuys
Byrd	Harrison	Norris	Wagner
Byrnes	Hastings	Nye	Walsh
Capper	Hatch	O'Mahoney	Wheeler
Caraway	Hayden	Overton	White
Carey	Holt	Pittman	
Chavez	Johnson	Pope	
Clark	Keyes	Radcliffe	

The PRESIDENT pro tempore. Eighty-nine Senators have answered to their names. There is a quorum present.

Mr. ROBINSON. Mr. President, if the Senator from West Virginia will yield for that purpose, I will submit a slightly modified request for unanimous consent, the modification being suggested in order to meet the necessities of certain Senators. I ask unanimous consent that at 2 o'clock p. m. tomorrow the Senate shall proceed to vote without further debate on the motion of the Senator from Illinois [Mr. DIETERICH].

The PRESIDENT pro tempore. Is there objection?

Mr. McNARY. Mr. President, it has been suggested to me that we comply with the usual form of a limitation, say, of 10 minutes' debate by any Senator after 1 o'clock tomorrow.

Mr. ROBINSON. I have no objection to modifying the request so as to limit debate.

Mr. McNARY. I think that would prove more satisfactory. Some Senator may want to discuss the matter briefly, and I think with such a limitation we would reach an ultimate vote just as quickly as if a definite time were provided.

Mr. ROBINSON. The Senator from Illinois [Mr. DIETERICH] is anxious to have a definite time fixed for the vote, and I hope the Senator from Oregon will not object to it. It is a simple matter, a single proposition, as the Senator will understand.

Mr. McNARY. I suggest, Mr. President, the modification that after 1 o'clock debate be limited to 10 minutes, and that the vote be taken at 2 o'clock.

Mr. ROBINSON. Very well. Mr. President, I modify my request so that after the hour of 1 o'clock no Senator shall speak more than once or longer than 10 minutes on the motion, and that at the hour of 2 o'clock the vote shall be taken on the motion.

The PRESIDENT pro tempore. The Senate has heard the request for unanimous consent submitted by the Senator from Arkansas. Is there objection? The Chair hears none, and it is so ordered.

Mr. HOLT. Mr. President, certainly, as well as any other Member of this body, I realize that my procedure this afternoon is quite unusual in that a new Senator is not supposed, according to precedent, to speak so soon after becoming a Member, but I think this is quite an unusual situation. If I had to select any particular piece of legislation of the measures which I have noticed being considered by the United States Senate as the one that I was particularly interested in, it would be the utility holding-company bill. I am speaking because the State of West Virginia has been represented as being favorable to the elimination of the so-called "death sentence" provision of the bill. I disagree with that contention, and believe that my State is emphatically behind the President of the United States in his desire to have the bill enacted in the form in which it was passed by the Senate.

For 4 years I have investigated the utilities of the State of West Virginia, and let me say that I found no more ruthless, no more un-American, no more undemocratic group to deal with than the utilities. They are here today saying that they want regulation. They do not want regulation; they do not want elimination; they want the right to escape from any regulation or from elimination. They have for years and years controlled public officials, and now want to have a little more time in order that they may go into the elections and continue to control public officials.

I wish, in a few moments, to explain what the utility holding companies have done to my State. I need not go into the facts as to what the utilities have done throughout the United States; that phase has already been presented on the floor of this House; but what has been done to the State of West Virginia is something that is a record, in my opinion, unparalleled in the United States. I believe that utility holding companies have cost the people of West Virginia millions upon millions of dollars.

There are only two reasons for holding companies and there are only two ways whereby a holding company can make money. One is from the investor and the other is from the ratepayer. According to the records, the value of the utility stocks previous to 1929 was $19,000,000,000. Their value had declined to $3,000,000,000 in 1933. Taking the average per capita loss in the United States of America and applying it to West Virginia we find that the people of that State alone lost one-fourth of a billion dollars on so-called "investments in utilities." The amount thus lost to the investors of the State of West Virginia represents more than the entire deposits in every single State and National bank in the State. Yet it is said, "We do not want to bother them because we will hurt widows and orphans."

Since I have been in Washington I have noticed the cries of the "widows and orphans." The so-called "defenders of the widows and orphans" have cried upon my shoulder; and they nearly have made it necessary for a Member of the United States Senate to wear raincoats because of the crocodile tears they have shed about the "dear widows and orphans." The widows and orphans for whom they probably

speak are the widows and orphans of the financiers who jumped out of the Wall Street buildings in 1929. Certainly their love for widows and orphans has not been evidenced by the loss of $16,000,000,000 in the value of utilities securities they themselves sold throughout the United States, in my State alone amounting to one-quarter of a billion dollars, which is never to return, nor is the purchasing power represented by such a sum, of which the people there have been deprived.

Let me show what utility holding companies have done, not only to the investor but as well to the ratepayer, in the State of West Virginia. I may cite the United Fuel Gas Co., which is a subsidiary of the Columbia Gas & Electric Corporation. In 1926 they paid no executive management fees whatever. In the following year, 1927, they paid the American Gas & Electric Corporation $213,753.90, and the following year paid them $307,185.65.

It may be asked what has that done to the people of West Virginia? It has given that group sixty-one one-hundredths of 1 cent extra profit on every single thousand cubic feet of gas sold in that State. It is due to the fact that United Fuel Gas Co. has a particular service contract with the Columbia Gas & Electric Corporation to pay them 2 percent on the entire business. In the 4 years between 1927 and 1930 they paid to the Columbia Gas & Electric Corporation $977,595.32. Where did that go? Philip Gossler, president of the Columbia Gas & Electric Corporation, received $251,335 salary for 1 year alone; F. W. Crawford, vice president, received $112,315 for 1 year's salary. Who paid that? On sales between the affiliated companies of the Columbia Gas & Electric Corporation the ratepayers contributed to these great holding companies $514,140.48 on intercompany transactions. In other words, we are not paying the service fee on just the one cost of gas sold, or the one cost of electricity sold; but, since one company sells to another, that company sells to a third, the third company sells to a fourth, and the fourth in turn sells to a fifth, we are in some instances paying 8 and 10 percent cost instead of paying 2 percent on that particular item.

For instance, one gas company sold to another gas company, and that sold to another gas company to increase the price of gas sixty-four one-hundredths of 1 cent on that particular affiliated contract alone. On the management fees of that particular corporation the people of my State contributed $706,683 to a holding company.

It is said it does not cost anything. Who paid that? Let me cite a few engineering and supervision fees paid by companies operating in the State of West Virginia to top holding companies and other subsidiary holding companies. The Wheeling Electric Co., a part of the American Gas & Electric system, paid $260,281.35 particular fees in 1 year. The Kentucky & West Virginia Power Co. paid $777,621.82; the Appalachian Electric Power Co., now proclaiming a great love for the people of the United States, paid $2,457,374.95 in 1 year for supervision and management fees alone. The West Virginia Water & Electric Co. paid $61,597, and on the New River development, a development of a natural resource in our State, there was paid management fees alone amounting to $198,564. Who paid those fees?

Not only did they get into the management and supervision fee field, but they collected a tremendous amount in interest. The interest paid the Columbia Gas & Electric Co., operating in the State of West Virginia in 1927, amounted to $427,000, and in 1930 reached a total of $1,259,414. The interest paid the top holding company in my State took away from my people $3,801,214. The Byllesby management collected in 10 years $3,359,884 in legal fees, which netted them $2,078,000 profit. Yet they say it does not make any difference about these holding companies. Let me cite a few write-ups.

The Appalachian Power Co., whose lobbyists are in the galleries of this body at this moment, have stated that it is their desire to protect the people, but in 1 day, between March 31, 1926, and April 1, 1926, they wrote up their stock $66,418,192.80.

With a value of $98,500,000 the United Fuel Gas Co. had a write-up amounting to $41,042,452.

The Wheeling Electric Co. wrote up $901,518, and the Manufacturers Light & Heat Co. wrote up $13,779,297. Why? Oh, they love the widows and orphans of the State of West Virginia as shown in that write-up of stocks for the sale of their securities and the consumers who were widows in order that they might go before the public service commission and tell how much money they were not making in the State of West Virginia.

Oh, they love the investor of the State of West Virginia! In 1929 many an investor and many a neighbor of mine bought American Gas & Electric stock at $203 which on March 4, 1933, was worth but $3.75. Oh, they loved the investor then!

The American Waterworks & Electric Co., which furnishes electricity to my home city, sold its stock in 1929 at $186.25. Today that same stock is worth $1.35. Oh, again they loved the widows and orphans of the State of West Virginia.

Associated Gas & Electric stock, which company operated in my State, was valued in 1929 at $71.15, and declined to $1.10.

The Columbia Gas & Electric Co. stock was worth $129 in 1929 and in 1933 it was worth but $4.35.

The stock of the Middle West Utilities Co., which was selling for $49.90 in 1929, is worth today—God only knows what. It is not even worth the paper it is written on. Sam Insull and his group still love the widows and orphans of the State of West Virginia. Henry Doherty loved the widows and orphans of the State when his employees went in there and sold Cities Service stock. They had a great regard for the property rights of my people when they told them to invest in Cities Service stock because it was going up. "Invest in Middle West utilities! It is going up."

All this is due to the fact that they have tried to control the legislative body of my home State. They have controlled many public officials in my home State. In the State Senate of the State of West Virginia, in a membership of 30 we found 13 of them receiving directly or indirectly orders from the public-utility companies of that State—13 out of 30. They believe in the Constitution—they believe in freedom and independence. All they want now is the same thing they have gotten in West Virginia and other States, a continuation of their ability to dodge regulation. The holding company is nothing more than a means by which State regulation is escaped, Federal regulation is dodged, the investor is skinned, and the consumer is gouged. That is what the holding company is. It is nothing more than a means by which all the people in the United States pay a particular tribute to a few people.

Let me cite a few more facts with reference to that matter. Is there any particular need for a holding company such as those mentioned in the State of West Virginia?

We had a little light and power company in the city of East Rainelle, W. Va. It is known as the East Rainelle Light & Power Co. The people think they are paying money to that company, but we find that light and power company is owned by the Virginia Public Service Co. The Virginia Public Service Co. is controlled by the Seaboard Public Service Co. The Seaboard Public Service Co. is controlled by the National Public Service Corporation. The National Public Service Corporation is controlled by the National Electric Power Co. The National Electric Power Co. is owned by the Middle West Utilities Co. How on earth can we or the regulatory Commission find out where that money is going and how it is being spent?

Representatives of holding companies came before a committee when I introduced a bill in the West Virginia Legislature to regulate holding companies. Some of the same lobbyists who are hearing my voice now, and some of the same lobbyists who appeared before the different committees of the Congress, came before the West Virginia legislative committee and said, "It is impossible for the State of West Vir-

ginia to regulate holding companies. They are interstate and cannot be regulated."

Now they come to the United States Senate and the House of Representatives saying that holding companies are not interstate but intrastate and should go back under State regulation. In other words, no one knows where they belong. In 1933 and 1934 they said it was impossible to regulate holding companies, because it was a matter for the Federal Government to do. When I came to the United States Senate I heard the same men say it was an impossibility for the Federal Government to regulate holding companies; that it was a matter for State regulation. In other words, it is the old shell game to find out how we can regulate them as they shift around from place to place.

Let me cite another instance: I find that Thomas B. Gregory, a director of the Columbia Gas & Electric Corporation, is a director in 74 different corporations operating within and without my State. How can this be justified? Holding companies must be eliminated. There is no place for a holding company in the American economic system. It is an economic waste, a cancerous growth upon the American economic system. In other words, it sucks the lifeblood out of our economic system.

I realize the particular propaganda which has been spread over the country and over the State of West Virginia to the effect that we are destroying the investor. This bill does not destroy the investor. It protects the investor. To which would you rather go, Mr. President, to the Government of the United States or to Sam Insull and his group, who have shown how much they care for the investor? It is a question of whether we shall return to them that particular power of which they should be shorn. Their battle here, as I view it, is nothing more than an effort for delay in order that they may escape regulation. They realize that the Securities Exchange Commission or no commission can regulate a particular group that is so powerful that it intertwines through industrial corporations, banks, and newspapers.

Oh, they say, the people of West Virginia must be protected. They have entered our schools. I hold in my hand a little pamphlet put out by the public utilities of the State of West Virginia, telling about the great value of utilities. This pamphlet has been circulated in the schools of my home State telling the people and the boys and girls how the gas and electric companies help the people of that State. They love my people so well that we are paying annual tributes in rates alone in the State of West Virginia of $3,500,000 overcharge.

May I cite to you something of the overcharge, as shown by a speech delivered by Hon. JOHN RANKIN, Representative from Mississippi? The people of the State of Delaware, the District of Columbia, the States of Maryland and West Virginia together used 2,119,605,000 kilowatt-hours of electric energy last year, for which they paid the sum of $52,659,441. Under the T. V. A. rates the cost would have been $27,789,441, or a saving of $24,870,000 a year. Still they maintain their love for the people of my State and their love for the investors and their love for the consumers.

We in the State of West Virginia pay $2 for every 25 kilowatt-hours of electricity used. Under the T. V. A. rates we would pay 75 cents. For 50 kilowatt-hours we would pay $3 or $3.25, depending on two systems, while under the T. V. A. rate we would pay $1.50. In other words, every man or woman—including widows—no matter how poor, when he or she goes up to pay his electric bill, pays $1.50 or $1.65 tribute to the Power Trust and to the holding companies which have hidden and dodged and escaped regulation and are going to continue to endeavor to escape regulation.

Mr. BARKLEY. Mr. President, will the Senator from West Virginia yield?

Mr. HOLT. I am glad to yield to the Senator from Kentucky.

Mr. BARKLEY. The Senator a moment ago stated that the people of West Virginia pay $3,500,000 overcharge in rates. How does that compare with the annual income of the State government, exclusive of any taxes from gasoline for road purposes?

Mr. HOLT. The annual expenditure of the State of West Virginia amounts to $52,000,000, including gasoline taxes. If we applied the T. V. A. saving in West Virginia to taxes we would have but $48,000,000 to pay. I will go further and say that if we could have contributed the amount of money that the investors of the State of West Virginia have lost in utility stocks upon the basis of per capita cost, we should not need to have any property tax in the State of West Virginia for 9 years. Our entire property tax is only $27,000,000, and on the per capita basis $234,000,000 was lost by West Virginia investors in 4 years in these top holding companies. It is absurd to say that the people of the State of West Virginia want a continuation of that. I say the people of the State of West Virginia want the lobby of the Power Trust driven into the open. They want the holding companies eliminated, so that we can get fair and equitable rates for gas and electricity. We want to go back to democratic government, where the utilities do not control officials.

I think this bill is important in other respects other than the financial one. I think it is important for one particular reason other than the matter of dollars and cents. It is a means by which the utilities will be driven out of politics. If the utilities can be driven out of politics, we shall drive out of politics the worst menace the American Government has today, because they corrupt behind closed doors, not on the street corners. They corrupt in hotel rooms and in star-chamber sessions.

As I see the matter it is the duty of the United States Senate and the duty of the Congress of the United States to eliminate the utilities from the game of politics and give the American people at least a break and an opportunity for fair and equitable rates not only for the benefit of the rate payers but also for the protection of the investors of the United States.

Mr. ROBINSON. Mr. President, I am advised that in all probability a print of the utilities bill will be necessary, or at least convenient, to the members of the conference. Therefore, I ask the adoption of the order which I send to the desk, if it meets with the approval of the Senator from Montana.

The PRESIDENT pro tempore. The proposed order will be read.

The legislative clerk read as follows:

Ordered, by unanimous consent, That the bill S. 2796, the Public Utility Act of 1935, be printed showing the House amendments.

The PRESIDENT pro tempore. Without objection, the order is entered.

STRENGTH AND DISTRIBUTION OF LINE OF NAVY—CONFERENCE REPORT

Mr. TRAMMELL. I submit a conference report on House bill 5599, and ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. The report will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagrement to the first amendment of the Senate and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"SEC. 9. The last proviso of the appropriation 'Pay of the Navy', contained in the Naval Appropriation Act for the fiscal year 1897, approved June 10, 1896 (29 Stat., 361), is hereby amended to read as follows:

"'*And provided further*, That hereafter no payment shall be made from appropriations made by Congress to any officer in the Navy or Marine Corps on the active list while such officer is employed, after June 30, 1897, by any person or company furnishing naval supplies or war materials to the Government and such employment is hereby made unlawful after said date: *Provided*, That no payment shall be made from appropriations made by Congress to any retired officer in the Navy or Marine Corps who for

himself or for others is engaged in the selling of, contracting for the sale of, or negotiating for the sale of, to the Navy or the Navy Department, any naval supplies or war material.'"

And the Senate agree to the same.

That the House recede from its disagreement to the second amendment of the Senate, and agree to the same.

PARK TRAMMELL,
DAVID I. WALSH,
FREDERICK HALE,
Managers on the part of the Senate.

CARL VINSON,
P. H. DREWRY,
Managers on the part of the House.

The PRESIDENT pro tempore. Is there objection to the consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. COPELAND. Mr. President, I should like to ask the Senator a question. Is this the bill which contains the amendment in which I was interested?

Mr. TRAMMELL. This is the bill.

Mr. COPELAND. And the amendment has been included in the bill?

Mr. TRAMMELL. The amendment has been included in the bill.

Mr. COPELAND. I thank the Senator.

Mr. TRAMMELL. I move the adoption of the conference report.

The PRESIDENT pro tempore. The question is on agreeing to the report?

The report was agreed to.

EXECUTIVE SESSION

Mr. ROBINSON. Mr. President, unless some Senator desires to continue the discussion of the bill, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. POPE in the chair) laid before the Senate messages from the President of the United States submitting several judicial nominations to the courts of the District of Columbia, which were referred to the Committee on the Judiciary.

[For nominations this day received, see the end of Senate proceedings.]

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

NOMINATION PASSED OVER—POSTMASTER

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the first nomination in order on the calendar.

The legislative clerk read the nomination of Alice L. Woolman to be postmaster at Coweta, Okla.

Mr. McKELLAR. On behalf of the Senator from Oklahoma [Mr. GORE], I ask that that nomination be again passed over.

The PRESIDING OFFICER. The nomination will be passed over.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the remaining nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the remaining nominations of postmasters are confirmed en bloc.

IN THE ARMY

The legislative clerk proceeded to read sundry nominations in the Army.

Mr. SHEPPARD. I ask that the Army nominations be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 3 o'clock and 28 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Wednesday, July 10, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 9 (legislative day of May 13), 1935

JUDGES OF THE MUNICIPAL COURT, DISTRICT OF COLUMBIA

Nathan Cayton, of the District of Columbia, to be a judge of the municipal court, District of Columbia. (A reappointment, his term having expired.)

George C. Aukam, of the District of Columbia, to be a judge of the municipal court, District of Columbia. (A reappointment, his term having expired.)

Ellen K. Raedy, of the District of Columbia, to be a judge of the municipal court, District of Columbia, to succeed Mary O'Toole, term expired.

JUDGE OF THE POLICE COURT, DISTRICT OF COLUMBIA

Walter J. Casey, of the District of Columbia, to be a judge of the police court, District of Columbia, to succeed Ralph Given, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 9 (legislative day of May 13), 1935

APPOINTMENTS IN THE REGULAR ARMY

David Wanless Clotfelter to be first lieutenant, Medical Corps Reserve.

Charles Henry Bramlitt to be first lieutenant, Medical Corps Reserve.

Ralph Wendell Lewis to be first lieutenant, Medical Corps Reserve.

Frank Dudley Jones, Jr., to be first lieutenant, Medical Corps Reserve.

Howard Fletcher Currie to be first lieutenant, Medical Corps Reserve.

George Frederick Baier, 3d, to be first lieutenant, Medical Corps Reserve.

Louis Kenneth Mantell to be first lieutenant, Medical Corps Reserve.

John Harry King, Jr., to be first lieutenant, Medical Corps Reserve.

APPOINTMENTS BY TRANSFER IN THE REGULAR ARMY

First Lt. James Julius Winn to Field Artillery.

PROMOTIONS IN THE REGULAR ARMY

Thomas Benoit Hedekin to be captain, Field Artillery.
William Charles Dolan to be first lieutenant, Air Corps.
Ivan Lonsdale Farman to be first lieutenant, Air Corps.

POSTMASTERS

GEORGIA

Lessie F. Gray, Graymont.

NEW YORK

Anna R. Cronin, Brant Lake.

PENNSYLVANIA

James F. McAleer, Folcroft.
Paul J. Geiss, Walnutport.

VERMONT

John J. Rock, Ludlow.

HOUSE OF REPRESENTATIVES

TUESDAY, JULY 9, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Once more, our Heavenly Father, we are brought face to face with the duties of another day. Thou, who art the inspiration of the good, the beautiful, and the true, we thank Thee for the glory of life, for the power of choice, for the joy of serving, and for the courage of sacrifice. Be Thou the source of our longings, our hopes, and our aspirations. Kindle in all our hearts a sacred flame, which shall burn brighter and brighter as time comes and goes, and Thine shall be the glory forever. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

COMMITTEE ON PATENTS

Mr. STARNES. Mr. Speaker, I offer a privileged resolution (H. Res. 265) from the Committee on Accounts.

The Clerk read as follows:

House Resolution 265

Resolved, That the expenses of conducting the hearings authorized by House Resolution 196, incurred by the Committee on Patents, acting as a whole or by a subcommittee, not to exceed $25,000, including expenditures for the employment of experts and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, or by any subcommittee thereof conducting such hearings, signed by the chairman of the committee and approved by the Committee on Accounts.

SEC. 2. That the official committee reporters shall serve said committee or subcommittee at its meetings in the District of Columbia.

Mr. SNELL. Now, Mr. Speaker, this is a pretty large appropriation, and I think the Chairman of the Committee on Patents should make some explanation.

The SPEAKER. There is a committee amendment, which the Clerk will report.

The Clerk read as follows:

Committee amendment: In line 4, strike out "$25,000" and insert "$15,000."

Mr. SNELL. Mr. Speaker, I think even now the Chairman of the Committee on Patents, Dr. SIROVICH, should make a little explanation about that. That is a pretty large appropriation.

Mr. STARNES. Mr. Speaker, I yield to the Chairman of the Committee on Patents [Mr. SIROVICH] 5 minutes.

Mr. SIROVICH. Mr. Speaker, among the brilliant, eminent, and distinguished men who were delegates to the Constitutional Convention in 1787 that wrote the Constitution of the United States was the great scholar, philosopher, and sage, Benjamin Franklin. Being an author, scientist, and inventor, Benjamin Franklin was responsible for writing into the Constitution article I, section 8, paragraph 8, which states:

Congress shall have the power to promote the useful arts and sciences by securing to every author and to every inventor for a limited number of years the exclusive right to his writings and to his discoveries.

That philosophic sentiment was the practical and concrete contribution of Benjamin Franklin on the altar of materialism to aid those who dedicate their lives to science, literature, and art.

The first three Commissioners to look after patents when our Government was founded were George Washington, President; Thomas Jefferson, Secretary of State; and Edmund Randolph, Attorney General of the United States.

From 1789 to 1935 2,000,000 patents have been issued by the Patent Office of our country.

Mr. SNELL. We appreciate all that. Let us get right down to the facts before us and what is necessary to be done that requires the expenditure of $15,000. Every man here knows all about the constitutional provision.

Mr. SIROVICH. I thought these facts I have enumerated would be pertinent and illuminating to the Members of Congress. However, I shall come to the point.

For the past 5 years, since I have been Chairman of the Committee on Patents, our committee has had innumerable complaints from business, commercial, and industrial enterprises, protesting against many iniquitous abuses that permeate the field of invention. In the vernacular of the street, many rackets have developed in the pooling of patents that have made it impossible for the inventor, the merchant, the manufacturer, and the industrialist to attend to his business and to take advantage of the opportunities that Congress intended when it granted a monopoly for 17 years for the issuing of a patent to promote the arts and sciences. To eliminate these tragic influences in patents, H. R. 4523 was introduced, which provides for the recording of patent-pooling agreements and contracts with the Commissioner of Patents. This bill further provides that every agreement by which rights in a plurality of patented inventions are rendered subject to common ownership, control, or enjoyment, whether by assignment, license, or otherwise, together with all agreements predicated thereon which affect the terms and conditions under which one or more of the said patented inventions may be manufactured, used, sold, leased, or licensed, shall be recorded in the Patent Office within 6 months from the date thereof.

This bill also provides if complaints against the pooling of patents are filed with the Commissioner of Patents, or if any of the agreements herein specified are against the public interest or the public welfare, or if in the judgment of the Commissioner of Patents such agreements are against the public interest or the public welfare, or at the request of the Chairman or a member of the Federal Trade Commission, the Commissioner of Patents shall file a certified copy of such agreement or agreements or notice of failure to file such agreement or agreements with the Federal Trade Commission for such action as the Federal Trade Commission may deem necessary to protect the public interest and the public welfare and prevent unwarranted monopoly.

Mr. Speaker, the Committee on Patents has unanimously voted to investigate the serious charges that have been made against many people in different lines of endeavor that have exploited business and industry for their own selfish advantage and to the detriment of the consuming public.

The House passed a resolution permitting the Committee on Patents to subpena witnesses in order to seek information that might help us report out a bill that would bring justice to the great commercial and industrial enterprises of our country as well as to the inventor and consuming public. These people have refused to come. The Committee on Accounts unanimously voted to appropriate the sum of $15,000, which would help the Committee on Patents as a whole, or through a subcommittee, to investigate this matter and bring forth a measure that would be instrumental in eliminating and abolishing these rackets and abuses that come from the pooling of patents or the cross licensing of patents.

It might interest the Membership of the House to state the purposes of this bill have the sympathetic and enthusiastic approval and commendation of the genial, gracious, and beloved Secretary of Commerce, Daniel Roper.

Mr. SNELL. Now, if you already know what the conditions are, why can you not bring in the legislation without an investigation?

Mr. SIROVICH. Should we enact the present bill before our committee with the serious charges that have been made against various individuals, it might be instrumental in bringing forth an obnoxious measure that might inadvertently and unconsciously harm many business interests and inventors.

The committee, after considering all these factors, unanimously decided—Democrats, Republicans, and Farm-Laborites—that it would be far better to ascertain what the great industrial, commercial, and manufacturing enterprises throughout the country have to contend with, to listen to

their complaints, and to bring in a bill that would be designed once and for all to abolish these nefarious practices that have exploited our productive enterprises, harmed the creative talent of our country, such as our inventors, and enriched a group of racketeers that have been thriving as leeches upon industry throughout the Nation.

Mr. SNELL. Of course, we are getting so many of these investigating committees going this summer that we may have to get some new Members of Congress, as there will not be enough to serve on them.

Mr. STARNES. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question recurs upon the adoption of the resolution as amended.

The resolution as amended was agreed to.

A motion to reconsider was laid on the table.

PRIVATE PROFIT OR PUBLIC SERVICE, WHICH?—THE HOLDING COMPANIES AND PUBLIC OWNERSHIP

Mr. COLDEN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COLDEN. Mr. Speaker, the Wheeler-Rayburn bill for the regulation of holding companies and the elimination of the useless and vicious corporations has provoked a bitter controversy. During my presence in Congress I have not noted such a tense feeling, such keen debate, and such a sharp struggle as we have witnessed the past few days. The very atmosphere of the House indicates an issue of utmost importance. Not only is the issue of unusual significance but the fact that President Roosevelt himself has championed the passage of this bill adds to the tenseness of the situation. Probably in no congressional contest of the Nation has the issue been so clearly cut as between the power of corporate wealth, as against the economic welfare of the common people, as in this instance. On one side are the billions of organized and ruthless wealth arrayed against the millions of investors who have purchased unsound securities, and the millions of consumers, who are the victims of a "plunderbund" not equalled in American annals.

ARTFUL LOBBYISTS AND THE "DEATH SENTENCE"

The holding companies have been supported by a superlobby, such as Washington has rarely witnessed. Those who have profited by these great holding companies have flocked to Washington by the hundreds. The crafty holding companies have chosen as their representatives shrewd and able attorneys and clever politicians. Every trick of statecraft, every art of propaganda, every power that can influence has been exerted to aid in the tremendous struggle against the President and his program. Catch words and catch phrases have been used in this bitter campaign. The phrase "death sentence" has been injected into the campaign and has been bandied about by the newspapers and has echoed and reechoed on the floor, in the committee rooms, and the corridors. The "death sentence" is a phrase of deception in that it conveys the inference that the President's program has for its purpose death and destruction.

A DUST STORM OF DECEIT

The opposition to the administration has hurled ugly and sizzling words at the President for lobbying. The holding companies turned a word of reproach against the President's program. "Lobby", "lobbying", and "lobbyists", used in reproach, are words applied to those who seek their goals by insidious routes and invidious methods. Because a few administration officials were delegated to draw the first draft of the holding-company bill and were consulted by some of the Members of Congress, and, in some instances, upon the request of those studying the problem, the President and his advisers are dragged down into the gutter of cheap politics. This illustrates the desperate straits of the Power Trust and the power of propaganda that spreads like a dust storm and obscures the real objects in the picture.

PHILANDERERS WHO PROSTITUTE PUBLIC HONOR

One of the high-powered artists of a gang of "brain stormers", who would defeat the President in his fight for decent business, decent operation of utilities, and decent treatment of the investors and consumers of power and light, has the brazen effrontery to viciously attack the President in order to throw a smoke screen over the activities of one of the most nefarious lobbies that has ever infected and contaminated the corridors of the Capitol. This high mogul of insidious propaganda would have the public believe that the President has sent his "minions who buttonhole Congressmen and with threats and promises seek to induce them to vote for the 'death sentence.'" This prostitute of public honor, this parasite of privilege, this puppet of insidious power, has the unadulterated audacity to use such phrases as "Would-be Caesar in the White House" and "We thank God for those brave Democrats of the House who have dared * * * to defy the unjust and autocratic usurpation of the President." Such are the intemperate and vicious screeds uttered by the puppets of the Power Trust to defame the leader in the White House, who has the courage and the patriotism to throttle the glorified thieves, the pampered pirates, the gilt-edged buccaneers who have roamed the highways and byways, and, worse than freebooters of old, have not spared the aged, the widow, nor the orphan. These are the wolves in sheep's clothing that cry, "Caesar, Caesar", and in pious accents "thank God" and pray from the housetops in dulcet tones for "the widow and the orphan" and then cash their pay checks from the polluted profits of the Power Trust. These insidious puppets defend their masters who not only swindled the investors but who robbed the consumer and then increased their own unearned and extortionate salaries in the face of homeless men, penniless women, and unprotected orphans. Now when justice is on the trail of these hypocrites, these fatted and pampered philanderers who prostitute public honor, they cry, "Wolf, wolf", "Caesar, Caesar", at those whom they would destroy.

THE REAL PURPOSE IS TO PROTECT

My own observation is that the Members of the House and of the Senate, who are honestly supporting the President's program, desire to preserve every sound investment made by the people of this country in good faith. The real purpose of those backing the administration bill is to prevent predatory wealth from robbing investors of savings with one hand and robbing the consumers of the public-utility companies with the other.

It is possible that a holding company by the purchase of several contiguous companies may be able to consolidate the management and the organization and economize in the operation in such a way as to secure the investor and to protect the consumer. The Wheeler-Rayburn bill protects these legitimate objectives. On the contrary, we have few holding companies of this character, but many gigantic corporations sprawling over the country that have pursued a course of reckless profiteering, criminal manipulation, and brought disaster to the investor and to the consumer.

CHAIRMAN RAYBURN SUBMITS EVIDENCE

Permit me to refer to some of the facts and figures submitted by the Honorable SAM RAYBURN, Chairman of the Committee on Interstate and Foreign Commerce, in his opening address in the discussion of this bill. One of the abuses of the holding-company system is the writing up of the capitalization of the operating company and putting these bookkeeping and racketeering profits in their own pockets. An example is given of an electric power and light corporation organized in 1925 as a subsidiary of the Electric Bond & Share group, which acquired operating companies in Louisiana, Arkansas, and Mississippi for more than $70.000,000.

These properties were listed by the former companies at about $42,000,000, and in this write-up the holding-company racketeers made a profit of about $28,000,000. These profits were realized by selling these blue-sky bonds and stocks to widows and orphans, teachers, preachers, doctors, and mechanics, in whom they now express such a deep and

profound interest. The Appalachian Power Co. made a profit of over $66,000,000 in a single write-up. A Minnesota corporation wrote up its purchase with a profit of over $21,000,000, or 126 percent. Down in Florida, by the same procedure, a holding company manipulated a write-up of over $30,000,000 profit, or 103 percent.

Down in Texas, the Electric Bond & Share Co. purchased the electric and gas plants in several of the small and prosperous cities of Texas, and capitalized these companies at an excess of over $8,000,000, or a profit of 400 percent.

HERE'S THE WAY YOUR MONEY GOES

The Cities Service Power & Light Co. is another one of the great corporations guilty of this greedy practice. In one transaction it increased the capitalization of its operating companies more than $6,000,000, or 165 percent profit. The Associated Gas & Electric System is guilty of write-ups of $115,000,000, a clear paper profit, but which was a tremendously added burden to the operating companies, added costs to the consumer, and blue sky or polluted water for the investors.

In these write-ups the custom was to organize a new holding company, take over the former companies by issuing securities, and then unload the enormous profits on the innocent public. This was carried on to an unbelievable extent, in one instance with nine holding companies based upon the operating companies at the bottom of this air-castle structure. In this case, Mr. RAYBURN points out, $1 at the top enables the managers to control over $30,000 of book value of the operating companies, or with less than $50,000 control over a billion dollars of book value. In another set-up by an investment of about $23,000 at the top of the pyramid $1,200,000,000 was controlled at the bottom.

GREEDY MIDAS AND CAPTAIN KIDD

In all the history of brigands, buccaneers, and pirates, no examples of plundering depredation can equal these methods of wringing from the investors and consumers profits beyond the dreams of Midas plus the greedy gains of the followers of the Golden Calf throughout all previous ages. Captain Kidd, the terrible pirate, in all his bloody glory took his life in his hands when he robbed his fellow men and gave his victims at least a chance to battle for their possessions; but under our system of the modern holding company, the buccaneer sits in his luxurious office and, by insidious methods, advertisements, and slick salesmen, unloads his worthless watered stocks on an innocent public and rakes in millions and billions of unearned increment and tainted wealth without risking a spot of his hide or a single hair of his rapacious and avaricious head.

OTHER METHODS OF MILKING THE PUBLIC

And this is but one of the abuses of the holding company. In addition to wringing these racketeering profits from the savings of the public, the holding companies have organized legal departments by which the local operating company must pay extortionate and unearned fees for legal advice, must purchase their supplies from agencies of the holding company without competition and at prices that afford enormous profits to the holding-company agents, a part of the system.

Another favorite blood-sucking practice is to loan money to the operating companies at a rate of interest above the current rate and thereby increase the profits of the holding company. Mr. RAYBURN gives example of the subsidiaries of the Associated Gas & Electric Co., which turned all of their money into the holding company and could not draw it out unless the holding company countersigned the checks. The subsidiaries and operating companies were then charged interest at the rate of 8 percent per annum, compounded monthly, on such advances as were made by the holding company to the operating companies.

A HOUSE OF CARDS MUST FALL

It is very evident that the holding companies, by such outrageous methods, must in course of time fall from their own rottenness, and the investors suffer accordingly. That time came in the debacle of 1929. That crash of superficial and artificial prosperity squeezed the water out of these superstructures sprawled all over the Nation, and their slime and naked assets stood out like the grim trunks of a colorful tree after a battle of the World War. American Gas & Electric Co. stock dropped from $203.90 per share to $3.75; American Power & Light Co. from $171.50 per share to 75 cents; American Water Works & Electrical Co. from $186.25 to $1.35; Columbia Gas & Electric Corporation from $129 to $4.35; Commonwealth & Southern from $30.15 to 50 cents; Electric Bond & Share Co. from $177.50 to $4.10 per share; Middlewest Utilities Co. from $49.90 to nothing. These are only a few quotations from the table submitted by Mr. RAYBURN, in the CONGRESSIONAL RECORD, on page 10320, June 27, 1935. This table shows the ruin from the house of hot air and subterfuge and misrepresentation that the holding companies brought down with themselves. It should be noted that any operating company in any substantial city in the land that was operated upon a business basis, free from the tangled web of holding-company control, was able to sustain the crisis and protect its investors to a much better advantage. It should also be emphasized that all investments in Government and publicly owned enterprises in the utility field did not lose a penny or lose a dividend.

STRIPPING THE OPERATING COMPANIES

Another method of milking the operating companies was a device of organizing construction companies by which the operating company was compelled to pay a profit to the overhead organization. The holding companies also in some instances charged the cost of holding company management to the operating companies. Another favored process was to organize equipment and appliance sales as a part of the holding-company operation, and thus deprive the local operating company of the sales and profits of gas stoves, equipment, and all kinds and sorts of electrical appliances. Thus the local operating companies were stripped and deprived of a rightful field of activity and a source of profit in order to further fill the overflowing pockets of the holding company.

DEFY LAW AND BEAT TAXES

Not only have the super holding companies milked the local and operative companies in devious and various manner, but they have also defied supervision and control by the city, the county, or the State in which they operate. Some holding companies have also used a system of consolidated income-tax returns and thereby cheated the Government of large amounts of income taxes. According to Mr. RAYBURN, one holding company collected $514,000 income tax from the subsidiary companies and pocketed the full amount, thus cheating the Government of a rightful and legal income.

Mr. RAYBURN further states that in 1927 the Electric Bond & Share Co. assessed its operating companies over $9,000,000 for supervision and for performing services. The total expense incurred by the Electric Bond & Share Co. in rendering these services was something over $4,000,000, thereby giving a profit to the Electric Bond & Share Co. of nearly $5,000,000, or a rate of profit of 113 percent. In 1931 this same company received over $11,000,000 for management services to its subsidiary operating companies and made a profit of 103 percent.

HOLDING COMPANIES MUST BE CURBED

In reviewing this sordid and greedy story of manipulation, profiteering, and racketeering, I can find little evidence in behalf of the argument for the continuance of holding companies. The numerous examples of their preying upon the public causes one to pause and wonder why such invisible sprawling predatory interests are permitted to exist. The holding-company system is the fruit of rugged individualism and that school of philosophy that preaches the doctrine of the privileged few and disregards the economic rights of the many. If life, liberty, and the pursuit of happiness is to be recognized as a fundamental doctrine in our governmental policies, it seems absolutely necessary to curtail such predatory practices and at once restore protection and security to the people who produce its wealth, who maintain its integrity, and who offer their life and limb in case of war or necessity.

It seems necessary not only to curtail such ruthless corporation but there should be regulation devised by which all corporations doing an interstate business should be licensed by the Federal Government and be compelled to divest themselves of the unfair and swindling practices that have been in vogue the past few years.

INSIDIOUS PROPAGANDA

It is high time the average citizen be made aware of the insidious holding corporations that are preying and feasting upon his savings and his earnings. The propaganda of the great holding companies has been used to poison the newspapers, magazines, colleges, and schools throughout the country. One story is current on the floor of the House that a professor who was receiving a salary of $5,000 per year from the educational institution with which he was identified was receiving $10,000 from the Power Trust in order that he might poison the minds of the young men and women of the institution as well as in other contacts with the public. Examples were cited on the floor of the change in the language of school books at the dictation of the Power Trust. Even pastors have been dominated in their pulpits, club speakers have poured out the poison in numerous clubs, and the same propaganda has been poured out from the platform. Candidates have been financed for public office, city councils have been corrupted, judges and governors have bowed their knees to this tremendous and baneful influence. The pastor and the publicist who has the courage to face these ruthless practices deserves the commendation of his fellowmen regardless of party and creed.

THE CRY AGAINST PUBLIC OWNERSHIP

Numerous opponents of the holding-company bill have thrown up their hands in false alarm and shouted that the bill for the control and elimination of holding companies was a step toward public ownership. The cry has been raised that public ownership is a bugaboo, some ghoul of the night whose mission was to devour and destroy. My own conclusion, from what I have witnessed in the struggle on the floor of the House, is that this discussion will have more weight in educating the public to the necessity of public ownership than it will be effective in the control of holding companies. I believe that the average citizen in reading this alarming story of the reign of predatory buccaneering will be forced to the conclusion that the most reasonable way out of the situation is for each city and community to own and to operate its own utilities.

I was very much interested in the statement of Representative FOCHT, of Pennsylvania, who referred to Mifflinburg, in his district, in which he pointed out that this little city, which owns its water and light plants, paid the entire city taxes from this source of revenue. While I do not believe that the users of water, light, and power should be burdened with the load of taxes of a community, I do believe that this and other examples of a similar kind point out the huge profits that are wrung from nearly every community served by private companies. These examples will prompt these communities to free themselves from the extortionate profits of the private utilities.

A SOURCE OF CITY CORRUPTION

Much of the sordid and scurvy municipal corruption of our cities is based upon the purchase and intimidation of city officials in the ruthless methods used by private utility companies to secure franchises.

Why should there be such a beating of drums and the raising of black flags against public ownership? Why these vicious thrusts at the T. V. A. and the efforts of the administration to free the public from economic bondage? Why should not communities own the water and the light and the power and the gas and the transportation and even the telephones, all of which are so necessary to human activity and comfort. Why should not each community own these utilities and operate them for use and for service and not for profit? The first purpose in the public ownership of utilities is to give the public service, but the first purpose of every private utility is merely profit. Numerous examples can be found of unfit water and inadequate service rendered to cities, because of the greed of the utility operators and owners. Municipal ownership first became generally recognized in the effort of cities to own their water supplies in order to obtain better water, better service, and at a cost within the reach of the poorest consumer.

PUBLIC OWNERSHIP IN LOS ANGELES

In referring to public ownership, I desire to call the attention of the municipal ownership program of the city of Los Angeles. It is a romantic story. In the early days of Los Angeles, beginning in 1781, the water supply came from the small stream known as the "Los Angeles River." An Indian woman with an earthen jar balanced upon her head constituted the primitive system of water distribution. In later years the water cart, with a single barrel, succeeded the earthen jar. Then came the water ditch under community ownership, and in 1865 the town council leased the stream to a private operator. In 1898, when the city tried to regain its water system, it was forced to purchase the distributing lines and equipment at a cost of $2,000,000. The first result of the restoration of municipal ownership was a 63-percent reduction in domestic rates. The city was growing at a rapid rate, and the Los Angeles River was estimated under normal conditions of supplying the needs of 250,000 people.

BRINGING WATER 250 MILES

The pioneers of modern Los Angeles, with a marvelous vision, developed a program to bring water from 250 miles northward from the Owens River Valley, across rugged mountains and the burning sands of the Mojave Desert. The result was that the city undertook to build an aqueduct 250 miles in length, at a cost of $25,000,000. These bonds were voted by the bungalow owners of the city of Los Angeles. The scheme was considered visionary by the financiers of that day, but it was a dream that came true, and Los Angeles was supplied with pure water from the mountain tops sufficient to supply the needs of 2,000,000 people. Necessity forced the program of municipal ownership, which has proved such a boon to the people of Los Angeles, who now enjoy a bountiful supply of mountain water at a cost of 13 cents per 100 cubic feet, as compared to an average of 18 cents charged in 183 of the largest cities of the United States. Because of this low rate the average consumption of water in Los Angeles is 130 gallons per day per person, and because of the large area of the city, approximately 450 square miles, the cost of distribution is much higher than the cost in other cities. Municipal ownership has not only assured Los Angeles a bountiful supply of mountain water, so necessary to the health of a great city, but it has furnished it at a minimum cost to the consumer. So sincere is the faith of the bungalow owners of Los Angeles that projects are already well under way to bring power and water from Boulder Dam to provide for a population of millions more.

PAYING ITS WAY

The municipal water bureau of Los Angeles now has assets approximating $150,000,000, with bonds outstanding of about seventy-one millions, leaving an equity built up from earnings of nearly seventy-nine millions. The gross income exceeds nine million annually, and the net income for the year ending June 30, 1933, was in excess of $1,000,000, and for 1934 over $1,335,000.

POWER AND LIGHT IN LOS ANGELES

Since the source of the Owens River aqueduct has a drop of about 3,000 feet before it is distributed in the city of Los Angeles, the cheap production of electricity, or white coal, was early contemplated by the pioneers who built the aqueduct.

The result of the municipal ownership of power and light in Los Angeles has been as marvelous in its operation and its results as was the building of the aqueduct itself. At the present time the municipal bureau of power and light of Los Angeles has assets of approximately $96,000,000. The outstanding bonds are approximately $38,000,000, leaving net assets of more than $50,000,000 built out of the earnings of municipal ownership of power and light.

REDUCED THE COST AND MADE MONEY

The municipal department of light and power in Los Angeles began operations in 1916. In a period of 16 years

the consumption of light and power has increased eight times greater than in the beginning. Its revenues have grown from less than $1,000,000 annually to more than $15,000,000. Out of the accumulated profits nearly $44,000,000 have been invested in improvements and expansion. In addition the city power and light bureau has repeatedly reduced the price of light and power to the consumer and has forced competing companies to do likewise, and has saved the consumers $70,000,000 since it began operation.

PROTECT THE INVESTOR

In contrast to the investors in the holding companies in private utilities, who have lost billions of dollars, the investors in the bonds of the municipal light and power plant of Los Angeles hold securities that have not depreciated; that are worth dollar for dollar in spite of the depression, and the owners have never missed a dividend from these investments. In addition to the protection to the investor with the soundest of investments and the saving to the consumer, the municipal light and power plant of Los Angeles has not discharged an employee nor cut wages because of these years of travail and despair.

FOUGHT BY RIVAL UTILITIES

The development of this municipal program at Los Angeles, particularly of light and power, has been a battle from the beginning to the end. Private utility companies have maintained lobbies, not only in Los Angeles city hall but in the State legislature at Sacramento, for the purpose of handicapping and hamstringing the city-owned utility at every opportunity. If I recall the figures correctly, the testimony was taken before the State Railway Commission of California that showed that opposing companies in Los Angeles had spent over $160,000 for the purpose of defeating a single city bond issue for expanding and improving the city plant. Paid propaganda is poured out through the newspapers, chamber of commerce officials are said to be frequently subsidized, and fluent orators speak deceptive phrases from the platform. So complete is the system that beautifully gowned and clever women flit from club to club and from tea to tea to spread the subtle doctrines of the power "plunderbund." Every city election has been a struggle between the private power interests and the city bureau, and in many city elections the private power interests employ hundreds of precinct workers, who carry on insidious campaigns, trailing up and down the sidewalks, pushing the bells of every door, in order to inveigle the unwary voter to cast his ballot against his own investment in the city power plant in order that the private companies may restore their stranglehold on the throat of the consumer.

CONTRIBUTION TO CITY BUDGET

Time and again the statement has been hurled across the floor of the House that publicly owned utilities pay no taxes. I wish to call this fact to the attention of my colleagues. According to the official bulletin of department of water and power of Los Angeles in the first 7 months of the fiscal year, beginning July 1, 1934, $1,519,967 has been turned over to Los Angeles and its citizens through voluntary action of the municipal department of water and power. Of these funds, $90,000 were turned over to aid unemployed women in Los Angeles. Free electricity and water for city services, such as street lighting and fire protection, amounted to $900,000. For the food fund, Parent-Teachers Association, $32,500. For the payment of bonds of the city, $406,467.44. For the community chest, $50,000. For direct relief, $41,000. In face of the distress of the city of Los Angeles financially, the publicly owned water and power plant of the city has been a great contributor, far in excess of the amounts that might be collected from taxation. For the present fiscal year the department of water and power has allocated to the city for the dual purpose of aiding in balancing the budget and to relieve the taxpayer the sum of $2,559,945. Will some of my colleagues, who have been defending the holding companies and decrying public ownership, point out a few examples of benevolence on the part of these far-flung empires of exploitation that will compare with the patriotic acts of the department of water and power in the city of Los Angeles?

WHY FACTORIES COME TO LOS ANGELES

One of the greatest benefits from this public ownership policy in the city of Los Angeles is that our factories enjoy one of the lowest power rates of any of the industrial centers in the Nation. It has been a powerful magnet in drawing light manufacturing from all parts of the country and has made one of the greatest contributions to the growth of southern California.

At the installation of the city power plant, Los Angeles produced $167,000,000 from its factories and industries, but due largely to cheap power, the output is now estimated at one and one-quarter billion dollars per annum. As compared with other cities, the rate for light and power in Los Angeles presents an interesting study. It also illustrates the cheaper rates of a publicly owned utility. These figures are taken from the Federal Power Commission rate survey with rates in effect January 1, 1935.

	For 15 kilowatt-hours	For 100 kilowatt-hours	For 250 kilowatt-hours
Los Angeles, Calif.	$0.72	$3.31	$6.31
Kansas City, Mo.	.98	4.00	7.75
Detroit, Mich.	1.03	3.53	6.90
Chicago, Ill.	1.03	3.75	8.02
Philadelphia, Pa.	1.03	4.45	8.70
Pittsburgh, Pa.	1.05	4.10	8.60
Boston, Mass.	1.05	5.20	9.70
San Diego, Calif.	1.07	4.59	7.88
Oakland, Calif.	1.08	4.20	7.85
San Francisco, Calif.	1.08	4.20	7.85
St. Paul, Minn.	1.25	4.00	7.15
New York City, N. Y.	1.30	5.55	13.05
New Orleans, La.	1.38	6.00	10.75
Miami, Fla.	1.71	6.25	10.40

So successful has been public ownership in the city of Los Angeles that the city has developed one of the greatest harbors of the world at an expense of an investment of $30,000,000 and which makes a saving of more than $100,000,000 dollars in transportation rates to the city of Los Angeles and the Southwest.

PUBLIC OWNERSHIP THE REMEDY

The experience of my own city of Los Angeles in the public ownership of water, light, and power, and the harbor convinces me that public ownership is the most rational way out of this web of intrigue and greed that has been woven by the strangling superstructure of holding companies. Light and power are absolutely essential to our modern civilization. Why should any such powerful agency, that means so much for the health, comfort, and progress of our civilization, be used as an instrument to profit the few? Why should not this power be dedicated to all for use and service? It is not only essential to city life but it is a friend of the farmer. Its social significance is one of the great factors in our modern life. Thousands of tired farmers' wives and weary farmers have fled from the drudgery of the farm to enjoy the comforts of city life, in which power and light form a major part. When we consider that electricity not only lights our homes and streets but turns the wheels of our factories, is essential to the automobile, the street car, the airplane, the radio, the telephone, the telegraph, and other ways too numerous to mention, we realize its necessity to all.

BENEFITS OF RURAL ELECTRIFICATION

One of the greatest needs of this Nation is to promote and to establish rural electrification. Think of the tremendous value of light and power to the farm. It affords a simple method of pumping water, sawing wood, shelling corn, grinding feed, turning grindstones, and other chores. It abolishes the broom, the washboard, the hot stove, the hot irons, the source of the drudgery, and the aches that pain the backs of man, woman, boy, and beast. The additional comforts of the fan and its cooling breeze, the ice and

the icebox contribute much to the comfort of life during the hot days on the farm.

Rural electrification means the return of thousands upon thousands from the congested centers of population and a rejuvenated life on the farm that will have a most wholesome effect upon the social structure of American life.

LET'S STAND BY THE PRESIDENT

In my humble opinion, President Roosevelt has never shown greater courage, a deeper friendship for all the people of this country, or a higher order of statesmanship, than in his program to rid this country of the great economic octopus that preys and fattens upon our citizens, that defies and corrupts our city, county, and State governments. As a Member of this Congress, I appreciate this great effort on the part of our President, who is making such a brave challenge to the privileged and unscrupulous few who suck the economic lifeblood of our people.

The battle promises to be long and furious. The enemy is powerful, alert, and insidious. We are engaged in one of the most decisive battles of the economic, social, and political world. We must win in order to free our people from economic servitude.

THE PUBLIC'S INTEREST IN THE BANKING ACT OF 1935

Mr. GOLDSBOROUGH. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD to include a radio address made by me on Saturday night on the subject of the Public's Interest in the Banking Act of 1935.

The SPEAKER. Is there objection?

There was no objection.

Mr. GOLDSBOROUGH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address delivered by me over N. B. C., blue network, from Washington, D. C., July 6, 1935:

Ladies and gentlemen, I am asked to speak about the public's interest in the Banking Act of 1935. In the brief time at my disposal I will not attempt to do anything more than compare the draft as passed by the House with the draft as reported by the Senate Committee on Banking and Currency, adding very briefly a comment on an amendment offered to the House bill during its passage and which will be offered to the Senate bill when it reaches the floor next week.

I think I should say frankly that both the proposed Senate bill and the bill that passed the House are improvements in the public interest over the present law.

Both bills recognize to a certain extent that the currency of the country, that is, the people's medium of exchange, should not be controlled by the banking class; in other words, both bills recognize in part the fact that banking is a private operation, but that the management of the currency of the country is a public function.

Neither the Senate bill nor the House bill entirely divorces the currency from the banking system, but the House bill advances further in this direction than the Senate bill.

For example, the House bill gives to the Federal Reserve Board the right to raise and lower bank reserves. The Senate bill limits the right of the Federal Reserve Board to raise reserves by an average of only 10 percent.

The House bill places the control of rediscount rates in the hands of the Federal Reserve Board; the Senate bill allows the law to remain as it is. The Federal Reserve banks now have the sole power to initiate changes in rediscount rates, subject to confirmation by the Federal Reserve Board.

The House bill provides for an open-market committee consisting of members of the Federal Reserve Board as now constituted, that is, six appointive members and the Secretary of the Treasury and the Comptroller of the Currency as members ex officio. The Senate bill, which drops the Secretary of the Treasury and the Comptroller of the Currency from the Federal Reserve Board and increases the appointive members to seven, provides that the open market committee shall consist of the 7 members of the Federal Reserve Board and 5 governors of the Federal Reserve banks, who are to be annually elected by the 12 governors of the Federal Reserve banks.

The Senate bill requires two members of the Federal Reserve Board to be persons experienced in banking; therefore, the open-market committee under the Senate bill would be required by law to consist of at least 7 bankers out of the 12 members. As the open-market committee is charged with the obligation of regulating the supply of currency by the purchase and sale of Government bonds, it will be seen that the conception of the Senate bill is that the banking class, as a matter of legal right, should have a considerable voice in determining the amount of the people's medium of exchange, and that no other class has that legal right.

The provision of the Senate bill I have just discussed is a vivid commentary upon the conception of money with which the banking class has been able to permeate the public mind—the conception that there is a necessary relationship between banking and the currency of the people, and that the banking class, whose interest it is to make money as scarce as possible and as high as possible, should control its supply.

Under the Constitution of the United States the power is vested in the American Congress to coin money and to regulate its value. Money is anything which is used to make easy the exchange of commodities and services. The exchange of commodities and services is civilization; that is, money is civilization and civilization is money.

The Dark Ages, which succeeded the fall of the Roman Empire, were largely the result of lack of money; that is, lack of something which would serve as a means by which people could exchange the things they were able to produce. In those days almost the universal conception of money was a conception of gold and silver, and lack of gold and silver during these periods was, as I have said, largely the cause of the mental stagnation and the human misery of the Dark Ages.

A few years ago in a speech on the subject of money, Winston Churchill, former Chancelor of the British Exchequer, made the following significant and eloquent statement:

"It is said that we had forgotten grim laws of supply and demand, as if these laws were absolute, constant, limiting factors forever beyond the reach of human control. There is no limit to the power of mankind to meet that demand. For hundreds of years, in the Middle Ages, the laws of supply and demand were stationary. Everything worked, year after year, at a uniformly low level, and all the populations lived miserably. Then, on a sudden, wages began to rise, enterprise began to quicken, all kinds of new articles and utensils appeared in the cottages or dwellings of the working people. All kinds of new luxuries and comforts opened to the rich and the middle classes. The laws of supply and demand suddenly began to work on a much larger and expanding scale.

"What had happened? A few small ships had come back from across the Atlantic Ocean full of gold and silver, and a gradual, subtle process of inflation had set in. It could not have been the trade of the New World which had refreshed the Old. These poor little ships could only bring spoonfuls of merchandise, and every voyage took over half a year. What they brought was the precious metals which altered, in the sense of expanding, the standards of value throughout the world, and made in those generations expansions in the good living of the human race which have never since been lost."

When the banking bill was being considered in the House an amendment was offered containing a congressional mandate to the Federal Reserve Board to restore the price level as ascertained by the Department of Labor in the wholesale commodity markets for the period covering the years from 1921 to 1929, and afterward to maintain the purchasing power of the dollar substantially stable in relation to a suitable index of basic commodity prices. The amendment also provided for the Secretary of the Treasury to establish a free and open market in which gold and silver could be bought and sold, and that the Secretary, with the advice of the Federal Reserve Board, should determine the amounts and prices at which the Treasury would buy and sell gold and silver. This amendment failed to carry by a very few votes. It will be offered again on the floor of the Senate.

The effect of this amendment would be to reestablish a proper relationship between debtors and creditors to the advantage of each, debtors being able to pay their debts and creditors to receive what is due them. This amendment would reestablish and maintain a fair price for agricultural products, which in turn places buying power in the hands of farmers, which also in turn would start the wheels of industry and give work to our vast army of unemployed.

In 1926 there was a sharp lowering in wholesale prices of basic commodities. This was a notice to the monetary authorities that deflation was beginning. If the amendment, of which I have spoken, had been in the law at that time, the Federal Reserve Board would have been required to lower rediscount rates and to put money in circulation by buying Government bonds.

Fourteen months later the Federal Reserve System did lower rediscount rates and did proceed to buy Government bonds. At that time, however, deflation had proceeded to a point where agriculture and industry were both discouraged. In other words, action was delayed too long to prevent the depression which started in 1929 and from which our people have since suffered so terribly.

With the four levers of control—first, the change of rediscount rates; second, open-market operations; third, a change in the reserve requirements of banks; and fourth, an open market for gold—any tendency toward inflation can be checked immediately and without any serious difficulty.

These levers of control can also be made absolutely effective to prevent deflation provided they are used when the thoroughly understood symptoms of deflation first appear and before the public mind becomes panic-stricken.

I am suggesting that you immediately wire both of your United States Senators asking them to limit the open-market committee to the members of the Federal Reserve Board and not requiring as

matter of law for any banker to be named on the Federal Reserve Board, and also requesting them to vote for the amendment, which I have explained, and which is known as the Goldsborough amendment. Your telegram would read about as follows:

"Please support Goldsborough amendment banking bill. Restrict open-market committee to members of Federal Reserve Board."

You will, I know, understand that I have no feeling of opposition to bankers. I have been a bank director myself for more than 30 years. What I have in mind is a currency system in the interest of the 128,000,000 people in the United States, not controlled, dominated, or influenced by any class, and so managed that we can get our tremendous potential production to the people, and get rid forever of the conception of destroying hogs and plowing up our wheat and cotton, with half the people of the country living from hand to mouth.

The problem of production has been solved. The problem of distribution is the one which American statesmanship must solve if all our people are to prosper and if our democratic form of Government is to be saved.

REDRESS OF GRIEVANCES

Mr. DELGADO. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include a petition which I have just received.

The SPEAKER. Is there objection to the request of the Commissioner from the Philippine Islands?

There was no objection.

Mr. DELGADO. Mr. Speaker, I am in receipt of a petition from the Filipino Seamen's Association of America containing an exposition of a just grievance and an earnest prayer for the redress of the same. As said petition is addressed primarily to the United States Government, I have thought of bringing it to the attention of Congress which, I sincerely trust, will be willing to examine the grievance carefully with a view to proposing adequate remedy.

Therefore, Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following petition:

THE FILIPINO SEAMEN'S UNION OF AMERICA,
San Francisco, Calif., June 21, 1935.

RESOLUTIONS PETITIONING FOR REDRESS OF GRIEVANCES, PASSED AND ADOPTED AT A GENERAL MASS MEETING OF DISCHARGED FILIPINO SAILORS AND SEAMEN WHO WERE FORCED OUT OF THEIR EMPLOYMENT IN THE UNITED STATES MERCHANT MARINE VESSELS WITHOUT SUFFICIENT CAUSE BY ALLEGED AUTHORIZED DELEGATES FROM THE INTERNATIONAL SEAMEN'S UNION, AN AFFILIATE OF THE AMERICAN FEDERATION OF LABOR—THE MEETING WAS HELD UNDER THE AUSPICES OF THE FILIPINO SEAMEN'S UNION OF AMERICA, WITH HEADQUARTERS IN THE PORT OF SAN FRANCISCO, STATE OF CALIFORNIA

Whereas the recent wholesale discharge of qualified, union-affiliated Filipino sailors and seamen, without apparent cause and sufficient justification, by alleged high representatives of the International Seamen's Union, an affiliate of the American Federation of Labor, and who for years and years have been in continuous service of United States merchant marine vessels plying in all seven seas of the world, came to the attention of the Filipino Seamen's Union of America, an organization operating within lawful means and composed wholly of bona fide Filipino sailors and seamen who owe allegiance to the sovereignty of the United States of America, and who have in their possessions first citizenship papers and other necessary credentials obtaining in their particular occupations as qualified sailors and seamen; and

Whereas said Filipino sailors and seamen removed and discharged without sufficient and just cause from their old employment in United States merchant-marine vessels by said discriminating high representatives of the International Seamen's Union (A. F. of L.), with their main office at the port of San Francisco, have for years and years rendered satisfactory service, efficiently discharging the duties called for in their particular occupations and faithfully upholding recognized standards and traditions of American organized labor, actively sustaining membership and paying required fees and dues to said International Seamen's Union of America; and

Whereas such unwarranted and discriminatory attitude on the part of said International Seamen's Union or of its authorized delegates in the wholesale and drastic removal of qualified Filipino sailors and seamen affiliated to the same International Seamen's Union local without even giving them an opportunity to be heard and explained of true causes, disregarding past satisfactory service, said International Seamen's Union, claiming and demanding of discharged Filipino sailors and seamen their full citizenship papers or proof of war service either in the United States Army or Navy as the latest new ruling and prerequisite to eligibility to obtaining jobs on merchant-marine vessels and union eligibility, is not only oppressive, unconstitutional, and prejudicial to the general welfare and interests of the people but also a gross and flagrant violation of the arbitration agreement entered into between the employers (shipowners) on the one hand and the said International Seamen's Unions, representing the employees (sailors and seamen) on the other (arbitrators' award, secs. 43–44 and 49), effected and signed before the Board of Arbitration, April 10, 1935; and

Whereas such open and deliberate disregard of membership rights of said union-affiliated Filipino sailors and seamen forcibly removed and discharged from their old employment in United States merchant marine vessels, together with said violation of arbitrators' award and agreement of April 10, 1935, not only defeats the true purpose of unionism and the sound traditions of American organized labor, working in contravention with the constructive policies of recovery of the present administration, but also threatening families and dependents of discharged Filipino sailors and seamen with destitution and untold hardships as a result thereof;

Whereas a continuance of such oppressive and discriminatory wholesale lay-offs of unionized and qualified Filipino sailors and seamen will eventually result in the probable burdening of relief and charitable agencies by affected dependents of said Filipino sailors, victims of discrimination, thus retarding recovery and maliciously creating bitter racial hatreds, national discords, and retaliatory dissensions, needless suspicions and bitter antagonisms threatening industrial peace and the people's economic and social security, breeding distrust and destructive divisions and enmity among workers of various races, and defeating promulgated aims of fraternalism among seafaring men—all in all, a direct threat and menace against established order of society and people's goodwill; and

Whereas further toleration in prolonging such selfish, provocative, un-American and unconstitutional prerequisites or "new rules" laid down by misguided moguls of the International Seamen's Union of America in barring and discriminating against qualified, unionized Filipino sailors and seamen but not possessing of either Army or Navy and war service, and full citizenship papers from further exercising their right to earn a livelihood in the resumption of their services in United States merchant-marine vessels will mean a complete disregard of the effectiveness of our laws and of American institutions—a blot against American democratic principles and sound ideals—an open challenge to American sense of justice and fair play, hitting at the roots of sound democracy, shaking and relinquishing people's confidence and faith in orderly government without special privilege, ignoring the sound dictates and sovereignty of reason, and forming disastrous inequalities and destructive sectional and racial divisions; and

Whereas it has been and still is the firm belief of Filipinos in continental United States as well as those in the homeland (Philippine Archipelago), who owe implicit allegiance to the sovereignty of the United States of America; that by virtue of the still unsevered political ties and quondam friendly relations between the American and the Filipino peoples, and while the glorious stars and stripes are still waving freely in the Philippine skies, their full exercise of their unalienable rights to life and the pursuit of happiness as well as their coveted American protection of their constitutional guarantees—treating all men alike, shall never be impaired: Be it therefore

Resolved, That the United States Government, both National, local, and State, be duly petitioned through the foregoing resolutions for a thorough investigation of the abuses and unlawful practices as herein set forth and thereby cause to issue or enact a preventative measure or legislation in check of future repetition of such discriminations and abuses, with suitable penalties provided therein; and be it further

Resolved, That both the Government or its constituted authorities be further petitioned and requested to cause to issue an order for immediate abolition and stoppage of such discriminations against Filipinos in the service of United States merchant marine vessels and to extend to them ample protection, and to cause to issue another order for their immediate reinstatement and return to their previous employments without prejudice to anyone; and be it still further

Resolved, That the American Federation of Labor and its locals, through the joint cooperation of the employers (shipowners) and the labor arbitration board, be requested to recognize the establishment and creation of a separate and independent Filipino seamen's union, to be chartered by said American Federation of Labor, if so desired and deemed wise and convenient, and which will operate in full conformity with any existing seamen's union or workers' locals upholding American recognized standards and traditions of labor; and be it lastly

Resolved, That the local press and all known dailies and journals in sympathy with the cause of labor, including the Filipino Labor Journal, a semimonthly organ of Filipino labor in the United States, be forwarded copies of these resolutions; also, to high Government officials of the Nation, State, and municipality; to all known agencies of public welfare and charitable and civic bodies; to all the officials of the American Federation of Labor, National, State, and local units; to the Labor Arbitrations Board; to the Employers' or Shipowners' Association; to the government of the Philippine Islands and to the director of the Philippines Bureau of Labor; to California Representatives in Congress—Congresswoman Hon. FLORENCE P. KAHN and Representative MCGRATH, of the House of Representatives; to several workers' locals in the city of San Francisco; to the seamen's union at Manila, known as "Samahang Magdaragat", and the Manila Stevedores' Union, also at Manila, P. I.; to several Filipino and American associations sympathetic to labor and to the Filipino race, with the idea of enabling them to offer certain effective remedy or solution to vital

problems confronting Filipino sailors and seamen and their dependents, as hereinabove stated.

In witness whereof, we have hereunto subscribed our names and caused our signatures this 21st day of June, 1935, in the port of San Francisco, State of California.

F. VERGEL DE DIOS,
Chairman Executive Council, F. S. U. of A.

Attest:

E. BALMES,
President Filipino Seamen's Union.
PHILIP PALMES,
Secretary F. S. U. A.
E. CRUZ,
Vice President and Member Executive Council.
JOE SEGURA,
Treasurer F. S. U. A.
R. MONAHAN,
Member Executive Council.
P. LAKSAMANA,
Assistant Treasurer, Member Executive Council.
JOE SEGURA,
Member Executive Council.
L. M. TULAO,
Member Resolutions Committee.

The names and signatures of seamen petitioners and members of the resolutions committee follow.

SIGNATURES TO PETITION AND MEMBERS OF THE RESOLUTIONS COMMITTEE

We, the undersigned, forcibly removed and discharged without cause, bona fide Filipino sailors and seamen, members of the F. S. U. A. and formerly in the active employ of United States merchant marine vessels, and at all times owing allegiance to the United States of America, do hereby petition the Government, its constituted authorities, and all concerned to give redress to grievances we have set forth in the foregoing resolutions herein contained:

Names	Length of service	Rating or occupation	Port of embarkation	Signatures
	Years			
1. Lucio Leyson	15	Steward's department	San Francisco	
2. Frank B. Aguirre	16	Chief steward	do	
3. Pedro Palapoz	7	Sailor, A. B	do	
4. F. Monahan	7	Messman	do	
5. Harry A. Austria	5	Chief cook	do	
6. Silvino Daisug	10	Waiter, steward's department.	do	
7. F. Cabaltera	10	Cook, stewards department.	do	
8. Jose Ferrer	15	Chief cook	do	
9. R. M. Antiado	16	Steward	do	
10. A. G. Cruz	19	Steward's department	do	
11. P. C. Remar	20	do	do	
12. Quintin Ele	8	Waiter, steward's department.	do	
13. L. Ticlao	10	do	do	
14. S. B. Lopez	10	do	do	
15. R. Monahan	10	Chief steward	do	
16. V. E. Monte	8	Steward	do	
17. Ben Fajardo	8	Cook, steward's department.	do	
18. Pete Laksamana	20	Steward's department	do	
19. A. C. Alemany	10	Steward's department, waiter.	do	
20. Ildefonso de Jesus	16	Steward's department	do	
21. Philip Palmes	9	Waiter, steward's department.	do	
22. Eugene Balmes	14	Steward's department	do	
23. E. B. Cruz	15	do	do	
24. Ted Casim		do	do	
25. Joseph Julian	10	do	do	
26. C. Leonardo	8	do	do	
27. B. Alayon	10	do	do	
28. Mariano O. Verde	5	do	do	
29. Leo. Ronquillo	4	do	do	
30. D. G. Rendero	14	Messman, steward's department.	do	

NOTE.—Several other signatures to this petition and resolutions are on file with the Filipino Seamen's Union office, and cannot be possibly included herein on account of limited space.

P. PALMES, *Secretary.*

ADMINISTRATION OF THE IMMIGRATION AND DEPORTATION LAWS

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to extend my own remarks and to include a radio speech I made over station WJZ on July 5, 1935, dealing with the problem of immigration.

The SPEAKER. Is there objection?

There was no objection.

Mr. DICKSTEIN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I delivered over the radio on July 5, 1935:

There is in this country today an antialien prejudice which affects, directly or indirectly, a third of our population, for one person out of every three in this country is of foreign birth or foreign parentage.

We are fundamentally a fair, a just, and a tolerant people. There must, therefore, be a reason for this prejudice. That reason lies, I am convinced, in the efforts that have been made to paint the alien as a menace to our form of government, to our jobs, and to our standards of living. This could not be done without showing that there were aliens here in such numbers as to constitute a threat in these respects. This need for numbers to prove the existence of a serious alien problem has given rise to gross exaggerations as to the number of aliens in the country, and particularly as to the number of those that have entered illegally.

The figures so often cited are fantastic exaggerations. No scintilla of proof has ever or ever can be advanced in their support. They not only lack official corroboration but are in complete disregard of the figures of the Bureau of the Census and the Immigration Service and of the official statements of the Department of Labor in this and in the last administration.

There can be no pretence of infallibility in dealing with a subject such as the number of aliens illegally in a country. If they could be accurately counted they could be identified and deported. The following analysis is based on the figures of the Bureau of the Census and of the Immigration Service supplemented by a recent official check of alien seamen arrivals and departures at the port of New York. Such estimates as appear have been arrived at independently by at least two separate individuals or groups, including the Honorable W. N. Doak, Secretary of Labor in the last administration, the present Commissioner and Deputy Commissioner of Immigration and two groups of district directors of immigration. I say now to all of you, who may be within the range of my voice, that there is no such alien menace in America today and there probably never will be. I hold that the law-abiding alien in the United States should not be handicapped, in these distressing days, by threats of wholesale deportations and compulsory naturalizations. Such threats are, in my opinion, un-American in principle.

Now, as to the number of aliens in the United States, a responsible official of the Department of Labor just a few days ago told our House Committee on Immigration and Naturalization in an open public hearing that the total number of foreign-born persons in the United States who had not become naturalized citizens was not in excess of 4,922,000, and that the number of aliens who were here illegally and subject to deportation was not likely to exceed 100,000. The 1930 census gave the total number of persons of foreign birth in the United States as 14,204,149. Of this number 7,919,536 were citizens of the United States and 6,284,613 were aliens, namely, persons of foreign birth or nationality who had not been naturalized.

In 1930 the number of aliens in the United States was 6,284,613. Since 1930 that number has been reduced by death, voluntary departure in excess of new arrivals, deportation and naturalization to about 4,922,000. The number of successful illegal entries during the depression years since 1930 is insignificant and in all probability much more than offset by the unrecorded departures. Recorded departures since 1930 exceed recorded arrivals by six to five.

Of the aliens today in the country, 1,139,000 have filed their declarations of intention to become citizens. Allowing for minor children who will become citizens on the naturalization of the parents, the number of aliens here today who have not declared their intention to become citizens is not in excess of 3,403,000.

These are official figures of the Bureau of the Census and the Department of Labor. They dispose effectively of the allegation that there are 20,000,000 or even 6,000,000 aliens in the United States.

There is a time limit in the present law after which an alien here illegally may not be subject to deportation proceedings solely on the grounds of his or her unlawful entry some years ago.

The figures just mentioned are official and come from sources which cannot possibly be questioned. They have been checked and rechecked, and correspond also with an independent estimate which was made by Mr. Irving Wixon, a deputy commissioner of immigration, who has had 27 years of practical experience in dealing with the alien problem.

If we include with the aliens subject to deportation those who entered illegally prior to July 1, 1924, who are not now deportable, and also those who entered legally but who cannot after a lapse of years prove their legal admission, the total according to the best available estimates does not exceed 400,000.

Secretary Doak called attention to the fact that prior to 1921 there were few incentives to enter the country illegally, as practically the only restrictions were as to certain oriental peoples and the diseased, illiterate, criminal, and immoral. He also called attention to the fact that prior to 1907 no record was made of Canadians or Mexicans entering and that thousands of them were not inspected at all, and said that while many ineligible aliens succeeded in entering the country, in view of the fact that legal entry was so easily accomplished, "it is not believed that the number of illegal entrants was ever large." With reference to the aliens who entered without inspection or without a record being made of their admission, he raised the question as to whether they could rightfully be regarded as entering unlawfully.

These figures, coming from an official source, certainly set at rest any apprehensions that may have been aroused by the wild statements you have heard and seen to the effect that there are 20,000,000 aliens here and 10,000,000 of them are here illegally and

should be deported, or even by the smaller figures given that 6,000,000 aliens are here and 3,500,000 aliens unlawfully here should be immediately sent home. None of these wild figures can be supported by any official facts.

You can, therefore, see that a great deal of the hysteria, coming from irresponsible sources, claiming that the number of our aliens is so large, is not based on real fact; and since the alien baiters are unable to make much headway in their promiscuous cry for wholesale deportation of aliens because of their unlawful entry, they seek to arouse alien prejudice by advocating that the 4,000,000 aliens unlawfully here should become citizens within the next year or else be deported. Would it not be surprising to learn that the greatest number of certificates of citizenship ever issued in any one year was not in excess of a quarter million, so that under normal circumstances 4,000,000 aliens could not be naturalized in less than 16 years? Does this spokesman propose the wholesale blanketing of aliens into citizenship for a period of a year? I think he would be the first one to oppose such a bill, if introduced.

Now let us briefly summarize the laws relating to deportation of aliens, as follows:

ALIENS WHO ENTERED PRIOR TO JULY 1, 1924, NOW HAVE LEGAL STATUS

Aliens who entered the United States prior to July 1, 1924, even though they entered without the required examination, are not longer here illegally, but have a legal status in the country conferred on them by the Congress.

1. Aliens who entered prior to June 3, 1921, may not be deported and are permitted to register and eventually become citizens.

2. Aliens who entered between June 3, 1921, and July 1, 1924, may not be deported but are not given the privilege of registry and citizenship.

3. Only those who entered after July 1, 1924, lack a legal status in the country and are subject to deportation.

DESERTING SEAMEN

Under this heading may be grouped the statements relative to seamen deserting and to alien seamen paid off in United States ports. The principal allegations in this connection are the following:

(a) "Five hundred thousand alien seamen deserted in the past 13 years."

The actual number of such desertions is 164,808 in the past 13 years.

(b) "Two hundred and fifty thousand alien seamen desert their ships and enter country illegally each year."

During the greatest period of illegal entry, between 1921 and 1924, the average of such desertions was not 250,000, but 21,481. The average for the past 4 years is 1,580 per annum.

Now, I wish to talk to you a while about the Kerr bill, which is now awaiting action on the floor of the House of Representatives, having been reported favorably by the Immigration and Naturalization Committee back to the House. A great many of you have been given a wrong and false impression of this bill by certain propagandists opposed to the measure. Even some patriotic organizations have expressed opposition to this bill without really knowing its purpose.

The enactment of the Kerr bill will have the inevitable result of reducing the number of aliens in this country, of reducing hereafter the legal and illegal immigration from abroad, of making possible a more effective and humane administration of our deportation laws, and creating generally a more wholesome respect for our immigration laws and the American ideals of fair play.

You would probably be surprised if I assured you that today, under our present inflexible deportation laws, the law-abiding alien, perhaps your neighbor, whose only offense is that he came here some years ago without submitting to proper inspection by an immigration official is subject to mandatory deportation even if that harsh action results in a broken home with an American-born wife and American-born children left here without means of self-support, but that deportation is not possible in the case of a hardened criminal who has managed to escape with light sentences or fines for numerous criminal offenses over a number of years and he is free to continue his criminal activity until he is convicted of two or more crimes involving moral turpitude and for each conviction is sentenced to imprisonment for 1 year or more.

The Kerr bill will make it possible to adjust such cases to meet the offense, not upon any sentimental basis, but solely on the basis of the facts in the case and in the spirit of equal justice and for the best public interest generally.

Let me give you just two illustrations which will show clearly how unequally the present deportation laws are today. Here is a 52-year-old man, well respected in his community where he has prospered somewhat, and has established a happy home where two native-born children romp and play and his native-born wife takes her part in the community life. He has been here about 32 years before he went to Canada about 3 years ago to visit his mother during the Christmas holiday season. Shortly after his return home he became a patient in a State-supported institution for a mental disorder and solely because within 5 years after he returned from Canada he went to a publicly supported hospital he is subject to mandatory deportation even though he had lived here honorably and self-supporting for 32 years before his trip to visit his mother up in Canada.

And here is a man who came here in 1919 and since then has been charged with theft, larceny, forgery, United States mail offense, bigamy, conspiracy to robbery four times, but he has managed to escape with short sentences, fines, and dismissals, and probations; he has actually served time in jails or prisons for a total of just about four and a half years as a result of his 10 arrests, but this alien is not subject to deportation under our present law.

The Kerr bill would grant certain discretionary power to a special committee, made up of officials of three departments of the Government—Justice, State, and Labor—to adjust the status of certain noncriminal law-abiding aliens so that they may stay here permanently and later on become citizens, and to deport certain habitual criminals whose deportation is found to be in the public interest.

The Kerr bill adds four new classes to the groups of aliens subject to deportation and also carries provisions which will enable immigration inspectors to more surely promote proper deportation proceedings and thereby prevent the escape of aliens before proper warrants can be secured. Deportations will undoubtedly be greatly increased in number. Other sections of the Kerr bill will reestablish the importance of the home and the American family-unit and prevent breaking up of honorably established homes here by a humane and just interpretation of the "spirit" of our deportation laws and thereby increase the general respect for the "letter" of the immigration laws.

Students of our immigration laws and of the administration of these laws have for a long time known that injustice and unfairness have resulted from the inflexibility of the provisions for deportation of aliens. The law gives no one, even the President of the United States, authority to use any discretion to prevent the deportation where there is no evidence of any crime, but where the sending away of one alien would break up a home—which is the unit of American civilization—and leave behind members of the family who are unable financially to go away also and yet probably will become charges upon either private or public charity soon after the deportation is accomplished.

A few years ago the President of the United States, then the Honorable Herbert Hoover, appointed what was officially known as the "Commission on Law Enforcement and Observation", and popularly referred to as the "Wickersham Commission."

Regarding the administration of our deportation laws, this Commission said:

"In deportation cases, even when the judgment is just and necessary, hardships are extreme, both upon those deported and upon their families who are permitted to remain; and, in the opinion of the Commission, the limited discretion to permit, in cases of exceptional hardship, a relaxation of the rigid requirements of the present statutes would be consistent with the dignity of a great and humane Nation."

The Kerr bill is so framed that the limited discretion, as advocated by the Wickersham Commission, may be given to a specially appointed committee made up of officials from the Departments of Labor, State, and Justice; surely, no right-minded, patriotic American citizen will stand up and claim that such a committee will jointly permit such abuse of this discretionary power as to utterly break down all our laws relating to immigration and deportation.

Almost every Member of Congress has had presented to him cases of aliens who are held for deportation on the ground that some technical provision of the immigration law has been violated, and I dare say your Representative or your Senator has been asked to intercede in behalf of your neighbor or a near relative of your neighbor who has been held subject to deportation. Perhaps you personally know of cases where you know that deportation would cause extreme hardship to your neighbor's family. Do you think there should not be given to anyone power to exercise proper discretion to prevent that hardship?

You probably know of cases where deportation should apply, but perhaps wonder why it is not made effective—it is probably a fact that those cases you know about are outside the present law, and deportation cannot be made unless the Kerr bill becomes law.

Let me tell you that the Kerr bill will not permit any alien to stay here who is now subject to mandatory deportation on account of criminal activities, or activities designed to harm our form of government or the unlawful disposition of narcotic drugs, or who is not of good moral character.

Also this bill would help us to get rid of the gunman, the racketeer, the State narcotic laws violators, and the aliens who smuggle other aliens unlawfully into the United States, and the habitual criminal who manages to get off with light sentences or just fines for his violations of our criminal laws. None of these can be deported under our present laws. These are new classes made subject to deportation proceedings.

A limited discretion in deportation cases is desired by many who have appraised our immigration laws. To put an end to many hardships resulting from our immigration laws, a limited discretionary authority to avert deportation is granted in the Kerr bill. It would permit an alien found subject to deportation to remain in the United States if he is of good moral character, has not been convicted of a crime involving moral turpitude and has not engaged in subversive political agitation to undermine our Government. His continued residence in this country would be permissible, however, only if he has lived continuously in the United States for 10 years or more, or has a member of his immediate family residing here as a citizen, or has one lawfully admitted for permanent residence. The bill specifically continues the mandatory deportation of criminals, the immoral classes, and those who would wish to destroy our form of Government.

This policy of preventing family separation would not increase immigration. Its objective is to avert the separation of families

already established here. Aliens permitted to remain would be charged to the quota of their nationality.

The Kerr bill provides that aliens here in a temporary status but who are entitled to permanent admission in a preference or nonquota status may have their status adjusted without leaving the country. The bill gives them no advantage they do not possess under existing law and merely spares them the expense of a trip to their own or some other foreign country to apply at an American consulate for the nonquota or preference visa to which they are legally entitled. There are numerous examples of the cruel and wholly unnecessary hardship imposed on deserving aliens by requiring them to go abroad to get a piece of paper they can to better advantage be given here, but one will suffice to illustrate the burdensome demand which the law now places upon these aliens.

A girl of Russian parentage, who fled to China and later came to this country to be educated by an American woman, must go back to China. Otherwise, she cannot be admitted to the United States for permanent residence. The girl lost her status as a student through marriage. While her American-born husband could petition for her readmission to this country, she must first journey to the Far East to receive from an American consul what could readily be handed to her in this country.

The required physical examination can be given to better advantage in the United States where there are United States Public Health Service surgeons always available than in a country thousands of miles away where dependence often must be had upon local physicians. It is not necessary for the alien to travel thousands of miles to enable a check of his police record. The American consuls do not accept his statements, but go direct to the police authorities. His financial situation can be checked much better in the United States. Subjecting such people to the cost and family separation incident to a long journey abroad to get a document to which the present law entitled them is a senseless and cruel technicality which serves no useful purpose whatsoever.

There is another class of family separations which are not due to the alien being subject to deportation, but, strangely enough, to his desire to become a citizen. This is the group who entered without inspection during the 3-year period prior to July 1, 1924. They have been given a legal status in the country by the Congress and may not be deported.

Provision has, however, not been made to permit them to become citizens. Their wives in many, if not most, cases are citizens, their children born in the United States are citizens, but to become citizens themselves they must first leave the country and return with an immigration visa. The Kerr bill would extend the privilege of registry to those and others who have lived here continuously for 10 years and put an end to their permanent disability to qualify for citizenship. The bill requires continuous residence for 10 years and a showing that the alien is a person of good moral character and is not subject to deportation. It is unlikely, therefore, that leniency in these cases will be an incentive to illegal entry.

The situation disclosed is one that is shocking in the extreme. It is one which violates our fundamental belief in the sanctity of family ties, and is one which is likely to engender hatred for our institution rather than a feeling that America stands for justice and fair dealing.

While the present law operates with unbelievable severity and harshness in the class of cases first mentioned, it goes to the other extreme in the consideration shown the criminal alien. While not even the President of the United States can avert the deportation of a person who is not a criminal, any police magistrate or judge when imposing a sentence which would render the criminal deportable may by a simple recommendation to the Secretary of Labor tie the hands of the Department and absolutely prevent deportation. There are many other loopholes for the escape of the criminal alien which the Kerr bill will close.

A law that protects the criminal alien and safeguards his stay in this country while in the cases of persons of good character it tears husband from wife and father and mother from their children is un-American and not consistent with the principles upon which our country has been built, and is a law that should and must be changed. The Kerr bill, H. R. 8163, will strengthen the hands of the Immigration Service in dealing with the alien criminal, and with those attempting to enter illegally while removing some of the barbarous effects of the present law in the case of persons of good character and bringing it into consonance with our American principles of justice and humanity.

ISSUANCE OF CERTAIN BONDS IN HAWAII

Mr. KING. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 8270) to enable the Legislature of the Territory of Hawaii to authorize the issuance of certain bonds, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Will the gentleman withhold that unless it is a matter of extreme urgency?

Mr. KING. This is a matter of local bond issues in Hawaii, and it is urgent to Hawaii, because we have been unable to cooperate with the P. W. A. until we can have some assurance that these bonds will be authorized.

Mr. TRUAX. Mr. Speaker, reserving the right to object, and I do not intend to object, some few weeks ago the Delegate from Hawaii made a similar request. I objected to consideration of the bills at that time pending receipt of additional information. Having now received that information and having thoroughly satisfied myself that the bills are meritorious, I have no objection.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Legislature of the Territory of Hawaii may cause to be issued on behalf of the Territory and may authorize any political or municipal corporation or subdivision of the Territory (including the board of water supply of the city and county of Honolulu, and the board of harbor commissioners) to issue of its own behalf bonds and other obligations payable solely from the revenues derived from a public improvement or public undertaking (which revenues may include transfers by agreement or otherwise from the regular funds of the issuer in respect of the use by it of the facilities afforded by such improvement or undertaking). The issuance of such revenue bonds shall not constitute the incurrence of any indebtedness within the meaning of the Hawaiian Organic Act, and shall not require the approval of the President of the United States.

All acts of the Legislature of Hawaii heretofore authorizing the issuance of revenue bonds on behalf of the Territory or by any political or municipal corporation or subdivision thereof are hereby confirmed and ratified.

SEC. 2. That the Territory of Hawaii, any provision of the Hawaiian Organic Act or of any act of this Congress to the contrary notwithstanding, is authorized and empowered to issue bonds in the sum of not to exceed $4,803,000 of the character and in the manner provided in that certain act of the legislature of said Territory, enacted at its regular session of 1935, entitled "An act to provide for public improvements and for the securing of Federal funds for expenditure in connection with funds hereby appropriated for such improvements."

Such bonds may be either term or serial bonds, maturing, in the case of the term bonds, not later than 30 years from the date of issue thereof, and, in the case of the serial bonds, payable in substantially equal annual installments, the first installment to mature not later than 5 years and the last installment to mature not later than 30 years from the date of such issue. And said act of said legislature is hereby ratified and confirmed, subject to the provisions of this act: *Provided, however*, That nothing herein contained shall be deemed to prohibit the said act of said Territory by the legislature thereof from time to time to provide for changes in the improvements authorized by said act or for the disposition of unexpended moneys appropriated by said act, and that said bonds may be issued without the approval of the President of the United States.

SEC. 3. This act shall take effect immediately.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. KING. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2966) to empower the Legislature of the Territory of Hawaii to authorize the issuance of revenue bonds, to authorize the city and county of Honolulu to issue flood-control bonds, and for other purposes. An identical House bill H. R. 8261 has been reported by the Committee on Territories and is now on the House Calendar. The passage of this bill authorizing bond issues will help us in our public-works program.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Legislature of the Territory of Hawaii may cause to be issued on behalf of the Territory and may authorize any political or municipal corporation or subdivision of the Territory to issue on its own behalf bonds and other obligations payable solely from the revenues derived from a public improvement or public undertaking (which revenues may include transfers by agreement or otherwise from the regular funds of the issuer in respect of the use by it of the facilities afforded by such improvement or undertaking). The issuance of such revenue bonds shall not constitute the incurrence of an indebtedness within the meaning of section 55 of the act of April 30, 1900, entitled "An act to provide a government for the Territory of Hawaii", as amended, and shall not require the approval of the President of the United States.

SEC. 2. The Legislature of the Territory of Hawaii may authorize the city and county of Honolulu to issue its general obligation bonds for the purposes of financing projects for the prevention and control of floods, in a total amount of not to exceed $1,200,000, notwithstanding the existing limitation of indebtedness contained in section 55 of the act of April 30, 1900, entitled "An act to provide a government for the Territory of Hawaii", as amended.

SEC. 3. This act shall take effect immediately. All acts of the Legislature of Hawaii heretofore authorizing the issuance of reve-

nue bonds on behalf of the Territory or by any political or municipal corporation or any subdivision thereof, or authorizing the city and county of Honolulu to issue bonds for the control of any protection against floods, are hereby approved, ratified, and confirmed.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider and a similar House bill (H. R. 8261) were laid on the table.

SHALL IT BE THE RULE OF GOLD OR THE GOLDEN RULE, THE ALMIGHTY DOLLAR OR ALMIGHTY GOD?

Mr. BINDERUP. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes.

Mr. McSWAIN. Mr. Speaker, reserving the right to object, I shall raise no objection so far as this request is concerned, because two or three of my colleagues on the committee are not yet here; but I shall have to object to further requests in order that we may make progress on the T. V. A. bill.

Mr. KNUTE HILL. Mr. Speaker, I make the point of order there is not a quorum present.

Mr. BINDERUP. Mr. Speaker, will not the gentleman withhold his point of order?

Mr. KNUTE HILL. Mr. Speaker, I withdraw my point of order.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BINDERUP. Mr. Speaker, I realize that in the message I am bringing to my distinguished audience this afternoon I shall have to speak very rapidly in order that I may convey my thoughts in a constructive manner in the very brief time allotted me.

Despite the fact that there is a surging of enthusiasm within me, I want to use the most beautiful words that can be found in the English language, and yet at the same time speak so emphatically and positively that there can be no one within the hearing of my voice that shall doubt exactly what I mean. And I wish to emphasize at this time, Mr. Speaker, that I am not speaking of men. After all, men are as atoms; they are here for a brief interval and then fade away and are scarcely more remembered. But I want to use my valuable time this afternoon to speak of principles—principles that are eternal, that never die—and yet to pause at intervals and call attention to systems that are corrupt or practices that are unfair, where justice has been dethroned or liberty manacled.

First, as a brief prelude to my remarks, may I present my credentials, that I may qualify as an authority on my subject, to you my fellow Congressmen. In my home town I do business with the Federal land bank. I am familiar with the writing of their farm mortgages and every detail associated and connected therewith, from the time the application is first written on the farm until the Federal land-bank bonds are finally exchanged for Farm Mortgage Corporation bonds—nontaxable, interest-bearing bonds, guaranteed by the Government of the United States.

I have long since become convinced that, with the present economic set-up of the Federal Land Bank, it will be utterly impossible for them to ever give relief to farmers in distress. Their system fits only to those farmers who have considerable equity left in the farms even under present land valuations. Thus there are hundreds of thousands of farmers being evicted from their farm homes today, through no fault of their own, but because of a disastrous mistake of our Government, when it allows the banking system of the Nation to take out of circulation approximately $23,000,000,000—basic and credit money—and thereby entirely wiping out the very substantial equity these thousands of farmers had in their farms.

Realizing the plight of the farmers not only in my State but throughout the United States, some 4 years ago I became intensely interested in the Frazier-Lemke farm-mortgage refinance bill, the bill House roll 2066, which we are now trying so desperately to have considered on the floor of the House. Understanding how this bill would fit entirely into the machinery of the Federal land bank, without adding new bureaus or creating any greater expense, even to that of changing the form of stationary, in fact, the Frazier-Lemke bill would reduce the expense of making farm mortgages, I became enthusiastic over this farm-mortgage refinance bill to the extent that I began to explain this plan over the radio in my weekly broadcasts, which covered more than seven agricultural States, also in speeches which I delivered at many points in our part of the country.

Naturally when I came to Washington I immediately associated myself with the proponents of the Frazier-Lemke farm-mortgage refinance bill in order that I might know positively that every step or every transaction would fit in with the set-up of the Farm Credit Administration here in Washington, as well as that of the Federal land banks out in the Territory. I interviewed at length Chief Counsel Hovey, Governor Myers, and Deputy Governor Hill, of the Farm Credit Administration, as well as Secretary of the Treasury Morgenthau, and after this most thorough investigation I was more than ever pleased and convinced with the similarity of the entire set-up, differing only when it came to the finals of each application, wherein the farmer would pay 1½-percent interest to the Government and 1½-percent amortized payment on the principal each year, instead of paying 4 or 5 percent interest to the Federal land bank; and the Government would thus be lending its credit to the farmers direct, receiving 1½-percent interest for the use of such credit, instead of, as now, lending its credit to the Federal land bank—a quasi-Federal institution—free and guaranteeing interest and principal of the bonds to the bondholders.

And so I came to Washington to help promote this righteous cause, and I doubt if you can imagine my surprise when Congressmen who have been here for several years explained to me that in their judgment there was no question whatever but what the Frazier-Lemke farm-mortgage refinance bill would be passed by a large majority through the Agricultural Committee, both of the Senate and the House; that it would, when presented, pass the Senate and the House by very large majorities; but that there was something in Congress known as the "Rules Committee" that had more power than all the rest of Congress; that in fact it eclipsed the power of 525 Members of Congress, including 96 Senators and 435 Representatives, the duly elected representatives of more than 125,000,000 American citizens; that no legislation could go through Congress unless this Rules Committee was favorable.

This was a shock to me, as I have always been a Democrat and believed in the principles as taught by Thomas Jefferson. This was so far different from what I had anticipated, especially in a Congress that was composed of three-fourths Democrats, honored with the privilege to enact real Democratic legislation in a Democratic way, as well as being clothed with responsibility. Everything was in the hands of Democrats. My new acquaintances among Congressmen and proponents of the Frazier-Lemke farm-mortgage refinance bill continuously warned me about the danger and the opposition of the Rules Committee, to which I replied to my new friends, "You must be unnecessarily alarmed; you are turning backward the clock of time; you are turning back to the time of Republican Cannonism, when the people of this Nation were denied the privilege of being heard on the floor of the People's Congress; this cannot be possible under a Democratic administration, not under the party of the great liberal, Thomas Jefferson. We have long since destroyed Cannonism and such tyranny of government."

Do you not remember Nebraska sent GEORGE W. NORRIS, one of her worthy sons from the plains, to Washington, to this Congress some years ago, and he stood where I now stand defending the righteous cause of liberty and freedom from political dictatorship, denouncing the gag-rule, and demanding the free representation of the people's interests on the floor of this House. Do you not remember how he placed his heel on the head of the venemous snake called Cannonism and crushed the life out of this hideous creature that was robbing the people of their constitutional inherent rights. And thus not alone our State but the Nation learned to love

the now Senator NORRIS, this son of Nebraska, and thus has he builded a monument to himself in the hearts of his people.

Then, too, we sent another of our native sons of Nebraska, W. J. Bryan; we called him the "Great Commoner"; throughout the world he was known as the "Prince of Peace." He came to Washington; he, too, stood where I now stand, and also in this historic Chamber he reminded you of the great ideals of true democracy, reminded you of the fact that the Government derives its just powers from the consent of the governed; he advised you of the danger of bureaucracy usurping the place of democracy, of committees clothed with power that abused their power, of the danger of vast powers in the hands of a few. He taught that human rights were prior to property rights and that devotion and sincerity to high ideals was the great and noble aspiration of the Democratic Party; he revived the democracy of old, amplifying the principles of true Jeffersonianism until those whose patriotism was waning received a new inspiration, the despondent received new courage, and those becoming reconciled to economic slavery received new hope.

Do not tell me that this noble Democracy has deteriorated to the point of Cannonism, that the Republican snake of old has changed its hue and has now taken on a Democratic color. I cannot believe that this Democratic Congress will stand for so great an injustice to the people of our Nation. If this be true, then shall the State of Nebraska once again call for one more disciple of justice to the toiling masses, one more guardian of the great principles of Democracy, one more soldier to fight in the front line trenches against this injustice. Am I the one to answer that call? If so, I accept the challenge, for no privilege could be more welcome than that I might stand here and defend labor in its righteous cause, and the farmer, the tillers of the soil, that are fast becoming economic slaves, cringing, crawling slaves, pleading and begging and fighting for the crumbs that may fall from the table of plenty, that table that they themselves have decorated with an abundance of everything, an abundance that they themselves have produced by dipping their hands deep into the God-given fountain, the fountain of natural resources of the earth, shaping them into blessings for humanity.

In coming back, now, to my first introduction to Washington, to my first contact in Congress. Congressman LEMKE introduced this righteous bill, known as the "Frazier-Lemke farm mortgage refinance bill", in the House, and Senator FRAZIER introduced a like bill in the Senate. I filed a petition on the Speaker's desk requiring, according to the gag rule, 218 signatures of Members to discharge the Rules Committee and bring the bill out on the floor of the House for consideration. And so the bill started on its long and tedious voyage through Congress. After long and extensive hearings in the Agricultural Committee of the House, wherein witnesses were called in from far and near to testify for or against the bill, this bill finally passed the House Agricultural Committee with a majority of 18 to 5, and that committee appointed a committee from its members to see the Rules Committee of the House and ask that we might have a hearing before said Rules Committee in an effort to have the bill brought on the floor of the House. This hearing was denied.

About this time the Senate Committee on Agriculture began hearings on the bill, and after extensive hearing in that body the Senate commitee passed the bill without one dissenting vote, and recommended its passage by Congress. Meanwhile legislatures from 32 States passed resolutions memorializing and petitioning Congress to pass this righteous bill for the relief of farmers in distress and for the rehabilitation of agriculture. Regardless of all this the Rules Committee refused to give us a rule to permit this bill to be heard on the floor of Congress.

During this time the proponents and friends of the bill were busy telling about the advantages of this Frazier-Lemke farm-mortgage refinance bill until we had succeeded in getting 211 Members to sign our petition; in other words, we lacked only 7 more signers in order to force it out on the floor of the House. Then, about this time, enemies of the bill became busy, began to prevail on various Members and suggest to them, for political reasons, that they take their names off the petition, they succeeded to the extent that 13 of those who had formerly signed took their names off the petition.

It was rumored that President Roosevelt opposed the bill, so we appointed a committee of six of the proponents of the bill to call on the President, who assured this committee that he had never authorized or suggested to anyone that names be taken off the petition; furthermore he stated, that in his opinion, if we had 200 signers—and we had at that time 205—that he thought that this bill should be heard on the floor of the people's Congress, and I speak with authority in this matter, as I was one of the committee to wait upon the President. At this particular time we have again increased the number of signatures up to 209, now lacking just 9 signatures to bring the bill out.

Fellow Members of Congress, what is this strange, peculiar, omnipotent, hidden power in this Congress that is depriving your constituents and mine, the citizens of a free Nation, to be heard on the floor of the people's Congress? What is this strange peculiar power that is like a Joshua of old who said to the sun and the moon, "Stand still", and they stood still, while he plundered and murdered and destroyed men, women, and children? And so this mighty, secret, silent, and destructive power says to the Senate and the House of Representatives, the people's Congress, stand still and refuse to function in your legislative power, and they stand still, while 300,000 fathers are pleading and begging that the Frazier-Lemke bill may be passed and their homes may be spared for their wives and children, their homes for which they would give their lives and would be tempted to sell out heaven. And Congress stands like a silent sphinx and sanctions by toleration the destruction of the Nation's homes that shall determine the welfare of the future of our great Nation.

Mr. CHRISTIANSON. Will the gentleman from Nebraska yield?

Mr. BINDERUP. I yield to the gentleman from Minnesota.

Mr. CHRISTIANSON. Is it possible that this power resides in the White House?

Mr. BINDERUP. I am asking you, my audience, what is this power, and each one can answer for himself according to the dictates of his own conscience. I ask again what is this giant power that is robbing the people of their liberties and their rights in this Congress? Power that, like a thief in the night, crawls upon its victims and stabs a dagger in their back. This silent power that takes from the people their right to be represented on the floor of the House of Representatives. This power that whispers, "Stand still", in the Senate and House of Representatives, while 300,000 mothers, with tear-stained cheeks, are begging and praying that Congress will pass the Frazier-Lemke bill and save their homes for their children's sake, and this silent power ignores their pleadings and scoffs at their prayers. What is that silent, mighty power in Congress with a heart of stone that is not moved by the pleadings of millions of children that are being put out of their homes in a cold and heartless world in order to protect interest, profits, and dividends. The political machine that grieves not; a living system that has no heart.

What is that silent, whispering voice that like a wizard's voice heard from the tomb of tyranny and Cannonism, what is that power that amplifies the voice of the Rules Committee so loud that it drowns the pleadings of 125,000,000 American citizens, closes the ear and seals the lips of 435 duly elected representatives of the people. Not a soul in or out of Congress could possibly object except predatory wealth and coupon clippers. No one has dared to criticize this bill, only one expression have I heard from a Congressman who asked me the question, if you begin to finance homes of this Nation directly by the Government, who is going to pay the interest that will enable loan companies and insurance companies to live? Let my closing remarks be an answer to the gentleman's question.

My fellow Congressmen, in conclusion let me appeal to you. Is gold so precious and human life so cheap; is human

greed so powerful and human love so weak; are interest and dividends to be considered rather than the homes wherein is molded the disposition and character of your children and mine—homes that are the units in the foundation of our great Government and the bulwark of the Nation, homes that are God's sanctuary on earth to man? Shall property rights be considered more than human rights? Shall we continue, my friends, to be governed under the despotism of the rule of gold, or shall we govern, as our great Constitution provides, and as the great Master has decreed, by the Golden Rule? Shall our people be governed by the tyranny of the almighty dollar or by the love of an Almighty God?

Is Freedom's holy light eclipsed by darkness?
Shall Justice take its mandates from the knave?
Is Liberty a plaything for the heartless
That man should make his fellowman a slave?
Behold, my friends, the light, the torch of reason,
That silence midst injustice is a sin;
To kiss the hand that wields the whip is treason
Against your God, your Nation, and your kin.

PROPOSED CONSTITUTIONAL AMENDMENT

Mr. MAAS. Mr. Speaker, I ask unanimous consent to proceed for one-half minute.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. MAAS. Mr. Speaker, I have today introduced the following proposed constitutional amendment:

That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"Every public act or public resolution of Congress shall, after having been presented to the President and approved by him, or not returned by him within 10 days (Sundays excepted) after it has been presented to him unless its return has been prevented by adjournment of the Congress, or after having been returned has been repassed by two-thirds of the Senate and the House of Representatives, shall not become a law unless presented by the President to the Supreme Court of the United States for its decision on the constitutionality thereof and until 60 days (Sundays excepted) after it has been so presented. It shall be the duty of the Supreme Court to render such decision within such 60 days."

Because of the rapid changes taking place in our economic readjustment, it is necessary that the people and business men in particular know whether the acts of Congress are valid or not.

It is not only disconcerting but dangerous to make major readjustments in our economic structure through regulatory legislation, which is later found to be unconstitutional especially after the changes themselves have been made. It is wasteful, costly, and leads only to chaos. The results can only retard natural recovery. It would be a tremendous assistance to the business man and to the citizen in general if he knew that all of the laws under which he must operate were constitutional as soon as they were put into operation.

The effects of this proposed amendment will accomplish that very purpose. This amendment if adopted as a part of the Constitution of the United States will hereafter eliminate the uncertainty of the laws passed by Congress, as to their constitutionality.

Sometimes now it is years before the validity of a law can be determined. We have recently had the experience of Congress passing a far-reaching measure affecting the lives of every individual in the country. After the necessary adjustments were made to conform to this law and conditions were beginning to resume stability, under the new regulations, the law was found to be unconstitutional and the result was near chaos. There is no reason why the United States Supreme Court should not aid and assist in the administration of our laws by this method of rendering decisions upon the constitutionality of the acts of Congress as soon as they are passed.

I believe that the adoption of this constitutional amendment would be a tremendous step forward for this country and would eliminate 99 percent of the objections and criticisms to the present procedure of the United States Supreme Court.

MANUFACTURE, IMPORTATION, SALE, AND USE OF SPIRITUOUS LIQUORS

Mr. GUYER. Mr. Speaker, I ask unanimous consent to proceed for a quarter of a minute.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GUYER. Mr. Speaker, I have introduced in the House a bill—H. R. 8739—prohibiting the manufacture, importation, exportation, transportation, sale, and use of spirituous, vinous, malt, and fermented liquors, liquids, or solids containing alcohol which may be used as beverages, applicable to the District of Columbia only.

IN BEHALF OF DEFENSELESS CITIZENS OF WASHINGTON

First. I have introduced this bill for the Nation's Capital because the citizens of Washington are powerless to defend themselves against the flood of liquors and the curse of intoxication which is overwhelming the Nation's Capital. The only thing that the citizens of Washington can do is to petition Congress asking for those things which are for their common welfare and safety. In common with all other Congressmen, I feel a responsibility, and also feel that I am expressing the sentiment of my own constituents which within the year registered their disapproval of unrestricted barter and sale of intoxicating liquors. A large number of good citizens of the District of Columbia, represented by a committee of citizens who desire safe and clean government for their families and neighbors, have joined their forces and are now petitioning Congress for relief from the intolerable conditions created without their consent in the District of Columbia.

PROTECTION OF YOUNG EMPLOYEES OF THE UNITED STATES

Second. The different branches of the Government—legislative, executive, and judicial—have selected from the best homes in the country the brightest and most promising young men and women for employment in the District of Columbia. These young people who are selected, in almost all instances, have been taken from homes where their health and morals have been jealously guarded and their training carefully directed, are thrown among strangers and in their youth relieved from the restraints of home, naturally and readily adopt the habits and practices of their new associates and are themselves exposed to unusual temptations and dangers. The parents and friends of these young people have a right to know that they are surrounded by the best possible environment, and I believe that the vast majority of them would shield these young people from the inebriety and vice which are sure to surround them in a city where one can hardly walk a hundred feet on the street without passing a place where intoxicating liquors are sold without any serious restrictions. If there is any one population in the Republic which more than any other demands the protection of the Nation's lawmakers, it is the helpless citizenship of the District of Columbia. Congress, and every Member individually, should be held responsible for the conditions in the District so far as it is in their power to control. There are practically 2,000 licensed saloons in Washington, and some assert that there are from 5,000 to 10,000 illicit places where liquors are sold, all of which are immoral in their influence and many of them veritable dens of vice.

RESPONSIBILITY OF CONGRESS

Third. It is the business of the Congress of the United States, which possesses absolute power to govern the District of Columbia, to make Washington a model city not only for the United States but for the world, and also the safest place for family homes, which is the foundation of our free institutions. This certainly cannot be accomplished while the National Capital is overrun with saloons. The bill which I have introduced is the result of the studies and work of a special committee of prominent District lawyers, who, taking the old Sheppard Law as a model, have written this law, correcting some of the weaknesses of the Sheppard Act.

A DISGRACEFUL RECORD

An examination of the police records of the District discloses a deplorable state of affairs since the repeal of the

eighteenth amendment. The advocates of repeal promised to banish the bootlegger, promote sobriety and temperance, and check the prevalence of crime. It has accomplished nothing of the kind, but instead crime has increased and drunkenness doubled, with every form of vice increasing.

The following facts compiled from the police records of the District illustrates the intolerable conditions which have obtained since repeal:

Increase in 1934 over 1932

	Percent
Arrests for intoxication	57
Arrests for driving motor cars while intoxicated	39
Arrests for disorderly conduct	19
Arrests for misdemeanors	30
Arrests for felonies	11
Daily average arrests	34

In 1934 there were 510 arrests of minors for intoxication. There are no previous records.

Arrests of women for intoxication, 11 months (fiscal year 1935), was 1,493.

Certainly such a condition of affairs justifies some legislation that will better conditions in the Capital. This bill, I believe, will solve the problem, if enacted and enforced.

NATURAL AND INEVITABLE FRUIT OF LIQUOR TRAFFIC

We are not surprised that these offenses have increased at such alarming rates; that crimes of every sort have increased. Crime and liquor are always partners. Repeal has not, as promised, eliminated the bootlegger and banished the illicit liquor vendor. Repeal was accomplished by duplicity and hypocrisy. It was brought about by the most stupendous campaign of mendacity ever launched against a righteous cause in a civilized country.

WAR A DEMORALIZING INFLUENCE

The Great War had a profound influence upon this country, as it did upon every country in the world, whether involved in it or not. But those influences and post-war conditions were not calculated to buttress the eighteenth amendment. There came out of that war many sinister influences and few good ones. In my opinion, the eighteenth amendment was about the best thing that resulted from the war, if we assume it was such a byproduct.

We have only to consult the progress of the better things of life, the matters of the spirit, to understand and appreciate the effect of that war on the moral atmosphere of this and other countries. The most obvious effect in this direction was the increase in desperate crimes.

Legislatures and Congresses, bench and bar, pulpit and platform, press and radio have contributed their best toward the solution of our crime problems.

WHAT CREATED THE CRIME WAVE

The discussions have embraced many conflicting conclusions. One contention was that the eighteenth amendment was the cause and source of that criminal reign of terror which ranged from rum running and bootlegging to kidnaping and banditry. Another that it was rather the lack of prohibition, the absence of energetic enforcement of that law. It was charged that venal or unsympathetic public officials, State and National, aided and abetted by an adverse and mercenary propaganda, had permitted the traffic in illicit liquor to become so impregnably intrenched as a colossal financial racket that enforcement efforts, however sincere and energetic, were nullified.

Thus the cupidity of the liquor vendor, the criminal indifference or corruption of public officials, and the hypocrisy of the bootlegger's patron joined the underworld in creating a reign of terror not paralleled in the criminal annals of this country. The patent and obvious fact is that the liquor racket was just a part of the lawlessness that ever follows great wars, as was the case with the Thirty Years' War, the Napoleonic wars, and our own Civil War.

CRIME A UNIVERSAL SCOURGE

Every country involved in the World War had its own crime problem, and ours exceeded others in proportion to the ease and opportunity for criminal activities, the facility of "get-away", the profits realized, and the hope of escaping punishment occasioned by reason of the seeming immunity afforded by our legal system and the protection thrown around the accused.

The World War, with its unprecedented brutality and hatreds, did not tend to make the lion and the lamb bedfellows in our domestic criminal meadows. That sort of psychology and trend of thought since the war and during the depression has created a fertile soil for crime and degeneracy, with a sort of incipient revolt against civilization and the finer things of the spirit. The World War, with its physical destruction, was as usual followed by moral retrogression. Crime was a startling manifestation of this period of retrogression. Crime may not be the most far-reaching menace of this age of violence and transition, but it certainly is the most obvious.

AESTHETIC EFFECT OF RETROGRESSIVE ERA

How about art and literature? These spiritual entities should reflect the soul and spirit of our national life. Books? I have two in mind. Both best sellers. I shall not name them. Let us draw the veil of charity. One the critics said would be one of the greatest books of this era. It contains descriptions which not so many years ago were considered unprintable outside of purely pornographic literature. In the other the facts recited were so salacious that a so-called "heathen" nation protested against it as a reflection upon its standard of ethics. These are extreme examples, but they measure the taste of the public appetite for literary provender. Do not shoot the authors. They, like other purveyors to the public service, strive to satisfy the demand of their public.

Art? Is there a recent painting which by its beauty or thought has caught the gaze of the public eye? With the exception of Borglum's creations at Stone Mountain and Mount Rushmore, which rival the majestic grandeur of ancient Egypt, our sculpture has produced nothing since the war worthy of serious notice. The drama? The cinema, movie, or silver screen, whichever suits your taste? Sensuality enthroned! Sex deified! Vice and crime lionized! Again do not blame the theater and the picture industry too much, for they, too, cater to the popular taste.

Music? While the public is famished for good music you cannot turn on the radio without being feloniously assaulted by a jangling nightmare of jazz. Literature, art, music, and the drama constitute the mirror which should reflect the soul life of the people, the stream on whose bosom should be etched the intellectual and moral life of the Nation. We must not blame the stream too much if, when we look upon its surface it sends back a picture black with diabolism and lechery.

THE AMERICAN HOME

How about the home life of our people? It has drifted far from what it once was. Topics of conversation once only whispered in the sacred precincts of the ancient and honorable but now extinct livery stable and barnyard; which refinement once banished and gentle breeding rebuked, are now welcomed at the dinner table and in the drawing room. What of it? Like modern bathing suits, feminine swearing, and unusual atrocities in criminal history, all are harbingers of the new day, a kind of ethical new deal in which the old order changeth and we behold a new heaven and a new earth. Nothing, however, is peculiar to us. In continental Europe they have gone as far beyond us in social revolution as their arbitrary and absolute dictatorships transcend our bureaucratic autocracies and executive invasions.

A SORDID STORY

In one country of continental Europe, a writer says that due to post-war economic pressure and war-time standards of morality, young men and women live together outside the pale of marriage with the consent and approval of their parents "without losing social status or business standing." Nothing like that here, particularly at the "grass roots." Sound as a dollar. Yet, family authority is relaxed or paralyzed. Flaming youth unleashed. In some exalted circles matrimony is a joke. Children brought up as they

would, not as they should, go. And we wonder at the prevalence of crime. Along with all this sordid story we decide to turn loose the curse of liquor, whose greatest contribution to society is a new harvest of criminals.

PLOWING UNDER THE CROP OF CRIMINALS

If you want less criminals, stop raising them. All speed to J. Edgar Hoover's swift triggers and more power to his steel-jacketed messengers. But we have used all this as a cure for crime. To the prison and the gallows we have added the lethal cell and the "chair"; sent criminals to the gibbet, the gallows, the solitary cell and the "chair", but the surplus only increases. Our modern crop-reduction theory does not work here. We just cannot plow them under fast enough. I repeat, stop raising criminals. The secret and hope lies in the American home, church, and school, where character is molded. Intoxicating liquor is the mortal enemy of each of these constructive institutions. Liquor is everlastingly destructive. Of course we should exclude alien criminals, and be more economical with paroles for hardened criminals, but our hope is in the constructive laboratory of human character found in the home, church, and school.

GIVE VIRTUE AND INTELLIGENCE A CHANCE IN THE CAPITAL OF THE UNITED STATES

But these benign institutions should not be forced into competition here in the Capital with the destructive agencies of alcohol, which is both a physical and social poison. These instrumentalities of virtue and intelligence should be given the widest and most favorable field for the development of character, unhampered by the influence and malignant venom of 2,000 legalized saloons and unnumbered speakeasies. The mission of this bill is to make it easier for people to be decent, and more difficult for them to make failures and wrecks of their lives here in the Capital of the United States.

ANONYMOUS EDITORIALS

Mr. MORITZ. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. MORITZ. Mr. Speaker, I have introduced a bill—H. R. 8763—which provides that all editorials or parts of editorials be signed by the writer thereof, and I take this opportunity to explain why I have introduced it.

Mr. Speaker, nobody honors an anonymous letter. In fact, anyone with an inch of honor throws an unsigned letter into the waste basket. The reason is that anyone who has not the courage to sign his or her name does not deserve the slightest recognition. Furthermore, an unsigned letter is evidence often of untruths and is only written for the purpose of disseminating trouble.

The same can be said of many newspaper editorials. These editorial writers come under the class of anonymous letter writers. No one has ever tried to force them out of ambush.

By virtue of their office and by reason of the peculiar position which they enjoy behind the closed doors of their "holy of holies" they can write as bitter and defamatory an editorial as they wish, knowing full well that the public will not know its authorship.

How many times these editorial writers must have chuckled to themselves after completing their vicious articles, and how many times have these brave "knights of the inner circles" smiled in satisfaction after they have coldly and maliciously stabbed their public-office victims and enjoyed the wild flow of blood that they caused.

These editorial writers are learned and they know that the public will not know who they are. It is not sufficient for these capitalistic chain-store newspapers to publish the name of the editor in chief. Everyone knows that the editor in chief has many assistants who are unknown to the public; in fact, who would be the wiser if an unfriendly outsider not even connected with the paper should write a bitter editorial for revengeful motives and the article be accepted by the newspaper as an editorial?

Just the other day, because the mayor of Pittsburgh permitted his cabinet member to dismiss an employee, the editorial of a Pittsburgh paper spoke of William McNair, the mayor, in bitter, libelous words, namely, "a cruel, sadistic nature", when, as a matter of fact, the present mayor of Pittsburgh has practically maintained all of the present employees of the past administration and his cabinet member had no alternative but to dismiss this employee, because, forsooth, this employee in his pride would not consent to a lesser position paying about $3,900 a year.

The charges in this editorial were that the mayor delighted in inflicting cruelty, in causing wives anxiety and worry, when in truth there is not a more kind-hearted man in the world.

All this had to be endured because an editorial writer gloated in writing these lines behind closed doors, knowing full well his identity would be forever kept secret.

Mr. Speaker, I do not ask for a curtailment of free speech. Let the editorial writers continue, if they wish, in their bitter attacks on public men; but under my bill I expect to force them to sign their names so that the practices of a sneaking, man-eating, cruel, character assassinator may not be carried on in secret.

TENNESSEE VALLEY AUTHORITY

Mr. McSWAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8632, with Mr. DRIVER in the chair.

The clerk read the title of the bill.

Mr. McSWAIN. Mr. Chairman, I yield to the distinguished gentleman from Connecticut [Mr. SMITH], a member of the committee, 5 minutes.

Mr. RANSLEY. Mr. Chairman, I also yield 5 minutes to the gentleman from Connecticut.

Mr. SMITH of Connecticut. Mr. Chairman, there has been a great deal of talk about the House bill destroying the program of the T. V. A. The program that is referred to is, of course, the power program of the Authority, and how is it contended that the House bill will destroy this program?

The program as laid down in the original bill is for the sale of surplus power created by the other developments of the Authority. The bill provided that the presently existing dam at Muscle Shoals should be turned over to the Authority and that one additional dam should be built, the Cove Creek Dam, now known as the "Norris Dam." The Authority, in its work, has followed a program of construction of two additional dams without any report to Congress of its plan for the building of these dams. This has raised a question as to the legality of its action in building these two dams, the Wheeler and the Pickwick Landing Dams.

The House bill provides, by reference, that the action of the Authority in building these dams is validated. The House bill also provides that the Authority shall make known to the Congress what its plans are for future development, that it shall have definite plans and that it shall at the time of their next annual report report its plans to the Congress so that we will not have a recurrence of this legal question.

The directors of the Authority are able men, and their integrity is not questioned, but I feel that they are to be criticized for their impatience with any regulation or with any supervision and for the reluctance they have shown in the past to make known their future plans to this body.

We know that they plan in general a yardstick of hydroelectric power costs. I believe that the vast majority of this body would like to see an honest yardstick established, which will supplement the work which the Power Commission is doing today in making a comparative rate study throughout the country; but before committing this Government to the construction of dams of a type not necessary for navigation or flood control, we should know what power will be produced by these dams, what the generation of this power will cost, where it will be marketed, and how these dams will fit in with the yardstick.

When the three dams now under construction are completed, with the existing dam there will be a dependable capacity of approximately 300,000 kilowatts. How many residential consumers and how many industrial consumers will be necessary to use this great output, and where will these consumers come from, in view of the surplus of capacity that the Army engineers claim already exists in this district? The Authority should tell us what its plan is as to consumers and how it is going to use this yardstick.

The House bill contains five important changes in the basic law:

First. Section 2, to which I have already referred, which validates the construction of Wheeler and Pickwick Landing Dams, and requires recommendations from the directors for the unified development of the river.

Second. Section 3, which allows the directors to convey land.

Third. Section 8, which establishes accounting procedure, and which limits the time during which the Authority may sell below the cost of production.

Fourth. Section 13, bringing the Authority under the supervision of the General Accounting Office.

Fifth. Section 14, which provides for condemnation of existing transmission lines rather than duplication by the Authority if its efforts to purchase the existing lines are unsuccessful.

It is claimed that these changes in the law will destroy the program of the Authority. On the contrary, it should put the work of the Authority on a sounder basis. If no definite plan exists, one should be decided upon before we are committed to the expenditure of many millions for additional dams.

If the program of the Authority will be crippled by the limitations of time within which it can sell below cost, the Congress should be informed as to the length of time the Authority will need to establish itself on a paying basis. If it is necessary to extend the time, the reason for doing so should be shown to the next Congress.

Perhaps the most controversial of the amendments proposed by the committee is that which places the Authority on the same basis as other Government departments in relation to the General Accounting Office. There has been a great deal of talk about the purchase of cows, steam shovels, and other articles without bids, with hints at improper conduct. After the extensive hearings of the committee and the testimony of the directors and the Comptroller General, it is safe to say there is not the slightest evidence of any fraud or dishonesty connected with the Authority. This amendment will remove the possibility of any such unfounded charges in the future and will protect both the Authority and the Government by the application of the principles on which we run all other departments.

The only argument used against the amendment proposed in section 14 of this bill is that it will cause delay in the courts. Because of this, the owners of existing transmission lines would be denied any chance of their day in court or any chance of showing that their contention as to value is correct and that of the Authority is wrong. If we do not adopt this amendment, we place altogether too much arbitrary power in the hands of the directors of the Authority. The argument is unsound, un-American, and typical of the hysteria which surrounds the power question today. About this whole project in the Tennessee Valley there is an atmosphere of great haste, and the reason for the haste is not apparent. It is a project which is expected to develop for years in the future, and no necessity has been shown for rushing it through without any regard for justice or for existing law.

The House bill provides proper supervision of the development of this work, and I hope the committee will adopt its provisions.

Mr. FORD of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Connecticut. I yield.

Mr. FORD of California. Did the gentleman ever live in a city that tried to purchase a competing utility?

Mr. SMITH of Connecticut. I never lived in a city that tried to purchase one or had the power of condemnation.

Mr. FORD of California. If the gentleman had, he would find that anywhere from 3 to 10 years is the limit within which you can get at the matter, because they go into all the courts and go right down the line to the Supreme Court, and simply leave you out on a limb.

Mr. SMITH of Connecticut. If such a delay exists, it can be corrected by a change in the system of the courts, and it is not an argument for arbitrarily seizing property without any judicial action.

[Here the gavel fell.]

Mr. RANSLEY. Mr. Chairman, I yield 20 minutes to the gentleman from Missouri [Mr. SHORT].

Mr. SHORT. Mr. Chairman and Members of the Committee, of all the crazy, cockeyed schemes hatched from the diseased and disordered brains of the " new dealers ", the T. V. A. easily takes the prize.

Muscle Shoals was the product of real emergency, and the only justification of the birth of this costly child was the state of war in which we found ourselves. After spending approximately $150,000,000 on the project, it proved to be an expensive experiment and bitter disillusionment. What happened 2 years ago last May? The T. V. A. Act was passed to salvage this wreckage. What for? For the improvement of navigation and flood control of the Tennessee River, reforestation, prevention of soil erosion, and several other purposes, but mainly for national defense.

It is obvious, however, to anyone who heard or will read the hearings before the House Military Affairs Committee during the past 5 months that the T. V. A. has paid little or no attention to national defense. The testimony of both Dr. Morgan and Mr. Lilienthal clearly shows that the chief purpose and one absorbing and overshadowing interest of the T. V. A. is the development, distribution, and sale of hydroelectric power, not only to the people in the immediate Tennessee Valley but to communities and centers in remote areas. This is in flagrant violation of the intent of Congress and purpose of the original act of May 18, 1933.

It is true that the Board was given the authority to dispose of that surplus power not needed for the operation of the locks at the dams for aiding navigability and flood control of the Tennessee River, but the power program, according to the act, was to be incidental and not fundamental. Notwithstanding this clear and concise intent of Congress, the T. V. A. has made its power program of primary interest and supreme importance. Instead of following the recommendations of the Board of Army Engineers to construct low dams for navigation purposes, the Authority has proposed to construct high dams at an increased cost of 75 percent, for generation of additional electric power. Furthermore, the Authority was authorized to operate only Muscle Shoals and Cove Creek Dam, when completed. Beyond this it could not go in actual construction of dams, but was required to act as a planning board and to report to Congress any recommendations for further development of the valley.

Nothwithstanding this distinct limitation the Board, without reporting to Congress, and without legal or constitutional authority, has already under construction and contemplation of construction several other dams. The estimated cost of Norris, Wheeler, Pickwick, Hiwasee, French Broad, and Aurora Dams—these six alone—aggregate $181,000,000. Already the total authorized expenditures since the T. V. A. took control in June 1933 amounts to $121,523,675.58. This does not include the $150,000,000 spent on Muscle Shoals up to the time the Authority took possession.

Dr. Morgan testified that the T. V. A.'s program was a continuing program and would perhaps run over a century's time. Of course, that is a general answer and leaves the program a bit vague and indefinite. What assurance have we that the utopian dream, with its present plans for power dams and power houses and lines, for improvement of navigation and flood control, for fertilizer manufacture, for prevention of soil erosion, for reforestation and reclamation of marginal lands, its plans to cure all the social ills and solve all the economic problems of the people in the Tennessee Valley, will not exceed in cost $1,000,000,000 within the next 10 years?

When will the time come when the T. V. A. will not come to Congress for additional appropriations? And what will the ultimate cost be if President Roosevelt and the present administration carry out their desire to extend the activities of the T. V. A. into every section of the United States? Can one fill a sieve with water? How long will the barrel remain filled with the bunghole out?

I regret that on yesterday sinister aspersions were cast on the Aluminum Co. of America, and on Arthur V. Davis, chairman of its board. I never saw Mr. Davis until he appeared before our committee; I have not seen him since. Never have I listened to a more temperate and reasonable witness. He spoke with sincerity and candor. There was no insolence, evasiveness, or air of intellectual superiority about him. With a modesty and humility, unknown to "brain trusters", he testified in a straightforward manner, and his sense of fairness would impress any unprejudiced and impartial listener.

Why this unwarranted and unjustifiable attack on the Aluminum Co. of America? What has this corporation done to merit this blind censure? This is what it has done: 25 years ago, long before T. V. A. or Muscle Shoals were dreamed of, this private company, with its own and not the taxpayers' money, located on the Little Tennessee River to develop and utilize hydroelectric power in the manufacture of aluminum. Since that time, in 1910, this company has had from 10 to 75 engineers surveying 104 miles of this river and working on the engineering development of this region. This company has plans which comprise eight developments in western North Carolina and eastern Tennessee. The three dams already built and the three basins already developed are valued at $40,000,000. The estimated cost of completion of this program is $60,000,000, which will represent a total investment, when finished, of $100,000,000 of private money.

The Aluminum Co. of America has employed as many as 4,000 men and are now employing 2,500. During the past quarter of a century it has built for the benefit of the people, churches, schools, hospitals, commercial buildings, employees' clubs, and recreational centers. The people there are satisfied, as their Representative in this House will tell you. They want this company to go on with its development program.

That program is today halted. It is threatened with paralysis. It is in danger of extinction. The Aluminum Co. has invested $5,000,000 in its five undeveloped basins. Into the largest of these basins the T. V. A. has gone, and shown its black hand by purchasing, at an outrageously high price, two small pieces of land—12½ acres in one piece and 1,500 square feet in the other. These small tracts are 60 miles away from T. V. A., and obviously were deliberately purchased to prevent the Aluminum Co. from building its largest dam and to wreck its whole program. What American citizen will give his sanction to such nefarious practice? Will such perfidy maintain the confidence of the people in the integrity of government? What lover of liberty will countenance the blackjack methods of such brutal tyranny?

Mr. KELLER. Will the gentleman yield?

Mr. SHORT. Not now.

Mr. Chairman, because of my limited time there are many aspects of this problem which I cannot discuss today. I should like to point out in detail how the T. V. A.'s expenditures have far exceeded its estimates, and how its revenues have fallen woefully and pitifully short of its calculations. Perhaps those in charge of affairs are capable men, but it is difficult for a "hill billy" from a great dairying district in the Ozarks to understand why the T. V. A. would pay $372 per head for 25 dairy cattle a year ago, when the best sold in my district at that time for $20 a head. I will not trifle with the jamming of cash registers at T. V. A. which accounts for shortages. I want to quote only one paragraph from the Comptroller General's report concerning disbursement exceptions:

> The nature of exceptions established consisted of purchases without competition in violation of section 3709 Revised Statutes; emergency purchases unsupported by showing of emergency; modification of specifications; awards on basis of personal preference; dual compensation; excessive allowances and reimbursement of traveling expenses to prospective employees; payment of per diem at designated posts of duty; allowance of overtime to annual employees; allowance of charge for personally owned motor vehicles without prior authorization; overpayment on pay rolls; payment of pay rolls without administrative approval; subscription to newspapers and periodicals in excess of statutory limitations; payment for rented office equipment lost or stolen; payment for power plants, transmission lines, and real estate acquired without having clear title thereto; rent for land occupied by Civilian Conservation Corps camps paid at rates higher than for land purchased outright; lump-sum payments under cost-plus contracts and fees without original invoices and in excess of reported progress of work; claims paid for loss and damage to property; apparent overpayments on electric equipment under annual agreements; cost of reconditioning plant agreed by contract to be for payment account of losses; rent for buildings without evidence showing that payments are not in excess of 15 percent of fair market value; pre-audited certified vouchers increased and payments made to vendors in excess of amounts shown on invoices; allowances in expense accounts for bridge toll ticket books before such books have been used; loans to cooperative associations without security; hire of special conveyances such as busses and aeroplanes for visitors and students; and noncompliance with contractural provisions for insurance protection covering personal injury.

This, in itself, is sufficient proof of such discrepancies that if the T. V. A. is not downright dishonest it is guilty of gross negligence, incompetence, and inefficiency. [Applause.]

Certainly I should like to see every family in the Tennessee Valley enjoy the benefits of electricity, but at their own expense and not at the expense of the taxpayers in my district. Certainly I should like to see every home in eastern Tennessee, whence my ancestors came and where many relatives now live, enjoy the blessings of Frigidaires, radios, electric irons, vacuum cleaners, and all other electrical appliances. But I pause to ask this question: If the T. V. A. can take public money out of the Federal Treasury, money from the people of Missouri, Illinois, Michigan, Pennsylvania, and other States, to use in the Tennessee Valley in the development of hydroelectric power, in destructive and cutthroat competition with already existing private companies which have developed the country and in which the people themselves have invested their earnings, and which now have more than an adequate supply of power for the present needs, what is there to prevent the Federal Government from starting shoe factories in St. Louis and Brockton to drive out of exisence private companies which now adequately serve the people? What is there to prevent the Federal Government from going to Detroit and operating a factory which will drive Henry Ford into bankruptcy? [Applause.]

This legislation, my friends, is false, fickle, flimsy, frivilous, and fraudulent. It is the opening wedge to state socialism, and since going over most of Russia in 1931 I must exclaim with the distinguished senior Senator from Virginia, Hon. CARTER GLASS, "My God! I am not surprised that we recognized Russia, but I am surprised that Russia recognized us." [Laughter and applause.]

If any Members feel constrained to vote for this legislation, which in my opinion is unwise, unsound, unconstitutional, and un-American, I hope they will vote for the House bill, for the House bill does curb the authority of these political parasites and dictatorial bureaucrats, whose greed for power is unlimited. The House bill provides that T. V. A. finances after July 1 next year will be subject to the same audit and control of the Comproller General as is imposed upon other Government agencies. No honest board could object to this provision. Furthermore, the House bill prohibits T. V. A. after July 1, 1937, from selling surplus power

or chemicals below the cost of production. It likewise precludes duplication or construction of transmission lines paralleling those of existing privately owned companies. And, finally, it expressly forbids the T. V. A.'s acquiring lands not actually necessary to carry out plans and projects decided upon.

The Senate bill is impossible; and even with the improvement of the restrictions adopted by the Military Affairs Committee in the House bill, it is still bad. One cannot change the condition of a rotten egg. It can be fried, boiled, poached, or scrambled—but it still smells. [Laughter.] The original T. V. A. Act of May 18, 1933, should never have become law. Any attempt to improve it is like trying to graft healthy limbs or branches on the rotten trunk of a decaying tree. I am unalterably opposed to this legislation, because I feel it to be fundamentally wrong and basically unsound.

Mr. McFARLANE. Will the gentleman yield?

Mr. SHORT. I refuse to yield now, but I will yield after I get through.

Mr. McFARLANE. Mr. Chairman, a point of order. The gentleman is reading his speech. He ought to be able to make one without reading it.

The CHAIRMAN (Mr. CLARK of North Carolina). If the gentleman from Texas insists on his point of order, the Chair will put the question to the Committee whether the gentleman from Missouri shall be allowed to read his speech.

Mr. McFARLANE. If the gentleman will yield for a question, I will not insist on the point of order.

Mr. SHORT. I will yield to the gentleman after I am through. After the storm and the ship has been tossed hither and thither the mariner turns to his compass.

When this panic is over and the frantic moments of alarm are past, when we come out of our twilight sleep produced by new-deal lullabies, when we realize that Santa Clause will turn into Shylock to exact his pound of flesh for the gifts we now so freely receive, we shall then repent of the errors and blunders which we cowardly permit to be made today. Men will then be sent to Congress who will not display demagoguery by clothing themselves with righteousness and styling themselves "champions of the people." Paternalism will then cease and social regimentation will end. The individual will again be set free to live his own life, run his own business, do his own thinking, capable of regulating his own affairs, without governmental meddling or intervention. This is an American ideal, cherished by all patriots, regardless of party affiliations. No stronger words have been uttered on this particular point than the forceful language of former Democratic Senator, Hon. James A. Reed, of my own State.

I want to say for the benefit of my distinguished friend from Texas that this is my own speech, except this paragraph that I am about to quote.

Mr. McFARLANE. Who wrote it?

Mr. SHORT. Ex-Senator Reed.

> Governmental paternalism and individual liberty cannot exist at the same time. Paternalistic government is necessarily oppressive. For Government to bestow benefactions upon a part of the people, it must of necessity wrongfully take the property of the rest of the people. That is robbery! Or, for the Government to regulate the business, the lives, or habits of the people, it must substitute for the free will of the citizen the command of those clothed with temporary power. That is tyranny! Such was the prerogative asserted by kings and emperors. If these principles are unsound, then the teachings of the fathers of the Republic are false, man is incapable of self-government, and liberty is a foolish dream; but, if they are sound, it follows that paternalism cannot be tolerated in the opinion of a free people.

[Applause.]

I now yield to my friend from Texas.

Mr. McFARLANE. Mr. Chairman, since the gentleman has admitted that he wrote the speech, I wonder how the gentleman could reconcile his position on this legislation with his known position on all other river and harbor legislation?

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. RANSLEY. Mr. Chairman, I yield 8 minutes to the gentleman from Pennsylvania [Mr. FOCHT].

Mr. FOCHT. Mr. Chairman, we have learned to comprehend the meaning of the new term "taking it." So, when the gentleman from Pennsylvania called upon me to make a few remarks, I am very glad to take my turn as a "pinch hitter." This whole debate has been a revival to me of a new window dressing of an old subject, very old. It had a remarkable champion here—that is, the Muscle Shoals proposition—in a former Member of this House, Judge Almon. Over a long period of years I admired his resolution and persistence and the final triumph of that fine old gentleman. I may be older than he was, but I think he grew old in appearance from the work that he did on this matter. What he did was this: He was able to carry this through on a point of merit. He so inveighled me into the matter that I was really enthusiastic about the idea that some of the farmers up my way, and in fact every way, were going to get some nitrates, and that we were going to contribute immensely to the success of the World War. Instead of that, we find the old story here just the same. Instead of producing nitrates, and instead of producing even anything, they are coming back here, returning, asking for more money.

I should like to have a few more minutes than the 2 or 3 that the gentleman from Pennsylvania has given me, because I should like to talk about several matters. For instance, there is our good friend Mr. RANKIN, who is obsessed with an idea. His idea is all right, but it does not apply here. This is not the place for the regulation of the rates of electricity for farmers out in the country or for your homes in the city. The gentleman from Mississippi is right in that rates should be regulated, but that is not what you are doing here, not even confiscating.

You are going to take the money, no matter how much, of the reserve wealth of America, which your grandfathers and mine laid away for the day of resistance against an outside attack. Mr. James G. Blaine once said to me, "Young man, we will not have a foreign war; we will have no war unless it comes from within." You are taking the reserve wealth that has been accumulated by the industrial States, if you please, and you are applying it to the production of something which will consume that very industry that gives you the money to exist. That, if it is nothing else, at least is unethical. You do this because you have the power through the vote and the President to put it over. I have looked this over for 10 or 12 years, and I actually voted for it originally on the representation made by the gentleman from Alabama, Judge Almon, that it was going to be of some benefit to the country. I do not know how much electricity they have in Mississippi, or how much this might supply them down there, but as for the rest of the country, you can go anywhere and find the farmer's house illuminated as well as his stable and barnyard with electric lights, and he is not overcharged for it.

So much power can be generated by a small dam that every power plant on the Susquehanna and the Juniata produced more than is needed, and even the Ontario Power Co., with the Great Trust Co. of Ontario back of it, had to be liquidated and refinanced. That is how much you can make. In other words, you are going to create down here something that you do not need. We have energy enough in the mountains of Pennsylvania, and in fact every township west of the Susquehanna River on through to Ohio and West Virginia and Kentucky will find energy enough to satisfy their communities. In Montana there is a seam of coal so great that the hydroelectric engineers have told me it would take 10,000,000 years for this population to consume it. So why come along at this time for this extra appropriation? I thought by this time you would have everything in operation and that the money would be returning to the Federal Government. Instead of that you are reaching out for more and more. I say to my friends from the South that there are plenty of rivers in the Carolinas that will supply all the power you want. I have friends who put a hydroelectric plant in those rivers, and you have them in the West. Let this go down into your hearts and souls, let

your intellect respond to this. This is not a partisan matter—this is common sense.

When I first came here we heard nothing much else but "pork barrel" for the Mississippi River, the wasting of money to lift the bottom of the Mississippi River up to prevent the floods that came sweeping down there devastating untold millions of acres of land. Take this money, my friends; let this subject alone, since you do not need it, but in the name of mercy go out on those rivers that are tributary to that great Father of Waters and put in the small dams to resist and restrain this water and you will create the greatest empire that was ever known in all the world, the Mississippi Valley. [Applause.] You have neglected it. You are neglecting it now. You will owe some penalty to someone if you pass a bill like this today and waste this money when there is such great need for it to save the lives and treasure that are out there in the Mississippi Valley. [Applause.]

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. FOCHT] has expired.

Mr. RANSLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. MITCHELL]

Mr. MITCHELL of Tennesee. Mr. Chairman, we have listened this afternoon to some rather remarkable discussions and arguments. I see no reason why we may not discuss this great problem freely and fairly, without prejudice or bias, and undertake to arrive as legislators at a proper solution of a great national question. There should not be anything sectional about it, with all due respect to my Republican friends who have spoken. I live in the great State of Tennessee but 75 miles from the nearest point that is involved in the construction of any of these dams. My Republican friend from east Tennessee has represented Knoxville and the Second Congressional District for many years. If there is any particular party politics in it the Republican Party, speaking as far as narrow partisanship is concerned, would be largely the beneficiaries of any development in east Tennessee at or near Norris, Tenn.

What are we doing here, and why this great question pending before Congress today? I want to say to my Republican friends and my Democratic colleagues that I do not defend unnecessary expenditure of the people's money. I want honest administration of every act that is put in force by this Congress. We are carrying on a great constructive proposition started during the World War at Muscle Shoals. About $150,000,000 of the people's money was invested in Muscle Shoals, and in the Seventy-third and Seventy-fourth Congresses we fell heir to the proper administration of that fund to try to save it from salvage and wreckage.

Then why all this noise about what the Congress is trying to do? We seek to improve living conditions not only in Tennessee, my native State, not only in Kentucky, Alabama, and Georgia, but alike in 48 States of this great Union. [Applause.] What are we seeking to do? We are seeking to improve navigation on a great river that reaches 650 miles through these different States to which I have referred. I am here to tell you that what I want to urge on this Congress, and I speak to you as one sworn as you are, that I believe we need to deepen the channel of this great river. [Applause.] I believe we need to construct more dams for the purpose of flood control and navigation in that section of the Southland. I do not think of the South in a narrow partisan sense, because what affects the South affects the North. There is no longer any North, South, East, or West, but ours is a common people, a common cause, and a common destiny in which we are interested. [Applause.] What is the purpose of government? It is to render the greatest service to the greatest number of people.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. MITCHELL] has expired.

Mr. McSWAIN. Mr. Chairman, I yield 2 additional minutes to the distinguished gentleman from Tennessee.

Mr. MITCHELL of Tennessee. I thank the gentleman very much.

We are interested, my colleagues, if you want to put it on a commercial basis, although I would not cheapen it that way, because we build for the future, and we owe much to the present and we owe a debt to those who have gone before us, but what we need to do is to stress flood control, navigation, and the yardstick to know what the price of electricity should be in America. I am not interested in defending the Aluminum Co. or any of the other trusts that come here. I only want to help the common men in America. [Applause.] If there have been mistakes made by those gentlemen who are administering this trust, let him who is without sin cast the first stone. Perfection does not come here below. It comes after a while. If the administrators have wrongfully expended money, I do not condone that. I would not say I would advocate the building of the towns and the many things that have been done, but I would not destroy the temple, because, perchance, there is a defective plank here and there in the building. Let us be fair about it. Let us be liberal and magnanimous. I hope we are liberal toward this great proposition. I am against the Power Trust. I am against the Fertilizer Trust.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. MITCHELL] has again expired.

Mr. McSWAIN. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. MAVERICK].

Mr. MAVERICK. Mr. Chairman, on yesterday I was impressed more by a speech made on this floor than by any other speech I have heard since I have been in Congress. That was the speech by the gentleman from Texas, Hon. EWING THOMASON. I believe the gentleman from Texas, my distinguished and able colleague, hit the nail on the head throughout his speech and gave all the necessary discussion of this question. His people back home should be proud of him, as well as the people of the Nation. All I can say is I believe every word Mr. THOMASON said in that speech, and I adopt his remarks as mine, if he will agree, as I feel unable to cover the subject as well as he.

Mr. THOMASON is one of the ablest leaders of my State, and I hope that as I take on a few more years I can develop his insight, ability, and character.

If only we all understood what he said, it would not be necessary for you to listen to me, because in spirit he has given the best explanation of the T. V. A., and has met the issues face to face.

Although I am really only interested in the economic issues involved in the T. V. A., I desire now to mention a few of the political angles of this subject, as well as some others we face. We Democrats split up on the holding company bill, as we had a perfect right to do. The Democrats who voted against the so-called "death sentence" voted for what they believed were the best interests of their stockholders back home. I did not happen to vote that way, having a different viewpoint, but others did, and they had a right to vote as they pleased. But in the case of the pending bill, however, we face an issue which belongs to the Democratic Party, which belongs to our people, and not only to all the Democrats but all the American people. The Tennessee Valley Authority is our measure; it is a measure in which we should have pride. The gentleman from Missouri referred to the "brutal tyranny of the T. V. A.", talked about "blackjack methods", and then referred to "the diseased and disordered brains of the new deal."

The new deal belongs to us; it does not belong to the Republican Party; and I feel that we more or less ought to stand together; that we ought not to admit that our brains are completely disordered. If we vote as the Republicans tell us on this issue, especially when we have the meritorious side, the truth of their statements might be suspected. I think we ought to stand together on this and certainly against these Republicans who say they are absolutely opposed to the whole T. V. A. and the philosophy of the Government behind it. We are either for this bill or against it.

The Republican minority report says frankly that they are opposed to the whole idea, the whole philosophy of government expressed in the act, and are, therefore, opposed to it in toto. They say in their minority report, no. 1372, Military Affairs Committee, page 37:

The philosophies, theories, and premises underlying the policy of this act which were dictated as a part of the program of the present administration are now well known to the American people generally. * * *

We do not now, nor have we ever, subscribed to the philosophies of government upon which the act now sought to be amended was based, and, therefore, would be opposed to the passage of the original measure were it before the House of Representatives today.

Now, as I said, I am in favor of the philosophy behind this act, and the original act says, in section 22:

* * * all for the general purpose of fostering an orderly and proper physical, economic, and social development of said areas; and the President is further authorized in making said surveys and plans to cooperate with the States affected thereby, or subdivisions or agencies of such States, or with cooperative or other organizations, and to make such studies, experiments, or demonstrations as may be necessary and suitable to that end.

And in the next section, which is section 23, it says:

The President shall, from time to time, as the work provided for in the preceding section progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section, and for the especial purpose of bringing about in said Tennessee drainage basin and adjoining territory in conformity with said general purposes:

(1) the maximum amount of flood control;

(2) the maximum development of said Tennessee River for navigation purposes;

(3) the maximum generation of electric power consistent with flood control and navigation;

(4) the proper use of marginal lands;

(5) the proper method of reforestation of all lands in said drainage basin suitable for reforestation; and

(6) the economic and social well-being of the people living in said river basin.

The purposes of the T. V. A. Act are very well set out and yet the ramifications of it and the wide-spread, coordinated benefits are not to be realized by those words alone.

On yesterday the able gentleman from Alabama, fellow member and vice chairman of the Military Affairs Committee [Mr. HILL], stated he expected to offer certain amendments. I believe that if we are going to have this bill at all we should have it in a proper and decent form, so that we really accomplish something for our country. The four amendments to be offered by the gentleman from Alabama are to be found on page 10791 of yesterday's RECORD, dated July 8, 1935, and I ask every Member to read them, because we want to bring out as perfect a piece of legislation as possible. I hope we will enact an effective bill and accept these amendments.

One of these amendments relates to surplus power. I am not going into that, because it is fully covered in today's issue of the RECORD. It is the first amendment that deals with surplus power. Then the gentleman from Alabama intends to offer an amendment which will do away with hindrance of the purposes of the T. V. A. by obstruction of litigation by the power companies of the country, and which will eliminate the litigation that would really ruin the T. V. A. program.

The second amendment to be offered by the gentleman from Alabama deals with the Comptroller General. They say that the Tennessee Valley Authority is contemptuous of Congress, contemptuous of this Republican Comptroller General, Mr. McCarl. That is not true; anyhow, the amendment to be offered by the gentleman from Alabama is fair, it is wide, it is comprehensive, and it fully protects the rights of the Federal Government and it is a 100-percent check on the T. V. A. by the Comptroller General. Were any of us operating a business—and this really is a business, even though it concerns the welfare of the people—we would want the managers to have the necessary latitude in order that they can conduct the business in a fair and proper manner, without unnecessary restrictions. Let me remind you that the amendment to be offered provides for constant auditing by the Comptroller General.

The third amendment deals with transmission lines; and then the fourth refers to the Aluminum Co., which owns property in the little Tennessee Valley. I never thought that even a Republican would champion the cause of Andy Mellon as against the people of the United States. I have nothing against Andy, but this amendment to be offered merely subjects the Aluminum Co. to reasonable regulations. We heard described the modesty and humility of this Aluminum man who came before the Military Affairs Committee, that he was the representative of Andy Mellon, and that he was not a "brain truster"; yet we remember with what contempt our Republican brethren spoke of the Democratic Party and of those who were in favor of the T. V. A. The humility of this gentleman from the Aluminum Co. of America—someone praising Andy Mellon!—oh, well, that is something new in American politics; it is new for a Republican openly to praise Andy Mellon and to speak of the humility of his agents. It sickens one at the stomach.

I ask you to read and study these four amendments which will be offered by the gentleman from Alabama [Mr. HILL], which are fundamental and which we ought to adopt. If we are not going to adopt these amendments, we should kill the bill; kill it and let the $100,000,000, more or less, we have spent on T. V. A. wash down the river and disappear; yes—let there be floods, and let our farms wash and blow away, and abjectly surrender to the special interests. No; we cannot do it! We must not only have the program, but make it better and wider in its scope.

Mr. ANDREWS of New York. Mr. Chairman, will the gentleman yield?

Mr. MAVERICK. No; I would rather not yield. You Republicans have lots of time, but I have not.

Mr. Chairman, the T. V. A. is a national program. It concerns soil-erosion control and all of the things that have been brought up here this afternoon. Some say it is socialism, some say it is communism, that this is a terrible and wicked thing that we are doing down there. In reply, I ask: Will the Aluminum Co. of America carry out a reforestation program; has it a reforestation program? Is it going to stop soil erosion and provide for the general welfare? Is it possible to leave to private business those functions of governments? Why, it is absolutely impossible. Is the Aluminum Co. or any utility company or private corporation doing anything in the way of preserving all of that territory that concerns six or seven States? Why, certainly not; and they cannot; it is not their legal or moral duty to carry on functions of government, nor can they be expected to.

Do you know that in 50 years vast portions of this country will be washed away, that it will flow away and wash away unless we adopt measures which are constructive and which conserve our natural resources? We have got to do this through the Federal Government; and this authority transcends State lines, concerns national flood control, navigation, and defense.

Yes; I say again the T. V. A. is a great national program. What is being done down there to save the soil for the people, to prevent floods from washing us out, to make rivers navigable, and put the power that is in the water to the use of the people, can be done all over the United States; can be done in any congressional district we represent. That is why T. V. A. is so important. This agency, created by Congress, is working out in a concrete way the methods of tackling these national problems. The methods that they are developing down there will be shared with all the rest of the country. If you let the enemies of this program hamstring, smear, and strangle it at this stage of the game, then there is no chance of having this same kind of program applied to other districts to meet the same kind of problems of the land, the water, and of power that affect the American people in their everyday life.

If T. V. A. were only for the benefit of these six or seven States, then maybe those of you who come from Texas, Iowa, Connecticut, Washington, and other States might not be so enthusiastic about it, but do not forget this is a national program, a national project. The Tennessee Valley is just the proving ground in which the methods are being worked out. Of course, it will benefit the valley States immediately, but the real point of the T. V. A. program is that it is going to share these benefits with every section of the country.

You see, the Republicans have now become "grass rooters", but they openly oppose the prevention of soil erosion; they do not favor protection of the soil, flood control, reforestation, or the proper use of marginal lands. They demand all this be stopped. If we Democrats keep the grass growing by

not letting the soil wash away—and by having fine grass—the roots will take care of themselves and we will walk into office on the greensward and our Republican brethren shall be swallowed up in clouds of dust and of locusts. Yea, verily, Of course, I speak of the Republican minority report; I do not know whether it represents the whole party or not. All Republicans, however, who believe in conservation, who prefer self-respecting work to a dole, and who think self-liquidating projects are better than money wasted are invited to vote for the bill and certain amendments that will be offered.

I will admit that the issue is power, but are we to go ahead and construct flood-control projects, navigation projects, and dams and let the water wash over and waste all that power? This would be nonsense; worse, to do so would be utterly criminal; we would be wasting the people's money. The reason this is a great program is because it has self-liquidating features, at least as to the power phase, and we can get some of our money back. They can call it any kind of "ism" they want to, they can rattle the bones of our ancestors and call on Thomas Jefferson, who would not recognize a lot of people who use his name in vain, but that is not the answer to our problem. When our forefathers came to this continent they had at their command illimitable natural resources. When they were robbed out of one place they went to another; and, of course, the migration has always been westward. What has happened in this country? Resources are now in the hands of a few people, a few corporations. For instance, in the little Tennessee River territory these resources are in the hands of the Aluminum Co. We do not propose to take away the rights of the Aluminum Co.; all we want, as I said before, is reasonable regulation and coordination for prevention of floods.

Yes; our resources are in the hands of these few people; but I believe the American people are entitled to the water and the land, and the strictly natural resources, if nothing else.

What is proposed to be accomplished by this bill? It is proposed to protect the interests of the American people in these six or seven States; to reduce electric rates; to preserve and fertilize their farms; to prevent floods—and this program will eventually be national, and is even now becoming a great national asset.

It proposes to set up a yardstick; it proposes really doing something of a definite and constructive nature for the American people. It is not like spending relief money and not getting anything back when you have spent it. This is something that is building up our country and something in which we ought to have pride. The money spent for and in the Tennessee Valley is for self-respecting, hard, honorable, constructive work.

Mr. Chairman, they talk about the constitutionality of this bill. I do not believe there is any doubt about the constitutionality of the bill at all. Its various functions have been pursued under the Constitution for generations in other endeavors. This is a proper function and duty of the American Government. The statement has been made that when this was first started it was an experiment. Of course; but it is not now. It is not itself an experiment, having already proved successful in its main objectives, although they are carrying on experiments down there all the time, just the same as General Motors or other great corporations, not for the profit of a certain group of individuals but for the benefit of all business men, farmers, chambers of commerce, organizations, and citizens of the United States of America. These are a few of the benefits of the T. V. A. Then, as I said before, it is a self-liquidating proposition. [Laughter.] Mr. Stenographer, put down in the RECORD there were three Republicans who laughed and thought that statement was funny—three friends of the special interests and the power companies, men who are so superficial as to yammer and giggle in the consideration of so serious a matter.

Mr. McLEAN. Will the gentleman yield?

Mr. MAVERICK. I have not the time to yield, and I do not want any of the gentleman's time.

Mr. McLEAN. Does not the gentleman think it is funny to think about this as being self-liquidating?

Mr. MAVERICK. Mr. Chairman, I did not yield to the gentleman, so I want to be given credit for an extra minute or two, but his question may be left in the RECORD. But, I think it serious, not humorous, and view my duty as such. It has been shown in long tables of figures that the power program will be self-liquidating and will give cheap and abundant power to millions of people.

Now, a slaughterhouse has sense enough to use the byproducts of a cow or bull. We ought to have sense enough to use the byproducts of water as it goes over a dam. I most respectfully suggest that Congress ought to have that much sense; we should observe, at least, the practices of butchers—save our byproducts—but let us not butcher our own program.

Permit me to say another thing. The statement has been made that this was started as a national-defense measure. I am not willing to go to war and kill off our young men just to prove that this is a matter of national defense. We have better use for our nitrates. Let us use them to fertilize the fields of peace instead of the fields of war with the bodies of our people. I think one of the best forms of national defense is to have a clean, decent, well-clothed, and well-educated group of human beings with plenty to eat living in this country. Then they have something to really fight for. This will constitute the best form of national defense; and if we have to go to war with any nation we will have a strong people to do the fighting, who in the meantime have preserved their natural resources.

Mr. McSWAIN. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. FORD of California. Will the gentleman yield?

Mr. MAVERICK. I yield to the gentleman from California.

Mr. FORD of California. The gentleman referred to the speech made by the gentleman from Missouri [Mr. SHORT]. I think his description of the rotten egg, which whether fried, scrambled, or boiled is still a rotten egg and smells to high heaven, was the best description of the Republican Party of which the gentleman is the sole representative from the great State of Missouri that has ever been uttered on this floor.

Mr. MAVERICK. I think his description of the Republican Party was very good. It is scrambled hopelessly and can never be unscrambled. Let us Democrats be progressive, look out for the rights of the people, and not get ourselves off the right track.

Before I close let me mention those cows and cash registers and typewriters and other things which the enemies of T. V. A. seek to magnify. Our critics look with horror on the purchase of a few cows at high prices. As I have said before, this is nothing but gnat-slapping, fly-swatting, and just ordinary tick-picking. This criticism is not worthy of men who understand the greatness of this project. It is an infinitesimal item as far as cost is concerned, but personally I do not see why the South should not proceed to raise the level of its herds, as has been done in Wisconsin and Minnesota. I am glad that the Wisconsin and Minnesota delegations are nearly all for this project, although they know it will improve the breed of cattle in the South.

My colleagues will not forget that T. V. A. was begun in June of 1933, when it had three employees and a gigantic job to handle. In less than 2 years it had 16,000 employees and had one dam three-fourths finished, a second dam half finished, and a third dam well begun. It had built a new fertilizer plant which has produced 35,000 tons of a brand-new kind of cheap phosphate fertilizer and had planted hundreds of thousands of trees, prevented soil erosion on thousands of acres of land. The American people demanded action and they got it. This is one governmental activity that is a 100-percent success. Here is one agency that has worked successfully, accomplishing substantial results, with more to follow, and how anyone can stand here and talk about cash registers and other picayune things, I cannot see. It is like bawling out a general who has won a great victory

against the enemy because some of his men do not have their buttons polished nor their hair combed according to rules and regulations.

There have been mistakes in the T. V. A., of course. Some mistakes of policy, a few errors here and there, but I am astonished by the fact of its high purpose and the few real errors that have been made in comparing it with ordinary business, especially some of the big ones; the comparison is very favorable.

Let us sum up a little the T. V. A. It is the greatest project in America, comparable to many others, but on the whole I believe the greatest. It will become, if we give it sympathetic consideration, self-liquidating and will hurt no individual and no business. It will help in national defense—I mean in peace as well as for the war that I hope will never come; it will provide a higher standard of living for the people of six or seven States directly, known as the "Tennessee Valley"—probably 6,000,000 people—and indirectly, by example, and directly later by similar projects, to all the people of the United States. It will improve the condition directly of 26,000,000 acres of farm lands; it will dam our rivers, save millions of dollars each year on flood control, and numberless human lives; have ordinary agricultural conservation of resources and fertilization of lands for better crops. It will provide cheap hydroelectric power, giving a return to the Government and some leisure to millions of overburdened people.

And the South will be proud of this great achievement—and the North will be proud, I think, of the South—and all the Nation—North, South, East, and West—will be proud of similar great projects; we will have national pride in our unified endeavor.

Why waste power when we can use it? I doubt if our platform suggested the wasting of power or if any such thing was ever suggested by Thomas Jefferson.

I have no idea what Thomas Jefferson said on hydroelectric power, for all the people knew of electricity in those days was a key sent to the sky by Benjamin Franklin; but I do know that Thomas Jefferson was in favor not only of technical scientific advance, but in favor of political scientific advance; that he always opposed monopolies, ignorance, intolerance, and greed; among other things, he favored great cooperative movements for proper farming and soil conservation. Again I have not the intuitive ability of some of my friends, and do not know exactly the mental reaction of Thomas Jefferson, for he is dead. I think he would like, however, to see this project and would like to stand on the highest dam of them all and explain what he meant by saying: "Those least governed are the best governed." For, undoubtedly, he meant, as he surely did, that if men had the resources to work with as they did then, and have not now, and as is possible under this bill for the return of the resources to the people, that few laws will be needed to regulate men's morals or keep them from committing crimes, because if they are working on dignified and honorable projects, such as this—and not on the dole, hopelessly watching their country wash away—that few laws will be necessary to regulate their lives.

Mr. RANSLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. PEARSON].

Mr. PEARSON. Mr. Chairman, we are to take up for consideration today the bill reported by the House Committee on Military Affairs pertaining to Tennessee Valley Authority. There is no matter of more importance to my district or as a matter of fact to the people of the United States than this Government agency and its welfare. For 6 months I have served as a member of this body and up to the present time out of deference to those whom I felt were better qualified to speak authoritatively on matters of public concern I have not undertaken to inject my personal views into the many illuminating and instructive debates which have taken place on the floor of the House. I call your attention to this in order that you may know that only a matter which is of impelling interest and importance to my people would cause me now to abandon my early resolve to serve my apprenticeship as a legislator as a good listener rather than one who might appear to be an ill advised or poorly informed debater.

I happen to represent a district that lies wholly within the trade area known as the Tennessee Valley. In fact the Tennessee River touches as many counties and affects as much, if not more, territory in my district than it does of any other Member of this Congress. The Tennessee River is the eastern boundary line of my district from the southern border of Kentucky to the northern boundary of Mississippi, across the full width of the State of Tennessee.

I know something of the history of this river and the Tennessee Valley, something of the hardships which the people who love that region and who have spent their lives there trying to earn a living have suffered, and I share with them the dream of hope which the creation of the Tennessee Valley Authority 2 years ago brought to them, and the fruition of which is not far distant if we can command a sympathetic ear from each of you who is in a position to assist in the completion and consummation of the ambitious program which lies ahead. Every Member of this Congress who is interested in the conservation, the utilization, and development of the natural water power in this Nation should be interested in the continuance of the Tennessee Valley Authority and in giving it unhampered and unrestricted power and authority to exploit and harness the hitherto sleeping potential power of Tennessee. It is blazing a trail and chartering a course for future conservation of the natural water powers of America, and every section of our Nation will some day enjoy the blessings and benefits which will naturally follow from such experimental activities.

It is a matter of considerable disappointment to me that the Committee on Military Affairs failed to take favorable action on what is known as the "Norris bill", or Senate bill 2357, calculated to clarify and define the rights, duties, and powers of the Authority and give it an opportunity to proceed with its work in an orderly way and to accomplish its ultimate objectives. I have no quarrel to invoke with or criticism of the members of that committee who were unwilling to support this bill. I think they are absolutely sincere in their position, but I am convinced that some of them are laboring under a misapprehension as to the aims and purposes of the Tennessee Valley Authority, and particularly as to the effect which its program will have on certain private industries.

I regretted very much that in the recent debate on the holding-company bill the opponents of the bill passed by the Senate to regulate holding companies in the utilities field, and which was sought to be substituted for the House bill, based their attack upon it on the assumption that the Government, in creating the T. V. A. and utilizing the water power of the Tennessee River, was proceeding in a manner inimicable to the welfare of privately owned power companies. This is in deed and in truth an erroneous assumption and, except to the extent that it will require power companies to deal honestly and fairly with those whom they serve, it is an argument without justification or foundation. I want to disabuse your minds, if I can, of the belief that the expansion of the program of the Tennessee Valley Authority is going to seriously injure private industry and eliminate at the outset from the consideration of the bill before us any such misleading argument.

We hope and expect to amend the bill now being considered so as to accomplish something for T. V. A. rather than "hamstring and hogtie" its activities, as is sought to be done by the bill brought out by the committee in lieu of the Norris or Senate bill. The only possible reason for not so amending it is the time-worn argument that the Government of the United States is, by reason of its sponsoring T. V. A., strangling and impeding private industry, namely, the power companies. I say to you unhesitatingly and unequivocally that this is not true, and my statement is based upon facts, not upon hearsay, rumor, or biased opinion.

In the first place, the Authority is dealing fairly with all competitive companies affected by its program and in no instance has it taken advantage of a single company, either in the matter of fair rates or in negotiations for privately

owned properties. The fact is that the principle of reasonable rates for electric energy, which T. V. A. as the trustee of the people in the sale of the public property placed in its hands, has and is insisting upon, has proved to be beneficial to the privately owned power companies as well as their consumer customers. This is not a theory; it is a result. I cite one concrete example. One of the largest power companies doing business in the Tennessee Valley is the Tennessee Electric Power Co. Of all the companies one might mention I think it is the one affected the most by the program of T. V. A. If this program is destructive or its policies ruinous, this company should and would be the first to realize it. In January 1934 this company entered into a contract with the Authority which provided, among other things, that the company would reduce its rates for electric energy approximately 20 percent. At that time this reduction was thought to be unfair and unjust and the company was loath to make such an agreement. The results were amazing. During the year beginning May 1934 and ending May 1935 this same company became known as the leading utility company in the entire country in the opinion of men who understood the business of the utility. During the spring of 1935 the Edison Electric Institute awarded this company the medal for the finest record made in the United States during that year's operation.

Practically the entire loss in its revenues accruing as a result of the reduction of its rates was recovered during this one year. The net result of the reduction was an unprecedented increase in the consumption of power and an increase in the use of electrical equipment. It is estimated that more electrical equipment was installed by its customers than those of any other company in the history of the country in a similar period of time. The consumers of that company accepted the reduction in the usual and expected way. There was an increase of 200 kilowatt-hours per year per customer, as compared with an average increase per customer throughout the industry of about 35 kilowatt-hours per year. And so in the language of one of the directors of T. V. A.:

> Here again in the case of a private utility you have the same principle of the T. V. A. yardstick at work, and while the rates of the company are not as low as the T. V. A. rates, you have in a considerable measure the same kind of benefits—benefits to consumers in greatly increased use of electricity and electric equipment; benefits in the stimulation of industry in a remarkable demand for those durable goods; and, finally, benefit to the utility in maintaining its gross revenues and broadening the base of its business by developing greater use by a greater number of consumers.
>
> The time has come when the controversy about electric rates should cease on the ground of theory. The test of the T. V. A. principle is a test of results. And the results prove that the T. V. A. plan works.

Now, Mr. Chairman, the T. V. A. has been in existence a little over 2 years and it has reached a crucial point in its history. The attitude of this Congress may determine the success or failure of its efforts, and I wish I had Paul's power of persuasion in presenting the merits of the case to the membership of the House to the end that they might see the situation as I do.

The Authority was created for the fourfold purpose of promoting the national defense, agricultural and industrial development, improved navigation of the Tennessee River, and control of the destructive flood waters of the Tennessee and Mississippi Basin. The value of its work in matters of national defense can only be determined when the unhappy occasion arises. I think, then, its usefulness in this respect will justify its existence, although I sincerely hope its psychological effect will prove more useful in preventing a war than its aid in winning one. It is already proving its worth in aiding agricultural and industrial development, and if permitted to proceed uninterrupted in its great human program the Tennessee River will be open to full navigation for the benefit of all of the Middle and South Atlantic States and the perennial menace of overflows, dealing death and destruction, will be a thing which the present and future generations may be permitted to forget.

The time is not far distant when it is going to be the means of the rural electrification of all the countryside in the valley. Already it is bringing relief to many in this respect. Let me tell you of just one instance. Down in one small county on the river there are many farms within calling distance of Wilson Dam and throughout the years the water has gone over the dam while the occupants of these farms lived by the light of coal-oil lamps or in darkness and faced every day the many unpleasant drudgeries of farm life, not knowing that a few miles away was being wasted every 24 hours enough power to bring to them many of the luxuries of life if it were utilized. In all the valley 2 percent of farms have electricity and in all United States only 10 percent have it. The T. V. A. sought to aid them. They sent out 185 questionnaires to as many farmers and received 185 answers. These answers were from dirt farmers, not city dwellers farming by proxy—just ordinary farmers. Their desire for aid brought electric lines to them. Out of this group 148 today are using electric irons, 142 radios, 34 electric refrigerators, 26 water pumps, 13 electric stoves, 76 water heaters. They wired their homes, installed plumbing, grist mills, tool grinders, and so forth. In short they have been enabled to better their conditions, and to make of their homes no matter how humble veritable palaces of happiness and pleasure. We have waited ever since Franklin flew his kite for private dispensers to make it possible for people far removed from larger centers to enjoy these comforts. It finally remained for this Government through T. V. A. to do the job.

The authority of T. V. A. to complete this task has been challenged by a recent decision of a United States district judge of Alabama. Its future in view of this decision hangs in the balance and in order to protect the investment of $50,000,000 already made to meet the decision and give it powers which the original act creating it did not expressly give, I appeal to every Member of this House who has a sympathetic interest in the farmers of America, a kindred feeling for suffering victims of the uncontrollable overflows of our great rivers, and for the millions who are looking to us to see to it that they be permitted to enjoy the comforts which can only be found in the use of electrical current and equipment at reasonable rates to help us in adopting the provisions of the Norris bill and defeating the bill as written and reported by the House Committee on Military Affairs. The bill in its present form will make matters worse than if we enact no bill at all. [Applause.]

Mr. McSWAIN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. MERRITT], a member of the committee.

Mr. RANSLEY. Mr. Chairman, I yield the gentleman from New York 5 minutes.

Mr. MERRITT of New York. Mr. Chairman, I happen to be one of the 13 Members who voted a favorable report on this bill under the able guidance of our distinguished chairman, and I wish to take this opportunity of saying it has been a pleasure for me to serve on this committee under such a fine gentleman as my colleague from South Carolina [Mr. McSWAIN]. [Applause.]

I may say, Mr. Chairman, I do not own any public utility stocks. However, I am interested in this bill to the extent that there are some amendments that should be inserted in the bill in order to make it the kind of Tennessee Valley Authority we expect it to be. One amendment in particular is one that will finally put the Tennessee Valley Authority under the jurisdiction of the General Accounting Office. I sincerely trust that when the proper time comes an amendment will be offered to strike out "1936" in line 16, on page 12, and insert "1938."

My experience before coming to Congress proves to me that putting this under the jurisdiction of the General Accounting Office would certainly tie up the things we are trying to do for the benefit of everyone in this country of ours. If you had to replace a $12 shovel it would be necessary to get three bids, submit them to Washington and send them back with a bid that would be acceptable to the Au-

thority and to the administration here. This in itself would certainly mean a loss of time.

I sincerely hope that the committee will give this matter very serious thought, to the end that this great project may be carried out to its finest fulfillment.

I am sorry I must disagree with a member of the committee, the gentleman from Missouri, in regard to national defense and, Mr. Chairman, for fear that some member of the committee may prevent me from reading something I ask unanimous consent to read an extract from the hearings held before the Military Affairs Committee during its consideration of this Tennessee Valley Authority measure.

The CHAIRMAN (Mr. CLARK of North Carolina). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MERRITT of New York. This statement was made by Dr. Morgan, of the Tennessee Valley Authority, at the time I asked him something about national defense. I think national defense is of the utmost importance in connection with the Tennessee Valley, and I am quoting from Dr. Morgan's testimony:

Dr. MORGAN. There are several respects in which the work of the Tennessee Valley Authority corresponds or is in line with work for national defense.

Nitrate plant no. 2 was a war-constructed and war-developed proposition. We are now, as directed in the act, keeping that in stand-by condition, so that it can be used at any time.

We are developing phosphates. Phosphates are a staple war material, and there is this about phosphates, about fertilizer feeds used generally, that farming can go without them for a few years; that is, it is a kind of production that can be stopped for domestic use at any time and put to other use, and we are developing two methods of phosphate production, especially with this in view, that the phosphate fields of that area have a relatively small amount of high-grade phosphate and a relatively large amount of low-grade phosphate that is generally destroyed in the process of production, or ignored.

We are working out methods of producing phosphorus from those low-grade phosphate rocks. There is at least 10 times as much of this low-grade phosphate as there is of the high grade, and if we work out that method we will very greatly increase the phosphate resources of that region, and for whatever use they are to be put to, and, as I say, phosphorus is a thing that you could take out of domestic use entirely for a year or two without any calamity. There would be a gradual deterioration of farm values, however.

Now, we are also exploring that region for new phosphate beds, and we have found phosphate deposits that require different treatment from the standard class, and we are working at the character of that and at the chemical processes necessary to develop them.

Then we are making a study of the mineral resources of that region, that will make us less dependent upon other nations. About 90 percent of the manganese used in this country comes from abroad. Manganese is as essential in steel construction almost as iron itself, and yet we get 90 percent of our manganese from other countries, from Russia and Brazil.

We have in this region some hundreds of deposits, 300 or 400 deposits of manganese. During the war they were operated to some extent, but few of them were known.

Our geologists are going over that country and locating these deposits, and making a study of their character and of how to reduce those manganese ores.

We think that some of them we can use under even present competitive conditions, and produce manganese from them, but a large number of them are scarcely on a level, when you consider economy of production, with those that we can get from the outside, but we are locating the deposits, and we are developing the power with which those deposits can be reduced to manganese, and we have got the whole set-up working today, so that if at any time the manganese supply should be cut off from the United States, we could quickly open up these deposits and make the United States nearly independent of other regions in the matter of manganese.

[Applause.]

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I yield 10 minutes to the gentleman from Tennessee [Mr. McREYNOLDS].

Mr. McREYNOLDS. Mr. Chairman and members of the Committee, I appreciate very much the time the gentleman from South Carolina has given me in this discussion. I did not want to take any time from the members of the Committee, but for the moment they seem not to be present. There is no one more interested in this great project than I am, and also the members of the delegation from Tennessee.

There are three men from our State who have not had the opportunity to participate in the general debate, and I speak for them; that is, our worthy Speaker [applause], the gentleman who sits in front of me [Mr. CHANDLER], and also the Honorable JERE COOPER.

I am surprised that men in this debate especially opposed to this proposition have shown the feeling that they have, and especially those on the Republican side.

I was surprised at my good friend from Kentucky [Mr. MAY] on yesterday. I say my good friend, and I am his friend. I told him today that he got so hot that he was really impudent to us. I do not know what stirred him up so much, except what he said here on the floor the other day, and that was that it might spoil the coal interests in his district.

Mr. MAY. Will the gentleman yield?

Mr. McREYNOLDS. I yield to the gentleman.

Mr. MAY. I want to say that anything my friend the gentleman from Tennessee says, or anything that may occur will never mar my friendship, love, and respect for the gentleman from Tennessee.

I would like to say this: I am not opposed to the development of the Tennessee River for the constitutional functions of the Federal Government. I am still for that, and I want to see it navigable from the head to the mouth.

Mr. McREYNOLDS. I appreciate very much what the gentleman says and assure him that I have the same feeling for him. But the gentleman is afraid that it will spoil the coal interests in his district.

Mr. MAY. I am. Every time you produce 10 kilowatts of electricity you put out of business two coal men.

Mr. McREYNOLDS. I am not alarmed about the coal business; neither is the gentleman from Tennessee [Mr. TAYLOR]. We represent districts that have more coal mines than any other districts in the State of Tennessee.

This is an administration measure, and had it not been for the administration your coal mines, in my opinion, would have been closed today [applause] and your miners would have been on the relief rolls.

I rather think that these are selfish interests. It is that spirit that says, "I want my people especially protected, but I do not want yours aided."

My friend from Kentucky reminds me of the old man who got down to pray, and he said, "O Lord, bless me and my wife, my son John and his wife, us four, and no more." [Laughter.]

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. McREYNOLDS. I am sorry, but I have not the time. Mr. Chairman, this is in rather a peculiar situation. No one has fought harder for the development of the Tennessee River and this legislation than the chairman of this committee [Mr. McSWAIN], and I appreciate it. I have followed this for years. This is not the bill that the chairman wanted, but he brought this out because he had a tie-up in his committee, and he felt it proper that he should stand by the bill as it was reported out; but, remember, the greater number of Democrats on that committee are standing by the amendments that will be offered by the gentleman from Alabama [Mr. HILL], if I am not improperly advised, and I appeal to you Democrats to stand by those amendments when they are offered.

I am sorry to see partisanship enter into this, but it has always been so ever since we have been trying to get Muscle Shoals disposed of and the Norris Dam disposed of. It was opposed by the Republican side, and I see my friend from New Jersey [Mr. McLEAN] sitting back there. A few days ago I came on the floor just as I heard him say that the gentleman from Tennessee [Mr. McREYNOLDS] looked up his record in Martindale, and tried to hold him up to ridicule in this House by handing it to the gentleman from Mississippi [Mr. DUNN]. I do not know that it is ridicule to ask a gentleman on the floor about an advertisement that he has as a lawyer placed in Martindale, and, my dear sir, it was not done for that purpose. I did not know the gentleman's background.

I was entitled to know his background. As a good lawyer, whenever he has an adverse witness before him, always makes inquiry as to who the witness is, his mode of living, and so forth, and the gentleman's action before this House that day, when he was confronted by the gentleman from Mississippi [Mr. DUNN], was rather embarrassing to the rest of us, because we meant no reflection then upon him. But the gentleman stated that he was a lawyer for public utilities and that is no reflection upon him as a lawyer.

Mr. McLEAN. Mr. Chairman, I submit that the gentleman from Tennessee is not addressing himself to the question before the House, and I make the point of order.

Mr. McREYNOLDS. I am addressing my remarks clearly to what the gentleman said the other day.

The CHAIRMAN. The gentleman from Tennessee will proceed in order.

Mr. McREYNOLDS. I shall be just as much in order as I know how, and I believe I know how, but I want to carry that a little further. I say now that I mean no reflection and I meant no reflection then, but do you not need to know the basis of a man's thinking?

Mr. McLEAN. Mr. Chairman, I make the point of order that the gentleman from Tennessee is not addressing himself to the matter before the House.

The CHAIRMAN. The rule is that the speaker must confine himself to the bill, and not indulge in personalities.

Mr. McREYNOLDS. The question in this House is whether or not you are for public utilities or against them. Take those who speak for public utilities. We consider the basis of their thinking.

Mr. ANDREWS of New York. Mr. Chairman, will the gentleman yield?

Mr. McREYNOLDS. Yes.

Mr. ANDREWS of New York. A few moments ago I understood the gentleman from Tennessee to intimate that the chairman of the committee [Mr. McSWAIN] is not in favor of the bill which the committee has reported.

Mr. McREYNOLDS. I did not say that. I said this, and I say it frankly. If the gentleman from South Carolina had been able to bring out the bill he is in favor of, it would not have been this bill.

Mr. ANDREWS of New York. I might add that the bill which we have before us today was originally written by three members of the committee, all of whom are Democrats. To be sure there were some amendments——

Mr. McREYNOLDS. Oh, the gentleman must not take up my time.

Mr. McSWAIN. Mr. Chairman, will the gentleman yield?

Mr. McREYNOLDS. Yes.

Mr. McSWAIN. I think it would be better for all parties to let the chairman of the committee speak for himself.

Mr. McREYNOLDS. I am sure that is so, but I am sure that I have not misrepresented the chairman.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. McSWAIN. I yield the gentleman 3 minutes more.

Mr. McREYNOLDS. Mr. Chairman, there is no reason for partisanship in this. I voted for dams and for canals all over the United States, and gentlemen here know it. This is a great development of the South, not only because it carries the name of the Tennessee Valley, but six States are directly interested. It is not a local project, it is national, and the men who run that Commission are not local, and the men who are employed in the offices as auditors and comptrollers come from every State practically in the Union. I happen to know the assistant comptroller comes from Washington.

This is the President's dream. It is the dream of the Southland, and I appeal to you as Members of this Congress to put these amendments that I have referred to into the bill and not hogtie us, which you will if you adopt the bill which has been brought out. I appeal to you, my friends. I appreciate, and we from the Tennessee Valley and from the Southland appreciate the situation; and I appeal to you who are interested in the development of the Nation, because you all know the development of one section with transportation and means of communication means the progress and the good of the whole Nation. I thank God that I have no sectional feeling in my heart for any part of the country. I am for my country, and I stand behind our President, Franklin D. Roosevelt, in a desire to make it what it should be. [Applause.]

Mr. RANSLEY. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Chairman, ladies and gentlemen of the Committee, as stated the other day, I have never in my life represented any utility company as its lawyer or agent. I have never owned any stocks and securities in any utility company.

I favor the locking and damming of the rivers of this country where feasible and necessary to provide for the Nation's defense, for flood control and the development of power, but with due regard to the necessity, feasibility, and economic value of the undertaking. I am opposed to the Federal Government's owning and operating utilities. When I entered Congress in 1919 we were urged to vote $50,000,000 to finish the great dams and power plant at Muscle Shoals. The Government had spent approximately $100,000,000 to develop the dams and power plant at Muscle Shoals. Its purpose was to make explosives and help win the World War, but the war ended without Muscle Shoals contributing any help whatever. When I came to Congress we were told that if we would appropriate $50,000,000 a great fertilizer plant would be erected and operated at Muscle Shoals, and this would provide cheap fertilizer to the farmers of the Nation. It was pointed out that the farmers were being oppressed by the great fertilizer concerns. This $50,000,000 was appropriated, Muscle Shoals completed, but up to this time it has not made and furnished a single pound of fertilizer. That additional $50,000,000 was secured because it had the backing of the various farm organizations of the country. About that time Henry Ford came along and suggested that if we would turn over to him Muscle Shoals he would pay us $5,000,000 for the investment, and if the Government would loan him the $50,000,000 necessary to complete Muscle Shoals he would pay it back in 50 or 100 years and pay interest at the rate of some 2 or 3 percent. Our friends in the South, who are now whooping it up for T. V. A., thought they had found a "mare's egg." We voted some 2 or 3 times in the House to let Henry Ford have it. He finally backed out, and the Government has had an investment of $150,000,000 in Muscle Shoals. It has produced a little power but no fertilizer. It has been the great "white elephant" of this Government.

T. V. A.

Mr. Roosevelt was elected President, and in 1933 a movement was put on foot to create the Tennessee Valley Authority—T. V. A. It was to construct some dams at Norris, Tenn., and other places, and make a hook-up with Muscle Shoals, produce fertilizer, protect soil from erosion, aid navigation and the national defense, and the T. V. A., one of these big, overgrown bureaus, set in, and they have already spent $121,000,000. I am not objecting to the building of the dams and the improvement of navigation and the aid, if any, to the national defense, but this T. V. A. is going beyond the authority granted to it; it has gone into the poultry business—paid $500 for a rooster. I do not know of any rooster anywhere that would be worth $500 unless it is the Democratic rooster. [Applause.] It paid $1,500 for a jack, and sold the jack for $500. It bought 25 head of milk cows and paid on an average of more than $350 per head. It built a park and spent about a million dollars of the taxpayers' money. It has built a lot of tourist cabins at a cost of about $5,000 apiece to rent to tourists. It has built a city costing $3,500,000. It has constructed a number of big, fine highways costing millions of dollars. When these dams are once constructed there is no need of a city of brick and stone, there is no need of this great number of highways leading to this dam. I am advised that 20 men will be able to take care of the dam, yet they built a city that will take care of several thousand people. Congress has no authority to delegate the power to anyone to engage in the poultry,

the dairy, tourist camps, and other like businesses, and to be paid out of the pockets of the taxpayers of this country. The T. V. A. ought to be confined to its legitimate and legal purposes.

President Roosevelt favors the Senate bill. The Senate bill turns this crowd loose to squander and waste the people's money on almost any sort of whim that may enter the "brain truster's" head. The House bill before us puts some strings on T. V. A. It is said that the T. V. A. is to be a yardstick to find out what it costs to produce electricity. The House bill requires this T. V. A. to keep books subject to the Federal Accounting Office so that if we are going to try to find out what it costs we will know what it does cost the Government to produce electricity, and it forces this T. V. A. to confine its activities to building dams and not engaging in the poultry and dairy business or in the sale of electricity. Private industry can carry on the poultry, dairy, and electric power business. Fifty years of experience shows that light, heat, and power, on the average, in municipal and Government plants costs consumers 15 percent more than in private plants; and the taxes are 50 cents higher on the average in cities and towns with municipal plants than they are in towns with private plants. I have never seen any business yet owned and operated by the Government that did not cost more and was less efficient than where it is privately owned. Furthermore, you cannot keep politics out of anything that the Government owns or controls.

Some of you speak in rather a scornful manner about my distinguished colleague and friend from Kentucky [Mr. MAY]. Mark my word, before 1937 there will be a lot of you Democrats in this country who will wish that the man in the White House and the Hopkinses and the Tugwells and the Wallaces had stuck to the old-time Democratic policies and had stuck to the Constitution, as has the gentleman from Kentucky [Mr. MAY]. [Applause.] I commend his courage and resolution. [Applause.]

What is this for? According to the information I have received, it is this T. V. A. Bureau running wild. They paid $500 for a rooster. [Laughter.] A rooster! What kind of rooster did they get?

Mr. MAY. That was not even a Democratic rooster.

Mr. ROBSION of Kentucky. As the gentleman from Kentucky says, it was not even a Democratic rooster. This is the only rooster I know of that is worth $500. [Laughter and applause.] Fifteen hundred dollars for a jack, and then they sold it for $500. Three hundred and sixty dollars or more for milk cows! My God, where is the Democratic Party going? It is putting the Government into the poultry business and the dairy business. That is not a proper matter of Federal Government. The production and sale of light and power is not a governmental function, unless you want your rooster and jack to carry tail lights and front lights. [Laughter.]

Mr. LESINSKI. Will the gentleman yield?

Mr. ROBSION of Kentucky. Not now. I have only a short time?

Mr. MAY. Will the gentleman yield?

Mr. ROBSION of Kentucky. I yield.

Mr. MAY. Mr. Morgan testified that this institution, T. V. A., was to run for a hundred years or more. One of the amendments to be offered is in the matter of finances so that books may be kept. What does the gentleman think about that?

Mr. ROBSION of Kentucky. I understand that certain administration leaders are fighting the proposition of keeping books on this concern. Their attitude cannot be defended. Furthermore, if T. V. A. is to be used as a yardstick, every item of cost should be charged.

Mr. SCHULTE. Who is going to beat Roosevelt—Hoover?

Mr. ROBSION of Kentucky. There will be plenty of people to beat him. He came in with a landslide and will go out with a landslide.

IT WILL GREATLY INJURE THE MINING INDUSTRY

The soft-coal industry of Alabama, Tennessee, Kentucky, and Virginia is now and has been for a long time in a bad way. For the past year this country used over 100,000,000 tons of coal less per year than it did for a like period of time a few years ago. On April 1, 1935, there were 25,000 more unemployed miners in this country than there were on April 1, 1934. The proposed expansion of T. V. A. is a real threat to the miners and mining industry. While the T. V. A. plants are being constructed it will provide jobs for two or three thousand people. After it is completed it will provide jobs for a very small number of people, certaintly not more than 50, unless the Government is going into the power business on a large scale and runs the power plants in the cities and towns and provides power for industry and commerce. The T. V. A. will destroy scores of coal mines in southeastern Kentucky alone. It will throw out of employment many more of the coal miners in southeastern Kentucky. At the same time the Government will force the private industries to pay their taxes, and such taxes to cover the wasteful extravagances of T. V. A. It will not aid recovery but will retard recovery. It will not cut out unemployment but will add thereto. It will not reduce the burden of government to the people but will increase those burdens; therefore, why should we continue to pour untold millions into this proposition to run poultry farms, dairy farms, tourist camps, and engage in the production or sale of power in violation of the Constitution?

SURPLUS POWER

I wish to commend the very able and courageous speech made by my friend and colleague from Kentucky [Mr. MAY]. He declares that this T. V. A. crowd is following socialistic, paternalistic, and communistic policies. He states that we are violating the Constitution, the Democratic platform in 1932, and the time-honored principles of Jefferson, Jackson, and the Democratic Party. You Democrats may not heed the warning of Mr. MAY and other Democrats now, but the time will come when you will appreciate his and their warnings. Mr. MAY stated on yesterday that T. V. A. as carried on was making against business recovery, and would add to the unemployment of this country. I agree entirely with him. There might be some justification for the administration to enter into the ownership and operation of the power, heat, and light industries in the T. V. A. territory if private concerns in that section were not already equipped to produce not only all of the power that can be sold or used but produce a surplus of more than 38 percent according to report of War Department engineers.

I was opposed to the President's utility bill in which he demanded the death penalty without a trial to put out of business scores and scores of utility concerns and destroy the stocks and securities of millions of American investors. Private utility properties in the T. V. A. section are valued at $600,000,000. I might say that some of these utility plants are owned by the cities and towns. These plants have been helping to carry the burden of Government by paying taxes to the city, district, county, State and Nation. If we turn this T. V. A. into the Treasury of the United States and continue its dictatorial power, one thing and only one thing could result and that is that it will destroy municipal and private utility concerns in that section, together with the power lines passing through that country.

I am strong for the necessary and proper regulation of utilities and power concerns, but we do not have the right to destroy them. When we destroy these power plants we do not merely hit the big fellows in the utility power business but we are hitting hundreds of thousands of little fellows in that section who are the owners of stocks and bonds of these various utility concerns, and we practically destroy the municipal plants that people in various communities and towns have established and built up by their taxes. If the great mouth of this T. V. A. shall continue to swallow up the taxes contributed by private concerns and private citizens of this country, the T. V. A. and its policies will break down and destroy property values and industry. They will engender fear and break down confidence and thereby retard recovery. It will not only knock thousands of people out of employment in that section but this action will so discourage business as to add greatly to the relief rolls throughout this country. The T. V. A. is overriding county,

city, and State authorities. It is a real threat to the freedom of the people and to labor and industry throughout the Nation.

I certainly oppose the unlimited authority and funds granted by the President's bill to the T. V. A. The House bill before us is much less objectionable. We have already spent approximately $275,000,000 in the Tennessee Valley, and by the time all of the obligations imposed on the Government by this T. V. A. Bureau are discharged, it will have cost the American taxpayers far above $300,000,000. If we had a lot of surplus money in the Treasury, there might be some excuse for this waste and extravagance, but we must bear in mind that this is borrowed money that we are wasting and squandering.

President Roosevelt and his administration have already created a deficit of over $9,000,000,000, and the appropriations made for this his third year, and estimating the revenues, it shows that there will be a deficit for this fiscal year of approximately $4,500,000,000. As this will not promote recovery but will retard it, as it will not provide more jobs but will add to unemployment, as it will not build up industry but destroy many industries, and as it violates both the spirit and letter of the Constitution, I shall cast my vote against giving this T. V. A. further authority and the right to issue $50,000,000 more in bonds with the pledge of this Government behind the bonds.

Muscle Shoals was spoken of as the great "white elephant." We have now two or more great white elephants in the Tennessee Valley, and I am unwilling to create another one out of the pockets of the taxpayers of this country.

ROOSEVELT WILL BE DEFEATED IN 1936

I make bold to predict that Mr. Roosevelt cannot and will not be elected in 1936. He has destroyed his chances of being reelected by repudiating his platform and the promises he made to the people in 1932. He has abandoned the time-honored principles and policies of the Democratic Party and is giving his active support to the socialistic, paternalistic, and in some instances communistic policies of the Hopkinses, Tugwells, Wallaces, and so forth. When have you heard Mr. Hopkins, Mr. Tugwell, Mr. Wallace, or Mr. Ickes speak of the "Democratic Party"? To find out your political status, you are inquired of whether you are for or against the new deal.

BROKEN PLEDGES, WANTON AND RECKLESS EXTRAVAGANCE

The Democrat platform and Mr. Roosevelt declared in 1932 that we must eliminate the bureaus and commissions that had been built up in Washington. Now, let us suppose he had told the people that when elected he would create inside of 2 years more bureaus and commissions than had been created from George Washington down to Franklin D. Roosevelt; bureaus that have regimented and put into a strait-jacket agriculture, industry, and labor. The Democrat platform declared and Mr. Roosevelt promised to reduce the cost of government at least 25 percent. Now, suppose he had told the American people, "If you elect me, I pledge myself not to cut down the cost of government, but to increase it as no other President has in all the history of our country." Suppose he had said "Our country has expended in the 124 years from Washington's administration to the first year of Woodrow Wilson's, to carry on all the expenses of our Government, to carry on all of our wars, including the great Civil War, maintain our Army and Navy, and provide care and pensions for our defenders, their widows, and orphans, a little more than $24,000,000,000; but you elect me President and I will spend more than $24,000,000,000 during the first 3 years of my term of office and I will create various other Government corporations and Federal agencies and give them authority and cause them to issue many billions of dollars of bonds and put the credit of the United States Government behind them, sell the bonds and spend the money, and let the Government take care of any losses that might be sustained."

Mr. Roosevelt declared in his speech at Pittsburgh on October 19, 1932, that—

> Taxes are paid in the sweat of every man who labors, because they are a burden on production and can be paid only by production. If excessive, they are reflected in idle factories, tax-sold farms, and, hence, in hordes of the hungry tramping the streets and seeking jobs in vain. Our workers may never see a tax bill, but they pay in deductions from wages, in the cost of what they buy or (as now) in broad cessation of employment. * * * Our people and our business cannot carry its excessive burdens of taxes.

Suppose he had said, instead of that statement, "If you elect me, I am going to impose heavy taxes on all character of beer, wines, and other liquors; I will add more than $600,000,000 annually for nuisance taxes on gasoline, automobiles, and so forth; and early in the third year of my term it is my intention to soak the so-called 'thrifty' as well as the little man."

Suppose he had said, "If you elect me, I am going to place a processing tax on wheat of 30 cents per bushel, which, with other taxes, represent at least 25 cents in Government taxes on every sack of flour, and will place heavy processing taxes on meat and other food and clothing, and in that way I am going to make pork chops 40 cents or more, lamb chops 50 cents, beefsteak in proportion, flour, meal, other foods, and clothing increase in price all the way from 25 percent to 100 percent."

He stated in 1932 that our Nation must quit going in debt and quit increasing the deficit because in the end this meant bankruptcy and ruin to our country. But suppose he had told the American people, "If you elect me President, inside of 2 years and 4 months of my administration I will increase the deficit by more than $9,000,000,000 and for the third year of my term I will create an additional deficit of more than $4,500,000,000, and for my term of office of 4 years I will pile up a deficit on the backs of the American people of approximately $19,000,000,000"; and suppose he had said further, "You good Americans do not know anything about a big national debt—if you elect me President, I am going to push it up by leaps and bounds so that by the end of the first 3 years of my term I will show you a national debt of approximately $35,000,000,000. Yes; in 3 years I will increase the national debt approximately $15,000,000,000, and this will be $10,000,000,000 more than at the close of the World War. In addition to this, if you will elect me President, I will have issued some six to ten billions of dollars' worth of bonds of corporations which I intend to have formed. I intend to have these bonds sold and have the bureaus and commissions to spend and squander and waste this money, but at the same time I intend to place the credit of the Government directly behind them."

The President said in his speeches in 1932 that it was foolish to talk about cutting down production, destroying the products of the farm or factories, but suppose he had said to the American people, "If you will elect me President, I propose to burn, destroy, and kill approximately 7,000,000 pigs and hogs—1,500,000 of these still unborn—I will kill the mother sows and at the same time destroy 1,500,000 unborn pigs. I am going to run up the price of pork chops, lamb chops, and other meats. I will plow up and destroy 10,000,000 acres of cotton. I will destroy millions of acres of corn and wheat. I will tax the people and spend hundreds of millions of dollars to take 41,000,000 acres of productive land out of production and will spend other hundreds of millions of dollars for reclamation and irrigation projects to bring hundreds of millions of acres of unproductive land into production. Although we are going to have millions of people out of work, 21,000,000 Americans on relief, hungry and shivering with cold, I propose, if elected, to make food and clothing the scarcest they have been in this country for more than 40 years."

The President said in 1932 that if we expect to maintain this country free we must maintain the rights of the States, but suppose he had said, "Elect me and by reason of the depression and the distress of the people I will demand for myself autocratic and dictatorial powers. I will wipe out State lines and county lines. I will condemn the Constitution. I will look with scorn and suspicion upon the Supreme Court that protects the rights of the people of the States, the villages, towns, and cities. I will proclaim to the world that the Constitution and the Supreme Court belong to the "horse

and buggy age", and I will do my best to keep them from interfering with the autocratic rules, regulations, and procedure of myself and my bureaus and commissions that I will establish."

He declared in 1932 that the Government should not enter private business in competition with its citizens and should not enter private business except for reasonable and necessary regulation. Suppose he had told the American people in 1932, "If you elect me President I will take the taxpayers' money and put the Government in direct competition with practically every business and enterprise in this country. I will do my best to force bills through Congress that will destroy many industries and destroy the stocks and securities of millions of American investors."

Mr. Roosevelt, in 1932, promised that he would bring about the recovery of business, and unemployment would become a thing of the past. Suppose he had informed the American people, "If you elect me President I will put into effect policies that will break down confidence and will destroy private enterprise, so that on April 1, 1935, at the end of 2 years of my administration, there will be 305,000 more people unemployed than there were on April 1, 1934. I will increase the relief rolls so that at the end of 2 years and 4 months of my administration there will be approximately 21,000,000 people on relief; there will be 3,000,000 more idle spindles in the textile industry on May 1, 1935, than there were on May 1, 1934; in June 1935 the loaded cars will be 55,000 less than they were in the corresponding period in 1934, and 41,000 less than they were in the corresponding period in 1933; our foreign commerce, both exports and imports, will grow less and less, so that on July 1, 1935, I will show you that with the so-called 'reciprocal trade treaties' with foreign countries there will be more goods and products brought into this country from foreign countries than we are sending out.

"In other words, our imports will exceed our exports and the balance of trade will be against the United States; and I will show you that by these reciprocal trade treaties, while we are destroying corn and paying farmers not to produce corn, wheat, and hogs in the United States, for the first time in the history of our country cargo after cargo of corn will be shipped into this country from Rumania and middle Europe, and more than 20,000,000 bushels of wheat in less than 1 year from the Argentine in South America; and butter, cheese, cement, matches, and hundreds of other products from Norway, Denmark, Sweden, and Switzerland; and textile products from Japan. Yes, I will push through Congress a measure taxing the American people to pay for the destruction of 10,000,000 acres of cotton and to pay millions of dollars for cotton farmers not to raise cotton, and I will cut down our export of cotton for 10 months in 1934 after the processing tax goes on more than 3,000,000 bales. Yes; I will cut down the export of American cotton by more than 3,000,000 bales of cotton, and by this process I can put 500,000 cotton farmers in the South on relief; and then I will get behind the so-called "Bankhead Act" to put the Government behind a billion-dollar proposition to buy farms for these 500,000 who have been put out of business by my processing tax. Yes; in May 1935 the earnings of 50 first-class railroads in the United States will show a decrease, steel output will be on the decline, coal will be on the decline, and I will give business and industry to understand that every time they stick their heads up I am going to swat it with a big stick. I will instill in this country, group and class hatred. I will swat the poor with processing taxes and the high cost of living, and in the beginning of the third year of my term I shall swat the poor and the rich with increased taxes."

Mr. Roosevelt declared in 1932 that he was going to give fair treatment to the veterans and their dependents. In my opinion, 90 percent of the veterans voted for Mr. Roosevelt. But what if he had said to the American veterans, "If you elect me I propose to crowd through Congress the obnoxious and cruel so-called 'Economy Act' and take away the pensions of hundreds of thousands of disabled veterans and the widows and orphans of veterans and force tens of thousands of disabled and needy veterans from the soldiers' and sailors' hospitals of this country. Yes; I will spend millions of dollars for hobo hotels, I will squander and waste billions on the socialistic, paternalistic plans of the Tugwells, and so forth, but I will fight to the last ditch any attempt to pay the soldiers' adjusted-service certificates, an admitted and fixed just obligation of the Government. While they rendered the service in 1917 and 1918, I will make them wait until 1945 to get this partial pay for their service to their country."

We have pointed out what Mr. Roosevelt and the Democrat platform stood for in 1932, on which he urged the American people to elect him President. These have been abandoned, and he has followed the course we have enumerated with the result as pointed out. Roosevelt could not possibly have been elected in 1932 had he given the American people the slightest intimation that he proposed to carry out the policies and do the things that he has undertaken during his term of office.

He cannot and will not be elected President in 1936. He will have to answer to the American people for these broken pledges and for embarking upon a course that has destroyed confidence, created bitterness and discord, group and class hatred; he has destroyed self-reliance, placed a premium on waste, extravagance, and indolence; unemployment has increased, our foreign commerce has been reduced, business has been paralyzed, the relief rolls have doubled, and a general feeling of unrest and uncertainty created.

Mr. Roosevelt went into office in a landslide, and he will go out in a landslide. He has not only broken his pledges to the people but he has carried on a series of policies and plans that have proven to be abortive, except to give special privileges to a few at the expense of the many.

The American people are coming to themselves. They will still look with favor upon honesty, self-reliance, industry, and good old-fashioned common sense. Following American practices and policies and under the Constitution America has piled up nearly half of the wealth of the world; we have had more food and better food, more clothing and better clothing, more homes and better homes, more bathtubs, automobiles, radios, and other comforts of life, the highest standard of living, more liberty, and more happiness than the people have enjoyed under any other constitution, either written or unwritten, of any nation since the beginning of time, and why should we turn our backs on this wonderful record and wonderful experience and take to our bosom the socialism, paternalism, and communism of the Hopkinses, the Tugwells, and the other "brain stormers" of this administration?

Mr. Roosevelt will have to pay the penalty for violated pledges, broken promises, and his abject failure. The five billion slush fund cannot save him, and it will not bring about recovery nor materially reduce unemployment. [Applause.]

Mr. McSWAIN. Mr. Chairman, I yield to the distinguished gentleman from California [Mr. COSTELLO] 5 minutes.

Mr. RANSLEY. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. COSTELLO].

Mr. COSTELLO. Mr. Chairman, I do not think the real problem before Congress at the present time is whether Franklin Roosevelt is going to be reelected; our real problem here today is just exactly what this Congress intends to do in the future with the Tennessee Valley Authority.

The Tennessee Valley comprises an area of some 44,000 square miles, and in this area reside over 2,000,000 people. In the territory adjacent to this valley live an additional 5,000,000 people. Prior Congresses have turned over to the Tennessee Valley Authority various properties. On this project we have expended $132,792,294. Since that time $75,000,000 was allotted to the T. V. A. and the deficiency bill which passed recently carried an additional sum of $34,000,000 for the T. V. A. The question now comes up as to what our program is to be. Are we to pass no legislation at all? Many have suggested this, that we should turn this bill down and not vote any additional legislation. What would be the effect of our refusal to pass legislation on this subject at this time? The result would be simply

that the Tennessee Valley, operating under the act of 1933 which gave the Authority broad, vague, indefinite powers, will not be killed but will continue to operate. The legislation passed here, therefore, will either liberalize or restrict the activities of the T. V. A. If we pass the House bill, the bill now under consideration, we will grant to the T. V. A. very definite and specific powers. It may be said that in some respects the act of 1933 was illegal because it was not specific. In that act we authorized the building of dams, transmission lines, and things of that sort but we did not say what dams and what transmission lines should be built. In the pending bill we specifically name five dams which we authorized the Tennessee Valley Authority to construct. The pending bill gives the T. V. A. authority to complete the Wilson, Norris, Wheeler, Pickwick, and Aurora Dams, to extend the flood control and power development project upon which they have embarked.

Question has been raised as to the sale of real estate. In a great many instances the T. V. A. has purchased larger tracts of land than they actually required. It is only proper that we should compel the T. V. A. in turn to sell back to the public that land which is not necessary for their control or use. The fact they have purchased lands they did not actually need is not to their credit. I think, however, it can hardly be said that we would be saving the Aluminum Trust or anyone else by requiring the T. V. A. to sell back those parcels of real estate the Authority does not require at this time and perhaps will not require.

The bill also authorizes the generation and sale of power, the fixing of resale rates in the contracts which T. V. A. may make with municipalities or other State subdivisions, or private corporations. It likewise permits the acquisition of transmission facilities for direct sale of power to rural communities or individual farmers.

Perhaps one of the most important features of the bill is the requirement that T. V. A. shall establish a uniform system of accounting. In this way the Tennessee Valley Authority will have the same type of bookkeeping, the same system of accounts authorized and employed by other industries engaged in the utility business. In this way we shall be able to check exactly what the T. V. A. is doing and compare it with other utility concerns in all sections of the country. Then indeed will the T. V. A. be an actual yardstick.

A provision of the bill that is very much objected to is the requirement that T. V. A. shall not be allowed to sell its products, be they power or fertilizer, below the cost of production after July of 1937. Personally, I think this is a good provision because it requires T. V. A. to put their operations upon a profit-making foundation. In other words, they are not to continue operations with the idea that year after year Congress will appropriate more and more money to make up their deficits, but that it will be necessary for them to put their business upon a profitable basis and to repay the moneys they have borrowed.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. COSTELLO. I yield.

Mr. MICHENER. What will happen to private industry during the period Congress is appropriating this money and permitting T. V. A. to sell its products at less than cost of production?

Mr. COSTELLO. The amount of products which the T. V. A. will sell between now and 1937, I do not believe, will greatly interfere with any private concerns in that particular region. In other words, I do not think the T. V. A. will be on a sufficient power-producing basis to be able to sell a tremendous amount of power down there.

Mr. MICHENER. I take it, then, the gentleman does not believe the Government should go into business and compete with private industry on terms other than those with which private industry must comply?

Mr. COSTELLO. I believe that is true, and I think the provisions of the House bill tend to protect those rates.

Mr. MICHENER. Yes; they may tend to, but the gentleman will not contend for a minute that the bill accomplishes that?

Mr. COSTELLO. The only program that is before us here in the House at the present time is the House bill or the amendments which will be offered in the form of the Senate amendments. I do not think we can limit this bill to any great extent beyond that.

Mr. MICHENER. I may say that I think I am the only one on this side who since the war has voted on every occasion to complete the Wilson Dam at Muscle Shoals. I did this down to the time the transmission lines were included. We are putting ourselves here just a little further in, so that it is going to be more difficult to get out.

Mr. CRAWFORD. Will the gentleman yield?

Mr. COSTELLO. I yield to the gentleman from Michigan.

Mr. CRAWFORD. With reference to the uniform accounting procedure to be established, will those rules and regulations provide for the recording of capital expenditures as well as operating expenses and income the same as private industry must record these matters?

Mr. COSTELLO. At the present time it is not definitely settled what system of accounting will be employed, but it will be up to the Federal Power Commission to establish a system of accounting and then require that the T. V. A. shall follow that provision. What provisions will be included I cannot say.

Mr. CRAWFORD. Is it not true that unless the Authority or the board of directors or whatever the power may be that prescribes these rules and regulations with reference to accounting procedure, does design an accounting procedure which records capital expenditures as well as operating expenditures and income in line with those used in private industry, the yardstick will be a false yardstick when the final accounting conclusions are arrived at?

Mr. COSTELLO. Undoubtedly that will be done, because the system would be set up by the Federal Power Commission and would be the same system of accounting that would be required of any private concern.

Mr. CRAWFORD. If they set up a rule of that kind, how can they start correctly if they charge off a large part of the capital expenditures before they make the first capital entry on the books to serve as a basis for the accounting procedure to determine the capital cost in order to arrive at the rate to be charged?

Mr. COSTELLO. The T. V. A., I think, is justified in charging off a great deal of the original investment in these properties due to the fact that much of the money was spent for other purposes than power purposes. They should charge only that amount which was necessarily expended to produce the power which they are actually generating. In other words, the flood-control, fertilizer, or nitrate-production features are entirely apart from the power-generating feature and should not be charged to it.

Hereafter the T. V. A. shall be directly subject to the office of the Comptroller General in the handling of funds; while this restriction limits the free and undisputed control over their own funds, it works no real hardship on T. V. A.

The public funds will be properly accounted for; the accounts of T. V. A. will be regularly checked and approved, and all transactions will be handled under the warrant system as they are in other departments; contracts will be let on competitive bids.

Finally, the House bill prohibits the duplication of transmission lines and requires that competing lines be either purchased or condemned.

The T. V. A. want to have more liberal powers than provided in the House bill. They want to be free to negotiate their own contracts without the need of letting competitive bids—to be outside the supervision of the Comptroller's office; to be able to construct duplicate transmission systems at great expense and needlessly; to be free to sell or retain any and all real estate now owned or hereafter acquired by T. V. A.

If you feel that the T. V. A. should be under some restraint, should be subject to the restriction and direction of Congress, and should be placed under the financial control

of the Comptroller General, then you will support the House bill and vote down these proposed liberalizing amendments.

Mr. RANSLEY. Mr. Chairman, I yield 20 minutes to the gentleman from New Jersey [Mr. McLEAN].

Mr. McLEAN. Mr. Chairman, it was not my purpose to again impose myself upon the membership, because on two occasions I have had opportunity to express my views on the subject now before us. If it was not for the upbraiding which I just received from the gentleman from Tennessee [Mr. McREYNOLDS], I would not be on my feet at this time.

My political philosophy is never to indulge in personalities of any kind. I always give my fellow man credit for his convictions. [Applause.] It has been my political experience that an individual who indulges in personalities hurts himself more than he does the individual he intends to injure. Some philosopher has said:

> The throwing of mud is a dangerous pastime, because the mud sometimes misses its mark, but some of it always remains on the hands of the one who throws it.

Mr. MAVERICK. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. MAVERICK. Is the gentleman in order in speaking twice on the same bill?

Mr. McLEAN. I have not spoken twice on this bill.

The CHAIRMAN. The gentleman from New Jersey will proceed in order.

Mr. McLEAN. Mr. Chairman, I have been charged in this debate with partisanship. Let me, however, direct attention to the fact that there have been times when Members of his own party were deserting the President that I was supporting his measures in the hope that it might help in bringing about recovery. An examination of my record will prove it.

As a Member of this House I have been assigned to an important committee, and as a member of that committee certain matters came to my attention which I thought ought to be rectified. I found that the manner in which the Tennessee Valley Authority was being conducted was leading to confusion and uncertainty. I found that the men who were in charge of the Authority were disregarding the law and holding the Congress of the United States in contempt. I illustrated this to you the other day when I quoted Dr. Morgan's own words.

The Tennessee Valley Act was the product of the Congress of the United States. It provided the method by which the men appointed under it should carry on their activities. It directed them to sell $50,000,000 worth of bonds, which was to be the money they were to use until Congress voted otherwise. When asked why the bonds were not issued, Dr. Morgan, a director of the Authority, said that they did not think that was the way the thing ought to be done. This in spite of the mandate of Congress. My whole effort has been devoted to impressing on this body the necessity for a well-understood program to carry this matter out in an orderly way. Today I am able to illustrate it to you by an incident that has happened in the last few weeks.

It has always been the practice of Congress to pass a general legislative enactment that would cover a proposed improvement, outline the program, and then from time to time, as the work progressed, appropriate the necessary money. So the Tennessee Valley Act provided that these men should make a report to the Congress that would enable Congress to outline a program and to guide and control the extent, sequence, and the nature of the development. I have continually stated and reiterated that sections 22 and 23 of the law have not been complied with, and not a single Member of the Congress has answered that statement.

Then there is the incident that happened just the other day. On June 20 we had before us the deficiency appropriation bill. The able Committee on Appropriations of the House had determined that this year the Chickamauga and the Guntersville dams should be constructed and an appropriation was made for that purpose and that purpose alone, and the reason for it was fully stated in the report of the Committee on Appropriations that came out with the bill. The bill was passed and went to the Senate. I have said there is no program. There are a lot of programs, but nobody knows what the program of the Tennessee Valley Authority is. Judge McREYNOLDS has a program. His program is to get the dam at Chickamauga because that is in his congressional district, and on the 20th of June, or a day or two after, there appeared in a Chattanooga newspaper an excellent picture of the judge, giving his whole speech and telling how he had brought this great improvement to his people by the logrolling he was able to do in the House of Representatives. Then something happened in the Senate. Senator McKELLAR had a different program. Senator McKELLAR wants five dams and was preparing an amendment for that purpose. Senator McKELLAR is authority for the statement that Mr. Morgan asked for an interview with him and went over there and prepared an amendment to cover five dams in the Tennessee River, and in spite of the judgment of the Committee on Appropriations of the House of Representatives, add $13,500,000 to the appropriation; not in accordance with any program except this program, the program of the Tennessee Valley, a dam for every town, and a town for every dam, and everybody to get their dams as quickly as they can.

So Dr. Morgan went over to the Senate and prepared the amendments which Senator McKELLAR proposed to introduce on the appropriation bill, and everything was all right until Senator McKELLAR found that Dr. Morgan was going about among the Senators whom he had pleaded with for further appropriations and lobbying against the proposed amendment.

Mr. RANKIN. Mr. Chairman, I make the point of order that the gentleman cannot discuss the Senate on the floor of the House.

The CHAIRMAN (Mr. DRIVER). The gentleman is informed that it offends against the rule to make any reference to the action of the other body.

Mr. McLEAN. I am speaking, sir, from the public prints which set forth that Senator McKELLAR gave the interview which I read——

Mr. RANKIN. Mr. Chairman, that violates the rules of the House.

The CHAIRMAN. The Chair has already ruled, and the gentleman will proceed in order.

Mr. McLEAN. And it appears now that word got to Chattanooga that Dr. Morgan had written a letter setting forth that he favored the Hiawassee Dam and throwing a wet blanket on the rest of the dams proposed by the Committee on Appropriations and by the McKellar program. Consternation prevailed. Mr. Lilienthal spent hours in the office of Mr. McREYNOLDS. Telephone calls came from Chattanooga. Everybody was upset about the matter and it became necessary for Dr. Morgan to issue another statement that he did not mean what he had said and entirely reverse himself. So the expression "double crossing" has entered into the controversy and misunderstanding between gentlemen of high purpose and high intent and high character, all because men of wisdom, men of learning, capable of being presidents of universities, capable of directing the destinies of the public utilities of the State of Wisconsin, for some reason or other see fit to ignore the law and do not want to take the Congress of the United States into their confidence and outline their program.

We would not have all this controversy and difficulty if they had done as provided in the act and taken care of the Muscle Shoals development, built the Norris Dam, and then planned the future development of the valley and come to Congress with their program and let us know where they are headed and what they are doing and let us adopt a logical program in a businesslike way. Then we could proceed from time to time with the necessary appropriations and everybody would have knowledge of what is going on. As it is now there is not a man in the House of Representatives who can tell me the future of the Tennessee Valley development under the guidance of the Tennessee Valley Authority, because the Tennessee Valley Authority does not know itself. Today they cannot tell you the necessity for this or that dam. They seem to want to please their friends in Congress; they seem to want to please those who are supporting

them; and, although the logrolling method of legislating has been so much condemned in the public prints in recent years, this is the greatest logrolling proposition in my memory.

Mr. MAY. Mr. Chairman, will the gentleman yield for a question?

Mr. McLEAN. I yield for a brief question.

Mr. MAY. The gentleman recalls that the testimony shows that Dr. Morgan stated there are 149 available power sites in the Tennessee River, and yet he is unable to give us a plan for even five or six of them.

Mr. McLEAN. There is no doubt about that; and let me tell you something else that has occurred. Dr. Morgan, in the newspaper article that I read this morning, stated that this Chickamauga Dam is going to cost $25,000,000. This astonished the gentleman from Tennessee [Mr. McREYNOLDS], because he says that previous estimates only call for $15,000,000.

And he was further astonished at Dr. Morgan's statement because the Board of Engineers for Rivers and Harbors, in whom every American has confidence when it comes to construction work, had stated that this dam in all its ramifications could be built for $11,000,000.

That shows to what extent these men, in whose hands we have placed this trust, have studied what they have undertaken.

Take, for further example, the town of Norris. They started out to build the town to cost $2,000,000. It cost them $3,500,000, and when asked how that came about they said it was due to the increase of labor cost and the increased cost of material, and said that the matter of allocating the cost had not been studied, but they were going to do so after a while.

It has been my effort to bring before you what I consider to be important things in the conduct of affairs of this Nation. The success or failure of the Tennessee improvement is the success or failure of the Congress of the United States. If you allow this thing to continue in this irregular, uncertain, unbusinesslike manner in which it is now being carried on, it is destined to failure, and the people to whom you have to answer will hold you responsible long after the Tennessee Valley Authority, those who are your agents, and who are creating the situation, have passed out of the picture.

My appeal to the Congress of the United States is to say to the Tennessee Valley Authority, "Stop; you have sufficient money to build what you have undertaken. Congress will meet again shortly, and when Congress meets we want before us your comprehensive program under which you are operating." When we have that comprehensive program before us we will give it the consideration it deserves and the Congress of the United States and not these agents and creatures of Congress will be the supreme legislative body of the land. [Applause.]

Mr. Chairman, I yield back the balance of my time.

Mr. McSWAIN. Mr. Chairman, I yield to the gentleman from Florida [Mr. WILCOX] 10 minutes.

Mr. WILCOX. Mr. Chairman, in the course of this debate I think a great many of those who have discussed this legislation have to some extent overlooked the basic principles of the act which we are here seeking to amend.

The Tennessee Valley Authority was created in the first instance for the purpose of providing for the national defense, for navigation in the Tennessee River, for flood control, and soil conservation.

This is not primarily a power project. The development of power is an important, but, after all, an incidental part of the program.

At the beginning of the World War this Nation found itself without the facilities for manufacturing munitions of war. The lack of such facilities was a serious handicap, and the Democratic administration then in power began the development of Muscle Shoals for the manufacture of such munitions.

This Democratic administration, profiting by the experiences of the World War, saw to it that provision was made in peace time that in the event the Nation should again be confronted with war we at least would have the facilities for the manufacture of munitions which would be necessary for use in any such war.

For many years the Federal Government has planned the development of the Tennessee River for navigation and in more recent years plans have been worked out for the prevention of destructive floods which occur at frequent intervals in that valley.

So the Tennessee Valley project was conceived as a combination of navigation, flood control, soil conservation, and national defense. Necessarily in the construction of the dams needed for flood control, and for navigation, and the installation of power houses, for the manufacture of war munitions in case of war it was essential that machinery be installed. It would be ridiculous if that machinery and those facilities should stand idle during peace time and be permitted to deteriorate, so that in case of war, in case of necessity, the country should find itself again without the facilities for the manufacture of munitions.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. WILCOX. Not now. So the manufacture of power became an incidental issue in the development of the Tennessee Valley Authority. I am just as much interested as any man on the floor of the House in trying to see to it that such surplus power as is manufactured in this development shall be sold on a basis that shall establish a real and true yardstick of value. I want to see such a yardstick established.

I believe that is one of the great services that this institution can render to this country. I wrote into this bill the provision requiring that no power shall be sold after July 1, 1937, below the cost of production. The members of my committee will remember that during the committee hearings I did not devote my time and attention in the interrogation of witnesses to the vast detail of the Comptroller's report. I did not undertake to pursue the line of questioning my colleagues did, but I devoted myself very largely in the examination of witnesses to the question of whether or not the Tennessee Valley Authority is charging a rate for its power and electric current which would serve as a true yardstick in measuring the rates charged by privately owned public utilities, particularly in the Southeastern States. I am interested in that yardstick because I believe that it is only by the establishment of that fair yardstick that the people of this country may determine for themselves whether they are paying fair rates to the privately owned utilities or are being robbed, as many people believe they are. A true yardstick, by which to measure the fairness and equity of rates being charged by privately owned utilities, must be fair to all parties concerned, it must be fair to the people in the Tennessee Valley, fair to the utility companies, but above all it must be fair to the taxpayers of the Nation. It would not be fair to anyone concerned if it did not provide for the full cost of production. It would be grossly unfair to the balance of the country if the Government should subsidize this institution. So, in order that a fair yardstick may be established, I questioned the members of the Board very carefully. I went into the items that make up their rate basis, to determine whether or not they were engaging in unfair competition with private enterprise. I was interested to know whether or not this Government is subsidizing this institution for the benefit of a comparatively small percentage of the population of the country, and I found, very much to my surprise, that although this Authority has been engaged in this business for only a short period, during which time it has been harassed by litigation, during which time it has been engaged in the actual construction of its plant, nevertheless, in spite of that, it is charging a rate for the sale of its power that includes every item that every honest and legitimate private utility is authorized by law to charge its consumers under the rulings of the various utility commissions of the country.

Mr. ANDREWS of New York. Mr. Chairman, will the gentleman yield?

Mr. WILCOX. Not at this time. I found on interrogating these witnesses that although, as I said, they have been

harassed by litigation, and their time taken up in attending various hearings in Washington, although they have not had an opportunity to put their plant into full capacity production, yet they are charging rates based on the same requirements that are authorized by public-utility commissions insofar as privately owned utilities are concerned, and that in addition to that they are setting up a depreciation reserve which at the end of 43 years will have completely liquidated the cost of that part of their plant which is devoted to the manufacture and sale of electrical current. According to the testimony of the T. V. A. directors, at the end of 43 years the United States Government will have nothing invested in that portion of this plant which is devoted to the manufacture and distribution of electric current. Mr. Chairman, in spite of the fact that they are charging all the rates that any private utility is authorized to charge, they have been able to reduce the rate in that vicinity by 50 percent, and the people of that section of the country on a fair, equitable, and honest rate base are now receiving their current at 50 percent of what they previously were charged for it. I now yield to the gentleman from New York.

Mr. ANDREWS of New York. Does any part of the T. V. A. Authority pay any State, county, or municipal taxes?

Mr. WILCOX. Yes. The law requires them to set aside 5 percent of their gross income for taxes, and they not only do what the law requires of them but they go further and they set up 7½ percent additional, so that 12½ percent of their gross revenue is set aside for taxes, and by actual comparison with privately owned utilities in the same section that is a greater percentage of gross revenue than the private utility companies in that section pay for taxes.

Mr. CRAWFORD rose.

Mr. WILCOX. I cannot yield further. I want to call attention to this fact: Under this rate which has been set up and is now being charged in the Tennessee Valley, rural consumers, farmers in that section, who average only three or four consumers to the mile, are receiving their current at a top rate of 3 cents per kilowatt-hour.

In spite of that fact, at 3 cents per kilowatt-hour as a top rate, the associations through which it is distributed make a profit of 38 cents out of every dollar of income. Thirty-eight percent of the gross income of those associations which distribute this current is profit to the association, and they are selling the current at 3 cents, top rate, to the farmers, who are located at an average only three or four to the mile. Compare that, if you will, with my city, which does not have the benefit of the competition of the T. V. A., a town of 40,000 people, with 25 or 30 consumers not to the mile but to the block, with a top rate of 7 cents per kilowatt-hour, and the company says it is going broke and unable to pay dividends.

Mr. CRAWFORD. Will the gentleman yield?

Mr. WILCOX. I yield.

Mr. CRAWFORD. When they set aside a tax fund, to which the gentleman has just referred, does that enter into the calculation of the base which is to be used in arriving at the rate?

Mr. WILCOX. Yes, sir. That is all figured in the rate base. I put the figures in the RECORD yesterday. If the gentleman will turn to the proceedings of yesterday he will there see a complete set-up of this rate base and the interrogation I made of Dr. Morgan and Mr. Lilienthal. Nobody has denied that. Nobody has come forward and said they are not correct. They are not only here and available to the gentleman, but yesterday I put them in the RECORD that you may be fully advised on that subject.

The CHAIRMAN. The time of the gentleman from Florida [Mr. WILCOX] has expired.

Mr. McSWAIN. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. WILCOX. Just one other matter, and I am through. A great deal of criticism has been made, particularly by the gentleman from New Jersey [Mr. McLEAN] in the remarks just preceding mine, on the fact that the Tennessee Valley Authority has not worked out a completed program in the 18 months or 2 years since this thing was created. I believe they have only actually been down there a little more than a year, yet a great deal of the time of the gentleman on the other side of the aisle has been devoted to a criticism of this board because it has not been able to come to Congress with a completed program of what they expect to develop in the Tennessee Valley and the adjoining valleys. At the same time those gentlemen have held up before the Congress as a shining example of great efficiency and honesty the Aluminum Co. of America, which has acquired the valley of the Little Tennessee. I want to call to your attention the fact that this great efficient corporation, the Aluminum Co. of America, according to the testimony in this case and the speeches of the gentlemen who have spoken for them here today, have been in that valley with a great corps of engineers working constantly and continuously for 25 long years, and they have not completed their program yet. Yet this board is held up to the Congress as an inefficient institution, simply because in a period of 13 or 14 months they have not been able to survey all of the sites and work out all of the plans for a completed program for the development of this great Tennessee Valley.

One other thing on the subject of the Aluminum Co. This board has been criticized because it went into the valley of the Little Tennessee and purchased a couple of pieces of property in order that they might put themselves in a good trading position, and they have been greatly criticized for it. I want to endorse everything that my colleague from Texas [Mr. THOMASON] said yesterday when he announced his doctrine on this floor, that the natural resources, particularly the streams and power sites of this country, should and of right, ought to belong to the people of this Nation and not to private interests. [Applause.] But be that as it may, the Aluminum Co. has gobbled up the Little Tennessee Valley. They have not constructed many of the dams which they ultimately plan to construct. They have not pursued the humane policy of the Tennessee Valley Authority of paying what the property is worth, which they expect to flood. They have stood by for 25 years and held over the people of that valley a sword of Damocles that sooner or later they were going to flood their properties, and thus they have sought to drive down the price that those people were asking for their lands. The Tennessee Valley Authority went in and purchased those two tracts of land not to take advantage of the Aluminum Co. of America but to insure an orderly process of development of this entire valley. In the development of this river system for navigation and flood control it is necessary that not only the Tennessee River but its tributaries as well shall be developed in an orderly fashion. It is necessary that no private concern shall be permitted to install any obstruction in any of the tributaries of this river which will impede or interfere with this great development. The T. V. A. directors are to be congratulated and not condemned for their action in protecting this project. [Applause.]

The CHAIRMAN. The time of the gentleman from Florida has again expired.

Mr. RANSLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. BOLTON].

Mr. BOLTON. Mr. Chairman, I desire to call attention in the few minutes that have been allotted to me to one feature of this proposed legislation which I believe the Committee on Military Affairs, in its desire to curb certain activities of the Tennessee Valley Authority, has overlooked, and which I believe should be corrected. May I say that my remarks or suggestions are in no way meant to be partisan but rather in the spirit of helpfulness. I have reference to the subject of navigation and the activities carried on by officials of the Tennessee Valley Authority in that respect.

While it is realized that navigation is only secondary in the objects and purposes of the T. V. A., it would seem desirable that, in attempting to correct other activities of those responsible for the operations of the Tennessee Valley Authority,

more consideration should be given to the navigation feature of the legislation, which, as drawn, is so contrary to the past practice of the Government.

We are all familiar with the activities of the Government in respect to navigable waters during the past many years, and are familiar with the fact that for over 100 years the improvement and maintenance of our inland waterways has been one of the responsibilities and duties of the Corps of Engineers of the War Department. The development of our great system of water communication and the maintenance of that system has been the result of the study and splendid work of the Corps of Engineers, and carried out in accordance with a definite policy and according to the practices which have grown and been perfected up to the present time.

We are familiar with the fact that the principal duties of the Corps of Engineers in peace times have to do with flood control and river and harbor work throughout the country, and we know that under that policy the practice of the Corps of Engineers has become more and more free from outside interference and has developed a thorough understanding of the water-borne commerce of the entire Nation. Consequently, a familiarity with this problem which no other Department of the Government commands has been developed by the War Department. Today there is a specific procedure with the adoption of projects requested of Congress for river and harbor or navigation work, and after authorization and appropriation by Congress for such projects as are considered desirable, work necessary for the completion and upkeep of them is carried forward by the same group which studied and recommended the improvements and are familiar with the problem in all of their details. It has been due to the untiring and splendid work of this branch of the War Department that our great inland waterway system, extending to all parts of the country, has been developed.

In the original Tennessee Valley Act this procedure and policy was ruthlessly interfered with in the development of the Tennessee River, which development had been recommended only after a very careful and exhaustive study by the Corps of Engineers but was authorized by Congress to be placed under the Tennessee Valley Authority. In that act the law gave control to the Tennessee Valley Authority of practically everything having to do with navigation in the Tennessee River from its mouth and throughout all its branches, the single exception being the lock at Wilson Dam.

Under that legislation the Authority could build whatever structure appealed to its discretion, with or without navigation facilities, could dredge and maintain channels, and do the things that would ordinarily be the responsibility and obligation of the War Department. In fact, in that act we see a distinct change in a policy which had been so successfully pursued in navigation matters, and a part of the authority and responsibility formerly under one head taken away from one department and given to another department of the Government, free from any restrictions from the War Department.

It is believed this divergence from the successful past practice of the Government was recognized by the committee in studying the present bill, H. R. 8632. In the committee report accompanying the bill, under the subject of navigation is found a statement that—

> In the bill herewith reported and recommended to Congress it is expressly provided that the Board of Directors of the Tennessee Valley Authority shall so improve the navigability of the Tennessee River as to provide a 9-foot channel from its mouth to Knoxville in accordance with the recommendations of the Chief of Engineers, in a previous study of the Tennessee River recommended to Congress and enacted into law during the Seventy-first Congress, under Public, No. 520.

From the above it might be inferred that the action of the directors of the T. V. A. with reference to navigation must be directed by the Chief of Engineers in order to provide a 9-foot channel as called for—but is this correct? Let us consider section 2 of the proposed bill which amends the old act.

This section, insofar as navigation is concerned, states that the Authority—

> Shall have power to construct such dams and reservoirs in the Tennessee River and its tributaries * * * as will provide a 9-foot channel in said river and maintain a water supply for the same from Knoxville to its mouth.

It is true that this section further states that the dams mentioned in the section are to be in conjunction with certain dams enumerated in the report of the Chief of Engineers as authorized under Public, No. 520, but nothing is stated as to the responsibility of the Corps of Engineers in this, or the necessity for receiving the approval of the Corps of Engineers in connection with the development of navigation and the maintenance of the waterway after it has been completed. The inference can be drawn correctly, I believe, that the Tennessee Valley Authority is to continue in its position of having full responsibility for navigation on the Tennessee River and that the intent of the section under discussion is primarily to authorize the construction of dams as will give sufficient water supply to create a 9-foot channel in the Tennessee River. It may be implied, and I think correctly, that the section specifically authorizes the construction of certain dams specifically named in the act, and further permits the construction of other dams that are enumerated in the report of the Chief of Engineers dealing with the act and approved by Congress, namely, Public, No. 520 previously referred to.

However, the fact still remains that the past practice and policy of Congress in holding the War Department, through the Corps of Engineers, responsible for navigation on our inland waterways is, in this part of our great inland waterway system, transferred to a separate organization. The Tennessee River is one of the great rivers of our country, flowing through parts of several States of the Union and having a length of over 650 miles. The Tennessee River is a navigable waterway, and its entire length has been under improvement by the Federal Government. The further improvement of the river has been studied for many years and in a very exhaustive manner by the Corps of Engineers, and the requirements for commerce on the river and navigation features of the river are well understood by the engineers. The river is a part of our great inland waterway system which is being developed in accordance with certain definite policies by the War Department. Up to the time of the creation of the Tennessee Valley Authority, the development of this river and its tributaries, together with the responsibility for maintenance of same, had been entirely the duty of the Corps of Engineers. Appropriations for both the development and the maintenance of the river have been carried in the regular appropriations of the War Department. Would it not seem more correct to permit this policy to continue, to continue to charge the Corps of Engineers with the responsibility for our entire inland waterway system, not only in its development but in its maintenance, and where the creation of dams for power purposes is essential, to have such construction authorized only after study and approval of those responsible for navigation? Is it logical to require the Corps of Engineers to maintain a development in the construction of which they had no responsibility?

By a break-down of the policies heretofore followed it is easy to foresee what might result if this action is allowed to become a precedent in the development and maintenance of our waterway system. If the Tennessee River and its tributaries are permitted to be handled by an independent subdivision of the Government, is there any reason for not believing that such action might follow in connection with the other great rivers of our country? Is it not possible to visualize an authority handling the navigation features of the Mississippi River, another the Missouri River, and even one entirely responsible for the improvement and maintenance of our Great Lakes waterway system? The result of such a policy is only too apparent. It is only through a singleness of purpose and policy of uniform practice and procedure that has brought our inland waterway system to

the position which it now holds. It is greatly to be regretted that the benefits and experience in the past years from such a unity of action for the benefit of the country as a whole, and not of one particular region, should be questioned, and it is very easy to forecast the results which may follow. Certainly there seems to be no just reason nor cause for such change in our past practices, and the fairest view we can take of the situation is that the operations of the past and the benefits derived from a uniform policy have not been fully realized.

The Rivers and Harbors Committee of the House has been for years charged with the responsibility of all legislation dealing with the improvement of rivers and harbors. The committee has reported on public works for the benefit of navigation, on the use of water power, on improving streams, and on other activities having to do with improvements for the benefit of water-borne commerce. Action such as proposed very definitely takes away this duty from the Rivers and Harbors Committee, so far as the Tennessee River is concerned, and in this respect is contrary to the past practice and the rules of the House in that this legislation has not been considered by the committee referred to. It is not only to be regretted that such an oversight sanctioned in the bill has been made by the Military Affairs Committee but it is believed essential that section II of the bill under discussion should be so amended that the construction of the dams referred to should in all cases be subject to the approval of the Corps of Engineers, in order to make certain these improvements primarily for the purpose of the development of power would not be in conflict with the navigation activities on the rivers, and that matters of navigation on the Tennessee River and its tributaries should be the responsibility of the Corps of Engineers of the War Department, both in their development as well as their maintenance. Such a change in the section would only confirm the past practice of our Government in dealing with navigation matters, but remove a state of indefiniteness which now prevails relative not only as to what branch of the Government is directly responsible for the improvement of the river but what branch is charged with the maintenance of such improvements that have been completed.

I urge the Committee to give very careful consideration to this feature of the bill which, as I have attempted to point out, as recommended is so definitely at variance with a policy of long standing that has been successfully pursued by Congress. [Applause.]

Mr. McLEAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I do not propose to speak on the merits or the demerits of the legislation. They have been thoroughly discussed by both sides. I propose to discuss in the limited time assigned to me the question of the propaganda back of this bill.

We on this side thought a few years ago that Herbert Hoover was a pretty good progagandist, but he was merely a piker compared to this new-deal administration. We are living in the midst of a government of propaganda and ballyhoo emanating from hundreds of publicity agents paid out of the Treasury to uphold the new-deal policies over the radio and in the press. We have heard all kinds of charges, that Members have had their telephone wires tapped and that the agents of the wicked public utilities are running around buttonholing the Members of Congress. I have not yet been approached, and I doubt if other Members of the House have. I do not own any public-utility stock. I assume, therefore, I have the right to discuss this question of propaganda without fear or favor.

I would like to know just who wrote this T. V. A. bill that the new-deal administration is back of. It seems under the new deal that the Congress is required to take bills written by members of the "brain trust" and pass them without alteration, modification, or amendment.

Can it be that the Committee on Military Affairs, a great committee of this House, under a distinguished and able chairman, has double crossed the "brain trust" and actually considered and voted upon legislation in an orderly fashion and reported out a new or amended T. V. A. bill by a majority vote to be considered by the House? This is a most unusual procedure from the practice of the past 2 years, and instead of accepting the recommendations made by these propagandists and agents of the White House, the Committee on Military Affairs have dared to alter and amend the pending legislation. Talk about propaganda; it is propaganda run wild, the acme of propaganda. The "new dealers" are intoxicated by their own propaganda and publicity when they expect young radicals, often not Democrats and not elected by the people, to present legislation to this body and demand that it be adopted by the committee and by the House without amendment. This is the worst form of propaganda. This is invisible government with a vengeance.

The time has come for the House of Representatives to follow the able leadership of the Committee on Military Affairs, restore representative government, and let the House work its will upon the legislation untrammeled by the Chief Executive or his agents.

This is just a typical example of what is happening: The White House cries out "Propaganda" when the public write letters petitioning their Members to amend or oppose legislation, when, as a matter of fact, this House has been overwhelmed by propaganda from the President through his official agents—the Hurjas, the Lilienthals, the Farleys, the Corcorans, and the Cohens. If the President of the United States wants to do a service for the Government and to the American people, let him recall all these visible and invisible agents, such as the Corcorans and the Cohens, and let the House of Representatives legislate in accordance with article I, section 1 to the Constitution, that—

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

The Congress should be let alone and be permitted to work its own free will upon all these measures that are thrust upon it and then let it adjourn and go home without further delay. [Applause.]

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I understand the distinguished gentleman from Pennsylvania has no more requests for time.

Mr. Chairman, it is not my desire to detain the Committee in its consideration of this matter, except I believe it necessary to say a few words in brief exposition of my personal attitude in regard to this matter. I thought I made it plain on yesterday that I am just this sort of Democrat: I do not think that I possess all wisdom, or that I have the right to have my way about everything; and I try to be a good soldier and take orders as long as I can under my oath and under my conscience. Consequently, I introduced the legislation that was prepared by the representatives of the Tennessee Valley Authority. I also introduced a bill that was recommended by a conference of my Democratic colleagues. Subsequently, that bill having been amended in the full committee, I introduced it as amended so that a clean bill would come before the House; and I repeat that whatever the Committee of the Whole on the state of the Union may do, I will vote for the bill in the House when the vote comes, because I believe as did Solomon of old when he said that "in a multitude of counsel there is wisdom." I do say, however, with all deference and I trust with becoming modesty, that I ought to have some little right to say what I think is proper and best to carry out the national policy set forth in the act of May 18, 1933, known as "the Tennessee Valley Act of 1933." Why do I say this? I say this because ever since 1923, as a member of the Committee on Military Affairs, I fought what in popular parlance are called two trusts, the Fertilizer Trust and the Power Trust. The Fertilizer Trust did not want the Government to use this plant for the manufacture of fertilizers for the farmers of the whole country. Do not think that the only eroded lands in the South are in the Tennessee Valley, for we farmers on the other side of the Blue Ridge Mountains are also faced with the problem of erosion. We had hoped we would get some direct benefit in the form of fertilizer. We have now only

one trust to fight, the Power Trust. Somehow or other the Fertilizer Trust had been chloroformed.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. I hope the gentleman will permit me to complete my statement before he asks me to yield.

Mr. MICHENER. I wish to ask a question on fertilizer.

Mr. McSWAIN. Mr. Chairman, I prefer to complete my statement without interruption.

Mr. MICHENER. But you are not making that fertilizer down there.

Mr. McSWAIN. I am going to do the talking now, if the gentleman please.

Mr. Chairman, when this committee brought that bill into the House 2 years ago it provided that fertilizer must be manufactured. Fertilizer, in my judgment, is a vital and essential factor touching the constitutionality of this whole program, to wit, fertilizer is essential for national defense. Why? What connection is there between fertilizers and national defense?

The more nitrogen you can fix and the more phosphorus you can extract, the better you will be prepared with munitions in time of war. Not only that, but we intended that this program should be a yardstick, not merely for fertilizer, but it was thought and believed that the cost of munitions in time of war might be greatly reduced, and that it might be a yardstick to ascertain whether or not those who manufacture munitions have been exploiting the Government. It was reported in 1926 by a commission appointed by the President of the United States, of which Hon. John C. McKenzie, formerly Chairman of the Committee on Military Affairs, was the chairman, that by the proper use of modern and scientific methods the cost of fertilizer could be cut to 42 percent of the price now prevailing.

In section 5, subsection (j) of that act, it was provided to this effect:

> That the Authority should upon the request of the Secretary of War or the Secretary of the Navy manufacture and sell at cost to the United States explosives of nitrogenous contents.

No one ever thought that the fertilizers would be given away in quantity to the farmers here and there, or that power would be given away indiscriminately to anybody in the Tennessee Valley or anywhere else. Why do I make that statement? When this committee brought in the bill with reference to power 2 years ago it provided what? On page 9 of the House bill:

> That the Authority shall not proceed to construct any other dam herein authorized where power alone will be generated or where power will be generated in connection with navigation, unless there is a reasonable demand for so much of the power as will yield a return on the part of the investment representing the cost of power production.

That is what our committee said 2 years ago. I reported that bill and I believe in that proposition. But in the law which was enacted, though that part of the bill was stricken out in conference, it was provided in section 9, subsection (a), that the Board should file with the President an annual report and among other things there was provided:

> This report shall include an itemized statement of the cost of power at each power station.

That is what we enacted 2 years ago. It is not unnatural that I should feel somewhat hurt that some of the enthusiastic propagandists, to wit, some of the directors, think that I am derelict in my loyalty to this proposition because I have not seen fit upon due consideration to go to the full length that they propose. [Applause.] I submit that time will show that by my doing what I have been doing, and I am doing today, that is, proposing that we be careful not to trespass upon constitutional limitations, I am being the best friend that the T. V. A. could ever have. [Applause.]

Mr. Chairman, I am not going to trifle with my constitutional oath. I believe in public ownership of utilities. You cannot preach that to me. But it is primarily a State function. The State owns the rivers and the State owns the very land on which the navigable rivers roll. The State of Alabama a few years ago sent up a commission headed by the Governor claiming the Wilson Dam. You gentlemen who have come here since did not know that. They claimed the title to the Wilson Dam because it was placed upon land to which the State had title.

When the committee brought in this bill a few years ago authorizing construction of the Cove Creek Dam to control flood waters, every Democratic Member from the State of Tennessee voted against it except the distinguished gentleman, Mr. McREYNOLDS. Why? Because they thought it was an infringement of State rights to flood three or four counties. Though this House passed the measure, it was fought bitterly in the Senate. Mr. Chairman, there is some history back of this thing. I have tried to be consistent all through the years.

Mr. TAYLOR of Tennessee. Will the gentleman yield?

Mr. McSWAIN. I said every Democratic Member. I did not include my good friend.

Mr. TAYLOR of Tennessee. I voted for the bill.

Mr. McSWAIN. Yes; but the gentleman is not going to claim to be a Democrat.

Mr. Chairman, I believe in public ownership of public utilities as is going on in South Carolina. The State of South Carolina is proposing to harness the river that has the largest volume of water on the eastern coast, the Santee River, but it is the State that is going to harness the river. The county of Greenwood is proposing to harness the power on the Saluda River and to flood much of the very land on which I played, hunted, and fished as a boy, but it is the agency of the State which is doing it.

Now, read my report that I made 2 years ago and read the one which I made on this bill. I believe that the waters belong to the people. I am willing to go just as far as the Constitution of the United States will permit the Congress to go in the use of their power, but I am not willing to go one step further than I think the Constitution permits us to go. Why? Some of us have been practicing law a little while. You need not deceive yourselves that this is not going to get to the Supreme Court of the United States. The courts are open to everybody. Every liberty-loving citizen of the United States thanks God that the courts are open to them. You cannot blame anyone for going to the courts in order to try to protect his rights, and whatever the abstract right or wrong of this question may be, it will go to the Supreme Court of the United States. When this matter does get there I do not want it to be said that I advocated legislation that would violate the Constitution, and have the Supreme Court give me a nice little kick in the pants for not respecting my oath. It is the business of the Members of Congress to respect their oaths.

More than that, and in reference to the matter of cost, the act passed in 1933 declared this policy, showing it was in the mind of the Congress that the proposition should be self-sustaining and self-liquidating, page 8, section 11:

> This policy is further declared to be that the projects herein provided for shall be considered primarily for the benefit of the people of the section as a whole and particularly the domestic and rural consumers to whom power can be made available, and, accordingly, the sale to, and use by, industry shall be a secondary purpose to be utilized principally to secure a sufficiently high load factor and revenue returns which will permit of domestic and rural use at the lowest possible rates and in such manner as to encourage increased domestic and rural use of electricity.

In other words, what did that say? We want the primary use to go to the farmers and the small villages, and we are going to sell to industry in wholesale quantities in order to get a sufficient load factor to pull down the cost of the entire aggregate so that the cost to all customers concerned will be at least equal to the cost to the Government. This was the policy declared.

So in three places we declared that it was the policy of this Government, solemnly declared in 1933, that this proposition should ultimately be self-sustaining.

Now, I admit that a new concern just starting out cannot be expected to conform to this policy. Therefore, I think a reasonable time should be given in order that the concern may be put upon a fair and reasonable basis, and, while I have not had an opportunity to analyze the amendment

proposed by my distinguished colleague from Alabama [Mr. HILL], it seems to me, at first blush, ultimately that may accomplish the result we had in mind in 1933.

However, I must say that on the matter of the General Accounting Office and its control and jurisdiction over the disbursements of this corporation, I would not have brought it back into this matter voluntarily, but I told my friends, some of them on the committee, and the directors, that if somebody else brought it in, and if it was forced upon me, I would be obliged to support it. It was brought in, and the record will show how it was brought in, and I had to support it, and I am not going to backtrack on that now, and I will tell you why. Among other things, when I first came to this Congress in 1921, one of the first pieces of legislation we enacted was what is known as the "Budget law" to put all Government disbursements under the General Accounting Office, and one of the strongest advocates of that law was then the ranking Democrat on the Committee on Appropriations, and he is now the Speaker of the House. [Applause.] Ever since then, even during the years when he continued to be the ranking member and finally became the Chairman of the Committee on Appropriations, there has been no stronger defender of the proposition and principle that all Government money should be disbursed through the General Accounting Office.

Mr. McFARLANE. Will the gentleman yield for a question?

Mr. McSWAIN. If it is for information, I will yield.

Mr. McFARLANE. If the gentleman now is so strong for the program of putting this under the General Accounting Office, why was it that the gentleman brought in a bill that took the Army and Navy Procurement Division out from under McCarl and brought about the system of noncompetitive procurement of aircraft that exists in these departments today?

Mr. KVALE. The gentleman did not do it.

Mr. McSWAIN. I will tell the gentleman why. That bill was like a lot of other bills, a compromise.

Mr. McFARLANE. Will the gentleman yield further?

Mr. McSWAIN. No; I do not yield further now. Let me answer your question, if you please.

The Morrow board had brought in a report that it was thought by the aircraft manufacturers would give them an open sesame to the Treasury of the United States so that the officers of the Army and the Navy could buy aircraft just like you would buy a pair of shoes. I fought this, and although we Democrats were in the minority I won over enough Republicans on that committee to bring the vote down to 11 to 10. Being about equally divided, the chairman of the committee saw he could not put the Morrow Board plan through this House and a subcommittee was appointed. I was appointed on the subcommittee, and I won there what is known as "the principle of competitive designs." I won everything I could; and, finally, I had to yield on one point; but to show that the Speaker never yielded, JOE BYRNS asked me right back there by that railing one day if I thought I could defend it; and he stated, "I do not like that provision. I do not like this idea of going around the General Accounting Office." All those provisions were inserted in the bill in conference.

That is why; and I am getting hardly anything I want in this bill I would like to have; and if the gentleman can put in any amendments I am still going to vote for the bill; and I hope the gentleman will vote for the bill, whatever the circumstances may be.

Mr. RICH. Mr. Chairman, will the gentleman yield for one question?

Mr. McSWAIN. No; I am very sorry.

Mr. RICH. Will the gentleman yield for just one question?

Mr. McSWAIN. I yield for one question.

Mr. RICH. Is there any reason why the Government should not want to have its accounts audited the same as the accounts of individuals or of private enterprises? Is there any reason why the Government should be afraid or should not permit this audit?

Mr. McSWAIN. The Government is not afraid.

Mr. RICH. Then why did we not keep that provision in the bill?

Mr. McSWAIN. The Government is not afraid. In every department of this Government the contracting office does not settle the accounts. The Department, like the War Department or the Navy Department, makes the contract and the settlement is made by the General Accounting Office. This is the case everywhere and is what I think ought to prevail here.

Now, I am willing to concede up to a certain point on that. They say they have already started these dams under another system and it is stated that 2 or 3 years will be necessary to finish them. I say, "All right, give them 3 years more." I was in favor of 3 years, but the committee cut us down to 1 year, or until 1936. However, I am in favor of any policy that will ultimately bring them under the control of the General Accounting Office. [Applause.]

[Here the gavel fell.]

The Clerk read as follows:

Be it enacted, etc., That subdivision (i) of section 4 of the act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933, be, and the same is hereby, amended by adding thereto the following proviso: "*Provided*, That nothing contained herein or elsewhere in this act shall be construed to deprive the Corporation of the rights conferred by the act of February 26, 1931 (46 Stat. 1422, ch. 307, secs. 1 to 5, inclusive), as now compiled in sections 258a to 258e, inclusive, of title 40 of the United States Code."

Mr. KVALE. Mr. Chairman, I move to strike out the last word.

I took no time under general debate, but do desire now, at the opening of the reading and the amendatory stage of the measure, to reiterate some of the things that have been stated in general debate.

First among them, Mr. Chairman, is the hope that the membership of this House will seriously consider and rightfully support all of the amendments that will be offered to this bill, constructively, by the gentleman from Alabama [Mr. HILL]. Whenever Mr. HILL of Alabama offers an amendment you may depend upon it that that amendment—and this is for your information—embodies the desires of the President of the United States and of those who are heart and soul in accord with the fundamental principles of the T. V. A., and of those who are interested in seeing a genuine bill enacted here at this session, instead of the emasculated measure which is before us.

Mr. ANDREWS of New York. Mr. Chairman, will the gentleman yield?

Mr. KVALE. Yes.

Mr. ANDREWS of New York. And may I say in that connection that by voting against the amendments offered by the gentleman from Alabama [Mr. HILL] the Members will vote for the bill which represents the majority opinion of the Committee on Military Affairs, acting after long and conclusive hearings in their own right.

Mr. KVALE. I shall have to concede that, sorrowfully.

Mr. HILL of Alabama. I do not think the gentleman should concede that, for this reason: The gentleman knows that this bill was reported out fundamentally simply that this House, this Committee of the Whole, might have the opportunity of acting on this proposition.

Mr. KVALE. And I think this should be stated in addition, and I now, for one, want publicly to express my thanks to the gentleman from Illinois [Mr. SCHAEFER], who by yielding to the urgent desires of the President and the administration, and after having succeeded in offering an amendment which, when adopted, removed his essential objections to the bill, was able to vote to report the bill so that we can now consider it.

Otherwise, this House would have been denied the privilege of voting on this measure in any shape.

Mr. SHORT. But the gentleman will admit that the bill was tabled by a vote of 13 to 12, and that it was voted out by a vote of 13 to 12 after we had adopted the House amendments?

Mr. KVALE. That is true, and we are trying to correct some of those damaging amendments through the proposed Hill amendments. The gentleman does not agree with me, but I will say that he is sincere in his position, just as I know that he will admit that I am in mine.

Mr. DUNN of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. KVALE. Yes.

Mr. DUNN of Pennsylvania. If the amendments of the gentleman from Alabama are adopted, will the bill then be similar to the bill passed by the Senate?

Mr. KVALE. In major respects. It will salvage many of the things that had to be thrown overboard in order to capitulate to the Power Trust, the Aluminum Trust, the Coal Trust, and some of the other powerful agencies which emasculated this measure before it came to the Chamber.

Mr. DUNN of Pennsylvania. I want to say that I am in favor of the Senate bill.

Mr. KVALE. I thank my friend; I agree.

Mr. Chairman, I think a word should be said for the chairman of this committee [Mr. McSWAIN]. Naturally actuated by a sense of loyalty to his full committee, he stands square in his usual, sincere style, and proceeds to wage his fight to protect the bill as a majority of his committee reported it as he sees it according to his duty. But I do not think we are going to offend that genial and gracious and kindly chairman of the committee if we adopt these amendments sponsored by the gentleman from Alabama [Mr. HILL]. I know his personal convictions, and the history of this legislation.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. KVALE. Mr. Chairman, I ask unanimous consent to proceed for 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. KVALE. Mr. Chairman, my point is this: These amendments seek to embody in the measure some of the provisions considered vital in the Senate bill, which have been discussed at length in general debate, which appear in the RECORD this morning, and which are further verified and explained in the supplemental report which the gentleman from Texas [Mr. MAVERICK] and myself carefully prepared, and which are embodied in the report which accompanies the bill. I hope every Member of the House will do us the courtesy of reading that supplementary report.

Mr. GRAY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. KVALE. Yes.

Mr. GRAY of Pennsylvania. The gentleman refers to a Coal Trust in opposition to these so-called "amendments." I should like to have the gentleman identify the Coal Trust for the House.

Mr. KVALE. The gentleman imposes upon me a task which would take a great deal more than 5 minutes, and I must ask to be permitted to continue my line of argument and take that up perhaps at some later time.

Mr. Chairman, the issue is clear. There should not be anything to confuse this House. The T. V. A. has built up a distinguished record. If the Members of this body will do Mr. MAVERICK and myself the courtesy of reading that supplementary report, and verify its statement by quotations from the transcript of the hearings, they will find out that many of these unjustifiable statements about the disdainful attitude on the part of the directors of the T. V. A. and similar allegations are wholly unjustified, and they will learn to their own complete satisfaction that this corporation, operated in the public interest, is facing squarely the issue of serving the public not only in that area but of the entire United States.

It has taken on a Gargantuan task and has performed it with surprising ability, and the members, from Mr. Morgan and Lilienthal on down through the subordinate executives, have a record which their successors and their associates and companions can point to with full pride.

I am proud of Dr. Morgan; I am proud of Mr. Lilienthal; I am proud of what they have done. I grant, in the same breath, they have been guilty of certain minor infractions; but if you will do Dr. Morgan the simple courtesy—yes, the duty—of reading his testimony in the opening pages of volume 2 of the hearing, you will discover for yourselves that 97 percent of all purchases have been made in accordance with law, and that the so-called "irregularities", the so-called "injustices", the so-called "imperfections", the so-called "peculations", have been justifiable, each individually for itself. There has been a defense established for each of them. They have been in the interest of the public.

This organization, bear in mind, is fighting the most powerful and most well-organized forces that are in existence today in America, from an economic and industrial standpoint. There are too many petty things thrown into this debate. We should consider the larger aspects. Think of this great area being rehabilitated. Think of the yardstick that it is attempted to set up to break the hold of one of the most powerful industrial groups in the United States. Think of the dream of a Chief Executive of the United States which seeks to restore whole areas and which seeks to hold out contentment, security, peace, comfort, and convenience to the overworked housewives of an impoverished area, and ultimately, by example, to an entire Nation.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

Mr. MAY. Mr. Chairman, I regret very much that in the debate yesterday I must have been misunderstood by some of my committee colleagues. I regret very much more the fact that some of my very genial, friendly, high-class colleagues in the committee chose to make me personally the issue in this discussion, rather than the controversial features of this bill. I am attacked because I have opposed the activities of the T. V. A. because of its disastrous effects on the coal industry. It is called a "trust", and today it lies prostrate. Thirty thousand men in my district toil in the coal mines for a living, and every time legislation is offered that adversely affects their rights to make a living, their opportunity for earning a livelihood is lessened.

You were told yesterday that I voted for the original act under which we are now operating when it was first passed in this House. That, to the gentleman who made the statement, is undoubtedly believed to be a correct statement, but it is nevertheless a misstatement. What I voted for on the first vote in this House was a bill that the Military Affairs Committee of the House of Representatives brought out of that committee, that had no relation to or any resemblance of the Senate bill which was finally adopted, and what I voted for on the conference report later was this entirely different bill. The House Military Affairs Committee passed a bill which provided that the Government of the United States should develop the Tennessee River strictly along the lines of the Federal functions of national defense, flood control, and navigation on the Tennessee River for the purposes of interstate commerce. I voted then, as I have tried to vote since, with the administration; and to show now that this committee has been exceedingly fair to the Tennessee Valley Authority, I am standing with the chairman of my committee for this bill, because I believe this bill is a remedy for the defects that were in the bill that was passed and under which the Tennessee Valley Authority is now operating. To show that we tried to be fair we brought the bill out to the House when we had the power to keep it in the committee if we had desired to do so.

The first amendment that will be offered by the gentleman from Alabama [Mr. HILL] will be an amendment to provide that the Tennessee Valley Authority shall have an indefinite time in which to make certain investigations and recommendations to the Congress, with regard to the cost of production of electricity.

The bill says that after July 1, 1937, the Authority shall not sell surplus power or chemicals produced by it below the cost of aggregate production for each year. The first amendment will be to strike out that provision. The testimony before our committee shows that the Muscle Shoals Dam, with 240,000 kilowatt capacity, is now in existence and has been for years; that it is available for production, and that the Norris Dam will be completed before the first of next year, yet we are giving them until July 1, 1937, 2 years from the 1st day of this month, in which to be able to sell electricity at a profit. In that time they will have completed the transmission line from the Norris Dam to the Muscle Shoals Dam. They will have available then enough power to furnish the entire Tennessee Valley if they could get to it. I assume that this committee wants to hold them to the provisions of the original act, which provided that they should ultimately sell power at a profit, if they did sell it.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAY] has expired.

Mr. MAY. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAY. The next amendment that will be offered to the bill will be to strike out all of the bill on page 12, beginning with line 3 and ending with the word " disapproval " on page 13. That is the provision which requires that all moneys appropriated by the Committee on Appropriations of this House and that all moneys allocated from any other source to the Tennessee Valley Authority shall be covered into the United States Treasury and go through the General Accounting Office and be accounted for just like any other bureau of the Government. We felt that that was important for this reason: The Tennessee Valley Authority, in less than 1 year after it was first organized, had set up a bureau in Knoxville, Tenn., that occupies five great buildings. They have 3,000 officers and employees in those buildings, in addition to 13,000 men on the pay roll on the outside. We felt that a bureau that could expand like that, a bureau that could expend a million and a half dollars every 30 days, ought to be required to account for the taxpayers' money through the same methods and channels that is required of other departments of the Government. [Applause.]

That is the reason that provision was inserted in the bill. The gentleman from Alabama [Mr. HILL] will propose to strike that out. If they propose to be economical in the expenditure of their funds, what objection can they have to it?

Mention has been made about the position of Comptroller General McCarl in the matter. Let me call attention to this statement of his in the hearings; it is not lengthy, only about 10 lines. This is his testimony. Let me say further, before reading the quotation, that this section invokes the aid of section 3709 of the Revised Statutes, which provides that in the letting of contracts for materials they shall all be let after advertisement and public bidding to the lowest and best bidder. They do not even want to comply with this requirement. Comptroller General McCarl made this statement:

> Let us take section 3709 of the Revised Statutes. The purpose of the statute was to secure to the Government the benefit of open competition in connection with purchases to meet the actual needs of the Government. It is to permit all citizens who want to do so to bid, and it requires acceptance of the low bid meeting the specifications bid upon. It was to insure getting the most for the Government's money, to be fair with all citizens bidding, and to require conduct of the public business in making purchases on a competitive and fair basis as those who enacted the law believed it should be conducted.

What is wrong about requiring this wild, extravagant, money-spending, riotous-living bureau that is buying airplanes to fly from one office to another when they could just as well take a train or drive an automobile—what is wrong about the action of the Congress of the United States in requiring them to live up to the same regulations that other governmental agencies must meet? There is not a thing in the world wrong about it, not a thing. [Applause.] When the Congress of the United States puts itself in the attitude of not making this extravagant monster conform to practices required of all other bureaus and Government agencies, it puts itself in a position to be criticized, and justly criticized, by the country. [Applause.]

[Here the gavel fell.]

Mr. KELLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KELLER. Do I understand it to be the rule of the House that when a committee has controlled the entire time for general debate that members of the committee may also control all time under the 5-minute rule?

The CHAIRMAN. The gentleman correctly understands the rule insofar as preference in recognition is always accorded to members of the committee reporting the bill.

Mr. RANKIN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. RANKIN. Mr. Chairman, as I understand the rule, when an amendment is offered there is debate for and against the amendment and a member of the committee is entitled to recognition.

The CHAIRMAN. Yes.

Mr. RANKIN. But I do not understand that members of the committee are entitled to preference over other Members of the House when it comes to pro forma amendments such as motions to strike out the last word.

Mr. EDMISTON rose.

The CHAIRMAN. The Chair will state to the gentleman from Mississippi that under the rules the preference in recognition extends all the way through to members of the committee, and the Chair so rules.

The gentleman from West Virginia is recognized for 5 minutes.

Mr. EDMISTON. Mr. Chairman, I want particularly to call the pending bill to the attention of those Members of the House who like myself represent coal-mining districts. In the first place, very eminent engineers disagree on the question of whether electrical energy can be manufactured cheaper by coal or water power. After listening to the testimony of the Doctors Morgan and Mr. Lilienthal before the Committee on Military Affairs, it is my personal belief that if in the cost of the power developed by the Tennessee Valley Authority there was reflected a proportionate share of the fair cost of the dams and a fair rate of interest on that money, we could manufacture electrical energy in West Virginia where we dump coal off the tipple into the power plant cheaper than they are manufacturing it in the Tennessee Valley. [Applause.]

Do you Members representing coal-producing districts realize that the only market you have in this country for slack coal is the steam-operated electric plants? If you continue the operation of this Tennessee Valley project to the extent Dr. Morgan on the witness stand advocated—that there is to be no stop to it—you will eliminate your only market for slack coal; and the price of lump coal is bound to advance because the coal mines will have to dump the slack coal over the side of the hill for lack of a place to sell it.

Mr. KVALE. Mr. Chairman, will the gentleman yield for one question?

Mr. EDMISTON. Yes; I yield to my colleague on the committee.

Mr. KVALE. The gentleman, of course, realizes that he must combine the problem of distribution with the problem of production of power.

Mr. EDMISTON. The problem of distribution is the same regardless of how the power is generated. [Applause.]

Mr. FORD of California. Mr. Chairman, will the gentleman yield?

Mr. EDMISTON. I yield.

Mr. FORD of California. What connection is there between the production of power by coal and the production of power by water down in the Tennessee Valley and coal mines in the gentleman's district?

Mr. EDMISTON. The connection comes about by reason of the fact that the Government with its unlimited funds can build 15 dams, if necessary, to insure sufficient water in a

dry year to maintain the flow necessary to generate power, but a private company, not having inexhaustible funds, not having the United States Treasury behind it, must augment its water-power plant with a steam plant.

Mr. FORD of California. That is true, but that has nothing to do with T. V. A.

Mr. EDMISTON. It certainly had something to do with the coal markets, for it will destroy them.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. EDMISTON. I yield.

Mr. RICH. I should like to say to my colleague from West Virginia that the Government does not have an unlimited supply of funds. Soon they will be all gone, and we shall wreck this country if we do not stop this ruthless expenditure of funds.

Mr. EDMISTON. Another fact I wish to call to the attention of the Committee in my limited time is that if this bill stayed tabled in the Committee on Military Affairs it would not stop the activities of the Tennessee Valley Authority; they would carry right on, for they still have plenty of money. They do not need any more money now, so this legislation is not necessary to enable them to continue.

I should also like to call to the attention of the Committee a statement made by the late Thomas A. Edison:

> We shall steadily require more power, but a great deal more fuss is being made over hydroelectric power than its intrinsic value warrants. Water power is a political issue, not a business one.

I quote this eminent authority to show that this issue is political, and there has been no business ability demonstrated in its management since its inception.

Mr. FORD of California. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, one of the things which is worrying a great many Members of the House in reference to this T. V. A. matter is that it is a step toward national public ownership of electric utilities. This is a grave mistake. The T. V. A. does not mean toward national ownership; it means the creation in the Tennessee Valley of a yardstick by which the cost of production, distribution, and final consumption of electric power may be reasonably measured for the benefit of the people of that great district as well as other parts of this Republic.

I happen to represent Los Angeles, Calif., which has the most successful publicly owned power plant in the United States. Permit me to tell you why I am in favor of the Hill amendments, particularly the one which permits the T. V. A. to buy these competing lines without going into court. The city of Los Angeles went 250 miles up into the Owens Valley to get its water. In bringing this water down to the city of Los Angeles we had a 3,500-foot drop. We built power plants through which this water would run to supply the city. The power companies allowed us to build our plants, ready for production, and then took us to court and kept us there for 5 years, which cost the city $5,000,000 before it could turn a wheel in the plants which it had completed. The city finally bought the distributing plant of the private company and paid them about twice what it was worth, but that was O. K. Then we started distribution. We own two-thirds of the distributing system in the city. The citizens of Los Angeles were paying 11 cents per kilowatt-hour when we started. Now they pay 4.8 cents per kilowatt-hour, and it drops 1 cent very quickly after a few kilowatt-hours are used. We have been the yardstick for the whole of the Southwest, and have saved the people of the Southwest and the people of the State of California about $500,000,000 in power rates, because the power companies did not have the guts to charge 11 cents when we could produce and distribute electric power for 4.8 cents. That is the situation; and yet some Members here are trying to camouflage this matter by talking about details.

Mr. RANKIN. Will the gentleman yield?

Mr. FORD of California. I yield to the gentleman from Mississippi.

Mr. RANKIN. The power companies charge more than twice as much in West Virginia as they charge in the District of Columbia, and yet in West Virginia they make the power with West Virginia coal.

Mr. FORD of California. The gentleman from West Virginia who preceded me is worried about the coal situation. There are situations under which you can produce electric energy cheaper by coal than by water. That is an engineering fact that we all know about. But there are also situations whereby you can produce electrical energy cheaper by water than by coal. I submit it is fair that districts which have great natural water resources should be permitted to produce energy by water wherever they can do it cheaper than by coal. That is what we are trying to do in the T. V. A. This is a great question that the American people are going to be called upon to decide in the next election. The question is whether or not this holding-company gang, who are just as interested in the defeat of the amendments to the T. V. A. as they are in the defeat of the holding-company bill, are going to keep us from producing and distributing electric energy at a price that the people can afford to pay.

I have, my friends, adverted to the lowering of rates due to municipal ownership. Let me point out what that has meant in dollars and cents to the ratepayers, who are, in 90 percent of the cases, also taxpayers.

In the 20 years of operation of the Bureau of Power and Light of Los Angeles the ratepayers and taxpayers have been saved in excess of $100,000,000 on water and power, as compared with the rates they would have paid under private ownership.

In addition to this saving, the bureau has returned to the city treasury some four or five millions of dollars to help out in the critical period through which the city was passing from 1932 to 1935.

The city's power and water plant is worth in excess of $250,000,000. Its indebtedness is less than $100,000,000 at this time, the interest and amortization on which is promptly met each year, in addition to a handsome surplus. Part of this surplus goes to the city treasury in lieu of taxes which would be paid by a private company, which would charge twice the rates now collected by the city.

As a matter of fact, my friends, the T. V. A. fight is merely the broadening of the battle front. Our battle, and the battle of hundreds of other communities, was heretofore a local battle. The T. V. A. makes this a national battle.

There is no question of socialism, sovietism, communism, or any other un-Americanism involved.

It is merely a question whether the American people decide to exercise their God-given right to utilize the national natural resources for the benefit of all, as opposed to permitting a few rich, powerful, unscrupulous exploiters to supply them with light and power at rates that enable the exploiters to wax rich at the expense of the people themselves.

As for me, knowing from years of experience with the exploiters, knowing the methods they employ to achieve their ends, I am going to vote for the Hill amendments to this bill. My reasons are simple. I want a yardstick established. If the House bill as at present written prevails, that will be impossible.

Let us be frank, my friends. Do you trust President Roosevelt or do you trust the exploiters? It is your President and my President against the most daring, the most unscrupulous gang of financial exploiters that ever existed.

For me, I am for the President. The Hill amendments represent his views. The choice is yours. I have no fear as to the results.

[Here the gavel fell.]

Mr. FADDIS. Mr. Chairman, I move to strike out the last four words.

Mr. Chairman, the Committee on Military Affairs worked long and faithfully upon this piece of legislation. I do not think there is a member of that committee on the Democratic side who 2 years ago was not heartily in favor of the original act as passed by the House. But we have come to realize that, after passing the House bill, we had the Senate bill rammed down our throats in conference. We have come to realize that this T. V. A. which we instituted a short

time ago is reaching out with an avaricious appetite to get public funds and devote this money to the socialization of the industry of the United States. Some of us who come from coal-producing districts have already felt the effect of the T. V. A. in our districts, and I predict that we will soon feel it more if the integrity of the House bill is not preserved.

When the members of the Committee on Military Affairs brought out this legislation, we tried our level best to do justice to the T. V. A. Board and to the people of the United States. It was what all legislation should be—a compromise. In this legislation we endeavored to hedge this Board of academic college professors of theoretical minds with the restrictions that should hedge every department in this Government. We endeavored to put them under the control of the Comptroller General of the United States and endeavored to provide that their purchases, their expenditures, and all of their affairs should go through the customary channels through which the affairs of all the other bureaus of the Government pass.

We still believe that this bill should be passed as we brought it out of committee, and the members of the committee reported out the bill with that thought in mind. We were endeavoring to do something for the T. V. A. and at the same time rectify what we permitted to be passed 2 years ago when the Senate bill was rammed down our throats.

Mr. SHORT. Will the gentleman yield?

Mr. FADDIS. I yield to the gentleman from Missouri.

Mr. SHORT. Is it not true that this bill would never have been reported out of the committee if certain amendments had not been accepted by the members of that committee?

Mr. FADDIS. That is true. There was an agreement by the majority of the members of the Military Affairs Committee to bring this bill out for consideration. When the statement is made on the floor of this House that a great many of the members of that committee voted to bring this bill out only in order to get it before the House, that is entirely erroneous. We voted to report this bill out because we believed in this kind of a bill, and for no other reason. I did not vote to report this bill out in order that it might be brought on the floor of the House to be made a political football. I never would vote to bring any bill out of committee for that purpose.

So I appeal to the Members of the House to carefully judge and weigh these amendments, to think before you vote on them and grant this Bureau powers that no other bureau connected with this Government has, and powers that no bureau should have, in connection with the spending of the money of the people. [Applause.] We are the representatives of the people and are responsible for the spending of their money.

I believe in the T. V. A. as we originally established it. I believe in it especially as a yardstick with which to measure utility rates. What we must have, however, is an honest yardstick, not a fictitious one. This we cannot have unless we insure that they are properly hedged by regulations and obliged to comply with a proper system of accounting.

The pro forma amendment was withdrawn.

Mr. RANKIN. Mr. Chairman, I listened this morning to the remarks of the gentleman from Missouri [Mr. SHORT] in opposition to the T. V. A. He does not seem to realize what the T. V. A. means to the people of his own State. A few days ago I put into the RECORD a statement showing that the people of Missouri are overcharged for electric light and power $20,000,000 a year, of which at least $1,600,000 is piled onto the shoulders of the people of the district he represents.

They have talked here of the T. V. A. yardstick. In this compilation I not only used 1 yardstick, I included at least 4 yardsticks, and possibly a half dozen yardsticks, and nine-tenths of your districts under these yardsticks are being overcharged more under the Tacoma or the Winnipeg or the Ontario rates than they would be under the T. V. A. rates. Take the statement put into the RECORD from the records of the city of Jacksonville, Fla., where they have cheaper rates than in the average town where you live, and where they sold $2,600,000 worth of electricity last year and made a profit of $1,800,000, if they had done as Winnepeg, the T. V. A., Tacoma, and Ontario are doing, and had given the consumers the benefit of that profit, they would have been able to sell power in Jacksonville, Fla., manufactured from oil from Texas or coal from Pennsylvania, much cheaper than they are selling it in the Tennessee Valley.

Why, the distinguished gentleman from West Virginia [Mr. EDMISTON] and these other gentlemen from coal districts are complaining that this is competing with them, and they say it will stop the use of coal. I have gone into this question thoroughly, and under ordinary conditions I am going to concede there will be very little difference in the cost of electricity when it is manufactured with coal and when it is manufactured with water power. Let me say to the gentleman from Kentucky [Mr. MAY], whose people are overcharged in that State more than $8,000,000 a year for electric lights and power, and the gentleman from Pennsylvania [Mr. FADDIS], whose people are overcharged $75,000,000 a year for electric light and power. that these coal barons are lined up with the Power Trust in this fight while coal is piled up at the mines that could be turned into electric energy at rates provided by the T. V. A. yardstick and sold to those people. This is what the yardstick is for.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. RANKIN. No; I have no time to yield.

But in the coal-mining districts of Kentucky, of Pennsylvania, of West Virginia, and Alabama these poor miners come out from the depths of the earth, sweaty and tired, and go to their homes and are denied enough electric energy to even run a fan, much less a refrigerator. Some of them are not able to properly light their humble homes, the rates are so high. If this coal were turned into power and sold at the rates provided by the T. V. A. yardstick, it would more than double the consumption, and you would have a market for your coal and would add to the comforts of the people who need it most. You are simply working against the interests of those people who are today digging the coal from your mines and are denied the use of the electricity that could be produced by it.

You are lining up, unconsciously perhaps, with the Power Trust to deny these people one of the greatest blessings of modern civilization—a liberal use of electric energy.

[Here the gavel fell.]

Mr. RANKIN. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

Mr. RICH. Mr. Chairman, reserving the right to object, I would like to know whether the gentleman is going to yield to some questions with reference to the statements he is making. I shall not object.

Mr. HOFFMAN. Mr. Chairman, reserving the right to object, I want my friend Mr. KELLER over there to have time. He has been trying for an hour to get time.

Mr. KELLER. I thank the gentleman.

Mr. McSWAIN. Mr. Chairman, reserving the right to object, and I am not going to object; but we must make some progress in the reading of the bill, and unless we can have an agreement that this general discussion shall conclude in 10 or 15 minutes we shall be obliged to move that debate on this section and all amendments thereto close in that time.

Mr. COOPER of Ohio. Mr. Chairman, reserving the right to object, I would like to have 3 minutes.

Mr. McSWAIN. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN. The gentleman from Mississippi [Mr. RANKIN] asks unanimous consent to proceed for 5 additional minutes. Is there objection?

There was no objection.

Mr. FORD of California. Mr. Chairman, will the gentleman yield?

Mr. RANKIN. I yield to the gentleman from California.

Mr. FORD of California. Will the gentleman from Mississippi tell me whether the coal industry has ever justified its existence in view of the terrific conditions that have always existed among coal workers?

Mr. RANKIN. They are not justifying it now. That is what I am coming to, and this additional time has given me an opportunity to locate my distinguished friend from West Virginia [Mr. EDMISTON]. The people of West Virginia are being burdened with power rates that are outrageously high, and yet they are hauling coal from West Virginia to the District of Columbia and manufacturing and selling power for about one-half of what they have to pay in West Virginia.

The District of Columbia is served by a private power company, a private enterprise. They are free from a holding company, although I am told they pay their president $25,000 a year, yet they bring coal from West Virginia and from Pennsylvania with which to produce it, and sell electricity for half of what they sell it for in Pennsylvania, although they have no industrial load here and have to depend entirely upon commercial and domestic consumption. [Applause.]

I say to the gentleman from West Virginia that he is standing in the way of his own coal industry. I do not care whether you can make electricity cheaper by coal or waterpower, I am for bringing the rates down to a proper yardstick.

They have reduced the power rates $350,000,000 in this country, and that is the reason the Power Trust is complaining. What I am trying to do is to bring the power rates down all over the country so that they can use the coal from West Virginia and Pennsylvania in the right way. If they will do that it will furnish power and light to West Virginia, Pennsylvania, Kentucky, and Alabama as cheaply as it is furnished by the T. V. A., if not cheaper.

Do not forget, gentlemen, that every man that turns on a light is watching Congress today.

Mr. EDMISTON. Will the gentleman yield?

Mr. RANKIN. Yes.

Mr. EDMISTON. The gentleman's comparison of West Virginia and the company operating in the District of Columbia is unfair, for this reason: There are as many living in the 10-mile square of the District of Columbia as we have in the whole State of West Virginia. The District of Columbia does not have to distribute its current over anything like the territory that we have.

Mr. RANKIN. There is a town of 60,000 people in West Virginia, the town of Charleston. On January 1, 1935, they were charging $2 for 25 kilowatt-hours, where they charge 75 cents in the T. V. A. area. Your people are being robbed by the Power Trust, and we are trying to give them relief. [Applause.]

Mr. COOPER of Ohio. Mr. Chairman, I rise in opposition to the amendment. Much has been said during the last few minutes relative to the fair yardstick being used by the T. V. A. for the sale of electrical energy to the consumer. A few days ago, during the discussion of the utilities holding company bill, I called to the attention of the House some of the advantages that the T. V. A. has over private utilities, and I repeat again today what they are:

No measure of overhead and general expense of the Federal Government; no financing expense, no interest charges except that they might have to pay 3½ percent on moneys while private utilities have to pay 6½ percent on the same; no insurance charges, the Government carries the risk; no State or Federal workmen's compensation to pay; no real-estate tax to pay; no automobile taxes to pay; no gasoline taxes to pay; no 3-percent special Federal utility tax to pay; no Federal or State income tax to pay; no corporation tax to pay, and in the new tax bill which is being contemplated and will be before the House in a few days for consideration we are expected to raise corporation taxes up to 17 percent. The T. V. A. has no corporation tax to pay and has the advantage of rebates on railroads for both freight and passenger service, free postage under the Government franking privilege, free legal counsel, free use of other Government departments, free use of office rooms in Federal buildings; together with immunity from expense for regulation, keeping its own accounts to suit its own purposes, including the charge-off on power costs to social uplift, navigation, improvements, and so forth.

I submit to the House that there is not a public utility in the United States that can live under such competition as that, and I say that this yardstick which they are talking about, this untruthful rubber yardstick by which the price of electrical energy shall be measured by the T. V. A., is unfair and un-American. [Applause.]

Mr. KELLER. Mr. Chairman, I represent the best developed and largest producing soft-coal district in the United States, the Twenty-fifth District of Illinois. It has the largest and best-developed mines in the entire world. I am 100 percent for the bill that is before this House when properly amended by the four amendments to be proposed by the gentleman from Alabama [Mr. HILL]. [Applause.] The justification of my position lies here: We have been afraid all of the time that water power would put coal out of business. We are afraid only because we do not know the facts. It has been a question for my investigation during my economic studies for many years. In the last 3 or 4 weeks, anticipating these bills coming along, I have secured information for this House which, if I am permitted to present, will compel every man to admit that the best thing that can happen to the coal industry of the country is to put through the T. V. A. to the fullest power and extent. I have no illusions about this. I have no feeling in the case. It is purely a matter of economics, a matter of common sense, and nothing else.

If the water power is sufficient to supply any large part of the power needed, there might be something to it. But what are the facts? Long ago it was brought out in this country by the great engineer Steinmetz that if every drop of water that fell within the borders of the United States could be used to absolute perfection, the entire rainfall, it could supply only 30 percent of the heat actually in use at that time, and a much less proportion of what we are now using. What part of that possible 30 percent can be produced economically?

At the present time about 7 percent of the entire electrical current in the country is produced from water power, and no more. You can add to that 7 percent another 3 percent, of water power, but you cannot add another single percent beyond that, economically. Therefore, we are faced with this proposition: If we are to use only the electricity we are using now, we can supply only 10 percent of it from water power. Laying aside the use of oil and gas for producing electric current, which, of course, is only of temporary importance, we face only one possibility of supplying the tremendous amount of power necessary in this country to do the great work that is facing us, not the little work now, but the great work of producing vastly more wealth than we have heretofore produced. We cannot do that unless we provide the proper power for that purpose, because at the bottom of all our industries lies the use of power, and that use depends on the cost of that power. I repeat what I said the other day, that the one biggest big business in this country in years to come is to be the production and distribution of electrical power, and nothing less than that. What are the sources? Ten percent water power when it is fully developed economically, and no more. What other source have we? The first thing that we must have in justifiable investment is permanence, so that we can calculate on an investment today and see what it is going to be 20 years from now, not what it would be in 1 or 2 years. What is that source of power? Just one. That is the great source of the soft coal of this country, because from that source we have in sight at the present

time enough to supply our entire needs for 5,000 years to come within the borders of the United States alone. [Applause.]

Let us note that temporarily the oil, and the gas arising from oil deposits, is cutting a small figure in the present production of power—about 5 percent—so that at present the total power outside that produced by coal is about 12 percent. The geologists estimate that even at this rate the oil and gas will be exhausted within another 15-year period. As prosperity returns, naturally a higher use than that for producing electric current will be found for the wonderful oils which nature has stored in the bowels of the earth. Then the common sense of conservation will prevent any great use of this supply except for the higher purposes of industry.

The production of power at a reasonable rate is a national question—one that will affect every individual in America. It lies at the very foundation of all industry, and the success or failure of industry depends primarily upon obtaining what we now call "cheap" electric current, as compared with the present rates, but what we ought to refer to as "reasonable" rates for electricity.

To illustrate what I am driving at: In actual practice, by the use of soft coal under reasonable conditions, electric current can be produced at 3 mills per kilowatt-hour on an average. To illustrate what this might mean, let us take into consideration that the 40 southern counties of Illinois, where the holding companies are in supreme control, the average rate to consumer is a fraction above 7 cents per kilowatt-hour what costs 3 mills to produce.

Of course, American manufacturing cannot compete with such electric rates as this when, notably in Germany, the production of electric current from soft coal is made on the basis as low as 1½ mills per kilowatt-hour, as it also can be produced under extraordinary conditions in our own country.

We, therefore, face this first question: How are we going to enter into competition with foreign industry in the foreign markets? The answer is obviously that we must first have electric rates as cheap as those available in foreign countries. It, therefore, resolves itself primarily into the production and distribution of electrical current at what we now consider a very low rate, but which, I repeat, is a fair rate under normal conditions.

We are not going to remain poor, unemployed, and inactive. If we were, our present production might largely suffice. Quite on the contrary, we are going to proceed with the creation and distribution of wealth in this country far beyond what we have done heretofore. Our very first step is to provide the basic elements of power under such conditions as to enable us to compete with other nations.

If our public-utilities concerns had from the beginning sought to serve the people at large and had been satisfied with a reasonable profit, there would have been no necessity for T. V. A. or for the coming coal authority, or any other governmental stimulus to power production.

The public-utility concerns have only themselves to thank for the coming of the competition which their outrageous prices have compelled the American people to seek. It has been the mistake of the public-utility companies to charge "all that the traffic would bear." Instead of coming into the court of humanity with clean hands, and offering to produce and distribute power at such rates as the engineers of the world know would be sufficiently profitable, they still might largely retain their former position. Not only are they unwilling to do this but they are using every means to maintain control along with prices which are commercially impossible. Industrial America cannot and will not permit any group to limit and impoverish industry and deny occupation to men.

The next question arises—what will be the effect of lower rates of electricity? Where the rates have been cut in two there has not been an increase merely, but a multiplication in the use of electrical current. That a much greater decrease than 50 percent can be made in many instances there is no doubt at all. In view of the coming rural electrification, and the completion of the electrification of the very partially electrified villages and cities; in view of the certainty that we are going to place our increases in manufacturing away from the present centers, all of which power must be supplied from new installations, it is justifiable to say that as soon as we can arrange for this development the amount of electric current which will be used will be a multiplication of all of the present electrical power, certainly a minimum of four times our present output.

All that current must be produced from soft coal of this country, and when we can arrive at that point of development it will not be a question of giving jobs to men in the coal mines but of getting enough men to fill the jobs which the new economy of plenty will bring about in this country. It should be suggestive, at least, that the miners' organizations are aware of these facts and are not opposing the T. V. A. Many believe in that development as one of the necessary steps toward bringing about the liberation of industry from those powers which have for years been exploiting it. Every coal field, favorably located and with favorable mining conditions, will receive a great impetus in the production of power as soon as electricity can be provided at reasonable rates.

As will be seen, the present proportion of current produced from water power and oil and gas is about 12 percent. But that is the limit that can be produced from those sources, and by the time water power has arrived at its full-grown development of 10 percent, the percentage of fuel oil and gas for production of electric current will have been discontinued. The other 90 percent must and will come from our 5,000-year supply of soft coal. When we multiply the present electric output, that entire increase must come from that soft coal. That will, of course, decrease the proportionate supply from water power.

It is fortunate for every coal mine and every coal miner, as well as for every American citizen, that the T. V. A. has opened our eyes to what electricity is to mean to the industry of this country. We should loyally support the T. V. A. development, learn from it, profit greatly from it as we are doing already. We should understand perfectly that the American people as yet do not, to any large extent, want public ownership. But the present utility companies on the other hand should also understand that if they continue to refuse fair rates and fair treatment, the people will, when compelled to, take charge of their own business. Because in fact as well as in theory all public utilities are but the agents of the people, empowered by them to carry on the people's business for them. And when those agents refuse to do their work well, the people have full power to remove those agents and do as they please with their own business.

We are making a fight for the coal industry at the present time. The achievements of the T. V. A. are its best guaranty of success. The man who fails to see the interrelation, the interdependence of the two, with the enormous increase in the use of soft coal, with the coming cheap rates, is overlooking the best interest of the coal mines, the coal miners, and the whole industry of the United States.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. McFARLANE. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois [Mr. KELLER] have 5 additional minutes.

Mr. MILLARD. Mr. Chairman, I object.

The CHAIRMAN. The Committee has fixed the time. The gentleman from New York [Mr. TABER] is recognized for the remaining 5 minutes.

Mr. TABER. Mr. Chairman, I think we ought to look at this yardstick and talk about it a little so that the Members of the House, when they vote on this bill, will know what kind of a yardstick is being put up to them to measure the cost of producing electric power.

At the present time the revenue from this outfit, with approximately $50,000,000 chargeable to power, according to their own story, is $163,000 a year. It is estimated by the Tennessee Valley Authority, Mr. Lilienthal and Dr. Morgan, that at the end of 1940 there will be $192,000,000 invested in power and dams, and that the gross revenue—not the net

revenue, but the gross revenue—will be $5,000,000. Those who have looked at power-operation figures know that the cost of operation and of distribution to get rid of $5,000,000 worth of power, with all that lay-out, is going to be four or five million dollars, and the net power revenue, after the distribution expense has been paid, is not going to be over a million dollars a year. With $192,000,000 invested, the depreciation charge must be eight or ten million dollars a year in any event, and it should be nearer $15,000,000. That means that the net loss, before interest is taken into consideration, is going to be nine or ten million dollars, if it is figured right and if it is figured honestly. When we figure interest at 3 percent that means $6,000,000 more, and the net loss is going to be fifteen or sixteen million dollars a year.

Now, let me say to you that as you vote on these questions, the yardstick that is established, whether it is an honest yardstick to the taxpayers of the United States is going to be the question. The people of the United States, the people who pay taxes every time they go to a movie or every time there is anything that they do which is subject to a tax in the United States, are going to watch you and they are going to know whether you are setting up an honest yardstick or whether you are setting up a yardstick that robs the taxpayers of the United States as this proposal which Dr. Morgan and Mr. Lilienthal have set up. We must put some sense into our operations. We must protect the taxpayers of the United States against this operation. We must establish an honest yardstick, where they charge rates which are commensurate with the expense to which the taxpayers are put, and not one that will burden our taxpayers with an additional ridiculous charge.

I think we ought to be very careful how we proceed in this matter. [Applause.]

The CHAIRMAN. The time of the gentleman from New York [Mr. TABER] has expired.

The pro forma amendment was withdrawn.

The Clerk read as follows:

SEC. 2. That subdivision (j) of said section 4 of said act be, and the same is hereby, amended to read as follows:

"(j) Shall have power to construct such dams and reservoirs in the Tennessee River and its tributaries as, in conjunction with Wilson Dam, Norris Dam, Wheeler Dam, and Pickwick Landing Dam (hereafter to be known as 'Percy Quin Dam'), now under construction, the Aurora Dam, and the other dams enumerated in the report of the Chief of Engineers, March 15, 1930 (H. Doc. No. 328, 71st Cong., 2d sess.), and authorized by act of Congress approved July 3, 1930 (Public, No. 520, 71st Cong.), will provide with a 9-foot channel in the said river and maintain a water supply for the same from Knoxville to its mouth, and will best serve to promote navigation on the Tennessee River and its tributaries and control destructive flood waters in the Tennessee and Mississippi River drainage basins; and shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines. The directors of the Authority are hereby directed to include in their next annual report their recommendations for the unified development of the Tennessee River system."

Mr. HILL of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HILL of Alabama: Page 2, line 14, strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. That subdivision (j) of said section 4 of said act be, and the same is hereby, amended to read as follows:

"'(j) Shall have power to construct such dams and reservoirs in the Tennessee River and its tributaries as, in conjunction with Wilson Dam, and Norris, Wheeler, and Pickwick Landing Dams, now under construction, will provide a 9-foot channel in the said river and maintain a water supply for the same from Knoxville to its mouth, and will best serve to promote navigation on the Tennessee River and its tributaries and control destructive flood waters in the Tennessee and Mississippi River drainage basins; and shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines.'"

Mr. HILL of Alabama. Mr. Chairman, this is not one of the so-called "vital" amendments which I placed in yesterday's RECORD, but it is important from the standpoint of making certain and clear that the intent that the Congress has in establishing a 9-foot channel in the Tennessee River is carried out.

The language of the amendment which I have offered is identical with the language carried in the bill offered by the gentleman from South Carolina [Mr. MCSWAIN], chairman of the committee, as he originally introduced the bill and as he introduced the bill in what we term the "compromise" form. It is also the same language as was in the bill that passed the Senate.

The difficulty about the language now in the bill and the reason I offer the amendment is, gentlemen will note that the language now in the bill refers to the engineer's report adopted in the River and Harbor Act approved July 3, 1930, in the Seventy-first Congress. That report was unfortunately adopted by the Congress, but should never have been, as it recommends low navigation dams on the Tennessee River instead of high dams for navigation, flood control, and power. If now we tie the dam construction in the Tennessee River in with the report recommending the construction of low navigation dams, we will cause confusion and all kinds of trouble.

What I have offered in my amendment is the language of the bill as drafted by the engineers and lawyers of the Tennessee Valley Authority, as passed by the Senate, and as introduced by the Chairman of the Committee on Military Affairs.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. McCORMACK. I notice the language of the bill as introduced contains, in line 19 of page 2, after the words "Pickwick Landing Dam", the phrase "hereafter to be known as 'Percy Quin Dam'", but that this latter phrase is not included in the gentleman's amendment.

Mr. HILL of Alabama. It was not in the original bill.

Mr. McCORMACK. But it is in the bill as reported by the committee.

Mr. HILL of Alabama. Yes; it was in the bill as reported; and, of course, my amendment would be subject to an amendment to put in that language.

[Here the gavel fell.]

Mr. HILL of Alabama. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BOLTON. In the opinion of the gentleman, does the responsibility for the development and maintenance of the Tennessee River lodge with the Tennessee Valley Authority or with the Corps of Engineers?

Mr. HILL of Alabama. With the Tennessee Valley Authority.

Mr. BOLTON. Does the gentleman think it proper to change an established policy in regard to the question of navigability?

Mr. HILL of Alabama. When we created the Tennessee Valley Authority they were charged with the responsibility of constructing the dams. They have control of the dams, and we thought they ought to have that responsibility.

Mr. BOLTON. I am talking about the question of navigability, the gentleman understands.

Mr. HILL of Alabama. Yes; I understand. Yes; they have control as to all features.

Mr. WILSON of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. WILSON of Louisiana. With reference to the flood-control feature, they have under contemplation a dam on the Ohio above Paducah at the junction of the Cumberland and the Tennessee. Would the T. V. A. have authority to construct that dam?

Mr. HILL of Alabama. On the Ohio River?

Mr. WILSON of Louisiana. Yes.

Mr. HILL of Alabama. No; the Tennessee Valley Authority is limited to dams on the Tennessee River and its tributaries.

Mr. WILSON of Louisiana. This involves the Cumberland, the Tennessee, and the Ohio Rivers above Paducah, which could be construed to come within that field.

Mr. HILL of Alabama. The Tennessee Valley Authority has jurisdiction only in the Tennessee River and its tributaries.

Mr. WHITTINGTON. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. WHITTINGTON. This bill and the gentleman's amendment are confined to the Tennessee River and its tributaries.

Mr. HILL of Alabama. Yes.

Mr. WHITTINGTON. Both are covered by the amendment and the pending bill.

Mr. HILL of Alabama. The basic act, of course, takes in only the Tennessee River and its tributaries, and that is all this bill takes into consideration.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. SNELL. In a few words, just what is the difference between the gentleman's amendment and the language stricken out?

Mr. HILL of Alabama. The only difference is that the section I have stricken out refers to the engineers' report. As I have said, this report was made in the year 1930, before the Tennessee Valley Authority was conceived, and many of the recommendations in the report are based on the construction of low-navigation dams rather than high-navigation, flood control, and power dams; and we have adopted the policy down there in the Tennessee Valley of constructing high dams.

Mr. SNELL. As a matter of fact, one object in setting up the Tennessee Valley Authority was to control navigation and stream flow.

Mr. HILL of Alabama. That is correct.

Mr. SNELL. Heretofore that has always been left with the Board of Engineers.

Mr. HILL of Alabama. No; the basic Tennessee Valley Act placed the construction of all these dams in the Tennessee Valley Authority. There is no change from the basic act so far as this section is concerned, except it specifies that there must be a 9-foot channel.

Mr. SNELL. I know, but under preceding acts it was always left with the Army engineers.

Mr. HILL of Alabama. No; not under the basic Tennessee Valley Act.

Mr. SNELL. I mean in all acts before the Tennessee Valley Act.

Mr. HILL of Alabama. Before the Tennessee Valley Authority was established, of course, the gentleman's statement is right; the engineers were our only available source of authority on these rivers; they made the surveys of the rivers.

Mr. SNELL. But the gentleman is going to change that and give it to the Tennessee Valley Authority.

Mr. HILL of Alabama. It has already been changed by the act of 1933.

Mr. SNELL. If it has already been changed, why is this additional legislation necessary?

Mr. HILL of Alabama. It just perfects the basic act; that is all.

Mr. McSWAIN. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. McSWAIN. Boiled down to one sentence, the purpose of any legislation at all on this subject was to specify legislatively what was meant by navigability; and we specified that by saying that there shall be a 9-foot channel. That is all that is said.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. SNELL. And in doing that is it not being changed from a navigation proposition to a power proposition?

Mr. McSWAIN. No; you are making it strictly navigation, undoubtedly.

Mr. SNELL. But you are doing it for that purpose.

Mr. McSWAIN. I do not think so. I think it is a navigation feature, pure and simple.

Mr. HARTER. Does the proposed amendment to section 2 of the House bill strike out the language on page 3, beginning in line 10?

Mr. HILL of Alabama. No. I put that in the amendment.

Mr. HARTER. That is included in the amendment?

Mr. HILL of Alabama. That is included in the amendment.

Mr. HARTER. So the directors of this project must make a report to Congress together with their recommendations?

Mr. HILL of Alabama. The language in the amendment is identical with the language in the bill so far as that last sentence is concerned, I may say to the gentleman.

Mr. EATON. Will the gentleman yield?

Mr. HILL of Alabama. I yield to the gentleman from New Jersey.

Mr. EATON. Is it necessary to have these high dams in order to get a 9-foot stream of water for navigation?

Mr. HILL of Alabama. No; it is not.

Mr. EATON. Then the high dams, as I understand it, are to be put there for power purposes only?

Mr. HILL of Alabama. No. It is necessary to have these high dams in order to get flood control as well as power.

Mr. KVALE. Will the gentleman yield?

Mr. HILL of Alabama. I yield to the gentleman from Minnesota.

Mr. KVALE. In connection with the language in the last sentence referred to, will the gentleman include in his remarks at this point the references to section 2 which appear in my supplemental report?

Mr. HILL of Alabama. Does the gentleman mean to extend my remarks by putting in that information?

Mr. KVALE. Yes.

Mr. HILL of Alabama. I shall be glad to do so. I want to say on this floor that the construction of the Aurora Dam for which the gentleman from Kentucky [Mr. GREGORY] and the gentleman from Tennessee [Mr. TURNER] have worked and labored so long and so valiantly is authorized. I cannot yield further.

Mr. Chairman, I respectfully submit and will undertake to show to my colleagues that the navigation-improvement plan adopted in the River and Harbor Act, approved July 3, 1930, providing for a navigable depth of 9 feet at low water from the mouth of the Tennessee River to Knoxville by building 32 low dams—unless power companies came forward and proposed to build high dams under the Federal Water Power Act—was, in the light of subsequent facts and events, an incredible mistake.

The River and Harbor Act of July 3, 1930, authorized appropriations of $5,000,000 for the prosecution of this work of building low dams. In a communication dated December 7, 1931, to the Secretary of War, which he transmitted to Congress, the Chief of Engineers requested an additional authorization of $17,500,000, making a total of $22,500,000 for building eight of these low navigation dams between the head of Colbert Shoals and Hales Bar Lock and Dam below Chattanooga. The additional authorization of $17,500,000 requested by the Chief of Engineers for this work was not granted by Congress. However, out of funds provided in the Reconstruction Finance Act and allocated for river and harbor work, the Chief of Engineers started the construction of a lock—designed for 9-foot navigation—at the Wheeler Dam site. The construction of this lock was the first step toward the completion of a costly and irreparable mistake. Happily, President Roosevelt corrected the mistake made by Congress in adopting the policy of building 32 low dams on the Tennessee River, and the reason I press the facts about this matter upon the attention of my colleagues is that I, after as sober thought as I can give the matter, greatly fear that if the House refuses to pass the amendments to the T. V. A. Act which the President desires, we are going to make another fearful mistake about the Tennessee River, and one which the President cannot correct for us.

After the President's visit to Muscle Shoals in January 1933, he ordered that the low lock then building at the

Wheeler Dam site be redesigned for a high dam. This was done, and in due course the President ordered the Wheeler Dam built. The Membership of the House knows, without further detail, Mr. Chairman, that the President has abandoned the building of 32 low navigation dams on the Tennessee River and proposes to build, instead of these low dams, 7 high dams and locks between the mouth of the Tennessee River and Knoxville, Tenn.

Just as briefly as possible, and with as few detail figures as possible, let us make an estimate of what the President saved the taxpayers of the country by adopting the high-dam plan instead of the low-dam plan adopted by Congress.

The engineers' estimate and report, based upon their experience in operating similar low dams on the Ohio River, that it will cost $40,000 per year for maintenance and operation of each of the 32 low dams. Therefore, the annual cost for maintenance and operation of the 32 low dams would be $1,280,000. The annual cost of maintaining and operating the seven high dams would be $40,000 each, or a total of $280,000 annually. The difference between the cost of maintaining and operating the 32 low dams and 7 high dams would therefore be $1,000,000 annually. In 50 years the saving would be $50,000,000, and in 100 years the saving would be $100,000,000 in the cost of maintenance and operation.

Let us assume, for the purposes of this discussion and without claiming precision for the figures, that the cost of building seven high dams for navigation only, with no power installation, will be $20,000,000 each, making a total of $140,000,000. The Government at the end of 100 years would have $140,000,000 invested in the building of seven high dams for navigation only, all without interest and no sinking fund, and would have also invested $28,000,000 as the expense of maintaining and operating seven high dams for 100 years, making a total investment in the seven high dams in 100 years of $168,000,000.

The 32 low dams are estimated by the engineers to cost a total of $75,000,000. The cost of maintenance and operation of 32 low dams for 100 years would be $128,000,000, and at the end of 100 years the Government would have invested in the 32 low dams as the cost of construction and operation a total of $203,000,000. Therefore, at the end of 100 years this shows that the Government would have $35,000,000 less invested in the high dams and locks, for navigation only, than the Government would have invested in 32 low dams and locks for navigation only. In other words, in 100 years the Government would save $35,000,000 by building the high dams, or $350,000 per year; and, Mr. Chairman, the high dams, without power, would give flood control, and the low dams would provide no flood control.

Let us consider what the President saved in one item only by ordering the high dam built at the Wheeler Dam site. The power companies offered the Government in 1926, $600,000 annually for the increase in primary power at the Wheeler Dam, due to the regulated flow of the river in dry seasons, available by the building of the Norris Dam. This saving, by building the high Wheeler Dam, would amount to $30,000,000 in 50 years and $60,000,000 in 100 years.

Col. Hugh L. Cooper, in a letter to former Congressman McKenzie, Chairman of the Coolidge Muscle Shoals Commission, stated that the regulation benefits created by building such a dam as the Pickwick Landing Dam would be worth about $1,000,000 a year to the utility power operations of the Wilson Dam. Colonel Tyler, the engineer-adviser to the Hoover Muscle Shoals Commission, in 1931 definitely and in detail confirms Colonel Cooper's statement.

It is, indeed, worth while to say that Colonel Tyler, conservative in his report almost to the point of unfairness, estimated that in 5 years a public utility could afford to pay an annual rental for existing properties at Muscle Shoals of about $1,600,000 per annum in addition to all costs of operation. Colonel Tyler says, however, that if and when a navigation or power dam is built in the vicinity of Colberts Shoals—and this means Pickwick Landing Dam—that the Wilson Dam can be operated at peak load, and that the net rental value to the public utility of Wilson Dam, above all costs of operation, would be approximately $3,000,000 a year. You will note, Mr. Chairman, that Colonel Tyler estimates the regulating value of the pool created by the Pickwick Landing Dam as worth $1,400,000 a year.

Under the T. V. A. Act the President ordered the Norris Dam built. It therefore is very important for the House to remember—to recall the fact—that the power companies in 1926 offered the Government $1,200,000 annually for the benefits of flow regulation at Wilson Dam from the Norris Dam.

My colleagues, let us keep books together in behalf of the taxpayers, for next to national defense the taxpayers should have first consideration by us on the Tennessee River.

With Norris Dam built, Wheeler Dam built, and Pickwick Landing Dam built—and they are all building under the order of the President—there will be an increased rental value at the Wheeler Dam by building Norris Dam of $600,000 a year, and this was the offer made by the power companies for Norris Dam benefits in 1926, and there will be an increased rental value of $1,200,000 at the Wilson Dam from regulated flow by building the Norris Dam; and there will be an increased rental value of $1,000,000 or more at the Wilson Dam power station from the regulating pool created by the Pickwick Landing Dam and the total of all these increased revenue or rental values from regulation benefits only amount to $2,800,000 annually. Let us, Mr. Chairman, call it $3,000,000, and according to Colonel Tyler's figures, that will be very conservative.

It would be a reflection upon the intelligence of the Membership of this House for me to offer further figures proving that Congress made a frightful mistake in 1930 in adopting the 32 low-dam projects for the improvement of navigation of the Tennessee River.

Mr. Chairman and my colleagues, who corrected the great mistake which Congress made in adopting the low-dam projects on the Tennessee River? Nobody, Mr. Chairman, except President Franklin D. Roosevelt himself. What reward—what thanks—what tribute—what courtesy—has the President received for his great constructive statesmanship in saving the United States Congress from criticism in the future by correcting our mistakes? Instead of the President—as he greatly merits—being highly rewarded—instead of expressing gratitude to him in the name of the taxpayers of the country, whom we represent here, the President is denounced for ordering the Norris Dam built, and the entire Norris Dam project is declared to be a shameful waste. The President's reward and the thanks he gets for ordering dams built which will yield, from regulation benefits only, $3,000,000 increased revenues or rental values annually at the Wilson Dam and Wheeler Dam—and $3,000,000 is 3 percent on $100,000,000—is that when the President asks the House to provide for $100,000,000 of bonds in the T. V. A. Act, the President and the Tennessee Valley Authority are told that they can only have $50,000,000 of bonds. When the President asks for amendments to the T. V. A. Act that will aid him and the Authority to make it possible for the Authority to operate the Wilson-Wheeler-Pickwick Landing Dam projects so that these increased earnings and rental values may be realized, the President and the directors of the Authority are, by some, denounced and defamed.

Mr. Chairman, what would 435 sound businessmen—taxpayers—assembled together, as we are, say to the President and to the Authority in reply to these requested amendments to the T. V. A. Act? These taxpayers would want to know what rate of interest and on what amount of capital the President and the Authority proposed to pay the Government. They would ask, "Do you ever expect to pay back to the Government any part or all of the cost of building these navigation, flood-control, power dams?" If these taxpayers were told by the Authority that they can pay 3 percent on 40 percent of the total cost of each project, and by way of an annual compound interest sinking fund would pay back the entire cost of each project, say, in a period of 60 years, these taxpayers would say, "Well, if you can do that, we will furnish you the money." If somebody got up in the taxpayers' convention and called attention to the criticism of the Presi-

dent and the Authority and detailed the various faults of the directors, as has been detailed before our committee and will be detailed in this debate in the House, those hard-headed, business-minded taxpayers would say, "All those things you are now telling us about are just peccadillos"; and the peccadillo speaker would be voted out.

These taxpayers would be keenly interested when shown that by stream flow and pool regulation $3,000,000 increased revenues could be earned annually. You would find these old taxpayers sharpening their pencils and figuring what these increased earnings at all of the dams below the mouth of the Clinch would amount to annually, if the increased earnings from Norris Dam regulation amount to $1,200,000 at the Wilson Dam, and $600,000 at the Wheeler Dam, and $1,000,000 a year at the Wilson Dam from Pickwick Landing Pool regulation.

These taxpayers would ask, "Well, what will be the increased primary power, say, at Hales Bar due to stream regulation from the Norris Reservoir?" They would be told, of course, that the sustained primary power at Hales Bar during the dry season would not be less than 40,000 horsepower. The interest of these taxpayers would grow keener, and they would insist upon being told what the total increased revenues would amount to by stream regulation at all of the eight dams below the mouth of the Clinch River. Mr. Chairman, the Authority would probably tell these taxpayers that the total benefits from Cove Creek regulation at all the dams below the mouth of the Clinch River could not at present be accurately stated but that the total would probably be not less than 250,000 horsepower.

Mr. Chairman, I cannot tell the House what the total will be, because I do not know, but if it is as much as 250,000 horsepower, then these taxpayers would scratch their heads and use their pencils again, and when they found that the increased earnings or rental value might amount to more than $4,000,000 a year—or even $3,000,000 a year, and $3,000,000 a year would be 3 percent on $100,000,000—these taxpayers would say to the Authority directors, "Well, they say you have been guilty of some peccadillos, and all we have got to say to you is, Cut out as many of your peccadillos as you can, and don't allow any big peccadillos—we won't grumble about a few little ones." These taxpayers would pay to the T. V. A. directors, "We will ask our Representatives in the House to pass the amendments to the T. V. A. Act which you have requested."

If it were pointed out to these taxpayers in convention that the difference between the maintenance and operation of 17 low-navigation dams and 3 high-power navigation dams between Chattanooga and Knoxville, is the difference between $680,000 a year and $120,000 a year, and that with the low dams there would be 17 lockages for boats between Knoxville and Chattanooga and only 3 lockages with the high dams, and that the low dams would furnish no power, and no flood control, and that 2 of these dams would lose the value of regulated flow from Cove Creek, these taxpayers would be asking right away, "Well, who ever proposed to build these low dams and waste the power and lose the flood control?"

These taxpayers would have to be told that the Congress of the United States approved the building of these low dams, but that President Roosevelt had ordered the high dams built, and then forthwith these old taxpayers would applaud Mr. Roosevelt, and they would appoint a committee and instruct that committee to go to the President and tell him that they approved his T. V. A. program, and that they would ask their own representatives in the House to vote for all the amendments which he desired.

Now, Mr. Chairman, I do not even intimate that the Members of the House cannot fairly and justly say that Congress, in approving the low-dam navigation project plan on the Tennessee, did not have the unqualified recommendation of the engineers; but, even so, Mr. Chairman, we should not be less grateful to the President for correcting our mistake by ordering the high-dam plan adopted.

The President, when at the Wheeler Dam in December last year, did not criticize Congress for adopting the low-dam project. The President, with that consideration and modesty which so "becometh a great man", said in substance that when he went back to Washington after his visit to Muscle Shoals in January 1933 he ordered a high lock built for a high dam at the Wheeler Dam site.

Now, Mr. Chairman, if there are any Members of the House who are still in favor of the incredibly wasteful low-dam plan instead of the profitable high-dam plan adopted by the President, then those Members who are still for the low-dam plan are in precise agreement with the witnesses put on the stand by the power company's attorneys in Judge Grubb's court, who, without batting an eye and without a blush of shame, testified for the power companies that the low-dam plan was a cheaper plan for the Government than was the high-dam plan. There was a time, Mr. Chairman, when the power companies wanted the high dams built, and as soon as the opportunity was presented to them they applied for all of the power dams which the engineers had reported upon and located north of Chattanooga on the main stream up to Knoxville, and all the power dams on the Clinch. What they mean is that if they are not permitted to have these power-navigation dams, if and when they desire to develop power at them, they are opposed to the building of these navigation power dams at all. They are determined to defeat, if possible, President Roosevelt's plan to build these high dams by the Government for the national security of the Nation and for the social and industriai welfare of the people of this country.

Mr. Chairman, with the indulgence of the House, I desire to remind all my colleagues, for their most serious consideration and sober reflection, of what Col. Hugh L. Cooper stated at a hearing on February 17, 1922, before the Committee on Military Affairs, and I quote his statement with reference to the Ford offer:

> I would like to conclude this part of the statement by saying that as a net result of the proposition as it is written, Mr. Ford will be getting the cheapest power on the American Continent.

This statement by Colonel Cooper naturally raises the question, Where is the cheapest power on this continent and who owns it? Reflecting over this statement of Colonel Cooper's, I determined to try to locate the cheapest power on this continent, with the serious thought in mind that the nation on the American Continent which has the largest development and surplus of the cheapest power is best prepared for national defense, and that the nation which has the cheapest power can produce the cheapest aluminum, the cheapest magnesium metal, the cheapest high-tensile alloy steels, such as stainless steels, all so necessary and indispensable now to national defense and so necessary for the most economic solution of our aircraft, rail, highway, and water transportation problems.

Mr. Chairman, I truly believe that my findings will interest every Member of this House, and I sincerely hope that my findings will cause every Member of this House, upon sober reflection, to decide as I have decided, that we owe it to ourselves and to the people we represent here, and to the national defense of our country to take a new and enlarged view of the Tennessee Valley Authority Act and highly resolve among ourselves to measure up to the President's intellectual and statesmanlike conception of what the Tennessee River and the T. V. A. really mean to the future of this Nation.

Mr. Chairman, before giving the House the results of my researches with reference to the question of the cheapest power on the American continent, I think it would be informing and useful to the Members of the House to briefly tell them that Colonel Cooper has been a consulting engineer for more than 30 years. He has built several water powers in different parts of the world, and he built one at Niagara Falls; he built the Keokuk Dam and power project on the Mississippi at Keokuk, Iowa; and one at McCalls Ferry, Pa.; one in Brazil; one in Chile; several in Canada; and he was the consulting engineer for the Government at Muscle

Shoals during the building of the Wilson Dam, and finally, to crown his career, he built the great water power on the Dneiper River in Russia.

My investigations disclose that power costs 3 mills per kilowatt-hour at the Alcoa Tenn., aluminum plant, and this power is furnished from the Aluminum Co.'s power developments on the Little Tennessee River. Mr. Davis, of the Aluminum Co., stated before our committee in a recent hearing that power at Alcoa costs 3 mills per kilowatt-hour, and this confirmation of the results of my own researches causes me to have confidence in other rates for power which my researches disclosed.

Dr. Mantell, of the Pratt Institute, Brooklyn, N. Y., in his books, Sparks from the Electrode, gives a list of the cost of power at different important power development points in different countries of the world. At the Arvida aluminum plant, in the Province of Quebec, Canada, Dr. Mantell reports the power supplying this plant from the Saguenay River power development of the Aluminum Co. costs 1 to 1½ mills per kilowatt-hour. He says power costs 1½ mills at Shawinigan Falls, Province of Quebec, Canada. Also, Dr. Mantell says that in Ontario, Canada, power costs as low as 1½ mills. He gives rates for hydropower in many other places in other countries ranging from 2 mills to 3½ mills per kilowatt-hour.

I will omit further details of rates on power and briefly report to the House that the most interesting discovery I made in my researches is that the Aluminum Trust, through its subsidiary, the Alcoa Co., Ltd., Quebec, Canada, owns the great power development on the Saguenay River, known as the "Shipshaw Chute a Caron", with 260,000 horsepower installation, and with an ultimate power installation planned of 1,260,000 horsepower, and this power costs not over 1½ mills per kilowatt-hour.

There has been installed by the Shawinigan Water & Power Co., a subsidiary of the Aluminum Trust, at three power sites on the St. Maurice River, Province of Quebec, 779,500 horsepower, with plans for increasing this installation up to 859,500 horsepower.

It therefore will be obvious that the Aluminum Trust has 260,000 horsepower installed on the Saguenay River serving power to the Arvida aluminum plant, ultimately to be the greatest aluminum plant in the world, and that the trust has installed 779,500 horsepower at Shawinigan Falls, Quebec, with plans for future installations up to a grand total of 2,119,500 horsepower at all of the developments of the Aluminum Trust on the Saguenay and St. Maurice Rivers, Province of Quebec, Canada.

None of this Aluminum Trust power in Quebec, Canada, costs more than 1½ mills per kilowatt-hour, but when the ultimate installations are completed on the Saguenay and St. Maurice Rivers it is reasonable and conservative to estimate that the Aluminum Trust's power in Canada at these Quebec developments will not cost more than 1 mill per kilowatt-hour.

Mr. Chairman, I ask the Members of this House if they do not agree with me that this is most important information, and if they do not further agree that the important question at Muscle Shoals is, Can the T. V. A. produce power at the Wilson Dam, for example, as cheaply as the Aluminum Trust produces its power in Canada?

In connection with these power cost rates which I have given to the House I am sure it will be of interest to the Members of the House to know that Dr. Mantell, in his little Sparks from the Electrode, states that it requires 12 kilowatt-hours to produce a pound of aluminum; that it requires 13 kilowatt-hours to produce a pound of magnesium; that it requires 3,000 kilowatt-hours to produce a ton of carbide; and, mark you, my colleagues, he says that it requires 500 kilowatt-hours to produce a ton of electric steel.

Mr. Chairman, the House will note that Aluminum Trust power costs twice as much at Alcoa, Tenn., as it does at Arvida and Shawinigan Falls, Province of Quebec. In a word, the history of the power development on the Saguenay River and the building of the great aluminum plant at Arvida is that James B. Duke owned the Saguenay power and proposed to build an aluminum plant.

The Aluminum Trust became alarmed lest competition by Duke's plant might put an end to the Aluminum Co.'s monopoly, and the trust proposed to Duke the organization of an aluminum company in Canada, and that Duke join the Aluminum Co. of America in its monopoly, and that they not compete with each other. Happily—and I rejoice at it—my colleagues, if the T. V. A. can produce at Muscle Shoals as cheaply as the trust produces power on the Saguenay River, the way is pointed out to us to free the people in the United States from Mr. Mellon's aluminum monopoly.

Mr. Chairman, if power costs 3 mills per kilowatt-hour, the power to produce a ton of electric steel in an electric furnace would cost $15, but if power costs 1½ mills per kilowatt-hour, it would cost $7.50 to produce a ton of electric steel. According to press dispatches from Chicago, there has been a rustless, stainless steel coal car on exhibition at the Union Station in Chicago in the last 10 days. The point I desire to make will be so clear to you that I need not explain further.

It will interest the House, I feel sure, to know that France has the largest reserve deposits of bauxite ore of any country in the world, but Canada, with the cheapest power in the world, leads France in the production of aluminum. Pertinent to this point in my remarks is a dispatch which I read in the papers a few days ago that France had prohibited the export of aluminum and aluminum scrap to Germany.

Mr. Chairman, in the field of national defense, that country with the largest production of aluminum and with the cheapest water power to produce it is the best prepared for war—in the air, on the land, and on the sea.

Mr. Chairman, I hope the Members of the House will indulge me to say that I should have advised the House farther back and at the appropriate place in my remarks that the Aluminum Trust has installed at all of its developments for aluminum operations in the United States 526,455 horsepower, and has plans for future installations of approximately 200,000 horsepower.

From investigations I made in April and May 1933, and from information I secured which I believed then—and believe now—was reliable, I confidently believe that the T. V. A. can produce power at Muscle Shoals for 1 mill per kilowatt-hour. I do not mean that the Authority can do so now, that is impossible under the circumstances, but when some of their present developments have proceeded to completion and when they are permitted to do so by the power interests, I even believe the Authority will produce power at Muscle Shoals for less than 1 mill per kilowatt-hour.

Mr. Chairman, it is interesting to find how, in the careers of certain great statesmen of modern times, their names have been notably associated with waterways and canals. The crowning event that gives Disraeli's name the greatest renown as a statesman was his purchase of the Suez Canal shares from the Khedive of Egypt. The peak of Theodore Roosevelt's standing as one of the world's most illustrious statesmen was the building of the Panama Canal. Mr. Chairman, the time will come when the Wilson Dam will not be, as has been said, Wilson's folly, but Woodrow Wilson's fame.

Mr. Chairman, let me declare to you—and I like to declare it because I believe it—that if this House will perform its part, loyally supporting the President and the T. V. A., the T. V. A. and the Tennessee River will stand as the most brilliant accomplishment of the most brilliant statesman of our day and time—Franklin D. Roosevelt.

Mr. Chairman I have studiously—I have carefully—refrained from indulging in horse-power politics in my remarks to the House on this bill. I believe that the opponents of the amendments to the T. V. A. Act which the President desires are wrong and that those who oppose the President in this matter are more mistaken and are making a greater blunder than Congress did when it adopted the low-dam navigation improvement plan on the Tennessee River.

If, with the pathway of the Republican Party for the last 15 years lined and marked by Muscle Shoals skeletons, fail-

ures and defeats, the party still thinks it must stand by and with the power interests of this country against the people of the country, and continue to fight President Roosevelt's T. V. A. policies, and if the Republican Party, as has been intimated, insists upon making the Tennessee Valley Authority an issue in the next Presidential campaign, let them do it—

And damn'd be him that first cries, "Hold, enough!"

Mr. FADDIS. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Alabama.

The Clerk read as follows:

Amendment by Mr. FADDIS to the amendment offered by Mr. HILL of Alabama: After the words "Pickwick Landing Dam" insert the words "hereafter to be known as Percy Quin Dam."

Mr. FADDIS. Mr. Chairman, I am happy to say in connection with the drafting of this bill that there was at least one amendment placed in the bill in which all of the Members were in hearty accord. It was placed in the bill by unanimous vote of the committee. That was the amendment to change the name of the Pickwick Landing Dam to Percy Quin Dam. The members of the committee considered it was a worthy tribute to a man who had spent 20 years of his life as a member of the Committee on Military Affairs, a man who had been intensely interested in this proposition, and a man who was Chairman of the Committee on Military Affairs at the time of his death. That is the reason this amendment was placed in the bill, and it was placed there by a unanimous vote of the committee. I hope the gentleman from Alabama [Mr. HILL] will accept this amendment to his amendment, and I believe he unintentionally omitted this part of the language of the bill in drafting his amendment.

Mr. TAYLOR of Tennessee. Will the gentleman yield?

Mr. FADDIS. I yield to the gentleman from Tennessee.

Mr. TAYLOR of Tennessee. Having been in the midst of this fight for 12 or 14 years, and knowing of the activity of Percy Quin, deceased, and his interest in this legislation, I want to congratulate the gentleman on offering this amendment.

Mr. McSWAIN. Will the gentleman yield?

Mr. FADDIS. I yield to the gentleman from South Carolina.

Mr. McSWAIN. I feel duty bound to make a statement in regard to Percy Quin, the great zeal he displayed, and his very effective labors in behalf of conserving the power at Muscle Shoals in the interest of the people.

In February 1932, shortly after he became Chairman of the Committee on Military Affairs and while holding hearings regarding a bill then relating to Muscle Shoals, he was stricken with a fatal malady of the heart. He was taken from the room by some of his colleagues, and the responsibility of conducting the hearings fell upon my shoulders. There was trouble in the committee. There has always been trouble in that committee. Mr. Quin sent word by his wife that I should come to the Naval Hospital to see him. He could not talk very much, but he held up his hand like this as he lay flat on his back and said: "Mac, tell the boys to stick by the faith."

I think a man who died with Muscle Shoals on his lips as the result of long years of struggle and effort in behalf of this great project ought to have his name and memory perpetuated in the way proposed by the amendment offered by the gentleman from Pennsylvania. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania to the amendment offered by the gentleman from Alabama.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. HILL] as amendment by the amendment offered by the gentleman from Pennsylvania [Mr. FADDIS].

Mr. TURNER. Mr. Chairman, I ask unanimous consent that the amendment as amended may be read.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the Hill of Alabama amendment as amended.

Mr. McLEAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it must be perfectly obvious what the purpose of this amendment is. The members of the Committee on Military Affairs were impressed with the fact that the Tennessee Valley Authority had ignored the Congress and made no report. We have no knowledge of what their program is, what they intend to do, or in what manner they intend to do it. There was, however, available to the Congress of the United States the very excellent report of the Chief of Engineers, which was made at considerable expense. In an effort to bind these gentlemen to some sort of a program and some sort of orderly procedure we required them to follow the researches, the determinations, and recommendations of the Board of Engineers of the United States Army, which had been incorporated in the Rivers and Harbors Act of 1930.

This amendment which is proposed has for its purpose the elimination of any reference to that report of the Board of Engineers and to turn over to the Tennessee Valley Authority exclusive jurisdiction, judgment, and control. They will be themselves the judge of the engineering features of the undertaking without any regard to what has been done in the past by the Congress and the Board of Engineers.

Furthermore, the mention of these dams, the Pickwick Landing Dam, the Wheeler Dam, and the other dams, can have this effect. These dams were not authorized by Congress. The Authority was not authorized to build these dams. They proceeded on their own initiative to build them, and the recognition of these dams by this act of Congress validates all that has been done and confers upon the Tennessee Valley Authority powers far beyond anything we have ever given them before and makes them completely a free lance to use the moneys of the Treasury of the United States and bind the country to undertakings without limitation and beyond the control of the Congress. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama as amended.

The question was taken; and on a division (demanded by Mr. McLEAN and Mr. SHORT) there were—ayes 138, noes 55.

So the amendment, as amended, was agreed to.

The Clerk read as follows:

SEC. 3. That said section 4 of said act be, and the same is hereby, further amended by adding a new subdivision, (k), at the end of said section as follows:

"(k) At any time before the expiration of 5 years from the date when this section, as amended, becomes law may in the name of and as agent for the United States and subject to approval of the President, dispose of any of such real property as in the judgment of the Board may be no longer necessary in carrying out the purposes of this act, but no land shall be conveyed on which there is a permanent structure heretofore or hereafter built by or for the United States or the Authority."

Mr. McSWAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McSWAIN: Page 3, line 14, strike out all language of section 3 and insert the following language:

"SEC. 3. That said section 4 of said act be, and the same is hereby, further amended by adding a new subdivision, (k), at the end of said section as follows:

"(k) May at any time within 5 years from the date of this act, in the name of and as agent for the United States and subject to approval of the President, dispose of any of such real property as in the judgment of the Board may be no longer necessary in carrying out the purposes of this act, but no land shall be conveyed on which there is a permanent dam, hydraulic power plant, fertilizer plant, or munitions plant, heretofore or hereafter built by or for the United States or for the Authority."

Mr. McSWAIN. Mr. Chairman, by way of explanation of why this amendment is desirable, you will observe that the language of the bill which was reported, in line 24, prohibits the conveyance of any land on which there is a permanent structure.

After the bill had been reported it was called to my attention that since it was necessary to relocate a great many roads through the construction of such dams as the Norris Dam at Cove Creek, it fell upon the Authority to establish new roads and to build bridges wherever necessary, and it was believed that there might be danger in this inhibition against the conveyance of any land on which there was a permanent structure and it might be interpreted that a road or a bridge that had been built in substitution for a road that had to be relocated, is a permanent structure and so could not be conveyed. For this reason we have proposed this amendment against the conveyance of land on which there is a dam or power house or a facility of that kind so as not to include a road or bridge.

This is the sole purpose of the amendment. It is only a perfecting amendment and I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina.

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. That subdivision (c) of section 5 of said act be, and the same is hereby, amended to read as follows:

"(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, with farmers, landowners, and associations of farmers or landowners, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction, and for promoting the prevention of soil erosion by the use of fertilizers and otherwise. The Board is also authorized to experiment in the extermination of noxious weeds and the destruction of plants injurious to agriculture by means of the application and use of chemicals and by other means appropriate to these purposes."

Mr. BUCHANAN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 4, line 9, strike out the last two words in line 9 and all of lines 10, 11, 12, and 13.

Mr. BUCHANAN. Mr. Chairman, the language I propose to strike out is as follows:

The Board is also authorized to experiment in the extermination of noxious weeds and the destruction of plants injurious to agriculture by means of the application and use of chemicals and by other means appropriate to these purposes.

Just how this language came to be put into this bill I am unable to say. It is foreign to every purpose of the Tennessee Valley Authority. It is a duty of the Agricultural Department, which has exercised jurisdiction over it for many years.

It covers a subject for which we make appropriations every year for the Agricultural Department and the land-grant colleges and the experimental stations, covering noxious weeds throughout the United States and the methods of their destruction. At this session we appropriated $65,000 especially in the agricultural appropriation bill, part of which was to be used in cooperation with the T. V. A. in developing chemicals for the extermination of weeds. Just why they want to build up another vast department under the Tennessee Valley Authority I cannot see. Why should they do that when you have in the Agricultural Department the best corps of experts on this subject?

Mr. MAY. Will the gentleman yield?

Mr. BUCHANAN. I yield.

Mr. MAY. The only reason I can see is that they wanted another avenue in which they might spend vast sums.

Mr. BUCHANAN. I am trying to give the House a chance to stop that.

Mr. LUCKEY. Will the gentleman yield?

Mr. BUCHANAN. I yield.

Mr. LUCKEY. I think I can give the gentleman information as to why that language was put in the bill.

Mr. BUCHANAN. The gentleman means the European morning glory?

Mr. LUCKEY. Yes.

Mr. BUCHANAN. Let me tell you something about the European morning glory. The land-grant college of Kansas for 9 years has been experimenting with the European morning glory. They published a bulletin covering their methods of dealing with it by chemicals. I have no objection to the Tennessee Valley Authority furnishing the Agricultural Department with chemicals, but let the investigation go on through the department that has been administering it for 50 years.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Let me finish this. There are hundreds of noxious weeds. We have the loco weed all over the West, for which we have made appropriations of thousands of dollars. There are the European morning glory and the Russian thistle. Why start this Authority spending money on something that our experts in the Department of Agriculture and in the various States are investigating every year?

Mr. McSWAIN. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Yes.

Mr. McSWAIN. Can the gentleman conceive of how this proposal to destroy weeds by poisonous gas or otherwise has any connection with national defense or the regulation of interstate commerce?

Mr. BUCHANAN. No.

Mr. McSWAIN. Nor can I.

Mr. BUCHANAN. And I cannot see how it has any connection with navigation, flood control, or the national defense under the Tennessee Valley Authority, and those are the main purposes of its organization.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Yes.

Mr. RANKIN. If the gentleman will permit, I will tell him why this is in this bill.

Mr. BUCHANAN. It ought not to be in the bill.

Mr. RANKIN. Possibly not, but we have appealed for relief from the condition in that area of the United States and the Department of Agriculture has failed to give us relief. I refer to what is called "the bitterweed." It grows up and covers that country and it is costing millions of dollars every year by ruining milk and butter.

Mr. BUCHANAN. And we have spent a lot of money to exterminate it. I know about the bitterweed.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. McCORMACK. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for 5 minutes.

Mr. RANKIN. Mr. Chairman, will the gentleman yield further?

Mr. BUCHANAN. I shall answer the question. I am familiar with the bitterweed. It kills some character of livestock. We had it in Texas, and we appealed to the Bureau of Animal Industry. They had the money. The Bureau of Animal Industry made surveys and they filed a report and the fact of the business is that livestock will not eat this bitterweed unless feed is scarce. Sheep and cows were killed by the thousands, it was proved, solely because the rangemen overstocked their range.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Yes.

Mr. RANKIN. This bitterweed does not kill cattle. That is a dairying country, and those farmers have been advised by the Department of Agriculture to diversify, and they are diversifying. That is a wonderful dairying country, yet this bitterweed grows up at a certain season of the year and ruins the milk and the butter so that the people not only cannot sell it, but cannot use it, and it is costing millions of dollars a year. I hope the gentleman will not insist upon his amendment.

Mr. BUCHANAN. I insist upon my amendment. It is a matter for the Agricultural Department, the land-grant colleges, and the experimental stations in every State. We appropriate millions of dollars for that purpose, and why build up a duplicate agency under the Tennessee Valley Authority, none of whom are experts on noxious weeds? [Applause.]

Mr. McLAUGHLIN. Mr. Chairman, I am opposed to the amendment. I had no idea that there would be any attempt made to strike out that portion of the bill which is sought to be stricken out by the amendment of our colleague, Mr. BUCHANAN. I may say to you that the matter of weeds and

the extermination of weeds is a matter of great concern to the section of the country which I represent, the State of Nebraska. We have had a great deal of difficulty in our State with noxious weeds, especially the bindweed. We find that a certain chemical, sodium chlorate, is the only chemical which will successfully cope with those weeds. I may say that the matter of weeds is of such importance to the farmers of the State of Nebraska that when a piece of land is infested with these weeds it is impossible for the owner of the land to procure a loan from any governmental loan agencies or private loan agencies.

Mr. McSWAIN. Will the gentleman yield?

Mr. McLAUGHLIN. I yield.

Mr. McSWAIN. I wish to ask the gentleman if in his State the farmers are bothered with hog cholera or chicken cholera or distemper in horses or anything like that, and if he thinks an amendment to that effect would give the Tennessee Valley Authority the right to go over there and help with those diseases?

Mr. McLAUGHLIN. That is not before us. I am speaking about a matter that is before us. I am speaking of the matter of permitting the Tennessee Valley Authority to establish a clinic, you might say, for the use or development of a chemical which will eradicate this bindweed pest in the middle western sections of the country. If you are going to spend money to generate cheap electricity for those people living in the vicinity of the Tennessee Valley and also spend money for experimenting in the raising of cattle and poultry, as has been stated here on the floor of the House, then I see no valid reason for supporting this amendment which would have the effect of prohibiting experimentation in the production of a chemical, as provided by the bill, to eradicate weed pests which are so destructive of farm lands in the Middle West.

Mr. SNELL. Will the gentleman yield?

Mr. McLAUGHLIN. In just a moment. The cost of the chemical which is the only salvation for the farmers of our section of the country, at the present time, is so great that it is practically impossible for the farmers to purchase it, and their land is going to ruin because of the tremendous spread of those weeds. They can be destroyed by the very chemical which can be developed cheaply in the Tennessee Valley if this amendment is not agreed to.

Mr. MICHENER. Will the gentleman yield?

Mr. McLAUGHLIN. I yield.

Mr. MICHENER. As a matter of fact, the Tennessee Valley Authority as administered covers about everything, and there is not any reason why it should not cover the destruction of weeds, hog cholera, and everything else. If this is to be an experimental field, a laboratory to experiment for the betterment of mankind, and weeds are injurious to crops throughout the country, why should we not experiment on weeds down there?

Mr. McLAUGHLIN. I am speaking about the development of this chemical.

Mr. MICHENER. The gentleman from Nebraska is one of the outstanding members of this body. He is always looking out for his constituents and I do not blame him for wanting to include in this bill something for Nebraska. His logic is usually sound and his reasoning is always convincing.

Mr. McLAUGHLIN. This is one chemical that can be used successfully to eradicate this weed pest, and it can be manufactured cheaply in the Muscle Shoals factory.

Mr. MICHENER. But they have not yet determined that they can manufacture this chemical.

Mr. McLAUGHLIN. That is the thing which we are asking shall be developed, under this law.

Mr. MICHENER. In other words, you want them to experiment to see whether they can develop a chemical that will satisfactorily kill this weed?

Mr. McLAUGHLIN. The gentleman is a little facetious, of course, but I am pleading for the farmers of the Middle West, whose land is being destroyed and who are seeking relief. I say to you if you were a farmer and went out into a field and saw acre after acre laid waste by these weeds you would not take kindly to facetious remarks on the part of Members of Congress.

I ask that this amendment be voted down. [Applause.]

Mr. HOUSTON. Will the gentleman yield?

Mr. McLAUGHLIN. I yield.

Mr. HOUSTON. Is it not a fact that the bindweed in Kansas, Nebraska, and Oklahoma is worse this year than it ever has been, and the Department of Agriculture has not done a thing about it?

Mr. McLAUGHLIN. I can say that a meeting of people interested in this matter was called in Washington and dozens of representatives from all sections of the country came to Washington at their own expense, representatives of agricultural colleges, representatives of farm organizations, and representatives of those who are in distress, seeking this relief, and this is the very thing which they want. They want to develop this chemical at a cheap cost, so that it can be used to protect their lands against the ravages of the destructive bind weed. It is impossible now on account of the expense.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. McLAUGHLIN] has expired.

Mr. McLEAN. Mr. Chairman, I move to strike out the last word.

I desire to call to the attention of the gentleman from Texas [Mr. BUCHANAN], Chairman of the Committee on Appriations, to his letter in connection with this matter to the Committee on Military Affairs, while this bill was under consideration, in which letter he says:

> As this subject matter was recently in conference between the two Houses on the agricultural appropriation bill and settled, as I thought, very sensibly and satisfactorily by making available for this very purpose a total of $65,000, a part of which was to be expended in cooperation or consultation with the Tennessee Valley Authority. I would appreciate the opportunity of discussing the matter with you before action is taken by you on your bill.

I thought the gentleman had overlooked the fact that the Agriculture Department appropriation bill makes an appropriation of $65,000 for this very purpose.

Mr. BUCHANAN. It certainly does.

Mr. BLANTON. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, I am in favor of the amendment offered by the gentleman from Texas [Mr. BUCHANAN], Chairman of the Committee on Appropriations. This proposal certainly is a duplication of Government effort and of expense and ought to be stopped.

I want to recommend to the gentleman from Nebraska and to his farmers out there that they do like some of our stockmen have done down in the State of Texas. When this bitterweed developed on a certain ranch in Shackelford County, owned by J. A. Matthews, of Albany, Tex., he appealed to the Department of Agriculture to determine for him and his neighbors the particular weed that was poisoning and killing their livestock. They sent an expert down there and definitely designated the bitter weed that was doing the injury. That stockman wisely employed a bunch of helpers and got out there and did not stop until he had destroyed every poisonous weed of that variety on his ranch.

It just takes a little effort, a little work, a little perseverance, a little energy to accomplish these things. He did not ask the Government to destroy the weeds. He destroyed them.

People ought to quit calling on the Government of the United States for everything that they can do for themselves. [Applause.] This duplication of Government effort and expense ought to stop. There ought to be a limit to it somewhere.

The responsibility of this Congress, so far as the House of Representatives is concerned, for protecting the Treasury, rests largely upon the shoulders of my distinguished colleague the Chairman of the Committee on Appropriations [Mr. BUCHANAN]. He is responsible for the money that comes out of the Treasury. He is responsible, in a way, to the taxpayers of this Nation as to whether their money is going to be spent injudiciously and wastefully, and to protect

the people he has offered an amendment that ought to be adopted.

Take KLEBERG's country. If there should be any menace arising from bitterweed they would not call on the Government of the United States to destroy the weeds, they would put their hands out there and do the destroying themselves; and that is what ought to be done in Nebraska. They ought to use a little personal effort out there, they ought to get out there and destroy this bitterweed by the use of a little energy, efficiency, and perseverance.

Mr. McLAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I yield.

Mr. McLAUGHLIN. I think the gentleman from Texas should realize that the use of this chemical does not mean that the farmers will not work, but that they will accomplish the work more quickly and efficiently with this chemical. [Applause.]

Mr. BLANTON. The trouble with that is that they are depending too much on Washington. They ought not to have their eyes on Washington; they ought to do like the gentleman and I did when we were boys—depend on ourselves and not on Washington for everything we needed. [Applause.]

By unanimous consent, the pro forma amendment was withdrawn.

Mr. McSWAIN. Mr. Chairman, I move that all debate on this section and all amendments thereto do close in 3 minutes.

The motion was agreed to.

Mr. LUCKEY. Mr. Chairman, I want to make an explantation in regard to the bindweed which, in the Western States, has become a calamity. Cultivation will not kill it. The only thing that will kill it is a sodium chlorate which can be manufactured only at such plants as Muscle Shoals. We have made a study of the sources of this chemical. To import this chemical from Europe would cost the farmers of this country about 9 cents a pound. In Scandinavia, where they have plants similar to Muscle Shoals, this chemical is manufactured for 1½ cents a pound. If our farmers could buy this chemical for 1½ cents a pound, such as they could were it manufactured at a plant like Muscle Shoals, manufactured as a byproduct, it would not only help liquidate the cost of the investment at the plant but it would also help all the central section of the country, the Middle West, Nebraska, Kansas, Iowa, Minnesota, Wisconsin, and the Dakotas to destroy this weed at a very small cost.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. LUCKEY. I yield.

Mr. BUCHANAN. As a matter of fact, the deficiency bill carries an appropriation for the Agricultural Department and authorization to them to make an allotment to the Tennessee Valley Authority for the purpose of experimenting with the manufacture of this chemical. So everything is fixed to permit the Tennessee Valley Authority to make this experiment with money already appropriated.

Mr. LUCKEY. May I say in reply to the gentleman from Texas that we have corresponded with the Tennessee Valley Authority, and they stated they did not feel that the manufacturers of sodium chlorate, as such, by the Corporation was not permissible under the present act, and that they could not do so unless they were specifically authorized to manufacture the chemical.

Mr. McSWAIN. Mr. Chairman, will the gentleman yield?

Mr. LUCKEY. I yield.

Mr. McSWAIN. Will the gentleman state what reason or logic there is to hitch onto a bill regulating commerce and national defense pet hobbies with reference to weeds, chickens, hogs, cows, corn borers, and everything else?

Mr. LUCKEY. This is not a pet hobby. This chemical can be manufactured by the Tennessee Valley Authority without additional expense, manufactured as a byproduct the sale of which will help bear the cost of the project.

Mr. McSWAIN. Does the gentleman expect us to go out there and put it on the weeds?

Mr. LUCKEY. No; all we are asking for is a cheap source of supply at a cent and a half or two cents a pound, such as they have over in Europe.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. DONDERO) there were—ayes 111, noes 73.

Mr. McLAUGHLIN, Mr. WOOD, and Mr. CARPENTER demanded tellers.

Tellers were ordered, and the Chair appointed Mr. McLAUGHLIN and Mr. BUCHANAN to act as tellers.

The Committee again divided; and the tellers reported there were—yeas 173, noes 75.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 5. That said act be, and the same is hereby, further amended by adding a new section after section 9 of said act, as follows:

"SEC. 9. (a) The Board is hereby directed in the operation of any dam or reservoir in its possession and control to regulate the stream flow primarily for the purposes of promoting navigation and controlling floods. So far as may be consistent with such purposes, the Board is authorized to provide and operate facilities for the generation of electric energy at any such dam for the use of the Corporation and for the use of the United States or any agency thereof, and the Board is further authorized, whenever an opportunity is afforded, to provide and operate facilities for the generation of electric energy in order to avoid the waste of water power, to transmit and market such power as in this act provided, and thereby, so far as may be practicable, to assist in liquidating the cost or aid in the maintenance of the projects of the Authority."

Mr. McSWAIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DRIVER, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee had had under consideration the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933, and had come to no resolution thereon.

EDWARD T. TAYLOR

The SPEAKER. Several days ago the Chair received a letter from the majority leader, the gentleman from Alabama, Mr. BANKHEAD, which he asked be laid before the Members of the House. Without objection, the Chair will ask the Clerk to read the letter.

The Clerk read as follows:

JASPER, ALA., *June 25, 1935.*

HON. JOSEPH W. BYRNS,
House of Representatives, Washington, D. C.

MY DEAR MR. SPEAKER: I have just read in the CONGRESSIONAL RECORD the remarks made in the House by many Members, upon the seventy-seventh birthday of Hon. EDWARD T. TAYLOR, our able and distinguished acting majority leader. It is a matter of keen personal regret that I was not present to hear the just and most deserved praise bestowed upon my beloved friend upon that occasion. I wish with all my heart that I could have had the privilege of joining my colleagues in a tribute of appraisal as well as of affection for this distinguished son of Colorado.

I have served with him in Congress for nearly 20 years, and I know the man. I know his mind; I know his heart; I know his fine probity of thought and action; his sense of balance and proportion, his high qualities of justice and patriotism. This knowledge prompted me to request that he act in my place as majority leader during my unfortunate illness. I am grateful to him beyond measure for bearing my burdens during this session of Congress.

I am assured that these added responsibilities have served to enhance the respect and affection in which he is held by all Members

of the House. I extend my belated congratulations to EDWARD TAYLOR upon his birthday and to the country for his long, consecrated, and invaluable services.

With sincere personal regards.

Sincerely your friend,

WILLIAM B. BANKHEAD.

PRIVILEGES OF THE HOUSE

Mr. BLANTON. Mr. Speaker, I have a matter of correcting a false report that should require not more than a few minutes. For the purpose of getting it immediately before the House, I rise to a question of the privileges of the House and present a privileged resolution.

The Clerk read the resolution, as follows:

Resolution

Whereas all over the United States the press has erroneously asserted that in a brusque, uncalled-for manner the Doorkeeper of the House of Representatives forced a mother and child to leave the House gallery because she was nursing her baby, and inferentially censuring the House of Representatives for not allowing a mother to nurse her baby in the House gallery; and

Whereas such erroneous assertion and report are shown to be untrue and wholly without foundation by the following statement from the Doorkeeper of the House, to wit:

WASHINGTON, D. C., *July 9, 1935.*

Hon. THOMAS L. BLANTON,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: Replying to your inquiry concerning the incident of a woman nursing her child in the House gallery, I submit herewith an accurate statement of the affair.

On the morning of June 27 at 11 o'clock as the Chaplain began to offer the prayer, my attention was attracted to the gallery. I saw a man and woman with several children sitting in the front row of the north gallery almost opposite the Speaker's rostrum, and the woman was nursing a baby in her arms. About 10 minutes later I again heard the noise of the child, and the mother continued to nurse the baby. It was quite evident that the only way the mother could keep the baby quiet was by nursing, because within the next three-quarters of the hour she had to nurse the child several times more.

As the mother was looking distressed because the baby continued to be restless and noisy and was attracting the attention of many persons, I made a kindly suggestion to the husband that if his wife wished to nurse the baby again there was a ladies' rest room nearby where she could go and be comfortable. I thought only of being of service to the distressed mother. The husband said, 'We will go out', and I patted him on the shoulder several times and assured him that they could stay in the gallery as long as they wished to do so. I did not request the woman to leave. I did not even speak to her, as she was sitting three seats away from her husband. I did try to be of some assistance to her.

Mothers have nursed babies in the gallery before this incident and they have never been interfered with. They are welcome at all times.

Respectfully yours,

J. J. SINNOTT,
Doorkeeper House of Representatives.

And whereas the erroneous report published in every portion of the United States to the effect that the House of Representatives was inconsiderate and cruel enough to force an American mother out of its gallery simply because she saw fit to nurse her baby in arms, is a reflection upon the House of Representatives, and affects its safety and dignity and the integrity of its proceedings, the facts being that during its entire history no American mother as a visitor to the House gallery has ever been shown anything but the very highest respect and consideration for her comfort and convenience: Therefore be it

Resolved, That said report emanating from Washington and published generally in the United States was incorrect and without warrant.

Mr. RANKIN (interrupting the reading of the resolution). Mr. Speaker, I make the point of order that enough of the resolution has been read to show that it is not privileged.

Mr. BLANTON. It should be privileged when the House of Representatives has been charged with having shown disrespect and an inexcusable indignity to an American mother.

Mr. RANKIN. Mr. Speaker, it does not reflect on the dignity of the proceedings of the House at all.

The SPEAKER. The Clerk will finish the reading of the resolution. The Chair cannot pass on the matter until the reading of the resolution has been concluded, and since the gentleman from Texas [Mr. BLANTON] insists that the resolution is privileged it should be read.

The Clerk resumed the reading of the resolution.

Mr. MICHENER (interrupting the reading of the resolution). Mr. Speaker, I make the point of order that the resolution has been read far enough to convince anyone that it is not privileged.

Mr. BLANTON. Mr. Speaker, I submit that the resolution will show, when read in its entirety, that it is privileged, as the House of Representatives has been falsely charged with having shown discourtesy, disrespect, and indignity to a deserving American mother.

The SPEAKER. The Chair suggests that the gentleman from Texas ask unanimous consent that the resolution be read. The Chair does not think the resolution is privileged.

Mr. BLANTON. Mr. Speaker, this erroneous statement has gone into every newspaper in the United States and has placed the House of Representatives in a false light before the country.

The SPEAKER. The Chair does not think that the gentleman from Texas will have the slightest difficulty if he will ask unanimous consent for the reading of the resolution.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that the Clerk may finish the reading of the resolution.

The SPEAKER. The Chair does not think the resolution is privileged.

Without objection, the Clerk will complete the reading of the resolution.

There was no objection.

Mr. BLANTON. Mr. Speaker, since I have permission to extend my remarks, I want to show why I deemed it necessary to correct this false report. Criticism after criticism of Congress have appeared in the press of Washington and the 48 States, denouncing the House of Representatives for ejecting from its gallery a worthy American mother, when no mother was ejected, and when in fact no mother was molested in any way, and when every mother in the United States has an inherent right to visit the gallery of the House of Representatives at will, and to nurse her baby there whenever she sees fit.

It is no disgrace for an American mother to nurse her baby in the gallery of the House of Representatives. Nursing her baby there, whenever she sees fit to do so, does not in any way disturb the dignity of the House of Representatives. Many mothers are unable financially to hire nurses to care for their babies. Some of the greatest men and women of the United States have been raised by such mothers. If a mother were not allowed to bring her baby with her, many mothers would be denied the privilege of visiting their Capitol and of visiting their House of Representatives, and for 150 years they have been welcome in its gallery.

To show the necessity for correcting this erroneous report, there appears on page 11 of this afternoon's Washington Times, July 8, 1935, the following letter:

FEEDING BABY NOT UNDIGNIFIED

To the EDITOR OF THE TIMES:

Congress should be ashamed of itself to allow any mother with a hungry baby to be ordered out of the Capitol because she fed it. I don't see that she did anything very undignified. The baby was hungry and had to be fed.

If Mrs. Parker had been the daughter or wife of a Senator, the Members of Congress would not have crushed her heart, as they did by ordering her out of the Capitol.

All the Senators had mothers. I wonder how they would feel to have their mothers or wives put out of a public place.

Mrs. Parker's child is as dear to her as a king's child is to him. I believe that the whole city has been disgraced by the action of Congress.

M. D.

Mr. Speaker, it would have been a disgrace to Washington and a disgrace to the House of Representatives if it had ejected an American mother from its gallery for nursing her baby, and it is a disgrace to the House of Representatives to allow a false report to that effect to be broadcasted all over the United States without being corrected. Such a false report does affect the integrity of this House. Such a false report does affect the dignity of its proceedings.

I cannot believe there is any Member of this House who is indifferent to the natural effect of such a false charge on the public mind. I cannot believe that there is any Member of this House who would be willing for such a false report to go unchallenged. I feel that I am protecting the good name of this House of Representatives by procuring this statement from our Doorkeeper, Hon. Joseph J. Sinnot, showing that there is no truth in this erroneous report.

It is my firm belief that to every right-thinking American, a mother nursing her baby at her breast typifies the highest, the finest, the noblest instincts there are in Nature. One great cause for the crumbling of our civilization is the failure of many children to receive the personal care of their mothers and the good training that only mothers can give their young children through personal care and constant companionship.

As one Member of this House of Representatives, I want it to go out to the mothers of America that they are welcome guests in the gallery of the House of Representatives. If to visit there it is necessary for them to nurse their baby, they have the God-given inherent right to do so, and they will suffer no indignity from anyone. The Capitol of the United States is their Capitol. The Representatives in the Congress of the United States are their Representatives, here to serve them, and to protect them in every right and privilege. They will receive only courteous and respectful treatment from the officers and employees of the House of Representatives.

The Clerk concluded the reading of the resolution.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution just read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. TABER. Mr. Speaker, I object.

EXTENSION OF REMARKS

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent that all Members of the House may have from now until the close of the session on Friday, July 12, in which to extend their own remarks in the RECORD upon the pending bill (H. R. 8632).

Mr. RANKIN. Mr. Speaker, that will only give the Members 1 day following the consideration of the bill. If we are going to grant permission to the Members to extend their remarks, we ought to give them 5 days and I ask unanimous consent that the Members may have 5 legislative days after the conclusion of the consideration of the bill within which to extend their remarks in the RECORD.

Mr. McSWAIN. That is agreeable to me.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina, as amended, that all Members may have 5 legislative days following the consideration of the pending bill within which to extend their own remarks in the RECORD?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. BUCKLER of Minnesota. Mr. Speaker, I ask unanimous consent that on tomorrow morning, after the reading of the Journal, I may address the House for 5 minutes about the farmer's wife being driven out of the gallery of the House.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. HOBBS. I object, Mr. Speaker.

CALENDAR WEDNESDAY

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that business in order on tomorrow, Calendar Wednesday, be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. KIMBALL (at the request of Mr. MAPES), indefinitely, on account of illness.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 39 minutes p. m.) the House adjourned until tomorrow, Wednesday, July 10, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

408. A letter from the Secretary of War, transmitting draft of a proposed bill to fix the compensation of travel distances; to the Committee on Military Affairs.

409. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric-energy rates in the State of North Dakota on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

410. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric-energy rates in the State of South Carolina on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

411. A letter from the Vice Chairman of the Federal Power Commission transmitting three copies of the domestic and residential electric-energy rates in the State of Vermont on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

412. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of Idaho on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

413. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of Washington on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

414. A letter from the Secretary of the Navy, transmitting draft of a proposed bill for the relief of Capt. J. H. Merriam, Supply Corps, United States Navy; to the Committee on Claims.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. STARNES: Committee on Accounts. House Resolution 265. Resolution authorizing an appropriation for special expenses of the Committee on Patents; with amendment (Rept. No. 1439). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. McSWAIN (by request): A bill (H. R. 8784) to authorize the Secretary of War or the Secretary of the Navy to withhold the pay of officers, warrant officers, enlisted men, and nurses of the Army, Navy, or Marine Corps to cover indebtedness to the United States under certain conditions; to the Committee on Military Affairs.

By Mr. MOTT: A bill (H. R. 8785) to authorize an extension of exchange authority and addition of public lands to the Willamette National Forest in the State of Oregon; to the Committee on the Public Lands.

Also, a bill (H. R. 8786) relating to the Oregon-Washington Board of Trustees; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS of Oklahoma (by departmental request): A bill (H. R. 8787) to amend section 3 of the act approved May 10, 1928, entitled "An act to extend the period of restriction in lands of certain members of the Five Civilized Tribes, and for other purposes", as amended February 14, 1931; to the Committee on Indian Affairs.

By Mr. McREYNOLDS: A bill (H. R. 8788) to control the trade in arms, ammunition, and implements of war; to the Committee on Foreign Affairs.

By Mr. COLMER: A bill (H. R. 8789) to provide for an appropriation of $100,000 with which to make a survey of the General Jackson Military Road with a view of con-

structing a military road from Nashville, Tenn., to New Orleans, La.; to the Committee on Military Affairs.

By Mr. ASHBROOK: A bill (H. R. 8790) to amend section 6 of the act of February 28, 1925; to the Committee on the Post Office and Post Roads.

By Mr. MAHON: A bill (H. R. 8791) to amend section 108 of the Judicial Code to provide for a new division of the northern district of Texas; to the Committee on the Judiciary.

By Mr. HOOK: Resolution (H. Res. 290) requesting the President of the United States to direct the Administrator of the Federal Emergency Relief Administration to transmit certain information to the House of Representatives; to the Committee on Ways and Means.

By Mr. RAMSPECK: Resolution (H. Res. 291) for consideration of H. R. 8458; to the Committee on Rules.

Also, resolution (H. Res. 292) for the consideration of H. R. 8459; to the Committee on Rules.

By Mr. HAINES: Joint resolution (H. J. Res. 343) making an appropriation of $5,000 as a contribution of the United States to the expenses of the encampment of the Grand Army of the Republic and United Confederate Veterans on the seventy-fifth anniversary of the Battle of Gettysburg in 1938; to the Committee on Appropriations.

By Mr. MAAS: Joint resolution (H. J. Res. 344) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 8792) granting an increase of pension to Viola S. Whitten; to the Committee on Invalid Pensions.

By Mr. BLOOM: A bill (H. R. 8793) to provide for the bestowal of the Congressional Medal of Honor upon Louis S. Waldman; to the Committee on Military Affairs.

By Mr. BURNHAM: A bill (H. R. 8794) granting a pension to Rosetta Laws; to the Committee on Invalid Pensions.

By Mr. COLE of New York: A bill (H. R. 8795) granting an increase of pension to Emma J. Campbell; to the Committee on Pensions.

By Mr. GWYNNE: A bill (H. R. 8796) for the relief of Fred W. Trefgar; to the Committee on Military Affairs.

By Mr. HANCOCK of New York: A bill (H. R. 8797) to provide a preliminary examination of Onondaga Creek in Onondaga County, State of New York, with a view to the control of its floods; to the Committee on Flood Control.

By Mr. LARRABEE: A bill (H. R. 8798) granting a pension to David H. Lambert; to the Committee on Pensions.

By Mr. PETTENGILL: A bill (H. R. 8799) for the relief of John N. Hunter, postmaster at South Bend, Ind.; Edmund D. Cook, acting postmaster at Allegan, Mich.; Fred C. Putman, postmaster at Kalamazoo, Mich.; and Merchants National Bank of South Bend, South Bend, Ind; to the Committee on Claims.

By Mr. TAYLOR of Tennessee: A bill (H. R. 8800) granting a pension to Vada Cross; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8801) for the relief of Mrs. Avery McDaniel; to the Committee on Claims.

By Mr. THOMPSON: A bill (H. R. 8802) granting a pension to Sarah Gardner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8803) granting a pension to Minnie F. Claspill; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9107. By Mr. DARROW: Resolution of the Philadelphia Board of Trade, protesting against imposing excessive taxes on inheritances and corporation net incomes; to the Committee on Ways and Means.

9108. By Mr. KRAMER: Resolution of the Senate and Assembly of the State of California, relative to extending an invitation to the peoples of the world to participate in the Pacific Exposition; to the Committee on Foreign Affairs.

9109. Also, resolution of the California oil producers' mass meeting, passed on June 7, 1935, relative to the continuance of Federal sales taxes on gasoline and lubricating oils, etc.; to the Committee on Ways and Means.

9110. By Mr. RAMSPECK: Petition of R. E. Hodgson and numerous other citizens of the Fifth Congressional District of Georgia, requesting the repeal of the Federal gasoline tax; to the Committee on Ways and Means.

9111. By Mr. TRUAX: Petition of the employees of the Ohio Match Co., of Wadsworth, Ohio, and citizens of the State of Ohio, requesting the prevention of any further influx of foreign matches into the markets of the United States; to the Committee on Ways and Means.

9112. Also, petition of the United Brotherhood of Carpenters and Joiners of America, Local Union No. 29, by its recording secretary, L. W. Cole, Cincinnati, Ohio, asking support of the security bill, the Wagner-Connery labor-disputes bill, and the Guffey coal bill; to the Committee on Labor.

9113. Also, petition of the Brotherhood of Maintenance of Way, Lodge 1900, by the secretary-treasurer, Noah Carpenter, Marion, Ohio, soliciting support of House bills 8651 and 8652, concerning labor and labor conditions and relating to railroad retirement; to the Committee on Labor.

9114. Also, petition of the Buckeye Club, by its president, Frank J. Klady, Lorain, Ohio, favoring all legislation so amending our immigration laws that it may be provided that all aliens who have not and who in the future will not at the earliest time permissible by law make application for citizenship and similarly pursue such efforts shall on such failure or on rejection become immediately deportable; to the Committee on Immigration and Naturalization.

9115. Also, petition of the National Association of Letter Carriers, Branch No. 100, by their secretary, V. M. Hoeffel, urging support of House bills 5450, 6124, 6368, and 6672, which support a graduated tax on cigarettes; to the Committee on Ways and Means.

9116. By the SPEAKER: Petition of the Board of Commissioners of the City of San Juan, P. R.; to the Committee on the Public Lands.

SENATE

WEDNESDAY, JULY 10, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, July 9, 1935, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed without amendment the bill (S. 2966) to empower the Legislature of the Territory of Hawaii to authorize the issuance of revenue bonds, to authorize the city and county of Honolulu to issue flood-control bonds, and for other purposes.

The message also announced that the House had passed a bill (H. R. 8270) to enable the Legislature of the Territory of Hawaii to authorize the issuance of certain bonds, and for other purposes, in which it requested the concurrence of the Senate.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson	Pittman
Ashurst	Coolidge	Keyes	Pope
Austin	Copeland	King	Radcliffe
Bachman	Costigan	La Follette	Reynolds
Bailey	Davis	Lewis	Robinson
Bankhead	Dickinson	Logan	Russell
Barbour	Dieterich	Lonergan	Schall
Barkley	Donahey	McAdoo	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	Frazier	McNary	Smith
Borah	George	Maloney	Steiwer
Brown	Gerry	Metcalf	Thomas, Okla.
Bulkley	Gibson	Minton	Townsend
Bulow	Glass	Moore	Trammell
Burke	Gore	Murphy	Truman
Byrd	Guffey	Murray	Tydings
Byrnes	Hale	Neely	Vandenberg
Capper	Harrison	Norbeck	Van Nuys
Caraway	Hastings	Norris	Wagner
Carey	Hatch	Nye	Walsh
Chavez	Hayden	O'Mahoney	Wheeler
Clark	Holt	Overton	White

Mr. VANDENBERG. I again announce that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent because of illness.

Mr. LEWIS. I announce that the Senator from Nevada [Mr. MCCARRAN] is absent because of a death in his family, and that the Senator from Louisiana [Mr. LONG] and the Senator from Utah [Mr. THOMAS] are detained from the Senate on important public business.

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

SUPPLEMENTAL ESTIMATE, OFFICE OF EDUCATION, INTERIOR DEPARTMENT (S. DOC. NO. 112)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Department of the Interior, fiscal year 1936, for further endowment of colleges of agriculture and the mechanic arts, Office of Education, amounting to $980,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE, BUILDINGS AND EQUIPMENT, PENAL INSTITUTIONS (S. DOC. NO. 113)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Department of Justice—buildings and equipment, penal institutions—to remain available until expended, amounting to $4,500,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE, LEGISLATIVE ESTABLISHMENT (S. DOC. NO. 114)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the legislative establishment—contingent expenses, Senate, expenses of inquiries and investigations—fiscal year 1936, in the sum of $150,000, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

SERVICE RENDERED BY T. V. A. TO ATHENS, ALA.

Mr. BLACK. Mr. President, I ask unanimous consent to insert in the RECORD a resolution adopted by the mayor and city council of the city of Athens, Ala.

I do this at the request of the mayor of Athens. In a letter to me he states that they have found it necessary to adopt this resolution on account of an article which appeared in the Red Book Magazine for August. The citizens of Athens believe that an erroneous reference has been made to the city of Athens and its connection with the Tennessee Valley Authority. They are of the impression that the article left the idea that the people of Athens are not satisfied with the service received by them from the Tennessee Valley Authority. On the contrary, they are fully satisfied. It has been of immense benefit to them.

I therefore ask that the resolution may be inserted in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Resolution

Whereas the people of the city of Athens, Ala., have been greatly benefited by the contract of the city of Athens with Tennessee Valley Authority for furnishing electricity to the city of Athens; and

Whereas the people of the city and the city government appreciate the generous provision thereby made for their comfort and happiness; and

Whereas in an article in the last issue of the Red Book Magazine a letter was quoted purporting to have been written by a chief official of some city in Alabama under contract with Tennessee Valley Authority for electricity in the city; and

Whereas the import of this quotation was that the city implied was not benefited by its contract; and

Whereas this is by no means true of the situation in Athens, and the letter might be taken to refer to the city of Athens: Therefore be it

Resolved by the City Council of the City of Athens, Ala., That expression be made of the appreciation of the governing body of the city of Athens, Ala., for the many and substantial benefits received from its contract with Tennessee Valley Authority, and the fact that the quotation from the letter mentioned does not state the true condition existing in Athens under its contract with Tennessee Valley Authority.

R. H. RICHARDSON, Jr., *Mayor.*

Attest:

R. A. SMITH, *Clerk.*

REPORTS OF COMMITTEES

Mr. KING, from the Committee on Finance, to which was referred the bill (H. R. 7980) to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes, reported it without amendment and submitted a report (No. 1036) thereon.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 423) for the relief of Lynn Brothers' Benevolent Hospital, reported it with amendments and submitted a report (No. 1037) thereon.

Mr. MCKELLAR, from the Committee on Post Offices and Post Roads, to which was referred the bill (H. R. 3612) to provide for adjusting the compensation of post-office inspectors and inspectors in charge to correspond to the rates established by the Classification Act of 1923, as amended, reported it without amendment and submitted a report (No. 1038) thereon.

He also, from the same committee, to which were referred the following bills, reported them each with an amendment and submitted a report thereon:

H. R. 5159. A bill to authorize the Postmaster General to contract for air mail service in Alaska (Rept. No. 1039); and

H. R. 6990. A bill to fix the hours of duty of postal employees, and for other purposes (Rept. No. 1040).

Mr. BARKLEY, from the Committee on the Library, to which was referred the bill (S. 3204) to provide additional funds for the completion of the Mount Rushmore National Memorial, in the State of South Dakota, and for other purposes, reported it without amendment and submitted a report (No. 1041) thereon.

Mr. VAN NUYS, from the Committee on the Judiciary, to which was referred the bill (S. 2297) to amend section 17, as amended, of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, reported it without amendment and submitted a report (No. 1042) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SCHWELLENBACH:

A bill (S. 3222) to amend the Filled Milk Act; to the Committee on Agriculture and Forestry.

A bill (S. 3223) for the relief of Joe Reno; to the Committee on Claims.

By Mr. FLETCHER:

A bill (S. 3224) to amend subsection (e) of section 24 of the Trading with the Enemy Act, as amended; to the Committee on Commerce.

By Mr. TRUMAN:

A bill (S. 3225) to provide for the erection of a building to be used exclusively for the recorder of deeds; to the Committee on the District of Columbia.

A bill (S. 3226) for the relief of Gertrude Hunter (with accompanying papers); to the Committee on Military Affairs.

By Mr. THOMAS of Oklahoma (by request):

A bill (S. 3227) to amend section 3 of the act approved May 10, 1928, entitled "An act to extend the period of restriction in lands of certain members of the Five Civilized Tribes, and for other purposes", as amended February 14, 1931; to the Committee on Indian Affairs.

By Mr. BARKLEY:

A bill (S. 3228) for the relief of W. E. Reynolds; to the Committee on Military Affairs.

By Mr. BYRD:

A bill (S. 3229) for the relief of the estate of Hattie M. Dunford; and

A bill (S. 3230) for the reimbursement of R. H. Quynn, lieutenant, United States Navy, for loss of property by fire at the naval operating base, Hampton Roads, Va.; to the Committee on Claims.

By Mr. GORE (by request):

A bill (S. 3231) for the relief of S. A. Rourke; to the Committee on Claims.

By Mr. WHEELER:

A bill (S. 3232) granting a pension to Ellen Morris McClain (with accompanying papers); to the Committee on Pensions.

By Mr. VAN NUYS:

A bill (S. 3233) granting a pension to Earl Dudley; to the Committee on Pensions.

By Mr. SHIPSTEAD:

A bill (S. 3234) to provide for the payment of certain indebtedness on lands acquired by the United States; to the Committee on Public Lands and Surveys.

By Mr. RUSSELL:

A bill (S. 3235) to authorize Federal land banks to accept veterans' adjusted-service certificates in payment for farm land; to the Committee on Banking and Currency.

A bill (S. 3236) to provide for the waiving of interest on loans made on veterans' adjusted-service certificates; to the Committee on Finance.

A bill (S. 3237) to provide for the establishment in the Department of Agriculture of an experiment station for the development of tung trees; to the Committee on Agriculture and Forestry.

HOUSE BILL REFERRED

The bill (H. R. 8270) to enable the Legislature of the Territory of Hawaii to authorize the issuance of certain bonds, and for other purposes, was read twice by its title and referred to the Committee on Territories and Insular Affairs.

CHANGE OF REFERENCE

On motion of Mr. SHEPPARD, the Committee on Military Affairs was discharged from the further consideration of the bill (H. R. 1470) for the relief of Carl A. Butler, and it was referred to the Committee on Naval Affairs.

MOUNT RUSHMORE NATIONAL MEMORIAL, S. DAK.—AMENDMENT

Mr. NORBECK submitted an amendment intended to be proposed by him to the bill (S. 3204) to provide additional funds for the completion of the Mount Rushmore National Memorial, in the State of South Dakota, and for other purposes, which was ordered to lie on the table and to be printed.

REGULATION OF AIR TRAFFIC—AMENDMENT

Mr. REYNOLDS (for Mr. MCCARRAN) submitted an amendment in the nature of a substitute intended to be proposed by Mr. MCCARRAN to the bill (S. 3027) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by aircraft in interstate and foreign commerce, and for other purposes, which was referred to the Committee on Interstate Commerce and ordered to be printed.

THE AGRICULTURAL ADJUSTMENT ACT—AMENDMENTS

Mr. BAILEY, Mr. BANKHEAD, Mr. BILBO, Mr. CAREY, Mr. CONNALLY, Mr. GORE, Mr. LA FOLLETTE, Mr. MCADOO, Mr. MCKELLAR, and Mr. SHIPSTEAD each submitted an amendment, and Mr. BYRD submitted six amendments, intended to be proposed by them, respectively, to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which were severally ordered to lie on the table and to be printed.

Mr. GORE also (by request) submitted an amendment intended to be proposed by him to House bill 8492, which was ordered to lie on the table and to be printed.

AMENDMENTS TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. FLETCHER submitted an amendment proposing to increase the appropriation for emergency construction of public building projects outside of the District of Columbia, etc., from $58,000,000 to $60,000,000, intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 40, after line 3, to insert the following:

"Payment to Margaret G. Baldwin: For payment to Margaret G. Baldwin, widow of Frederick W. Baldwin, late American Consul at Habana, Cuba, of 1 year's salary of her deceased husband, who died while in the Foreign Service, as authorized by the act approved June 24, 1935, $3,500."

AMERICAN IDEALS—ADDRESS BY SENATOR BYRD

Mr. VAN NUYS. Mr. President, on July 4, here in the city of Washington, the junior Senator from Virginia [Mr. BYRD] delivered a very eloquent and persuasive address on the subject of "American Ideals." In the course of the address he said:

> Many men believe that this Constitution made possible and promoted and preserved most of the prosperity and happiness that has come, under the kind providence of God, to the American people. And the reasons for this belief are plain to those of us, like myself, who are not lawyers, and who are not concerned by the technicalities of the law. The Constitution, together with the Bill of Rights, protects those rights which Thomas Jefferson called inalienable, and the enjoyment of which is necessary to our pride and self-respect, as well as to our happiness and prosperity.

Further on he said:

> And so there must be some agency of the Government to decide between the jurisdiction of the Federal Government and the States. The wise founders created the Supreme Court; and John Marshall, as Chief Justice, speaking for the Court, with irresistible logic, asserted the power of the courts to determine and declare when an act of Congress was contrary to the provisions of the Constitution. If such power did not reside in the courts there would be no effective protection afforded to the rights of minorities which the Constitution was intended to protect, and in fact there would be no Constitution.

I commend this address to my colleagues and to the citizenship of our country in general. I ask that the entire address of Senator HARRY F. BYRD, of Virginia, delivered at Washington's Fourth of July celebration, 1935, Monument Grounds, over Nation-wide network, be printed in the RECORD at this point as part of my remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AMERICAN IDEALS

Fifty years ago a Senator from the State of Virginia, the eloquent John W. Daniel, pronounced the words that dedicated this monument to the memory of George Washington. This was an honor to Virginia that is repeated today when I am permitted again to express her veneration for the greatest of Americans.

However incapable I may be of justifying my selection as speaker, I appreciate the compliment paid Virginia through me, because Washington was born and cradled, lived and died within the borders of the Old Dominion. He represented my county of Frederick in the Virginia House of Burgesses. He loved Virginia, but he lived to become the Father of a Nation formed of all the States, and declared that "the name of America must always exalt the just

pride of patriotism." "Washington," says Guizot, the historian, "did the two greatest things which in politics it is permitted man to attempt. He maintained by peace the independence which he had conquered by war. He founded a free government in the name of the principles of order and by reestablishing their sway."

It is a long time since Guizot made this striking declaration; many Americans have achieved greatness by service to country since our first President was entombed on the banks of the Potomac, but Washington remains today, in the words of Henry Lee, "First in peace, first in war, and first in the hearts of his countrymen." Not only was Washington a great man; he was a good man; he was great in achievements and he was also noble in character.

There have, indeed, been those who sought to dim the glory of his name in history, as there were those who traduced him even while he fought to achieve our independence and to cement the Colonies in national strength and security, but in the fiercest critical light that beats upon him his character shines as strong as the granite blocks that compose this monument and as pure as these four white walls that soar to kiss each rising sun in his memory.

Posterity has approved the declaration of Edward Everett that he was "the greatest of good men and the best of great men."

I was announced to speak on American ideals, and I am doing this in recalling the nobility of Washington, for he himself in his life and character is one of the greatest of American ideals. I cannot stand here at the foot of the shaft soaring to his memory in the city that is itself dedicated to his greatness and fail to make him the text of my talk.

Washington for his day was a conservative in thought and judgment. He was a man of sound sense. He had accumulated property, but he did not hesitate to imperil that property, to risk his life, and to incur the stigma of rebellion against his King when the King's government taxed the Colonies without representation and interfered with that degree of individual freedom that was the right of a free-born man. Washington was true to the blood that flowed in his veins from the mother country—true to Anglo-Saxon traditions—when he respected the necessary authority of government, but refused to submit to the misuse of such authority.

In a long war his brave spirit, no less than his accomplished sword, triumphed over enemies without and the faint hearted within our borders; but scarcely had our independence been achieved when the individual Colonies, jealous of their separate rights and interests, refused to unite effectively and drifted toward chaos in the loose bonds of the confederation. Again the prestige and power of example of Washington were drafted by his countrymen in support of a Constitution under which the Colonies could form a more perfect union. Others, indeed, drew the provisions at Philadelphia that formed our fundamental law, but without the support of Washington it is doubtful if a sufficient number of States would have ratified the Constitution to make it effective.

Washington believed that the choice was between the Constitution and utter confusion and although silent as he was as a speaker, his great figure and known opinion stood a tower of strength to guide and support those who battled in debate to lay firm the foundations of an effective union.

Many men believe that this Constitution made possible and promoted and preserved most of the prosperity and happiness that has come, under the kind providence of God, to the American people. And the reasons for this belief are plain to those of us, like myself, who are not lawyers and who are not concerned by the technicalities of the law. The Constitution, together with the Bill of Rights, protects those rights which Thomas Jefferson called inalienable, and the enjoyment of which is necessary to our pride and self-respect, as well as to our happiness and prosperity.

In simple language one may say that the Constitution protects your individual freedom and your individual property and your right to have home tribunals pass upon those matters which most intimately affect you.

The founders of our Republic had learned from history and experience that the rights of the individual are more securely safeguarded if the laws which govern us are made and administered so far as possible by home legislatures and courts. Then, too, in a country so vast and diversified as this, a central Government may not understand and effectively meet all the local problems peculiar to the several sections and whose needs vary greatly one from the other.

Men of equally good intentions cannot always agree upon the proper boundaries of the rights of the States; cannot take a map and mark where the jurisdiction of the Federal Government begins and the jurisdiction of the State government ends. Yet remember that the Constitution provides that the Government has only the powers granted it by the States and that all powers not granted are reserved to the States or the people thereof.

And so there must be some agency of the Government to decide between the jurisdiction of the Federal Government and the States. The wise founders created the Supreme Court, and John Marshall, as Chief Justice, speaking for the Court, with irresistible logic asserted the power of the courts to determine and declare when an act of Congress was contrary to the provisions of the Constitution. If such power did not reside in the courts there would be no effective protection afforded to the rights of minorities which the Constitution was intended to protect, and in fact there would be no Constitution.

In that great document is the heart of the liberty of the individual American, and it is the function of the Supreme Court to protect it.

In a notable address made at Richmond, Va., on the occasion of the unveiling of a marble bust of another great Virginian, James Madison, the Chief Justice of the Supreme Court, Charles Evans Hughes, said in a striking sentence, "Success in solving our problems lies in a wise application of Madison's controlling principle of the maintenance of a strong National Government, together with the essential authority of the States over their local affairs and with constant respect for those individual rights which experience and conscience teach us should be inviolable."

The framers of the Constitution provided wisely a method to amend and change it to meet changing conditions. The Constitution is not sacred—it may be changed—but the fundamental principles sought to be protected by the Constitution are sacred and vital to the life, liberty, and chance of happiness of every American. No one can deny the great difficulty of solving the economic problems that confront our great Nation today. And here at this monument to the man who made possible the constitutional liberty that has made our country great may we hope that the spirit of Washington will give us strength, wisdom, and vision to provide a solution for our present difficulties, and let us pledge ourselves to continue in loyalty and devotion to the faith of Washington that made and will keep us free.

THE DECLARATION OF INDEPENDENCE OF TODAY

Mr. REYNOLDS. Mr. President, on July Fourth, through the press of the Nation and over the air to an estimated radio audience of 15,000,000, a very unusual, timely, and significant document, The Declaration of Independence of Today, was promulgated by the United States Flag Association, a great patriotic society which has the distinction of having been headed, as honorary presidents general, by three Presidents of the United States—Calvin Coolidge, Herbert Hoover, and Franklin D. Roosevelt.

The Declaration of Independence of Today is signed by 56 loyal, law-abiding citizens of the Republic—men and women outstanding in their respective spheres of endeavor, whose names command respect and inspire confidence wherever known. They typify the 56 signers of the Declaration of Independence of 1776, which the Declaration of Independence of Today paraphrases in a clever and ingenious way. Twenty-seven of the signers are the national heads of well-known patriotic, civic, fraternal, and other organizations, with a total membership of 13,000,000.

Not only do I wish to congratulate the United States Flag Association on the originality of the conception and promulgation of the Declaration of Independence of Today but I wish also to take advantage of this opportunity to felicitate the association on the splendid and effective work it has been doing during the last 3 years in fighting crime.

Under the fearless, intelligent, and indefatigable leadership of its president general, Col. James A. Moss, United States Army, retired, who for 11 years has devoted his time and energies to the affairs of the United States Flag Association without salary, the organization has done most effective and far-reaching work in creating and galvanizing into action public sentiment for law enforcement. The association's national anticrime conference, held in Washington in 1933, the first of its kind in the history of the Nation, was the forerunner of the splendid national anticrime conference held under the auspices of the United States Department of Justice in 1934.

Mr. President, the Declaration of Independence of Today is such a timely and significant document, and I feel so sure voices the sentiments of practically all, if not all, the Members of this august body, several of whom have signed it, that I would like to read it for the benefit of those who did not hear it read over the radio by Assistant Secretary of War Harry H. Woodring.

It is as follows:

IN THE UNITED STATES OF AMERICA,
July 4th, 1935.

THE DECLARATION OF INDEPENDENCE OF TODAY
BEING A DECLARATION OF FREEDOM FROM CRIME AND COMMUNISM

When in the course of human events subversive and other forces assume proportions that make them a menace to the ideals and institutions of a nation and the happiness of its people, national loyalty and self-preservation demand that all patriotic citizens rally around the flag, waging on such forces relentless war.

We hold these statements to be true:

That under the system of government based on the ideals and institutions embodied in the Declaration of Independence and the Federal Constitution, the United States of America, whose people are normally the most prosperous and happiest on this planet,

has in the short span of a century and a half become a Nation in power and in wealth, in influence, and in character second to none on earth.

That the wages of the American workman are the highest in the world and that the standard of living in this country is far above that of any other, the masses normally enjoying comforts and conveniences of life unknown to even the well-to-do of other lands.

That this great Republic and the blessings of life we are enjoying under its flag have been secured at a tremendous cost of blood and treasure, trial and toil, suffering and sacrifice on the part of our forefathers and others before us.

That the great majority of the American people are loyal and law-abiding, being opposed to communism and other anti-American forces and condemning crime and racketeering.

All experience has shown that mankind are more disposed to suffer while evils are sufferable than to rise and destroy them. But when a long train of occurrences has brought about conditions that threaten the existence of a government and the safety and happiness of its people, preservation from tribulation and misfortune, from suffering and destruction, requires that the evils be annihilated.

The American people have been most patient in their sufferance of the activities of Communists whose subversive doings have been a menace to our institutions, and of criminals and racketeers whose records are recitals of disgrace, expense, intimidation, and terrorism.

To prove this let the facts be submitted.

Every year several thousand citizens are murdered and many thousands kidnaped, robbed, and assaulted, while thousands of homes and other places are burglarized, or burned by incendiaries at a loss of millions of dollars.

More than a hundred thousand crimson-handed assassins are today roaming at large, and a half a million men and women, constituting the scarlet army of the United States, are making their living through crime.

With larger ones being constantly built, our jails and penitentiaries are filled to overflowing with felons and other violators of the law.

America's annual crime bill amounts to billions while the people are each year paying the racketeers billions more.

Because of this stupendous crime bill the American people are paying higher Federal, State, and municipal taxes, and on account of racketeering we are paying higher prices for the clothes we wear, the food we eat, and other commodities of life we use.

As a result of the large number of arsons, burglaries, and robberies, we are paying higher fire, burglary and theft insurance rates.

Thus do crime and racketeering reach every home and affect every man, woman, and child in the United States.

With crime challenging American civilization and threatening American institutions, so terrible and disgraceful have conditions become that America, our country, is today stigmatized in the eyes of mankind as the most lawless country in the world, in which life, body, and property are less secure than in any other civilized land.

The Communists and other radical forces are spending $6,000,000 a year in propaganda and other ways to undermine and finally destroy the Republic.

Many Communist aliens who are in this country illegally are agitating and plotting for the overthrow of the Government.

In addition to a number of Communist daily newspapers, there are scores of weekly and semiweekly papers, with many monthlies and semimonthlies and hundreds of shop and other publications.

For the teaching of communism a dozen schools, with several thousand students, have been established in various parts of the country.

Communistic indoctrination is taking place in our schools and colleges to an extent undreamed of a few years ago.

Communists are making systematic and continued efforts to sow the seeds of communism among the naval and military forces of the Nation.

Annually a number of Communist summer camps, where the red flag is hoisted daily, are conducted in different sections of the United States and attended by thousands of boys and girls who are taught hatred of God, hatred of the American Government, and hatred of the American flag.

The time is come when every man must declare himself and show his colors, be they red or pink, black or blue, brown or silver, or be they the red, white, and blue. You are either for or against America and Americanism. There can be no compromise. Those who are contented with America and Americanism and who are law-abiding must separate themselves from those who are discontented with our system of government and from those who are violators of the law.

Loyal and law-abiding Americans, let us rise and, joining hands in the great brotherhood of Americanism, with militancy in our hearts and determination in our souls, with vigor in our spirits and strength in our arms, wage relentless war on our country's enemies!

As the patriots of '76, the Americans of yesterday, freed themselves from the oppression and abuses of King George III of Great Britain, let us Americans of today free ourselves from the terrorism and burden of King Crime of America, from the intimidation and extortion of racketeers, and from the propaganda and menace of Communists.

Let us band together in a great, aggressive, invincible army of defenders of the flag—the flag which is the only bond we have that unites every American to every other regardless of religious creed, racial blood, social standing, or other position in life.

Thus united, with the battle cry, "Crime and communism must perish", neither asking nor giving quarter, let us declare war—relentless, incessant war—on these our country's foes.

And in support of this declaration, with full confidence in American ideals and institutions, and with abiding faith in the destiny of the Nation, we mutually pledge to each other our loyal support, our whole-hearted cooperation, and our unceasing efforts.

C. F. Adams, former Secretary of the Navy and great-great-grandson of John Adams, second President of the United States and a signer of the Declaration of Independence; William E. Buehler, president Loyal Order of the Moose; R. E. Byrd, famous explorer; Arthur Capper, United States Senator; Emma Hess Carlson, national president American Legion Auxiliary; Lizetta Coady, national president Woman's Relief Corps; Royal S. Copeland, United States Senator; Charles Curtis, former Vice President of the United States; Mary C. Duffy, supreme regent Catholic Daughters of America; William A. Duvall, most worthy grand patron, General Grand Chapter, Order of the Eastern Star; F. H. Ecker, outstanding in life-insurance world; Hamilton Fish, Jr., Member of Congress; James Montgomery Flagg, outstanding artist; Walter E. Frew, outstanding in banking world; A. P. Giannini, outstanding in banking world; William Green, president American Federation of Labor; Solomon R. Guggenheim, outstanding in copper industry; John Hays Hammond, outstanding American; Vincent C. Hascall, president International Association of Lions' Clubs; Frances Haun, most worthy grand matron, Grand Chapter, Order of the Eastern Star; Anne Sarachon Hooley, president National Council of Catholic Women; Patrick J. Hurley, former Secretary of War; E. F. Hutton, national figure in business and leader in social work and philanthropic activities in New York City; George E. Ijams, commander in chief Military Order of the World War; Daniel C. Jackling, outstanding in financial world; Frank Knox, outstanding newspaper publisher; Frank S. Land, secretary general Order of De Molay; Roberta Campbell Lawson, president General Federation of Women's Clubs; Hanford MacNider, past national commander of American Legion; W. G. McAdoo, United States Senator; Leon McCord, commander in chief United Spanish War Veterans; James A. Moss, president general the United States Flag Association; G. M.-P. Murphy, outstanding in financial world; George Nordlin, chairman board of grand trustees, Fraternal Order of Eagles; Estelle Norris Ochiltree, national president American War Mothers; Thomas E. Purcell, president National Council of Catholic Men; R. L. Queisser, national president National Sojourners; John J. Raskob, outstanding in business world; Robert R. Reynolds, United States Senator; Matilda D. Roberts, national president Daughters of Union Veterans of the Civil War; Theodore Roosevelt, outstanding American; Arthur J. Ruland, great incohonee of the Great Council of the United States Improved Order of Red Men; John Morin Scott, general president Sons of the Revolution; Michael F. Shannon, grand exalted ruler Benevolent and Protective Order of Elks; Louisa Swann Sinclair, national president Children of the American Revolution; Alfred E. Smith, outstanding American; Ida B. Wise Smith, president Woman's Christian Temperance Union; Winifred D. Toussaint, national president Veterans of Foreign Wars Auxiliary; A. H. Vandenberg, United States Senator; James E. VanZandt, commander in chief Veterans of Foreign Wars; J. W. Wadsworth, Member of Congress; C. R. Walgreen, outstanding in mercantile world; Harry M. Warner, outstanding moving-picture producer; Jeanne Fox Weinmann, national president National Society of the Daughters of 1812; Grover A. Whalen, outstanding New York City civic leader; Harry H. Woodring, Assistant Secretary of War.

Mr. REYNOLDS. Mr. President, I ask leave to have printed in the RECORD an article from the Washington Evening Star of Thursday, July 4, 1935; an extract from an article written by Mr. Brisbane and published in the Washington Herald; and also a radio address delivered by Hon. Patrick J. Hurley, former Secretary of War, as a part of the United States Flag Association program of July 4. The articles and the address by Mr. Hurley relate to the same subject matter which I have just referred to.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the Washington Star of July 4, 1935]

CRIME AND REDS HIT BY SPEAKERS—HURLEY, WOODRING, AND MOSS ATTACK COMMUNISM IN JULY 4 BROADCAST

Characterizing crime and communism as two of the most dangerous forces confronting the Nation today, former Secretary of War Patrick J. Hurley and Assistant Secretary of War Harry H. Woodring in a dramatic Fourth of July radio broadcast today

called on the American people to unite in combating these forces and to promote through education in churches, schools, and organized groups a broader understanding and higher regard for the ideals and principles set forth by the patriots of 1776 who signed the Declaration of Independence.

With Col. James A. Moss, president general of the United States Flag Association, presiding, the program was broadcast from Washington over the facilities of the National Broadcasting Co. under the auspices of the flag association, which is headed by President Roosevelt as honorary president general, with Chief Justice of the United States Charles E. Hughes as chairman of its board of founders. The association is conducting an intensive Nation-wide campaign of patriotic education in an effort to check the spread of crime, communistic teachings, and other un-American influences.

NEW DECLARATION READ

An outstanding feature of the broadcast was the promulgation of the Declaration of Independence of Today, a declaration of freedom from crime and communism, which has been prepared by the Flag Association and which will be read by Assistant Secretary of War Woodring. The document, which paraphrases the original Declaration of Independence, bears the signatures of 56 loyal, law-abiding Americans—men and women outstanding in their respective spheres of human endeavor, whose names wherever known command respect and inspire confidence. They typify the 56 signers of the original Declaration of Independence. Twenty-seven of them are national heads of well-known patriotic, civic, fraternal, and other organizations having a total membership of almost 13,000,000.

Preliminary to reading the Declaration of Independence of Today, Assistant Secretary of War Woodring said: "As I contemplate on this anniversary of the birth of the Nation the acts of abuse and tyranny of King George III of Great Britain, which are cited in the Declaration of Independence, and which constituted the causes of the Revolutionary War, I am impressed with their mildness as compared with the acts of terrorization and exploitation which the American people are today undergoing at the hands of criminals and racketeers.

"Also, as I see in the Declaration of Independence the patience with which our forefathers suffered abuse and tyranny, I think of the patience with which our people have for a long time endured the communistic propaganda that is being carried on in this country, which advocates the destruction of our American system of government by use of force and violence."

COLONEL MOSS MAKES APPEAL

Colonel Moss called on the patriotic, civic, and fraternal organizations of the country to unite in fighting crime and communism. He offered them the cooperation of the United States Flag Association. "The American people have it in their power", he said, "to annihilate crime and communism if they only make up their minds to do so. In every community of any size from Maine to Texas, from New York to California, in the form of patriotic, civic, fraternal, religious, and educational organizations and women's clubs there already exists the machinery necessary to fight successfully crime and communism. The potentialities of the cooperating or united action of these thousands of organizations now in existence in all parts of the country are tremendous beyond conception. The mobilization of their power and influence in the furtherance of Americanism would result in a force that would sweep everything before it. It is only necessary to adjust, oil, and coordinate this magnificent and stupendous machinery and then turn on the power. Crime and communism would be crushed.

"During the 3 years that the United States Flag Association has been making a study of crime and communism we have collected much data that would be most helpful to organizations which, alone or in cooperation with others, would like to fight these two menaces.

"This data we gladly place at the disposal of any and all local and national organizations wishing to combat crime and communism. Also, we will, upon request, gladly give permission to any organization, to use in fighting crime and communism or any other anti-Americanism, any of the text or illustrations in any of the several copyrighted books published by the United States Flag Association. Furthermore, we will gladly cooperate with them in any other way in our power by giving suggestions based on our experience or otherwise. Those organizations wishing our help or cooperation, please write to the United States Flag Association, Washington, D. C."

HURLEY STRESSES THEISM

Colonel Hurley stressed theism as implied in the Declaration of Independence as the basis of Americanism, and atheism as the essence of communism.

[Extract from an article by Arthur Brisbane, in the Washington Herald]

In Washington the United States Flag Association broadcasts a new "declaration of independence against crime and communism." The "declaration" holds these statements to be true:

"United States people are normally the most prosperous and happiest on the planet."

"Wages of the American workman are the highest in the world, and the American standard of living far above any other, the masses normally enjoying comforts and conveniences unknown even to the well-to-do of other lands."

These American blessings in America were acquired "at a tremendous cost in blood and treasure, trial and toil, suffering and sacrifice."

The new declaration goes on:

"Every year several thousand citizens are murdered, and many thousands kidnaped, robbed, and assaulted, * * * more than a hundred thousand crimson-handed assassins are today roaming at large, half a million men and women, constituting the scarlet army of the United States, make their living through crime."

Jails and penitentiaries are filling to overflowing, with newer, bigger jails constantly built. America's annual crime bill amounts to billions.

To make things worse, "Communists and radical forces are spending $6,000,000 a year in propaganda, to undermine and destroy the Republic." There are "Communist summer camps, where the red flag is hoisted daily."

The declaration calls upon every man to "show his colors, red, or pink, or black, or blue, brown, or silver, or the red, white, and blue."

All law-abiding Americans are urged to "rise and join hands in the great brotherhood of Americanism * * * wage relentless war on our country's enemies."

The declaration adopts for battle cry: "Crime and communism must perish." No definite plan is suggested.

Signatures on the new "declaration of independence" make it interesting; they include Theodore Roosevelt, II, son of the first President Roosevelt; Gene Tunney, retired heavyweight champion; former Governor Al Smith; A. P. Gianini, California banker; Admiral Byrd, who went far South; Arthur Capper, Senator from Kansas; Charles Curtis, formerly Vice President, and William Green, head of the American Federation of Labor.

Such names should make crime, racketeering, and communism tremble in their deepest lair.

REMARKS OF HON. PATRICK J. HURLEY, UNITED STATES FLAG ASSOCIATION PROGRAM, JULY 4, 1935

The United States Flag Association is a nonpartisan, nonprofit, patriotic organization. I congratulate the association on the aggressive leadership of its president general, Colonel Moss, who without salary has for 11 years faithfully, intelligently, and courageously directed its activities. The national anticrime conference held by the United States Flag Association in 1933 was the forerunner of that excellent anticrime conference conducted by the Department of Justice in 1934. The United States Flag Association is endeavoring to focus public attention upon the crime conditions existing in the country, and is helping to create and galvanize into action public sentiment for the enforcement of law and the defeat of communism in the United States.

AMERICANISM V. COMMUNISM

Today we celebrate the one hundred and fifty-ninth anniversary of the signing of the Declaration of Independence. By that document the people of the Colonies declared to the world their right to assume among the powers of the earth the "equal station to which the laws of Nature and of Nature's God entitle them." The Declaration also maintained "that all men are created equal; that they are endowed by their Creator with certain unalienable rights, and among these are life, liberty, and pursuit of happiness." The signers closed the Declaration with this sentence: "And for the support of this Declaration, with a firm reliance on the protection of divine providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor." We have quoted these passages from the Declaration of Independence, which is the foundation of Americanism, to emphasize the fact that the basis of Americanism is theism—that is, a belief in the existence of God. The basis of communism is atheism, that is a denial of the existence of God. Belief in God has no sectarian limitations. It includes Protestants, Catholics, Jews, and all others who worship a supreme being.

We are continuously told that communism is merely a theory of economics—a panacea for humanity's present economic troubles. The fact is, however, that economics is only one of the elements of communism. Communism destroys personal liberty. It dictates and controls personal relations, political conduct, and all social relations, including marriage, education, and religion. The people under communism have no choice but to accept the edicts of their dictators. Communists assume that a dictator, or a small group, can think better for the people than they can think for themselves.

The system of laws by which the American people govern themselves, the spiritual, social, and economic objectives to which they aspire, constitute Americanism. Americanism is predicated on liberty with the sovereign power vested in all of the people. Communism and every form of collectivism is predicated on absolute power vested in an individual or a small group. The fundamental purpose of all government should be to assist the people in achieving their national objectives. The objectives of that system of government and economics which we call "Americanism" is to administer justice; to maintain liberty and equality of opportunity; to promote education; to eliminate poverty, intolerance, and crime; to provide a sound economic basis for the equitable distribution of production; to protect everyone in the pursuit of cultural and spiritual, as well as material happiness; and to guarantee to every citizen the enjoyment of the rights of man enumerated in the Constitution of the United States. The golden rule is the true foundation of Americanism. The American sys-

tem has not achieved its ideals, but notwithstanding our present serious difficulties, it has more nearly approached its ideals than has any other nation at any time.

Liberty, of course, must have limitations which should be imposed and enforced by the people themselves. The limitations on liberty are as sacred as liberty itself. It takes an intelligent citizenship to maintain liberty. The lower the degree of intelligence, the more readily the population submits to communism and dictatorship.

We condemn all those among us who have made a license out of liberty, who have been guilty of the twin evils of stupidity and greed. We contend, however, that the overwhelming majority of the American people are honest and are worthy of self-government and that the dishonest minority can be punished and controlled without having to put the honest majority into the straight-jacket of communism and absolutism.

The people of this Nation cannot expect to remain free if they cease to be vigilant. In a democracy good government cannot exist where a majority of the citizens fail to discharge the duties of citizenship. Militant, intelligent citizens can compel the enforcement of all laws. If the laws now in existence were enforced every racketeer in business and in crime could be stopped at the beginning of his career.

Freedom of speech and press are guaranteed by the Constitution. This gives everyone and all the people a right to advocate any form of government and any system of economics they desire, whether it be Americanism, communism, fascism, socialism, or any other "ism." We may disagree with everything—with every word these absolutists and communists say, but as good Americans we must defend their right to say it. The communists have taken advantage of this freedom to advocate the overthrow of our Government by violence. That, of course, is sedition.

Shall we, as Americans, quietly surrender our liberties and our right to self-government and submit to the rule of a collectivist dictator, or do we still possess the intelligence and courage to govern ourselves? The time has come for every American who still believes in liberty and in God to meet both crime and communism in the open and overcome them.

JANESVILLE, WIS., CENTENNIAL CELEBRATION

Mr. DUFFY. Mr. President, yesterday I obtained unanimous consent to have printed in the RECORD an address which has received considerable attention from Members of the Senate, and upon which they have commented favorably. I did so, thinking that it would not exceed 2 pages of the RECORD. I find that it considerably exceeds that amount of space.

I now have an estimate from the Public Printer according to the rule; and at this time I again ask unanimous consent to have the address printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD.

Mr. DUFFY. Mr. President, I ask unanimous consent to have printed in the RECORD a very interesting and unusual address delivered by Mr. Stephen Bolles on July 2 last at the opening of the Janesville, Wis., centennial celebration.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the Janesville (Wis.) Daily Gazette of July 3, 1935]

Mr. Chairman, ladies, and gentlemen, I would be entirely lacking in a decent respect for the tremendous importance of this occasion, the opening ceremonies of a celebration which, however much may be said or however much may be done, would and will be wholly inadequate to tell the story or recall the past, were I not to acknowledge here that no honor could be conferred upon me by suffrages of the State or my own neighbors equal to this you have done to me.

What we say here today, what we do here today and this week will live long after the poor bodies of the participants have been laid away in the tomb. They may forget the singer, but we hope that they shall not forget the song. Though they may forget the artist we hope they will not forget the painting—that it will live upon walls of memory for that eternity which may come to the land in which we live this day.

History is not a mere listing of chronological events as they passed in years, one after another. It is not the story of wars and intrigue and blood and disaster, of empire living one day and dying tomorrow. It is, in the language of Macaulay, "To make the past present, to bring the distant near, to reveal the patriotism and heroic struggle of yesteryears—there are the duties of the historian."

"The unsolved riddle of mankind has been the reconciliation of liberty with power." The power of tyranny is the power to destroy; the goal of liberty is the aim to live. For centuries the battle, seen and unseen between absolutism and public freedom has been waged. It still goes on with no definite result and no decision. It seemed in 1835 when we laid the paradoxical corner stone of logs for Janesville that the divine right of any ruling class, whether king or satrap, capitalist or proletariat, to determine the destiny of this or any other nation had been defeated forever.

None of us will be here when a second century is celebrated and what we have done, the history and analysis of the people and their struggle of the first century, will be the landmarks by which another hundred years may be measured. There is no light like that of the lamp of experience. The future is not always judged by the past; it may only be guided.

Ever and ever the setting sun has lured the venturesome and courageous. Westward the star of empire has taken its slow, irresistible way.

Sang Bishop Berkeley:

"Behind the Indian's bark canoe
The steamboat puffs and raves
And city lots are advertised for sale
Above old Indian graves."

Ten thousand years ago the Aryan people, on the trail from Long Ago to Now, swept up out of the valley of the Indus through the narrow Himalaya mountain passes, conquered the Tartar of the high plateau, whelmed the desert dweller, built the cities of the plain, kept on to the Hellespont, overran southern Europe, established new kingdoms, new barbaric villages and principalities until their Caucasian children—Greek and Roman, Slav, Hun, Goth and Visigoth, Gaul, Celt, Teuton, Norseman, Angle and Saxon—mastered Europe.

But he was not contented there. He stood on the shore of a trackless sea. He looked into the imagined terrors of the restless and unconquerable ocean. He marveled at its chainless power. He saw where it carved the images of a thousand gods on the high cliffs along its shores. The Phoenician dared its fearsome mysteries. The Norseman trekked along its pathless waves to find a new world hidden in wilderness, mountain, and plain. An Italian, greedy for gold, and spurred by a thousand fantastic tales of the Asiatic El Dorado, mastered the waste of waters, to die, haunted by visions of India's coral strand and the fabled wealth of Cathay.

The western sun was still the magnet. The explorer came. He found America. He mapped its shores. He threaded its rivers and crossed its lakes. The priest, the preacher, and the teacher came; and then the pioneer, with Bible and rifle, with ax and plow. He built villages—they became cities. He laid out patches of garden—they became farms. He cut crooked trails for his cattle and wagons—they became great traveled highways. He made dugouts to carry his products to market—they grew into transportation lines, with canal boats, sailing vessels, steamboats, and steamships. He dammed the little streams and industry began to mark its place with song of wheel, murmur of grinding grain, and clang of iron and steel.

He landed in the warm and inviting Virginia; he came ashore at the bleak rock at Plymouth; he poled his canoe and flatboat up the Hudson and Mohawk; he stood under the great tree at the City of Brotherly Love; he found asylum in Maryland; he cut back the wilderness a few miles from the shores of the ocean that stood both as a barrier against his return to the homeland and as a bulwark against further tyranny. He sang his old French love songs in Wisconsin forests, trapped its beaver, traversed its pathless woods, told his stories of romance and adventure.

And still the western sun lured him on.

His patient oxen took him on new trails. He crossed mountains, periled by snow and avalanche. He forded rivers, risking death from whirlpool and flood. He dragged on over sodden ground, slowly, painfully, but persistently, chopping new roads, blazing new and hopeful highways that others might follow and be his neighbors. He dared the savage; he challenged Nature; he shook his fist in the face of difficulties; and finally he became the new settler in Wisconsin.

One hundred years ago he came. He hewed a new home from this wilderness. He lived from the forests. His rifle and shotgun were the butcher's check and the market man's delivery cart. He took the stored honey from the trees and traded it for flour and rusty pork. He fought—this settler with his family—the pressing horrors of isolation and starvation. Every farm home in all this great section of the State of Wisconsin is built on a battlefield where man contested with resisting Nature, and he won the final victory of success with a home and a family.

The road from today to yesterday does not seem long, measured in terms of years. The new settler in Janesville became an old settler in a decade. His sons and daughters again took the trail. Some remained, many went on toward the setting sun. There were other wildernesses to conquer, other trails to follow, wide-sweeping plains to cover with bands of railroad steel, another ocean to reach. And, lo, where there had been a wilderness, with its maddening and awful silence, where rivers ran eternally unladen to the sea, where savage reigned supreme, where wild forest denizens held high riotous carnival, there arose an empire of the common people within this century.

Had the commoner in Europe been content this world would still have been a realm of silence. Had the Virginian and the Yankee been content there would have been no Northwest Territory and no Wisconsin, no Rock County, and no village or city here. Had the German, the Irish, the Norwegian been content we should not have had him here as a solid citizen of Wisconsin.

This new Wisconsin was no place for the indolent, the coward, or the shirk. This was no place for the white-collared youth, the dilettante, or the effiminate. This was no place for the evanescent shadow of life, the social butterfly, or the drone. This was no place for the parasite or the aesthete.

Beauty was all around the old settler in the Rock River Valley. He had come to a place where every prospect pleases. From the hilltops he could see great waving forests of green. Between were silver sheens of lakes and bounded prairies. There flowers lifted blossoms to the sky in a barbaric riot of color, rivaling the sun in its chromatic display. The breath of spring, the sky of summer, the

glory of the master paintings of the woods in the fall—there were pictures hung here by omnipotence for his delectation. The first settler needed no Louvre and no other gallery of art for his cultural side. Unconsciously his soul responded to this great oratorio without words and perhaps without understanding why.

The first settler got what he gave. He hid no talent lest someone should rob him. His home was his castle, his farm his landed domain, his retainers were all members of his own family. Each home was an industrial plant. Each member of the family had a task to perform. The farm was a way of living in its supremest sense. He had flour if he raised wheat. The packing house might be far away, but he had his own. His shoes were not made in a great factory; the cobbler at the cross roads slowly sewed and tapped them. His grist was ground at the mill close by. The streams were harnessed and the water wheel was a Hercules chained like a slave.

His music was the wind in the forest, the summer rain, the deeper diapason of the threatening storm, the beating of the snow against the glassless windows.

This United States, from the days when God was the pilot, when His stars, burning just as brightly and just as steadily as now, led mankind, with cloud by day and pillar of fire by night, to the rock shores of this woodland world, was settled by poor people. No one gave them anything. They had no subsidy. They were not fed on any appropriation by a prodigal Government. No tax levy was made to present them a log cabin, or to buy a ripsaw to make boards for floors, supply tools or equipment.

They did not share wealth; they shared work. They did not share grandeur; they shared simplicity. They acquired riches out of the soil, in trade and commerce, and by working from sunup to sundown.

There isn't a dollar of wealth or value or intrinsic worth here in Janesville, in Wisconsin, or in the world that does not represent labor or services. There was no magic about it. There was no miracle in it. No man's voice said, "Let there be a new world", and behold a new world existed. No; not that way. Rippling muscles, back-breaking toil, made Wisconsin. Liberty is never written by wealth or power. It is written in sweat and blood of the common people.

Liberty is written by men and by women who want freedom of opportunity untrammeled by hampering law that puts incapable, collective authority in charge of daily tasks.

The common people wanted free speech that they might express themselves when oppressed by ill-conceived laws or burdensome taxes. They wanted the right to worship God where and when and how they saw fit. They wanted to be safe in their own homes without search and seizure unless by due trial and examination they had forfeited property. They wanted the right to move from one place to another without restraint. So they wrote these things into a fundamental law, the oldest document of its kind in operative existence, and repeated these principles when they formed a State. It was the first Constitution written with the pen of human rights and conceived in justice. That is why it lived.

Three great documents express American ideals. They are the Declaration of Independence, the Constitution of the United States, and the Ordinance of 1787, creating the Northwest Territory. We are one of the five States erected from that Territory. It was dedicated to freemen and free labor. It was built on a foundation of education and religion.

Here was Wisconsin Territory released from fear of hostile Indians in 1835, with no white men in all that ragged triangle reaching from Green Bay to Chicago, with one trading post at Milwaukee and a trader at what is now Waukesha, then called Prairie Village. West, a little lead mine near New Glarus, held a few white men. North Portage, with its old Fort Winnebago, was the nearest settlement. Near Monroe, Andrew Clarno had a farm.

Here then came the first settler in 1835. We celebrate his coming in this centennial. I have no time to deal with the daily chronology of incidentals. That we leave for the writer of detail. We must look this morning, here in the first day of our celebration of the passing of a century, at the whole picture. History is the story of people.

There will never be another epic like this of ours in western settlement. It can never be written again. There is but one Iliad, but one Odyssey for the West. It is not the story of conquest, or blood and pillage and murder. It had no Joshua leading with armed men to a land flowing with milk and honey, by the route of blood and terror. It is not the story of looting that the looter might be rich. It is the greatest of all romances of peace.

These men, carried by slow oxen, were seeking homes. They wanted property. They wanted their own land. They wanted the right to occupy it for themselves and be free from bond labor. They were not asking for or seeking political liberty. They were not asking a government to loan them or to provide them anything beyond opportunity. They were asking for individual independence and individual rights. They wanted the further right to make a profit. They wanted the right to buy and sell, to raise what they pleased on what land they owned and to sell it where and how and when they pleased. They knew property in itself had no right but that they, as persons, had protected rights in property. They got that in Wisconsin.

One hundred years ago there was no sawmill in Janesville or in all this region; no grist mill, no railroad, no telegraph, no telephone, no sewing machine, no highways, no fences, no board or brick or stone houses, no stores selling other than the simplest things, no farm machinery, no mills for woolens or cottons, no water power harnessed, no bridges, no theaters or circuses, no musical instruments in homes, no stoves, no steel plows, no schools, no churches, no steamboats, no lumber jacks, no rafts on the rivers, no wheat fields in southern Wisconsin.

"All this shall be added unto you" was as yet an unfulfilled promise. The first genuine settlement in Wisconsin was here in Janesville. Others who came to the territory had been adventurers. Here to Janesville and the river valley came men and women to make homes, till lands, bear children, rear families, add wealth from the soil, from timber, and what else had been provided them by a generous Creator. Elsewhere were traders with Indians, little outfitters for explorers, nomad miners, ready to leave when ore failed. Here in Janesville, for the first time, there was written in dirt and sweat of toil, over the lintel of the doorpost of every cabin, "permanent."

When the frightened troops of General Atkinson drove the Sac Indians into the Wisconsin River they crashed down the gates that had barred the way of settlement.

The Holmes boys, young and ambitious, John Inman, a little older, George Follmer, still older, found the gate open and in 2 days gave the reason for this centennial celebration in the rude log house on the river bank across from the Big Rock.

Outside, eagerly waiting, were a quarter of million people. They came in droves, herds, armies, swept over whole townships and counties, engulfed great areas, like a tidal wave in the western Pacific, made a town in a week, a city in a month, started governments locally and generally; erected a Territory and then a State. We incorporated this city. We were troubled with growing pains. We put a harness on water power. We began to make brick. We began to grind grain. Golden wheat dictated economic standing. In 20 years this region was the breadbasket of America and Janesville its greatest food market. Storekeepers came. Women began to change from the home-made dress to "boughten" things at stores. Stores were everywhere. The eternal avant-courier of the new world—the blacksmith—was busy shoeing oxen and horses. Trees had been cut away. Trails became highways. Plank roads were laid and the first pavement succeeded the corduroy. Bridges were built. In a decade, 300,000 people came to southern Wisconsin.

Liberty's lamp was brightly burning on Atlantic shores. It was a beacon of invitation. Its beams were lighting the dark shores of Europe. People submerged for centuries, tramped on, dictated to, regimented, and abased were seeing light. The power of the printed word was growing. Newspapers were multiplying; knowledge was spreading. Coals of fire were heaped on breasts of dying despotisms. De Tocqueville had written Democracy in America, and the intelligentsia across the water began to understand the individualistic principles of American government.

So oppressed peoples started westward. The Norsemen came, to be a great power in Wisconsin. They brought the printing press and religious culture. Wherever the Norwegian settled was a church. The tyranny of a vapid and vicious king sent a million Germans to America. One-fourth of them found asylum in southern Wisconsin. They gave to Wisconsin statesmen, writers, newspapermen, sound citizens. From Scotland, seeking homes and lands away from the laws of primogeniture and entailments, came the Scotch, who gave a new meaning to thrift and saving. Came, too, the Irish, seeking some place where landlordism was unknown, and builded a new land of the shamrock and lilting song in a new world.

The logical sequence of settlement was a log house, a plot for crops, a school, a church, better schools, a government locally and general, a market, trade and business. These were as sequential as day follows night. Good times and hard times were met, overcome, and conquered. Living as these men and women did in Janesville, they found no difficulty in supporting the Union in its hour of travail when Lincoln called. They went to war—2,800 from Rock County—fought in its battles, died as soldiers must die, left homes and crops to women and children, and the survivors returned to take their places again in the ranks of those who lived the commonplace lives of an honest people. They have joined the "phantom army"—all but a few—marching to heavenly music of union and harmony and leaving a lesson of devotion to American ideals imperishable as granite.

Woman made Wisconsin possible. There could not then be, cannot be now, a home without the woman. First in the mind of the first settler was his wife. She was a partner in the pioneer task. To me the greatest moment in the history of Janesville was when Mrs. Samuel St. John, in that rude lean-to cabin over there, across from Monterey rock, without physician or midwife, without woman's aid or kindly sympathy and understanding, surrounded only by inexperienced young men and husband, willing but helpless, gave birth to Seth St. John, first white baby born on Rock River in Wisconsin. I ask all you mothers, and you fathers as well, to look within that cabin where nine people ate and slept, upon that rude pallet, in a bed built into the log walls, with nothing but the simplest of accessories upon that hour of the nativity in Janesville. Christ was born in a manger, with lowing kine and hay-crunching asses stabled all about the accouching mother, yet women were with her.

Like Lincoln, born in a cabin without doors or windows, such pioneer babies came into this world. The mother of this first Janesville baby gave her life in this sacrifice, and her grave, marked with a boulder on the wind-swept hill south of the city, should forever remain as a shrine to motherhood.

These pioneer women were full partners in founding Wisconsin. I pluck no laurel wreath from the crown of any early statesmen; I take away no decoration from the breast of a hero who gave his life or made other sacrifice in laying the structure of this Republic or in erecting the facade of the new Temple of Human

Justice for the common people here in Wisconsin; but take the hands of the first settlers' wives and lead them from the self-conscious obscurity in which they have been placed and give them a niche in the American Hall of Fame among the builders of the Nation.

These mothers traveled the same wilderness road into new dangers from Indian and wild beast. They kept the home fires burning, nursed the sick, and lived through unnumbered woes. The story of these early mothers is the glowing, glorious epic of womanhood in the building of this city and county.

I am reluctant to close. There are so many things to say and to tell in such a history of a century. The story of a community is the story of its people. There is no glory like that of the commonplace. The glory of arms, of politics is of individual greatness and is evanescent. Eternity is measured in daily tasks performed and daily work well done. This was a land of commonplaces.

Let me not be misunderstood. There never was perfect content in the majority. Vast property interests and management problems called for practical executive ability, while millions hungry for some mystic bread of life asked for land, roads, freedom, chances, open doors, release somewhere and somehow from the clutches that held them to monotony and toil.

Some obscure historian has said that and more, "On the one hand were those wanting refined mechanics of adjustment and on the other hand those who wanted songs, slogans, words worth dying for; and between was the mass who lived by bread alone. They were the vast, breathing, groaning, snarling, singing, murmuring, irreckonable instrument through which, and on which, history and destiny and politicians worked—the people—the public that had to be reached for the making of public opinion."

Behind us is a century. It may be divided into three parts; that day of the pioneer of 20 years, the days when the readjustment came from the Civil War and after. What may we learn from that time? Is there anything in the past to guide us for the future? What is written on the tombstones of these pioneers—a pointing finger to a road that we may follow?

This was the manner of men and women who came to Janesville and built a city. This was the manner of men who laid the foundations of this beautiful community where people have been born and lived and died for a century. We are giving it a benediction this day in 1935.

These men were individualists. They held out no tin cup for government alms. They supported government—the government did not support them. They believed that government was made for and by the people, and not the people by the government. No man was regimented in 1835 or thereafter. No man borrowed an ax to hew out his home. They asked no man to do more than they were willing to give. They were ready to share with every task. They divided the labor—their wealth was their own to do with as they pleased. What they got came from their own toil and saving and thrift. All wealth here in Janesville and this valley as elsewhere was created by work and not by legislation.

The first settlers wanted a coherent union. They went forth to bloody battlefields to keep it so. They were the normal American citizens, nurtured in tradition and ancestry from eastern colonial peoples, seekers getting away from oppression, who came here because they wanted freedom from autocratic dictation and confiscation by taxation.

So they erected this city; so they built a State; so they became a part of the Nation. To paraphrase a poet:

"Here in our sight where memory doth enshroud us
Lies that fair city in which our hearts abide,
And in its bliss there is naught more wondrous told
Than those few words, 'Thou shalt be satisfied.'"

CONFIDENCE GAME—EDITORIAL FROM PHILADELPHIA RECORD

Mr. BONE. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an editorial from the Philadelphia Record of Wednesday, July 10, 1935, dealing with the pending holding-company bill.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Record of Wednesday, July 10, 1935]

CONFIDENCE GAME

The holding companies have just sold the American people another gold brick.

The real reason the holding companies forced the House version of the Wheeler-Rayburn bill through the lower Chamber in place of the Senate's version is that the House version seems to them to stand on weaker constitutional grounds.

All the weeping about the "death sentence" against holding companies in the Senate bill, all the support for the "fairer" House version was coverup for a scheme to put through a bill the Supreme Court would be likely to nullify.

What the holding companies were really playing for was not a bill without the "death sentence", but a bill that would fall down in a court test.

This ranks about top in the record of shoddy maneuvers pulled off on the American people.

Proof? Plenty. The Senate bill called for abolition of useless holding companies by 1942, while the House bill leaves it up to the Securities and Exchange Commission to determine whether any holding companies, and which, shall be abolished.

The House bill seems on its face strong enough seriously to worry utility executives, since the administration could be expected to control the S. E. C. Why was it supported?

It was supported because it delegates the life-and-death power to a commission. The Supreme Court has shown in recent decisions its distaste for broad delegation of constitutional power. The mandatory abolition might have survived a court test; the utilities feel the delegated powers cannot survive the test.

For all their pious ejaculations about "protecting the investor" and "regulation, not destruction" the utilities put through the House amendments not to change the bill, but to kill the bill, to kill all Federal regulation.

That explains the mysterious manner in which utility stocks and bonds have been keeping the high levels they reached after the President's defeat by the power lobby. There would be plenty of dumping, and the stocks would be down if the utilities felt that even the House bill would stand. They feel it won't stand.

They think they have fooled the public. That's why the RECORD's average of 20 utility stocks yesterday was 22.83 against a 1935 low of 14.46, and the average for 10 utility bonds was 104.77 against a 1935 low of 99.94.

That is why Associated Gas & Electric, after spending its utility companies' money in a giant campaign against the Senate version of the bill, now spends more funds for advertisements attacking the House version as "tainted with unconstitutionality."

The utilities put over that "tainted" version. They sold the public a leaky boat for a long trip, because they don't want the trip completed.

The only consolation is that the public won't be fooled so easily when next the holding companies put their hands over their hearts and say they are in favor of "regulation, not destruction."

They move too fast to be regulated.

MEMORIAL DAY ADDRESS BY QUIN O'BRIEN

Mr. LEWIS. Mr. President, I tender at this time for publication in the RECORD an address delivered over the radio on May 30, 1935, by one of America's great orators and eminent lawyers, Hon. Quin O'Brien, of Chicago, Ill. I ask that this masterful address be published in the CONGRESSIONAL RECORD, assuring the Senate of literary and historical compensation.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Under the free-born flag of our beloved country, amid the fragrance of the flowers of spring, the people of this mighty Republic today pause from their labors to join in prayer and praise for our sacred dead who in war and in peace laid their sacrifices on the altar of devotion. This great memorial holiday is a day of joy and not of sorrow. As Lincoln said, amid the myriad graves of Gettysburg, it is a time when we, the living, should "take increased devotion to that cause for which they gave the last full measure of devotion." It is a time to take our bearings from the sun and stars and our long-traveled course that we may right our ship of state for its future journey with full speed ahead. It is a noble land that God has given us; a land that can feed and clothe; that can comfort, enlighten, and lead the world. It is a mighty people that He has planted on this soil of freedom; a people sprung from the most masterly bloods and the most intrepid souls of history. In three centuries, with banners on which were inscribed "Free Conscience", "Free Speech", "Free Press", "Free Schools", "Free Ballots", our intrepid pioneers marched westward with "the star of empire", from the snows of Plymouth Rock to the Golden Gate of sunset, developing our vast domain, which they dedicated to liberty and law and to—

"One flag, one land, one heart, one hand, one nation evermore."

And all this was done, not by fire and sword, but with plow and press, Bibles and ballot boxes, schoolbooks and scythes, and the arts and crafts of an adventurous people, who reared in this western world a mighty Republic designed to be first in peace, last in war, and first in the hearts of humanity.

The past at least is secure, but what of the future? We are now emerging from a world crisis in a great transition period in the affairs of men. The past 20 years have been the Gethsemane of nations. In the World War bleeding humanity cried out, "O God, let this chalice pass from us!" In the aftermath of depression it has groaned at its betrayal and trembled at the thought of civilization's Calvary. Today, thank God, we are witnessing the Easter dawn of the Resurrection. Out of this is coming a new era and a new order of things. There has been a great moral and social awakening, and the most hopeful sign of the times is that the current of reform is almost world-wide, under the leadership of America. The same challenge of the power of vested interests, the same demand for equality, the same striving to lift the average man and woman up to a wider and fuller participation in the blessings of life and modern society is manifest everywhere. In the past few years kings, kaisers, czars, and barons of wealth have been toppled from their thrones. In the language of blessed Mary's Magnificat, "The proud and mighty have been put down from their seats", and the tide of events has "exalted them of low degree."

This is a time which tries men's souls and many are fearful. Fellow Americans, be not alarmed, this is but the ferment of democracy. There will be no explosion, there will be no revolution, there will be no dictatorship, there will be no atheistic sovietism, there will be no pagan Nazism, no tyrannical Fascism in

free America. We are immune to these heresies. Love of liberty, lust of land, pride of private ownership, craving for individuality, independence of spirit, and faith in God are all too inherent in the American character and American institutions to ever permit cults of tyranny to enslave us.

The main cause of the world's chaos and unrest, and the subject of its chief clamor, is found in the abuses of capitalism. Capitalism, which built up the towering structures of our industrial and financial institutions, sinned grievously and must do penance. In its greed for power and wealth it debauched our public officials, abused its privileges, and oppressed the sons of toil. In an orgy of speculation it brought down its towering structures and almost suffered the fate of blind Samson in the ruins it wrought. The red Communists exaggerate these evils and seek to destroy capitalism utterly, and in doing so would throttle the liberties, civil and religious, of all humankind. The American people will never jump from the frying pan of distorted capitalism to the fire of communism. Rather will it chasten, purify, and salvage capitalism. It will teach it that it holds its wealth as a trust to be administered for the people's welfare and that honesty is ever the best policy.

In the past few years we have done much toward this end, we have stopped the exploitation of unschooled children, we have tapped hoarded wealth to feed and clothe the Nation's unemployed, we have stopped the robbery of natural resources, we have required the guarantee of the people's bank deposits, we have transferred our money control from Wall Street to Washington, we have curbed stock juggling and gambling, we have rescued the farmer and the home owner from the mortgage foreclosure and receivership rackets. In short, we are putting justice in business as well as in the courts. We are putting conscience in commerce as well as in the churches.

The nineteenth century saw the greatest revolution of modern times—that from feudalism to industrialism; from the control of kings to the control of capital. Giant corporations with special privileges assumed the powers of kings and their divine right to rule. The twentieth century will see ever a greater revolution—that from the control of capital to the control of men, not Soviet men but enlightened men, who have not tried to throw off the control of God, and who would die themselves rather than enslave and slaughter their fellow men. Democracy, the child of Christianity, is determined to control capital, its economic brother. And what is more, it is firmly resolved, to moralize the social order. All that Democracy demands is common honesty, an equitable distribution of wealth, just service for a reasonable profit, and a recognition that the people of America are masters and not servants. It is not seeking to destroy the temple of private property but to drive from it the unjust money changers.

American democracy, as interpreted by the statesmen of our two great parties, aims to make every man capable of becoming a capitalist by a more just distribution of wealth. On the other hand, communism, according to its own manifestos, aims, by force, revolution, and bloodshed, if necessary, to confiscate the property and wealth of all the people and consolidate and administer it by a soviet oligarchy which denies God and proscribes all religion as moral and mental poison.

Our people, and especially our high-school and college students, should be taught that communism is a far worse and more cruel slavery that human chattelhood, which lit the fires of civil war and cost the lives of a half million of America's young manhood and that of Lincoln. Communism is a blend of anarchy and atheism. It is repugnant to all that Christianity, democracy, and Americanism stand for, and is the greatest possible treason to our institutions. To paraphrase the words and warning of Abraham Lincoln, "A house divided against itself cannot stand. This Government cannot endure permanently half slave and half free." There is not room enough in this ocean-bound Republic, or its free air, for both communism and democracy.

When the apostles of American liberty met in Independence Hall on our Nation's pentacostal day to draft our charter of government, their leader, George Washington, like the inspired Peter, speaking no less to posterity than to the assembled delegates, solemnly said: "Let us raise a standard to which the wise and honest can repair. The event is in the hands of God." We Americans of today are the trustees of that Constitution and Government for the benefit of our people and unborn millions. This week the most august court in all the world, in three opinions, unanimously vindicated the power and blessings of that historic Constitution. The voices of Washington, Franklin, Jefferson, Madison, Hamilton, Wilson, Elsworth, Randolph, and Rutledge and their compeers seem to call to us this Memorial Day across the chasm of 150 years and bid us keep their beloved America an ideal Republic in which those twin monuments of their joint wisdom, the Declaration of Independence and the Constitution of the United States, shall forever stand, like the last mountain in the deluge, unique, majestic, magnificent. The American people, from our noble President down, answer them and our heroic dead from Bunker Hill to Flanders Fields, "Sleep on, brave souls; rest in peace! God reigns, and our Constitution and our consciences still live!"

REGULATION OF PUBLIC-UTILITY HOLDING COMPANIES

The VICE PRESIDENT. The question is on the motion of the Senator from Illinois [Mr. DIETERICH] that the conferees to be appointed on the part of the Senate be instructed not to insist on section 11 as agreed to by the Senate in the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating, or marketing securities in interstate and foreign commerce through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

Mr. WHEELER. Mr. President, in approaching the question involved in the motion of the Senator from Illinois [Mr. DIETERICH] that the Senate not insist upon section 11 as agreed to by it, I wish to call attention to the fact, and have it clearly in the minds of Senators, that section 11 of the bill as adopted by the Senate deals not only with the elimination of holding companies but likewise deals with the reorganization of holding companies and also with foreign holding companies. Consequently, if the motion instructing the conferees on the part of the Senate not to insist upon section 11 of the Senate bill should be adopted, it would mean that we would have to abandon the position we have taken not only with reference to the elimination but with reference to the reorganization of holding companies, that provision having been put into the bill solely and exclusively for the purpose of protecting the investors of these various companies.

If section 11 of the House bill, in its entirety, should be accepted, there would be no provision, as I see it and as the Securities Commission see it, setting forth a proper method for reorganization or a proper method for the protection of investors in these holding companies.

Mr. BYRNES. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from South Carolina?

Mr. WHEELER. I yield.

Mr. BYRNES. Yesterday I inquired of the Senator from Montana whether he was correctly or incorrectly quoted in certain newspapers, which represented the Senator as stating that if this bill were sent to conference, and section 11 were not retained, the bill would be permitted to die in conference. The Senator stated that he had made no such statement, and he certainly satisfied me on that point. I wish to ask the Senator from Montana, if this bill should be sent to conference and there should be an agreement between the conferees as to all the amendments in controversy between the two Houses, with the exception of section 11, whether the Senator will state to the Senate that it would be his purpose to report such disagreement to the Senate at this session, so that the Senate would have an opportunity to vote upon the question at issue?

Mr. WHEELER. Let me say to the Senator that there would not be any other intention in my mind, for if I should serve upon the conference committee I should feel that I was not representing my own personal views in the matter but that I was representning the views of the Senate. Consequently, if the conferees could not agree upon section 11, or some other provision in its stead, I would then feel that it was my duty as one of the conferees to bring the disagreement back to the Senate and ask for further instructions with reference to the matter.

Mr. BYRNES. Mr. President, if the Senator from Montana will yield further, I should like to ask the Senator from Illinois [Mr. DIETERICH], in view of the statement of the Senator from Montana that he was incorrectly quoted and that if the bill shall be sent to conference without instructions he will endeavor to adjust the differences between the two Houses and if there should be a disagreement upon section 11 he will report back to the Senate at this session, whether or not the Senator from Illinois will not withdraw his motion to instruct the conferees?

Mr. DIETERICH. Mr. President, the statements now made rather change the position as I understood it to be yesterday. As I now understand the position of the Senator from Montana it would be my purpose to withdraw the motion. I understand his position to be that if the bill goes to conference and the conferees reach an agreement on all other provisions and fail to reach an agreement on section 11, he will bring the bill back to the Senate for the action of the Senate in reference to instructing or otherwise dealing with the subject matter of the disagreement.

Mr. WHEELER. I should feel it to be my duty to do so.

Mr. DIETERICH. Then, if the Senator will yield further, in view of that statement I withdraw my motion.

The VICE PRESIDENT. Without objection, the order heretofore entered providing for a vote at 2 o'clock is rescinded. The Chair appoints the following conferees on Senate bill 2796: The Senator from Montana [Mr. WHEELER], the Senator from Kentucky [Mr. BARKLEY], the Senator from New Hampshire [Mr. BROWN], the Senator from Maine [Mr. WHITE], and the Senator from Minnesota [Mr. SHIPSTEAD].

AGRICULTURAL ADJUSTMENT ADMINISTRATION

Mr. ROBINSON. Mr. President, the Senator from South Carolina [Mr. SMITH], Chairman of the Committee on Agriculture and Forestry, is prepared to move to proceed to the consideration of the bill to amend the Agricultural Adjustment Act. He is now on his way to the Chamber. There is pending before the Senate, however, the water carriers bill. I inquire of the Senator from Montana [Mr. WHEELER], who is in charge of that bill, whether he desires at this time to proceed with that bill or is he willing to have it laid aside?

Mr. WHEELER. Mr. President, as the Senator from Arkansas knows, my time has been taken up for the last 2 or 3 days by the holding-company bill, which has just been disposed of. I should much prefer to let the so-called "A. A. A. bill" be considered at this time, but I should like to have an opportunity to take up the other bill before the session closes.

Mr. ROBINSON. In the absence of the Chairman of the Committee on Agriculture and Forestry [Mr. SMITH], who is on his way to the Chamber, I move that the Senate proceed to the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. COPELAND. Mr. President, the water-carrier bill would then go back to the calendar?

Mr. ROBINSON. Yes; it would be displaced.

Mr. McNARY. Mr. President, by unanimous consent a few moments ago disposition was made of the agreement under which a vote was to be taken at 2 o'clock today on the holding-company bill, and the bill has been sent to conference.

The VICE PRESIDENT. That is correct.

Mr. McNARY. The pending measure now before the Senate is the so-called "Wheeler bill", affecting water-borne traffic, and to bring it under the jurisdiction of the Interstate Commerce Commission. Is the Senator from Montana now consenting to a withdrawal of the unfinished business and its restoration to the calendar?

Mr. ROBINSON. Mr. President, if I may answer the inquiry, let me say that, in view of the statement just made by the Senator from Montana, I have moved to proceed to the consideration of another bill, which would have the effect of displacing the unfinished business.

Mr. McNARY. I was not clear whether it was to be a displacement or merely a temporary laying aside during the consideration of the A. A. A. amendments.

Mr. ROBINSON. If my motion shall be agreed to, it would have the effect of displacing the unfinished business.

The VICE PRESIDENT. The question is on the motion of the Senator from Arkansas.

Mr. McNARY. Mr. President, there is some opposition to the bill. I note the absence at the moment of the Senator from Virginia [Mr. BYRD].

Mr. ROBINSON. I shall suggest the absence of a quorum if the Senator desires.

Mr. McNARY. I think that had better be done.

Mr. ROBINSON. Very well. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Bilbo	Byrd	Coolidge
Ashurst	Black	Byrnes	Copeland
Austin	Bone	Capper	Costigan
Bachman	Borah	Caraway	Davis
Bailey	Brown	Carey	Dickinson
Bankhead	Bulkley	Chavez	Dieterich
Barbour	Bulow	Clark	Donahey
Barkley	Burke	Connally	Duffy
Fletcher	Keyes	Murray	Sheppard
Frazier	King	Neely	Shipstead
George	La Follette	Norbeck	Smith
Gerry	Lewis	Norris	Steiwer
Gibson	Logan	Nye	Thomas, Okla.
Glass	Lonergan	O'Mahoney	Townsend
Gore	McAdoo	Overton	Trammell
Guffey	McGill	Pittman	Truman
Hale	McKellar	Pope	Tydings
Harrison	McNary	Radcliffe	Vandenberg
Hastings	Maloney	Reynolds	Van Nuys
Hatch	Metcalf	Robinson	Wagner
Hayden	Minton	Russell	Walsh
Holt	Moore	Schall	Wheeler
Johnson	Murphy	Schwellenbach	White

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from Arkansas that the Senate proceed to the consideration of House bill 8492.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which had been reported from the Committee on Agriculture and Forestry with amendments.

Mr. SMITH. Mr. President, I ask unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that committee amendments be first considered.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will state the first amendment of the Committee on Agriculture and Forestry.

The first amendment of the Committee on Agriculture and Forestry was, on page 3, line 2, after the word "than", to strike out the comma and "or is likely during the current or next succeeding marketing year for such commodity to be less than the fair exchange value thereof, and" and insert "the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and", so as to read:

SEC. 2. Section 8 of the Agricultural Adjustment Act, as amended, is amended by striking out everything preceding subsection (2) and inserting in lieu thereof the following:

"(1) Whenever the Secretary of Agriculture has reason to believe that:

"(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and"

The amendment was agreed to.

The next amendment was, on page 3, line 16, after the word "title", to strike out the words "and that the exercise of any one or more of such powers would be administratively practicable"; and in line 21, after the word "shall", to insert the words "proclaim such determination and shall", so as to make the paragraph read:

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of such investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

The amendment was agreed to.

The next amendment was, on page 4, line 19, before the words "to be made", to insert "subject to the consent of the producer", so as to read:

"(2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods—

"(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and

"(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis

of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.

The amendment was agreed to.

The next amendment was, on page 5, line 17, after the word "than", to strike out the comma and "and is not likely during the current or next succeeding marketing year for such commodity to be less than the fair exchange value thereof, or" and insert "the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or", so as to read:

"(3) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

"(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

"(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

"(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

"(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

"(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or."

Mr. McNARY. Mr. President, we are proceeding so rapidly that I cannot turn the pages of the bill with sufficient celerity to keep up. May we have the amendment again reported?

The VICE PRESIDENT. The clerk will again state the amendment.

The Chief Clerk again stated the amendment.

Mr. McNARY. Mr. President, I think the chairman of the committee should explain the reason for the insertion of this language and the elimination of the original language.

Mr. SMITH. Mr. President, as the Senator knows, he being a member of the committee, at every meeting of the committee we had present a majority of the members. After full consideration it was determined that the language proposed to be inserted was more in conformity with the practices of the different departments, the Interstate Commerce Commission, and others, and that the new language would come nearer expressing the purposes and ideas than would the language of the House bill. The new language is:

The fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or.

Then follows the original language of the bill, so that it provides that there may be ascertained just what is the fair exchange value during the current year, as distinguished from the language used by the House. That was unanimously agreed to by the committee.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. BYRD. Mr. President, a parliamentary inquiry. I should like to know what the amendment is.

The VICE PRESIDENT. The clerk will restate the amendment.

The CHIEF CLERK. On page 5, line 17, after the word "than", it is proposed to strike out the comma and all down to and including the word "or", in line 20, and to insert in lieu thereof:

The fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, on page 6, line 6, after the word "title", to strike out "or that the exercise thereof would not be administratively practicable", so as to make the paragraph read:

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers would, if exercised, tend to effectuate the declared policy of this title.

The amendment was agreed to.

The next amendment was, on page 6, line 10, after the word "he", to insert "shall proclaim such determination, and"; in line 13, after the word "such", to strike out "finding" and insert "proclamation"; in line 14, after the word "new", to strike out "finding" and insert "proclamation"; and in line 15, after the word "section", to insert "except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section", so as to make the paragraph read:

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section——

Mr. BYRD. Mr. President, I hope the Senator from South Carolina will explain the purpose and effect of some of these amendments before they are adopted.

Mr. McNARY. Mr. President, I was about to make the same request which has just been made by the Senator from Virginia.

The PRESIDING OFFICER (Mr. VAN NUYS in the chair). Will the Senator from Virginia state his request?

Mr. BYRD. I should like to ask the Senator from South Carolina to return to the top of page 5, and to explain what is meant there by the words:

To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof.

Is the meaning of those words that the particular commodity is going to be destroyed, or how will it be taken out of the normal channels of trade and commerce?

Mr. SMITH. Mr. President, the Senator from Virginia is as familiar as I with the conditions which existed, which brought about an effort to enact legislation of this kind. We were confronted with enormous surpluses. I had the privilege of introducing what was known as the "option plan", which attempted to remove some of the surpluses by substituting them for subsequent production.

The plan worked admirably. Anyone who is at all familiar with farm products knows that very often the price goes below the cost of production; and when our foreign markets were practically destroyed by the cataclysm which occurred in 1929, particularly those farm products which were produced in excess of domestic consumption were piled up in this country. There was no domestic demand for the excess, and no chance to sell it abroad; and the consequence was that the price went down below the cost of production. The common-sense view was that if we had already produced more than could be domestically consumed or sent abroad, and the price was below the cost of production, the Government should assume the ownership of the excess and redistribute it to the producers in lieu of subsequent production.

The result was that through that option plan large quantities of these surpluses were substituted for subsequent production, thereby restoring the action of the law of supply and demand, and giving the producer the benefit of the

subsequent rise in price of the crop he had already produced rather than leaving it in speculative hands for speculators to have the benefit as against the man who would produce another crop.

That is the object of that provision of the bill. I think the Senator from Virginia would be heartily in accord with any plan by which, whenever for any reason a surplus should be accumulated sufficient to force the price of a commodity below the cost of production, an arrangement should be made that the producer might, by reducing his subsequent production, be the beneficiary of the surplus he had already produced.

That is the object of that provision. I hope the explanation is satisfactory to the Senator.

Mr. McNARY. Mr. President, I suggest to the able chairman of the committee this procedure: I think very few Members of the Senate are familiar with these amendments and the reasons why they are recommended. The members of the committee, of course, are very familiar with them. If the Senator from South Carolina would take up the amendments one by one, and explain as we go along their general purpose, stating at the same time what is really wrong with the organic act, I think it would do a great deal to make the various proposals clear to the minds of Senators.

Mr. SMITH. Mr. President, when I planned to ask for the consideration of this bill I intended to address the Senate as to its general purpose, and then, if anyone asked for an explanation, to explain, so far as the chairman was able to do so, the changes made in the House text by the Senate committee. I was busily engaged in preparing myself for that, thinking we would take up the bill at 2 o'clock after the fulfillment of the unanimous-consent agreement. I did not know the unanimous-consent agreement would be withdrawn, and therefore was not present when that action was taken. I desire to take this occasion to explain my attitude, as chairman of the committee, toward these amendments.

Mr. WALSH. Mr. President, would it not be well for the Senator to do that now?

Mr. SMITH. I am going to begin now.

Mr. WALSH. Very well. In other words, the Senator now is going to discuss the bill?

Mr. SMITH. I am going to discuss it as it now stands. That is what I am about to do.

In the first place, Mr. President, I wish all Members of the Senate were present, for I think it is essential in discussing the amendments to this bill to have the Senate become farmer-minded, to consider the farmer in the relation which he now bears and has borne from time immemorial to our organized society. I take it that the bill is an attempt on the part of the Government to set up an organization for the farmer which will stand as a bulwark against the organized processors and distributors.

From time immemorial the farmer has been exploited because he was unorganized. Every Senator who is at all familiar with farming understands that the man who produces the raw material in the field never has had a voice in the price he has received. He pays the freight, he pays all the expenses incidental to production, and the price he receives is what is left after the purchaser has deducted all the expense incidental to the purchase. Then, if anything is left, the producer gets it. If what he receives is less than the cost of production he accepts that, until today more than 50 percent of the farms of America, regardless of their location, are under mortgage.

This is an attempt on the part of the Government to create a line of resistance for the benefit of the farmer. There may be in the bill, and there appear to be from time to time, what seem to be arbitrary provisions; but I desire to have Senators bear in mind that, this being an effort on the part of the Government to recognize the unorganized and helpless condition of the farmer, we are attempting to create an organization which will stand in lieu of the organization with which he has to deal.

In addition to that, there is not a provision in the bill which does not predicate its enactment upon the consent of the producer. That privilege is extended to him in every section of the bill. His majority consent is made the basis of any enactment in the bill. There is presented to him this proposition: How does this seem to you? Is it efficient in enabling you, through the agency of the Government, to receive at least some semblance of return for the wealth you produce?

There are certain features which I have never supported and never can support. One is the high protective tariff. I have never considered that the Congress had any right to impose a protective tariff. We can provide for a tariff for revenue, which may be burdensome at times, but we have no constitutional right to impose a protective tariff. The power is not given in the Constitution. But so far as this bill is concerned, from start to finish it provides for action by and with the consent of the producer.

I am asking Senators, when they come to criticize the bill, to make their criticisms constructive in reference to the unorganized, helpless farmers, and not destructive criticisms, for the benefit of those who have exploited the farmer from time immemorial.

I am no more enthusiastic than are other Senators about dictatorship. There is no place in the United States for the voice of a dictator. It is an alien and obnoxious voice. It ought always to be denounced wherever it shows itself or makes an intimation of its intent. The pending measure is as far removed from the idea of dictatorship in reference to the man who produces as it could be. I hope the Senate will have clearly in mind the distinction between processors and distributors and the man who, in the field, in the sun, in the rain, in the winter, spring, and summer gambles with Nature as to what he will produce—unorganized, incapable of organization—yet the aggregate of whose efforts feeds the Nation and furnishes the material out of which the Nation is clothed. I want Senators in acting on this bill to consider that man, and not the man who processes and distributes. Let us first take care of the man who produces that upon which we live, and the others will be certain to take care of themselves.

I hope that those who come prepared to antagonize the bill on the ground of it being a bill to delegate arbitrary and dictatorial powers will consider the fact that there is not an element in it or a provision in it that is not predicated upon the vote of the man who produces. Let us all consider that fact, and if we have a criticism to make, let us remember those in the field who are producing the foodstuffs, who have asked and voted overwhelmingly for the provisions of this bill.

Mr. President, we talk about the law of supply and demand.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. Let me finish this thought. We talk about the law of supply and demand. There is another law which is as irrevocable as is the law of supply and demand. I refer to the law by which everything takes the line of least resistance. Everything moves along the line of least resistance. Every element of Nature moves along the line of least resistance, and that law is as potent and deadly in the realm of commerce as it is in the natural world. Consequently, all those who deal in farm products get their profits out of the depression of farm prices, because the farmer offers the line of least resistance.

What business is there in the United States today that pays the freight, except the business of farming, where the producers receive for their goods what is left after those who handle them have deducted every expense incident to the handling? In the case of one commodity with which I am particularly familiar there is a contract which is an institution, known as the "cif and six" contract, so named because those are the initials of the things which characterize the contract—cost, insurance, freight, and 6 percent for tariff. The man who produces the material does not even get paid for the wrappings in which he is compelled to

package his product. Six percent is deducted before the price is fixed, together with all the costs incident to handling—cost, insurance, freight, "cif and six." If there is anything left, the producer gets it, and if not, he can produce some more.

The pending measure is an attempt on the part of the Government—I take it to be an honest attempt—to set up an organization which will function in some degree for the benefit of the man who is unorganized, but upon whom we are all dependent. Once again let me ask the Members of this body, in considering this bill and asking the meaning of any amendment, to keep in mind that the entire bill is for the purpose of giving to the producer of the raw material at least a partial chance of sharing in the wealth he produces.

This is a producer's bill, and we are attempting to control the processor in the instrument that is invoked here for the purpose of handing back to the producer a part of the profit to which he is entitled.

Mr. BYRD. Mr. President——

Mr. SMITH. I now yield to the Senator from Virginia.

Mr. BYRD. The Senator just stated that no restrictions could be placed on the producer without his consent. I will ask him to refer to page 20, subsection (8)——

Mr. SMITH. I know to what the Senator refers.

Mr. BYRD. Which gives to 50 percent of the handlers of any commodity the right to impose licenses, or orders or whatever they may be called, on the producers, without a vote on the part of the producers.

Mr. SMITH. To what does the Senator refer?

Mr. BYRD. I refer to subsection (8) on page 20.

Mr. SMITH. That is predicated upon the producers agreeing beforehand.

Mr. BYRD. Will the Senator show me where the producers are to agree?

Mr. SMITH. It reads:

> The volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8 (b) of this title, which regulates the handling of such commodity.

Mr. BYRD. Is the Senator reading at the bottom of page 20?

Mr. SMITH. At the bottom of the page.

Mr. BYRD. The section reads in this way:

> (8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 percent of the volume of the commodity or product thereof. * * *

Mr. SMITH. The Senator has mistaken the purpose of this section. This is the provision for the elimination of the licensing feature and is a proposal for the issuance of orders to regulate the commodity in its interstate movement, and it provides that before such an order can issue the designated number of those engaged in the industry shall sign.

Mr. BYRD. Mr. President, the Senator has suggested that no restrictions may be put upon the producers without their consent, and the bill provides that the orders referred to, which, in my judgment, are just the same as licenses, whereby the amount of a commodity to be produced and the markets to which it is to be shipped may be restricted, and even the price fixed, can be imposed by 50 percent of the handlers.

Mr. SMITH. Oh, no; that is based upon the previous consent of the producers.

Mr. BYRD. Will the Senator show me where provision is made for such consent?

Mr. SMITH. It is provided in every section of the bill.

Mr. BYRD. Will the Senator show me one section in which it is provided?

Mr. SMITH. Mr. President, the proportion runs from two-thirds down to 50 percent. The Senator knows it is in practically every paragraph in the bill.

Mr. BYRD. It is only provided in the event that 50 percent of the handlers do not oppose the orders, then 75 percent of the growers may act. My contention is that it should originate with the producers themselves.

Mr. SMITH. It does originate with the producers.

Mr. BYRD. Will the Senator show me the specific provision under which it would originate with the producers?

Mr. SMITH. All the agreements and all the orders issued under the bill are based on the previous marketing agreements of the producers. The Senator knows that to be so. Every single order that is going to be issued to control a handler or a processor is dependent entirely upon whether or not a previous marketing agreement for the particular commodity has been entered into by the producers.

Mr. BYRD. Marketing agreements can be made with the approval of 50 percent of the handlers and without the approval of 75 percent of the producers.

Mr. SMITH. The Senator is entirely mistaken.

Mr. BYRD. Would the Senator mind showing the specific provision where such approval is provided for?

Mr. SMITH. I thought the Senator was sufficiently familiar with the bill and I thought I would be sufficiently familiar with it to give the specific language; but I state here and now that, with one exception, there can be no order issued to any processor, except and unless it is based upon a marketing agreement.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BARKLEY. As I understand this bill, it provides for various amendments to the existing law. It is not an original, new bill. It is an amendment of existing law, as I understand, and the existing law provides that all the producers shall enter into a marketing agreement previous to the consummation of any of the provisions in any of the amendments. So, even though the provision is not contained in the amendment now under consideration, my understanding is that the original law makes the provision.

Mr. SMITH. Yes; the original law makes the provision.

Mr. BYRD. Mr. President, I have studied the matter very carefully, and I differ from both the Senator from South Carolina [Mr. SMITH] and the Senator from Kentucky [Mr. BARKLEY]. I ask the Senator from South Carolina to point to a specific provision whereby 75 percent of the producers must agree before the restrictions are placed upon them.

Mr. SMITH. Mr. President, I did not say 75 percent. There are provisions whereby 75 percent are required to agree. There are other provisions where a majority only is required. The proponents of the bill, those who drafted the bill, were so careful that they took into consideration the fact that a majority of the producers might sometimes represent less than a majority of the product provided for in several sections of the bill, and therefore they included both.

Mr. GORE. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GORE. The Senator said the proponents of the bill, those who drafted the bill, made that arrangement.

Mr. SMITH. I meant these amendments.

Mr. GORE. Will the Senator indicate who drafted the bill?

Mr. SMITH. I wish I knew.

Mr. GORE. I understand.

Mr. BYRD. Mr. President, I do not wish to insist upon an answer by the Senator from South Carolina——

Mr. SMITH. Mr. President, I will have those provisions segregated, and I will read them into the RECORD, since the Senator has raised the question. I will refer to the different specific provisions in the original act and in this amendatory bill, showing that all the amendments are predicated upon matters contained in the original act.

Mr. BYRD. I should like to have the Senator show that.

Mr. SMITH. Yes; I will have them put in at the proper place. I have requested my clerk to prepare them.

Mr. President, in the consideration of both the House text and the Senate committee amendments, I hope we shall keep in mind the essential fact that this is an effort on the part of

the Agricultural Department—and I hope on the part of the Senate—to do for the farmer what from time immemorial he has been unable to do for himself; and that is the only reason why I have given my consent to the guarantee provision of the bill.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. HATCH. Merely for the sake of clarity and understanding, I desire to ask the Senator if it be true that the provision of the pending bill relating to orders altogether supplements the previous law relating to licenses. Those provisions are all repealed.

Mr. SMITH. I am glad the Senator called my attention to that matter. After the decision of the Supreme Court, which was based upon the fact that we had delegated legislative power with a roving commission to the Agricultural Department, according to the agreement of the committee—and the Senator will bear me out in this—we read every line and every paragraph of this bill, and the chairman of the committee asked the members of the committee, "Have you any comments to make? Have you any amendments to offer?" When those matters were completed, the question was asked, "Are you ready to vote?" Is that not correct?

Mr. HATCH. That is entirely correct. I will say that the chairman of the committee was very careful to bring about that condition and labored very diligently to see that each member of the committee understood every word of the bill. If they did not, it is not his fault.

Mr. SMITH. Permit me to say, Mr. President, that I have been Chairman of the Committee on Agriculture and Forestry since the present administration came into office, and I have been chairman of other committees in other administrations; and I have never before had reason or occasion for reading every line and every paragraph of a bill and insisting that every member of the committee should be present at committee meetings. The committee at all its meetings had an overwhelming majority of the members present, so that every member of the committee who is now on the floor of the Senate, or who may be here later, is thoroughly familiar with the purpose of the amendments and of the bill.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. Were all the members of the Committee on Agriculture and Forestry present when wool and mohair were inserted in the bill?

Mr. SMITH. I think they were; and I think a member of the committee representing the section where wool and mohair originate is the author of that provision, and the one who had that provision placed in the bill.

Mr. BORAH. Yes; I understand that to be so. I also understand, however, that there was no consideration whatever of it, and no discussion of it. I will ask the Senator if there was any discussion of it in the committee.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. HATCH. I may throw a little light on the question of wool and mohair, because I know many Senators are interested in the question.

At the request of Mr. Byron Wilson, I suggested to the committee that the question of wool and mohair be taken up. We discussed it very little. I think I made a statement that the wool people were not at all in accord with the amendment, and the committee decided to include it, with the statement that on the floor of the Senate, Senators interested in wool and mohair could accept the amendment or reject it, as they desired. There was really no careful discussion of the question, I will say to the Senator from Idaho.

Mr. BORAH. I thank the Senator. We can shorten the discussion a great deal by accepting the information furnished by the Senator from New Mexico.

Mr. SMITH. Yes; and I think the same thing may apply to hops.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GEORGE. May I ask why the provision in the House bill, "and not including fruits for canning" was stricken out?

Mr. SMITH. From what page is the Senator reading?

Mr. GEORGE. Page 11, subsection (2), "Commodities to which applicable".

Mr. SMITH. The Senator refers to the words, "and not including fruits for canning"?

Mr. GEORGE. "Not including fruits for canning." The committee amendment includes canners of fruits, but it does not include canners of vegetables. I should like to understand the reason for it.

Mr. KING. Why not strike them all out?

Mr. SMITH. The committee at great length discussed the question of fruits for canning. It was stated that the market for fruits was very often dependent upon the amount used for canning purposes, and therefore, if the canners should be exempted from these marketing agreements, that the producers of fruits perhaps would suffer in the matter of their market just as though they had no agreement at all.

Mr. GEORGE. Will the Senator state who asked that that language be stricken out, or who made the request of the committee?

Mr. SMITH. Mr. President, that was committee action. There were members of the committee who represented the fruit regions, and after discussion for days I think that action was taken.

Mr. GEORGE. I broaden my inquiry, and ask all members of the committee, then, why that was stricken out. I should like to know why.

Mr. SMITH. We have on the committee members from the fruit-producing sections, and they contended that such a vast amount of fruit was canned, that if such fruit were left out the market price of the fruit would be disastrously affected, in that perhaps the major portion of the crop would be at the mercy of those who canned fruit.

Mr. GEORGE. I think the Senator is familiar with the facts. In the southern market the one supporting element of green fruits is the canner, on whom the grower can always fall back for a stable price. If fruits for canning are to be subject to the orders of the Agricultural Adjustment Administration, why not vegetables for canning? Is there any essential difference?

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. MURPHY. My recollection of the discussion in the committee on the subject of excluding vegetables for canning is that it is hoped the effect of the inclusion of vegetables will be to increase the price of vegetables by bringing them under regulations in connection with directing their flow to market. By increasing the price of fresh vegetables the price of vegetables for canning is increased, because the price of the vegetables for canning is what is known as the "spot" price. It is not a price agreed upon in advance, when the contract is made with the grower of the vegetables for delivery at a given time.

Mr. GEORGE. I will say to the Senator from Iowa that he is hardly correct when he applies it all to price under contract. In many sections of the country vegetables are grown on contract just as are fruits.

Mr. MURPHY. With an agreed price.

Mr. GEORGE. Yes; or else they could not be grown.

Mr. MURPHY. I do not insist that my information is correct; but, nevertheless, it is my information that the price of vegetables for canning is the "spot" price, not settled upon in advance when the contract is made. The agreement is as to acreage or production, it being impossible to determine so far in advance what the price is likely to be when the crop is ripe and ready for canning.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. JOHNSON. I may say to the Senator from Georgia it is my intention to endeavor to amend the clause which reads "vegetables (not including vegetables for canning)" by placing under the law asparagus. That is one particular

vegetable as to which the producers in my locality have made the request and are very earnest in their desire.

Mr. NORRIS and Mr. KING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from South Carolina yield; and if so, to whom?

Mr. SMITH. I yield first to the Senator from Nebraska.

Mr. NORRIS. Let me suggest to Senators that I think the question we are now discussing is one of considerable importance upon which there will be various opinions expressed. It will come up when we proceed further with the bill and amendments are offered. Would it not result in a saving of time if the discussion of the details as to fruits and vegetables and their canning, whether they should be included or not included, should await the offering of amendments which will undoubtedly be presented as we proceed with the bill? This particular item is quite a distance further on in the bill.

Mr. SMITH. Mr. President, I want to accommodate myself to the will of the Senate. I thought it might be best for us to consider the committee amendments and then take up whatever amendments are to be proposed or whatever amendments may suggest themselves as we go along. That procedure would not estop any Senator from seeking to reject a committee amendment or to move to amend the bill otherwise. I would prefer to go ahead with the committee amendments.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Florida?

Mr. SMITH. I yield.

Mr. FLETCHER. This question comes up on agreeing or not agreeing to the committee amendment.

Mr. NORRIS. We have not reached it as yet.

Mr. SMITH. No; it has not as yet been reached.

Mr. FLETCHER. The bill eliminates fruits for canning.

Mr. NORRIS. But we have not reached that amendment in the bill as yet.

Mr. FLETCHER. I know we have not, but I am suggesting that the committee amendment will involve the whole question, and I certainly shall insist that the committee amendment be rejected.

Mr. SMITH. Mr. President, we will discuss the amendments as we reach them in the regular order.

Mr. KING and Mr. GEORGE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from South Carolina yield; and, if so, to whom?

Mr. SMITH. I yield first to the Senator from Utah.

Mr. KING. As the Senator from South Carolina knows, most of the Members of the Senate are not members of his committee, and all of us have other duties of more or less importance which keep us from the floor of the Senate; but some of us would like to know just what changes have been made in the present law by the pending bill. I should be very glad—and I hope that I voice the sentiments of other Senators—to have the Senator take his time to explain to us every change that has been made in the present law, and the changes which have been made in the House bill, but particularly the former. I should like to know wherein we have amplified or changed existing law.

Mr. SMITH. I think I can say, almost in a sentence, that the existing law is not materially changed at all. I think that there is merely a substitution of language wherever it was found, in the opinion of those who drafted the amendments, that the law happened to run counter to the decision of the Supreme Court in the N. R. A. case. They accommodated themselves to that fact, and arranged the bill so that the provisions which are before the Senate, so far as they were able to do so, are made to conform to the decision of the Supreme Court.

Mr. KING. Mr. President, will the Senator yield further?

Mr. SMITH. Yes.

Mr. KING. Mr. President, I do not want to disagree at all with my friend, whom I love, but I must be permitted to say that I hastily read the bill last night, and of all the subtle, misleading, nonunderstandable language that can be found in a measure, it seems to me we find it in the bill which is before us.

I do not agree with the Senator—but probably he is right and I am wrong—that it does not change existing law. I think that it does; I think that it seeks a complete regimentation of the American producers and the American handlers, so-called, with respect to all the commodities which are embraced within the measure. I think it is a scheme for the purpose of nullifying the rights of individuals and subjecting them to a process of regimentation which will, in the end, be most offensive and destructive to individual liberty.

Mr. BANKHEAD. Mr. President, may I ask the Senator from Utah a question?

Mr. KING. I have not the floor.

Mr. SMITH. I yield to the Senator from Alabama.

Mr. BANKHEAD. I should like to know if the Senator from Utah did not express exactly the same views when the original bill was passed?

Mr. KING. I hope that I did; and I am sure that if I did I was correct.

Mr. NORRIS. Mr. President——

Mr. SMITH. Let me answer what the Senator from Utah has said as to regimentation by saying that, aside from the opinion that I voiced when I first took the floor—and I am now having my clerk mark out the places for reference—I think every member of the committee will bear out the statement I make that there is not a single instance where a control is introduced but that it is predicated upon the consent of the producer. Am I right? I am asking members of my committee.

Mr. MURPHY. I think the Senator is correct.

Mr. GLASS. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. SMITH. I yield to the Senator from Virginia.

Mr. GLASS. I should like to have perhaps an idle curiosity of mine gratified by making an inquiry of the Senator from South Carolina. For a long period of time there has been quite an intense crusade to bring about birth control among human beings, without success. I note here that it is proposed to confer upon the Secretary of Agriculture the right to bring about birth control among bees. [Laughter.] I can understand that the drone bees, after they have had their day in court [laughter]——

Mr. SMITH. Their day at courting.

Mr. GLASS. After they have had their day in court, are said to die, so that they may be self-controlled in that way; but I should like to know just exactly how the Secretary of Agriculture proposes to control the queen bees. [Laughter.]

Mr. SMITH. I think it is very much along the line of birth control amongst individuals. So far as the bee provision is concerned, whence it came the chairman of the committee knows not, but there was a majority of the committee for it; when it was proposed to include bees and queen bees, the question was put to the committee and a majority voted to incorporate the provision. I am thoroughly unfamiliar with the bee business, but I do wish that we could pass some law that would have the same effect on the human family that there is on drone bees.

Mr. GLASS. I have a good many bees; I do not know how many of them are queens; but I am just a little curious to know how I am expected to control the queen bees. [Laughter.]

Mr. SMITH. I think that the proponent of that provision of the bill will probably have to explain it. As chairman, I plead ignorance entirely of any of the marketing agreements in reference to bees. I did hear it said that there is a peculiar queen bee known as the "Italian queen bee", which, when put into a hive, affects with an Italian flavor all the subsequent bees in that hive.

Mr. GLASS. Of course we can control the Italian queen bees by prohibiting their importation into this country.

Mr. SMITH. No; they have been here for many years; there are plenty of them here.

Mr. GLASS. They are already here?

Mr. SMITH. Yes; they are here.

Mr. GLASS. So we cannot control those that are here, but——

Mr. FLETCHER. Can we not license them?

Mr. GLASS. I should like to understand how the Secretary of Agriculture can come down to my plantation in Virginia and require me to discriminate against my queen bees. [Laughter.]

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. TYDINGS. I can say to the Senator from Virginia it is my understanding that the man owning a queen bee will be furnished with a logarithm for each bee which he owns, which will solve the equation, and the owner will be able to get such logarithms on application. [Laughter.]

Mr. GLASS. That may explain it.

Mr. BANKHEAD. Mr. President——

Mr. SMITH. I yield.

Mr. BANKHEAD. Waiving, of course, the facetiousness of the remarks of the Senator from Virginia, permit me to say that this amendment was incorporated at the request of the bee shippers of this country. It is quite a large industry in some 6 or 8 States, and there are now bee-bargaining agreements under which the bee producers are operating and with which they are satisfied.

Of course, the facetious remarks about birth control might as well be applied to fruits or vegetables or anything else included in this bill.

Mr. GLASS. Yes; I think they might be.

Mr. BANKHEAD. The provision does not relate to anything except the matter of the orderly marketing of the shipment of package bees, queen bees, which are in demand throughout the country. A number of requests came from 6 or 8 States, and it was pointed out—and the Department of Agriculture confirmed the suggestion—that the bee owners were now operating under marketing agreements and merely wanted to preserve what they have.

Mr. GLASS. I am not facetious about it; I am serious about it. I do not want to be fined and put in jail because I just cannot control the actions of my queen bees. [Laughter.] Therefore I want to know what is the meaning of it. I cannot conceive how the Secretary of Agriculture can control my queen bees. [Laughter.]

Mr. BANKHEAD. If the Senator is not facetious about it, I should like to have him point out anything in the bill that indicates any effort of control along the line he is talking about.

Mr. GLASS. This section of the bill does.

Mr. BANKHEAD. It relates to marketing agreements.

Mr. GLASS. I know, but it controls my queen bees or at least it is designed to control them.

Mr. BANKHEAD. It is designed to control their shipment.

Mr. GLASS. Well, that means production and shipment of queen bees. Nobody is going to overproduce queen bees and keep them in his hive; he will want to ship them. I just want to know how the Secretary of Agriculture is going to handle it.

Mr. SMITH. I think the request of those who produce bees for the market is responsible for the provision, but I am thoroughly unfamiliar with the facts. It is, however, rather complimentary to the effort on the part of the Agricultural Department to improve the process wherever bees are produced for the market. I never before heard of "package bees" until the question came before the committee, nor of the propagation of queen bees for market; but if the States engage in the production of bees for market and of queen bees for the propagation of particular productive honey-making bees, recognize that there is some benefit in the marketing agreements, and ask to come under them, it is more complimentary than it is destructively critical of the bill.

I do not know anything about the production of bees for markets—"package bees", as they are called—nor do I know anything about the production of queen bees. If there are Members of the Senate who are familiar with the subject it would seem to me to be their duty to explain it to the Senate. It was not fully explained to the committee except through the medium of letters and communications which seemed to indicate it is an industry which ought to be under the regulations proposed on the theory that the bee producers are already operating under a marketing agreement relating to bees.

Personally I have no use for the bee, because he is a very active "bird" with which I am not very much inclined to be friendly, and, too, I am not very fond of honey. I was rather amazed to learn that there is an industry involving the shipment of bees.

If under marketing agreements the bee producers can be benefited and any Senator is familiar with the raising and marketing of bees, I should be glad to have an explanation. In the committee all we knew about it was that they were under a marketing agreement now and wanted to be included in the bill.

Mr. GLASS. Mr. President, I for one should like to see the bill amended to make the Secretary of Agriculture the handler of these bees. [Laughter.]

Mr. SMITH. I should not object! [Laughter.]

Mr. FLETCHER. Mr. President, may I say in that connection that in the production of honey it is not so much the kind of bees as it is the kind of flowers. We have in Florida the tupelo tree flower. Tupelo honey is the only honey produced in the world that does not coagulate or turn to sugar.

Mr. SMITH. Perhaps the bill should be so worded as to require the furnishing of tupelo flowers for the bees?

Mr. FLETCHER. Yes; the thing to do is to furnish the bees with the proper kind of flowers.

Mr. SMITH. That may be developed later.

Mr. President, may we have the next amendment stated?

The PRESIDING OFFICER. The next amendment of the committee will be stated.

The next amendment of the Committee on Agriculture and Forestry was, on page 9, line 20, after the word "and", to strike out the word "others" and the comma and insert the word "others", and in line 22, after the word "thereof", to insert the word "only", so as to make the paragraph read:

SEC. 4. Subsection (2) of section 8 of the Agricultural Adjustment Act, as amended, is amended by designating said subsection as section 8b, by inserting said section at the end of section 8a, and by amending the first sentence thereof to read as follows: "In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect, interstate or foreign commerce in such commodity or product thereof."

The amendment was agreed to.

The next amendment was, on page 10, line 8, after the word "and", to strike out the word "others" and the comma and insert "others"; and in line 12, after the word "provided", to strike out "the handling of such agricultural commodity, or product thereof, only in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect, interstate or foreign commerce in such commodity or product thereof", and to insert in lieu thereof "only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof", so as to make the paragraph read:

SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as 'handlers.' Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

The amendment was agreed to.

Mr. BYRD. Mr. President, a number of Senators now absent are interested in this particular section. Therefore, I make the point of no quorum.

Mr. McNARY. Mr. President, first let me ask the Senator in charge of the bill about the next amendment, in the provision headed "Commodities to which applicable." That provision is largely the heart of the bill. May it not be passed over until tomorrow? I should not want action taken on it today. It treats of the various commodities which have been included under the marketing-agreement provision. Very little time has been given to members to study the bill. This is a very important section, and I should like to have an understanding with the chairman of the committee that it shall be passed over until tomorrow.

Mr. SMITH. Mr. President, so far as the chairman of the committee is concerned, that is perfectly agreeable. I do not think we ought to go through the bill hastily. I hope all Senators will study the bill in relation to the particular benefit the farmer is to derive. There will be plenty of fight here on the part of those whose age-old rights are to be interfered with. I beg of my colleagues to think of the man who all these years has had no say whatever with reference to the price of the commodity he produces.

So far as I am concerned, I am willing that the amendment shall go over if that meets with the approval of the other Members of the Senate.

Mr. McNARY. I ask unanimous consent that consideration of the amendments covered by the section entitled "Commodities to which applicable", beginning at the bottom of page 10, may be passed over for the day.

Mr. BYRD. Mr. President, that should be enlarged to include all the amendments down to the bottom of page 29, because they all relate to the marketing agreements.

Mr. McNARY. I had particular reference to the commodities specified in this section. I am very willing that the entire provision shall go over.

Mr. BYRD. It is all interlocking down to and including page 29.

Mr. McNARY. I enlarge my request to include the provisions suggested by the able Senator from Virginia.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon?

Mr. SMITH. Mr. President, I invite the attention of the Senate to the fact that the proposal of the Senator from Oregon includes all those things which would come under the orders which have been substituted for licensing. There is a distinction in the bill between the basic crops upon which the processing tax has been laid and which do not come in this category at all. These commodities are the ones which are proposed to be subject to order. I hope every Member of the Senate who is interested in the legislation will bear in mind that every provision subject to these orders relates to interstate commerce. Provision is made in the bill whereby intrastate commodities may be included by coordinating or cooperating with the interstate or Federal forces in bringing about the condition which is desired on the part of the States only in cooperation with the Federal Government.

I desired to make that statement because my attention has been called to certain language in the bill which, detached from the preceding language, looks as though we had gone within the States on these matters, as was done in the case of licensing. That is the language which means it may be done only with the consent and cooperation of the States.

Mr. McNARY. Mr. President, I should like to have action upon my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Oregon?

Mr. SMITH. Let me understand thoroughly the request submitted. I understand it to include all provisions down to and including page 29, all of it being related matter?

Mr. McNARY. Yes.

The PRESIDING OFFICER. The request covers all of section 5. Is there objection to the request of the Senator from Oregon? The Chair hears none, and it is so ordered. The clerk will state the next amendment.

The next amendment of the Committee on Agriculture and Forestry was, on page 36, line 24, after the word "paragraph", to strike out "(6)" and insert "(8)"; and on page 37, line 5, after the word "on", to strike out "June 1, 1935, during the period from the date of the adoption of this amendment" and to insert in lieu thereof the words "the date of the adoption of this amendment, during the period from such date", so as to make the paragraph read:

"SPECIFIC TAX RATES

"(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

The amendment was agreed to.

The next amendment was, on page 37, after line 13, to insert the following new paragraph:

"SPECIFIC TAX RATE—MARKETING YEAR—FLOOR STOCKS—RYE

"(4) For the period from August 1, 1935, to December 1, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of 56 pounds. In the case of rye, the first marketing year shall be considered to be the period commencing August 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

Mr. BYRD. Mr. President, a parliamentary inquiry. What was that amendment?

The PRESIDING OFFICER. The amendment will be restated.

The CHIEF CLERK. On page 37, after line 13, it is proposed to insert a subhead, "Specific tax rate—Marketing year—Floor stocks—Rye", and certain other words.

The amendment was agreed to.

The next amendment was, at the top of page 38, to insert:

"SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND BARLEY

"(5) If at any time prior to December 31, 1937, any tax with respect to flaxseed, or barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. The provisions of section 16 of this title shall not apply in the case of flaxseed and barley.

Mr. McADOO. Mr. President, I ask that that amendment may go over for the moment. Will the chairman of the committee allow it to be taken up a little later? I have various protests from my State about this provision as to flaxseed, and I should like to bring them to the attention of the committee.

Mr. SMITH. Where a Senator has certain amendments which he desires to offer, I think it is proper to give him the opportunity to do so. Therefore I join in the suggestion that we pass over the amendment.

The PRESIDING OFFICER. The Senator from California asks unanimous consent that the amendment on page 38, lines 1 to 13, inclusive, go over at this time. Is there objection? The Chair hears none. The clerk will state the next amendment of the committee.

The next amendment was, under the subhead "Adjustment of rate", on page 38, after line 14, to strike out:

"(4) In accordance with the formulae and standards prescribed in this title, (A) any rate of tax prescribed in paragraphs (2) and (3) of this subsection may be decreased (including a decrease to zero), to prevent an accumulation of surplus stocks of the commodity or the products thereof, to prevent such reduction in the quantity of the commodity or products thereof domestically consumed as will result in the accumulation of surplus stocks of the commodity or products thereof, or to prevent depression in the farm price of the commodity, or may be increased, or shall terminate pursuant to proclamation as provided in section 9 (a) or pursuant to section 13, and (B) after December 31, 1937 (in the case of the commodities specified in paragraph (2) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture and shall thereafter be effective. If the applicability to any person or circumstances of any tax under this title the rate of which is fixed in pursuance of this paragraph is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied,

assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph, respectively) rates of tax fixed under paragraph (2) or (3) and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation as provided in section 9 (a) or pursuant to section 13) until altered by act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between tax at the rate fixed in pursuance of this paragraph and tax at the rate fixed under paragraph (2) or (3) shall not be levied, assessed, collected, or paid.

And to insert:

"(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection on the processing of any commodity, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity.

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection, during the 2 months immediately preceding and the first 10 months of any marketing year—

"(i) is equal to, or exceeds by 20 percent or less, the fair exchange value thereof, the rate of such tax shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 20 percent of the fair exchange value thereof.

"(ii) exceeds by more than 20 percent the fair exchange value thereof, the rate of such tax shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 10 percent of the fair exchange value thereof.

"(C) Any rate of tax which has been decreased pursuant to this paragraph (6) shall remain at such decreased rate until further decreased pursuant to this paragraph (6), or until increased pursuant to this paragraph (6) or paragraph (1) of this subsection.

"(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraphs (2), (3), (4), or (5) of this subsection may be increased.

"(E) Any tax, the rate of which is prescribed in paragraphs (2), (3), (4), and (5) of this subsection, shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraphs (2), (3), (4), or (5) of this subsection from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, and shall remain at such rate until altered pursuant to the provisions of section 9 of this title.

"(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title, and shall, subject to such formulae, standards, and requirements, thereafter be effective.

"(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraphs (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

Mr. McNARY. Mr. President, this has all the appearance of being a very complex provision. It is inserted in lieu of the provision incorporated in the House bill. I should like to have, and I suggest that the chairman make, an ample explanation of the reasons which brought about the change.

Mr. SMITH. Mr. President, this amendment has to do with the parity price and the processing tax. The tax ostensibly is levied for the purpose of collecting from the processor a sufficient amount to produce, when returned to the producer, what is known as the "parity price." The purchasing power of the farm dollar is sought to be raised to an equality with that of the dollar of industry. Under this provision several of us maintain that in spite of what objection may have been made to the processing tax, once it is laid, and the processor and the producer cooperate, or for whatever reason the price to the producer is raised to the parity price, it is unfair still to lay and collect the tax.

Provision is made here that when the price has reached parity, and goes as much as 20 percent above it, the processing tax shall be reduced to 20 percent or less. If during a marketing year the processing tax should be reduced, as indicated in the amendment, to zero, and the price of the commodity then should drop down, it would be impossible to impose the tax without a provision of this kind being made if it had been entirely discontinued.

I discussed that question with the Department. I maintained that when the parity price was reached the processing tax ought automatically to cease. If the object of the processing tax was to bring the price to parity, when it got to parity the processing tax should cease. My attention, however, was called to the fact that during a marketing year the price might reach parity, but, without a guaranty that it would stay there, the price might slump to a point where the producer would be entirely deprived of any chance of getting his parity price; but provision is made here that if the conditions of the price and the prospect of operation of the law of supply and demand are evident before the next marketing year comes in, by proclamation the tax is to be eliminated.

The object of this entire amendment is so to accommodate the processing tax so that when conditions preceding the next marketing year indicate that the price will be parity or above, by proclamation the processing tax may be discontinued and removed, and may be reduced during a marketing year, if the price shall reach parity and above, during the period when it reaches parity or above.

Mr. GERRY. Mr. President, this seems to be a rather complicated section. I have not had time to study it carefully; and I should like to ask if the Senator from South Carolina will not let it go over.

Mr. SMITH. Mr. President, I am afraid that if we continue making exceptions we might just as well let Senators take the bill and prepare themselves to consider it tomorrow.

I do not wish to prevent anyone from having a thorough knowledge of the bill; but I am thoroughly familiar with the processing tax. I did not agree to it when it first was offered, and never have thought it was a correct principle. It is here, however; and where the processors and the producers have combined and the price has reached parity, I do not think it is proper for us to maintain the tax continuously and fully.

This provision is written for the purpose of reducing the tax during a marketing year in proportion as the price has reached parity and above, and when the conditions in the next succeeding marketing year are such as to indicate that the price will be parity and above, to remove the processing tax entirely.

That is all there is in the provision.

Mr. GERRY. Do I understand the Senator to say that in that case the tax is not to be raised?

Mr. SMITH. No; it is to be lowered whenever the price reaches parity and above, even during a marketing year. The processing tax is to be reduced even to 20 percent of the original amount, and may go lower.

Mr. GERRY. I misunderstood the Senator.

Mr. SMITH. That is all this paragraph means, and if in a succeeding year there is an indication that through supply and demand, or by the price current, the price is likely to be parity or above, no processing tax will be laid at all.

The PRESIDING OFFICER. The question is on agreeing to the amendment beginning on page 38, line 15.

The amendment was agreed to.

The next amendment of the committee was, on page 43, line 5, to strike out "(5)" and insert in lieu thereof "(7)", so as to read:

"RICE—SPECIAL RULE

"(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

The amendment was agreed to.

The next amendment of the committee was, on page 43, line 12, to strike out "(6)" and to insert in lieu thereof "(8)"; on line 19, after the word "paragraph", to strike out "(4)" and insert in lieu thereof "(6)"; on page 44, line 4, after the word "paragraph", to strike out "(4)" and to insert in lieu thereof "(6)", so as to read:

"SUGAR—SPECIAL RULE

"(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the act of December 17, 1903, chapter 1.

The amendment was agreed to.

The next amendment of the committee was, on page 45, to insert after line 16 a new section to read as follows:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such, or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn, or the products thereof."

Mr. COPELAND. Mr. President, I ask unanimous consent that the amendment on page 45, section 15, relating to rayon, may go over.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. Mr. President, I did not hear the request.

Mr. COPELAND. I may say to the Senator in charge of the bill that I have asked that the rayon amendment go over.

Mr. SMITH. The amendment relating to the processing tax on rayon?

Mr. COPELAND. Yes; I desire to have that go over for the day.

Mr. SMITH. Of course, having agreed that others might go over, I shall not object to the request of the Senator, but I wish to call attention to the fact that when the processing tax is placed upon any article it is presupposed that a compensatory tax will be placed upon any article likely to afford disastrous competition.

Mr. COPELAND. If the Senator will permit me, I am not arguing the amendment, I am merely asking that it may go over until we can get our papers together and have a little argument about it. I am not now prepared to do that.

Mr. McKELLAR. Mr. President, may I interrupt the Senator to ask him to state a little more fully what he meant regarding a compensatory tax? As I understand, rayon is in competition with silk.

Mr. SMITH. No.

Mr. McKELLAR. Oh, yes; it is very much in competition with silk. Would it not be proper to put a compensatory tax on silk if we are to put a processing tax on rayon? We can put a tax on silk whether we produce it or not.

Mr. SMITH. Rayon is more a competitor of mercerized cotton, indeed it is largely composed of cotton.

Mr. McKELLAR. But a great deal of cotton is used in its production.

Mr. McNARY. Mr. President, will not the Senator from Tennessee address the Chair so that we may all hear what is going on?

Mr. McKELLAR. I am sorry I speak in so low a tone that the Senator cannot hear, but I cannot look at the Chair and look at the Senator from South Carolina at the same time, because they are in opposite directions.

Mr. McNARY. The Chair has a privileged status. Permit me to ask a question. Request has been made by the Senator from New York that the provision relating to rayon may go over.

Mr. SMITH. I have no objection to its going over.

Mr. McNARY. May we not have that understanding?

Mr. SMITH. But I should like to have the statement of the Senator from Tennessee, because that question has arisen, not only in the committee but since the committee has reported the bill.

Mr. McKELLAR. It seems to me that if a processing tax is to be placed upon the greatest competitor silk has, a compensatory tax ought to be placed on silk so as to do the right thing. Rayon producers use very large quantities of low-grade cotton, commonly known as "linters." As the Senator knows, cotton is first reduced to a liquid form and then there is a process of compression by steam machinery. After cotton and wood pulp together are put into liquid form, the mixture is put under terrific pressure through steam machinery, operating on the same principle as the inside of a silkworm, and when the liquid cotton comes out it is immediately "fiberized", if I may so express it, and becomes a yarn similar to the yarn that comes from the silkworm.

Of course, the one is competitive with the other, and if we put a processing tax on the rayon we ought to put an equalizing tax on the silk, it seems to me, and I hope the Senator will not oppose an amendment to that effect.

Mr. WAGNER. Mr. President, I should like to ask the Senator whether it is not a fact that there is an interrelation between the prices of rayon and silk, and whether or not there is not very definite and vigorous competition between those two commodities?

Mr. McKELLAR. Absolutely.

Mr. WAGNER. I think it is conceded, unless the Senator knows to the contrary, that there is practically no competition between rayon and cotton. I understand that the production of rayon is less than 5 percent of the production of cotton.

Mr. SMITH. I do not doubt that. Stating that the production of rayon is 5 percent of the production of cotton does not tell the story at all. The question is, What percentage of rayon is converted into clothing and furnishings, as compared with cotton?

It must be remembered that we furnish 55 percent of all the cotton produced in the world, but in this country we consume less than half of our cotton production. I think I could show the Senator some articles produced from rayon that not only are competing with cotton-made goods, but in a way are driving cotton out of the market.

Mr. WAGNER. Mr. President, I realize I am not as familiar with this subject as is the Senator from South Carolina, but I know something about the competitive conditions

between rayon and silk because of my experience in connection with an effort to adjust some labor strikes in the different industries. As I recall, there was never any suggestion that there was any real competition between cotton and rayon, but there is a very definite competition between silk and rayon, and if we impose a compensatory tax upon rayon we are going simply to give the Japanese manufacturers of silk the entire American market.

Mr. SMITH. Mr. President, I wish to state that if, in the opinion of a majority of the Senators, the question of silk competition with rayon is of sufficient importance to justify our protecting rayon from competition with silk, there ought to be a tax on silk.

Mr. McKELLAR. I thank the Senator.

Mr. SMITH. My idea all along was that silk—the worm product—was of such a distinct quality, character, and class that, though the rayon may in appearance be a substitute for it, in quality and in durability it does not even approximate it. In weight per volume it is no competitor whatever with silk. But it is not only a competitor with cotton but about three-fourths of it is cotton. It is made into cellophane and then spun out and made into silk.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McKELLAR. I merely wish to say that the rayon factories are very large purchasers of what we in the South know as "linters", which is the cotton fiber taken off the seed after it is ginned. It was just a short time ago when the price of linters, if my recollection serves me correctly, was down to about one-half or three-quarters of a cent a pound. Because of the increased use of linters, largely by reason of the demand on account of its use in rayon, linters now bring about 5½ cents, as I recall. It is a matter of the utmost importance that, so far as possible, that market should be sustained. Certainly we should not destroy it by legislation, and it seems to me for that reason there ought to be a compensatory tax.

Mr. SMITH. I think we ought to put into the RECORD the fact that linters, strange and paradoxical as it may seem, come in competition with the farmer's cotton, for the linters are procured by the cottonseed-oil producers; they are a by-product out of which they get a profit to the detriment of the farmer. It is really a competitor of the farmer's own product. Through the oil mills it is made a competitor of his product, and I am not disposed to increase the consumption of a competitor of the very thing I am trying to protect.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. WAGNER. May I ask the Senator whether or not the proposal for the compensatory tax upon rayon was recommended by the Department of Agriculture?

Mr. SMITH. I think not. I think they were perfectly willing to accept it, but I think in justice they ought to put it on when they put the processing tax on cotton. Under our protective tariff system, every time we put a duty on an article we put a compensatory tax on every competitor. Let Senators read the tariff bill. Yet when we came to deal with the farmer domestically I did not believe in the processing tax, because it was the protective tariff domestically applied, and I protested against it; but provision was made for it. If we are to apply it, let us apply it as we do the infernal protective tariff. Let us protect the article we are seeking to protect by the imposition of a compensatory tax on its competitors.

Mr. WAGNER. Mr. President, apparently the Department which has been administering the present act—and of course has been doing it to protect cotton and to aid cotton—has not recognized that there was a competition between rayon and cotton which required the imposition of this compensatory tax. That is the reason why I asked the question, because I understand this recommendation does not come from the Department at all.

Mr. SMITH. Mr. President, coming as we do from the different sections of the United States, and knowing our own problems, we ought to legislate rather than to have legislation handed to us. The Senator from New York knows the conditions of his section, and I know the conditions in my section of the country.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. COPELAND. There are other sections of the country besides those which raise cotton.

Mr. SMITH. I was not aware of that fact!

Mr. COPELAND. I sometimes think the Senator is serious when he makes such a statement as that.

Mr. SMITH. I am glad the Senator informed me.

Mr. COPELAND. We have in this country 175,000 employees working in the rayon industry.

Mr. SMITH. Yes; and about 6,000,000 engaged in producing cotton.

Mr. COPELAND. The scheme which the Senator from South Carolina has in mind will not have the sole effect of helping the cotton industry, but will also help Japanese silk.

I once more renew my request that the Senator from South Carolina let this provision go over.

Mr. SMITH. I have said all along that I am perfectly willing to have it go over, but I desired to save some time by getting something off the chests of some of the other Senators.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GLASS. The State of Virginia produces perhaps more rayon than any other State in the United States, and most of it is made from wood, not from cotton at all.

Mr. SMITH. I think the Senator will find upon investigation that the textile strength of the rayon produced in his State largely depends on the cellulose derived from cotton; and I think if the Senator will visit the rayon mills he will find that they mix the substance obtained from the wood with cotton fiber.

Mr. GLASS. The largest rayon factory in the United States is in the congressional district in which I live.

Mr. SMITH. And they do not use any cotton at all?

Mr. GLASS. I did not say that they do not use any cotton at all.

Mr. McKELLAR. They mix cotton fibers with their other ingredients.

Mr. GLASS. I did not say they do not use any cotton at all, but I do not think they should be taxed out of existence because they use a little cotton.

Mr. McKELLAR. That does not make them competitive with cotton anyway. Both linen and wood products are used in making rayon.

Mr. WAGNER. The result will be to tax them out of existence.

Mr. GLASS. Of course it will.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent that the amendment on page 45, section 15, beginning with line 17 and ending with line 20, on page 46, be laid aside for the day. Is there objection? The Chair hears none. The clerk will state the next amendment.

The next amendment was on page 46, line 21, after "Sec." to strike out "15" and insert "16"; and on page 47, line 12, after the word "distribution" to strike out the comma and "but without discrimination against other producers, processors, and handlers"; so as to make the paragraph read:

SEC. 16. Subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing acts of Congress, and as will tend to promote efficient methods of marketing and distribution."

Mr. VANDENBERG. Mr. President, may I ask the Senator why this language is to be stricken from the bill? What

is offensive about the prohibition against discrimination on page 47, line 12? The committee is striking out the words " but without discrimination against other producers, processors, and handlers ". Is it necessary to have discrimination in order to make this system work?

Mr. SMITH. No. There was considerable discussion in the committee about that language. It has reference to the cooperatives. It was found, as the Senator knows, that certain privileges are extended to the cooperatives which are not extended to other marketing agencies.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. It was supposed that the language, " but without discrimination against other producers, processors, and handlers ", would in effect be to discriminate against cooperatives.

Mr. SMITH. That is exactly the point.

Mr. BORAH. By striking out that language it was designed to leave intact whatever advantage the cooperatives had.

Mr. SMITH. Exactly. That is all it means.

Mr. BORAH. I think that is a sound doctrine.

Mr. SMITH. It was brought out in the committee that with this language in the bill no protection could be given the cooperatives, even under the law we had passed exempting them from the operation of certain laws and allowing them certain lending privileges.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, beginning in line 21, on page 46, and ending in line 13, on page 47.

The amendment was agreed to.

The next amendment was, on page 48, line 12, after " Sec.", to strike out " 16 " and insert " 17 ", so as to make the section read:

SEC. 17. Subsection (e) of section 10 of the Agricultural Adjustment Act, as amended, is amended by striking out " rental or benefit payment " and inserting in lieu thereof " payment authorized to be made under section 8."

The amendment was agreed to.

The next amendment was, in section 17, on page 48, line 16, after the word " Sec.", to strike out " 17 " and insert " 18 "; in line 19, after the word "Agriculture ", to strike out " is authorized " and insert " upon the request of the duly constituted authorities of any State is directed,"; and on page 49, line 2, after the word " State " and the comma, to insert " and is authorized ", so as to make the paragraph read:

SEC. 18. Section 10 of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new subsection:

"(i) The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof."

The amendment was agreed to.

The next amendment was, on page 49, after line 18, to insert a new section, as follows:

SEC. 19. Section 11 of the Agricultural Adjustment Act, as amended, is amended by striking out the word " flax " and inserting in lieu thereof the word " flaxseed."

Mr. McNARY. Mr. President, I should like to have that amendment go over. I am not familiar with the reason which prompted the committee to insert this language in the bill. I think I have in my files literature upon the subject to which I should like to refer.

Mr. SMITH. Is that the amendment with reference to flaxseed?

Mr. McNARY. Yes.

Mr. FRAZIER. Mr. President, this amendment was inserted at my request. In the original bill the word " flax " was inadvertently used for " flaxseed." It is the seed we desire to have in the bill, and not the flax fiber or anything of that kind. I requested that this amendment be inserted in the bill in order that there should be no question with reference to the meaning of another amendment in the bill which applies to flaxseed.

Mr. McNARY. Would the Senator be willing to let it be passed over for the present? I shall probably agree with him, but I think I have a file dealing with the matter which is being discussed, and I should appreciate the Senator's courtesy in permitting it to be passed over, so that I may refer to the file.

Mr. FRAZIER. I have no objection to its being passed over.

The PRESIDING OFFICER. The Senator from Oregon asks unanimous consent that the committee amendment on page 49, lines 19 to 21, both inclusive, be passed over for the day. Is there objection? The Chair hears none, and it is so ordered.

The next amendment will be stated.

The next amendment was, on page 49, line 22, after " Sec.", to strike out " 18 " and insert " 20 ", so as to make the section read:

SEC. 20. The first sentence of subsection (a) of section 12 of the Agricultural Adjustment Act, as amended, is amended by striking out " rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title " and inserting in lieu thereof " payments authorized to be made under section 8."

The amendment was agreed to.

The next amendment was, on page 50, after line 3, to strike out the following:

SEC. 9. Section 12 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) Amounts expended under this title which are expended for payments authorized to be made under section 8 and administrative expenses in connection with any basic agricultural commodity shall not be less than a sum equal to the proceeds of the taxes levied under this title with respect to such commodity. For the purposes of this subsection: (1) Amounts collected and expended from taxes the proceds of which under this title are held for, or paid for use in, any possession of the United States shall not be included; (2) the amount of all refunds and abatements of taxes shall not be included; and (3) hogs and field corn may be considered as one commodity."

Mr. VANDENBERG. Mr. President, I desire to ask the Senator from South Carolina a question for information at this point.

It is my understanding that at the present time the processing taxes collected upon any given commodity are segregated exclusively to the payment of beneficial payments for the commodity. It is my understanding that it is now proposed to turn the processing-tax revenues into the general fund of the Treasury and to cease the guarantee that the collections for a given commodity shall be dedicated exclusively to that commodity. Am I correct?

Mr. SMITH. It is proposed to do just exactly the opposite.

Mr. VANDENBERG. What is the situation?

Mr. SMITH. The Senator will find further along in the bill that each commodity shall, to the cent, be the beneficiary of whatever taxes are collected, and that whatever benefit payments are made in connection with any product shall be made from the taxes collected in connection with that particular and specific product.

Mr. VANDENBERG. What is the purpose of striking out this particular section?

Mr. SMITH. I think it is clarified later on in other language in the bill.

Mr. VANDENBERG. No; there is no substituted language.

Mr. SMITH. The language of this particular section ran counter to the decision of the Supreme Court, and the committee eliminated it, and further on in the text there is language which does accommodate itself to the decision of the Supreme Court.

Mr. VANDENBERG. That is what I should like to know about. In what aspect does the language stricken out run counter to the philosophy of the decision of the Supreme Court?

Mr. SMITH. I shall have to leave that question to some of my legal friends for explanation.

Mr. BANKHEAD. Mr. President, the Senator from Michigan is in error in the idea he expressed that the present law requires the segregation of taxes. It does not so require at all. As a matter of practical application, it has been done. The present law, the original Agricultural Adjustment Act, makes no segregation of any kind of the specific taxes.

Mr. VANDENBERG. I am correct that that is the practice?

Mr. BANKHEAD. That is the practice; and I assume, I will say to the Senator from Michigan, that the practice is expected to be continued. This section as it came from the House appeared to the members of the committee who are lawyers as being a provision which might be construed to be a declaration in the law of a particular tax for a special purpose. For that reason, in order to prevent any such declaration in the law, the committee decided to strike out the section and leave the law as it is now, so that all taxes collected under the processing taxes shall go into the Treasury, into the general fund made available to the Secretary of Agriculture for the administration of the Agricultural Adjustment Act. The amendment leaves the law, I repeat, as it is now.

Mr. VANDENBERG. May I interrupt the Senator?

Mr. BANKHEAD. Yes.

Mr. VANDENBERG. The Senator from South Carolina subsequently said, as I understood him, that there is a provision which specifically requires all these commodity taxes to be paid to the benefit of the commodities.

Mr. BANKHEAD. This being a legal question, the Senator subsequently said that he would prefer that some of the lawyers on the committee should explain the purpose of the amendment.

Mr. VANDENBERG. The original statement was in error?

Mr. BANKHEAD. The first statement was in error.

The PRESIDING OFFICER. Without objection, the amendment reported by the committee is agreed to. The next amendment will be stated.

The next amendment was, on page 51, after line 23, to insert a new section, as follows:

SEC. 23. Subsection (b) of section 15 of the Agricultural Adjustment Act, as amended, is amended by adding at the end of said subsection the following new sentence: "The Secretary of Agriculture is authorized to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of the act approved April 21, 1934, an amount of lint cotton not in excess of 110 pounds, produced by or for any producer and retained for domestic use in his household."

The amendment was agreed to.

The next amendment was, on page 52, after line 14, to insert a new section, as follows:

SEC. 25. The first sentence of subsection (d) of section 15 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "processors" the words "or producers."

Mr. BYRD. Mr. President, I should like an explanation of the amendment which has just been stated and which proposes to add to the orginal act the words "or producers" after the word "processors."

Mr. SMITH. I think it has reference entirely to agreements. I have not the original act before me and therefore I cannot tell exactly what the reference is.

Mr. BYRD. I will hand the Senator a copy of the original act.

Mr. SMITH. I thank the Senator. I see, as I thought, that it has reference to the effect of the processing tax on the processors or producers. If the effect is detrimental to the processors or producers, then the remedy is as here indicated. The original act contained the words "or will cause to the processors thereof disadvantages." The words "or producers" have been added to give them a 50-50 chance. I thought I was correct in the first instance, and now I know I am. Does the Senator from Virginia object to having the producers included, so that they also may be made beneficiaries along with the processors?

Mr. BYRD. I am very glad to have the explanation of the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee, to insert section 25, after line 14, on page 52.

The amendment was agreed to.

The next amendment was, in section 27, on page 53, line 10, after the word "credited", to strike out "when" and insert "(but not before"; and in line 11, after the word "been", to strike out "paid" and insert "paid)", so as to make the section read:

SEC. 27. Subsection (a) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out subdivision (2) thereof and inserting in lieu thereof the following:

"(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity."

The amendment was agreed to.

The next amendment was, in section 28, page 54, line 1, after the word "Except", to insert "as to flour processed from wheat and."

Mr. McNARY. Mr. President, from a hasty glance I am unable to interpret the reason for that change. What does the chairman of the committee have to say about it?

Mr. SMITH. I did not hear the Senator's statement.

Mr. McNARY. I say from a hasty glance I do not discern the reason for including that language in the bill.

Mr. SMITH. I think anyone reading the context will see exactly what it means. It is essential to have this language:

Except as to flour processed from wheat and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade.

That means that the processing tax shall not be carried on down to the retailers; that it is a wholesale tax.

Mr. McNARY. It is a clear substitution of the product of wheat, namely, flour, for wheat itself.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment was, in the same section, on page 54, line 3, after the word "cotton", to insert "or wheat", and in line 6, after the word "trade", to insert "nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour) processed wholly or in chief value from wheat", so as to make the section read:

SEC. 28. The second sentence of subsection (b) of section 16 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "Except as to flour processed from wheat and as to any article processed wholly or in chief value from cotton the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in

retail trade, nor to any article (except sugar) processed wholly or in chief from sugar beets, sugarcane, or any product thereof, nor to any article (except flour) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. CAREY. I ask the Senator from South Carolina why is sugar excepted in the amendment which begins in line 6 on page 54?

Mr. SMITH. The manner in which sugar is manufactured and sold, in the opinion of those familiar with it, puts it in a wholly different class from cotton or wheat, because sugar is imported very often in a semimanufactured state and is refined here. So it would be difficult to impose a tax where it would do the producer the most good, the process in the case of sugar being different from that in the case of the other two commodities, which are simple in their form of manufacture.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment was, in section 29, line 15, after the date "1934", to strike out "and", and in line 16, after the word "hogs", to insert "; and by inserting at the end of such paragraph the following: 'In the case of wheat the provisions of this paragraph shall apply to flour only; in the case of sugarcane and sugar beets the provisions of this paragraph shall apply to sugar only.'

"(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"'(f) No refund, credit, or abatement of the amount of any tax shall be made or allowed under this section, unless, within 60 days after the right to such refund, credit, or abatement accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than $10'" so as to make the section read:

SEC. 29. (a) Paragraph (1) of subsection (e) of section 16 of the Agricultural Adjustment Act, as amended, is amended by inserting after the first word in the first sentence a comma and the following: "subsequent to June 26, 1934", by inserting in the proviso after the word "made", the following: "in the case of hogs"; and by inserting at the end of such paragraph the following: "In the case of wheat the provisions of this paragraph shall apply to flour only; in the case of sugarcane and sugar beets the provisions of this paragraph shall apply to sugar only.

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(f) No refund, credit, or abatement of the amount of any tax shall be made or allowed under this section, unless, within 60 days after the right to such refund, credit, or abatement accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than $10."

Mr. CAREY. Mr. President, I ask that that amendment go over.

The PRESIDING OFFICER. The Senator from Wyoming asks unanimous consent that the amendment on page 54, beginning in line 16, be passed over.

Mr. SMITH. Does the Senator mean the entire amendment or the refund provision?

Mr. CAREY. I mean the refund provision. The reason I ask that it go over is that I understand if a person were entitled to a refund and did not know it and on that account had not made application within 60 days, he would not be entitled to a refund. Am I correct in that?

Mr. SMITH. Yes; the individual has 60 days from the time of the imposition of the tax to request a refund. If he does not avail himself of that privilege within the time, he is not entitled to it.

Mr. CAREY. Presuming that the tax was erroneously collected and the payer did not know it for 60 days, he would be out of court, so to speak, and could not apply for a refund after that time, as I understand the amendment?

Mr. SMITH. I do not know how we are going to legislate except under general rules, because if we should not provide such a limitation nobody would ever know anything about it, and claims would be made after 60 days. I think that is obvious.

Mr. CAREY. I should like to have the amendment go over today.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. I have to go to a conference for a few minutes. Would the Senator permit the provisions on page 58 and 59 with reference to bringing suits to go over?

Mr. SMITH. We have not reached that portion of the bill as yet.

Mr. BORAH. I understand that, but I have to be gone for a short time, and I ask the Senator if he will permit those provisions to be passed over when reached.

Mr. SMITH. Yes; I understand the Senator has an amendment in reference to that portion of the bill?

Mr. BORAH. Yes, and I should like to have the provisions passed over for the time being.

Mr. SMITH. Very well, I will be perfectly willing to do that, but I hope that we will so govern ourselves as to try to get through with the very pleasant task of passing on the committee amendments. I have no objection, when we reach the provisions prohibiting suits to which the Senator from Idaho refers, to having them go over.

The PRESIDING OFFICER. Without objection, on request of the Senator from Wyoming [Mr. CAREY], the committee amendment beginning on line 21, page 54, and extending to line 7, on page 55, will be passed over.

The question is on the committee amendment in line 15, page 54, striking out the word "and"; and in line 16 on the same page, after the word "hogs", inserting down to and including the end of line 20.

The amendment was agreed to.

Mr. CONNALLY. Mr. President, the committee struck out entirely, on page 66, section 31 of the House bill as well as some of the preceding sections.

Mr. SMITH. Is that the export and import debenture clause?

Mr. CONNALLY. Yes.

Mr. SMITH. Very well.

Mr. CONNALLY. I ask at this time to offer an amendment which seeks to restore the House language, and the motion includes a clause which was stricken out by the House committee. I want to have an agreement that I may have a vote on my amendment, though not at this time, irrespective of the parliamentary situation, because the question would naturally recur upon the committee amendment to strike out all that language, and it might be held, that language having been stricken out, I could not move to reinsert it. So I ask unanimous consent that at the proper time I may offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

Mr. SMITH. As I understand, the Senator desires to offer his amendment now and let it lie on the table until we reach the point indicated?

Mr. CONNALLY. That is correct.

The PRESIDING OFFICER. The amendment will lie on the table, for the time being. The next amendment of the committee will be stated.

The next amendment was, in section 30, on page 55, line 11, after the word "following", to strike out:

"The consignor named in the bill of lading under which any product (if such product or the commodity from which processed is under this title subject to tax) is exported, or the exporter of such product, if the bill of lading bears the proper disclaimer by the consignor, or the manufacturer of such product, if the bill of lading bears the proper disclaimer by the consignor and

the exporter, shall be entitled, upon the exportation of such product to any foreign country (or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, or the island of Guam) to the refund of the amount of tax due and paid under this title with respect to such product so exported, or to a credit against any tax due and payable under this title of the amount of tax which would be refundable under this section with respect to such product so exported."

And in lieu thereof to insert:

"Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this title, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

The amendment was agreed to.

The next amendment was, on page 56, after line 19, to insert the following new paragraph:

(b) Section 2 of the Department of Agriculture Appropriation Act, 1936, is amended by striking out the first word "The" and inserting in lieu thereof the following: "Seventy-five percent of the."

The amendment was agreed to.

The next amendment was, at the top of page 57, to insert the following new paragraph:

(c) Section 19 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this title to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this title, to make a return, render under oath such statements, or to keep such records as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax."

The amendment was agreed to.

The next amendment was, on page 57, line 19, to strike out the section number "29" and insert "32."

The amendment was agreed to.

The next amendment was, on page 57, line 22, after "(a)", to strike out the following:

No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment.

And to insert in lieu thereof the following:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

Mr. SMITH. Mr. President, that is to be passed over at the request of the Senator from Idaho [Mr. BORAH].

Mr. CONNALLY. Mr. President, what is the wish of the Senator with regard to the amendment which I offered on page 67? Does he desire to proceed with it when we reach it, or is it his desire to let it go over for the day?

Mr. SMITH. Considering the fact there are other amendments, I think it would be the proper thing to let it go over for the day, so we may have time to consider it.

Mr. COPELAND. Mr. President, to what does the amendment apply?

Mr. CONNALLY. The amendment which I offered applies only to manufactured goods.

Mr. COPELAND. It does not relate at all to the amendment to the tobacco act?

Mr. CONNALLY. It might, in the case of tobacco, give the manufacturer an opportunity to come under the provisions of the bill.

Mr. SMITH. The Senator seeks to restore the export bounty on manufactured products.

Mr. COPELAND. May I ask the Senator about the tobacco amendment and if there were hearings on that particular feature of the bill?

Mr. SMITH. No; we did not have any hearings. The fact is that this is practically the same provision which last year worked admirably and agreeably to both the processors and the producers. The point now is that tobacco is the one commodity which reached and exceeded parity.

Mr. CONNALLY. Mr. President, will the Senator yield further?

Mr. SMITH. I yield.

Mr. CONNALLY. Considerable interest has been manifested in the amendment which I have sent to the desk. Therefore, I ask that the amendment may be printed and lie on the table, not to be acted upon today. The Senator from South Carolina indicates his agreement with that request. Supplementing the request, I ask unanimous consent that a vote may be had on that amendment when it is reached, on page 66, regardless of whether or not committee amendments have been disposed of or otherwise.

Mr. SMITH. I think that is all right. The Senator simply wants to test whether the Senate would rather have the amendment he offers than the one the committee has reported. I should like to have that settled.

Mr. VANDENBERG. Mr. President, does the amendment of the Senator from Texas bear any relation to the previous import section, on page 65, which is stricken out?

Mr. CONNALLY. No. The amendment which I offer begins on page 66, line 15, and does not undertake to restore the language stricken out in section 22, on page 65. My amendment is limited to manufactured articles. I should prefer to have it apply to the raw material as well, but there is so much opposition that I have limited it to manufactured goods.

Mr. VANDENBERG. Is the import section, beginning at the bottom of page 64 and continuing over to line 14, page 66, also being passed over, or is that wholly independent of the Senator's amendment?

Mr. CONNALLY. That is absolutely independent of my amendment. The reason why I am asking unanimous consent that I may have a vote on my amendment is that, from a parliamentary standpoint, the question would come on the committee amendment striking out paragraphs 31 and 22. I submit my request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

The Chair would like to be advised how far on page 59 the agreement requested by the Senator from Idaho [Mr. BORAH] applies?

Mr. SMITH. Only insofar as it relates to the prohibition of collecting the tax in case the court declares it to be unconstitutional. It relates to page 57, beginning in line 19, all of page 58, and to the end of line 5 on page 59.

Mr. BORAH. That is correct. I want that all passed over.

The PRESIDING OFFICER. The amendments referred to will be passed over. The next amendment will be stated.

The next amendment of the Committee on Agriculture and Forestry was, on page 59, line 22, before the word "provisions", to insert the word "applicable", and after the words "provisions of" to strike out "law made applicable by section 19", and insert "law, including subsection (d) of this section", so as to make the paragraph read:

"(b) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or

the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

The amendment was agreed to.

The next amendment was, on page 60, line 4, after the word "agriculture", to strike out the word "and", and after the word "President" to insert the word "and"; in line 8, after the word "taxes", to insert "(together with penalties and interest with respect thereto)"; in line 12, after the word "specifically", to strike out "on May 12, 1933", and in the same line, after the word "by", to insert the word "prior", so as to make the paragraph read:

"(c) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

The amendment was agreed to.

The next amendment was, on page 60, after line 20, to strike out the following:

"(d) No refund or credit shall be made or allowed of any amount of any tax which accrued on or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless (1) the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, (A) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, and that he has not collected from the vendee any part of such amount, or (B) that he has repaid such amount to the producer or the ultimate purchaser of the article, and (C) in the case of hogs that such amount has not been deducted from the price paid to the producer, or (2) the claimant files with the Commissioner of Internal Revenue the written consent of such producer and ultimate purchaser to the allowance of the credit or refund. The provisions of this subsection shall not apply to any refund under section 15 (a), section 16, or section 17.

And to insert in lieu thereof the following:

"(d) No recovery, refund, or credit shall be made or allowed of any amount of any tax which accrued on or after the date of the adoption of this amendment (and, in case any part or application of subsection (a) of this section is held invalid, which may have heretofore accrued) under this title (including any overpayment of such tax), unless the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, or in the case of a judicial proceeding establishes in such proceeding, (1) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, that he has not collected from the vendee any part of such amount, and that the price paid to the producer was not reduced by such amount, or (2) that he has repaid such amount to the ultimate purchaser of the article, or in case the price paid to the producer was reduced by such amount, to such producer; nor shall any judgment or decree be entered by any Federal or State court for damages for the collection thereof, unless the claimant establishes the foregoing facts, in addition to all other facts required to be established. The provisions of this subsection shall not apply to any refund or credit under subsection (a) or (c) of section 15, section 16, or section 17.

The amendment was agreed to.

The next amendment was, on page 62, line 13, after the word "no", to strike out "refund or credit" and insert the words "refund, credit, or abatement", and in line 15, after the words "section 15", to strike out the words "section 16", so as to make the paragraph read:

"(e) No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 15, or section 17, unless, within 1 year after the right to such refund or credit has accrued, a claim for such refund or credit (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund or credit, except that if the right to any such refund or credit accrued prior to the date of the adoption of this amendment, then such 1-year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

The amendment was agreed to.

The next amendment was, on page 63, to strike out lines 3 to 9, both inclusive, as follows:

"(f) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax which accrued, on or after the date of the adoption of this amendment, under this title, and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax.

And to insert in lieu thereof the following:

"(f) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued on or after the date of the adoption of this amendment (and, in case any part or application of subsection (a) of this section is held invalid, which may have heretofore accrued) under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit under subsections (a) or (c) of section 15, under paragraph (1) of subsection (e) of section 16, or under section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

The amendment was agreed to.

The next amendment was, beginning at the top of page 64, to strike out:

"(g) Whenever in this title a refund of any tax is authorized to be made to any person other than the person required to pay the tax with respect to which an application for refund is made, upon statement under oath by the applicant for refund that he has no knowledge, information, or belief that such tax has not in fact been paid, then for the purpose of such refund to said applicant such tax shall be deemed to have been due from any paid by the person liable therefor. Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of the tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue. Whoever makes any false statement under oath in connection with applying for or securing such refund of any tax shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment not exceeding 6 months, or both."

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, to determine such facts. Such investigation shall be made after such notice and hearing and subject to such regulations as the President shall specify.

"(b) If, after such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by order direct that the entry into the United States of such article or articles shall, for such time as may be specified by him, be permitted subject to (1) such terms and conditions, (2) such limitations on the total quantities thereof which may be imported, or (3) the payment of such compensating taxes as he finds necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with such program or operation undertaken under this title. Any compensating tax imposed under this section shall be in addition to any tax imposed under section 15 (e) and the provisions of such section shall apply thereto.

"(c) Any decision of the President as to facts under this section shall be final.

"(d) Upon information of any order of the President under subsection (b), the Secretary of the Treasury shall permit entry of any article or articles specified therein only in conformity with such order.

"(e) After investigation, report, and finding in the manner provided in the case of an original order, any order or provision thereof may be suspended or revoked by the President whenever he finds that the circumstances requiring the order or provision

no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the provisions of this section."

SEC. 31. There is authorized to be appropriated for each fiscal year an amount equal to 30 percent of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of such fiscal year. Sums appropriated in pursuance of such authorization shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to: (1) Encourage the exportation of major agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation, (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; (3) purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands; and (4) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated in pursuance of this action shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to eliminate unprofitable agricultural and grazing lands, bring about the utilization of only such lands as can be profitably utilized, increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds authorized to be appropriated by this section shall be expended pursuant to (3) or (4) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section.

Mr. SMITH. That is the part of the bill which the Senator from Texas [Mr. CONNALLY] asked to have go over.

Mr. VANDENBERG. Not all of it.

Mr. SMITH. Not all of it; only section 31.

Mr. VANDENBERG. Mr. President, I desire to ask the Senator why the committee is striking out the language beginning at the bottom of page 64 and continuing on page 65, which appears to be the authority to offset increased costs of agricultural production by increased tariffs if, as, and when it is demonstrated that the increased protection is necessary. What is the purpose in striking that out?

Mr. SMITH. Mr. President, we are attempting by this process to bring about a condition where we can more reasonably modify the tariff rather than increase it. Whether or not we are succeeding is another question.

Mr. VANDENBERG. I do not follow the Senator. Will he be more specific?

Mr. SMITH. For instance, if we are intending to raise the price in this country of certain articles, and the subsequent price invites the possibility of importation of foreign goods, we are inviting right then the imposition of the protective tariff to protect us in doing that thing which would raise the price. This bill is not written for the purpose of encouraging any higher tariffs than we have; and my idea is that if the price of our stuff here reaches a point where foreign importations may be brought in under the present tariff arrangement, we shall have then reached a price where there should be no additional taxation.

Let me illustrate: Japan is buying cotton in America today at the American price, shipping it clear around the globe, manufacturing it, shipping it back around the globe, paying the tariff, and underselling American manufacturers. I claim that if, notwithstanding American ingenuity and American skill in manufacturing goods out of cotton which grows right up at the factory walls, the manufacturers of another country can come here and buy raw cotton at the same price our mills pay for it, ship it around the globe, manufacture it, ship it back around the globe, pay the tariff, and undersell the American manufacturer, the American manufacturer ought to go out of business.

Mr. VANDENBERG. Mr. President, I am familiar with the Senator's free-trade philosophy.

Mr. SMITH. That is not a free-trade philosophy.

Mr. VANDENBERG. I am familiar with the Senator's free-trade philosophy, which——

Mr. SMITH. I deny any free-trade philosophy.

Mr. VANDENBERG. Which he has consistently defended in the Senate, and I admire him for his consistency; and I am not complaining about it.

Mr. SMITH. I protest against the Senator putting me in the absurd position of a free-trader. I believe that every foreigner who has the privilege of the American market should pay a tariff equal to the tax and the expenses incidental to American manufacture; but I do not believe the Senator's party ever had the constitutional right to impose a purely protective tariff. It cannot be found in the Constitution.

Mr. VANDENBERG. I do not propose to discuss with the Senator the constitutionality of protective tariffs, which apparently has been sustained for 150 years, where many other constitutional questions are being given far less tender consideration.

Mr. SMITH. Yes; and that is one instance where the Supreme Court did not do its duty, if a case was ever brought.

Mr. VANDENBERG. The question I am raising is entirely beside the abstract argument in which the Senator and I are now engaging. I desire to know if it is not a fact that the original theory of the A. A. A. law was that when the cost of producing agricultural commodities and processing them in the United States was increased by arbitrary taxes, it was contemplated that the President should offset those arbitrary increases by compensatory taxes in the nature of protection. Was not that the original conception of the A. A. A.?

Mr. SMITH. It was not mine. I do not know what others thought about it.

Mr. VANDENBERG. I am not asking the Senator's personal view. The Senator was in complete disagreement with the A. A. A. in the first instance.

Mr. SMITH. Yes.

Mr. VANDENBERG. Therefore, when the Senator gives me his view he does not give me the view of the administration respecting the matter.

Mr. SMITH. I do not know what the view of the administration was.

Mr. VANDENBERG. What is it now?

Mr. SMITH. I do not know, and I am not concerned with the administration's view. I am concerned with the common-sense view, if you can reconcile that. [Laughter.]

Mr. VANDENBERG. Not with the administration's view.

Mr. SMITH. I say I am concerned with the common-sense view. If we are going to raise prices here and use that as an excuse still further to build up a wall that has destroyed most of us—and at last, thank God! is destroying those who built the wall—I do not think this is any time for us to incorporate here directly and expressly a provision that when prices reach a certain point, the taxes may be raised on imports to keep them out—no.

Mr. VANDENBERG. Mr. President, what I wish to know is not whether we are here establishing the rule to which the Senator objects. I am asking the Senator if here we are not striking down that precise rule in the existing A. A. A. law?

Mr. SMITH. No; because in all conscience——

Mr. VANDENBERG. I am not talking about conscience. I am talking about the A. A. A. law. [Laughter.] They are two totally different things.

Mr. SMITH. Yes; from the Senator's standpoint, but I maintain that we have no right to provide here that when prices rise to a certain point, in order to keep outsiders from coming in we shall still further raise the duties and tariffs; no. There is plenty of room within the present tariff, in all reason. The Senator very truthfully says we discard conscience here. We have done so.

Mr. VANDENBERG. Mr. President, may the Senator and I eliminate any argument over whether there should be the thing I am talking about? I inquire whether it is not the fact that the committee amendment striking out this language does change the tariff provisions of the existing A. A. A. law?

Mr. SMITH. I hope so.

Mr. VANDENBERG. Does it or does it not?

Mr. SMITH. It may or may not.

Mr. VANDENBERG. Certainly it may or may not, one or the other. [Laughter.] Which is it?

Mr. SMITH. I think it may not, for the reason that that is only incidental. The main purpose of this provision is to get a better price.

Mr. VANDENBERG. Never mind the reason. At the moment may I not know from the Senator, who is the Senate's expert on this subject, whether this amendment does or does not change the existing A. A. A. law in respect to compensatory tariff rates? Does it or does it not?

Mr. SMITH. It was not in the original law.

Mr. VANDENBERG. Is it in the existing law?

Mr. SMITH. No.

Mr. VANDENBERG. Then it does not change existing law.

Mr. SMITH. That is what I told the Senator.

Mr. VANDENBERG. Does the Senator now say to me that there is no existing law under which the President is permitted and instructed, whenever the use of A. A. A. taxes increases the cost of production in the United States, to inquire into the matter and to adjust the differential with new compensatory taxes? Does the Senator say that does not exist?

Mr. SMITH. In reference to the A. A. A.?

Mr. VANDENBERG. Yes.

Mr. SMITH. My impression now is, and I think it will be verified by reading the original act, that there is no such provision. This provision was incorporated in the House, and was very wisely struck out by our committee.

Mr. NORBECK. Mr. President, I should like to ask the Senator from South Carolina a question. Did the House bill provide that imports of agricultural products might be regulated by the Department by fixing quotas over which they could not be imported?

Mr. SMITH. Yes.

Mr. NORBECK. And that was struck out in the Senate committee, was it?

Mr. SMITH. Yes.

Mr. NORBECK. I should like to have an explanation of that paragraph.

Mr. SMITH. I think the committee were opposed to that provision. Taken in connection with our hope of multilateral and general agreements with the nations of the earth as to our export business, it was too restrictive. There are too many quotas and too many restrictions to enable us to look forward to any healthy recovery of our export business.

Mr. NORBECK. Does not the distinguished Chairman of the Committee on Agriculture and Forestry think that we might be flooded with too great a quantity of imports on occasions, and that there should be a stop-gap somewhere?

Mr. SMITH. We have ample provisions now to take care of such a situation. We have the antidumping clause, the Johnson Act, and the Smoot-Hawley Law with the countervailing duties. God knows what more we would need. I do not.

Mr. NORBECK. The Senator does not think there is need of anything further?

Mr. SMITH. I do not.

Mr. NORBECK. Mr. President, I ask permission to insert a telegram in the RECORD from Mr. W. R. Ronald, a citizen of South Dakota, who has been very active in promoting the A. A. A. as a method of assisting agriculture, and protesting against the proposed change.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

MITCHELL, S. DAK., *July 9, 1935.*

Senator PETER NORBECK,
Washington, D. C.:

Hope you will do all possible to restore A. A. A. amendment giving Secretary authority to fix import quotas. Either this or higher tariffs necessary to protect parity prices. Please wire prospect for its approval by Senate.

W. R. RONALD,
Editor Daily Republic.

Mr. COPELAND. Mr. President, I should like to discuss this matter a little further. Is the language on pages 64 and 65, proposed to be stricken from the bill, now the law?

Mr. SMITH. No; the Senator from Idaho [Mr. POPE] has the original text of the law and I should like to have him read in the law as it now stands the very language to which this pertains.

Mr. POPE. On page 21 of the original act is found the provision, which remains the same. It provides:

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity at the time of importation—

And so forth.

That remains the law and it has not been changed. The provision about which there has been discussion here does not appear in the original law, so it is new.

Mr. VANDENBERG. So the statement I made regarding the existing situation was correct.

Mr. POPE. Yes.

Mr. VANDENBERG. At any rate, I was correct to that extent. The Senator from Idaho says that the committee amendment striking out this language, which seems to refer to at least a kindred type of operation, does not in any way attack the continuing existence of the original provision.

Mr. POPE. That is my understanding.

Mr. VANDENBERG. Which the Senator from South Carolina did not seem to think existed at all.

Mr. SMITH. Oh, yes. But it says here, "a tax equal to the amount of the processing tax." The language here would leave it unlimited, whereas under the original law a foreign article would pay a processing tax exactly equal to the domestic processing tax, to which nobody objected. But the Senator was asking me whether, if we raised the price here, we could still raise the tariff. Under the law as it now stands, if it be found that the importer's commodity is bearing a smaller tax in the form of a tariff than is imposed domestically, then that tax will be made equal to the domestic tax.

Mr. VANDENBERG. What was the purpose of the House in putting this language in the bill?

Mr. SMITH. I do not know. I do not know what is the purpose of a good many things.

Mr. COPELAND. Then, as I understand the situation, the existing law is not changed?

Mr. SMITH. That is correct.

Mr. COPELAND. The House inserted this language which would change existing law?

Mr. SMITH. Yes.

Mr. COPELAND. And the Senate committee saw fit to strike it out.

Mr. SMITH. I think the House inserted it because a cry had gone up that Japan was importing into this country cotton goods and selling them at prices lower than the figure at which American manufacturers could make them. Therefore it was thought that whenever that became apparent the tariff on the imported article should be raised to a point where it would prohibit the importation. That, in my opinion, was the intent of the language we find in the bill.

Mr. COPELAND. And that is contrary to the philosophy of the Senator?

Mr. SMITH. Yes. Under the original act, if it were found that an individual was importing into the United States and was paying a tax less than the processing tax, he should pay a tax equal to the processing tax.

Mr. COPELAND. Then, the House intended to give Americans some further degree of protection, and the Senate committee saw fit to strike out the provision?

Mr. SMITH. Yes. It is in the law as it now stands; and if the Senator will read it he will find that it is in the words I have stated.

Mr. JOHNSON. As I understand, the provision being dealt with now is that which begins on page 64, line 20, and goes down to line 14, on page 66.

Mr. SMITH. That is correct.

Mr. JOHNSON. I do not think it has been so stated, but that relates to compensatory taxes which may be levied under certain circumstances; and, as I understand, that provision has not as yet been acted upon.

Mr. SMITH. The provision for a compensatory tax on rayon has not been acted on.

Mr. JOHNSON. I hope that it will go over until we may have opportunity carefully to study it, because from the information that is given to me it may be a very necessary weapon under certain circumstances.

Mr. COPELAND. Mr. President, will the Senator from California yield?

Mr. JOHNSON. I yield.

Mr. COPELAND. Is it the Senator's thought that the matter now under discussion should go over until we have had a chance to consider the rayon problem?

Mr. JOHNSON. I want it to go over until we have a chance to look into it. The bill came up suddenly today, so far as I was concerned, and I have not had the opportunity to look at many provisions of it which I desire to examine before they ultimately are determined, and I trust that the amendment will not be acted upon at once.

Mr. COPELAND. I share the view of the Senator.

Mr. BARKLEY. Mr. President, I ask unanimous consent to recur to the amendment on page 40 and that the vote by which the amendment was agreed to be reconsidered in order that I may offer an amendment, about which I have spoken to the Senator from South Carolina. I was called from the Chamber at the time the amendment was under consideration. I think there will be no opposition to the amendment I propose to offer.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. COPELAND. Could we not have action on the other matter first?

Mr. SMITH. Mr. President, in view of the fact that we find Senators unprepared to go on with certain paragraphs of the bill, I ask unanimous consent that the amendment relating to imports, beginning, on page 64, line 23, and ending on line 22, page 67, be passed over.

The PRESIDING OFFICER (Mr. McGILL in the chair). The part of the amendment affecting section 31 has already been passed over by unanimous consent. Without objection, the entire amendment will be passed over for the day.

Mr. JOHNSON. Including section 31?

The PRESIDING OFFICER. Section 31 has already been passed over by unanimous consent.

Mr. SMITH. Mr. President, the Senator from Kentucky has an amendment which he desires to offer.

Mr. BARKLEY. Mr. President, I ask unanimous consent that the vote by which the amendment on pages 40 and 41 was agreed to be reconsidered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the vote is reconsidered.

Mr. McKELLAR. The amendment of the Senator from Kentucky relates to tobacco?

Mr. BARKLEY. It has particular reference to tobacco, but it is general in its application. I will explain it.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to amend section 12 of the bill as reported by the committee by inserting after the second comma, after the word "thereof", in line 19, on page 40, the following words: "or is less than the fair exchange value by not more than 10 percent."

Mr. BARKLEY. Mr. President, I wish to say to the Senator from South Carolina that I had intended to speak to him about the amendment before the bill was taken up, but it was taken up sooner than he or I thought it would be, and I did not have a chance to confer with him about the amendment. I have conferred with representatives of the Department of Agriculture, and they advise me that the amendment is agreeable, and that they can work it out according to that program.

The meaning is this. In the language on page 40 it is provided:

If the average farm price of any commodity, the rate of tax on the proceeding of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection, during the 2 months immediately preceding and the first 10 months of any marketing year—

(i) is equal to, or exceeds by 20 percent or less, the fair exchange value thereof, the rate of such tax shall be reduced—

And so forth.

My amendment provides that if the fair exchange value is not less than 10 percent below, they may, under those conditions, reduce the processing tax.

I have conferred with Dr. Hudson, who is in charge of the tobacco section; I have conferred with Mr. Chester Davis, who will be in charge of the administration of the act, and they all state that they have worked it out and have discovered that they can reduce the processing tax even where the price is within 10 percent of parity, and still have enough money to carry on the operations. Under those circumstances I believe they ought to be authorized to reduce the processing tax.

Mr. McKELLAR. Tobacco is substantially on a parity now, is it not?

Mr. BARKLEY. Yes.

Mr. McKELLAR. Or above parity?

Mr. BARKLEY. It is above parity.

Mr. McKELLAR. It seems to me the amendment should be agreed to by all means, and I hope it will be. I hope the chairman of the committee will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Kentucky to the committee amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. FLETCHER. Mr. President, I ask to have printed in the RECORD a telegram on this subject which is in harmony with the statement made by the Senator from Kentucky.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TAMPA, FLA.

Hon. DUNCAN U. FLETCHER,
United States Senate Office Building:

The A. A. A. amendment in bill H. R. 8492, if enacted, will prove ruinous to the cigar manufacturing industry. Farmers now receiving parity for cigar leaf tobaccos. Surpluses in that commodity have been absorbed and a definite shortage is ahead. Processing tax as proposed in H. R. 8492, despite parity have been reached, is absolutely in negation to understandings made between this industry and the A. A. A. at the beginning of the imposition of the processing tax. Proposed amendment will surely mean the elimination of many manufacturers who have up to date cheerfully cooperated with the administration's requirements. Closing of plants and resulting unemployment bound to occur. The entire situation is obviously unfair and unsound. With fair chance for public hearing, which has been denied up to date, opportunity would have been given to present facts upon which intelligent decision could have been made. In the interests of labor, farmer, consumer, and manufacturer we earnestly pray for your cooperation and assistance to the end that H. R. 8492 be referred back to the Senate subcommittee for fair discussion at public hearing.

FLORIDA CIGAR MANUFACTURERS ASSOCIATION,
A. L. CUESTA, Jr., *President.*

Mr. CAREY. Mr. President, I send to the desk an amendment to the pending bill which I offer and ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

The clerk will state the next committee amendment.

The next amendment of the Committee on Agriculture and Forestry was, on page 67, after line 22, to insert a new section, as follows:

SEC. 33. Section 7 of title 1 of the Agricultural Adjustment Act, as amended by section 221 of the National Industrial Recovery Act (48 Stat. 210, 15 U. S. C., art. 607), is amended by striking it out and inserting in lieu thereof the following:

"SEC. 7. The Secretary shall sell cotton held or acquired by him pursuant to authority of this act at his discretion subject only to the conditions and limitations of title 1 of this act: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

"Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

"Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such act."

Mr. KING. Mr. President, I should like the amendment to go over, if it may be done, in order that I may have an opportunity to examine into it.

Mr. SMITH. Mr. President, there is nothing in this section to examine into. This provision, as read, simply means that wherever a loan has been made on cotton, or whenever there is a surplus and the price is below the cost of production, or unsatisfactory, the Secretary of Agriculture may purchase this cotton, and may redistribute it to producers in lieu of production. It was that for which for years and years I worked here, and had the cooperation of Senators on the other side, who worked in harmony with me to bring about that condition. This amendment simply makes it lawful for the Secretary of Agriculture to purchase this cotton, take it in good faith at a price agreed upon between him and the producer, and resell it to the producer in lieu of production in subsequent years.

Mr. KING. Mr. President, the explanation of the Senator may be satisfying to Senators, but I may say that it is not entirely satisfying to me. I do not know what activities have been carried on under existing law with respect to the purchase and disposition of cotton. I do know that a large quantity was purchased, and the price was pegged, as I recollect, at 12 cents per pound; but it seems now that we are to expand the powers of the Secretary of Agriculture—I am speaking without sufficient knowledge of the implications which will arise from this measure—and redistribute purchased cotton to persons who grow cotton.

I have had no chance even to read the amendment and do not understand the purpose for which the cotton is to be redistributed, unless to induce growers of cotton to refrain from producing it. Whether they are to get any monetary advantages from redistribution or distribution I am not able to understand from the explanation made by the Senator from South Carolina. Moreover, I do not understand, Mr. President, what authority the Federal Government or the Secretary of Agriculture has to buy cotton and to deal in cotton, to be a purchaser, a vendor and the vendee, to fix the price of cotton, to peg it at a certain price, to loan money upon it, and to do what this amendment seeks to be authorized to be done, if I understand the statement of the Senator from South Carolina.

A few years ago, Mr. President—and it was when the Republicans were in power—the Congress appropriated $500,000,000 and placed it in the hands of the Farm Board. The Hoover administration and the Republican Party suffered much criticism because of this act and its administration. They were damned by Democrats and condemned by Republicans. They were damned by farmers and condemned by those who had to buy the cotton. I remember the eloquent speeches which were made by Democrats upon the floor of the Senate condemning that policy, and denouncing the authority which was exercised as being in violation of the Constitution of the United States. Yet it seems to me that this measure, if I understand it, is subject to criticism, perhaps more severe than that leveled against the Farm Board and those responsible for it. If it was wrong—and many said it was—to loan money as was done for the purchase of cotton and wheat, and to speculate in those products, then there may be ground for criticizing the policies supported by this bill. Senators will recall that several hundred million dollars were lost—wasted—by the Government through the operations of the Farm Board.

This amendment seems to me to be an unwarranted attempt to assert authority on the part of the Federal Government and to embark it upon activities entirely foreign to the purposes for which it was created.

I should like an opportunity to examine this amendment, and I again request that it may go over, to be considered tomorrow.

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent that the amendment go over until tomorrow.

Mr. SMITH. Mr. President, before action is taken upon that request, I should like to make a statement.

At the time to which the Senator refers we had an enormous surplus of cotton. All Senators remember that cotton was down to an average of about 5 cents a pound. The Government tried to aid by lending a certain amount. I am not now speaking of the action of the Farm Board in connection with the cotton that it pegged or bought at 15 cents a pound; but I think it is my duty now to say that the Farm Marketing Act passed under the Hoover administration was a splendid piece of legislation. It was miserably administered, however, and it met organized opposition from the trade, which ultimately emasculated it and ruined it.

That bill simply provided that $500,000,000 should be turned over to a board as a basis of credit, and they were to act as the selling or marketing agent or bargaining agent of the farmer.

Mr. Legge himself said to me that he did not expect to spend any of the $500,000,000; that the cotton would be turned over in the Southern States to whatever agency they designated, and that the cotton would have financed itself. Had he or the organization been put in possession of 75 or 80 percent of the cotton it would have financed itself, and he could have deducted any reasonable price he saw fit. The same thing, he said, was true of wheat. The appropriation of $500,000,000 and the creation of the organization was a declaration on the part of the Federal Government that it had provided an organization financed and equipped to do for the farmers the marketing which they could not do for themselves. The result was that they did not have handed over to them a bale of cotton or a bushel of wheat.

Under another provision of the bill, however, in order to demonstrate or hope to demonstrate what they might do, they bought certain amounts of wheat and cotton, thinking perhaps if they entered the market and began to demonstrate what might be done others would voluntarily send in their cotton to have it marketed. They bought at 16 cents, which, at the time they bought or loaned, was from 1 cent to 2 cents under the market. Immediately a raid on the cotton market was made throughout the country, and the price was broken far below the price they had loaned on the cotton.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. ROBINSON. One of the difficulties which arose out of the Farm Marketing Act, to which the Senator is now referring, is that there was no coordination of production with the attempt to regulate marketing.

Mr. SMITH. And no marketing agreements whatever were entered into with any of the farmers.

Mr. ROBINSON. No. So it may be said that the act proved a failure apparently because of that fact. At least, that is one of the reasons why it resulted in failure. That is not true of the Agricultural Adjustment Act. Whatever other criticism may be directed against it, the fact remains that it has been the principal factor in raising and stabilizing the price of cotton and of other basic commodities dealt in, so that those prices are now two and in some cases three times as high as they were before the act was passed.

That does not tell the whole story, nor the most material part of it. The prices at which these basic commodities were selling before the Agricultural Adjustment Act was enacted were so low that they did not compensate the producers for even the major portion of the costs of production; and if it had not been passed, or if something similar had not been done, the agricultural interests of the Nation would have been ruined.

Mr. SMITH. Let me say, in reference to the criticism made by the Senator from Utah, that, as Senators will recall, we had 10,000,000 bales of surplus cotton, in 4,000,000

bales of which the Government had an equity. I introduced a bill in the Senate providing that the Government might purchase that cotton and redistribute it to the farmers at a price of 6 cents, the average price then being about 5 cents. Everyone familiar with cotton production knows that 6 cents was anywhere from 6 to 8 cents below the cost of production. So we devised the cotton option plan, and wherever a farmer was willing to reduce his crop by half the Government would substitute the other half at 6 cents a pound. What was the result? The 4,000,000 bales known as "option cotton", were allocated. The farmers reduced their crop by 4,000,000 bales and the price went to 12 cents a pound.

Mr. ROBINSON. And the surplus to that extent was disposed of.

Mr. SMITH. Yes; to that extent it was disposed of; the Government got back its 6 cents without losing a penny, and the farmers got $30 a bale on that option cotton, which they had produced in the previous year but had been forced to dispose of below the cost of production. It was simply bought back by the Government at that price and optioned to the farmer in lieu of production by him. The farmer made $30 a bale; the Government got every penny back, and the surplus was reduced by 4,000,000 bales.

Mr. KING. Mr. President, will the Senator yield?

Mr. SMITH. If the Senator from Utah has a better plan to offer or thinks that the option plan is out of all "whack" with the genius of the American Government, all well and good; but that is all this means, and it has worked to the benefit of those who produced. It has yielded a billion dollars of new money a year to buy commodities produced, in part, in Utah. If the Senator wants to offer an amendment providing that none of the money thus made shall be spent in Utah, I should be very glad to accept it.

Mr. KING. Mr. President, I thank the Senator for his generosity, and I am sorry I have now not time to debate this matter with him; I am compelled to go to a committee meeting now in session; but before leaving the floor I desire to challenge the Senator's attention to the declaration made in the Democratic platform of 1932. It reads as follows:

> We condemn the extravagance of the Farm Board, its disastrous action which made the Government a speculator of farm products, and the unsound policy of restricting agricultural products to the demands of domestic markets.

The Senator may find that has not been violated by this bill or by the original act to which the pending bill is supplemental. I think that the original act which was passed has some of the aspects of the farm bill which was condemned, and the policies of the A. A. A. some persons believe are somewhat akin to those of the Farm Board, which was so severely condemned.

Mr. SMITH. No.

Mr. KING. I am speaking of speculation.

Mr. SMITH. Yes; but let me call the Senator's attention to the fact that under the disastrous Republican administration there was necessarily caused a condition from which we are now trying to obtain such salvage as we can. Do not come here and say that we are doing what they did; we are salvaging something from the wreck they created.

Mr. KING. I hope that is true.

Mr. SMITH. Exactly.

Mr. KING. If the Senator will pardon me, I am compelled to leave to attend a committee meeting.

Mr. SMITH. Very well.

Mr. McKELLAR. Mr. President, may I say, before the Senator from Utah leaves the Chamber, that what we are doing here is in exact line with the provisions of the platform from which the Senator from Utah read.

Mr. SMITH. Precisely.

Mr. President, this plan has passed the experimental stage. I wish to state that the officers of the Agricultural Department were so delighted with the operation of the option plan that they desired to incorporate it in this bill as being one of the most essential features. I think we ought to have a vote on the question now, and I ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, the Senator from Utah [Mr. KING] just complained that the Agricultural Department were not following out the Democratic platform, and I think that is a perfectly correct statement. I am sorry that they did not do so, because the Democratic platform on agriculture was much better than the Republican platform. The trouble is, however, the Agricultural Department has followed the Republican platform and not the Democratic platform. I wish to read what the Republican platform says as found on page 347 of the little booklet containing the platform:

> We will support any plan which will help to balance production against demand, and thereby raise agricultural prices, provided it is economically sound.

That is just what the Democratic administration is trying to do; that is what they are trying to carry out.

Mr. ROBINSON. Mr. President, does the Senator know of any way by which agricultural prices may be stabilized or put on a profitable basis without some measure of control of production?

Mr. FRAZIER. I think the Democratic platform would have done it if it had been carried out.

Mr. ROBINSON. I think that is what we are doing.

Mr. FRAZIER. No; the majority now are following the Republican platform entirely instead of the Democratic platform.

Mr. SMITH. It is all right. I would ride the devil so long as he were going toward heaven, but I would try to get off when he changed his course.

Mr. ROBINSON. The Senator from North Dakota, who is a Republican, seems to think it is not possible for the Republicans ever to say anything in their platform that has sanity in it; but, so far as the provision that he has read relates to this controversy, it is well worthy of recognition that the failure of the farm marketing act was due to the neglect of the then administration to coordinate its enterprises for the stabilization of prices with regulated production. I do not think anyone, however reckless his views may be, has ever advanced a theory in any platform that you can maintain a sound standard of prices without regard to the amount that is produced, without regard to the supply. Necessarily when you undertake to stabilize prices, say, for instance, with the cost of production, you must have some regard to the amount of production. If you fail to do that, you pile up surpluses until your system, whatever it may be, breaks down or collapses.

Mr. FRAZIER. Mr. President, the Democratic platform mentions control of crop surpluses and giving the farmers a price based on the cost of production.

Mr. ROBINSON. That is exactly what we are trying to do.

Mr. FRAZIER. No.

Mr. ROBINSON. Surpluses cannot be controlled without some measure of regulating production. That is a very practical method of regulating production. I am glad to see the Senator from North Dakota reading the Democratic platform. Perhaps this is the first time in his life he has ever engaged in that venture.

Mr. FRAZIER. Oh, no, Mr. President.

Mr. ROBINSON. The more he reads it the greater will be his wisdom. [Laughter.]

Mr. FRAZIER. My only complaint is that the Agricultural Department did not carry out the Democratic platform instead of the Republican platform.

Mr. ROBINSON. The statute to which all this controversy is germane is designed to carry out that platform. It may not be carrying it out in the manner the Senator from North Dakota would like to see it done, but, nevertheless, it has accomplished the fundamental purpose of farm relief legislation.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. ROBINSON. I will yield in just a moment. Since 1920 and 1921 there has been before the country a fundamental problem which has entered into various other related problems, and that is the disparity existing between the prices of agricultural products and the prices of other com-

modities. Every bill which has been passed has been directed to correcting that condition. The Farm Marketing Act failed, for the simple reason that it did not take regard of production while trying to stabilize prices on a sound basis. The reason the Agricultural Adjustment Act, in spite of all the criticisms that have been directed against it, has performed that function is that it has taken into account the necessity of regulating or controlling production while trying to stabilize prices. If there is anyone here—I do not care what his politics is; I do not care what his views on economics may be—who can find any method of stabilizing the prices of products without regard to production, without regard to surpluses, he will do a favor to the country and to the world by bringing forward his plan.

The difficulty is that those who have tried and failed in connection with this problem content themselves with criticizing what has been done, but their criticism is not constructive in that they themselves fail to provide or suggest any remedy. I now yield to the Senator from Kentucky.

Mr. BARKLEY. Does the Senator understand the position of the Senator from South Dakota to be that we should have gone on producing the surpluses and then have tried to do something about it after the surpluses had piled up rather than undertake to avoid the surplus by some method of controlling production? Is that the view of the Senator from North Dakota?

Mr. FRAZIER. Mr. President, if the Senator will yield——

Mr. ROBINSON. I will yield if I have the floor.

Mr. FRAZIER. It will be remembered, Mr. President, when the three A bill was before the Agricultural Committee of the Senate at the last session, a provision was inserted upon motion of the Senator from Nebraska [Mr. NORRIS] that would guarantee to the farmers a fixed price for the principal farm commodities, based upon the cost of production for the amount used for home consumption, and the surplus was to be taken care of in some other way, regardless of what they got for the surplus; it should be shipped abroad or kept on the farm or carried over; but on the amount used for consumption at home the farmers were to be given the cost of production as is provided by the Democratic platform. The provision to which I have referred was stricken out in the House.

Mr. ROBINSON. Of course, there was advanced the theory that the purpose underlying the bill ought to be made the "parity price", and there was advanced the proposition that it should be made the "cost of production." But there were asserted in connection with the latter proposal at least two difficulties which seemed insuperable. In the first place, there was no consensus of opinion as to exactly what elements enter into the cost of production. There was a wide diversity or difference of conditions throughout the United States as to what the cost of production actually was. There was also a diversity of opinion as to what expenditures should be taken into consideration in determining the cost of production.

The plan finally incorporated in the Agricultural Adjustment Act was the "parity price" plan; that is, to give to agricultural products the same purchasing power possessed by other products during the base period. In order to do that the base period was fixed by statute, and a plan was worked out which was incorporated in the Agricultural Adjustment Act. It is true the parity price has not as yet been reached and maintained, but it is also true that it has been approached so that the purchasing power of staple agricultural products now is two times as great as it was when the bill was passed. That has accomplished a very wholesome purpose. Those who criticize the act and are not satisfied with the results which have been achieved ought to suggest a better plan than that which has been incorporated in the Agricultural Adjustment Act.

I recognize that there are some features of the legislation which are more or less arbitrary and which present difficulties. At the same time, taking the measure as a whole and its effects as a whole, it has been very wholesome, and the Congress dare not abandon it or repeal it. I make that challenge.

Mr. FRAZIER. Mr. President, I agree the plan has been wholesome and has been of benefit, but the parity price is below cost of production. The Secretary of Agriculture admits it. The head of the A. A. A. admits it. The Senator from Arkansas will admit that so long as the farmers get anything less than cost of production they will continue to go broke.

Mr. ROBINSON. Cost of production is in itself an unsatisfactory basis. Who desires to work all his life merely to realize what he has expended in his work? That is what "cost of production" in common sense means. It means what one must expend in order to produce. Cost of production is itself a standard which has no very great uniformity in economics. The parity price is a price under which the farmers may live, carry on their operations, and enjoy some measure of profit. It is much better than the price which existed prior to the enactment of the Agricultural Adjustment Act.

Mr. SMITH. Mr. President, will the Senator yield?

Mr. ROBINSON. Certainly.

Mr. SMITH. The period selected for parity was a time when it was ascertained that the purchasing power of the farm dollar was 100 percent. In other words, the value of the farmer's dollar was exactly equal to the value of the dollar represented by the things he bought.

Mr. ROBINSON. Approximately. "Parity prices", like many other terms which have been used, is a technical term. It is perhaps not entirely accurate to say that in any period the purchasing power of agricultural products was exactly 100 percent compared with all other products. The base period is the time when agricultural commodities were on a fair level with other commodities.

During the war we stimulated production in every way possible. Old men who had long been retired from work were encouraged to resume toiling in the fields, and women and children were encouraged to engage in agricultural production in order that we might be sure there would be an adequate supply for our men at the front and for those of other countries who were associated with us in carrying on the great world conflict. When the great guns were silenced and 4,000,000 of our men were disbanded and sent back from military service into peaceful pursuits, we had a problem which reflected itself in the affairs of the farmers more greatly than in the industrial organizations of the country. There was a disparity.

We were producing more agricultural products than were necessary, more than we could find a market for. There were surpluses and the prices of agricultural products were relatively low compared with industrial products. So the task confronted the country of restoring a measure of parity between agricultural commodities and industrial commodities. That is the task which was undertaken by the enactment of the Agricultural Adjustment Act. It has been nearly achieved. The farmers and the people of the country generally recognize that fact.

Mr. BANKHEAD. Mr. President, the debate on the amendment has drifted into a discussion of the fundamentals underlying the bill. I am pleased that it has done so because it was inevitable and proper that there should be a discussion of the principles involved and the effect which the administration of the Agricultural Adjustment Act had upon agriculture and upon the business of the country. I have been very greatly pleased with the splendid arguments made by the senior Senator from Arkansas [Mr. ROBINSON] and the senior Senator from South Carolina [Mr. SMITH]. It is not my purpose now to attempt to add any contributions to their statements upon the subject.

However, I think it may be well, as we are going to vote on the amendment, to point out the specific purpose of the amendment now under consideration and shortly to be voted on. The amendment has been requested by the administration. It is really pending on calendar of the Senate in the form of a separate bill reported sometime ago from the Committee on Agriculture and Forestry.

It will be recalled that when the original Agricultural Adjustment Act was passed there was incorporated in it—and the senior Senator from South Carolina [Mr. SMITH]

was the author of the plan—a provision for the acquisition of the farm credit cotton and cotton held by the cooperatives, and options were given to cotton farmers to take that cotton in lieu of producing an equal amount of new cotton. This amendment relates solely to that program.

Under the original bill the Department was required by mandatory provisions to dispose of that cotton by the 31st day of March 1936. That will come shortly after the beginning of the next session of the Congress. There may not be time prior to that date for proper consideration and action. It is certainly unwise, from the standpoint of the administration and the cotton grower, to have this quantity of cotton hanging over the market with a mandatory requirement that it shall be sold regardless of the price prevailing at the time.

The amendment, in the first place, simply removes that limitation upon the time of sale and leaves it in the discretion of the Secretary of Agriculture as to when the cotton shall be sold. That is advantageous, of course, as we all know. The sudden placing of a large quantity of cotton upon the market, thereby depressing the price, would be disadvantageous not only to the cotton producer but also from the standpoint of the Public Treasury, because a loan of 12 cents per pound has been advanced upon the cotton and it is not in the public interest, simply because of the original limitation in the act, that the entire quantity of cotton should be forced upon the market next spring.

The next provision in the amendment relates to assignments and transfers of the options granted to farmers under that program. The original bill provided that the contracts should be nonassignable. However, that fact was not thoroughly known throughout the district, and it developed that a number of the contracts were sold. The Comptroller General has held that under that section the purchasers and assignees are not proper holders of those options. The amendment simply provides recognition of those options transferred in good faith, where the Secretary finds that they were for full value and free from evidence of fraud or speculation by the assignees.

The other portion of the amendment extends the time of the R. F. C. loan to correspond to the first part of the amendment, which extends and places in the power of the Secretary the time for disposition of this cotton.

So I think, with this explanation, that there should be no real opposition to the adoption of this amendment, which relates almost entirely to the time of disposition, and is offered at the request of the administration.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, on page 69, after line 2, to insert:

SEC. 34. Section 6 of the Agricultural Adjustment Act is hereby repealed.

The amendment was agreed to.

The next amendment was on page 69, after line 4, to insert:

SEC. 35. Section 4 (b) of title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by striking out the words "to be available until March 1, 1936" and inserting at the end of said section a new sentence to read as follows: "This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of title 1 of this act, including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture."

The amendment was agreed to.

The next amendment was on page 69, after line 16, to insert:

SEC. 36. Section 4 (f) of title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by adding at the end thereof a new paragraph to read as follows:

"The word 'obligation' when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing of said cotton."

The amendment was agreed to.

The next amendment was, on page 70, line 1, after "Sec.", to strike out "32" and insert "37"; and in line 8, after the word "for", where it occurs the second time, to insert "scientific", so as to make the section read:

SEC. 37. The Secretary of Agriculture is authorized to use as much as he finds advisable of the funds appropriated by the second paragraph of Public Resolution No. 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the act entitled "An act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes", approved April 7, 1934, for scientific experimentation and efforts to eradicate Bang's disease in cattle. Such funds shall be available to carry out such section 6 and for the purposes for which funds are made available by this section until December 31, 1937, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere.

The amendment was agreed to.

The next amendment was, on page 70, line 16, after the word "Sec.", to strike out "33" and insert "38"; in the same line, after the word "shall", to insert "(a)"; in line 20, after the word "act", to insert "or (b)"; in the same line, after the matter just inserted, to strike out "nor shall anything contained in this act"; and in line 23, after the word "license", to insert: "or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this act, or subsequent to the enactment of this act in connection with a program initiated under such section 8 (1) prior to the enactment of this act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act", so as to make the section read:

SEC. 38. Nothing contained in this act shall (a) invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this act, or subsequent to the enactment of this act in connection with a program initiated under such section 8 (1) prior to the enactment of this act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act.

The amendment was agreed to.

Mr. BILBO. Mr. President, I offer an amendment to section 39, and ask unanimous consent to have it printed and lie on the table; and by agreement it is to go over until tomorrow.

The PRESIDING OFFICER. The amendment will be received, printed, and lie on the table.

Mr. COPELAND. Mr. President, I observe that the remaining portions of the bill are new. I ask unanimous consent that on page 73, beginning with line 18, the amendments to the Kerr Tobacco Act, going through to line 9 on page 77, be passed over for the day. I do that—and I apologize for making the request—because I have had some complaints from my State about the amendments, and I should like the opportunity to look at them before we take action here.

Mr. BANKHEAD. Mr. President, I am perfectly agreeable to that course. I am temporarily in charge of the bill, the Senator from South Carolina [Mr. SMITH] having been temporarily called from the Chamber. He is the author of the amendments and of the act. If agreeable to the Senator from New York, I prefer to pass over the matter tem-

porarily until the return of the Sennator from South Carolina to the Chamber. He will be back in a very short time.

Mr. COPELAND. Very well. I am only asking that I have an opportunity to look over the complaints I have received.

Mr. BANKHEAD. I say, let us just temporarily pass over the amendments. I would rather have that done.

Mr. COPELAND. Very well.

The PRESIDING OFFICER. The amendments referred to will be temporarily passed over.

Mr. FLETCHER. Mr. President, the next section as proposed by the committee, section 39, I contend ought not to be in the bill at all. I think section 39 has no true relation to the proposed legislation. It ought not to be proposed here; and I am going to ask that the committee amendment known as "section 30" be rejected wholly.

I am somewhat familiar with this question by reason of a study we made in the Committee on Banking and Currency and considerable hearings which we held when we had before us the Farm Credit Act of 1935. Last February a bill known as "Senate Bill 1384" was referred to the Committee on Banking and Currency. We had extended hearings on it; and this provision—practically the same thing, word for word—was proposed as an amendment to that bill. The committee examined the subject very carefully. The proposition was submitted in connection with section 12 of that bill, and the effort was to amend section 12 by inserting this sort of thing. The committee voted against it, voted it down, and would not allow it to be put on the bill, as it did not consider the proposition sound. When the bill came to the Senate the same matter was again proposed, and was offered in the Senate as an amendment to the Farm Credit Act of 1935. It was then discussed here, reviewed to a considerable extent, and rejected. Now it appears here as an amendment to this bill. When I read the bill I recognized it as an old acquaintance, and I inquired of Governor Myers about it, and I have a letter from him which I ask to have read by the clerk. I think it will be interesting to the whole Senate.

Mr. JOHNSON. Mr. President, will the Senator yield for a moment?

Mr. FLETCHER. I yield.

Mr. JOHNSON. I had risen merely for the purpose of suggesting, on behalf of the cooperative associations, that the amendment referred to would establish a principle which would return to plague those cooperative associations in the future, and they were hoping it would not be enacted as a part of the bill. I recognize that it does not affect the particular productions of the territory from which I come; but in that territory are located the greatest cooperative associations in the United States, and they feel that to establish a precedent such as would be established here by this amendment might ultimately interfere with the continued good work which those cooperatives are doing.

Mr. FLETCHER. I think the Senator is correct. The language would appear to limit the amendment to the marketing of cotton, but it will undoubtedly refer to the marketing of other commodities.

Mr. McKELLAR. No, Mr. President; it refers only to cotton. It is intended to apply only to cotton. If the Senator has any apprehension about its applying to any other cooperatives, all he will have to do is to suggest the words, and I shall certainly accept them.

Mr. JOHNSON. Mr. President, I recognize that what the Senator from Tennessee says is correct. The amendment does apply only to cotton, it is true; but it establishes a rule concerning loans to cooperative cotton associations which, if applied to other cooperative associations, would be not only detrimental, but in some instances absolutely ruinous.

Mr. FLETCHER. Mr. President, the Secretary of Agriculture discusses that matter in a letter which I have here.

Mr. McKELLAR. I wish to ask that this amendment go over.

Mr. FLETCHER. May I have the letter read?

Mr. McKELLAR. Certainly; but I wish the pending amendment to go over. I myself desire to offer an amendment to it; and I ask that it go over in its entirety.

Mr. FLETCHER. I ask that the letter be read.

Mr. BANKHEAD. Mr. President, when the junior Senator from Mississippi offered an amendment it was my understanding that he then asked unanimous consent, which was granted, that the matter go over until tomorrow. He asked to have the amendment printed and to lie on the table, and that the section go over until tomorrow.

Mr. McKELLAR. That will be entirely satisfactory.

Mr. FLETCHER. I have no objection to that, but I want the letter read.

Mr. McKELLAR. I offer an amendment to be printed and to lie upon the table.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. FLETCHER. Mr. President, I wish to have the letter read, so that it will go into the RECORD.

The PRESIDING OFFICER. The Senator from Florida asks that the clerk read a letter, and, without objection, the clerk will read.

The legislative clerk read as follows:

FARM CREDIT ADMINISTRATION,
Washington, D. C., July 9, 1935.

Hon. DUNCAN U. FLETCHER,
Chairman Senate Committee on Banking and Currency,
United States Senate.

DEAR SENATOR FLETCHER: Receipt is acknowledged of your letter of July 6, 1935, requesting my comments on the effect of the enactment of section 39 of bill H. R. 8492, entitled "An act to amend the Agricultural Adjustment Act, and for other purposes", passed by the House of Representatives on June 18, 1935, and reported with amendments to the Senate on July 3, 1935, by the Senate Committee on Agriculture and Forestry (S. Rept. No. 1011). The section in question reads as follows:

"SEC. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government *unless such association handles the products of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than such bona fide members.*" (Italics added.)

Under the prohibition contained in the foregoing amendment, no cotton cooperative association would be eligible for a loan from any agency of the Government unless such association handles the products or supplies of "bona fide cotton-producing members." The term "any agency of the Government" would prohibit the making of loans from the revolving fund provided for in the Agricultural Marketing Act, and from the Central Bank for Cooperatives and the regional banks for cooperatives created under the Farm Credit Act of 1935, and the Federal intermediate-credit banks, if the conditions stated in the amendment are not complied with.

While section 39 does not purport to amend any act of Congress, it will in fact amend subsection (a) of section 15 of the Agricultural Marketing Act, as amended by section 12 of the Farm Credit Act of 1935. Section 15 as amended reads as follows:

"(a) As used in this act, the term 'cooperative association' means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:

"First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and

"Second. That the association does not pay dividends on stock or membership capital in excess of 8 percent per annum.

"And in any case to the following:

"Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. *All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.*" (Italics added.)

It is evident that the proponents of section 39 are attempting to increase the eligibility requirements for credit of all cotton cooperatives and thereby deny to them the privileges which they now enjoy under the provisions of section 15 just above referred to. For example, these associations would be required to count as a part of their nonmember business any transaction carried on for the Government or any of its agencies.

In reality the amendment would render the American Cotton Cooperative Association ineligible to borrow from the Government or from the Central Bank for Cooperatives. At present this association is the central sales agency of 14 State or regional cooperative associations which are, in turn, owned or controlled solely by cotton farmers. While the association handles cotton of bona fide producers, its membership is made up of local cooperative associations of producers. Furthermore, the American Cotton

Cooperative Association would, in all probability, be rendered ineligible to borrow on account of the volume of cotton which it handles for the Agricultural Adjustment Administration and the Commodity Credit Corporation, all of which cotton would of necessity have to be regarded as a part of the products dealt in for persons other than bona fide cotton-producing members.

You will recall that on February 5, during the hearings before the Senate Committee on Banking and Currency on bill S. 1384 (the Farm Credit Act of 1935), Mr. George B. Coate, of Little Rock, Ark., appeared as a witness on behalf of the American Cotton Shippers Association, a trade association composed of cotton merchants. Mr. Coate objected to section 12 of the Farm Credit Act of 1935, which amended subsection (a) of section 15 of the Agricultural Marketing Act on the grounds that there existed no fundamental distinction between certain cooperative associations, including the American Cotton Cooperative Association, and cotton merchants. He contended, therefore, that the cotton merchants should either be entitled to the same credit facilities that are now extended by the Government to cotton cooperative associations or that there should be placed a definite limitation on the amount of nonmember business which such associations might handle and remain eligible to borrow, and that cotton handled for the Government should be regarded as nonmember business.

In principle I can see no difference between section 39 of bill H. R. 8492 and Mr. Coate's proposed amendment to the Farm Credit Act of 1935, which the Senate Committee on Banking and Currency declined to adopt. For your convenient reference I am attaching hereto a copy of part 2 of the hearings before the Senate Committee on Banking and Currency on bill S. 1384, on pages 66, 69, 70, 71, and 72, of which we have underscored the statements made by Mr. Coate to which I have referred.

I would like also to call to your attention the statements made by Mr. N. C. Williamson, a cotton farmer of Lake Providence, La., and the president of the American Cotton Cooperative Association, appearing on pages 73 to 83, part 2, of the report of the same hearing. I should like for you to consider particularly the statement by the Farm Credit Administration relating to complaints of cotton shippers against American cotton cooperative associations, which begins on page 76.

In this connection it seems to me that there is no basis for the complaints that have been made by cotton shippers and merchants, in view of the fact that the cooperative associations dealing in agricultural commodities are following accepted and recognized business practices. No law has been brought to my attention which prevents a cotton cooperative from functioning in this way. Any earnings which are made are for the ultimate advantage of the growers themselves. In 1934 the American Cotton Cooperative Association returned these surplus earnings to the growers in the form of a patronage dividend paid on a per-bale basis.

Although section 39 is directed only to the sale of cotton, its adoption may seriously affect the orderly marketing of other commodities. For instance, if the marketing of cotton may be made the subject of special legislation, designed to curtail the activities or available credit of the central sales agency for such commodity, local associations of producers of other agricultural products will hesitate to enter into any marketing programs which are dependent upon obtaining a line of credit from the Farm Credit Administration or from any of the institutions under its supervision for fear that the commercial agencies dealing in the same products may successfully promote similar legislation for their benefit.

In the circumstances I recommend that section 39 of bill H. R. 8492 be eliminated.

Sincerely yours,

W. I. MYERS, *Governor.*

Mr. FLETCHER. Mr. President, I have a copy of the hearings referred to, but I will not bother the Senate now to read from them. They are available, and the arguments and reasons pertaining to this proposition are very clearly set forth in the hearings before the Committee on Banking and Currency.

At the same time I inquired of Governor Myers about the effect of the amendment, in response to which inquiry he wrote the letter which has just been read; I inquired also of the Secretary of Agriculture, and since this matter has come up the reply of the Secretary has come to me. I have it here now, but it is getting late, and I will not ask to have it read. However, I ask to have it printed in the RECORD. He concludes by saying:

If cotton cooperatives can meet the qualifications which Congress has laid down and which are administered by these agencies, there would appear no justification for this provision which apparently discriminates against cotton cooperatives.

I ask to have the whole letter printed in the RECORD.

The PRESIDING OFFICER (Mr. CLARK in the chair). Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, July 10, 1935.

Hon. DUNCAN U. FLETCHER,
United States Senate.

DEAR SENATOR FLETCHER: You have asked me for comments on section 39 of H. R. 8492, which relates to cotton cooperatives, and undertakes to render ineligible cotton cooperative associations for Government credit "unless such association handles the products of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than such bona fide members."

Primarily this is a matter of concern to the Farm Credit Administration. Yet the question raised is, of course, of vital importance to the general principle of cooperative marketing. As you pointed out in your letter, the Banking and Currency Committee, in considering the Farm Credit Act of 1935, considered the complaints of the cotton trade which section 39 of H. R. 8492 seeks to relieve. Your committee at that time declined to adopt an amendment somewhat similar to the section under discussion.

There are two points which occur to me to merit special consideration. They are:

(1) By the use of the term "bona fide cotton-producing members" the section purports to qualify the concept of "members" as used in prior legislation pertaining to cooperative associations. Such legislation defining cooperative associations and setting up standards of qualification for them are: (a) The Capper-Volstead Act (42 Stat. 388 (1922)); (b) section 15 (a) of the Agricultural Marketing Act (approved June 15, 1929) (46 Stat. 18); (c) section 55 (a) of the Farm Credit Act of 1933, amending section 15 (a) of the Agricultural Marketing Act (48 Stat. 257); and (d) section 12 of the Farm Credit Act of 1935, amending the Agricultural Marketing Act and the Farm Credit Act of 1933 (Public, No. 87).

Appearing in all of these statutes is a provision that an association "shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members." The Farm Credit Act of 1933 and the Farm Credit Act of 1935 contain a further provision to the effect that the association "shall not deal in supplies for nonmembers to an amount greater in value than such as are handled by it for members." And while no qualification of the term "members" such as appears in section 39 is present in any of these statutes, they all uniformly make producer membership and producer control a basic essential of cooperative organization, with a proviso that operations shall be for the mutual benefit of members as producers. The use of the term "bona fide cotton-producing members" in this section is susceptible of an interpretation restricting farm-credit facilities to local independent cooperative associations, thus excluding organizations composed of local or independent cooperative associations. Although the prior legislation already referred to does not expressly allude to such organizations composed of a group of local or independent associations, the Capper-Volstead Act permits associations to have marketing agencies in common, and an opinion of the Attorney General (36 Op. Atty. Gen. 336 (1930)) has been rendered to the effect that loans by the Federal Farm Board, now the Federal Farm Administration, may be extended to such organizations provided they qualify otherwise.

(2) The second consideration which is of concern to the Agricultural Adjustment Administration relates to business transacted for or on behalf of the Government. In failing expressly to provide that business transacted by any cooperative association for the Government shall be disregarded in determining the volume of member and nonmember business transacted by such association, the section sets up a standard of qualification for obtaining credit facilities with respect to cotton cooperatives different from that applicable to all other classes of cooperatives under section 12 of the Farm Credit Act of 1935. This section provides that in calculating member and nonmember business done by any cooperative association, that transacted for or on behalf of the United States or any agency thereof be disregarded.

It is to be noted that section 12 of the Farm Credit Act of 1935 was enacted to cure a defect in prior legislation which did not contain a reference to business done for the United States and which, therefore, the Federal court in the case of *Board of Trade of City of Chicago* v. *Wallace* (67 F. (2d) 402 (1933)) interpreted as meaning that all business not done for members was to be regarded as having been done for nonmembers. The effect of section 39 of the proposed amendments, it is suggested, is to follow the interpretation of the court in the case just cited, particularly since the division is on the basis of "members" and "persons other than such bona fide members." It is, therefore, my view that section 39, which is in reality an amendment to the Farm Credit Act of 1935, should be considered apart from the amendments to the Agricultural Adjustment Act now pending. It would appear that if this amendment is adopted Congress would reverse its already established policy relative to farmer-owned and farmer-controlled marketing institutions. The question of membership structure is a matter which is under the jurisdiction of the Farm Credit Administration or the Bureau of Internal Revenue with reference to tax matters. If cotton cooperatives can meet the qualifications which Congress has laid down and which are administered by these agencies, there would appear no justification for this provision which apparently discriminates against cotton cooperatives.

Sincerely,

H. A. WALLACE, *Secretary.*

Mr. McKELLAR. Mr. President, this matter will be argued tomorrow, so I am not now going to take any time on it, except to say that this provision applies only to cotton cooperatives, and the cotton dealers of my section of the country are absolutely being put out of business by this cooperative association which is backed by the Government. In other words, money is furnished this cooperative association by the Government for the purpose of putting those engaged in the cotton trade absolutely out of business. Hundreds of them in my section of the country are being put out of business, and many are out of business already, as a matter of fact.

What is the result? The result is that the cotton trade is being monopolized by four great companies. What are those companies? One is Weil & Co., the next one is McFadden & Co., the next one is Anderson, Clayton & Co., and the fourth is the Cotton Cooperative Association, backed by the United States Government, and all the money necessary to put the cotton dealers out of business is furnished by the Government.

They do not confine their business to their members; they obtain the business from people who are not members. It was never intended that that should be done. They are going wholly out of bounds. All this amendment does is to provide that dealers who have been in the cotton business all the time, and who have managed it and controlled it well, and who have done a good job for the farmer, shall not be absolutely destroyed by a Government-controlled corporation. What is the result? The result is that these four great concerns—Anderson, Clayton & Co., Weil & Co., McFadden & Co., and the United States Government, through the cooperatives—are monopolizing the business.

What has the cooperative in cotton done? I desire to read a short joint resolution which was introduced by the Senator from North Dakota [Mr. FRAZIER]. I ask Senators to listen to this:

That for the purpose of adjustment and settlement of losses—

Settlement of losses—

sustained by the cooperative marketing associations dealing in grain during the stabilization operations of the Federal Farm Board in the years 1929 and 1930 when such cooperative marketing associations were induced and requested by the Federal Farm Board to withhold grain and/or cotton from the market and to make advances to their members in order to stabilize prices, the Federal Farm Credit Administration—

By the way, the Federal Farm Credit Administration is presided over by Dr. Myers, who has just written the letter which was put into the RECORD by the Senator from Florida [Mr. FLETCHER]—

is hereby authorized and directed to make such adjustments and settlements in accordance with the understanding that such cooperative marketing associations had with the Federal Farm Board, and on the basis of a price or a sum equal to the amount directly loaned or advanced to such associations plus carrying charges and operation costs in connection with such grain and/or cotton from the date of the loans or advances to the date that such grain and/or cotton was finally taken over by the Federal Farm Board or delivered pursuant to its instructions.

What does that mean? It means that the cooperative cotton associations went on the market and gambled in cotton during these years, and sustained enormous losses; and now they are asking the Government to pay back those losses when they gambled in the name of the Government!

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. FRAZIER. I am not interested in any losses of the cotton cooperatives——

Mr. McKELLAR. I thought the Senator from North Dakota was a cotton expert who was here offering a measure in the interest of the downtrodden cotton cooperatives of the South who had been gambling in cotton.

Mr. FRAZIER. No, no, Mr. President.

Mr. McKELLAR. The Senator's joint resolution has that effect.

Mr. FRAZIER. No; this joint resolution does not refer to gambling in cotton at all.

Mr. McKELLAR. Mr. President, it does not refer to it, but it provides that the United States Government shall make up the losses of the cotton cooperatives. That is what it does. I desire to give the Senator credit for offering to strike out cotton. I admire him and respect him for that; and whenever the joint resolution comes up, if he is willing to strike out cotton, I am perfectly willing that his joint resolution may be passed, because I do not know anything about wheat, and he knows something about it. I am not familiar with it. I know, however, that the cooperatives that this Government is backing is a monopoly, or an attempted monopoly, of the cotton business, have had their losses, and that the Government ought not to stand the losses.

Mr. President, what is the program? The program is that the Government goes into partnership with the cooperatives. If cotton goes down, the Government pays the losses. If it goes up, the cooperatives get the benefit. That is what it is. I do not think that is fair. I do not think it is fair to put all the private cotton dealers out of business for the benefit of cooperatives who have absolutely failed, with two exceptions. One is the Mississippi Long Staple Cotton Growers' Association—that is a splendid association—and the other is a new one which has grown up more recently.

As a matter of fact, if this joint resolution introduced by the Senator from North Dakota [Mr. FRAZIER] shall pass—and what he has to do with cotton I do not know; I do not think any cotton is grown in his part of the country—but if the joint resolution is passed as introduced by the Senator from North Dakota, it will cost the Government millions of dollars. For whose benefit? For the benefit of a lot of gamblers who were in a cotton cooperative association.

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. FRAZIER. I had no interest whatever in the cotton gamblers.

Mr. McKELLAR. The Senator is doing them a great service.

Mr. FRAZIER. The joint resolution as originally introduced applied only to the cooperatives dealing in wheat; but at the request of some of the cotton cooperatives they were included when the joint resolution was considered by the committee.

Mr. McKELLAR. It was a very fine gambling scheme for them to be included in this way, and the joint resolution came very near passing by unanimous consent in the Senate.

Mr. FRAZIER. It did pass the Senate last year.

Mr. McKELLAR. It got through by common consent, without anyone knowing it applied to cotton.

Mr. FRAZIER. The joint resolution simply provided that any losses should be put up to the Farm Credit Administration, which was to pass on the question; and I feel confident that the Farm Credit Administration would not approve the payment by the Government of any losses incurred in gambling on the market.

Mr. McKELLAR. The cooperatives bought cotton futures, just as other gamblers on the market did; and the mere fact that they operated under the title of "cooperatives" did not make it any less gambling. They lost, and the Senator's joint resolution undertakes to have the Government sustain those losses. I am opposed to that measure, and it was for that reason that I offered this amendment.

By the way, someone—I do not remember his name, and it is immaterial anyway—wrote a letter saying that this amendment was put in the bill by stealth. I ask the Chairman of the Senate Committee on Agriculture and Forestry if I did not come before the full committee with the amendment and ask that his committee adopt the amendment, and if I did not make an argument somewhat similar to that which I am making today in the Senate. I do not do things by stealth when it comes to legislation, or when it comes to anything else. That man was simply fabricating his story. That is all there is to it.

Mr. BANKHEAD. Mr. President, I wish to remind the Senator from Tennessee that, in addition to his coming before the committee, he offered the amendment on the floor of the Senate.

Mr. McKELLAR. Of course I did. If ever a matter was dealt with openly and aboveboard, this one was. I think

every Senator here will bear me out when I say I have never undertaken to "put anything over" upon this body or anybody else by stealth. I am not that kind of a man.

Tomorrow, Mr. President, I shall finish what I have to say about this matter.

Mr. McADOO. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

Mr. BORAH. Mr. President, I desire to return to a matter which I think we can dispose of without any debate or discussion, and that is the amendment on page 11, line 3, "wool and mohair."

I have canvassed the situation with regard to this amendment, and the Senator from New Mexico [Mr. HATCH] is entirely willing that the amendment should be rejected. So far as I know, the representatives of States which would be particularly interested are of the same view. Has the Senator from South Carolina any objection to that amendment being rejected?

Mr. SMITH. Not the slightest, because I think the amendment was put in the bill under the impression that it was desired by the wool producers; and if their representatives here desire it to go out, the Chairman of the Committee on Agriculture and Forestry has no objection.

Mr. BORAH. Mr. President, I ask that the amendment on page 11, to which I have just made reference, be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 11, line 3, after the word "milk", it is proposed to insert "wool and mohair."

Mr. BORAH. Mr. President, I ask that that amendment be rejected.

The PRESIDING OFFICER. The question is on the committee amendment on page 11, line 3. The amendment is rejected.

Mr. BANKHEAD. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

Mr. SMITH. Mr. President, I understand that we have now reached page 71, together with amendments which are passed over. If we take a recess now, we can begin tomorrow on page 71, with line 19. So far as I am concerned, as chairman of the committee, I should be very glad if we might now take a recess until tomorrow.

Mr. BLACK. Mr. President, I promised the Senator from South Carolina [Mr. BYRNES], who desires to submit some reports from his committee, to call a quorum before recess is taken. I am glad to do so, because I am interested in one of the reports he is to make. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson	Pittman
Ashurst	Coolidge	Keyes	Pope
Austin	Copeland	King	Radcliffe
Bachman	Costigan	La Follette	Reynolds
Bailey	Davis	Lewis	Robinson
Bankhead	Dickinson	Logan	Russell
Barbour	Dieterich	Lonergan	Schall
Barkley	Donahey	McAdoo	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	Frazier	McNary	Smith
Borah	George	Maloney	Steiwer
Brown	Gerry	Metcalf	Thomas, Okla.
Bulkley	Gibson	Minton	Townsend
Bulow	Glass	Moore	Trammell
Burke	Gore	Murphy	Truman
Byrd	Guffey	Murray	Tydings
Byrnes	Hale	Neely	Vandenberg
Capper	Harrison	Norbeck	Van Nuys
Caraway	Hastings	Norris	Wagner
Carey	Hatch	Nye	Walsh
Chavez	Hayden	O'Mahoney	Wheeler
Clark	Holt	Overton	White

Mr. LEWIS. Mr. President, I announce the absence of the Senator from Nevada [Mr. MCCARRAN], occasioned by a death in his family, and the absence of the Senator from Louisiana [Mr. LONG], detained in his home State by official matters.

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present.

RESOLUTIONS REPORTED FROM COMMITTEE TO AUDIT AND CONTROL THE CONTINGENT EXPENSES OF THE SENATE

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably with amendments Senate Resolutions 165, 147, and 169, and Senate Resolution 166 without amendment. I ask unanimous consent for their immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will state the resolutions for which the Senator from South Carolina requests consideration.

LOBBYING ACTIVITIES IN CONNECTION WITH HOLDING-COMPANY BILL

The Senate proceeded to consider the resolution (S. Res. 165), submitted by Mr. BLACK on the 2d instant, and reported this day by Mr. BYRNES from the Committee to Audit and Control the Continent Expenses of the Senate, with amendments.

The amendments of the Committee to Audit and Control the Contingent Expenses of the Senate were, on page 1, to strike out lines 1 to 7, inclusive, as follows:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of the lobbying activities in connection with the so-called "holding-company bill." The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendations.

And insert in lieu thereof the following:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of all lobbying activities and all efforts to influence, encourage, promote, or retard legislation, directly or indirectly, in connection with the so-called "holding-company bill", or any other matter or proposal affecting legislation. The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendation.

On the same page, line 12, after the word "employ", to strike out "such" and insert "and to call upon the executive departments for"; and on page 2, line 7, after the word "exceed", to strike out "$150,000" and insert "$50,000"; so as to make the resolution read:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of all lobbying activities and all efforts to influence, encourage, promote, or retard legislation, directly or indirectly, in connection with the so-called "holding company bill", or any other matter or proposal affecting legislation. The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendation.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth and succeeding Congresses, to employ and to call upon the executive departments for clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $50,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman.

The VICE PRESIDENT. The question is on agreeing to the amendments of the committee.

Mr. McNARY. Mr. President, I ask that the resolution go over for the day under the rule.

Mr. BLACK. Mr. President, may I suggest to the Senator that the resolution, insofar as policy is concerned, was unanimously approved by the Interstate Commerce Committee of the Senate?

Mr. McNARY. I appreciate that; but a request has come to me to have it go over for the day.

Mr. BLACK. Would the Senator object to stating who submitted the request?

Mr. McNARY. I object in my own right.

Mr. BLACK. I wish to give notice that tomorrow at 12 o'clock, as soon as the Senate convenes, I shall ask to proceed to the consideration of the resolution, and if there be objection, I shall make a motion to that effect.

The VICE PRESIDENT. On objection, the resolution will go over.

INVESTIGATION OF STEAMSHIP DISASTERS—LIMIT OF EXPENDITURES

The Senate proceeded to consider the resolution (S. Res. 147) submitted by Mr. COPELAND on June 3, 1935, reported this day by Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, with an amendment, in line 1, to strike out "$25,000" and insert in lieu thereof "$10,000", so as to make the resolution read:

Resolved, That the sum of $10,000 be made available to the Committee on Commerce from the contingent fund of the Senate to cover expenses incurred by the committee in the continued exercise of its privileges and duties prescribed by Senate Resolution No. 7, Seventy-fourth Congress, first session.

The amendment was agreed to.

The resolution as amended was agreed to.

PRODUCTION, TRANSPORTATION, AND MARKETING OF WOOL

The Senate proceeded to consider the resolution (S. Res. 160) submitted by Mr. ADAMS and Mr. STEIWER on June 24, 1935, and reported this day by Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, with amendments.

The amendments of the Committee to Audit and Control the Contingent Expenses of the Senate were, on page 1, line 1, before the word "Senators", to strike out "three" and insert "five"; on page 2, line 12, after the word "papers" and the comma, to insert "correspondence"; and in line 13, before the word "documents", to insert "other", so as to make the resolution read:

Whereas wool is one of the major agricultural products of many sections of the United States and is used in many industries and provides a substantial part of the commerce of the country; and

Whereas proper methods of marketing wool are essential to the establishment and maintenance of the prosperity of the industry; and

Whereas existing methods of marketing the wool crop have proved unsatisfactory to the wool producers of America: Therefore be it

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of the production, transportation, and marketing of wool. The committee shall report to the Senate, not later than the beginning of the second session of the Seventy-fourth Congress, the results of its investigations, together with its recommendations, if any, for necessary legislation.

For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth Congress, to employ such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, correspondence, and other documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $10,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman.

The amendments were agreed to.

The resolution as amended was agreed to.

LYDA BEERY

The resolution (S. Res. 166) submitted by Mr. COPELAND on the 8th instant and reported this day by Mr. BYRNES from the Committee to Audit and Control the Contingent Expenses of the Senate was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the appropriation miscellaneous items, contingent fund of the Senate, fiscal year 1935, to Lyda Beery, sister of Lutie M. Hart, late an assistant clerk to the Committee on Commerce of the Senate, a sum equal to 6 months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

ALICE L. WOOLMAN

Mr. McKELLAR. Mr. President, I ask unanimous consent that the nomination of Alice L. Woolman to be postmaster at Coweta, Okla., may be recommitted to the Committee on Post Offices and Post Roads.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

STATE ADMINISTRATORS IN WORKS PROGRESS ADMINISTRATION

The VICE PRESIDENT. The Chair lays before the Senate a message from the President of the United States, which will be read; and he will then ask the Senate's pleasure about the matter of the committee to which the nominations should be referred.

The legislative clerk read as follows:

THE WHITE HOUSE,
July 10, 1935.

To the Senate of the United States:

I nominate the following-named persons for appointment as State administrators in the Works Progress Administration, as follows:

Thad Holt, for Alabama.
W. R. Dyess, for Arkansas.
Frank Y. McLaughlin, for California.
Paul D. Shriver, for Colorado.
Matthew J. Daly, for Connecticut.
C. B. Treadway, for Florida.
J. L. Hood, for Idaho.
Robert J. Dunham, for Illinois.
Wayne Coy, for Indiana.
Evan Griffith, for Kansas.
George H. Goodman, for Kentucky.
John H. Mackall, for Maryland.
Harry Lynn Pierson, for Michigan.
Wayne Alliston, for Mississippi.
Victor Christgau, for Minnesota.
Matthew S. Murray, for Missouri.
Ray Hart, for Montana.
D. F. Felton, for Nebraska.
William H. J. Ely, for New Jersey.
Lea Rowland, for New Mexico.
Lester Herzog, for New York.
G. W. Coan, Jr., for North Carolina.
Thomas H. Moodie, for North Dakota.
E. W. S. Key, for Oklahoma.
E. J. Griffith, for Oregon.
Edward N. Jones, for Pennsylvania.
J. Burleigh Cheney, for Rhode Island.
Lawrence Pinckney, for South Carolina.
M. A. Kennedy, for South Dakota.
Harry S. Berry, for Tennessee.
H. P. Drought, for Texas.
Darrell J. Greenwell, for Utah.
William A. Smith, for Virginia.
George H. Gannon, for Washington.

FRANKLIN D. ROOSEVELT.

The VICE PRESIDENT. The Appropriations Committee handled the legislation under which the nominations are submitted. As a usual thing, very few nominations go to

that committee. The Chair wishes to have the Senate discuss the matter and determine the reference of the nominations.

Mr. McNARY. Mr. President, inasmuch as the Appropriations Committee has jurisdiction of the general legislation, I think it is very clear that the nominations should be referred to that committee.

Mr. McKELLAR. Mr. President, I believe several similar nominations have already been referred to the Appropriations Committee, and it would be carrying out that precedent to refer these nominations to it. I think one previous nomination went to another committee, though I do not remember what committee it was.

I think the nominations should be referred to the Appropriations Committee.

The VICE PRESIDENT. Without objection, the nominations will be referred to the Committee on Appropriations.

The calendar is now in order.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters on the calendar be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 10 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Thursday, July 11, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 10 (legislative day of May 13), 1935

ASSISTANT ATTORNEY GENERAL

John Dickinson, of Pennsylvania, to be an assistant attorney general, vice Harold M. Stephens, appointed assistant to the Attorney General.

PUBLIC HEALTH SERVICE

Dr. Thornburn S. McGowan to be assistant surgeon in the United States Public Health Service, to take effect from date of oath.

STATE ENGINEER FOR PUBLIC WORKS ADMINISTRATION

Robert A. Radford, of Minnesota, to be State engineer for the Public Works Administration in Minnesota.

STATE ADMINISTRATORS IN THE WORKS PROGRESS ADMINISTRATION

Thad Holt, for Alabama.
W. R. Dyess, for Arkansas.
Frank Y. McLaughlin, for California.
Paul D. Shriver, for Colorado.
Matthew J. Daly, for Connecticut.
C. B. Treadway, for Florida.
J. L. Hood, for Idaho.
Robert J. Dunham, for Illinois.
Wayne Coy, for Indiana.
Evan Griffith, for Kansas.
George H. Goodman, for Kentucky.
John H. Mackall, for Maryland.
Harry Lynn Pierson, for Michigan.
Wayne Alliston, for Mississippi.
Victor Christgau, for Minnesota.
Matthew S. Murray, for Missouri.
Ray Hart, for Montana.
D. F. Felton, for Nebraska.
William H. J. Ely, for New Jersey.
Lea Rowland, for New Mexico.
Lester Herzog, for New York.
G. W. Coan, Jr., for North Carolina.
Thomas H. Moodie, for North Dakota.
E. W. S. Key, for Oklahoma.
E. J. Griffith, for Oregon.
Edward N. Jones, for Pennsylvania.
Lawrence Pinckney, for South Carolina.
M. A. Kennedy, for South Dakota.
Harry S. Berry, for Tennessee.
H. P. Drought, for Texas.
Darrell J. Greenwell, for Utah.
William A. Smith, for Virginia.
George H. Gannon, for Washington.
J. Burleigh Cheney, for Rhode Island.

POSTMASTERS

ALABAMA

Grace C. Spangler to be postmaster at Leighton, Ala., in place of S. E. Sanderson. Incumbent's commission expired December 16, 1934.

Jeptha H. Blake to be postmaster at Sheffield, Ala., in place of E. L. Kiick, removed.

ARIZONA

Caleb O. Rice to be postmaster at Douglas, Ariz., in place of E. J. Huxtable. Incumbent's commission expired January 13, 1935.

Zola W. Buffington to be postmaster at Pima, Ariz., in place of A. E. Weech. Incumbent's commission expired February 25, 1935.

Wilcie G. Hoel to be postmaster at Peoria, Ariz., in place of J. M. Turner. Incumbent's commission expired February 4, 1935.

John Murray to be postmaster at Snowflake, Ariz. Office became Presidential July 1, 1935.

Burt Fox to be postmaster at Wickenburg, Ariz., in place of B. A. Wilmoth, resigned.

ARKANSAS

Bascom B. Bevens to be postmaster at Booneville, Ark., in place of J. L. Callahan, resigned.

Raymond M. Moore to be postmaster at Vilonia, Ark., in place of Dalton Matthews, resigned.

Isaac Franklin Jennings to be postmaster at Leslie, Ark., in place of B. L. Castleberry, deceased.

CALIFORNIA

Alfred A. True to be postmaster at Barstow, Calif., in place of A. A. True. Incumbent's commission expired February 4, 1935.

Max Lynn Green to be postmaster at Glendale, Calif., in place of E. F. Heisser. Incumbent's commission expired February 4, 1935.

Lutheria F. Cunningham to be postmaster at Saratoga, Calif., in place of C. V. Stoute. Incumbent's commission expired January 22, 1935.

Ada McIntire to postmaster at Azusa, Calif., in place of J. W. Calvert, Jr., resigned.

Ruby M. Podva to be postmaster at Danville, Calif., in place of Emma Dodge, resigned.

Ernest Martin to be postmaster at San Bernardino, Calif., in place of S. G. Batchelor. Incumbent's commission expired February 14, 1935.

Mat Alfred Schaeffer to be postmaster at Vernalis, Calif. Office became Presidential July 1, 1935.

Ollye Beard to be postmaster at Yorba Linda, Calif., in place of F. W. Stahler. Incumbent's commission expired December 18, 1934.

COLORADO

Lena Humiston to be postmaster at Bayfield, Colo. Office became Presidential July 1, 1935.

Rose Richards to be postmaster at Buena Vista, Colo., in place of T. E. Sexton, resigned.

Rudolph G. Verzuh to be postmaster at Crested Butte, Colo., in place of F. J. Dyer, resigned.

Jenner A. Hames to be postmaster at Genoa, Colo., in place of E. P. Owen, deceased.

Anna May Durham to be postmaster at Mount Morrison, Colo. Office became Presidential July 1, 1935.

Cleatus G. Marshall to be postmaster at Pagosa Springs, Colo., in place of L. L. Marsh. Incumbent's commission expired June 17, 1934.

CONNECTICUT

Helen O. Gatchell to be postmaster at Andover, Conn., in place of G. M. Bartlett. Incumbent's commission expired January 13, 1935.

Frank E. Hurgin to be postmaster at Bethel, Conn., in place of C. K. Bailey. Incumbent's commission expired December 18, 1934.

Lawrence T. Loftus to be postmaster at Broad Brook, Conn., in place of H. A. Middleton. Incumbent's commission expired December 18, 1934.

Pauline I. Olie to be postmaster at Pequabuck, Conn., in place of M. M. Olie. Incumbent's commission expired June 20, 1934.

John L. Walker to be postmaster at Ridgefield, Conn., in place of G. L. Rockwell. Incumbent's commission expired December 8, 1932.

FLORIDA

Florence M. Bowman to be postmaster at Clermont, Fla., in place of I. H. Boyd. Incumbent's commission expired February 27, 1935.

Montrose W. Neeley to be postmaster at Wabasso, Fla. Office became Presidential July 1, 1935.

GEORGIA

Essie T. Patterson to be postmaster at Byromville, Ga. Office became Presidential July 1, 1935.

Jim Lou Cox Hoggard to be postmaster at Camilla, Ga., in place of G. W. McKnight. Incumbent's commission expired June 4, 1934.

Joseph D. Holland to be postmaster at Nashville, Ga., in place of B. L. Bennett, removed.

Zack L. Strange to be postmaster at Collegeboro, Ga., in place of G. H. Wells, resigned.

Peyton T. Anderson to be postmaster at Macon, Ga., in place of F. D. Stephens, deceased.

Thomas Archie Pearson to be postmaster at Nicholls, Ga., in place of E. A. Meeks. Incumbent's commission expired March 8, 1934.

William E. Fitts to be postmaster at Rocky Ford, Ga. Office became Presidential July 1, 1935.

Watson K. Barkeron to be postmaster at Sardis, Ga. Office became Presidential July 1, 1935.

IDAHO

Harold E. Landacre to be postmaster at Dubois, Idaho, in place of B. H. Thomas, resigned.

ILLINOIS

Floyd Wells to be postmaster at Barry, Ill., in place of E. C. O'Brien, removed.

Everett Sherman Howell to be postmaster at Bluford, Ill., in place of H. E. Wood, deceased.

William D. Milnes to be postmaster at Maroa, Ill., in place of W. W. Ward. Incumbent's commission expired January 22, 1935.

Joseph L. Lynch to be postmaster at Oak Park, Ill., in place of L. B. McAllister. Incumbent's commission expired February 14, 1935.

Audrey U. Banks to be postmaster at Willow Springs, Ill. Office became Presidential July 1, 1935.

Anthony V. Wallace to be postmaster at Windsor, Ill., in place of C. S. Hoots. Incumbent's commission expired December 18, 1934.

Frank M. Bradley to be postmaster at Geneseo, Ill., in place of G. J. Rohweder. Incumbent's commission expired January 28, 1935.

Charles Clark Angle to be postmaster at Hillview, Ill. Office became Presidential July 1, 1935.

Robert E. Gamble to be postmaster at Kirkwood, Ill., in place of O. H. Akin. Incumbent's commission expired December 18, 1934.

William D. Newcomer to be postmaster at Leaf River, Ill. Office became Presidential July 1, 1935.

James Carson to be postmaster at Mahomet, Ill. Office became Presidential July 1, 1935.

Ellis J. O'Daniel to be postmaster at New Lenox, Ill. Office became Presidential July 1, 1935.

Jacob A. Hirsbrunner to be postmaster at Olivet, Ill. Office became Presidential July 1, 1935.

Florence Myrtle Allison to be postmaster at Onarga, Ill., in place of G. H. Townsend. Incumbent's commission expired June 24, 1934.

Raymond L. Modro to be postmaster at Varna, Ill. Office became Presidential July 1, 1935.

INDIANA

Joseph A. McCormick to be postmaster at Ambia, Ind. Office became Presidential July 1, 1935.

Liza A. Leonard to be postmaster at Birdseye, Ind., in place of Fred Austin, resigned.

Neola S. True to be postmaster at Demotte, Ind. Office became Presidential July 1, 1935.

Norma L. A. Koerner to be postmaster at Huntingburg, Ind., in place of O. C. Wulfman. Incumbent's commission expired February 21, 1935.

William S. Courtney to be postmaster at Jamestown, Ind., in place of E. B. Spohr. Incumbent's commission expired December 18, 1933.

Alton Byrd to be postmaster at Ladoga, Ind., in place of H. T. Hines. Incumbent's commission expired April 29, 1933.

Stella Cisco to be postmaster at Madison, Ind., in place of H. E. Nichols, removed.

Blanche Webster to be postmaster at Bloomingdale, Ind., in place of J. G. Evans, removed.

Lawrence H. Barkley to be postmaster at Moores Hill, Ind., in place of C. B. Thomas. Incumbent's commission expired December 9, 1934.

IOWA

John B. Murphy to postmaster at Fairbank, Iowa, in place of G. F. Monroe. Incumbent's commission expired January 22, 1935.

Edward A. Kregel to be postmaster at Garnavillo, Iowa, in place of W. B. Kuenzel. Incumbent's commission expired April 28, 1934.

Earle F. Rex to be postmaster at Odebolt, Iowa, in place of O. W. Larson. Incumbent's commission expired February 14, 1935.

Francis W. Aubry to be postmaster at Perry, Iowa, in place of W. T. Stockton. Incumbent's commission expired December 20, 1934.

Mack C. DeLong to be postmaster at Washington, Iowa, in place of Harry McCall. Incumbent's commission expired December 20, 1934.

Jimmie N. Hopkins to be postmaster at Whiting, Iowa, in place of R. I. Polly. Incumbent's commission expired June 26, 1934.

LeVerne Riggs to be postmaster at Cumberland, Iowa, in place of C. A. Worthington, resigned.

Thomas H. Kenefick to be postmaster at Eagle Grove, Iowa, in place of B. S. Borwey, transferred.

Raymond A. Johnson to be postmaster at Latimer, Iowa. Office became Presidential July 1, 1935.

William H. Theisen to be postmaster at Palmer, Iowa. Office became Presidential July 1, 1935.

Lee E. Finders to be postmaster at Oelwein, Iowa, in place of J. W. Dwyer, removed.

Charles A. Alter to be postmaster at Persia, Iowa, in place of C. M. Willard, deceased.

Charles B. Chapman to be postmaster at Prescott, Iowa, in place of O. M. Green. Incumbent's commission expired December 18, 1933.

Marie Eilers to be postmaster at Steamboat Rock, Iowa. Office became Presidential July 1, 1935.

KANSAS

Ralph A. Ward to be postmaster at Alden, Kans. Office became Presidential July 1, 1935.

Elmer E. Howerton to be postmaster at Blue Mound, Kans., in place of C. L. Porter. Incumbent's commission expired February 4, 1935.

Ralph Russell to be postmaster at Hutchinson, Kans., in place of D. J. Wilson, resigned.

Joseph Earl Gegley to be postmaster at La Cygene, Kans., in place of G. E. Goodson. Incumbent's commission expired December 20, 1934.

Moses P. Davis to be postmaster at Madison, Kans., in place of H. V. Baxter. Incumbent's commission expired June 20, 1934.

William R. Jones to be postmaster at Reading, Kans. Office became Presidential July 1, 1935.

Wendel J. Schulte to be postmaster at Westphalia, Kans., in place of Elmer Alban. Incumbent's commission expired December 20, 1934.

John H. Eckhart to be postmaster at Almena, Kans., in place of P. F. Grout. Incumbent's commission expired January 13, 1935.

Lindsey S. Haile to be postmaster at Howard, Kans., in place of Austin Kinzey, resigned.

Alfred L. Hastings to be postmaster at Thayer, Kans., in place of W. A. Walt. Incumbent's commission expired January 22, 1935.

KENTUCKY

Charles W. Hardin to be postmaster at Crestwood, Ky., in place of W. C. West, resigned.

Mildred Fiechter to be postmaster at Cumberland, Ky., in place of L. B. Davisworth, removed.

Robert E. Wallace to be postmaster at Greenville, Ky., in place of O. S. Curd. Incumbent's commission expired December 18, 1934.

Oscar D. Smith to be postmaster at Jamestown, Ky., in place of L. G. Bernard, resigned.

Verna A. Applegate to be postmaster at West Point, Ky., in place of J. S. Jones. Incumbent's commission expired January 13, 1935.

Charles A. Myers to be postmaster at Bandana, Ky. Office became Presidential July 1, 1935.

Gertrude Owens to be postmaster at Brodhead, Ky. Office became Presidential July 1, 1935.

Ernest Muster to be postmaster at East Bernstadt, Ky. Office became Presidential July 1, 1935.

Hallie Casey to be postmaster at Loyall, Ky., in place of N. E. Sergent, resigned.

Harry Greene to be postmaster at Milburn, Ky. Office became Presidential July 1, 1935.

Arthur K. Slaton to be postmaster at Slaughters, Ky. Office became Presidential July 1, 1935.

MAINE

Charles L. Ripley to be postmaster at Andover, Maine, in place of E. M. McAllister. Incumbent's commission expired May 29, 1934.

Loton R. Pitts to be postmaster at Naples, Maine, in place of G. H. Rounds. Incumbent's commission expired May 7, 1934.

George L. Hawes to be postmaster at East Corinth, Maine. Office became Presidential July 1, 1935.

MARYLAND

Claudine M. Friend to be postmaster at Friendsville, Md., in place of J. W. Friend. Incumbent's commission expired February 27, 1935.

Nena M. Jamison to be postmaster at Walkersville, Md. Office became Presidential July 1, 1935.

MASSACHUSETTS

Francis H. Nolan to be postmaster at Avon, Mass., in place of E. C. Crane. Incumbent's commission expired January 23, 1935.

Matthew M. Daley to be postmaster at Brookfield, Mass., in place of L. E. Estey. Incumbent's commission expired January 22, 1935.

William F. Whitty to be postmaster at Canton, Mass., in place of W. L. Burt, transferred.

Patrick H. McIntyre to be postmaster at Clinton, Mass., in place of P. H. McIntyre. Incumbent's commission expired December 13, 1928.

James D. Sullivan to be postmaster at Danvers, Mass., in place of W. B. Morse. Incumbent's commission expired December 8, 1932.

J. Francis Currie to be postmaster at East Bridgewater, Mass., in place of H. W. Collamore. Incumbent's commission expired January 22, 1935.

Stephen E. Malone to be postmaster at East Long Meadow, Mass., in place of L. D. Glynn. Incumbent's commission expired June 17, 1934.

Edmund C. Tyler to be postmaster at Great Barrington, Mass., in place of W. J. Williams, retired.

George L. Magner to be postmaster at Hingham, Mass., in place of G. F. Wason, resigned.

P. Victor Casavant to be postmaster at Natick, Mass., in place of F. H. Buckley. Incumbent's commission expired February 4, 1935.

David J. Templeton to be postmaster at North Cohasset, Mass. Office became Presidential July 1, 1935.

William F. Goodwin to be postmaster at Plymouth, Mass., in place of H. M. Douglas, retired.

William F. Ring to be postmaster at Sharon, Mass., in place of R. A. Clark. Incumbent's commission expired December 12, 1932.

Myrtice S. King to be postmaster at Upton, Mass., in place of M. S. King. Incumbent's commission expired June 17, 1934.

Mary M. Hill to be postmaster at West Groton, Mass. Office became Presidential July 1, 1934.

Thaddeus B. Fenno to be postmaster at Westminster, Mass., in place of T. B. Fenno. Incumbent's commission expired April 2, 1934.

Myra G. Jordan to be postmaster at West Upton, Mass., in place of M. G. Jordan. Incumbent's commission expired December 18, 1934.

Thomas F. Coady to be postmaster at North Attleboro, Mass., in place of E. B. Flint. Incumbent's commission expired February 27, 1935.

Timothy W. Fitzgerald to be postmaster at Salem, Mass., in place of Albert Pierce, resigned.

Frank J. Lucey to be postmaster at Wenham, Mass., in place of E. V. Cook. Incumbent's commission expired February 4, 1935.

MICHIGAN

Daniel A. Holland to be postmaster at Hancock, Mich., in place of Andrew Bram. Incumbent's commission expired February 25, 1935.

Claude E. Cady to be postmaster at Lansing, Mich., in place of W. G. Rogers. Incumbent's commission expired January 13, 1935.

Geraldine M. O'Hearn to be postmaster at Marne, Mich. Office became Presidential July 1, 1935.

Frank D. Kruger to be postmaster at Ravenna, Mich., in place of J. F. Reed, removed.

George A. Buchmiller to be postmaster at Watersmeet, Mich., in place of Bea Kelly. Incumbent's commission expired December 18, 1934.

Verne R. Moran to be postmaster at Carney, Mich. Office became Presidential July 1, 1935.

MINNESOTA

Ralph J. Dolan to be postmaster at Arlington, Minn., in place of C. W. Strebel. Incumbent's commission expired April 2, 1934.

Charles E. Gravel to be postmaster at Onamia, Minn., in place of Henry Goulet. Incumbent's commission expired April 9, 1932.

Leslie R. Lisle to be postmaster at Royalton, Minn., in place of H. M. Logan, deceased.

MISSISSIPPI

Samuel N. Shelton to be postmaster at Alcorn, Miss. Office became Presidential July 1, 1935.

Christopher R. Berry to be postmaster at Benton, Miss. Office became Presidential July 1, 1935.

Sarah R. Lee to be postmaster at Carrollton, Miss., in place of M. J. Nye. Incumbent's commission expired March 2, 1935.

Anice N. Graves to be postmaster at Houlka, Miss., in place of M. A. Joyner. Incumbent's commission expired December 16, 1934.

Boyd D. McMillin to be postmaster at Louisville, Miss., in place of S. M. Jordan. Incumbent's commission expired March 2, 1935.

Billie B. Boyd to be postmaster at McCool, Miss., in place of E. L. Vanlandingham. Incumbent's commission expired May 29, 1934.

Ethel Young to be postmaster at Nettleton, Miss., in place of O. C. Elliott. Incumbent's commission expired January 10, 1935.

Mary G. Flowers to be postmaster at Roxie, Miss. Office became Presidential July 1, 1935.

Andrew J. Roper to be postmaster at Saltillo, Miss. Office became Presidential July 1, 1935.

Conon D. Hawkins to be postmaster at Vardaman, Miss., in place of A. V. Lamar. Incumbent's commission expired June 14, 1933.

Francis C. Hayden to be postmaster at Vaughan, Miss. Office became Presidential July 1, 1935.

Oliver W. Catchings to be postmaster at Woodville, Miss., in place of E. A. Wood, resigned.

MISSOURI

Chester M. Eoff to be postmaster at Knox City, Mo., in place of C. F. McKay, removed.

George T. Duggins to be postmaster at Marshall, Mo., in place of Fred Fair. Incumbent's commission expired February 4, 1935.

Mary G. Kenton to be postmaster at Norborne, Mo., in place of G. H. Thomas, removed.

Harry E. Rothe to be postmaster at O'Fallon, Mo., in place of F. M. Meinert, removed.

Leta D. Smith to be postmaster at Pineville, Mo., in place of Hubert Lamb. Incumbent's commission expired April 8, 1934.

Joseph D. Stewart to be postmaster at Chillicothe, Mo., in place of J. M. Gallatin. Incumbent's commission expired May 13, 1934.

Charles A. Stallings to be postmaster at Morley, Mo., in place of R. J. Tomlinson. Incumbent's commission expired December 9, 1934.

Helen J. Baysinger to be postmaster at Rolla, Mo., in place of A. A. Smith, removed.

MONTANA

Mearl L. Fagg to be postmaster at Billings, Mont., in place of Edwin Grafton. Incumbent's commission expired January 22, 1935.

Joseph E. Swindlehurst, Jr., to be postmaster at Livingston, Mont., in place of Joseph Brooks. Incumbent's commission expired February 27, 1935.

Mary E. Matthews to be postmaster at Oilmont, Mont. Office became Presidential July 1, 1935.

Margaret Huppe to be postmaster at Roundup, Mont., in place of B. A. Davison. Incumbent's commission expired March 2, 1935.

NEBRASKA

Carl S. Carrell to be postmaster at Bassett, Nebr., in place of M. R. McCulley. Incumbent's commission expired February 21, 1935.

Ralph L. Ferris to be postmaster at Boelus, Nebr., in place of Edward Ericksen, removed.

David A. Rose to be postmaster at Brunswick, Nebr. Office became Presidential July 1, 1935.

Gladys G. Rockhold to be postmaster at Comstock, Nebr., in place of S. T. Stevens. Incumbent's commission expired February 21, 1935.

Cecil Brundige to be postmaster at Litchfield, Nebr., in place of R. L. Douglas. Incumbent's commission expired January 23, 1935.

Archer E. Ovenden to be postmaster at Pawnee City, Nebr., in place of C. A. Barker. Incumbent's commission expired February 21, 1935.

Rose T. Fleming to be postmaster at Monroe, Nebr. Office became Presidential July 1, 1935.

NEVADA

Margaret F. Rackliffe to be postmaster at Mina, Nev., in place of G. G. Thompson, resigned.

John J. Noone to be postmaster at Goldfield, Nev., in place of V. J. Ruse. Incumbent's commission expired December 8, 1934.

NEW HAMPSHIRE

William J. Neal to be postmaster at Meredith, N. H., in place of W. T. Lance, deceased.

Glea L. Rand to be postmaster at Plymouth, N. H., in place of E. M. Barker, retired.

NEW JERSEY

Alexander W. McNeill to be postmaster at Ridgewood, N. J., in place of J. G. Gallagher, deceased.

Arthur M. Kimble to be postmaster at Sussex, N. J., in place of Wilbur Fuller. Incumbent's commission expired February 4, 1935.

Clarence W. Felmey to be postmaster at Millville, N. J., in place of W. G. Barber. Incumbent's commission expired December 14, 1932.

Clarence S. Grover to be postmaster at Hightstown, N. J., in place of J. C. Norris, removed.

John V. Haring to be postmaster at Oradell, N. J., in place of L. J. Higinson, transferred.

Mary R. Warren to be postmaster at Tuckahoe, N. J. Office became Presidential July 1, 1935.

NEW YORK

Andrew D. Peloubet to be postmaster at Athens, N. Y., in place of M. R. Masten. Incumbent's commission expired December 8, 1934.

William H. Dummeyer to be postmaster at Atlantic Beach, N. Y. Office became Presidential July 1, 1935.

Theodore Thomas Smith to be postmaster at Camden, N. Y., in place of C. R. Phelps. Incumbent's commission expired April 28, 1934.

Ellen Longpre to be postmaster at Copiague, N. Y., in place of N. S. Tompkins, resigned.

Harrie J. Millspaugh to be postmaster at Corning, N. Y., in place of B. W. Wellington. Incumbent's commission expired February 20, 1935.

Helen S. Peck to be postmaster at Crown Point, N. Y., in place of W. F. Bruno. Incumbent's commission expired December 16, 1933.

James F. Stott to be postmaster at Elsmere, N. Y. Office became Presidential July 1, 1935.

Sylvia F. Kenney to be postmaster at Long Eddy, N. Y. Office became Presidential July 1, 1935.

Frank S. Tracey to be postmaster at Middleport, N. Y., in place of F. H. Sheldon. Incumbent's commission expired January 22, 1935.

Joseph A. Strodel to be postmaster at Minoa, N. Y., in place of C. E. Brown. Incumbent's commission expired December 20, 1934.

Joseph F. Hubert to be postmaster at Northport, N. Y., in place of R. M. Darling. Incumbent's commission expired January 22, 1935.

Harold E. Bollier to be postmaster at North Tonawanda, N. Y., in place of C. A. Gaylord. Incumbent's commission expired December 20, 1934.

John H. Douglass to be postmaster at Orient, N. Y., in place of H. C. King. Incumbent's commission expired April 28, 1934.

Harry Ray Phelps to be postmaster at Painted Post, N. Y., in place of J. R. Wilder. Incumbent's commission expired February 20, 1935.

George Arata to be postmaster at Sea Cliff, N. Y., in place of F. R. Hanson, resigned.

Charles S. Donnelley to be postmaster at Utica, N. Y., in place of W. M. Philleo, retired.

John W. Gurnett to be postmaster at Watkins Glen, N. Y., in place of F. L. Millen. Incumbent's commission expired February 20, 1935.

Walter J. Reynolds to be postmaster at Woodhull, N. Y. Office became Presidential July 1, 1935.

NORTH CAROLINA

John R. Teague to be postmaster at Henderson, N. C., in place of C. P. Wright, retired.

Eugene J. Johnson to be postmaster at Wallace, N. C., in place of W. B. Knowles. Incumbent's commission expired December 20, 1934.

NORTH DAKOTA

Ella M. Nevin to be postmaster at Bathgate, N. Dak., in place of Victoria Quesnel. Incumbent's commission expired April 15, 1934.

August M. Bruschwein to be postmaster at Driscoll, N. Dak., in place of A. M. Bruschwein. Incumbent's commission expired January 22, 1935.

Everal J. McKinnon to be postmaster at Ross, N. Dak. Office became Presidential July 1, 1935.

Raymond Long to be postmaster at Upham, N. Dak., in place of J. G. Sigurdson. Incumbent's commission expired February 28, 1933.

Norbert T. Connery to be postmaster at Gackle, N. Dak., in place of George Hummel, removed.

Herbert J. Simon to be postmaster at Lakota, N. Dak., in place of Catherine Lynch, removed.

OHIO

Raymond C. Ritenour to be postmaster at Cedarville, Ohio, in place of Gertrude Stormont. Incumbent's commission expired December 18, 1934.

Frank J. Lange to be postmaster at Kelleys Island, Ohio, in place of W. M. Schnittker. Incumbent's commission expired February 4, 1935.

William N. Long to be postmaster at Kingsville, Ohio. Office became Presidential July 1, 1935.

Leo M. Keller to be postmaster at Nevada, Ohio, in place of J. S. DeJean, removed.

Fred L. Decker to be postmaster at Ostrander, Ohio. Office became Presidential July 1, 1935.

Vance K. McVicker to be postmaster at West Salem, Ohio, in place of D. G. Keener, resigned.

Franklyn W. Thomas to be postmaster at Bowling Green, Ohio, in place of R. P. Crane, retired.

John M. Paull to be postmaster at Conneaut, Ohio, in place of H. B. Kurtz, resigned.

Archie L. Wardeska to be postmaster at Irondale, Ohio. Incumbent's commission expired July 1, 1935.

Clare S. Myers to be postmaster at Roseville, Ohio, in place of Mayme Pemberton. Office became Presidential January 23, 1935.

Howard Barns to be postmaster at Sabina, Ohio, in place of J. M. Washington. Office became Presidential February 14, 1935.

Stanley Lynn to be postmaster at Thornville, Ohio, in place of W. S. Kindle. Office became Presidential February 20, 1935.

Frank M. Fox to be postmaster at Waynesville, Ohio, in place of R. H. Hartsock. Office became Presidential December 18, 1934.

OKLAHOMA

Hugh Foreman to be postmaster at Duke, Okla., in place of M. C. Heidenreich. Incumbent's commission expired December 18, 1934.

Ray M. Hubbert to be postmaster at Fargo, Okla., in place of D. M. Tyrrell, deceased.

Louie S. Andersen to be postmaster at Harrah, Okla., in place of I. N. Ferguson. Incumbent's commission expired February 25, 1935.

Earl Witten to be postmaster at Pauls Valley, Okla., in place of J. E. Ventress. Incumbent's commission expired April 28, 1934.

Watson L. Thurston to be postmaster at Wewoka, Okla., in place of E. D. Orwig, removed.

Ulmer H. Still to be postmaster at Wright City, Okla. Office became Presidential July 1, 1935.

Thomas A. Gray to be postmaster at Duncan, Okla., in place of B. F. Ridge, removed.

Ernest R. Unger to be postmaster at Sapulpa, Okla., in place of W. R. Casteel, deceased.

Ivan E. Wallace to be postmaster at Snyder, Okla., in place of F. O. Hibbard, removed.

Ethel N. Anderson to be postmaster at Waurika, Okla., in place of J. T. Dillard. Incumbent's commission expired February 8, 1933.

OREGON

Mark A. Hill to be postmaster at Bay City, Oreg. Office became Presidential July 1, 1935.

Reginald C. Cooke to be postmaster at Oswego, Oreg., in place of E. M. Davidson. Incumbent's commission expired June 17, 1934.

Blanche A. Wood to be postmaster at Rockaway, Oreg. Office became Presidential July 1, 1935.

Viva Todd to be postmaster at Cloverdale, Oreg. Office became Presidential July 1, 1935.

Thomas W. Angus to be postmaster at Gardiner, Oreg. Office became Presidential July 1, 1935.

Rose Mildred Chisholm to be postmaster at Monroe, Oreg., in place of R. A. Chisholm. Incumbent's commission expired December 18, 1934.

Harry E. Mahoney to be postmaster at Oakland, Oreg., in place of Ora Mahoney. Incumbent's commission expired December 18, 1934.

Pearl A. Lawson to be postmaster at Riddle, Oreg., in place of G. L. Grant. Incumbent's commission expired December 18, 1934.

Charles A. Purcell to be postmaster at Troutdale, Oreg., in place of J. S. Hudson. Incumbent's commission expired December 18, 1934.

Edward F. Kelso to be postmaster at Yoncalla, Oreg., in place of G. L. Edes. Incumbent's commission expired December 18, 1934.

PENNSYLVANIA

John C. Colahan to be postmaster at Ashland, Pa., in place of T. P. Noon, removed.

George J. Hoke to be postmaster at East McKeesport, Pa., in place of E. J. Willhide. Incumbent's commission expired February 28, 1933.

Ambrose M. Schettig to be postmaster at Ebensburg, Pa., in place of J. L. Elder, removed.

Emma R. Smith to be postmaster at Elkland, Pa., in place of A. B. Carey. Incumbent's commission expired January 28, 1935.

Thomas J. McCausland to be postmaster at Falls Creek, Pa., in place of J. G. Young, removed.

John Laurence Callan to be postmaster at Franklin, Pa., in place of E. J. Miller. Incumbent's commission expired June 28, 1934.

Stratton J. Koller to be postmaster at Glen Rock, Pa., in place of T. M. Brown. Incumbent's commission expired February 14, 1935.

James J. O'Mara to be postmaster at Laceyville, Pa., in place of F. W. Lacey. Incumbent's commission expired January 28, 1935.

Martha L. King to be postmaster at Lawrenceville, Pa., in place of E. W. Dye. Incumbent's commission expired February 25, 1935.

Grace G. Makens to be postmaster at Morton, Pa., in place of C. B. Bishop. Incumbent's commission expired February 24, 1932.

Vera C. Remaley to be postmaster at Penn, Pa. Office became Presidential July 1, 1935.

Mary Camilla Teater to be postmaster at Port Allegany, Pa., in place of G. S. Studholme. Incumbent's commission expired June 20, 1934.

Charles M. Dinger to be postmaster at Reynoldsville, Pa., in place of S. M. McCreight. Incumbent's commission expired January 9, 1935.

William C. Salberg to be postmaster at Ridgway, Pa., in place of W. M. Thomas, resigned.

James S. Fennell to be postmaster at Salina, Pa. Office became Presidential July 1, 1935.

Beulah S. Fitzpatrick to be postmaster at Tower City, Pa., in place of H. T. Callen. Incumbent's commission expired February 14, 1934.

Catherine V. Morris to be postmaster at Vintondale, Pa., in place of Ruth Roberts. Incumbent's commission expired April 28, 1934.

Jenny Paterson to be postmaster at Yukon, Pa. Office became Presidential July 1, 1935.

Ruth R. Dufford to be postmaster at Clintonville, Pa. Office became Presidential July 1, 1935.

William H. Molloy to be postmaster at Ivyland, Pa., in place of Walter Carrell. Incumbent's commission expired June 20, 1934.

Marie E. Potteiger to be postmaster at Progress, Pa. Office became Presidential July 1, 1935.

Edmund P. Lawlor to be postmaster at Terrace, Pa. Office became Presidential July 1, 1935.

Claude E. Minnich to be postmaster at Wiconisco, Pa. Office became Presidential July 1, 1935.

SOUTH CAROLINA

DeWitt T. Latimer to be postmaster at New Brookland, S. C., in place of J. G. Fowler, removed.

Allen Watson Wallace to be postmaster at Gray Court, S. C., in place of J. E. Johnson, retired.

Rosa B. Grainger to be postmaster at Lake View, S. C. Office became Presidential July 1, 1935.

SOUTH DAKOTA

Frederick S. Countryman to be postmaster at Canova, S. Dak., in place of F. V. Stephens. Incumbent's commission expired January 7, 1935.

Grover C. Kenworthy to be postmaster at Deadwood, S. Dak., in place of C. H. Kubler. Incumbent's commission expired January 28, 1935.

Walter H. Stein to be postmaster at Estelline, S. Dak., in place of W. E. Whittemore, removed.

Bastian J. Kallemeyn to be postmaster at Hayti, S. Dak., in place of Joshua Trumm. Incumbent's commission expired March 2, 1935.

Robert Maley, Sr., to be postmaster at Howard, S. Dak., in place of M. D. Eide. Incumbent's commission expired February 4, 1935.

Jennings H. Harris to be postmaster at Humboldt, S. Dak., in place of H. S. Angus, removed.

Frank O. Schumaker to be postmaster at Iroquois, S. Dak., in place of A. M. Hanson. Incumbent's commission expired January 7, 1935.

Julius Pfitzer to be postmaster at Java, S. Dak., in place of I. R. Krause. Incumbent's commission expired February 25, 1935.

John Krambeck to be postmaster at Lead, S. Dak., in place of B. R. Stone. Incumbent's commission expired January 28, 1935.

George W. Lawrence to be postmaster at Mount Vernon, S. Dak., in place of M. G. Bromwell. Incumbent's commission expired March 22, 1934.

Mary A. Hurley to be postmaster at Lennox, S. Dak., in place of Arnold Poulsen. Incumbent's commission expired February 25, 1935.

William E. Ruckle to be postmaster at Onida, S. Dak., in place of J. E. McLaughlin. Incumbent's commission expired March 2, 1935.

TENNESSEE

James S. Akin to be postmaster at Copperhill, Tenn., in place of A. B. McCay, resigned.

Pearl M. Harris to be postmaster at Dandridge, Tenn., in place of J. D. Taff. Incumbent's commission expired January 13, 1935.

Hugh E. Davenport to be postmaster at Crossville, Tenn., in place of Sampson DeRossett. Incumbent's commission expired January 29, 1933.

Clarence V. Wallace to be postmaster at Jamestown, Tenn., in place of J. D. Wright. Incumbent's commission expired December 18, 1934.

Maude E. Pemberton to be postmaster at Lancing, Tenn., in place of B. P. Scott, removed.

Sidney Earl Prosser to be postmaster at Lewisburg, Tenn., in place of W. J. Whitsett, resigned.

TEXAS

Harvey L. Pettit to be postmaster at Bloomburg, Tex. Office became Presidential July 1, 1935.

Nettie Duncan to be postmaster at Celeste, Tex., in place of R. L. Jones. Incumbent's commission expired December 20, 1934.

Wordsworth T. Grogan to be postmaster at Coolidge, Tex., in place of Bradley Miller, deceased.

Rilious L. Scott to be postmaster at De Leon, Tex., in place of C. R. Redden. Incumbent's commission expired April 28, 1934.

Frank A. Jones to be postmaster at Eastland, Tex., in place of A. H. Johnson, resigned.

Marvin B. Smith to be postmaster at Farmersville, Tex., in place of R. C. Carmack. Incumbent's commission expired December 20, 1934.

Emmett W. Pack to be postmaster at Garrison, Tex., in place of W. C. Young, retired.

Spencer Boyd Street to be postmaster at Graham, Tex., in place of J. R. Ramsey. Incumbent's commission expired February 4, 1935.

Henry W. Haynie to be postmaster at Kemp, Tex., in place of W. F. Moore. Incumbent's commission expired January 13, 1935.

William E. McClintock to be postmaster at Mount Pleasant, Tex., in place of N. B. Spearman. Incumbent's commission expired February 4, 1935.

James L. Noel to be postmaster at Pilot Point, Tex., in place of Earl Cassity. Incumbent's commission expired December 20, 1934.

Grady W. Hodges to be postmaster at Whitesboro, Tex., in place of Harry Reast. Incumbent's commission expired February 20, 1935.

Edmund Herder to be postmaster at Shiner, Tex., in place of H. G. Koether. Incumbent's commission expired February 4, 1935.

Oscar W. Stone to be postmaster at Wolfe City, Tex., in place of C. A. Andrews. Incumbent's commission expired February 20, 1935.

Ewell Nalle to be postmaster at Austin, Tex., in place of J. L. Hunter. Incumbent's commission expired February 4, 1935.

William G. Bryan to be postmaster at Avery, Tex., in place of Ferman Wardell. Incumbent's commission expired May 9, 1934.

John Gilliland to be postmaster at Baird, Tex., in place of M. J. Holmes. Incumbent's commission expired February 14, 1935.

Louise H. Clark to be postmaster at Blossom, Tex. Office became Presidential July 1, 1935.

Alpha R. Garton to be postmaster at Booker, Tex., in place of W. V. Garton, deceased.

Albert H. Loyless to be postmaster at Burleson, Tex., in place of K. A. Lace. Incumbent's commission expired December 20, 1934.

Luther H. McCrea to be postmaster at Cisco, Tex., in place of W. H. Craddock, resigned.

Jennie R. Goodman to be postmaster at Laredo, Tex., in place of W. B. Hamilton, removed.

Stephen E. Fitzgerald to be postmaster at Miami, Tex., in place of Lora Barber. Incumbent's commission expired December 20, 1934.

Bluford Warren Dodson to be postmaster at Snyder, Tex., in place of G. M. Anderson. Incumbent's commission expired February 4, 1935.

Thelma H. Bowen to be postmaster at Sweetwater, Tex., in place of D. G. Shields, removed.

UTAH

Oliver P. FitzGerald to be postmaster at Delta, Utah, in place of Clark Allred. Incumbent's commission expired May 20, 1934.

VIRGINIA

Forrest L. Harmon to be postmaster at Melfa, Va., in place of M. S. Harmon. Incumbent's commission expired December 20, 1934.

Grover T. Huffman to be postmaster at Newcastle, Va., in place of F. H. Dame. Incumbent's commission expired December 20, 1934.

Garnett A. Kellam to be postmaster at Onley, Va., in place of W. S. Sparrow. Incumbent's commission expired January 28, 1935.

WASHINGTON

Felix P. La Sota to be postmaster at Metaline Falls, Wash., in place of E. O. Dressel. Incumbent's commission expired June 20, 1934.

WISCONSIN

Floyd A. Pollard to be postmaster at Kendall, Wis., in place of C. G. Walter. Incumbent's commission expired March 18, 1934.

WYOMING

Percival F. McClure to be postmaster at Worland, Wyo., in place of J. T. Jones, deceased.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 10 (legislative day of May 13), 1935

POSTMASTERS

MINNESOTA

Carl E. Berkman, Chisholm.
Alwyne A. Dale, Dover.
Aileen R. Ellefson, Lancaster.
Nels E. Fedson, Lyle.
John V. Schroeder, St. Joseph.

NEW YORK

Russell J. Taylor, Sloatsburg.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JULY 10, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Heavenly Father, Thy holy word is with us: The law of the Lord is perfect, converting the soul; the testimony of the Lord is sure, making wise the simple; the statutes of the Lord are right, rejoicing the heart; the commandment of the Lord is pure, enlightening the eyes; the fear of the Lord is clean, enduring forever; the judgments of the Lord are true and righteous altogether. More to be desired are they than gold; yea, than much fine gold; sweeter also than honey and the honeycomb. Keep back Thy servants from presumptuous sins; let them not have dominion over me; then shall I be upright, and I shall be innocent from the great transgression. Let the words of my mouth and the meditations of my heart be acceptable in Thy sight, O Lord, my strength and my redeemer. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5599) entitled "An act to regulate the strength and distribution of the line of the Navy, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2796) entitled "An act to provide for the control and elimination of public-utility holding companies operating, or marketing securities, in interstate and foreign commerce and through the mails; to regulate the transmission and sale of electric energy in interstate commerce; to amend the Federal Water Power Act; and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WHEELER, Mr. BARKLEY, Mr. BROWN, Mr. WHITE, and Mr. SHIPSTEAD to be the conferees on the part of the Senate.

STRENGTH OF THE LINE OF THE NAVY

Mr. VINSON of Georgia. Mr. Speaker, I present a conference report on the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes, for printing under the rule.

The conference report and statement are as follows:

Mr. RANKIN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The doors were closed, the Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 119]

Andresen	Cole, Md.	Gwynne	Patton
Bankhead	Collins	Hamlin	Peyser
Bell	Cooley	Hartley	Rabaut
Binderup	Cox	Hennings	Rogers, N. H.
Buckley, N. Y.	Culkin	Kimball	Ryan
Bulwinkle	Darden	Lesinski	Scrugham
Burdick	DeRouen	McGroarty	Sumners, Tex.
Cannon, Wis.	Disney	McLeod	Turpin
Carter	Doutrich	Maloney	Underwood
Casey	Dunn, Miss.	Montague	Walter
Celler	Fernandez	Norton	
Clark, Idaho	Frey	Oliver	
Cochran	Gasque	O'Malley	

The SPEAKER. Three hundred and seventy-nine Members have answered to their names. A quorum is present.

Mr. TAYLOR of Colorado. I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

THE ADMINISTRATION'S FUTILE EFFORTS TO PRESERVE WORLD PEACE

Mr. FISH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. FISH. Mr. Speaker, under leave to extend my remarks in the RECORD, I insert an address made by me at the annual banquet of the Maryland Congress of Parent-Teachers' Associations at the University of Maryland, Tuesday evening, July 9, 1935:

The answer of Secretary of State Hull to the appeal of Haile Selassie, Emperor of Abyssinia, to enforce the Briand-Kellogg Peace Pact is about the most evasive and weakest State Department document on record. It would be hard to find in the archives of the State Department for the past 150 years one that equals or approaches its evasive ponderosity and glittering generalities.

The whole civilized world stands aghast at the brutality, avariciousness, and greedy imperialism of Mussolini. The Italian Dictator, in utter disregard of his country's obligations under the League of Nations and the Kellogg Pact, announces that he proposes to wage war and conquer Abyssinia by force of arms. Peace-loving people are horrified by Mussolini's avowal that he will resort to war and ignore arbitration.

As a friend of the Italian people, who have little or no voice in their own domestic and foreign affairs, I deplore their being led to slaughter to carry out the imperial ambitions of Mussolini. The Government of the United States had a glorious opportunity to strike a blow for peace that would have been heard throughout the world. All we had to do was to issue a clear and bold statement that the signatories of the Paris Peace Pact had plighted their word not to go to war, and if they violated that pledge an aroused public opinion would condemn the offending nation throughout the civilized world. Such a statement would have been acclaimed by the war-weary people in every nation who have been hoping for some unselfish and enlightened leadership. But instead, the administration gives lip service to peace and parrot-like repeats "Peace, peace," when there is no peace.

The only time to wage war is in time of peace. It is self-evident that if we, as a signatory of the Paris Peace Pact outlawing war as an instrument of national policy except for defense, had issued an appeal to arbitration and in behalf of peace, it would have set in motion political, economic, and moral pressure on Italy or any other nation preparing for war.

The failure of the League of Nations to act constructively to prevent the threatened war between Italy and Abyssinia dooms that institution to oblivion and exposes it as a hollow shell and a sham peace covenant, dominated by France, Italy, and Great Britain for their own selfish purposes. Thank goodness we have had the wisdom and good judgment to keep out of all foreign intrigues and entanglements, ancient blood feuds, and boundary disputes.

We should appeal to world public opinion and exert our moral and economic leadership to prevent another war, but if there is war between Italy and Abyssinia or elsewhere in Europe, it is their war and not ours, and we do not propose to be dragged into it or permit the life of a single American to be sacrificed on foreign soil or in other people's wars.

PUT TAX BURDENS WHERE THEY BELONG

Mr. HILDEBRANDT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. HILDEBRANDT. Mr. Speaker, the expected flood of complaints because of the President's tax program is pouring forth from every reactionary source. Wall Street Republicans, joining hands with Wall Street Democrats and William Randolph Hearst, are proving once more that they are "brothers under the skin."

I am confident that the vicious campaign of misrepresentation they are conducting is not deceiving many. The people are getting their eyes open and they are refusing to be kidded and bamboozled as easily as they once were. It is fortunate that this is so, for never in American history has the lie factory of the reactionaries worked at such high speed in turning out fabrications and fictions and yarns and whoppers as in these days. The aristocracy of Jefferson's and Jackson's time lied brazenly enough about those intrepid champions of the rights of the masses but the falsifying of that period, compared with with the treacherous propaganda of the present, was as the harmless make-believe tales of a child in comparison with the smooth and subtle softsoap of a swindler.

The front page of a plutocratic daily on my desk contains the headline, "'Soak All' Tax Yield Set at 901 Million", and a few lines further I read, "'Little Man', Investors, to Pay." This, of course, is absolutely untrue.

The tax will not hit the little man except insofar as it involves moderate schedules for those with low incomes. It will, to be sure, mean a high charge against individuals and corporations with vast incomes and this is entirely proper. Too long the burden of taxation has rested disproportionately on the backs of the poor and middle classes. No action ever taken by President Roosevelt will meet with more universal approval than his demand that taxes be regraded according to incomes and the ability of taxpayers to meet them.

Of all the hypocritical phrases ever used by experts in "humbuggery", that characterizing the Presidential plan, a "soak the thrifty" program, is the most contemptible.

The program does not "soak" anybody. It simply distributes taxation in proportion to people's ability to pay.

The most unfair feature of the phrase though is the reference to "the thrifty." Nobody knows better than the authors of this twaddle that men with millions and billions of dollars did not acquire their wealth by "thrift." They got it by extracting profits from the public, by charging high prices, by paying low wages, by working their employees long hours, by adulterating their products, by misleading advertising, and by all the endless tricks and devices utilized under the capitalist system. That they should be compelled to pay taxes ranging from 4.8 percent on $5,000 to 84.4 percent on $10,000,000 on incomes, inheritances, and gifts is far from unreasonable.

When I reflect on the suffering that has swept like a pestilence over our land in recent years, I feel inclined to remark that these exploiters ought to consider themselves lucky that the Government does not confiscate the fortunes in the million- and billion-dollar category as a necessary emergency act. My own frank advice to the man or corporation with a huge fortune is to accept the President's tax schedules good naturedly in a spirit of willingness to subordinate their desires to the public welfare. If they are too stubborn and short-sighted to do this, they may to their sorrow face far more drastic action than what Mr. Roosevelt has suggested. The people will not always tolerate the concentration of colossal wealth into the hands of a few. The possessors of such wealth had better acquiesce in graduated and scientifically regulated taxes rather than exasperate our citizenship by their obstinacy until unearned riches are actually confiscated.

It would be informative if some of the critics of taxation that is proportioned to wealth would read and ponder certain forceful sentences in the President's message of June 19. Among those especially worthy of consideration are—

> Therefore, in spite of the great importance in our national life of the efforts and ingenuity of unusual individuals, the people in the mass have inevitably helped to make large fortunes possible. Without mass cooperation great accumulations of wealth would be impossible save by unhealthy speculation. * * *
>
> Whether it be wealth achieved through the cooperation of the entire community or riches gained by speculation, in either case the ownership of such wealth or riches represents a great public interest and a great ability to pay. * * *
>
> The transmission from generation to generation of vast fortunes by will, inheritance, or gift is not consistent with the ideals and sentiments of the American people. * * *
>
> Great accumulations of wealth cannot be justified on the basis of personal and family security. In the last analysis, such accumulations amount to the perpetuation of great and undesirable concentration of control in a relatively few individuals over the employment and welfare of many, many others.
>
> Such inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which created our Government.

In this connection, I should also like to quote from the typically original and pungent comment of Heywood Broun, the brilliant columnist in the Scripps-Howard newspapers, on the President's message. Mr. Broun said:

> In effect, Franklin D. Roosevelt is saying that the American public will no longer stand for the handing down of fortunes as huge as those of Ford or Mellon. The suggestion seems to be that wealthy men ought to be ready to pass on less rather than run the risk of being unable to leave anything. * * * The only people who have reason to howl are a small handful of multi-millionaires, and even their complaints should be tempered by the thought that but for the proposal of the President others might have arisen that would have gone further and cut much more deeply.
>
> The privilege of handing down wealth is, of course, the privilege of transmitting power. Any one of a dozen princes of industry in America has far more power than King George of England. And he got it in precisely the same way.

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent that the bill (H. R. 156) to extend the facilities of the Public Health Service to seamen on Government vessels not in the Military or Naval Establishments may be rereferred from the Committee on Interstate Commerce to the Committee on Merchant Marine and Fisheries.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. DELGADO. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. DELGADO. Mr. Speaker and ladies and gentlemen of the House, some time ago you have been regaled with the luscious and beautiful apples grown in the State of Oregon. On other occasions you have been offered the best that is produced in the various regions of this great country. Day before yesterday you had some of the fine pineapples from Hawaii. I feel that it is about time that you should have something from the farthest land under the Stars and Stripes today. [Applause.]

Among the many blessings vouchsafed to the Philippines by a bountiful Providence is the Philippine mango, a fruit unique in its deliciousness and rich in food qualities. Rather than extolling it myself, I should like to refer you to the Members of the House who have been in our islands and have passed favorable judgment upon it—the gentleman from Illinois, Mr. ARNOLD; the gentleman from Tennessee, Mr. MCREYNOLDS; the gentleman from Michigan, Mr. DINGELL; the gentleman from Iowa, Mr. THURSTON; the gentleman from Nebraska, Mr. STEFAN; and many others.

For centuries all those who have visited the Philippines have marveled at the Philippine mango. It has always been our desire to share this magnificent fruit with the peoples of the four quarters of the globe, but we have always failed because it has been difficult to preserve it for export. Lately a Filipino lady chemist, Dr. Maria Orosa, has found a way of preserving indefinitely its lucious meat in its natural sweetness, and I am happy to announce now that among those who will have the first chance to taste fresh Philip-

pine mangoes in this country will be the ladies and gentlemen of this House, because through the courtesy of the De Santos Packing Co., of Manila, P. I., I have been able to place some in the cloakroom of both sides of the House for you to try. I sincerely hope that you will like our mangoes and that their unique taste may enhance your kindly interest in the Philippines and the Filipinos. [Applause.]

INVESTIGATION OF LOBBYING ACTIVITIES

Mr. WARREN. Mr. Speaker, I present a privileged resolution from the Committee on Accounts for immediate consideration, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 289

Resolved, That the expenses of conducting the investigation authorized by House Resolution 288, incurred by the Committee on Rules, acting as a whole or by subcommittee, not to exceed $50,000, including expenditures for the employment of experts, traveling expenses, and legal, clerical, accounting, stenographic, and other assistants, shall be paid out of the contingent fund of the House, on vouchers authorized by such committee or by any subcommittee thereof conducting such investigation, signed by the chairman of the committee and approved by the Committee on Accounts.

With the following committee amendment:

At the end of line 11 insert a new section to read as follows:

"SEC. 2. That the official committee reporters shall be used at all hearings held in the District of Columbia."

Mr. WARREN. Mr. Speaker, on July 2 as a result of certain charges made here on the floor, and in a moment of hysteria, the House by unanimous vote passed a resolution authorizing an investigation of lobbying activities in connection with the recent utilities bill. On July 8 the scope of that investigation was broadened and by a vote of approximately 315 to 3, the resolution was agreed to. As a result of the action of the House, and carrying out its mandate, the Committee on Accounts now comes in and brings the resolution providing funds for the investigation. The gentleman from Texas [Mr. BLANTON], stated on the floor a few days ago that when all this is over he will rise in his seat and show that nothing had been accomplished.

Mr. BLANTON. Of value to the people.

Mr. WARREN. I concur absolutely in that statement, as I do insofar as 95 percent of these investigations carried on by the committees of the House are concerned. Personally, I think it is $50,000 simply thrown to the winds, but the House has done it and now it is incumbent upon us to provide funds.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. WARREN. Yes.

Mr. TABER. Has the Chairman of the Committee on Rules appeared before the Committee on Accounts and indicated that he would need as much money as that for this kind of an investigation?

Mr. WARREN. The Chairman of the Committee on Rules appeared before the committee and stated this amount is necessary, and we are reporting it out in the full amount solely upon the ground of public policy, because of the trend that this investigation has now taken.

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. WARREN. Yes.

Mr. SNELL. Part of my inquiry has been answered by the inquiry of the gentleman from New York [Mr. TABER], but was there any general program laid out that would convince the Chairman of the Committee on Accounts of the real need of $50,000 to do this work?

Mr. WARREN. The committee was told that on account of the apparent shortness of the present session, this investigation would have to be carried on during the recess, and it was estimated that it would require 4 or 5 months to do it, and, of course, if we should cut the amount to a smaller figure, and during the recess they found they needed more, they would have had no opportunity to come back here to obtain it. It is not going to be charged up to the Committee on Accounts that by withholding funds we were trying to stifle this investigation. This is a unanimous report from the committee, but I think every member of the committee feels that this is a useless investigation. However it has been ordered by the House by an overwhelming vote and now it is water over the mill to come in here at this time and attack the funds with which to do it.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. WARREN. Yes.

Mr. FISH. Will it be in order to offer an amendment to reduce the amount from $50,000 to $20,000?

Mr. WARREN. I shall not yield for the purpose of an amendment.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. WARREN. And further, when this resolution was passed on July 8 it was clearly stated on the floor that if we voted to broaden the scope of the inquiry it meant an expenditure of $50,000, and every Member of the House who was present after a quorum call voted for it except three. I yield to the gentleman from Texas.

Mr. BLANTON. The investigation by our Rules Committee of the Brewster charge has been under way since yesterday morning. After the Committee on Rules hears Mr. Greuning and Mr. Moran and Mr. Maverick and a few other witnesses, the incident ought to be closed, and then it could be closed in a conclusive way, and what is the use of wasting $50,000? All of us know that the money will be wasted, and when we know that nothing of value to the people and taxpayers of the country is going to be accomplished, what is the use of shutting our eyes like a blind bull and voting $50,000 out of the Treasury?

Mr. WARREN. Because the House has already passed on the scope of this investigation.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. WARREN. Yes.

Mr. TABER. Does not the gentleman feel that we would be presenting a better front if we appropriated instead of $50,000, $10,000? I cannot conceive of any possible way in which more than that could be used. I have no desire to stifle any legitimate inquiry or the uncovering of anything, but it does seem that $50,000 is an enormous sum for this investigation.

Mr. WARREN. We have the assurance of the Chairman of the Committee on Rules that he will try to turn back as much of this fund as possible, and I think that that is all that we can expect.

Mr. EAGLE. Mr. Chairman, will the gentleman yield?

Mr. WARREN. In a moment. The Rules Commitee did not seek this investigation. Personally I think it could not have been placed in better hands than in those of the gentlemen who compose this great committee of the House. We have heard criticism here on the floor and in the newspapers of the Committee on Rules, particularly of its chairman.

That has taken place ever since there has been a Rules Committee. I remember when I first came here the gentleman from New York, now the distinguished minority leader [Mr. SNELL], was chairman of that committee. My first impression of him was that he was something terrible [laughter], until I began to appreciate his value in the House and his value to the country as an able legislator. [Applause.] Even the beloved, lamented Edward W. Pou, from North Carolina, was criticized as chairman of that committee; and even our beloved leader, the short time the gentleman from Alabama [Mr. BANKHEAD] was chairman of that committee he likewise met with the same criticism; and now it is being heaped upon the gentleman from New York [Mr. O'CONNOR]. I say this from my heart, I think the gentleman from New York [Mr. O'CONNOR] has met the responsibilities that have been thrown upon him at this session of the House in the highest order. [Applause.] I believe that any investigation carried on by the Rules Committee under his chairmanship is going to be all-inclusive. Nothing will be covered up; and all of the facts, so far as possible, will be reported to the House.

Mr. McSWAIN. Will the gentleman yield?

Mr. WARREN. I yield.

Mr. McSWAIN. I desire to make the observation that the fact that when money is appropriated it does not mean that it will be expended. The gentleman will corroborate me in the statement that a year and a half ago the House

appropriated $30,000 to assist the Military Affairs Committee in its investigation. I believe that investigation has already saved this country millions of dollars, and will continue to do so for a long time in the future. During that year and a half we have expended only $10,100, and we have $19,900 to return to the Treasury.

Mr. WARREN. Yes. The gentleman has been very conservative in the expenditure of those funds.

Mr. PIERCE. Will the gentleman yield?

Mr. WARREN. I yield.

Mr. PIERCE. I was on the floor and am one Member who voted for this appropriation. This is my second term. I cannot think of an appropriation I voted for with a clearer heart than this. One publication in New York has openly stated that a million dollars was spent on telegrams in 48 hours. The country wants to know why. It has been stated that more money was spent on this campaign than in any two Presidential campaigns. If so, we want to know where it came from. [Applause.]

Mr. WARREN. The position of the Committee on Accounts was that while all of us thought nothing is going to be accomplished by this investigation, we are not going to be placed in the position of withholding funds for an investigation that the House has already ordered.

Mr. KOPPLEMANN. Will the gentleman yield?

Mr. WARREN. I yield.

Mr. KOPPLEMANN. Will this investigation include other lobbying activities?

Mr. WARREN. It is confined solely to activities on the recent power bill.

Mr. KOPPLEMANN. I am sorry it does not include other lobbying activities.

Mr. WARREN. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. RANKIN].

Mr. RANKIN. Mr. Speaker, I did not introduce this resolution. I have insisted from the beginning that the Senate committee make this investigation.

The gentleman from Oregon [Mr. PIERCE] speaks of the hundreds of thousands of telegrams and letters that have poured in here, thousands of which were forged, and many of them signed under coercion. I for one am in favor of going to the bottom of this question, whether it is done by a House committee or a Senate committee. If a proper investigation is carried on, it is going to search the records of Congressmen as they have never been searched before.

I am going to suggest to the Chairman of the Rules Committee [Mr. O'CONNOR] that, owing to the criticism that he is receiving, owing to the friction that has arisen between him and those of us who are supporting the administration and who favor this investigation, those of us who favor the administration's policies on this entire power question, that this should be done through a subcommittee and that the gentleman from New York ought to appoint a subcommittee or else the House should give us a special committee to make this investigation. [Applause.]

Mr. O'CONNOR. Will the gentleman yield?

Mr. RANKIN. I yield.

Mr. O'CONNOR. I know of no friction between myself and the gentleman or anybody else.

Mr. RANKIN. Oh, well, now——

Mr. O'CONNOR. I do not know what the gentleman is talking about.

Mr. RANKIN. The gentleman from New York knows that he denied us—he was Chairman of the Rules Committee—and he denied us an extra motion to recommit on the holding-company bill.

Mr. O'CONNOR. Denied whom?

Mr. RANKIN. The Members of the House.

Mr. O'CONNOR. Nobody asked for a second motion to recommit except the gentleman from Mississippi, and he, not a member of the reporting committee, had no authority to inject himself.

Mr. RANKIN. The administration did.

Mr. O'CONNOR. The administration did not ask me. It did not ask the Rules Committee.

Mr. RANKIN. Oh, that is the gentleman's story.

Mr. O'CONNOR. The gentleman from Mississippi claims it did, but he has no authority whatever to make any such statement. All his authority is assumed and presumptious.

Mr. RANKIN. Yes; I have some authority, too. The gentleman knows that. As a result of that, we had no direct vote on the main issue, and the country is literally seething with indignation as a result of what happened. [Laughter and applause.]

Do not you Republicans laugh; you will get it when you get back home. The people of this country are not going to be robbed in power rates or plundered through the sale of watered stocks and have such conduct carried on in the House as it was carried on last week without you hearing about it.

Another thing, we asked for two motions to recommit on the present bill. I know that the gentleman from New York [Mr. O'CONNOR] knew that the administration wanted it. He had that information, for I gave it to him myself. We are denied two motions to recommit now, which will probably prevent a roll call on the main issue. Mr. HILL of Alabama, a member of the Military Affairs Committee, and I both appeared before the Rules Committee and asked for two motions to recommit. There is criticism today of the way this investigation is being conducted, criticism of the gentleman from New York [Mr. O'CONNOR], if he wants to know, and I should like to see him either appoint a subcommittee to make this investigation or give us a special committee to make it.

The SPEAKER. The time of the gentleman from Mississippi [Mr. RANKIN] has expired.

Mr. WARREN. Mr. Speaker, I yield 7 minutes to the gentleman from New York [Mr. O'CONNOR]. [Applause.]

Mr. O'CONNOR. Mr. Speaker, I have been a Member of this House for seven terms, and a member of the Rules Committee for seven terms. To have been placed upon this great committee when I first came to Congress was an honor that no previous Member ever received, and which I did not deserve. I did not seek it; it just so happened. During all my experience on this committee, whether under the chairmanship for 8 years of the distinguished gentleman from New York [Mr. SNELL] or under the chairmanship of our beloved leader, the late Mr. Pou, or under the chairmanship of our beloved majority leader today, the gentleman from Alabama [Mr. BANKHEAD], I have never until this morning heard any aspersions cast against the integrity of this committee on the floor of the House. I do not know whether I am to interpret what the gentleman from Mississippi [Mr. RANKIN] said as an aspersion on the committee or upon me personally. I prefer to interpret it as against me personally. If the gentleman so intended, it is the first time in 13 years that I have had to rise in my place on the floor in what might be termed a "defense" of myself, but I am ready to face any charges or aspersions now or any time in the future. [Applause.]

The gentleman from Mississippi reiterates what one chain of newspapers has said repeatedly in vicious and blackguard editorials concerning me about "two motions to recommit" on the utility bill. I have bored the House long enough in explaining the parliamentary situation as to that bill and proving that the editor did not know what he was writing and knew he did not, and how every opportunity was given for record votes within the rules of the House, or any reasonable rules which should govern any parliamentary body in the world. When the gentleman from Mississippi says, "We asked for two motions to recommit", he uses an editorial "we", because only one human being ever asked the Committee on Rules for two motions to recommit, and that was the gentleman from Mississippi, who is not even a member of the Committee on Interstate and Foreign Commerce. [Applause.]

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. When the gentleman states that the administration wanted two motions to recommit, and that he carried the message to Garcia, the Rules Committee, let me say to him that so long as I stay here I do not expect that the gentleman from Mississippi will ever be the liaison officer between the President and me or my committee. [Applause.]

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. The Rules Committee never sought this lobby investigation, as I have said before.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. I refuse to yield.

Mr. RANKIN. All right.

Mr. O'CONNOR. The gentleman has a habit of squirting himself into Members' speeches, but he is not going to squirt himself into my remarks, because I shall take the blue pencil and cross it right out if I see fit.

To repeat, the Rules Committee did not seek this investigation; the Rules Committee is busy enough without having extra duties placed upon it; but when this House twice, almost unanimously, directed that committee to conduct this investigation, it is our duty to do so, if the House sees fit that we continue. I do not have to stand here and speak in behalf of the 13 honorable men on the Rules Committee, or say for them that we are going to see this thing through so far as we can see it through. The House knows those men and has confidence in them.

Mr. Speaker, I do not know that the investigation is going to require $50,000. Congress is not going to be in session, the Lord help us, for a few months at least at the end of this year, and then we could not get money if we needed it. We are going to delve into this power lobby; we are going faster and further than the gentleman from Mississippi or any other self-constituted champion of the "peepul" would ever go, we believe. [Applause.]

Why, I was fighting the Power Trust when I was in the Legislature of New York, long before this self-appointed champion of the "peepul" from Mississippi took up the fight principally in behalf of Tupelo. [Laughter.] I was interested in the power situation not alone in my own city and my own State but in the entire Nation. I never saw a power lobbyist here. We want to know who they are; we want to see how much money they spent on propaganda, entertainment, or in any other way. The people are entitled to know it.

I do not agree that these investigations do no good. While one may not be able to put one's finger on the exact tangible result, I believe they have a deterring effect throughout the country on questionable practices. Right now we are faced with an antilobbying bill. This investigation, I believe, whoever conducts it—and the Lord knows I do not welcome it—will have a very beneficial effect. It will expose whatever has been going on; and if this great House has confidence in its Rules Committee, I believe they will make this fund available to us to carry on what the House has mandated to us as our duty. [Applause.]

Mr. WARREN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. Cox].

Mr. COX. Mr. Speaker, the gentleman from Mississippi [Mr. RANKIN] needs not to be reminded that I have a very deep affection for him and often find myself in accord with him in the position that he takes on public questions, but I do regret that he has made this unfavorable reference to the chairman of my committee. I can easily understand his anxiety for a thorough investigation of the question that has arisen on power lobbying.

Mr. RANKIN. Mr. Speaker, will the gentleman from Georgia yield?

Mr. COX. Will the gentleman defer his request for just a minute?

Mr. RANKIN. Gladly.

Mr. COX. But his suspicion or his fear that the gentleman from New York [Mr. O'CONNOR], the chairman of the committee, will give direction to the labors of the committee that do not promise a thorough and honest investigation is altogether unfounded.

I have been on the committee for a good long while. I know the chairman and I think I am in his confidence. I know, as I believe my friend, the gentleman from Mississippi, knows, that the chairman, as well as the other members of the committee, are all honorable men, and that he can well afford to rely upon the assurance that the committee will meet their responsibilities in a proper manner; and, so far as the duties which this House puts upon them with respect to the proposed investigation are concerned, the members of the Rules Committee will perform their duties to the full extent of their ability.

[Here the gavel fell.]

Mr. WARREN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. KRAMER].

Mr. KRAMER. Mr. Speaker, as a member of the Committee on Accounts and having served on a recent committee investigating un-American activities, I just want to give certain information for the benefit of the committee which will make this investigation. I do not see how they are going to spend $50,000 to make this investigation, because after Congress adjourns they will have no authority to compel the honoring of subpenas issued upon anyone who may choose to disrespect them. There is nothing in the law that compels the persons subpenaed to appear before the committee of the House of Representatives after service of the subpena in any State other than the District of Columbia. That was one of the things that the Committee on Un-American Activities ran into in their investigation. There is a bill now pending before the Judiciary Committee, introduced by the gentleman from New York [Mr. DICKSTEIN], changing the statute, which, if enacted, will enable the committee to function in such a way that they could take drastic action if a subpena issued was disobeyed.

The Special Committee on Un-American Activities, which carried on most of its activity subsequent to the adjournment of the second session of the Seventy-third Congress, on more than one occasion found itself seriously handicapped in its effort to compel testimony by its witnesses and to make effective subpenas issued requiring the production of pertinent books and other documents.

Then we found that, due to the fact that the Seventy-third Congress was not in session and would not again convene unless called into special session, there was no provision of the law by which we could compel attendance or compel production of the documents, nor could we bring proceedings against recalcitrant witnesses in contempt or have imposed upon them penalties provided by law for contempt. We found the reason was that the existing law required a report of the contempt of the House and then had to await action by the House upon the committee's recommendation regarding citations for contempt.

The matter was taken up with the district attorney of that district, to whom was submitted transcript of the examination and copy of the subpena issued, and his reply was to the effect that, inasmuch as the examination of the witness was not in the District of Columbia and the issue of the subpena had not taken place in the District of Columbia, he had no jurisdiction to present the matter to the Federal grand jury in his district. His explanation was, as I quote from his letter:

> I am still of the opinion that section 102 must be read in conjunction with 104 of the same title and that reading them together they confer no jurisdiction on the district court in this district to proceed either by the information or indictment against this witness. (Chapman 166 U. S. 601, 41 L. Ed. 1154.)

This is a concrete illustration of the difficulties of the investigating committee seeking to subpena witnesses outside of the District of Columbia during the recesses of Congress will experience.

I commend to your serious attention H. R. 5915, which seeks to clarify section 104 of the Revised Statutes of the United States so as to enlarge on the authority to conform to the requirements of the investigating committees whose authorization carries them to distant parts of the United States and Territories thereof.

Mr. WARREN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. GREENWOOD], and after that I shall move the previous question.

Mr. RANKIN. Will the gentleman yield for a question? The statement was made here a while ago——

Mr. GREENWOOD. Mr. Speaker, I did not yield. If I have some time left at the end of my statement, I shall be glad to yield to the gentleman from Mississippi.

Mr. Speaker, it seems that a little feeling has unnecessarily developed on this occasion, although I cannot see where the pending investigation calls for any such feeling. The Rules

Committee has assumed this responsibility because the House has placed it upon the committee. I have the highest respect for its chairman, having served with him for several years on that committee. The gentleman from Mississippi has always been a good friend of mine and I have confidence in him.

Mr. RANKIN. Will the gentleman yield since he has mentioned my name?

Mr. GREENWOOD. I do not yield. I do not think there is anything the gentleman needs to ask a question about since I have acknowledged our friendship.

Mr. RANKIN. I am not questioning the integrity of the gentleman from Indiana.

Mr. GREENWOOD. Mr. Speaker, I desire to complete my statement.

As in every investigation, this committee knew nothing more about the ramifications of the investigation than the House itself. Of course, we have no fixed program, but it will develop from time to time. We have started with the episodes that have already been called to the attention of the House. From time to time we will go into other features and other ramifications that will come to the attention of the committee. I am sure there is not a member of that commitee who desires to spend one dollar more of this appropriation than is necessary, but we do feel the responsibility is upon us to make a thorough investigation. Every Member of Congress will be given an opportunity to appear before the committee and offer any suggestion or testimony which they desire to offer. I believe this resolution should be passed without question. I am sure there is no feeling that the Rules Committee will in any way evade any of its responsibilities, or will attempt to do anything except to make a thorough investigation, which the House expects them to make, and report their findings back to the House. I know that is the feeling of the chairman of the committee. I think we should have this amount of money made available, if we find it necessary to use it, and I feel sure that not a dollar of it will be spent that is not necessary.

[Here the gavel fell.]

Mr. WARREN. Mr. Speaker, I move the previous question.

Mr. RANKIN. Mr. Speaker, may I ask the gentleman from North Carolina to give me a couple of minutes? I think I am entitled to that time.

The SPEAKER. The gentleman from North Carolina [Mr. WARREN] moves the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the amendment to the resolution.

Mr. RANKIN. What is the amendment?

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read the committee amendment to the resolution.

The committee amendment was agreed to.

The resolution was agreed to, and a motion to reconsider was laid on the table.

TENNESSEE VALLEY AUTHORITY

Mr. McSWAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8632, with Mr. DRIVER in the chair.

The Clerk read the title of the bill.

Mr. MAY. Mr. Chairman, I want to bring to the attention of the committee just a bit of information as to exactly what the amendment offered by the gentleman from Alabama means.

Mr. MAVERICK. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. MAVERICK. The gentleman is not speaking to his motion but is speaking to the amendment of the gentleman from Alabama [Mr. HILL] debate on which has been closed.

The CHAIRMAN. The point of order is overruled. The gentleman from Kentucky will proceed.

Mr. MAY. The enacting clause of this bill states: "Be it enacted, so-and-so." This is a part of the "so-and-so."

Mr. Chairman, it appeared in evidence before our committee that under the Federal Water Power Act, by which the War Department has jurisdiction of the rivers and harbors of this country, about 30 years ago they granted to some corporation which now belongs to the American Aluminum Co.—and if you want to say so, to Andrew W. Mellon—an area of about 40,000 acres on the Little Tennessee River, which area is 85 miles from the Norris Dam. In the 30 years these people have been in there they have established a large number of industrial plants and built three dams at a cost of $40,000,000. That company proposes to build one dam above the other three to perform a function similar to that the Government intends to perform by the building of the Norris Dam above the Wilson Dam.

Mr. HILL of Alabama. Mr. Chairman, will my distinguished friend yield?

Mr. MAY. Not now.

Mr. HILL of Alabama. I want to give the gentleman some information that will make him happy.

Mr. MAY. Mr. Chairman, I cannot yield now. I would yield if I had time. Not only have they spent $40,000,000 down there and given steady employment to thousands at good wages for all these years, but they pay 97 percent of all the taxes paid in one county and over 85 percent of all the taxes paid in another county, and they furnish 4 months of school in every district school, in every graded school in every year in those two counties.

These people, in order to provide a reservoir, bought 9,000 acres out of 10,000 at about $15 an acre, and were preparing to construct a great storage dam to facilitate the operations of their great industrial plants and regulate floods and increase power production. All the last quarter of a century this private industry, without a penny's cost to the Government, meeting wage pay rolls every 2 weeks for the last 20 years amounting to hundreds of thousands every month, and at the same time paying large amounts of taxes to Federal, State, and local governments and schools, has moved steadily and progressively forward. All at once this T. V. A. crowd, like a band of high-seas pirates, sought to completely block the entire program by placing the vicious heel of autocracy upon the neck of this great revenue-producing enterprise and crush it forever and thus put out of employment some 6,000 workmen and remove millions of property from taxation.

They bought one plot of land 30 feet by 50 feet at the rate of $5,000 per acre. They bought another plot of land in the middle of the same reservoir consisting of 12 acres at the rate of $300 per acre and called them national parks, public lands not subject to condemnation.

Mr. Chairman, the purpose of this amendment is to enable the Tennessee Valley Authority to block that entire program and dictate to this industry that is paying a large amount of taxes to municipalities, counties, school districts, and the Federal Government, and prohibit them from proceding with that improvement. That is what I call infamy plus Federal bureaucracy. A bunch of land sharks. I want the membership of this House who did not know about the hearings of this committee to know that they are voting absolutely to exterminate an industry that pays taxes and in the interest of one that does not pay a dime of taxes. President Andrew Jackson built the United States Treasury square across Pennsylvania Avenue to thwart exactly the same kind of a

set of Washington land sharks in 1832, and there stands the people's Treasury now. Oh, for another Andrew Jackson. [Applause.]

Mr. Chairman, just before the Committee rose yesterday evening the argument had gotten down to the point where the question was raised with respect to my attitude on this measure. I have tried repeatedly to state it and I shall state it tersely this morning in this way. There is a certain Book that all of us know about or should know about which says, "Between two evils choose ye the least." I am taking the House committee bill as the least of two evils as between it and the original basic act under which the T. V. A. is operating, and as I have repeatedly stated, if my committee bill is not deleted of its valuable provisions I shall vote for it, otherwise I shall vote against it.

I think this is a much better measure, but my particular purpose in asking for this time this morning was to respond to some of the statements of my good friend from Mississippi [Mr. RANKIN] made yesterday evening about the coal business in my district, and since he has been hauled over the coals so strongly this morning I want to assure him in the beginning that what I shall say today is said simply as an explanation and not as a criticism.

It was stated that the coal in my district was being wasted and should be used at the mine to produce electricity in order that my coal miners might have lights by which to read and heat with which to warm themselves and provide a number of the other conveniences which electricity gives. I wish every human being on earth could have all the conveniences of electricity without cost, but I must remind the statesman from Tupelo that there is not a miner in my district that eats or wears electricity. May I say that I know every coal mine in my district. I know every coal operator in my district. I do not know the 30,000 coal laborers that are in my district personally, but they know me, every one of them, and they are all for me, too—Republicans and Democrats. [Applause.] In my district every coal camp is lighted with electricity. In every five-room house, plastered and wired for electricity, electricity is furnished by the coal company on a reasonable flat rate per month, and every miner in my district has the privilege of running an iron, a refrigerator, keeping cold beer, if he can get it, lights burning in five rooms all day and all night, if he wants to, at a flat rate of $2 a month in most cases.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. MAY. I cannot yield just now. I want to get this statement in the RECORD.

In addition to this, the best of feeling exists between the operator and the miner, and I want now to go to Ontario to refer to some of the supposed low rates that has become an obsession of the brain with this distinguished statesman.

According to the latest figures from an investigation of the Ontario enterprise, that has been so much extolled in distributing electricity as a Government-operated institution by some uninformed gentlemen, when they closed their operations for the year 1933 they lacked $4,221,000 having as much money as the amount they had expended to produce and market the electricity. They started off at an estimated cost of plant of $25,000,000 and landed with an actual investment of $80,000,000. The Province of Ontario, in its whole operation, started out with combined liabilities of $25,000,000 and landed with $316,000,000, which is equivalent to $500 for every consumer in the Province.

[Here the gavel fell.]

Mr. MAY. Mr. Chairman, I ask unanimous consent to proceed for 20 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. MAY. Just as soon as I finish this statement.

The $316,000,000 of combined liabilities of the Province of Ontario is equivalent to $500 for each consumer they have, and 6-percent interest on $500 used to be $30 a year, or two and a half dollars a month of fixed charges. Therefore, the enterprise, publicly operated, is a rank failure and a misrepresentation [applause], like Tacoma, Wash., where they say they have a low rate, but the property tax rate is $7.20 on $100 worth of property, and this goes into the expense of operating the plant, and the revenues thus derived aid in running the city government that is crushed by heavy outstanding bond issues.

Mr. RANKIN. Mr. Chairman, will the gentleman yield there?

Mr. MAY. I yield.

Mr. RANKIN. The gentleman is entirely wrong about that. The Tacoma plant is entirely separate from the city administration. It is a nonprofit-sharing corporation, and it has nothing to do with the tax rates in the city of Tacoma. This was thoroughly explained by the Senator from Washington in his speech in the Senate the other day, and the gentleman from Washington [Mr. LLOYD] will tell you the same thing, and he lives in Tacoma.

Mr. MAY. Now, Mr. Chairman, in answer to that statement, Mr. E. K. Murray, director of the department of public works of Tacoma, Wash., who represents the whole State, testified before the House Military Affairs Committee on April 15, 1933, and stated in detail the facts in relation to this matter, when Senator BONE was present. I asked him these questions:

Mr. MAY. I want to get this clear. Is the 72 mills per dollar or per hundred dollars' worth?

Mr. MURRAY. It is 72 mills on the dollar.

Mr. MAY. That would be how much on $100?

Mr. MURRAY. It would be $7.20. The tax is levied on 50 percent of the actual value of the property.

This is another one of the many instances where government ownership and operation of public utilities becomes a farce and a failure. Lower rates to consumers are urged as the great goal to be obtained, and yet the public pays the bills in the form of higher taxes to take care of extravagance due to bureaucratic and political control of such enterprises; but, Mr. Speaker, I have opposed the Tennessee Valley Authority from the beginning upon a more fundamental principle than mere reduction of rates of service. The principal objection to such an institution as T. V. A. is founded upon the principle that it is contrary to the principle of local self-government, and the doctrine of State rights, both of which are foundation stones of self-government, and individual liberty under a republican form of government. As to what the founders of the Republic meant in the strong restriction of powers granted by the States to the Federal Government, can better be determined by reference to the views of some of the men whose public careers followed soon after the establishment of the Federal Government.

In the great debate between Daniel Webster, of Massachusetts, and the illustrious Robert Y. Haynes, of South Carolina, in 1830 when they had under discussion in the United States Senate the Foote resolution which proposed to cede to the States portions of the public lands then owned by the Government, that great Southern statesman and leader, Robert Y. Haynes, expressed grave concern at the influence that might be wielded upon the freedom of the States, and the people thereof, by merely ceding to them portions of the public domain. In that debate he used language peculiarly applicable to present-day conditions. I quote him as follows:

I distrust, therefore, sir, the policy of creating a great permanent National Treasury, whether to be derived from public lands or from any other source. If I had, sir, the powers of a magician, and could, by a wave of my hand, convert this Capitol into gold for such a purpose, I would not do it. If I could, by a mere act of my will, put at the disposal of the Federal Government any amount of treasure which I might think proper to name, I should limit the amount to the means necessary for the legitimate purposes of the Government. Sir, an immense National Treasury would be a fund for corruption. It would enable Congress and the Executive to exercise a control over States as well as over great interests in the country, nay, even over corporations and individuals—utterly destructive of the purity, and fatal to the duration of our institutions. It would be equally fatal to the sovereignty and independence of the States.

Sir, I am one of those who believe that the very life of our system is the independence of the States, and that there is no evil more to be deprecated than the consolidation of this Government. It is only by a strict adherence to the limitations im-

posed by the Constitution on the Federal Government, that this system works well, and can answer the great ends for which it was instituted. I am opposed, therefore, in any shape, to all unnecessary extension of the powers, or the influence of the Legislature or Executive of the Union over the States or the people of the States; and most of all, I am opposed to those partial distributions of favors whether by legislation or appropriation which has a direct and powerful tendency to spread corruption through the land; to create an abject spirit of dependence; to the different portions of the Union, and finally to sap the very foundations of the Government itself.

These words are particularly applicable at this time when we find the Tennessee Valley Authority's board of directors engaged in every form of activity, and planning every possible scheme to subsidize and subdue the people of four great southern States. I have never had any objection, and do not today oppose the full development of the Tennessee River for flood control and navigation, but I do object to the activities of this Federal bureau in a reckless and wasteful expenditure of public moneys in order to control and dictate the policies of the States in which they operate, and to direct the life and activities of the people of those States.

If it was dangerous in the early existence of the Republic to cede to the States public lands within their territory, how much more dangerous is it today to have the Federal Government appropriating hundreds of millions of dollars to be given to municipalities and other subdivisions of State government in the form of grants for the construction of power plants and distribution system for the distribution and sale of electric power, when the Tennessee Valley Authority assumes the right and power to dictate to each and every community the terms of sale and the activities of their local city, town, and village. The Federal Government has become so all-powerful that it is dominating the States to such an extent that all eyes are turned toward Washington. Bureaucrats at the heads of great departments with more than $4,000,000,000 of taxpayers' money readily available for gifts, donations, and other forms of bribery, has developed a condition where the governors of States, as well as the departments of State governments are being told from Washington what they may or may not do in the management of their own internal affairs.

It is proposed by this legislation and by amendments to be offered to this bill that the Tennessee Valley Authority be permitted to engage promiscuously in the wholesale and retail distribution of electricity in competition with private owners, and to effectuate the desires of this organization, any city, town, or municipality, or cooperative organization of citizens who will apply to the Tennessee Valley Authority, may procure an outright gift or donation of funds from the Federal Treasury of 45 percent of the cost of the enterprise. This is not merely the open door to a vicious form of State socialism, but it is despotism in its vilest form. This, to me, is unthinkable, but we are told, Mr. Speaker, that the Government of the United States desires to establish a yardstick by which to measure the cost of electricity to the consumer, and this yardstick is to be produced by authorizing the Federal agency that is to make it, to sell electricity at any price it wishes. It is proposed to expressly authorize the sale at any figure below cost. Of course, so long as taxpayers may be fleeced for money to take up deficits, the Government can operate such a program, but how long, may I ask, can a private industry compete with such opposition?

Deficits created by the operation of private concerns must be provided for either from existing surpluses, if any there be, or by assessments upon stockholders, and ultimately this can result only in bankruptcy and ultimate destruction of all industry by ruthless competition by the Government. It has been argued upon the floor of this House that I have been trying to throttle and defeat the purposes of the Tennessee Valley Authority, when, as a matter of fact, I have sought only to place upon its board of directors, officials, and agents, the same restrictions that are required of other Government agencies and bureaus, and to require it to account for all moneys received by it as other agencies of the Government do. To these things, the directors of the T. V. A. seriously object, and their objection to this leads to no reasonable or logical conclusion other than they desire to recklessly handle the peoples' money. In the face of the most unheard of extravagance in Government that can be pointed to in the history of the world, if it be a crime to demand economy in the expenditure of public money, then I plead guilty of the charge. If it be a crime to demand that those who spend the public funds shall make an honest accounting for them, then I plead guilty on the second count.

All I have asked or demanded is that if we must have a T. V. A., let us have a controlled T. V. A., and not one with unlimited and uncontrolled authority to spend the people's money. If we are to have a yardstick, let us have an honest yardstick, and a fair yardstick, but, Mr. Speaker, the whole purpose and object is to so cripple, compete with, and destroy private industries that they may be taken over, owned, controlled, and operated by the Federal Government.

I have been charged as being interested in the coal industry and therefore prejudiced against the T. V. A. I have no personal interest in coal or the coal industry, other than the interest of the people, owners and workers, engaged in the industry in the district which I represent. I have, in my district, a high-grade bituminous coal, and at this point I desire to include in my remarks a table showing the number of miners employable, the number unemployed, and the number employed on full time and part time, together with their average earnings per year, in the various counties.

County	Employable miners	Unemployed	Employed full time	Employed part time	Average earnings per year
Floyd	4,295	----------	3,577	4,039	$929.20
Johnson	1,729	207	817	1,522	539.40
Knott	689	15	557	674	869.40
Letcher	5,389	147	4,983	5,242	800.00
Martin	397	10	299	387	542.80
Perry	5,389	319	4,511	5,070	839.20
Pike	6,238	298	4,923	5,940	878.60
Magoffin	175	40	115	135	441.60
Total	24,301	1,036	19,782	23,009	----------

Also another table showing the number of miners employed full time each year and the amount of their earnings.

Floyd	$929.20	× 3,577	miners =	$3,323,748.40
Pike	878.60	× 4,923	miners =	4,325,347.80
Knott	869.40	× 557	miners =	484,255.80
Perry	839.20	× 4,511	miners =	3,785,631.20
Letcher	800.00	× 4,983	miners =	3,986,400.00
Johnson	539.40	× 817	miners =	440,689.80
Martin	542.80	× 299	miners =	172,297.20
Magoffin	441.60	× 115	miners =	50,784.00
				16,549,544.20

From these tables, it will be observed that there are approximately 25,000 workers in the eight counties of my district and that they earn annually in wages more than $16,000,000. It will doubtless be admitted by everyone who is informed at all that electricity is one of the strong competitors of coal as a fuel, and that if we are to have a subsidized Government-owned electrical industry, authorized and permitted to sell electricity at any price, in view of the testimony in this record, what may be expected to happen in the coal industry of my district, and where, oh where, Mr. Speaker, can we find employment for the 25,000 men that will be thrown out of employment, and what will take the place of the $16,000,000 annual pay rolls in the coal industry of my district? I am interested and shall oppose to the last the vicious, ruthless, and destructive competition in the coal industry as proposed by this legislation. I do this, Mr. Speaker, in behalf of the workers and all the people of my district. The $16,000,000 spent annually by the workers in the coal mines of my district means business to the merchants, farmers, and all other forms of business, and happiness and contentment to the toilers who produce the wealth and earn the wages.

While I recognize my obligation to all the people of the Nation, I am particularly the representative of my own district, and with this vital interest at stake, I shall continue to oppose any obstruction to the welfare and to the life and prosperity of my constituency.

Mr. TAYLOR of Tennessee. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, having been unable to obtain any time during the general debate on the measure before us, I am availing myself of this parliamentary expediency to make a few remarks on this very important piece of legislation.

Naturally I am tremendously interested in the work of the T. V. A. First, because of the national-defense, flood-control, and navigation aspects of the proposition; and, second, because of the fact that one of its major activities is located in the congressional district I have the honor to represent. The first element of my interest, therefore, is based on principle and patriotic impulses, while the second, as you will readily perceive, is founded on more or less selfish considerations.

This subject, Mr. Chairman, is by no means a new one to me. Coming to this body in 1919, I have had the opportunity to observe this problem in all of its details and ramifications during the intervening years, and I have enjoyed the privilege of participating in its extremely difficult and complicated but gradual solution. During that period I have been out of harmony with my party in the main, but I have no apologies to offer to anyone for the position I have invariably taken and the votes I have uniformly cast. While this development is in the South, it is by no means a local or provincial one. It is a preeminently national project and institution, and the time will soon come when it will be so recognized, even as the Panama Canal, the Boulder Dam, and other great national developments are considered.

As a general proposition, I am opposed to the philosophy of Government ownership and Government operation, but inasmuch as our navigable streams belong to the whole people, I favor their preservation as far as possible free from the exploitation of private greed.

Mr. Chairman, I am not one of those who nourish a grudge against the private-utility interests of this country, and who would destroy them by one fell swoop. I recognize the contribution that these enterprises have made to our national wealth, and I am violently opposed to the ruthless confiscation of their investments. I voted against the so-called "death sentence" a few days ago, because I believe in justice to every individual and to every enterprise. But, Mr. Chairman, I am constrained to believe that many of these utility companies have in the past imposed unreasonable and exorbitant rates for their services. I do know that since the birth of the T. V. A., charges for electrical current have been sharply reduced in my State and in adjoining States, and I understand that the repercussion from the T. V. A. policy has been similarly felt throughout the length and breadth of the land. The T. V. A. is certainly entitled to credit for this great blessing to the people.

The Tennessee Valley development envisions a gigantic civic laboratory dedicated to the welfare of the people of the United States. And if it is not handicapped in its endeavors and is permitted to carry to fruition its high purposes, it will inevitably turn out to be one of the greatest and most valuable assets, both from a civic and economic consideration of our Nation. During the hearings and the debate on this measure, the Authority has been the target of much satire, much abuse, and much ridicule. This is not strange, and it is certainly not uncommon. No undertaking of such colossal magnitude has escaped criticism, merited or otherwise. Constructive criticism is often a good thing and should be encouraged, but criticism which partakes of captiousness, sectional prejudice, and bigotry is always unfortunate.

Of course, the Authority has been guilty of indiscretions, and I am frank to say that I do not condone or approve of all of its practices, but I certainly would not favor the junking of a great national enterprise such as this just because the Authority has shown some evidence of poor judgment, the effect of which pales into insignificance in comparison with the tremendous magnitude of the undertaking.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. RANKIN. Mr. Chairman, I ask unanimous consent that the gentleman have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

Mr. McSWAIN. Reserving the right to object, and I shall not object, I desire to say that we want to finish this bill today, and if we can get down to it we can finish it. A few minutes longer under a pro forma amendment should be sufficient. I ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. TAYLOR of Tennessee. The acts of indiscretion about which some of my colleagues complain will soon pass and be forgotten, while the beneficent influences of this great development will go on increasing in usefulness as the years go by. And in conclusion, Mr. Chairman, I wish to make this prophecy that before many years shall lapse those who have so bitterly assailed and anathematized this project will recognize its virtue and will rise up and call "blessed" those who have been responsible for the fulfillment and realization of a great national vision and aspiration. [Applause.]

Mr. MAVERICK. Mr. Chairman, during this debate I have heard a great deal of personalities and some statements about coal. What has coal got to do with the T. V. A.? I come from the State of Texas and I have not mentioned oil up to this time. But Texas is the greatest oil-producing State in the United States, and my district and my State wants the whole United States to be prosperous. If we other States can be prosperous by the use of any of their wealth and resources, we will sell more oil. The same thing is true of coal; the same thing is true of any product. I do not believe that by stopping prosperity in a few States you can help prosperity in the coal States or anywhere else. We have stopped producing many things, making them scarcer in order to bring about prosperity. That is ridiculous. We are talking about small matters and about false economy. Prosperity begets prosperity, just as poverty begets poverty. They keep talking about those cows, which are an infinitesimal part of the great program. Yet, as a matter of fact, if you get good cows down there and raise the type of cattle similar to the cattle they have in Minnesota and Wisconsin, it will be a fine thing for this country—and I disagree with my friend the gentleman from Tennessee that his State is as great a dairying State as either Minnesota or Wisconsin. If the coal people want protective legislation to help their industry, I am going to be for it; and if any other industry in this country wants protective legislation I will be for that, too. What we ought to do is to be for every measure of conservation and for every move for prosperity in the country.

On the utility holding-company bill, as I said the other day, we Democrats, at least, did not vote unanimously. We did not vote unanimously on the so-called "death sentence", but I do hope the Democratic Party will go down the line and vote for the amendments offered by the gentleman from Alabama [Mr. HILL], which are approved by the administration, and which will make the bill similar to the Senate bill, because the Republicans have made that an issue—it is in the paper this morning—that the T. V. A. is "communism" and "socialism." There is one thing the Democrats ought to do. We ought to have intelligence enough, if we are going to run our Government and the T. V. A. intelligently, to give such units as the T. V. A. somewhere near as much latitude as we gave the holding companies. Let us go ahead and conduct our own business intelligently so that we can be proud of it, and let us not knock the President in the nose twice.

Mr. HOEPPEL. Mr. Chairman, I am in a happy frame of mind today, because I believe that the bill under discussion is in the interest of the American people and I am glad to join in its support. We heard the T. V. A. referred to on the floor yesterday as a project which will furnish a "yardstick" for legitimate utility rates throughout the country.

I am interested in that idea, and I should like to apply it also in other fields. We need a yardstick by which to evaluate the imperative needs of our people and to disclose the disgraceful contrast between the privileged few and the underprivileged many. Yesterday I received a letter from the superintendent of charities of the county of Los Angeles, in reply to a communication I addressed to him regarding the pathetic plight of a 70-year-old gentleman just recovering from an operation which he underwent last month. In his letter, the superintendent of charities stated:

Investigation discloses that Mrs. ——— is receiving welfare relief in the amount of $7.14 per month and Mr. ——— in the amount of $13.82 per month. This sum is $5.28 in excess of the ordinary budget for one in this circumstance.

In other words, this aged, worthy couple is receiving less than $21 per month welfare relief which, it is pointed out, is $5.28 in excess of the ordinary budget for such cases.

Speaking further, the superintendent of charities states:

This family is a very high type, and cooperative in every way.

I ask now the special attention of the members of the Military Affairs Committee who are handling the bill under discussion. The Military Affairs Committee recently reported out a bill—S. 1404—a so-called "Army officers' promotion bill", which is a distinct raid on the Treasury of the United States.

If the Members will refer to page 10346 of the CONGRESSIONAL RECORD they will find some startling facts, facts in reference to the high pay and other advantages enjoyed by the officers of the Regular Army who are asking for further increases for themselves, while worthy, outstanding American citizens are forced to subsist on the meager funds available to them through relief agencies.

With a background of 37 years' military experience, active and retired, I contend that any legislation which seeks to retire able-bodied graduates from West Point after they have served 11 years in the Army, as does S. 1404, is nothing short of criminal. To retire officers in the Army, contrary to existing law, with retired pay from $149 to $362 per month is an absolutely unjustifiable raid on the Treasury, and is class legislation of the worst type. I again urge the Members to read my remarks on this subject on page 10346 of the RECORD.

Mr. MERRITT of New York. Mr. Chairman, I make the point of order that the gentleman is speaking out of order. He is not speaking to the bill.

The CHAIRMAN. The point of order is made that the gentleman is not confining himself to the bill. The gentleman from California will proceed in order.

Mr. HOEPPEL. Mr. Chairman, I am sorry that the gentleman has made a point of order to stop discussion of a matter so threatening to the interests of the American taxpayers. It is part of the plan of the selfish military lobby in Washington that the Members should not realize the tremendous significance of S. 1404, both economically and socially, and, as a military man myself, whose allegiance, however, is first of all to the people and the Government of our country, I feel it is my duty to urge the Members to give this proposed legislation their earnest consideration so that this flagrant raid on the Treasury may be stopped before it goes further.

The Army and Navy lobbies here in Washington are of more potential force than the so-called "utility lobby" which we are now investigating. A newspaper correspondent yesterday advised me how diligently the Army lobbyists are working to secure the enactment of S. 1404, and I myself have been approached from various sources, even including the families of officers, with requests that I not oppose S. 1404, which will be an inordinate steal because of the cumulative, perpetual expense it will mean for the taxpayer, due to an unnecessary increase in rank of 1,412 field officers and the authority to retire up to 4,500 able-bodied officers after having served only 15 years. The Members might realize the strength of the military lobby if all officers, active and retired, were required to wear their uniforms while on duty in Washington or residing here. Such a requirement, in my opinion, would be distinctly in the interest of sound legislation.

Mr. MERRITT of New York. Mr. Chairman, I insist the gentleman is speaking out of order.

Mr. HOEPPEL. I am speaking for the American taxpayers, and I ask the Committee to bear this in mind.

The CHAIRMAN. The gentleman from California will suspend. After being directed to confine his remarks to the bill, he should proceed in order.

Mr. HOEPPEL. In reference to S. 1404, I consider that I have said enough. I only hope the Members will read my discussion of the subject in the CONGRESSIONAL RECORD, page 10346, and if they are human and honestly interested in the taxpayers and in alleviating the desperate plight of the worthy citizen, who has been unemployed for a long period and who is on relief, I feel confident they will vote against S. 1404 if it is brought before the House for consideration. Now, in reference to the pending measure before the House——

Mr. FADDIS. Mr. Chairman, will the gentleman yield?

Mr. HOEPPEL. I am sorry, I have not the time. I wish to reiterate that I am in favor of this T. V. A. legislation. This bill is one of the outstanding points of the new deal. If we would appropriate billions of dollars to develop every natural waterway in America for the purpose of water conservation, for flood control, and for the development of electricity, we would save our basic natural resources of hard and bituminous coal which are being depleted unnecessarily and which will be so vitally required by posterity in the centuries ahead of us.

We are here quibbling over the expenditure of a few million dollars for a worth-while project which has for its objective flood control, water conservation, and the furnishing of electricity at the lowest possible cost to the consumers, not only in the section to be served, but everywhere in the United States, for the T. V. A. is to furnish a yardstick for reasonable prices to all consumers. I hope that we will be equally solicitous of the taxpayers' interest in the event the so-called "officers' promotion bill" reaches the floor for consideration.

The CHAIRMAN. The time of the gentleman from California has expired.

ONTARIO, ITS TROUBLE—THE POWER TRUST

Mr. McFARLANE. Mr. Chairman, I hope the gentleman from Kentucky [Mr. MAY] will give me his attention for just a minute. I want to get him straight on the Ontario proposition; and just to keep the RECORD straight on the Ontario project, I trust that the membership of the House will read my remarks on that question, in which I quote the official records of the Ontario project, in the RECORD on page 8168 of the RECORD of May 24. Somehow or other there are quite a few newspapers ready, anxious, and willing to uphold the rights of the Power Trust and their excessive charges running into about $1,000,000,000 per year they place on the consumer beyond rates that are considered fair rates. And these papers, probably because they either own Power Trust stock or because of the advertising the power companies carry in their papers, are always ready and willing to carry whatever editorials or news items the Power Trust wants them to carry in their paper. Of late I have noticed quite a few such newspapers ready and willing to do the bidding of the Power Trust and to help them any way they can. When I read the editorial of the New York Sun, I went to the trouble to get the facts for the RECORD to answer the editorial placed in the RECORD by the gentleman from New York [Mr. WADSWORTH], this particular editorial appearing in the New York Sun on April 22, 1935, attacking this Ontario project. I think this article clearly answers him; and if the gentleman from Kentucky [Mr. MAY] will take the time to read that statement in the RECORD, he will find that the Ontario project is the greatest and one of the most successfully operated municipally owned projects today on the North American Continent. That great project is serving 757 cities and towns. It has an investment of more than $394,000,000, with an overhead indebtedness of 39 percent.

That indebtedness is not watered like the Power Trust pumps water into every project they start and then bleed the people white through the sale of worthless securities.

In recent years that indebtedness of the Ontario plant has been decreased from 88 percent to 39 percent. It is paying their people dividends in services rendered and making money. It is reducing its overhead every day.

Mr. MAY. Will the gentleman yield?

Mr. McFARLANE. In just a moment. The only trouble the hydroelectric project of Ontario has had is the same trouble that every municipally owned plant in this country has had whenever they try to declare their independence from the Power Trust and set up their own plant. The Power Trust of this country, as you know, comes in and tries in every possible way to keep them from setting up and operating their own plant. They could not compete with the Ontario project, so they did the next best thing. They got to the officials over there, the same as they do the officials all over the United States whenever and wherever possible, and they got those officials to enter into three improvident and fraudulent contracts to buy power from private plants instead of continuing their policy of generating their own power. When the depression hit them they naturally had more power than they ever needed. That is the only trouble they ever had. One of those contracts was with the Quebec Power Co. for 250,000 horsepower; another was with another private company for 96,000 horsepower; and the third contract was with another private company for 125,000 horsepower. That is the only trouble the Ontario project has ever had, when the officials of that project were taken in, so to speak, by the Power Trust. Then the Power Trust came in through the back door to wreck it like they try to wreck every other municipal project everywhere. The Power Trust works every way and any way in the world to keep any government authority from having sufficient authority to regulate their rates, so that they may continue to charge the people excessive rates.

Mr. MAY. Will the gentleman yield?

Mr. McFARLANE. I yield.

Mr. MAY. I would like to ask the gentleman, who is a lawyer and a good one, what he thinks about the constitutional authority of the Federal Government to sell and distribute electricity within the sovereign State of Tennessee?

Mr. McFARLANE. Well, whenever some cannot think of any other excuse for voting against a bill they always like to set up a straw man and go to shooting at him on constitutional questions; they then go to alibiing along that line as their reason for their vote.

Mr. MAY. Is the straw man the Constitution of the United States?

Mr. McFARLANE. No. The straw man is the Power Trust that they hit upon whenever they try to jump over on constitutional grounds as reasons for their vote against the rights of the common people.

The CHAIRMAN. The time of the gentleman from Texas [Mr. McFARLANE] has expired.

Mr. RANKIN. Mr. Chairman, I rise to strike out the last four words.

Mr. Chairman, I want to say in answer to the gentleman from Kentucky [Mr. MAY], with reference to the Tacoma tax rate, that the Tacoma power plant is a separate, non-profit-sharing corporation. It has nothing to do with city taxes and, therefore, is not responsible for them. Its operating expenses, sinking fund, and overhead are paid for out of power revenues.

Now, about this yardstick. I hold in my hand a report from the engineers of the War Department made in 1930. It is signed by the then Secretary of War, Patrick J. Hurley, and by the Chief of Engineers, Gen. Lytle Brown.

This report of the Army engineers says they can manufacture power for 1.35 mills per kilowatt-hour and transmit it 250 miles for 1.11 mills per kilowatt-hour. Listen to this. This is from the report of the War Department. I learned long ago that whether you agree with the engineers of the War Department or not, they will tell you the truth. They will not lie. This is what the War Department says, and you gentlemen who have been talking about this yardstick listen to this, from pages 530 and 531, Report From the Chief of Engineers on the Tennessee River and Tributaries, Part 1, 1930 (H. Doc. No. 328, 71st Cong., 2d sess.):

> The next step is to estimate the transmission costs, including line losses of the hydro power. To supply the prospective market under consideration, it is estimated that the average transmission distance would be 250 miles, and based upon transmission-cost data worked up in the Nashville office, a copy of which constitutes a part of appendix G, section C, of this report, this would be 1.118 mills per kilowatt-hour, including line losses.
>
> Having the average cost of hydro power at the switchboard, and the average cost of transmission over the average distance, 1.358 plus 1.118 equals 2.476 mills per kilowatt-hour, equals the average cost of the hydro power delivered at an average distance of 250 miles.

Answer that! There it shows what it costs to produce this power and to transmit it 250 miles.

Mr. McLEAN. Mr. Chairman, will the gentleman yield?

Mr. RANKIN. No; I cannot.

Mr. McFARLANE. Cover the tax phase of it.

Mr. RANKIN. The Tacoma plant paid $145,000 taxes last year, and the T. V. A. pays 5 percent of its gross earnings in lieu of taxes.

I have in my hand a report for the Power Authority of the State of New York, which shows that with an 80-percent load they can produce this power and transmit it 300 miles for 3.25 mills per kilowatt-hour.

The trouble is, gentlemen, you have not studied this proposition. The power lobbyists have been humbugging you and hoodwinking you. The Members of Congress and the American people are just now finding out what electric power is worth. When General Hurley signed this report the Power Trust was buying power at Muscle Shoals at 2 mills per kilowatt-hour, which the Army engineers say was produced at about 1⅓ mills per kilowatt-hour or less. This power they were buying for 2 mills at the dam they were selling 200 yards away at 10 cents a kilowatt-hour, or at a profit of 4,850 percent. You heard no complaint then, but now it is different. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. All time has expired under the limitation fixed by the House.

Without objection, the pro forma amendments will be withdrawn.

There was no objection.

The Clerk read as follows:

> SEC. 6. That section 10 of said act be, and the same is hereby, amended by adding thereto a proviso as follows: "*Provided further*, That the Board is authorized to include in any contract for the sale of power such terms and conditions, including resale rate schedules, and to provide for such rules and regulations as in its judgment may be necessary or desirable for carrying out the purposes of this act, and in case the purchaser shall fail to comply with any such terms and conditions, or violate any such rules and regulations, said contract may provide that it shall be voidable at the election of the Board: *Provided further*, That in order to supply farms and small villages with electric power directly from its transmission lines as contemplated by this section, the Board in its discretion shall have power to acquire existing transmission lines and facilities: *And provided further*, That the terms 'States', 'counties', and 'municipalities' as used in this act shall be construed to include the public agencies of any of them unless the context requires a different construction."

Mr. McSWAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. McSWAIN: Page 5, line 7, strike out all of section 6 and insert in lieu thereof the following language:
>
> "SEC. 6. That section 10 of said act be, and the same is hereby, amended by adding thereto a proviso as follows: '*Provided further*, That the Board is authorized to include in any contract for the sale of power such terms and conditions, including resale rate schedules, and to provide for such rules and regulations as in its judgment may be necessary or desirable for carrying out the purposes of this act, and in case the purchaser shall fail to comply with any such terms and conditions, or violate any such rules and regulations, said contract may provide that it shall be voidable at the election of the Board: *Provided further*, That in order to supply farms and small villages with electric power directly as contemplated by this section, the Board in its discretion shall have power to acquire existing electric facilities used in serving such farms and small villages: *And provided further*, That the terms "States", "counties", and "municipalities" as used in this act shall be

construed to include the public agencies of any of them unless the context requires a different construction.'"

Mr. McSWAIN. Mr. Chairman, those who followed the reading of the amendment and compared it with the text of the bill will realize that the amendment proposes to change only two words, to wit, to strike out the words "transmission lines" and to insert in lieu thereof the words "electric facilities", so that, instead of reading "acquiring transmission lines and facilities", it will read "may acquire existing electric facilities." The word "facilities" is a little broader, Mr. Chairman. It is thought perhaps it might be desirable to acquire such things as transformers or step-down stations to reduce the voltage to make it usable by the farmers. The amendment is merely a clarifying amendment. I ask for a vote.

The CHAIRMAN (Mr. SMITH of Virginia). The question is on the committee amendment.

The committee amendment was agreed to.

Mr. COOPER of Ohio. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, a few moments ago I was very much interested in the statement of the gentleman from Texas [Mr. MCFARLANE], in which he was praising the public-owned electric utilities in Canada, and especially in the Province of Ontario. There are a great many people in our country who continually are holding out the great advantage the people of Canada have in regard to public ownership of utilities, and especially in the Province of Ontario. I have in my hand part of an editorial published in the Ontario News Herald on December 19, 1934, from which I quote the following:

Take the Dominion's railway and merchant marine ownership policies—classic examples of the blight and burden of "politics in business."

Take the Hydro-Electric Commission in Ontario. Sitting right on the top of Niagara's power, it ought to be a marvelous success if there were any virtue in public ownership.

Instead of that its members have been kicked out and a newspaperman, dragged out of retirement to run it, has shocked even its stanchest friends by the revelations he has made of its deficiencies—and worse.

Now, that comes from one of the leading newspapers in the Dominion of Canada.

Mr. FERGUSON. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, I feel a good deal like a man attending a medicine show such as we have in Oklahoma, where a tonic or linament is sold with the assurance that it will cure all evils that may exist in a man's system and that it may be used with equal efficacy as a horse medicine, chicken medicine, or for any other purpose. I am not supposed to know anything about the T. V. A. I cannot bandy these figures about rates back and forth; but I did have the privilege of visiting the Norris Dam. I also had the privilege of going to that town and seeing the dam under construction. I have been a farmer all my life. My father and my grandfather before me were engaged in the same occupation; and when I heard the gentleman from Mississippi tell of the wonders that are to come from the lighting of the homes, I felt like asking, How is electricity, and that product only, to change the whole economic status of the country? You must have something on which to use electricity. The territory I saw around Norris actually would not support goats.

I do not know whether the whole Tennessee Valley looks like it or not. The yards of the beautiful city that was constructed as a dream to lead the way for this Nation had to have earth hauled in so that grass could grow in the yards of a good many homes down there.

Mr. Chairman, we are considered to be hiding behind the Power Trust if we oppose the appropriation of millions of dollars for this dream to rehabilitate a country that has worn out. When we come to the Congress and ask aid in refinancing and amortizing the loans on the farms in the West, as provided in the Frazier-Lemke bill, we are Communists and have no place in the Congress. We have people out there who are actual farmers and can produce the grain and have produced it in the past. We have no need for electricity as yet. If we could finance our farms, have machinery at a reasonable cost to operate, and have some kind of homes to live in we would be perfectly happy.

Mr. Chairman, I am not opposed to the development of a model plant in T. V. A.; I am not opposed to continuing the work that has started down there, but there is not a private industry in the United States that could refinance themselves for an additional extension on the record that has been so far established by the T. V. A. They would have a mighty hard time getting their present indebtedness refinanced in order to carry on.

If this Congress wants to protect its authority and rights the Members will vote today that every cent that goes to the T. V. A., whether it is through the issuance of bonds or through an appropriation, should be authorized by the Appropriations Committee of this House. [Applause.] We should not allow that bunch of bureaucrats down there to determine how that money should be spent.

I want to read some damaging testimony which I read in the hearings. Mr. Morgan testified that the land had cost $50 an acre.

[Here the gavel fell.]

Mr. FERGUSON. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. FERGUSON. Mr. Chairman, Mr. Morgan testified before the committee that the land cost on an average of $50 an acre, and then a little further on in his testimony he made this statement: "The study that we made of 977 tenants near Norris Dam showed that two-thirds of them had a farm income of less than $60 a year."

Mr. THOM. Will the gentleman yield?

Mr. FERGUSON. I yield to the gentleman from Ohio.

Mr. THOM. The $50 an acre included buildings, not land alone, if the gentleman will read the complete testimony.

Mr. FERGUSON. I understand that, but if the gentleman has had any experience selling farms or foreclosing farms in the West, he will find that the improvements do not amount to anything.

Mr. THOM. The gentleman ought to be fair and quote Mr. Morgan as he testified. He testified that price included land and buildings.

Mr. FERGUSON. I am glad to include them. That is perfectly all right, but when land is sold nothing is received for the improvements. They are either wasted or torn down and are not considered as vital.

Now, it is all right to give the T. V. A. blanket authority to construct dams on the Tennessee River, but may I make this statement: When we tried to secure aid in order to construct dams on the North Canadian River down in our country, which river destroyed millions of dollars' worth of property, and a project for which the State of Oklahoma had put up considerable money, that project was turned down because it was not included in the dream of some special people that have the ear of the Congress and the administration. Lastly, may I say that when we pin the idea of national defense and flood control onto this bill it is a misnomer. I am reminded of the phrase used by Gibbon, when, in speaking of the Roman Empire, he said:

It is neither holy, Roman, nor an empire.

On my statement that the bill reminds me of Gibbon's phrase, let us examine the purported purpose of this bill—to improve navigation. On page 304 of the hearings General Pillsbury, of the Army Engineers, testified that a complete navigation system could be constructed for one-fourth the cost of the proposed system, and not more than $75,000,000 could be justified from the benefits derived by navigation. So that eliminates three-fourths of the proposed cost.

The same General Pillsbury stated the seven or eight proposed high dams would solve the local flood-control problem by the unique method of flooding the entire Tennessee Valley; in his own words, "You understand that when this system of high dams is built there will be very little bottom land left in the Tennessee Valley, which is the natural valley

to be flooded, and it will all be covered by the dam except the important cities such as Knoxville, Chattanooga, and the regions about them." And as far as the effect on floods on the lower Mississippi are concerned, he says, "The effect on the Mississippi would be measured in inches and fractions of an inch in a high flood."

So it is plain to see the bill has no flood-control value. That should be stricken from the title.

From what I could gather from the statement of Col. C. T. Harris, Assistant Secretary of War, on page 327, it has little to do with the successful prosecution of a war.

Now, to be brief, this bill has as its primary feature the construction of seven or eight large power plants—a great extension of power before the dams now completed or under construction have had a chance to prove their worth. Why should the Nation pay for the creation of more power than at present can possibly be used, allow T. V. A. to sell this power below cost, and give the Tennessee Valley a power that will allow it to attract industries to that valley at the expense of the rest of the country, with the taxpayer paying the bill?

I want to refer again to the response we in Oklahoma have had to our application for the construction of dams under the works program, and the State agreed to buy the land and operate the dam. Yet those dams have not been approved. In the Tennessee Valley the Government buys the land, constructs the dams, gives the State 5 percent of the gross proceeds, and after all that, under this present bill, T. V. A. is even authorized, after paying two prices for poor land, to assist the farmers in moving to a new area.

I do not want to appear as an obstructionist. But before we expand the already great powers of T. V. A. we should look to the flood-control, soil-erosion, and refinancing problems of the West, and not spend all the money on a section that in many parts is ruined beyond recovery.

[Here the gavel fell.]

The Clerk read as follows:

SEC. 7. That said act be, and the same is hereby, further amended by adding a new section after section 12 of said act, as follows:

"SEC. 12. (a) In order (1) to facilitate the disposition of the surplus power of the Corporation according to the policies set forth in this act; (2) to give effect to the priority herein accorded to States, counties, municipalities, and nonprofit organizations in the purchase of such power by enabling them to acquire facilities for the distribution of such power; and (3) at the same time to preserve existing distribution facilities as going concerns and avoid duplication of such facilities, the Board is authorized to advise and cooperate with States, counties, municipalities, and nonprofit organizations situated within transmission distance from any dam where such power is generated by the Corporation in acquiring and operating (a) existing distribution facilities and incidental works, including generating plants; and (b) interconnecting transmission lines; or to acquire any interest in such facilities, incidental works, and lines."

Mr. McSWAIN. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. McSWAIN: On page 6, line 18, after the word "or", strike out "to acquire" and insert in lieu thereof "in acquiring."

Mr. McSWAIN. Mr. Chairman, I apologize to the Committee for bringing in an amendment merely to correct a verbal situation. I presume the House understands by now that this bill was formulated under conditions that were not very conducive to accuracy.

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 8. That said act be, and the same is hereby, further amended by adding to section 14 of said act the following:

"For the purpose of accumulating data useful to the Congress in the formulation of legislative policy in matters relating to the generation, transmission, and distribution of electric energy and the production of chemicals necessary to national defense and useful in agriculture, and to the Federal Power Commission and other Federal and State agencies, and to the public, the Board shall keep complete accounts of its costs of generation, transmission, and distribution of electric energy and shall keep a complete account of the total cost of generating and transmission facilities constructed or otherwise acquired by the Corporation, and of producing such chemicals, and a description of the major components of such costs according to such uniform system of accounting for public utilities as the Federal Power Commission has, and if it have none, then it is hereby empowered and directed to prescribe such uniform system of accounting, together with records of such other physical data and operating statistics of the Authority as may be helpful in determining the actual cost and value of services, and the practices, methods, facilities, equipment, appliances, and standards and sizes, types, location, and geographical and economic integration of plants and systems best suited to promote the public interest, efficiency, and the wider and more economical use of electric energy. Such data shall be reported to the Congress by the Board from time to time with appropriate analyses and recommendations, and, so far as practicable, shall be made available to the Federal Power Commission and other Federal and State agencies which may be concerned with the administration of legislation relating to the generation, transmission, or distribution of electric energy and chemicals useful to agriculture. After July 1, 1937, the Authority shall not sell the surplus power or chemicals produced by it annually below the cost of the aggregate production for each year."

Mr. WILCOX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILCOX: Page 6, line 22, after the word "following", insert "the Board shall, on or before January 1, 1937, file with Congress a statement of its allocation of the value of all such properties turned over to said Board, and which have been completed on or before said date, and shall thereafter in its annual report to Congress file a statement of its allocation of the value of such properties as have been completed during the preceding 12 months."

Mr. WILCOX. Mr. Chairman, this amendment simply requires the filing of information with the Congress by the Board of the Tennessee Valley Authority as to its allocation of the value of the properties devoted to flood control, navigation, national defense, and the production of power.

The original act, in section 14, requires the Board to make such an allocation. It is recognized in the act as essential in order that the Congress and the country generally may be acquainted with the allocation made by the Board in determining the depreciation to be charged off each year in the rate base for the sale of electric current.

When I spoke in the general debate on yesterday I emphasized the fact that the T. V. A. is not primarily a power project. Its principal authority for existence is as a national defense measure. Next in importance is its navigation and flood-control aspects and the production and distribution of power is only incidental. In the sale of such surplus power as is generated we must provide against subsidizing the institution by providing that power shall not be sold below the cost of production. One of the proper items of cost to be considered is depreciation, and this can only be determined by first ascertaining the value of the property devoted to the manufacture of electricity.

The original act, as I have said, requires this allocation to be made, but it does not specify any time within which it shall be made, and the act does not require any report on the actions of the Board to the Congress. Under the original act the Board could wait 20 years to make the allocation if it saw fit and thus delay Congress in finding out what depreciation should be charged.

This amendment simply requires that on or before January 1 of 1937 the Board shall file with the Congress its report of its allocation of the value of the properties devoted to these specific purposes and that thereafter, annually, it shall file a similar report of its allocation of the value of the properties that have been completed during the preceding 12 months.

I think the committee will recognize this as essential if we are to determine the correctness of the so-called "yardstick of rates" for power sold by the Authority. We can only determine the correctness of the yardstick if we know that the depreciation charge is correctly entered on the books of the Corporation, and this, of course, can be determined only in the event we know that a proper allocation has been made between the various divisions of the activities of the Corporation.

I think this amendment will probably be accepted without objection, because it simply requires information to be filed with the Congress and does not impose any further or additional duty upon the Board, and I call for a vote.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. WILCOX. Yes; I yield.

Mr. MAY. I understood the gentleman to say—and I hope I am correct—that the amendment provides that this report

may be made not only on January 1, 1937, but each year thereafter.

Mr. WILCOX. The amendment requires that the Board shall on or before January 1, 1937, file with the Congress a statement of its allocation of value of all such properties turned over to the Board which have been completed on or before said date, and shall thereafter, in its annual report to Congress, file a statement of its allocation of the value of such properties as have been completed during the preceding 12 months.

The CHAIRMAN (Mr. DRIVER). The question is on the amendment offered by the gentleman from Florida.

The amendment was agreed to.

Mr. HILL of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HILL of Alabama: Page 8, line 4, strike out all after the period beginning with the word "after" to the end of the section and insert in lieu thereof the following: "It is hereby declared to be the policy of this act that in order, as soon as practicable, to make the project self-supporting and self-liquidating, the surplus power shall be sold at rates which, when applied to the normal capacity of the Authority's power facilities, will produce gross revenues in excess of the cost of production of said power."

Mr. HILL of Alabama. Mr. Chairman, I think we will all agree that we do not want the project in the Tennessee Valley to be carried on by Government subsidy and that we want this project to be self-supporting and self-liquidating, and that we want to go further than do the private power companies and have the project amortize out the cost of the project.

Those of you who heard the very able speech of the gentleman from Florida on yesterday will recall how he outlined the testimony before the Military Committee to the effect that the Tennessee Valley Authority is today fixing its rate bases so as to charge up a certain amount for taxes, a certain amount for interest on the money, and a certain amount to amortize out the cost of the different dams, and the language of the amendment which I have offered would simply provide that it is the policy that the Tennessee Valley Authority, in fixing its rates, will fix the rates so that when they are applied to the normal capacity of the power facilities, the gross revenues derived from the sale of surplus power will be in excess of the cost of the production of the power.

This language carries out the purpose much more clearly and much better than the language in the bill which the amendment strikes out. The language in the bill which is stricken out by my amendment carries a provision as to an annual cost of production; in other words, your power rates must be based on each year's cost of production. There is not anybody in the world who can tell in advance just exactly what 1 year's cost of production might be. Furthermore, your first customer cannot pay all of your cost of production, and this project, like all other businesses, has to have a reasonable time to get started and to begin the process of self-liquidation.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield, briefly, for a question.

Mr. MAY. The only difference between the amendment offered by the gentleman and the provision in the bill embraced in lines 4 to 6, on page 8, is that the bill fixes the date as of July 1, 1937, after which they must perform according to the language of the section, whereas the gentleman's amendment does not fix any date at all.

Mr. HILL of Alabama. Many of the dams, of course, will not be constructed by that time, and let me say to the gentleman, speaking about construction, we may take, for instance, the Norris Dam, about which we have heard so much. The Norris Dam will never be paid for from power generated and sold from that dam, because the Norris Dam is a great storage dam for purposes of flood control and for purposes of increasing the power at other dams down the stream.

For instance, the power companies in 1926 offered the Government $1,200,000 for the increased power that there would be at the Wilson Dam, due to the construction of the Norris Dam.

(The time of Mr. HILL of Alabama having expired, he was given 5 minutes more.)

Mr. SNELL. Will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. SNELL. The language you are seeking to strike out contains a definite statement about the price of power.

Mr. HILL of Alabama. It is tied down to the cost of production in a given year.

Mr. SNELL. Under the language you are seeking to insert, as I heard it, you never would have to sell power at the cost of production.

Mr. HILL of Alabama. I think not; I think as the Tennessee Valley Authority is a Government agency set up by act of Congress, it will be controlled by Congress.

Mr. SNELL. Unless it reaches the point of the average facilities, and if it never reached that point you would not have to sell.

Mr. HILL of Alabama. If it never reached that point, under the language in the bill you could not do it. There is no way that you can absolutely guarantee the sale of the power.

Mr. SNELL. Under the language carried in the bill you could not sell it for less than the cost of production after 1937.

Mr. HILL of Alabama. You cannot tell what the annual cost is going to be.

Mr. SNELL. There is no reason why you cannot if you keep books. I guarantee that I could tell with the proper set of books.

Mr. HILL of Alabama. It would be difficult to tell in the period when you are constructing the dams and getting the project started.

Mr. SNELL. But not after you get it started and completed.

Mr. HILL of Alabama. You have got to go out and sell the power under the basic act, and you are giving preference to counties, municipalities, and organizations under 20- and 30-year contracts. The first year's sale of power might be under the cost of production, and if it were then the power companies would tie you up by an injunction in court. And no city would invest its money in a distribution system and contract to purchase the power under such uncertainty.

Mr. SNELL. I know, but you would know what it cost; and, as I understand your policy, it is not to sell at less than the cost of production.

Mr. HILL of Alabama. That is correct.

Mr. SNELL. Why not put it in the bill so that people will understand it?

Mr. HILL of Alabama. We have declared it in my amendment.

Mr. SNELL. The language is so obscure that nobody can understand it.

Mr. DORSEY. Is it not a fact that under the present language of this bill it will be utterly impossible, because of the wording "adequate production for the year", to state the rate?

Mr. HILL of Alabama. It will be utterly impossible to state a rate. You never would get a contract; and if you got a contract, you would be dragged into court by the power companies, with all kinds of injunctions, just as you are tied up in court today. You cannot operate under the language of the bill today, and so far as chemicals are concerned, you would absolutely destroy what was the intent of the Congress when it passed the basic act.

Mr. LEWIS of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. Yes.

Mr. LEWIS of Maryland. I read the bill as it stands on the subject as mandatory. Is the gentleman's amendment mandatory, or simply an admonition?

Mr. HILL of Alabama. My amendment is a straight declaration of policy as to how this Authority shall proceed. Let me say this as to the fertilizer proposition: The idea and intent of Congress as to fertilizers was that we should carry on experimentation, that we should carry on research. If you are going to say that you cannot make any fertilizer down there unless you show that you are absolutely producing that

fertilizer and will sell it for at least equal to the cost of production, then you have to take some old, proven, well-known method, because that is the only way that you can be sure that you can sell it for the cost of production.

You have down there nitrate plant no. 2, which cost the Government some $60,000,000. We are using a part of that plant today in making fertilizer. Everybody knows that the Government paid far too much for the construction of that plant, and yet if you tie down this cost of production too tight, will you charge the fertilizer production right from the beginning with this $60,000,000? Certainly we are too sensible to do that.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. McSWAIN. I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. McSWAIN to the amendment proposed by Mr. HILL of Alabama: At the end of said proposed amendment, after the word "power", strike out the period and insert the following language: "and in addition to the statement of the cost of power at each power station, as required by section 9 (a) of the Tennessee Valley Act of 1933, the Board shall file with each annual report a statement of the total cost of all power generated by it at all power stations during each year, the average cost of such power per kilowatt hour, the rates at which they were sold, and to whom sold, and copies of all contracts for the sale of power."

Mr. McSWAIN. Mr. Chairman, gentlemen will recall that yesterday I called attention to the fact that in three places of the basic act of 1933 the language indicates clearly that it was the intention of the Congress that power and fertilizer and munitions should be sold at a price not below the cost, ultimately. The very language of the bill before us, which was prepared by the representatives of directors of the Tennessee Valley Authority, page 7, implies that very thought. Page 7, line 5, it speaks of "its costs of generation", and in line 7 of "the total cost of generating and transmitting", and in line 10 "of the major components of such costs", and in line 16, "helpful in determining the actual cost and value of services."

The thought that could not be escaped by anybody who was considering this whole proposition, as I indicated yesterday, is that surely cost must ultimately be the minimum figure at which any of these commodities may be sold.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. Yes.

Mr. SNELL. If that statement is correct, and I think it is, what is the objection to putting it right into the bill so that any man who reads it can understand it?

Mr. McSWAIN. I think I can explain that. I think the gentleman is a good enough business man, because he has that reputation, to realize that during the period of inauguration no business can be self-sustaining. The Committee recognized that, and at the conference where the terms of the bill H. R. 8527 were agreed on, it was then understood among us that the date should be 1938—July 1. When the bill came back into the full committee it was amended, as the committee had a right to do, and the date was reduced 1 year to July 1, 1937. That shows that those of us who were strongly in favor of the cost provision, as I am, being the minimum yardstick ultimately, the question as to when exactly it could be applied was in our minds. My amendment is to the effect that they must incorporate in their annual report every year the total amount of cost for the total amount of power produced, the average cost per kilowatt-hour, the rates at which it is being sold, to whom it is being sold, and copies of the contracts for the sale of power.

Now, we realize, I think, that we are not now in a position to say what the cost is. We do not have the information. We are not in a position now to say that it shall go on a cost basis right now. I submit that we are not in a position now to say exactly at what definite date in the future we can go on a cost basis, but I do say that after we have gotten 1 or 2 or 3 annual reports with the information required by this amendment, we will know, and then Congress can apply its power and say, "Henceforth if you are not already on a cost basis, you must go on a cost basis."

Mr. MAY. Will the gentleman yield?

Mr. McSWAIN. I yield.

Mr. MAY. The gentleman knows that the bone of contention on this proposition in committee was the date as to when they would be charged with the responsibility of making some money on this thing. The gentleman knows furthermore we discussed the fact that they said they would be able to operate Norris Dam at the end of this year. The Hill amendment as offered is not cured by the gentleman's amendment to the extent that the Hill amendment leaves it absolutely indefinite as to when they will be required to make a profit, and the amendment offered by the gentleman from South Carolina only asks for certain information, and the controversy is as to the date.

Mr. McSWAIN. That is true, but the point is that while the Hill amendment is indefinite as to time and leaves it in the discretion of the directors, I think when we get the definite information called for by this amendment, we will then be in a position to fix the date, which we are not now in a position to do.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. McSWAIN] has expired.

Mr. MAY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have now come to the first important question in this bill. It was a matter of long and careful study by the members of the entire committee as to when the Tennessee Valley Authority ought to be required to begin to show a profit upon the investment of the hundreds of millions of dollars furnished T. V. A. We debated it pro and con, and after we had considered all of the testimony, after it had appeared that Dr. Morgan testified the Norris Dam would be completed by the first day of next January, and that his transmission line to Muscle Shoals would be completed in the next 6 months, and that when that was done the capacity of the Muscle Shoals Dam would be increased three times, then the committee took the position that if they were in position then to produce electricity in a field where they have no market, the first thing to do was to let them get a market or show us they were not making any money. Their answer to it was set out in their annual report, and here it is: They claimed time after time to our committee that they had already made money. They show on page 57 of their annual report a net profit of $824,557.76. They testified before our committee that they were not selling power at a loss, and if they made that much money last year, nearly a million dollars, and if they reduced electric rates as the gentleman from Florida [Mr. WILCOX] says, $7,000,000 in that community by other utilities, what in God's world is to keep them from operating without losing money 2 years from now?

The 1st day of July 1937 is 2 years from the first day of this month. I think it is out of the question for the House to think about allowing this concern, with its disposition to spend money recklessly, to operate these electric facilities more than 2 years without requiring them to come to this Congress and show us they are making money. The amendment offered by the gentleman from South Carolina [Mr. McSWAIN] will do that, but we ought to put a limit on them and require them to begin to get ready to pay a profit some time in the operation of this concern.

Mr. ANDREWS of New York. Will the gentleman yield?

Mr. MAY. I yield.

Mr. ANDREWS of New York. Is it not true that the Authority has sold power and allocated the funds to non-revenue-producing projects?

Mr. MAY. Certainly. In addition to that, they gave power to the War Department in the operation of their facilities in flood-control dams in the river, to the amount of $25,000 last year that is not included in their profits of $824,000. So that I see no reason for allowing them to run loose for another 2 years without showing Congress that they are on a paying basis.

The CHAIRMAN The time of the gentleman from Kentucky has expired.

Mr. SNELL. Mr. Chairman, I move to strike out the last two words.

From the statements made by the chairman of the committee and also by the gentleman from Alabama [Mr. HILL] we are all agreed that the T. V. A. shall not continue to sell power down there at less than the cost of production. If that is so, and the man who is operating the Tennessee Valley Authority says that the entire unit will be completed by the 1st day of next January, and they are given a year and a half leeway, I cannot see any reason why we should not say in this bill in plain language what we mean, that after January 1, 1937, the T. V. A. shall not sell electrical energy at less than the cost of production.

I have read the amendment offered by the gentleman from Alabama [Mr. HILL] quite carefully. If there is a single word in that which says they cannot forever sell electricity at less than the cost of production, I should like to have the gentleman show me what word that is. I will yield for that purpose.

Mr. HILL of Alabama. I did not understand the gentleman's query.

Mr. SNELL. I cannot find anything in the gentleman's amendment that precludes selling electrical energy at less than cost.

Mr. HILL of Alabama. No. It may be that in the beginning it may sell some of this energy below cost, just like any other business, when it begins to operate, sells sometimes below cost.

Mr. SNELL. Can the gentleman show us anything in his amendment that says, for instance, that in 1940 or any particular date it must operate at a profit?

Mr. HILL of Alabama. No; no year is specified in the amendment.

Mr. SNELL. That is just my point, and for that reason I am opposed to the amendment. It does not carry out the theory of the gentleman that after 2 years it must operate at a profit, and does not say definitely in language every person can understand that the T. V. A. must sell electrical energy at the price of production. It is very evident to me you do not mean what you say, and you are going to cut that part out of the bill.

Mr. ANDREWS of New York. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, I want to add some comment regarding the amendment offered by the gentleman from Alabama. It has been said, and rightfully so, that any large organization starting in a new field must of necessity have a considerable number of years in which to attain a position where it may reasonably be expected to operate with profit. I admit the T. V. A. should have a reasonable number of years in which to be able to attain a position where they could sell power or could be compelled to sell power at not less than cost. It is generally recognized that a private business is given a certain number of years in which to get itself on a regular operating basis, but there is always a fixed date when they have either got to produce results or quit. It seems to me it would be a very good thing to let the Tennessee Valley Authority know that there is a day coming when they have got to sell power at what it costs them. They have the sole authority to allocate the funds given to them to revenue-producing projects and otherwise. It is a fact today that of the $151,000,000 of the taxpayers' money which is being used by the T. V. A. only $25,000,000 is now allocated to revenue-producing projects.

When this bill was originally brought before the committee this section contained the date of July 1, 1938. Many members of the committee felt that was a very fair date and a concession to the T. V. A., but a majority of the committee felt that even this was going too far, and the date was advanced to July 1, 1937. I for one cannot understand why the Democratic members of that committee are not going to support the committee bill by defeating the amendment. The best thing we could do to the T. V. A. today is to let them know that there is a date coming, whether it is 1937, 1938, 1939, or 1940, when they have got to sell their power at a price at least equal to what it costs.

Mr. KVALE. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, my good friend and colleague on the committee, the gentleman from New York, pointed out that three-quarters of the membership of the committee felt that 1938 was too late a date to set as the dead line after which the Tennessee Valley Authority would be compelled to sell all its power at or above the cost of production; and so the date was advanced to 1937, as has been described.

There is more to the story, however, than just that statement. I do not say that the gentleman was insincere in omitting the description of those additional factors that guided the committee, but here is the situation, Mr. Chairman:

In addition to the members of the committee, colleagues of mine, who felt that the date 1938 should be advanced to the date 1937, the three-quarters of the committee membership who voted to strike out 1938 and advance the date 1 year included also those who wanted to discredit the yardstick, who wanted to make it difficult for the Tennessee Valley Authority to operate in reference to the entire project and who wished to defeat the essential purposes of this bill.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. KVALE. I yield.

Mr. MAY. The gentleman will admit to the Committee, of course, that there was testimony before our committee by Dr. Morgan, of the T. V. A., that they adopted their policy in September 1933, and fixed a schedule upon which they based their rates and on that they claimed to have made a profit last year. Is not that correct?

Mr. KVALE. Without taking up that argument, the gentleman also knows that the date of 1937 as now carried in the measure will make it impossible for the present project and the present plans to be carried to fruition to make a unified system operating economically, and will make it impossible for them to make contracts with their municipalities or to make favorable adjustments in the interest of the consumers of power generally, particularly rural customers.

Mr. McFARLANE. How many members of the committee wanted to wing this bill any way they could, as shown by the hearings of the committee?

Mr. KVALE. Mr. Chairman, the gentleman is friendly, but he is facetious.

Mr. McFARLANE. I should like to know.

Mr. KVALE. Mr. Chairman, this is a vital amendment. The gentleman from Alabama, Mr. HILL, is sponsoring an amendment which seeks to restore some of the damage that has been wrought on the face of this measure by those who are sincere in their belief that the power and activities of the T. V. A. should be curtailed or modified. I choose to stand with the gentleman from Alabama and thank him for his courageous position and earnestly hope his amendment will prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina to the amendment offered by the gentleman from Alabama.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama as amended.

The question was taken; and on a division (demanded by Mr. MAY) there were—ayes 98, noes 67.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 9. That section 15 of said act be, and the same is hereby, amended to read as follows:

"SEC. 15. With the approval of the Secretary of the Treasury, the Corporation is authorized to issue bonds not to exceed in the aggregate $50,000,000 outstanding at any one time, which bonds may be sold by the Corporation to obtain funds for carrying out the powers and purposes of basic act approved May 18, 1933, being Public Act No. 17 of the Seventy-third Congress. Such bonds shall be in such forms and denominations, shall mature within such periods not more than 50 years from the date of their issue, may be redeemable at the option of the Corporation before ma-

turity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3 percent per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount and sold at such prices: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3 percent per annum. Such bonds shall be fully and unconditionally guaranteed, both as to interest and principal, by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand, when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is hereby authorized to be appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price."

Mr. BUCHANAN. Mr. Chairman, I offer an amendment, which I send to the desk; and in connection with this first amendment I have another amendment which I ask unanimous consent to have read at this time for the information of the House, the latter amendment being on the same subject.

The CHAIRMAN. The Clerk will report the first amendment offered and then for the information of the House read the second amendment offered by the gentleman from Texas [Mr. BUCHANAN].

The Clerk read as follows:

Amendment by Mr. BUCHANAN: On page 8, line 15, after the word "Congress", insert ": *Provided*, That the proceeds from the sale of such bonds by the Corporation are authorized to be appropriated for the purposes of such basic act and may be expended only in consequence of such appropriations."

Amendment proposed by Mr. BUCHANAN: On page 10, strike out lines 9 to 20, inclusive, and insert in lieu thereof the following:

"SEC. 26. Commencing July 1, 1936, the proceeds for each fiscal year derived by the Board from the sale of power and any of the products manufactured by the Corporation, and from any other activities of the Corporation, including the disposition of any real or personal property, shall not be expended by the Board except in consequence of annual appropriation thereof by Congress, and the appropriation of such proceeds is authorized to meet the cost of operation, maintenance, depreciation, amortization, interest on bonds, and for operating capital, or for improvements, betterments, or the acquisition of facilities necessary to carry out the purposes of this act: *Provided*, That nothing in this section shall be construed to prevent the use by the Board after June 30, 1936, of proceeds accruing prior to July 1, 1936, for the payment of obligations lawfully incurred prior to such latter date."

Mr. BUCHANAN. Mr. Chairman, this is the first of a series of amendments which I expect to offer, and will continue to offer, until we adopt a national policy that will apply to every corporation organized and conducted by the Government. [Applause.] We have in existence over 20 Government corporations with no strings on them, with little control over them, and with no right to investigate by regular committees, either the Appropriations Committee or any other committee, without a special resolution providing for this purpose. Special resolutions should not be necessary for the investigation of any corporation unless there is real ground to expect fraud or dishonesty in its administration. Therefore, I say that every cent of money this Congress hereafter grants to any of these corporations, whether it be realized from the sale of authorized bonds or not, should be placed in a special fund in the Treasury of the United States to the credit of that corporation and expended only upon appropriation by the Congress. [Applause.]

Mr. MAY. Will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Kentucky.

Mr. MAY. Will the amendment offered by the gentleman from Texas, with which I heartily agree, require the proceeds of the profits of the business of the Tennessee Valley Authority to be likewise paid into the Treasury?

Mr. BUCHANAN. The second amendment read, and which I have not as yet offered because we have not reached page 10, provides for and covers that matter.

Mr. KNUTSON. Will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Minnesota.

Mr. KNUTSON. I would suggest to the gentleman that he include as a part of his remarks a list of the corporations just referred to, because yesterday before the Ways and Means Committee it was specifically denied that the Government was in business, when I knew better.

Mr. BUCHANAN. That is not pertinent to this inquiry. I have a list of 20 such corporations here, and there are a few more. If the gentleman wants to see this list, I will be glad to show it to him. I do not expect, however, to interject in my remarks this foreign substance for political purposes, because I am not dealing in politics at all. I am dealing with the Tennessee Valley Authority, and I want it conducted on business principles.

Mr. Chairman, I am opposed to giving that Corporation or any other Government corporation unlimited authority to spend money where they please. Why do I say that? I make that statement by reason of my experience in connection with the conduct of hearings on the Tennessee Valley Authority last May. [Applause.] We have to maintain control over every dollar not only spent by these corporations but by governmental departments. Why not give the Post Office Department the right to spend its revenues without appropriation? Why not give the Panama Canal the right to spend its receipts without appropriations? Why not give the Patent Office authority to spend its receipts without appropriations? The reason we do not give them such authority is because it is our business to require all of these agencies to come before the regular committees of Congress, give an accounting in reference to the expenditure of money in the past fiscal year, and lay down the program before the committee as to what they expect to do with the money to be appropriated for the coming fiscal year. Mr. Chairman, I ask the Members to adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

Mr. McSWAIN. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Committee amendment offered by Mr. McSWAIN: On page 10, line 3, after the word "States" and after the period, insert a new sentence, as follows: "Bonds issued by the Corporation under this section shall be exempt both as to principal and interest from all taxes, except surtaxes, estate taxes, inheritance taxes, and gift taxes now or hereafter imposed by the United States or by any District, Territory, dependency, or possession thereof, or by any State, county, municipality, or legal taxing authority."

Mr. TABER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TABER. Is that germane to the bill? It relates to the taxing authority of the Government, and that can only be considered when coming from the Ways and Means Committee.

The CHAIRMAN. The Chair holds that the amendment is germane in that it simply provides an exemption with respect to the bonds to be issued by the Corporation.

Mr. TABER. Will the Chair rule on the other part of the point of order, that a bill coming from this committee cannot be considered when it relates to the taxing power of the Government and that the amendment does relate to the taxing power of the Government, and therefore must come from the Ways and Means Committee?

The CHAIRMAN. The Chair holds that the amendment strikes at that power in an incidental way, and therefore is not subject to the point of order.

The point of order is overruled.

Mr. McSWAIN. Mr. Chairman, this provision was called to my attention by the Treasury Department through a letter

from the Acting Secretary of the Treasury, the Honorable T. J. Coolidge, dated July 5, 1935, in which he voluntarily suggested to me its desirability and offered to furnish the language, which I asked him to do, and on the same date, by hand, he sent me a letter, in which he proposed the identical language offered. I do not care to read these letters, but I ask permission to extend my remarks at this point and insert the letters in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The letters referred to follow:

TREASURY DEPARTMENT,
Washington, July 5, 1935.

Hon. JOHN J. McSWAIN,
Chairman Committee on Military Affairs,
House of Representatives.

MY DEAR MR. CHAIRMAN: My attention has been called to S. 2357, proposing amendments to the Tennessee Valley Authority Act of 1933, which passed the Senate on May 13 (calendar day, May 14), 1935, and which I understand is now pending before your committee. I desire to call the attention of your committee to one matter in connection with section 9 proposing to amend section 15 of the original act authorizing the issue of bonds.

The amendment would authorize the Corporation to issue bonds, fully guaranteed both as to interest and principal by the United States, and similar to those authorized to be issued by the Home Owners' Loan Corporation and the Federal Farm Mortgage Corporation. However, with respect to fully guaranteed bonds heretofore authorized to be issued, it is provided that the bonds shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any district, Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. I find no such provision in the proposed amendment to section 15 as set forth in section 9 of S. 2357.

The exemptions accorded to bonds of the Home Owners' Loan Corporation and of the Federal Farm Mortgage Corporation are similar to those accorded bonds of the United States issued under the Second Liberty Bond Act, and to omit a similar provision from bonds authorized to be issued by the Corporation would, I believe, be unwise.

Sincerely yours,

T. J. COOLIDGE,
Acting Secretary of the Treasury.

THE SECRETARY OF THE TREASURY,
Washington, July 5, 1935.

Hon. JOHN J. McSWAIN,
House of Representatives.

MY DEAR MR. McSWAIN: I have your letter of this date relative to the amendment proposed to H. R. 8632 in my letter also of this date. Section 9 of H. R. 8632 amends section 15 of the Tennessee Valley Authority Act. In section 15 of that act, as amended by section 9 of H. R. 8632, there is no tax exemption conferred upon the bonds authorized to be issued thereunder. In this form the amended section would repeal the tax exemption contained in section 15 of the original act, and the apparent result of the amendment would be to authorize the issue of bonds limited to yield not in excess of 3 percent per annum and carrying no exemption. Bonds now guaranteed by the United States Government, such as those issued by the Home Owners' Loan Corporation and the Federal Farm Mortgage Corporation, are accorded the privilege of exemption from all taxes except surtaxes, estate, inheritance, and gift taxes. In view of this fact, it would obviously be to the considerable disadvantage of the Tennessee Valley Authority to attempt to market taxable bonds.

I accordingly suggest that there be inserted on page 10, line 3, after the words "United States", the following sentence: "Bonds issued by the Corporation under this section shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any district, territory, dependency, or possession thereof, or by any State, county, municipality, or legal taxing authority."

Very truly yours,

T. J. COOLIDGE,
Acting Secretary of the Treasury.

Mr. ARNOLD. Mr. Chairman, if the gentleman will permit, I think the gentleman from South Carolina should make a brief explanation of the purpose of this amendment. I do not understand it myself and I do not believe many of the other Members understand it.

Mr. McSWAIN. The provisions of the amendment simply provide expressly what is implied by reference to the Second Liberty Loan bonds, but for the purposes of precision and definiteness, the Secretary of the Treasury thought we should exempt these bonds from taxation, municipal or otherwise, except as to inheritance taxes and surtaxes. It seemed to me this was a wise provision so as to render these bonds more salable and to leave the investors in these bonds in a position where there could be no question as to whether or not the bonds would be taxable.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. I yield.

Mr. MICHENER. Has the gentleman any information as to whether or not the House is going to proceed to report out a proposed constitutional amendment, with respect to tax-free securities, as requested by the President?

Mr. McSWAIN. No; I have no information whatsoever about that.

Mr. MICHENER. Does the President, in view of that message, advocate these bonds?

Mr. McSWAIN. Of course, I do not know. As I have said, the Assistant Secretary of the Treasury called it to my attention as being desirable, and I have offered the amendment. I think it is in harmony with the spirit of the bill and the law that these bonds should be tax free.

Mr. MICHENER. But not in harmony with the message.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. I yield.

Mr. McCORMACK. In relation to the inquiry of my friend from Michigan, I may say that the President's message covers the whole field of Federal and State bonds, and this is an entirely collateral matter, and in no way related to the broad and proper inquiry of my friend from Michigan. This is a necessary amendment under existing conditions and one that ought to be adopted.

Mr. TABER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, since I have been in Congress there has been continual agitation to stop the issuance of tax-exempt securities. We hear man after man on the floor here advocating this theory and then every time some kind of new bond issue is authorized we have the same provision stuck onto it for the benefit of the great, big, financial genius who wants to get out of paying his taxes. This is good Democratic doctrine, is it not? To go on issuing securities of this kind at the same time your President tells you we ought to stop this sort of thing; and at the same time the Secretary of the Treasury tells the Ways and Means Committee that we ought to tax these tax-exempt securities, the Assistant Secretary of the Treasury tells us we ought to go on and issue a lot more of them. Is this consistent? Are you folks sincere? Do you mean that we should abolish the issuance of tax-exempt securities? If you are sincere, if you believe in stopping up those holes where the great, big-income fellow can hide and avoid paying taxes, you will vote against this amendment; and let me say to you that if this amendment is adopted, I propose to ask for a roll call on the amendment.

I hope the committee will show its sincerity and its desire to protect the Treasury of the United States from further hiding of income taxes on the part of the extremely wealthy by voting down this amendment.

Mr. VINSON of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. TABER. I yield.

Mr. VINSON of Kentucky. Did the gentleman vote on the proposed constitutional amendment that was considered in the Sixty-eighth Congress abolishing tax-exempt securities?

Mr. TABER. I cannot remember whether I did or not.

Mr. VINSON of Kentucky. The gentleman was a Member of that Congress, was he not?

Mr. TABER. I think so.

Mr. VINSON of Kentucky. I think it is dollars to doughnuts the gentleman voted against that proposed constitutional amendment.

Mr. TABER. I find, on checking the RECORD, that on February 8, 1924, I voted for the constitutional amendment permitting the taxing of tax-exempt securities. That makes no difference and it is no excuse for those in the Demo-

cratic Party who are running out on their President if they vote for this amendment.

Mr. McFARLANE. Is the gentleman going to vote for it?

Mr. TABER. I am not, and I am going to ask for a roll call against it if the amendment should be adopted in the committee.

Mr. McFARLANE. Is the gentleman in favor of it or against it?

Mr. TABER. I have spoken against it and I am against it. I do not double-cross anybody or demagogue, no matter what others may do. [Applause.]

Mr. McCORMACK. Mr. Chairman, I move to strike out the last word. There is absolutely no inconsistency in the motion made by the distinguished Chairman of the Military Affairs Committee and the recent message of the President of the United States, as stated by our distinguished friend from New York [Mr. TABER].

The message of the President of the United States was in relation to the whole question of tax-exempt securities, and that question involves not only the Federal Government but the State governments.

There are many matters of consideration on this subject—it is no easy question. So far as I am concerned, I feel that it is a matter that should be considered, and I was hopeful that it will be considered in its entirety by the Judiciary Committee.

Mr. MICHENER. Will the gentleman yield?

Mr. McCORMACK. I yield.

Mr. MICHENER. As a member of the Judiciary Committee, let me say that this resolution was before the committee; that the committee set hearings to consider the matter; that people were invited to appear before the committee; and I understand—whether it is true or not I do not know—that at the request of the President the hearings were discontinued and nothing has been done; that was 3 or 4 months ago. Since then this other message has come in.

Mr. McCORMACK. I have heard Members on the floor purport to speak for the President of the United States, but from the statements made I knew without any further evidence that they did not speak for him. There are many remarks of that kind.

My friend from New York says that there is an inconsistency between the amendment offered by the Chairman of the Committee on Military Affairs and the recent message of the President of the United States. I say there is absolutely no inconsistency. The amendment offered by the chairman of the committee is absolutely consistent.

Why should we pick out this particular bond issue and say it shall not be tax exempt, when we have billions of dollars not only under this administration but under previous administrations that are tax exempt?

Personally I am in favor of taxing bond issues of governmental activities, Federal, State, and local. However, the question should be considered in its entirety. Why should we pick out this one issue of $50,000,000 and segregate it from all other outstanding bond issues, saying that those others shall be exempt and this issue shall not be exempt? This is not a friendly act to this bill.

So I say there is no inconsistency, and that the gentleman from New York himself is inconsistent. He is simply injecting partisan politics, which he has a right to do if he wants to; but do not let us be deceived as to the true meaning. The defeat of this amendment will injure this bill. There is no inconsistency. The amendment is absolutely consistent with the President's message. I do not fear a roll call on this amendment, and the amendment should be adopted. The whole question of tax exempts should be considered at one time and through a constitutional amendment. [Applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BACON. Mr. Chairman, I rise in opposition to the pro forma amendment. It is my understanding that the proposed constitutional amendment will not be retroactive and cannot be retroactive. It will apply only to bonds issued in the future. That being the case, every bond issue that you authorize from now on which carries the tax-exemption feature simply adds to the amount of bonds that tax evaders can take refuge in.

In answer to the gentleman from Kentucky [Mr. VINSON] I might say that I was a Member of the Sixty-eighth Congress and voted in favor of a constitutional amendment when it was offered, prohibiting the issue of tax-exempt bonds. I am not going to vote for any bond issue which carries the tax-exempt feature. I believe this amendment should be voted down so that we will not continue to build up a huge reservoir of tax-exempt bonds for tax evaders to take advantage of. [Applause.]

Mr. McSWAIN. Mr. Chairman, I ask unanimous consent that all debate upon this section and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment. I agree with my distinguished colleague from New York [Mr. BACON] that it is time to call a halt on these tax-exempt securities. As a member of the Committee on the Judiciary, we were supposed to give mature consideration to a number of bills which were presented to our committee to do away with these tax-exempt securities. That was at the beginning of the session. We sincerely tackled the problem. A subcommittee was formed to take testimony on both sides of the issue. In the midst of our activities we were asked to halt temporarily. We yielded to that request. We stopped our hearings, and we all had it in mind, however, soon to reconvene to take up again the matter of tax-exempt securities. To be frank, we are waiting for orders, and I think the order should be forthcoming immediately. It is utterly ridiculous to allow such an avenue of escape to those who do not want to pay their taxes. The Ways and Means Committee—I say there is no partisan politics in the matter as far as I am concerned, because I am a Democrat—are considering measures for increasing inheritance taxes and income taxes, and while they are doing that on the one hand, we of the Judiciary Committee by our inaction under instructions, on the other hand, are making it easy to evade these very taxes which the Ways and Means Committee seeks to lay.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. McFARLANE. As one Member who has a bill before the gentleman's committee to submit a constitutional amendment to stop this tax-exemption racket, I am wondering when your committee is going to do something about holding hearings on my resolution.

Mr. CELLER. Our hands are tied. I want them untied. There has not been a single Secretary of the Treasury since I have been here, Republican or Democrat, who did not advocate doing away with tax-exempt securities. Mr. Mellon appeared before the Committee on Ways and Means and advocated it. Mr. Mills appeared and likewise advocated it. Mr. Woodin advocated it, and the present Secretary of the Treasury advocates it. And yet there is no action. Something is wrong. I lay the blame at the door of the President of the United States for failure to give us instructions we are seeking, and I say that advisedly. With all due deference to our honored President, I wish to say he made a strong declaration concerning tax exemptions, but pious declarations are meaningless unless followed by clear-cut definite action. Our committee is not likely to act unless and until the administration in a matter of such importance gives the word. I want that word given now.

Mr. KVALE. Granting that everything the gentleman says is justifiable and true, does not the gentleman still agree it may be a little risky now——

Mr. CELLER. I do not. There is no time like the present, and we ought to get to work immediately. [Applause.] It is ridiculous not to do it. The minute the President's tax message was read, what happened to tax-exempt securities? They rose in value, and very properly so, and they will continue to rise unless we block that rise. I say to the Committee, vote down this amendment. There should be no more tax-exempt securities.

Mr. MEAD. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. MEAD. I am in accord with the gentleman so far as acting on the constitutional amendment is concerned, but cannot the gentleman see that he will embarrass and handicap the Tennessee Valley Authority by starting now?

Mr. CELLER. I cannot see it. There will be no embarrassment. Every time we try to block tax exemptions the friends of the measure affected always say, "Do not pick on us." Thus T. V. A. friends say, "Leave our bonds alone. Pick on other projects."

Mrs. KAHN. Will the gentleman tell us who has tied the hands of the Committee on the Judiciary? Is it not an independent body and has it not sense enough to act itself?

Mr. CELLER. The gentlewoman from California can determine that for herself.

Mr. CHRISTIANSON. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. CHRISTIANSON. Referring to the question asked by the gentleman from New York [Mr. MEAD], does not the gentleman believe that if publicly owned and operated businesses can borrow money on a tax-exempt basis, whereas privately owned business has to borrow its money on a tax basis, that private business inevitably will be forced into socialism?

Mr. CELLER. There is no doubt about it. I agree with the gentleman. Examine the portfolios of the great banking institutions. They are bursting with tax-exempts. The amount of these bonds is constantly mounting. Let us call a halt.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. GIFFORD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have spoken on this matter several times before. I have here the RECORD of the debate in 1922, and I have the names of those who voted. You can hardly find one Democratic name as having voted in the affirmative on that matter, although recently when the gentleman from Massachusetts [Mr. TREADWAY] stated he had offered an identical resolution many Democrats signified their intention of voting for it, and stated that they had always been in favor of it. I sent for the vote and showed those gentlemen that they voted against the identical resolution which is offered by the gentleman from Massachusetts [Mr. TREADWAY]. The gentleman from New York [Mr. TABER] voted for that resolution. Two hundred and forty-seven voted for it and 133 against it, and we lacked a two-thirds majority, all the Democrats, almost to a unit, voting against it.

We do not like to hear these professions constantly upon the floor of the House about their being in favor of a constitutional amendment on tax-exempt securities. I will wager that if it again comes before you the same argument will be presented—that the school districts and other corporate units in our less prosperous States would not be able to sell their securities, and could not finance themselves if they had to pay a higher rate of interest. All the Democratic leaders at that time opposed it. It was an identical resolution to the one now before the Committee on the Judiciary.

I have reminded this House before and I do it again, that I doubt if the people would ratify such a constitutional amendment, as much as I personally favor it. It would not have any force or effect in the State which has no State income tax. It is reciprocal. The State could tax the income on Federal securities and the Federal Government would tax the income on State securities. Unless all States have an income-tax law it would be of no avail. Many States do not want a State income-tax law. At the time it was before us, I voted for it, and the Republicans with only three or four exceptions voted for it, although the Republicans in States like Illinois said, "This is evidently a determined effort to make Illinois and all other States pass an income-tax law and do away with our present property tax rate on intangibles." There was that feature to be considered in those days, although it was under cover. It would still be persuasive. But when the Democrats of this House talk about their willingness to embrace this constitutional amendment, I need look back and read that record. Is it possible for the leaders of that party to have turned such an extreme somersault in the past few years? Do not those old arguments still hold? You make professions now in favor and argue that it is a way for wealthy people to invest their money and evade taxation. That was the argument then with just as much force as now. The situation has not changed.

I rose here for just a few moments in order to remind you that you are on record against it almost unanimously, as a political party. It was the Republicans who advanced it and we have continuously endorsed it.

Mr. McFARLANE. Will the gentleman yield?

Mr. GIFFORD. I yield.

Mr. McFARLANE. For the last 12 years prior to this administration the Republican Party has been in power and you had an opportunity to pass such a tax-exempt resolution if you wanted to.

Mr. GIFFORD. We voted 247 on this side to 133 on yours. We did have a big majority, but we could not get more than three or four of you, and we needed a few of you for a two-thirds majority and you were practically unanimous against it. [Applause.]

Mr. McFARLANE. You have never had a Republican President who has advocated it, have you?

Mr. MICHENER. But you have one now who will not let us consider it.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. GIFFORD] has expired.

Mr. DUNN of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment. I desire to ask our beloved friend, the Chairman of the Committee on Military Affairs, a question. Is there any other way we can obtain this money without issuing tax-exempt bonds?

Mr. McSWAIN. By appropriating it out of the Treasury. The amendment offered by the gentleman from Texas [Mr. BUCHANAN] provides that the proceeds from the sale of these bonds shall be deposited in the Treasury. It cannot get out except by appropriation, and it seems to me it is a matter of tweedle-dee and tweedle-dum.

Mr. DUNN of Pennsylvania. I would rather have it go out tweedle-dee and tweedle-dum than have the laboring man go down in his jeans and pay for this project. It seems to me that if we could get the money from inheritance taxes and big-income taxes we will be able to pay for this project. This is not a meritorious amendment; therefore, it should be defeated.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. DUNN] has expired.

Mr. CONNERY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hope this amendment will be defeated. I have been here for 13 years, and for 13 years I have been hearing "Let us tax tax-exempt securities", and nothing has been done about it. Throughout those past years every time the Ways and Means Committee came in with a tax bill, I have risen on this floor and asked the chairman when we were going to be given an opportunity to vote to tax tax-exempt securities. Always in the future. Never today. I am in favor of this T. V. A. bill today. I think it is a good bill. I am against this amendment exempting these bonds from taxation. I think if we are ever going to start taxing tax-exempt bonds we might just as well do it now and tax them all as they come along, in this bill and every other bill which calls for the issuance of bonds.

My good friend and colleague from Massachusetts [Mr. McCORMACK] said it might hurt the bill to tax these bonds. I say, let us start right now. It will not hurt this bill, and as fast as any other issues are put out, let us tax those, and then the Ways and Means Committee will soon bring in a bill taxing such tax-exempts as are taxable under a bill and the Judiciary Committee will bring in a constitutional amendment to get at the others.

I hope the amendment now before the House will be defeated.

Mr. ANDREWS of New York. Will the gentleman yield?

Mr. CONNERY. Yes; I yield to my friend from New York.

Mr. ANDREWS of New York. Does not the gentleman realize that this is part of the "must" program?

Mr. CONNERY. All right. The President asked us to tax tax-exempt securities, so we will get off to a good start on his tax program today by defeating this amendment, which would exempt these bonds from taxation.

Mr. KVALE. Mr. Chairman, I tried to make the point a moment ago that while we may be in perfect sympathy with the general purposes of such a broad program, there is some risk now to the salability of these bonds; there is risk of the impairment of the credit of the Authority by taking this thing up piecemeal and taking a little slice off of a big problem now.

Mr. CONNERY. Mr. Chairman, I may say to my dear friend from Minnesota that that has been the argument for the last 13 years. The bonds will sell all right. Let us make a beginning right now by defeating this amendment and then follow through in the future and put into action all the talk we have been hearing for many years about taxing tax-exempt securities. Now is the time. Let us do it today.

[Here the gavel fell.]

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from South Carolina.

The amendment was rejected.

Mr. EKWALL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. EKWALL. Would it be in order to return to section 2 for the purpose of offering an amendment to change the name of the Aurora Dam to the John E. Rankin Dam? [Laughter.]

Mr. MAVERICK. Mr. Chairman, I would like to change its name to the Bob Rich Dam.

The CHAIRMAN. This Committee can do anything by unanimous consent. [Laughter.]

Mr. McSWAIN. Mr. Chairman, for the information of the distinguished gentleman from Oregon, I will state that under an amendment adopted earlier this afternoon there is no longer any Aurora Dam.

Mr. EKWALL. Well, the Aurora is back here; I mean the roar is back here.

Mr. DUNN of Pennsylvania. Mr. Chairman, a point of order; that is not germane.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 10. That section 26 of said act be, and the same is hereby, amended to read as follows:

"SEC. 26. The net proceeds for each fiscal year derived by the Board from the sale of power and any of the products manufactured by the Corporation, and from any other activities of the Corporation, including the disposition of any real or personal property, after deducting the cost of operation, maintenance, depreciation, amortization, interest on bonds, and an amount deemed by the Board as necessary to withhold as operating capital, or to be devoted by the Board to improvements, betterments, or the acquisition of facilities necessary to carry out the purposes of this act, shall be paid into the Treasury of the United States at the end of each calendar year."

Mr. McSWAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McSWAIN: On page 10, strike out lines 9 to 20, inclusive, and insert in lieu thereof the following:

"SEC. 26. Commencing July 1, 1936, the proceeds for each fiscal year derived by the Board from the sale of power and any of the products manufactured by the Corporation, and from any other activities of the Corporation, including the disposition of any real or personal property, shall not be expended by the Board except in consequence of annual appropriation thereof by Congress, and the appropriation of such proceeds is authorized to meet the cost of operation, maintenance, depreciation, amortization, interest on bonds, and for operating capital, or for improvements, betterments, or the acquisition of facilities necessary to carry out the purposes of this act: *Provided*, That nothing in this section shall be construed to prevent the use by the Board after June 30, 1936, of proceeds accruing prior to July 1, 1936, for the payment of obligations lawfully incurred prior to such latter date."

Mr. McSWAIN. Mr. Chairman, the purpose of this amendment is to bring the whole scheme into harmony with the principles that would be put into operation by the amendment proposed by the gentleman from Texas [Mr. BUCHANAN]. Its purpose also is to harmonize the bill with section 13, beginning at the bottom of page 11; to wit, if all the money, as provided by the Buchanan amendment, is to go into the Treasury, and if all moneys for this Authority are to be taken from the Treasury, as they are in the case of the other administrative departments, then the present provision in section 10 is out of line, should be stricken out, and the language proposed in the amendment substituted. The members of the committee will note by reference to the report, which was prepared by myself, that I called attention to the fact that if section 13 should be adopted, the provisions of section 10 could not in any event be operative after January 1, 1936.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. I yield.

Mr. KVALE. The chairman will bear out my statement to the effect that this amendment is not unfriendly to the general purposes of the bill.

Mr. McSWAIN. Certainly. I think I am one of the best friends T. V. A. has ever had.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. I yield.

Mr. MAY. It is not the purpose of this amendment to change section 13 as now contained in the bill?

Mr. McSWAIN. No, no; this is to bring section 10 into harmony with what I hope will be done under section 13.

Mr. FADDIS. Mr. Chairman, will the gentleman yield?

Mr. McSWAIN. I yield.

Mr. FADDIS. I rise to express the appreciation of a great many Members of this committee to the gentleman from Texas [Mr. BUCHANAN]. He is accomplishing exactly what a great many members of this committee have been fighting for all the time; namely, to put some business methods into the conduct of the T. V. A.; yet we have been accused of trying to hamstring the whole thing by so doing. We are the ones who are trying to save this Board from the consequences of their own folly. I congratulate the gentleman from Texas and the chairman of the committee upon the policy they are giving us. Their action may yet save this activity from becoming a discredit to all of us. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina.

The amendment was agreed to.

The Clerk read as follows:

SEC. 11. That said act be, and the same is hereby, further amended by adding at the end of said act a new section, as follows:

"SEC. 31. This act shall be liberally construed to carry out the purposes of Congress to provide for the disposition of and make needful rules and regulations respecting Government properties entrusted to the Authority, provide for the national defense, improve navigation, control destructive floods, and promote interstate commerce and the general welfare, but no real estate shall be acquired or held except what is actually necessary to carry out plans and projects actually decided upon requiring the use of such land: *Provided*, That any land purchased by the Authority and not necessary to carry out plans and projects actually decided upon shall be sold by the Authority as agent of the United States, after due advertisement, at public auction to the highest bidder.

Mr. LORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LORD: Page 11, line 12, after the word "bidder", insert a new sentence, as follows: "*Provided*, That all properties of said Corporation shall pay taxes on real and personal property in the same manner as the real and personal property of other corporations and individuals."

Mr. LORD. Mr. Chairman, I offer this amendment for the reason that the curse of our land today is tax-exempt securities and tax-exempt properties. It leaves too much of a tax on the people who have to pay. Now we are setting up a business in competition with other businesses of our land, and there is no reason why it should not pay the same rate of taxation as other businesses do, and I hope this amendment will be adopted.

Mr. ENGEL. Mr. Chairman, will the gentleman yield?

Mr. LORD. I yield.

Mr. ENGEL. For the purpose of the RECORD, permit me to state that I received a telegram from Michigan State authorities last week in the course of my study of this ques-

tion stating that the Electric Light & Gas Co. paid into the treasury of the State of Michigan and other municipal subdivisions of the State $10,670,000 last year, not including income or Federal taxes.

Mr. TAYLOR of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. LORD. I yield.

Mr. TAYLOR of South Carolina. Does the gentleman think his amendment is consistent with the provisions of the original bill requiring that the States affected should receive 5 percent of the gross revenue from this operation?

Mr. LORD. In reply I may state that I think we should not have any tax-exempt securities or properties. If Government enterprises are to compete with private business they should be placed upon the same terms.

Mr. TAYLOR of South Carolina. And the States, therefore, should not receive a part of the gross income from this operation?

Mr. LORD. No State should receive any particular advantage over another State at the expense of all the taxpayers.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. LORD. I yield.

Mr. CRAWFORD. May I ask the gentleman from South Carolina [Mr. TAYLOR] if it is a fact that the States wherein this project is being installed will receive tax money paid into their treasury to the extent of 5 percent or more of the gross receipts?

Mr. TAYLOR of South Carolina. That was my information when the bill was passed last year; however, I would refer the gentleman to the gentleman from Alabama [Mr. HILL], who can answer the question. As the bill passed last year did it not provide that the State of Alabama and one other State should receive 5 percent of the gross receipts derived from the operation of this plant?

Mr. HILL of Alabama. From the power facilities.

Mr. CRAWFORD. That money is paid to those States?

Mr. HILL of Alabama. That is in the basic act of 1932.

Mr. TAYLOR of South Carolina. Of course, I am against that proposition.

Mr. DONDERO. Why not let the States have credit for 5 percent against any tax to be levied on their property, and even it up in that way?

Mr. LORD. Mr. Chairman, in conclusion may I say I do not think any particular State or States should receive a rebate or benefit to be paid at the expense of the taxpayers of all the other States and people of the Nation.

There has grown up in this country a custom of issuing tax-exempt securities and eliminating real property from taxation.

The Government is going in the field of industry competing with other industry, and if allowed to do business without paying taxes it will put private industry at a great disadvantage and deprive local tax units of the income to maintain local government.

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I hope it will not take but a few minutes to vote down this amendment.

Mr. LORD. Will the gentleman yield?

Mr. McSWAIN. I yield to the gentleman from New York.

Mr. LORD. I did not introduce the amendment for the purpose of having it voted down. I hope the amendment prevails.

Mr. McSWAIN. I understand, and I know the gentleman introduced the amendment in all sincerity. I take the time to discuss it only because it strikes at one of the fundamental principles in our dual system of government. Every lawyer here remembers that, perhaps, the greatest decision rendered by Chief Justice John Marshall was to the effect that the power to tax involves the power to destroy. It was held in the particular case that the State of Maryland could not tax the United States Bank, because if it could tax the bank 5 cents it could tax it out of existence. Therefore I submit this amendment is violative of a fundamental principle of our dual system of government. We must never allow the Federal Government to reach into a State and tax a thing which belongs to the State, nor should we ever permit the State government to tax a single thing that belongs to the Federal Government.

Mr. TAYLOR of South Carolina. Does the gentleman think that the State of Alabama and one other State should receive 5 percent of the gross receipts derived from the operation of this plant?

Mr. McSWAIN. That is water already over the dam.

Mr. TAYLOR of South Carolina. No; it is water still on the dam.

Mr. McSWAIN. No; that is in the law; and there is no proposal here to change it. Personally, as I viewed the matter then, I felt that the States of Alabama and Tennessee were already getting enough benefit and should not have another 5 percent. I will tell you what sort of a fellow I am. I know when I am run over. They are getting 5 percent.

Mr. Chairman, the Authority is setting aside 7½ percent in lieu of taxes for the purposes of accounting; therefore I submit that we ought to vote the amendment down and get to some really controversial issues in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LORD].

The question was taken; and on a division (demanded by Mr. CHRISTIANSON) there were—ayes 38, noes 142.

So the amendment was rejected.

The Clerk read as follows:

SEC. 13. That section 9 (b) of said act be, and the same is hereby, amended as follows, and as so amended such amendment shall be effective on and after the 1st day of January 1936 occurring next after the approval hereof, by adding at the end thereof the following words:

"(b) All moneys of the Corporation of whatsoever nature hereafter received by or for the Corporation shall be immediately and without diminution deposited and covered into the Treasury of the United States, and such portion thereof as is authorized by the Tennessee Valley Authority Act of 1933, as amended, or other law, to be used by said Corporation in carrying out the provisions of said act, as amended, shall be transferred to an appropriate appropriation account, withdrawable only on warrant as are other appropriated public moneys, and subject to authority specifically granted by the Tennessee Valley Authority Act of 1933, and as amended, all laws regulating the obligating or expenditure of other public moneys shall be applicable thereto: *Provided*, That until July 1, 1936, the provisions of section 3709, Revised Statutes, shall not be applicable to purchases of supplies and equipment necessary for dam construction. Accounts of all transactions involving receipts or disbursements of the Corporation shall be duly rendered to the General Accounting Office at such times and in such substance and form as may be prescribed by the Comptroller General of the United States, and said accounts and such claims as may arise shall be settled and adjusted by the General Accounting Office under and pursuant to the provisions of title III of the Budget and Accounting Act, approved June 10, 1921: *Provided*, That the expenses of such portion of the audit as the Comptroller General may authorize to be done in the field shall be paid from moneys advanced therefor by the Corporation, or from any appropriation or appropriations for the General Accounting Office, and appropriations so used shall be reimbursed promptly by the Corporation as billed by the Comptroller General. In such connection the Comptroller General and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to, under the control of, or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with the balances in depositaries. The officers of the Corporation to whom moneys may be advanced on accountable warrant shall each give a bond to the United States for the faithful discharge of the duties of his office according to law in such amount as shall be directed by the Comptroller General. Should there be any administrative delinquency in the rendering of the accounts as directed, or any unsatisfactory condition of the accounts, requisitions for funds shall be disapproved by the Comptroller General unless, for good cause shown, he shall elect to withhold such disapproval."

Mr. MILLARD (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the further reading of the section may be dispensed with and printed in full in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk concluded the reading of the section.

Mr. McSWAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McSWAIN: On page 13, beginning with the word "should", line 21, strike out the same, together with all other language in lines 21, 22, 23, 24, and 25.

Mr. McSWAIN. Mr. Chairman, I wish to say that it was stated to me that this language might be unconstitutional, as an infringement upon Executive authority. I am scrupulous about preserving the Constitution, scrupulous about preserving all Executive power, and to the same degree scrupulous about preserving all constitutional legislative power. The departments of the Government ought to remain absolutely separate and distinct in fact as well as in theory. [Applause.] I submitted the question to the Attorney General, and one of his agents stated to me that it was at least of doubtful constitutionality; and inasmuch as I do not want to take any position in reference to a matter of doubtful constitutionality, I am offering the amendment to strike the language.

Mr. RICH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, may I say to the Members of the House that I am glad to see there is someone on the Democratic side of the House of Representatives who is trying to have constitutional laws passed, instead of unconstitutional laws.

The whole Tennessee Valley Authority is unconstitutional, and the Government should go out of business in competition with its private citizens. This administration has passed more unconstitutional laws than any administration in the history of this country. I ask you the question: Are the Democratic Party and President Roosevelt trying to wreck our Constitution and our Nation? America, wake up!

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina [Mr. McSWAIN].

The amendment was agreed to.

Mr. HILL of Alabama. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Strike out all of section 13 and insert in lieu thereof the following:

"That section 9 (b) of the act be, and the same is hereby, amended to read as follows:

"'(b) All purchases and contracts for supplies or services, except for personal services, made by the Corporation shall be made after advertising in such manner and at such times sufficiently in advance of opening bids as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required when, in the judgment of the Board, (1) the public exigency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among business men: *Provided further*, That in comparing bids and in making awards the Board may consider such factors as the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

"'The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositaries. He shall make report of each such audit in quadruplicate, 1 copy for the President of the United States, 1 for the chairman of the board, 1 for public inspection at the principal office of the Corporation, and the other to be retained by him for the uses of the Congress: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report. The expenses for each such audit may be paid from moneys advanced therefor by the Corporation, or from any appropriation or appropriations for the General Accounting Office, and appropriations so used shall be reimbursed promptly by the Corporation as billed by the Comptroller General. All such audit expenses shall be charged to operating expenses of the Corporation. The Comptroller General shall make special report to the President of the United States and to the Congress of any transaction or condition found by him to be in conflict with the power of duties intrusted to the Corporation by law.'"

Mr. HILL of Alabama. Mr. Chairman, this amendment would modify and change the language now in the bill with reference to the supervision and control of the Comptroller General.

The language in the bill, as the bill was reported to the House, gave the Comptroller General more power over the Tennessee Valley Authority than the Comptroller General has over any department or any division of the Government. The language in the bill as that bill came to the House gave the Comptroller General a veto power such as the President of the United States himself does not even dream of possessing.

It is true that the amendment offered by the distinguished chairman of the committee and adopted by the committee has changed and modified somewhat the language of the bill, but even as the language now stands, if the bill passes with the language, it means that the Tennessee Valley Authority cannot even purchase a lead pencil without first coming to Washington and getting the permission of some auditor or some accountant in the Comptroller General's office.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. Not at this time.

We who are friends of the Tennessee Valley Authority—and let me say here that my good friend, the chairman of this committee, may oppose this amendment of mine, but he feels that having reported this bill he must stand by the bill and that he must go down the line for it—the amendment which I have proposed provides that the Comptroller General shall audit every transaction of the Tennessee Valley Authority at least once a year, and that the Comptroller General shall have free access to every book, to all the accounts, to all the files, to all the papers, and to everything in the possession of the Tennessee Valley Authority; and that, after he has made his audit, he shall send a report of the audit to the Congress of the United States.

In other words, my amendment provides that we shall have the Comptroller General make the most thorough and searching audit possible of the fiscal affairs of the Tennessee Valley Authority at least once a year. In doing this we are proceeding just as ordinary private business does. It carries on its business and then from time to time it has an audit made. The only difference is that we will have a much more thorough, complete, and searching audit from the Comptroller General than ordinary business has of its affairs.

The first thing that the Tennessee Valley Authority did, before it employed anyone, before it made a single contract, before it did a single, solitary thing, was to go to the Comptroller General's Office and say, "Mr. Comptroller General, we want to set our books up in proper fashion. We want you to name some man whom we can employ, who will set up a proper budget system for us and will enable us to have all our transactions so that every man can read and understand them", and the Tennessee Valley Authority proceeded to employ a man recommended by the Comptroller General, who had formerly been in the employ of the Comptroller General, and today, down at the head offices of the Tennessee Valley Authority, we find 10 representatives of the Comptroller General, 10 men from the General Accounting Office, auditing and going over the transactions and the accounts of the Tennessee Valley Authority.

[Here the gavel fell.]

Mr. KVALE. Mr. Chairman, I ask unanimous consent that the gentleman from Alabama may proceed for 5 additional minutes.

Mr. MAY. I object, Mr. Chairman.

Mr. KVALE. Then I ask unanimous consent that the gentleman may have 2 additional minutes.

Mr. MAY. I withdraw my objection, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. HILL of Alabama. Mr. Chairman, the Budget Bureau will tell you that there is not a more modern or a more nearly perfect system of bookkeeping anywhere than that of the Tennessee Valley Authority. Everything that is new or

up-to-date in a bookkeeping system is to be found in the Tennessee Valley Authority's system, and every dollar of their money is down here in the Treasury of the United States. If you would read all these newspaper accounts and reports, you would think somebody had been here with a black bag and had run off with the money. I have here and hold in my hand the daily statement of the United States Treasury under date of July 5, 1935, and along with a statement as to the Departments of Agriculture and Relief and Public Works and other governmental agencies, we find a statement as to the money of the Tennessee Valley Authority.

What we do not want and what we feel would be absolutely fatal to this great project is for the Tennessee Valley Authority to have to come to Washington to get permission every time they are going to purchase anything or do anything. To illustrate, a short time ago they wanted to buy some hammer mills, and one of the bidders raised a protest and came to Washington, and it was 67 days before the Comptroller General approved what the Tennessee Valley Authority had done and permitted the purchase of these hammer mills. They wanted to buy some crushers, and the Comptroller General's office delayed them nearly 4 months, or 111 days. They wished to purchase cable ways, and there was a delay of 129 days. In each instance the action of the Tennessee Valley Authority was approved, but there was all this costly and unnecessary delay.

We cannot force this Authority, if it is to succeed, to come to Washington to get permission every time it has to buy a shovel or a strip of wood or something to carry on its business, and we ought not to do it. We have not done this with other Government agencies and other Government enterprises of a like nature.

We have the Inland Waterways Corporation and we ask that the Tennessee Valley Authority be treated in the same way as the Inland Waterways Corporation.

There is the Panama Canal Railroad, the Alaskan Railroad, the Reconstruction Finance Corporation, and a number of governmental agencies that do not have to go to the Comptroller General every time they want to buy a lead pencil. All we ask is that the Tennessee Valley Authority be treated as they are. If you want to hamstring, if you want to defeat this project, the way to do it is to put it in the meshes of red tape down at the General Accounting Office.

When President Roosevelt sent his message to Congress asking Congress to pass the basic T. V. A. Act, he said, "We want to set up a governmental agency and we want to give to that agency the flexibility and initiative of a private enterprise."

When the conference report on the basic act came to this floor the conference report, written by my good friend, the distinguished chairman of the committee, whom we all love, said, "We have sought to set up a legislative framework but not to increase it in a legislative strait-jacket. We intend that the Corporation shall have much of the essential freedom and elasticity of a private business corporation." Let us hold fast to this intent and thereby make possible the success of the great project. [Applause.]

Mr. McLEAN. Mr. Chairman, ladies and gentlemen of the Committee, this amendment has two parts. It has a very serious aspect. The first part confers power to make purchases of supplies without regard to existing law. The second provision is substantially a reenactment of existing law as to the audit by the Comptroller General.

Inasmuch as the present law takes care of the second paragraph, there can be no harm in defeating it. Your attention is directed to the seriousness of the first paragraph.

I really cannot bring myself to believe that the gentleman from Alabama [Mr. HILL], for whom I have come to have a great deal of respect, prepared this amendment. It does not sound like his wisdom or thoughtfulness.

Ever since human frailty came in contact with public funds, there has been developing a system which is calculated to protect public funds from peculation by public officials. Such a law will be found in every school district, town, county, and State, and in the Federal statutes. It provides that when materials are required for public use they shall be purchased after advertisement for bids, and purchased from the lowest bidder. The effort has been to devise methods by which public officials can be held responsible and temptation kept as far as possible from them. To be sure, these laws have been violated, and it has been through certain well-known devices, all of which are enumerated here under the proviso.

The first paragraph provides:

> All purchases and contracts for supplies or services, except for personal services, made by the Corporation shall be made after advertising in such manner and at such times sufficiently in advance of opening bids as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required when, in the judgment of the Board, (1) the public exigency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen: *Provided further*, That in comparing bids and in making awards the Board may consider such factors as the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

It will be seen that the opening sentence of the paragraph provides a wholly praiseworthy method of making purchases, and that immediately the proviso proceeds to kill its effectiveness entirely.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. McLEAN. Yes.

Mr. MAY. In other words, the amendment offered by the gentleman from Alabama starts out to put it under public advertisement and then by the proviso all that power is taken away.

Mr. McLEAN. It makes it absolutely worthless.

Mr. HILL of Alabama. A good part of that language comes from Thirty-fourth Statutes, page 258, in reference to purchases and procurement of supplies for the War Department.

Mr. McLEAN. As I said, this statute removes all restraints and furnishes all of the loopholes that have been responsible for all of the rascality that has developed through dishonest public officials, and which over a period of time legislative bodies have been trying to build up a system of law to avoid.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. McLEAN. Yes.

Mr. SHORT. And does not the gentleman think that the excess of flexibility contained in the amendment offered by the gentleman from Alabama, if granted, is conducive to reckless expenditure and extravagance?

Mr. McLEAN. That is the point I am trying to make. That has been the experience of public officials, and of municipalities. Experience proves there must be some restraint and the universal practice is that when purchases are made by public officials for public work they must be made by advertisement and from the lowest responsible bidder.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. HARTER. Mr. Chairman, I rise in opposition to the amendment. This might be termed a weasel amendment. Is there any good reason why this Corporation, this agency of the Government, should not be subject to section 3709 of the Revised Statutes, or should not be amenable to the control of the Comptroller General of the United States? Why should T. V. A., one of the 20 or more Government corporations that have been cited to us this afternoon by the illustrious Chairman of the Committee on Appropriations, not be subject to this control which has been exercised over Government agencies and departments for so many years? No scandal has ever attached to Government departments and agencies so guided.

A lot of discussion has crept in the last 2 or 3 days which is susceptible of fooling a great many of us who have not made a very careful study of this proposed legislation. You will find upon examining the statutes of the United States

that under the procedure established by those laws approval by the Comptroller General is not required of the ordinary expenditures in the Government departments and establishments.

The assertion so frequently made that you cannot buy a pencil or that T. V. A. could not make a 10- or a 50-dollar purchase without first taking it up with the Comptroller General at Washington is not true.

The General Accounting Office performs a magnificent service to the taxpayers of the United States. It is the watchdog of the Treasury.

The hundreds of thousands of ordinary routine expenditures are made in advance of audit on the responsibility of the bonded disbursing officers in various Government departments and agencies, and do not come before the General Accounting Office or the Comptroller General of the United States for scrutiny until after the end of the accounting period prescribed by the statutes, that is, the accounts are rendered either monthly or quarterly. (See, among other statutes, those set forth at 31 U. S. C. 78, 492, 496, 497.) When the accounts thus are rendered and examined the General Accounting Office may allow credit, it may suspend credit in order to obtain further explanation or evidence necessary to settlement (31 U. S. C. 74), or it may disallow credit. At any rate, the balances finally certified are by law made conclusive on the executive branch of the Government and the duties of the Comptroller General in passing upon such accounts and certifying the balances due thereon are required to be performed without direction from any other officer (31 U. S. C. 44, 71, 72). This procedure is equally applicable whether the accountable officer is stationed at Washington or at some remote point.

Let me call your attention to the provisions of section 3907 of the statutes. Remember, this amendment by the gentleman from Alabama does away with the necessity of this corporation complying with that section of the statute:

> Except as otherwise provided by law all purchases and contracts for supplies or services in any of the departments of the Government and purchases of Indian supplies, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same when the public exigencies do not require the immediate delivery of the articles or performance of the service. When immediate delivery or performance is required by the public exigency the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold, or such services engaged between individuals.

Is there any reason why this agency of the Government should not comply with that statute? I wish the membership of the committee would take the bill before them and read section 13, which is now under consideration, and compare it with the language of the amendment which has been offered. I think you will find that there is no unreasonable requirement in the section of the bill as drafted by the House committee. Under the amendment as proposed the Comptroller General would have no control whatsoever over the expenditures of this corporation or any recourse against its directors or disbursing officers. It is true that he would be required to make an audit, but that audit would be made after the expenditures had been passed and after the bills had been paid.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. McREYNOLDS. Mr. Chairman, I rise in favor of the amendment. If I may have the attention of the Members of the House for just a few moments, I think I can show them why it is absolutely necessary, in order for us to do business with the T. V. A. in the South, to adopt the Hill amendment. There is quite an impression in this House that the T. V. A. is not under the Comptroller General.

That is not correct. Their accounts are checked. Twelve or fourteen people from the Comptroller General's office are there right now, with three rooms assigned to them. The present law provides that if they transgress their authority the Comptroller shall at once report that to the Congress and to the President of the United States. The Comptroller, in his evidence, said he had found no such irregularities.

May I call to your attention the fact that they could not purchase a piece of land, they could not build a dam if they had to come to the Comptroller to get recognition and the right to spend money, which this bill provides if this amendment is not passed. The issue is this: Are you going to turn the fiscal agency of the Tennessee Valley Authority over to those people who have been authorized to operate it or are you going to turn it over to the Comptroller General?

Mr. SHORT. Will the gentleman yield?

Mr. McREYNOLDS. I am sorry. I do not have time.

That is the question. Is the Comptroller familiar with engineering? Is he familiar with the prices of the land which must be purchased in building these dams? Can he be? Certainly he is not. If you want to practically destroy this corporation, then reject the amendment offered by the gentleman from Alabama [Mr. HILL]. I appeal to every member of this committee to give this corporation the right to run that business under the strict checking of the Comptroller, which is being done now.

The gentleman from Alabama called your attention to the fact that Cove Creek Dam is built between two hills. The cable goes from one place across to another, and it was necessary to have a certain cable across that valley to carry the cement. The engineers advertised for lowest bids, but they concluded that this character of cable was absolutely necessary and they awarded the bid to a certain individual. The other man claimed that his cable would do the work and he carried his appeal to the Comptroller. It was 129 days before they heard anything from the Comptroller, but he then agreed with the Tennessee Valley Authority. However, if the Tennessee Valley Authority had to wait, which they would be compelled to do under this bill, they would then have been in rainy weather, and they would not have been able to make progress, and it would have cost this country hundreds of thousands of dollars.

I appeal to your reason. I do not object to every check that can be put on this Authority, and we want it, but we do object to McCarl or any of his deputies telling the Tennessee Valley Authority what character of material they can buy and be compelled to come to Washington and have them run this business. Am I not right? Answer me in this vote. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. McREYNOLDS] has expired.

Mr. SHORT. Mr. Chairman, I move to strike out the last word.

Mr. McSWAIN. Will the gentleman yield to me to make a request?

Mr. SHORT. I yield.

Mr. McSWAIN. Mr. Chairman, we have had 25 minutes of debate on this amendment. There is at least one other controversial amendment, perhaps more controversial than this one. We will, no doubt, have a motion to recommit. I think we ought to limit the debate if we are going to finish this bill today. We have had 25 minutes already—15 minutes in favor and 10 minutes opposed to the amendment. I ask unanimous consent that all debate on this section and all amendments thereto be concluded in 15 minutes—5 more in favor of the amendment and 10 more opposed to the amendment—and I will conclude the debate with the last 5 minutes.

Mr. KVALE. Reserving the right to object, that precludes me from making a statement which I very much desire to make.

Mr. McSWAIN. I do not want to preclude the gentleman.

I will amend the request and ask unanimous consent that all debate on this section and all amendments thereto conclude in 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SHORT. Mr. Chairman, I have no disposition to trespass upon the time of the Committee at this late hour, but it is difficult for me to see how any member of this Committee could really vote for this amendment if he fully understood the import of it.

The gentleman from Tennessee [Mr. MCREYNOLDS], who has just spoken, said that the Comptroller General knew little or nothing about building dams, which is perhaps true. It might be equally well said that he knows little or nothing about engineering, so far as the various projects carried on by the Army and Navy are concerned. He knows very little about the construction of public buildings or public works. That is no justification why this particular board of authority should not be under the same jurisdiction and supervision as all other governmental agencies. If this amendment is adopted, I submit to the members of the Committee that it will grant such latitude, it will grant such elasticity to the Tennessee Valley Authority that it will be conducive to reckless spending, to enormous waste, and to gross extravagance. No one who listened to the hearings for the past 5 months in our committee or who has read them; no one who has read the report of the Comptroller General or heard his statement before our committee can doubt that, in my opinion, for one instant. It may be true, as the gentleman from Tennessee [Mr. MCREYNOLDS], and the gentleman from Alabama [Mr. HILL], have said, that the Tennessee Valley Authority has been held up temporarily because of delay on the part of the Comptroller General in making decisions, but the Comptroller General stated before the Military Affairs Committee of this House that if he were given an enlarged office force he would be able to give more immediate rulings on anything that might be submitted to his department.

Mr. KELLER. Will the gentleman yield?

Mr. SHORT. Yes; I yield.

Mr. KELLER. Will the gentleman be kind enough to explain to us just what an auditing department does and just what its duties are?

Mr. SHORT. Well, I think perhaps it would require more than the 1 or 2 minutes remaining to me to explain that. I think the gentleman from southern Illinois realizes what an auditing department is.

Mr. KELLER. Oh, I do, thoroughly.

Mr. SHORT. Certainly the gentleman from Illinois would not object to this agency being placed under the same auditing supervision of the Comptroller as all other governmental agencies are.

I hope this amendment will be voted down. Of course, I am violently opposed to the whole thing; but if you are going to pass a bad bill, let the bad in it be as little as possible.

[Here the gavel fell.]

Mr. KVALE. Mr. Chairman, I trust the members of the Committee will not, in the confusion of subsequent arguments, forget the counsel of the gentleman from Alabama [Mr. HILL], who opened the debate upon the amendment.

At the time he made his appeal for his amendment, I sought to inject myself into his argument for the purpose of quoting from the hearings. To some of the members of the committee the hearings are available and I call their attention to page 532, volume 2, of the hearings. If they are not available, then the committee report can be secured by sending a page to the Doorkeeper's desk. Secure a copy of the report accompanying the bill and read the comment of the gentleman from Texas [Mr. MAVERICK] and myself upon this section, to be found on pages 33 and 34 of this report. Members can do this in 1 minute and can reach the essence of the argument which the gentleman from Alabama sought to lay before the committee.

Had he had sufficient time, I think he would have quoted from the hearings. I do not know whether to inflict it upon the Committee at this time, but there is line after line of the admirable, the convincing, and the logical testimony of Dr. Morgan before the committee which proves the justification for the appeal to eliminate this item from the bill through the amendment of the gentleman from Alabama, showing why many of these smaller items have been held up to public scorn in a perfectly unjustifiable way, demonstrating how this Tennessee Valley Authority in 97 percent of all its purchases has operated under section 3709, of which there is no more jealous guardian than myself.

I spent a month after my colleagues left the city last summer attending, and at times presiding over, the investigations which the Military Affairs Committee conducted, seeking to guard the provisions of section 3709, designed to protect competitive bidding so far as governmental purchases are concerned.

But, Mr. Chairman, there are exceptions which have been justified in the record from time to time. The Tennessee Valley Authority has found it necessary in the construction of dams, in problems involving intricate engineering problems, and things of that sort, to take immediate action to save the taxpayers' money and to guard the public welfare; yet for this they are to be pilloried by critics who do not tell you the whole truth. Read the record so you can properly judge for yourselves.

Mr. Chairman, the gentleman from Alabama pointed out why it is necessary to guard the discretionary authority of an organization that has responsibility for a great and a tremendous activity. We all respect the work the Comptroller General is doing, but we all likewise realize the red tape involved and the delay that accompanies some of the decisions this office under the law is compelled to hand down.

We also are persuaded from the record itself that for months and months the Comptroller General has had auditors upon the spot, actually in the field, following the activities of the T. V. A., yet they have been steadily falling behind in their work.

If you want to hamstring and cripple this organization, you will resist the Hill amendment; but if you want to defend the very purposes of the original act, as well as the purposes of the legislation before us today, you will support the Hill amendment. It is a vital amendment. Give it to us; let us send the bill to conference as Mr. HILL proposes.

[Here the gavel fell.]

Mr. MAY. Mr. Chairman, I want to compliment my committee colleague, the splendid gentleman from Alabama, on the amendment he has offered; not for what he seeks to do with it, but for the shrewd, lawyerlike, capable way in which he has drawn it to accomplish the purpose he wants to accomplish and yet camouflage it. He must have had—and I am persuaded he did have—the assistance of some "brain truster."

The amendment offered by the gentleman from Alabama starts out by putting the whole thing under the supervision of the Comptroller General and then by the shrewdest, keenest, sharpest little knife that ever was injected into a thing he makes provisos and provisos that leaves it entirely to the discretion of the Board of Directors of the Tennessee Valley Authority as to how they shall operate. This is the legal effect of the amendment offered by the gentleman from Alabama.

Mr. Chairman, I want the Committee to understand that while from the very beginning I have said that I was opposed to the Tennessee Valley Authority, that I am not trying to hamstring it in this instance or in any other instance for that matter. The only thing in the world I want, if we are to have a Tennessee Valley Authority, is to have a regulated Tennessee Valley Authority, particularly when it comes to spending the people's money. The Authority is being given hundreds of millions of dollars. They have already spent $102,000,000 and are going to spend hundreds of millions of dollars more. If there is any good or valid reason in the mind of any man in this House why they should not be regulated as are other administrative departments, I should like to hear it. They have a planning commission that costs the taxpayers $30,000 a year down there in the field to plan for them. If this commission cannot plan far enough ahead to take care of a supply part on a cableway across the Tennessee River, then they had better fire their planning commission. [Applause.]

All I am asking, all I am demanding in this instance, is that this bureau be treated just exactly like every other bureau we have. The War Department is under the Comptroller General. You were told by our distinguished chairman yesterday that although we had $30,000 to investigate these very things in the War Department we have only spent $11,000.

We do not want to permit such things to happen down in Tennessee as the letting of a contract, for instance, for a steam shovel to the Bucyrus Shovel Co. for $5,500 more than the Marion Steam Shovel Co., of Marion, Ohio, offered to furnish the same identical shovel, according to specifications. This just involves $5,500 more on one steam shovel. They ought not to be permitted to do such things with the money of the taxpayers in their hands. This bureau ought to be put under the Comptroller General. It ought to be required not only to put its money in the Treasury of the United States, but ought to be required to have that money accounted for just like other bureaus have to account for their money.

Equality before the law is the fundamental principle laid down by the founders of the Democratic Party. Equality of the Tennessee Valley with the War Department, with the Navy Department, and with every other bureau in this great Government should be a principle that we ought to adhere to.

Mr. KELLER. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Illinois.

Mr. KELLER. Would the gentleman want to put the Panama Canal under the same rule he is advocating here?

Mr. MAY. I am like the gentleman from Texas [Mr. BUCHANAN]. I am in favor of putting every one of them under the control of the Comptroller General, including all the scores of corporations that are spending the people's money.

Mr. KELLER. Is it the business of an auditor to superintend expenditures or to check up and see whether they have been expended properly?

Mr. MAY. This bill does not provide that he shall check up until the end of the year. It provides that he shall check from time to time.

[Here the gavel fell.]

Mr. WILCOX. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. WILCOX to the amendment offered by Mr. HILL of Alabama: In lines 8 and 9 of the amendment strike out the words "in the judgment of the Board" and in line 9 strike out the words "the public exigency" and insert in lieu thereof the words "an emergency which."

Mr. HILL of Alabama. Will the gentleman yield?

Mr. WILCOX. I yield to the gentleman from Alabama.

Mr. HILL of Alabama. I will accept the gentleman's amendment. I hope the gentleman will use his 5 minutes to discuss the amendment as amended.

Mr. WILCOX. Mr. Chairman, the amendment as amended provides not that the T. V. A. be taken from the supervision of the Comptroller General and not that the T. V. A. is authorized indiscriminately to enter into contracts for the expenditure of public money, but only in certain specific instances is the T. V. A. relieved of the necessity of advertising for bids.

Mr. Chairman, it must be understood that in the conduct of a great business such as we have authorized in the Tennessee Valley, it is impossible for this Authority and the Board of Directors thereof to comply with the infinite detail of advertising in every little transaction that it is engaged in.

I am just as much in favor of the strictest regulation of every agency of this Government as any Member on the floor of the House. I want to see the Tennessee Valley Authority subjected to the closest scrutiny and that not one penny of the public funds is spent except in accordance with the strict provisions of the law. The Hill amendment as now amended does not authorize the indiscriminate expenditure of funds, but simply authorizes the Board to proceed under three conditions without submitting to public bids.

The first is, as the amendment is amended, in case of an emergency which requires immediate action. I am sure that the Members of the House realize that in this great undertaking a great many emergencies may exist which will not permit of the advertisement of bids before important work may be undertaken. For instance, suppose that an earthquake or a storm or something else happened which would wreck one of these great dams or one of these great power houses and immediate action would be necessary. Certainly this Board under such conditions should be authorized to proceed at once without waiting for the necessity of advertising for bids before installing the necessary repairs in order to proceed with the business in hand. The second thing that is authorized is where the services contracted for amount to less than $500. Certainly we cannot expect this Board every time that it wants to buy $100 worth of supplies to stop and shut down, and in order to buy a piece of machinery to replace a piece that has broken down to advertise for bids before making the purchase. Under the strict regulations of the act, before they could buy a monkey wrench, before they could buy a piece of cable, before they could buy a single part or accessory, dynamo, engine, or boiler, it would be necessary to advertise for bids and go through all of the detail that is specified by the section of the Revised Statutes referred to in the bill as it now stands.

Mr. HILL of Alabama. Will the gentleman yield?

Mr. WILCOX. I yield to the gentleman from Alabama.

Mr. HILL of Alabama. The gentleman from Kentucky made a statement that I fear may lead the Committee to believe the gentleman from Texas [Mr. BUCHANAN] is against the amendment which I have offered. I am authorized by the gentleman from Texas [Mr. BUCHANAN], Chairman of the Appropriations Committee, to say that he will vote for my amendment. [Applause.]

Mr. WILCOX. Mr. Chairman, a great deal of criticism has been aimed at the members of the Board because of the exercise of their judgment and discretion. I am perfectly frank to say to the Members of the House that I would not have supported this amendment as long as it was left in the discretion of the Board to say when an exigency existed requiring action without advertisement. I offered my amendment eliminating the provisions authorizing the exercise of discretion by the Board because I am opposed to leaving the expenditure of public money in their discretion; but as the amendment now stands, the discretion of the Board has been removed, and only an emergency requiring immediate action will permit it to proceed with a contract without advertising in according with the law, and I believe the amendment, as amended, should be adopted by the House.

[Here the gavel fell.]

Mr. McSWAIN. Mr. Chairman, I must ask my colleagues please not to interrupt me with questions, because I think I shall cover the entire ground. I hope I may, even though the time be limited.

I wish to announce that if this amendment is voted down I shall then offer an amendment, in line 16, page 12, to change the date July 1, 1936, to July 1, 1938, so that the provisions of section 3709 of the Revised Statutes shall not apply until that time in connection with the purchase of supplies and equipment necessary for dam construction. I think that during the 3 years they surely could finish the dams now under way, and this will meet every objection that has been raised, because if that is the case section 3709 will not apply to all the points and propositions suggested in the arguments of my good friend here.

Now, in answer to the suggestion of the distinguished gentleman from Illinois, I have a letter here from the General Accounting Office to the effect that the General Accounting Office does audit the accounts of the Panama Canal and audits them at the Panama Canal.

Mr. KELLER. Certainly it does, but it does not supervise expenditures.

Mr. McSWAIN. I have stated it just as it is, and I cannot be interrupted.

Let me say one thing further. When I came here in 1921 the first important piece of legislation was the adoption of the General Accounting Act. I was converted then that that was the only proper way to disburse public money and I have not got away from that idea to this day.

I said yesterday that I did not bring this proposal up myself, but when it was brought up and I was confronted with it, in order to be consistent with my principles, I had to support it. Now, how did it come up? In response to a letter from my good friend the gentleman from Texas [Mr.

BUCHANAN], the letter being printed in the RECORD here, I visited his office and after talking over this general situation, beginning first with the chemicals to destroy noxious weeds, he called up Mr. McCarl at my suggestion and asked for appropriate language to bring the Tennessee Valley Authority under the law, and as a result of that, this language was submitted to the committee.

I see by the public press that it has been suggested that Mr. McCarl, lately, for the purpose of self-exploitation, has expressed views with regard to this general proposition that perhaps he did not entertain heretofore. I call your attention to his published report for the year 1928 in which he said to the Congress:

As proposals come before the Congress from time to time for the organization of corporations for the conduct of some public business, that is, for the administration of certain laws, it is earnestly recommended that full and adequate provision be made for publicity in the financial transactions of such corporations, by the requirement that they account through the General Accounting Office to the Congress for their expenditures of public money.

This was in 1928 and in 1929——

Mr. BLANTON. Mr. Chairman, will the gentleman yield for one correction?

Mr. McSWAIN. For a correction only; yes.

Mr. BLANTON. General McCarl audits all the funds that Congress appropriates for the Panama Canal, but he does not audit the receipts of the Panama Railroad and the Panama Steamship Co., although he should audit them, and the time is going to come when he will audit them before we get through.

Mr. McSWAIN. I have not been down there, but according to his letter, he does audit them.

Mr. KELLER. He does audit them.

Mr. BLANTON. But not all the receipts.

Mr. McSWAIN. I am going by the records, you gentlemen are going by your recollections.

Mr. BLANTON. I am referring to records. I know what General Schley has testified to before our committee.

I quote the following from the testimony of Col. Julian L. Schley, Governor of the Panama Canal, January 11, 1935, as shown on page 60 of the printed hearings held by our Committee on Appropriations for the War Department, part 2, to wit:

SUPERVISION OF EXPENDITURES BY OFFICE OF COMPTROLLER GENERAL

Mr. BLANTON. Why is it that all of your business operations do not regularly come under the Comptroller General of the United States?

Governor SCHLEY. They do, sir; but the railroad does not.

Mr. BLANTON. Why do you not follow them absolutely? That is what the Navy Department and the War Department have to do.

Governor SCHLEY. Yes, sir; but the activity is entirely different. In the case of the Panama Railroad we are not merely a disbursing department for which an appropriation is made from which expenditures are made during the year.

All forms of business are transacted, and there are large amounts of procurement, and they render all kinds of services from which revenue is received. There are many things concerning which, if we followed closely the Treasury regulations as to procurement, it would be very difficult to carry on the business.

Mr. BLANTON. Sometimes it is to the interest of the people of the United States that these obstacles are set up by the Comptroller General.

Governor SCHLEY. That is true.

Mr. BLANTON. Why should we not place that under his absolute control?

Governor SCHLEY. It would really hamper this business, undoubtedly, because it is not the same kind of business as is done by a department.

Mr. BLANTON. Your receipts aggregated $42,971,324; that is, your total revenues.

Governor SCHLEY. That is, the railroad?

Mr. BOLTON. If that is the case, why does the General Accounting Office report to the committee in charge of the independent offices appropriation bill that the Panama Railroad and the Panama Steamship Co. accounts are not audited by them?

I have before me the report given by the Comptroller General's Office last week to the subcommittee in charge of the independent offices appropriation bill, in which a list is given of the activities which do not submit accounts to the General Accounting Office for audit, and in that report there is listed the Panama Railroad Co. and the Panama Steamship Co.

Mr. BLANTON. Why should not that $11,000,000,000 be regularly audited by the Comptroller General, or the General Accounting Office?

Governor SCHLEY. It is not a question of auditing that. We have no objection to their going through our accounts at any time.

Mr. BLANTON. I am not talking about that, Governor. I am talking about the question, Why should not that be placed under the same jurisdiction of the General Accounting Office as other offices and departments of the Government are, with the same authority over it exercised by Comptroller General McCarl that he exercises over the War Department, the Navy Department, the Treasury Department, and every other department of the Government.

Governor SCHLEY. We should not have applied to us all of the minute restrictions placed on purely disbursing departments.

Mr. BLANTON. They are applied to the Treasury Department, they are applied to the United States Army, and they are applied to the United States Navy.

Governor SCHLEY. But they are not conducting a real business such as we are.

If you will examine page 65 of part 2 of said hearings, you will see that during the last fiscal year, from 25 different businesses operated there by it, the Panama Canal took in receipts of $15,858,697.27. I maintain that its railroad and its steamship company and all of its business should be regularly audited by the Comptroller General.

Mr. McSWAIN. I have before me, Mr. Chairman, a carbon copy of a letter dated December 28, 1929, addressed by General McCarl to the Honorable William Williamson, who was Chairman of the Committee on Expenditures in the Executive Departments, in which he then proposed language to this effect:

That hereafter there shall be applicable and controlling in the matter of expenditure of and accounting for all moneys of corporations whose capital stock is owned by the United States, including corporations whose capital stock, with exception of qualifying shares, is owned by the United States, all of the laws of the United States which are now or may hereafter be generally applicable and controlling in the expenditure and accounting for public moneys by the executive departments and independent establishments of the United States Government.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida to the amendment offered by the gentleman from Alabama.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended.

The question was taken; and on a division (demanded by Mr. SHORT and Mr. McLEAN) there were 140 ayes and 106 noes.

Mr. WADSWORTH and Mr. McLEAN demanded tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. HILL of Alabama and Mr. McLEAN.

The Committee again divided; and the tellers reported that there were 162 ayes and 120 noes.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 14. That section 12 of said act of May 18, 1933, being Public Law No. 17, Seventy-third Congress, be, and the same is hereby, amended as follows: That the period at the end of said section be stricken out and a colon inserted in lieu thereof, and that the following language be added: "*And provided further*, That no such transmission line or lines shall duplicate any existing transmission line or lines; and to avoid such duplication, if the Board deems the acquisition of such line or lines necessary, the Board shall first negotiate for the use or purchase of such duplicate parallel line or lines, and in the event of failure to agree upon a satisfactory price, condemnation proceedings shall thereupon be resorted to."

Mr. HILL of Alabama. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 14, beginning with line 1, strike out all of section 14.

Mr. HILL of Alabama was recognized.

Mr. McSWAIN. Will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. McSWAIN. As I understand, the motion now pending to strike out section 14, and a motion which will later be offered by the gentleman from Alabama to insert, will be the only controversial matters remaining in the bill, and if I am correctly informed there will not be much controversy over the section to be inserted.

Mr. HILL of Alabama. I think all on this side will agree to that amendment.

Mr. McSWAIN. Then why cannot we limit the amount of debate on section 14? I ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. HILL of Alabama. Mr. Chairman, section 14 provides that the Tennessee Valley Authority cannot build what is termed a "duplicate transmission line" to another existing line, and that if the Tennessee Valley Authority needs a transmission line it must first go and negotiate with the private power company, and see if that private power company will be so good and kind as to sell to the Tennessee Valley Authority its line.

Then if the private power company does not see fit to sell its line under section 14 the Tennessee Valley Authority is forced to go into court and condemn the line. The Authority would have no other recourse whatever but to go into court, with all the attendant uncertainties and delays that occur in condemnation proceedings.

Of course, there could be no better way, and the opponents of the Tennessee Valley Authority could have no better way of thwarting and defeating this project than to retain section 14 in the bill.

The private power companies have long since preempted the territory. Their transmission lines cover the States of Alabama, Georgia, and Tennessee like the morning dew, and it would be impossible for the Tennessee Valley Authority to build any kind of transmission line that someone could not say duplicated a line such as is prohibited under the language of section 14. If we are to sell the power, if we are to get our money back on the investments we are making in the dams, we must have transmission lines. It happens that in the past the transmission lines that the Tennessee Valley Authority has acquired have been bought from private power companies by the Authority, but the Authority has had the right to build lines if necessary, and has been under no compulsion to go into court and condemn lines. Had they been under the necessity of going into court and condemning those lines, of course, the power companies would never have sold the lines and the Tennessee Valley Authority would be in condemnation proceedings in court today, and heaven only knows when they would get out of court and get possession of the lines. During the 12 years that the Wilson Dam stood there, with much of the power going over the dam to waste, the Government was forced to sell what power it could to the Alabama Power Co. for 2 mills a kilowatt, while the Alabama Power Co. sold that power to the consumer for 7, 9, and 10 cents a kilowatt, because the Government had no transmission lines to get the power away from the dam and as a consequence had to take whatever price the Alabama Power Co. offered for the power.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. KVALE. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for 1 minute.

The CHAIRMAN. Is there objection.

There was no objection.

Mr. KVALE. Mr. Chairman, I hope the gentleman will point out that unless his amendment is adopted any talk of a yardstick becomes a pure mockery.

Mr. HILL of Alabama. Any talk of a yardstick becomes a pure mockery—the whole project is defeated, and you may as well junk and scrap the whole thing, you may just as well do what our friends over here on the Republican side want to do, that is, kill the whole thing. On the contrary, let us adopt the amendment, take this fatal provision out of the bill, and save the great project. [Applause.]

Mr. MAY. Mr. Chairman, I am now past 60 years of age. Having told that, I want to tell another thing. I never commenced a battle in my life that I ever deserted or quit until it was finished, and I do not propose to quit now. I never deserted the ship in any storm, however fierce, and I never will. The amendment offered by the gentleman from Alabama [Mr. HILL] will perhaps carry in this House, but I am going to tell you, and I am going to tell you now, that it is the first time that openly, notoriously, and unequivocally a Member of this House has declared for the policy of putting the Government of the United States into the power business outright. It is the first time I have ever been asked to vote to shut the doors of the courts against any citizen of the United States. The first time it was stated by any member of the Tennessee Valley Authority was in their last annual report, and there they said they were going to take in certain territory and that territory includes the States of Tennessee, Alabama, Georgia, North Carolina, South Carolina, and a part of Kentucky, and ultimately the whole United States.

Mr. TAYLOR of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. MAY. No. It was in their annual report that they cannot make money because they have not the market unless they can get a city the size of Memphis, Nashville, Louisville, or Cincinnati. What does this mean? This means that in the State of Tennessee alone, in the home city of the distinguished Speaker of the House of Representatives, there has already been taken out of taxation property to the value of $5,000,000 in the form of preferred stocks of the national banks of the city of Nashville, which I am told by the assessor of that city means $300,000 of revenue a year to the city.

In addition to that, when you buy a municipal plant in every town in the States of Tennessee, Alabama, and Mississippi, you are going to take out of taxation $300,000,000 of taxable values, and that means about $8,800,000 in taxes paid each of the three States by private property owners. You are going to dry up the sources of taxation just because you say you want to establish a yardstick. I am in favor of bringing the rates of power companies down to the lowest figure on which they can exist and make a reasonable profit, but the way to do it is by regulation, and not by spending hundreds of millions of dollars of the taxpayers' money in a venture that is wild, reckless, unwise, and extravagant in an effort to establish a dishonest yardstick, and that is exactly what you propose to do when you put the Government of the United States in the business of buying transmission lines.

Let me show you what else you do. Under every law that I ever read in my life, there is no way to take the property of a private citizen away from him except by due process of law, and that means trial in court before a jury, at which he can have a hearing, and yet this amendment provides that the Tennessee Valley Authority can fix a value on your property and take it away from you without due process of law, in violation of the Constitution of the United States.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. RANKIN. Mr. Chairman, I move to strike out the last two words. I did not intend to participate in this debate, and had it not been for the amazing speech of the gentleman from Kentucky [Mr. MAY] I should have remained silent.

The building of these transmission lines is absolutely necessary, not only for the Tennessee Valley Authority to operate but to complete the dams they are now building.

The gentleman from Kentucky [Mr. MAY] exercises himself because, forsooth, he says you are taking off the tax rolls transmission lines and distribution lines in the States of Mississippi, Tennessee, and Alabama. I perhaps know as much about that as any other man in this House. [Applause.]

Now, this is not to force anybody to sell, but it is to give the Tennessee Valley Authority the right to build lines, if necessary. In the State of Mississippi they purchased some lines and sold them back to the county electric power associations or to the municipalities, and they are on the tax rolls, paying taxes today. Those people are satisfied. They are given an opportunity to get their power rates down to what they should be.

Now, do not deceive yourselves. If you want to help the Power Trust destroy the Tennessee Valley Authority and destroy the hope of the American people for cheaper electric lights and power rates, and destroy the hopes of your children for the enjoyment of electric energy, one of the greatest natural resources the world has known, then vote against the

Hill amendment; but if you want the Tennessee Valley Authority to live, if you want to continue to bring these rates down to where the American people can enjoy them, vote for the Hill amendment. [Applause.]

Mr. McSWAIN. Mr. Chairman, I rise in opposition to the amendment.

I want the Membership to remember that this bill with this provision in it was reported to this House upon the vote of 13 Democrats. Not a Republican voted for this bill in the committee. It took 13 Democrats. I submit that this provision is not altogether unreasonable, and it is somewhat in line with what your committee 2 years ago wrote into the bill that it reported to this House and which this House adopted. This House adopted it, but it is more in keeping with justice and fairness than was the provision of 2 years ago. It is true it was stricken out in conference. Two years ago we merely provided that before building a duplicate line, the Authority should negotiate. Now we provide that if they negotiate and fail to agree upon a price, they shall not go ahead and build a competing line, destroy a competing line, destroy the line they are duplicating, but since they say it is necessary and that they need it in their business, they shall condemn it in the courts, and buy it and pay for it. That is all it means. Is there anything unfair about going to the courts? They have said here, "Oh, we cannot go to the courts." I will subscribe to a great many things to get an agreement and harmony, but I cannot subscribe to this proposition that the doors of the courts of this country shall ever be closed to anybody. [Applause.]

So that it is only carrying out the policy that the directors themselves, in a spirit of fairness, say they have been conducting. The directors themselves testified time and time again before the Committee on Military Affairs and the Committee on Appropriations, and I will read simply a brief extract from Mr. Lilienthal's testimony at page 775, volume 2, of the testimony:

Mr. LILIENTHAL. The Board, from the outset, has had a policy, that in the carrying out of the electricity part of this program, it should be done without injury to private investment, if that can possibly be done.

As a corollary of that, the Board, from the very outset, adopted a policy against the duplication of facilities, a policy which was extensively discussed, as I recall, before this committee and on the floor of Congress, at the time of the passage of this act; a policy that would prevent, if possible, through our good offices and through our own action, where that was relevant, the construction of two plants in the same community where one was adequate to perform the service.

They say that is their policy. That is good business. It is good common sense. I commend them for it, and we are only asking the Congress to ratify their own conduct.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. McSWAIN] has expired.

The question is on the amendment offered by the gentleman from Alabama [Mr. HILL].

The question was taken; and on a division (demanded by Mr. MAY) there were—ayes 130, noes 102.

So the amendment was agreed to.

Mr. HILL of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HILL of Alabama: Add a new section to the bill, to be known as "section 14" and to read as follows:

"SEC. 14. That said act of May 18, 1933, being Public Law No. 17, Seventy-third Congress, be, and the same is hereby, further amended by adding after section 26 of said act a new section, as follows:

"'SEC. 26. (a) The unified development and regulation of the Tennessee River system requires that no dam, appurtenant works, or other obstruction, affecting navigation, flood control, or public lands or reservations, shall be constructed, and thereafter operated or maintained across, along, or in the said river or any of its tributaries until plans for such construction, operation, and maintenance shall have been submitted to and approved by the Board; and the construction, commencement of construction, operation, or maintenance of such structures without such approval is hereby prohibited. When such plans shall have been approved, deviation therefrom either before or after completion of such structures is prohibited unless the modification of such plans has previously been submitted to and approved by the Board.

"'In the event the Board shall, within 60 days after their formal submission to the Board, fail to approve any plans or modifications as the case may be, for construction, operation, or maintenance of any such structures on the Little Tennessee River, the above requirements shall be deemed satisfied, if upon application to the Secretary of War, with due notice to the Corporation, and hearing thereon, such plans or modifications are approved by the said Secretary of War as reasonably adequate and effective for the unified development and regulation of the Tennessee River system.

"'Such construction, commencement of construction, operation, or maintenance of any structures or parts thereof in violation of the provisions of this section may be prevented, and the removal or discontinuation thereof required by the injunction or order of any district court exercising jurisdiction in any district in which such structures or parts thereof may be situated, and the Corporation is hereby authorized to bring appropriate proceedings to this end.

"'The requirements of this section shall not be construed to be a substitute for the requirements of any other law of the United States, or of any State, now in effect or hereafter enacted, but shall be in addition thereto, so that any approval, license, permit, or other sanction now or hereafter required by the provisions of any such law for the construction, operation, or maintenance of any structures whatever, except such as may be constructed, operated, or maintained by the Corporation, shall be required, notwithstanding the provisions of this section.'"

Mr. MAY. Mr. Chairman, I make the point of order against the amendment that it is not germane to any section of the bill.

The CHAIRMAN. If the gentleman from Kentucky desires to present his views on the point of order, the Chair will be glad to hear him.

Mr. MAY. Mr. Chairman, the bill before the Committee is a bill relating solely to a governmental corporation, the Tennessee Valley Authority. The previous sections of the bill—in fact, all the sections that have been considered, relate solely to the regulation of the Tennessee Valley Authority. The amendment submitted by the gentleman from Alabama is not germane to any provision of the Tennessee Valley Authority Act but seeks to add legislative provisions already carried in the Federal Water Power Act, which is not before the House and which has no relation to this measure.

Mr. HILL of Alabama. Mr. Chairman, does the Chair care to hear me on the point of order?

The CHAIRMAN (Mr. DRIVER). The Chair does not care to hear argument from the gentleman from Alabama.

From an examination of the original T. V. A. Act it is apparent that there was committed to the organization created by that act a measure of control over the Tennessee River and the structures thereon, including such as were provided for in that original act. The pending bill amends the original act in several particulars, and the pending amendment seeks to add an additional section to the original act dealing with structures erected and to be erected in the river committed to the Authority created by the original act. The Chair is of the opinion that the amendment is germane to the bill, and, therefore, overrules the point of order.

Mr. MAY. Mr. Chairman, I want to make a brief statement, not 5 minutes——

Mr. MAVERICK. Mr. Chairman, I demand the regular order.

Mr. MAY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Time for debate was fixed by express order of the House. All time under that order has been exhausted.

Mr. MAY. Mr. Chairman, I ask unanimous consent to proceed for 3 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MAVERICK. It breaks my heart, but I object, Mr. Chairman.

Mr. MICHENER. Mr. Chairman, I move to strike out the enacting clause.

Mr. McFARLANE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. McFARLANE. I make the point of order that the gentleman's amendment is not in writing, and is, therefore, out of order.

Mr. BLANTON. And it is not in proper form.

The CHAIRMAN. The point of order is sustained.

Mr. MAY. Mr. Chairman, I move to strike out the enacting clause, which motion I send to the desk.

The Clerk read as follows:

Mr. MAY moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. HILL of Alabama. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HILL of Alabama. Mr. Chairman, I make the point of order that this amendment is really the amendment of the gentleman from Michigan [Mr. MICHENER] and not the amendment of the gentleman from Kentucky.

The CHAIRMAN. It has been reported at the instance of the gentleman from Kentucky.

The point of order is overruled.

Mr. McSWAIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, may I say that the language of the amendment proposed to be inserted as section 14 is substantially the language of section 11 of H. R. 8525, which was prepared in a conference of Democratic members of the committee? The only change that is worthy of mentioning is: Whereas in 8527 the final power was vested in the Federal Power Commission, under the amendment here, after a conference with all parties that were at issue, so far as I know, and after conference with the distinguished gentleman from North Carolina, who represents the district where this Little Tennessee River is located, the authority was transferred from the Federal Power Commission to the Secretary of War, and we all know that the Secretary of War will rely upon the advice of the Chief of Engineers in a matter of that sort.

In reference to what has been done in the Little Tennessee River Valley may I say that we have already passed and approved a provision on page 11, lines 8, 9, 10, and 11, which provides that any land purchased by the Authority and not necessary to carry out its plans and projects actually decided upon shall be sold by the Authority, as the agent of the United States, after due advertisement at public auction to the highest bidder. Unless they can show a sustaining proposition that whatever they bought in the Little Tennessee River Valley is necessary for the projects decided upon, it will be their duty, if this bill is enacted into law, to sell such land.

The CHAIRMAN. The question is on the motion of the gentleman from Kentucky [Mr. MAY] to strike the enacting clause.

Mr. MAY. Mr. Chairman, I ask unanimous consent to withdraw the motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. McFARLANE. Mr. Chairman, I object.

The CHAIRMAN. The question is on the motion offered by the gentleman from Kentucky [Mr. MAY] to strike the enacting clause.

The motion was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. HILL].

The amendment was agreed to.

The Clerk concluded the reading of the bill.

The CHAIRMAN. Under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DRIVER, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933, pursuant to House Resolution 279, he reported the same back to the House with sundry amendments agreed to in Committee.

The SPEAKER. Under the rule the previous question is ordered on the bill and all amendments thereto to final passage.

Is a separate vote demanded on any amendment?

Mr. McLEAN. Mr. Speaker, I demand a separate vote on the amendment striking out section 14 on page 14.

The SPEAKER. Is a separate vote demanded upon any other amendment? If not, the Chair will put them in gross.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment upon which a separate vote is demanded.

The Clerk read as follows:

On page 14, line 1, strike out all of the section 14.

Mr. McLEAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BIERMANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BIERMANN. There were two amendments to section 14. Which one are we voting on now?

The SPEAKER. The amendment strikes out section 14.

Mr. BIERMANN. As it is in the original bill.

Mr. HILL of Alabama. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HILL of Alabama. As I understand it, the question on which we are to vote is the amendment which struck from the bill section 14, which was the transmission-line section.

The SPEAKER. The gentleman is correct.

Mr. MAY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Kentucky rise?

Mr. MAY. I rose to submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MAY. There was so much confusion at the time the gentleman from New Jersey offered his amendment that I did not understand what it was.

The SPEAKER. Without objection, the Clerk will report the amendment in order that the Members may understand exactly what is before the House.

The Clerk read as follows:

Page 14, line 1, strike out all of section 14.

Mr. MAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MAY. The amendment offered by the gentleman from New Jersey, as I understand it, moves to strike out all of section 14. Does that relate to the original section 14 as reported by the House Committee and as contained in the House bill?

The SPEAKER. It relates to the section in the bill as reported to the House.

Mr. HILL of Alabama. Mr. Speaker, there was no amendment offered by the gentleman from New Jersey. The gentleman from New Jersey simply demanded a separate vote on my amendment to strike out section 14.

The SPEAKER. The Chair thinks the House understands the situation.

The question was taken, and there were—yeas 237, nays 145, not voting 47, as follows:

[Roll No. 120]

YEAS—237

Amlie	Brown, Ga.	Colden	Delaney
Arnold	Brunner	Colmer	Dempsey
Ashbrook	Buchanan	Connery	Dickstein
Ayers	Buck	Cooper, Tenn.	Dies
Barden	Buckler, Minn.	Costello	Dietrich
Beiter	Burdick	Cox	Dingell
Binderup	Caldwell	Cravens	Disney
Bland	Cannon, Mo.	Crosby	Dobbins
Blanton	Carmichael	Cross, Tex.	Dockweiler
Bloom	Carpenter	Crosser, Ohio	Dorsey
Boehne	Cartwright	Crowe	Doughton
Boileau	Castellow	Cullen	Doxey
Boland	Celler	Cummings	Drewry
Boylan	Citron	Daly	Driscoll
Brooks	Coffee	Dear	Driver

Duffey, Ohio	Hull	Miller	South
Duncan	Imhoff	Mitchell, Ill.	Spence
Dunn, Pa.	Jacobsen	Mitchell, Tenn.	Stack
Eagle	Johnson, Okla.	Monaghan	Starnes
Eckert	Johnson, Tex.	Moran	Steagall
Ellenbogen	Jones	Moritz	Stefan
Evans	Keller	Murdock	Stubbs
Farley	Kennedy, N. Y.	Nelson	Sullivan
Fitzpatrick	Kenney	Nichols	Sumners, Tex.
Flannagan	Kloeb	O'Connell	Sweeney
Fletcher	Kniffin	O'Connor	Tarver
Ford, Calif.	Kopplemann	O'Day	Taylor, Colo.
Ford, Miss.	Kramer	O'Leary	Taylor, S. C.
Fuller	Kvale	Owen	Taylor, Tenn.
Fulmer	Lambeth	Parks	Terry
Gasque	Larrabee	Patman	Thom
Gassaway	Lea, Calif.	Patton	Thomason
Gearhart	Lee, Okla.	Pearson	Tolan
Gehrmann	Lemke	Peterson, Fla.	Tonry
Gildea	Lesinski	Peterson, Ga.	Truax
Gillette	Lewis, Colo.	Pfeifer	Turner
Gingery	Lloyd	Pierce	Utterback
Goldsborough	Luckey	Quinn	Vinson, Ga.
Granfield	Ludlow	Ramsay	Vinson, Ky.
Gray, Ind.	Lundeen	Rankin	Wallgren
Green	McClellan	Rayburn	Warren
Greenway	McCormack	Reece	Wearin
Greenwood	McFarlane	Reilly	Weaver
Gregory	McGehee	Richards	Welch
Griswold	McGrath	Robinson, Utah	Werner
Haines	McGroarty	Romjue	Whelchel
Hamlin	McKeough	Rudd	White
Hancock, N. C.	McLaughlin	Sabath	Whittington
Harlan	McReynolds	Sadowski	Wilcox
Hart	McSwain	Sanders, La.	Williams
Healey	Mahon	Sanders, Tex.	Wilson, La.
Higgins, Mass.	Mansfield	Sandlin	Withrow
Hildebrandt	Marcantonio	Sauthoff	Wolverton
Hill, Ala.	Martin, Colo.	Schneider	Wood
Hill, Knute	Mason	Schulte	Young
Hill, Samuel B.	Massingale	Scott	Zimmerman
Hobbs	Maverick	Sears	Zioncheck
Hoeppel	Mead	Shanley	
Hook	Meeks	Sirovich	
Houston	Merritt, N. Y.	Smith, Wash.	

NAYS—145

Adair	Duffy, N. Y.	Kinzer	Rich
Allen	Eaton	Kleberg	Robertson
Andrew, Mass.	Edmiston	Knutson	Robsion, Ky.
Andrews, N. Y.	Engel	Kocialkowski	Rogers, Mass.
Arends	Englebright	Lambertson	Rogers, Okla.
Bacon	Faddis	Lamneck	Russell
Beam	Fenerty	Lanham	Schaefer
Biermann	Ferguson	Lehlbach	Schuetz
Blackney	Fiesinger	Lord	Secrest
Bolton	Fish	Lucas	Seger
Brennan	Focht	McAndrews	Short
Brewster	Frey	McLean	Smith, Conn.
Brown, Mich.	Gavagan	McMillan	Smith, Va.
Buckbee	Gifford	Maas	Smith, W. Va.
Burch	Gilchrist	Mapes	Snell
Burnham	Goodwin	Marshall	Somers, N. Y.
Carlson	Gray, Pa.	Martin, Mass.	Stewart
Cavicchia	Guyer	May	Sutphin
Christianson	Gwynne	Merritt, Conn.	Taber
Church	Halleck	Michener	Thomas
Claiborne	Hancock, N. Y.	Millard	Thompson
Clark, N. C.	Harter	Montet	Thurston
Cole, Md.	Hartley	O'Brien	Tinkham
Cole, N. Y.	Hess	O'Neal	Tobey
Collins	Higgins, Conn.	Parsons	Treadway
Cooley	Hoffman	Patterson	Turpin
Cooper, Ohio	Hollister	Perkins	Umstead
Crawford	Holmes	Pettengill	Wadsworth
Crowther	Hope	Pittenger	Wigglesworth
Culkin	Huddleston	Plumley	Wilson, Pa.
Darden	Jenckes, Ind.	Polk	Wolcott
Darrow	Jenkins, Ohio	Powers	Wolfenden
Deen	Johnson, W. Va.	Ramspeck	Woodruff
Dirksen	Kahn	Randolph	Woodrum
Ditter	Kee	Ransley	
Dondero	Kelly	Reed, Ill.	
Doutrich	Kerr	Reed, N. Y.	

NOT VOTING—47

Andresen	Chapman	Kennedy, Md.	Rabaut
Bacharach	Clark, Idaho	Kimball	Richardson
Bankhead	Cochran	Lewis, Md.	Rogers, N. H.
Bell	Corning	McLeod	Ryan
Berlin	DeRouen	Maloney	Scrugham
Buckley, N. Y.	Dunn, Miss.	Montague	Shannon
Bulwinkle	Eicher	Mott	Sisson
Cannon, Wis.	Ekwall	Norton	Snyder
Carter	Fernandez	Oliver	Underwood
Cary	Gambrill	O'Malley	Walter
Casey	Greever	Palmisano	West
Chandler	Hennings	Peyser	

So the amendment was agreed to.

The Clerk announced the following pairs:

Mr. Sisson (for) with Mr. McLeod (against).
Mr. Chandler (for) with Mr. Andresen (against).
Mr. Berlin (for) with Mr. Bacharach (against).

General pairs:

Mr. Rogers of New Hampshire with Mr. Ekwall.
Mr. Cochran with Mr. Kimball.
Mr. Rabaut with Mr. Mott.
Mr. Bulwinkle with Mr. Corning.
Mr. Casey with Mr. Buckley of New York.
Mr. Bankhead with Mr. Scrugham.
Mr. Chapman with Mr. Kennedy of Maryland.
Mr. Oliver with Mr. Richardson.
Mr. DeRouen with Mr. Snyder.
Mr. West with Mr. Underwood.
Mr. Cary with Mr. Ryan.
Mr. Clark of Idaho with Mr. Bell.
Mr. Dunn of Mississippi with Mr. Walter.
Mr. Gambrill with Mr. Fernandez.
Mr. Montague with Mr. Hennings.
Mr. O'Malley with Mr. Eicher.
Mrs. Norton with Mr. Greever.
Mr. Maloney with Mr. Lewis of Maryland.

Mr. ASHBROOK and Mr. KLOEB changed their votes from "no" to "aye."

Mr. DEEN changed his vote from "aye" to "no."

The result of the vote was announced as above recorded.

Mr. KVALE. Mr. Speaker, my colleague, the gentleman from Minnesota, Mr. RYAN, is unavoidably absent. If he had been present he would have voted "aye."

Mr. DRISCOLL. Mr. Speaker, my colleague the gentleman from Pennsylvania, Mr. SNYDER, was called away and could not be present. If present, he would have voted "aye."

Mr. BOLAND. Mr. Speaker, my colleague the gentleman from Pennsylvania, Mr. BERLIN, has been call out of town. If present, he would have voted "aye."

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. ANDREWS of New York. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ANDREWS of New York. I am.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ANDREWS of New York moves to recommit the bill to the Committee on Military Affairs with instructions to that committee to report the same back to the House forthwith with the following amendment: Page 11, line 23, strike out all of section 13 and insert in lieu thereof the following:

"SEC. 13. That section 9 (b) of said act be, and the same is hereby, amended as follows: and as so amended such amendment shall be effective on and after the 1st day of January 1936 occurring next after the approval hereof, by adding at the end thereof the following words:

"'(b) All moneys of the Corporation of whatsoever nature hereafter received by or for the Corporation shall be immediately and without diminution deposited and covered into the Treasury of the United States, and such portion thereof as is authorized by the Tennessee Valley Authority Act of 1933, as amended, or other law, to be used by said Corporation in carrying out the provisions of said act, as amended, shall be transferred to an appropriate appropriation account withdrawable only on warrant as are other appropriated public moneys, and subject to authority specifically granted by the Tennessee Valley Authority Act of 1933, and as amended, all laws regulating the obligating or expenditure of other public moneys shall be applicable thereto: *Provided*, That until July 1, 1936, the provisions of section 3709, Revised Statutes, shall not be applicable to purchases of supplies and equipment necessary for dam construction. Accounts of all transactions involving receipts or disbursements of the Corporation shall be duly rendered to the General Accounting Office at such times and in such substance and form as may be prescribed by the Comptroller General of the United States, and said accounts and such claims as may arise shall be settled and adjusted by the General Accounting Office under and pursuant to the provisions of title III of the Budget and Accounting Act approved June 10, 1921: *Provided*, That the expenses of such portion of the audit as the Comptroller General may authorize to be done in the field shall be paid from moneys advanced therefor by the Corporation, or from any appropriation or appropriations for the General Accounting Office, and appropriations so used shall be reimbursed promptly by the Corporation as billed by the Comptroller General. In such connection the Comptroller General and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to, under the control of, or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with the balances in depositaries. The officers of the Corporation to whom moneys may be advanced on accountable warrant shall each give a bond to the United States for the faithful discharge of the duties of

his office according to law in such amount as shall be directed by the Comptroller General. Should there be any administrative delinquency in the rendering of the accounts as directed, or any unsatisfactory condition of the accounts, requisitions for funds shall be disapproved by the Comptroller General unless, for good cause shown, he shall elect to withhold such disapproval.'"

Mr. ANDREWS of New York (interrupting the reading of the motion to recommit). Mr. Speaker, I ask unanimous consent to dispense with the further reading of the motion to recommit as it is the McCarl amendment.

Mr. HILL of Alabama. Mr. Speaker, I make the point of order on the motion to recommit that the House has just voted on these two propositions.

The SPEAKER. The Chair is unable to rule on the point of order without having the motion read.

The Clerk resumed the reading of the motion to recommit.

Mr. KVALE (interrupting the reading of the motion to recommit). Mr. Speaker, I ask unanimous consent that the further reading of the motion to recommit be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. HILL of Alabama. Mr. Speaker, I make the point of order on the motion to recommit that the House has just acted on what is in the motion.

The first part of the motion to recommit deals with lines 4, 5, and 6 on page 8 of the bill. The House adopted an amendment striking out those lines.

In the same way, as to section 13, the House has just adopted an amendment striking out section 13 and substituting in lieu thereof the language now in the bill.

The House has therefore passed on both of the propositions embodied in the motion to recommit.

Mr. ANDREWS of New York. Mr. Speaker, I call attention to the fact that the motion to recommit is not identical with the original language on page 8. The language on page 8 reads "after July 1, 1937", while the motion to recommit states "after July 1, 1938." So it is not the original language of the bill and it is not the amendment that has been acted upon by the House but matter that was acted upon simply in committee.

Mr. HILL of Alabama. The House adopted all the amendments in gross except the amendment to strike out section 14, which the gentleman from New Jersey asked a separate vote upon. The point of order is that the motion to recommit is in substance what the House voted on.

Mr. MICHENER. Will the gentleman yield?

Mr. HILL of Alabama. Yes.

Mr. MICHENER. The gentleman says "in substance." That is just the point; there is a vast difference between 1937 and 1938. If they had 1 year to operate on a different basis, that is very material.

Mr. HILL of Alabama. There can be no question but that section 13 was voted upon.

Mr. MICHENER. There is a vast difference; a difference that is very material.

The SPEAKER. The Chair will hear the gentleman from New York on the second portion of his motion to recommit.

Mr. ANDREWS of New York. The Chair rules that the first portion of the motion to recommit is in order?

The SPEAKER. The Chair thinks the first portion is in order, inasmuch as there is a difference in date.

Mr. ANDREWS of New York. The language of the second portion is identical with what was originally in section 13, but it has not been voted on by the House, only by the Committee of the Whole.

The SPEAKER. The Chair thinks the point of order is well taken, insofar as it applies to section 13, the House having voted to strike out section 13 and insert other language. The gentleman's motion proposes to reinsert the original language in the bill, which by a former vote was stricken out. The Chair thinks that portion of the motion to recommit is subject to a point of order.

Mr. ANDREWS of New York. Mr. Speaker, I ask to amend the motion to recommit.

The Clerk read as follows:

Mr. ANDREWS of New York moves to recommit the bill to the Committee on Military Affairs with instructions to report the same back with the following amendment: "Page 8, line 4, after the word 'agriculture', strike out the remainder of section 8 and insert in lieu thereof the following: 'After July 1, 1938, the Authority shall not sell surplus power or chemicals produced by it below the cost of the aggregate production for each year.'"

Mr. McSWAIN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

ORDER OF BUSINESS

Mr. TAYLOR of Colorado. Mr. Speaker, I submit a unanimous-consent request that it may be in order on Friday next to take up the Private Calendar under the rules of the House.

The SPEAKER. The gentleman from Colorado asks unanimous consent that it may be in order on Friday next to consider the Private Calendar under the rules of the House. Is there objection?

Mr. TRUAX. Mr. Speaker, I reserve the right to object, though I do not intend to. I do this to ask if the gentleman refers to bills unobjected to.

The SPEAKER. Yes. It is under the general rules of the House.

Mr. KVALE. Mr. Speaker, I reserve the right to object merely for the purpose of stating that I hope that on a further vote we may drive through to final passage the bill under consideration tonight.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. HOPE. This is not to take up omnibus bills?

The SPEAKER. No. Omnibus bills come up on their regular day. Is there objection?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. DARDEN, for 14 days, on account of official naval business;

To Mr. BURNHAM, for 14 days, on account of official business;

To Mr. CHANDLER, for 3 days, on account of important business;

To Mr. HIGGINS of Connecticut, for 14 days, on account of official business;

To Mr. McGRATH, for 14 days, on account of official naval business;

To Mr. O'CONNELL, for 14 days, on account of official business;

To Mr. SCOTT, indefinitely, on account of important official business;

To Mr. SCRUGHAM, for 14 days, on account of official naval business;

To Mr. SEARS, for 14 days, on account of official business; and

To Mr. MAAS, for 14 days, on account of important official business.

PAST AND PRESENT REVENUE LAWS HAVE GREATLY BENEFITED THE RICH—LET US AMEND THESE LAWS—STOP ALL LOOPHOLES AND RAISE FUTURE REVENUE BASED ON ABILITY TO PAY

Mr. McFARLANE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. McFARLANE. Mr. Speaker, I desire to submit for your consideration my reasons why certain bills which I have introduced in the House should be favorably reported by the Ways and Means Committee. The bills to which I refer are H. R. 8401 amending section 12 (b) of the Revenue Act of 1934 relating to rates of surtax; H. R. 8402, amending section 405 (b) of the Revenue Act of 1934 relating to rates of tax on estates; and H. R. 8403, amending section 520 of the Revenue Act of 1934 relating to rates of tax on gifts. I also wish to call to your attention my Resolution No. 98 proposing an amendment to the Constitution of the United States relative to taxing certain incomes which is in harmony with the President's tax message of recent date.

Let me say in the beginning that I realize that the above-mentioned bills do not precisely agree with the general ideas advanced by the President in his message to Congress on June 19. The President in his suggestions asked for revision of taxation on inheritances, gifts, and for a graduated income tax on corporations according to their size, whereas the above measures call for a revision upward on estates and gift taxes commensurate with the rates of other countries and for a revision of the personal income tax rates placing a ceiling on personal incomes of not to exceed $1,000 per week or about $52,000 net per year.

I respectfully ask the Ways and Means Committee to consider these measures on their merits, bearing in mind that the President has made only general suggestions regarding tax rates on the subjects covered.

INCOME TAX

The income-tax schedule which I propose in H. R. 8401 materially increases the amount of the tax in the case of all taxpayers. A comparison of the tax raised under this measure with that of Great Britain, France, and Germany is as follows:

Comparison of income tax—Married person, no dependents, all income from salary

Net income	H. R. 8401	Great Britain	France	Germany
$1,000	0	$8.88	$33.78	$79.05
$2,000	0	111.44	170.10	316.85
$3,000	$8.00	311.44	365.85	543.54
$5,000	85.00	711.44	857.30	1,079.54
$7,500	230.00	1,221.94	1,651.30	1,951.95
$10,000	440.00	1,862.34	2,524.94	2,939.89
$15,000	1,049.00	3,443.85	4,688.28	5,170.49
$25,000	3,049.00	7,368.90	9,509.83	9,946.04
$50,000	12,516.50	19,654.60	23,716.05	22,565.71
$100,000	50,204.00	48,101.85	53,651.12	47,445.63
$500,000	463,866.50	307,909.85	269,651.12	247,435.73
$1,000,000	961,366.50	639,159.85	539,651.12	497,446.16

The rate schedule is so drawn in H. R. 8401 that the amount of income remaining in the hands of any taxpayer cannot exceed approximately $50,000. Surtax rates begin at 1 percent upon the first $1,000 in excess of the exemption plus $2,000. The rate of tax upon the portion of net income in excess of $50,000 is 99½ percent.

BENEFITS DERIVED FROM LIMITING INCOMES TO $50,000

(a) *Presents unhealthy increase in prices and removes incentive to reduce wages*

Such an amendment to our tax laws would peacefully and orderly bring about a redistribution of our national wealth. These amendments would soon be reflected to both the consumer and producer. Businessmen who are prone to reduce wages or oppose their increase, would not find it advantageous to do so if the resultant savings when beyond their reasonable needs was taken from them in taxes. Likewise, the incentive to reap excess profits by increasing the selling price would cease to exist. Instead, the tendency would be to maintain good wages, shorten hours, and decrease prices to the lowest point compatible with this maximum possible personal income. The increased wages, shorter hours, and decreased selling prices would automatically benefit the whole community by increasing employment and buying power.

(b) *Would stimulate legitimate business*

Such a tax would not only eliminate profiteering but would stimulate legitimate business and profits. By taxing only personal incomes, and not business profits, a handicap would be removed from business. Untaxed, undivided profits would be available for development and expansion made necessary by the increased buying power and higher wages and more employment. The accumulation of deferred dividends or undivided profits beyond the reasonable needs of the business would be prevented by safeguards which you placed in the Revenue Act of 1934 and which we hope will be more effectively administered by this administration than similar provisions found in prior revenue acts were enforced under the Mellon regime.

(c) *Would remove the incentive for unreasonable increases in officers' salaries*

The Federal Trade Commission has been engaged in compiling data on the salaries of some of the larger corporations. Under date of February 27, 1934, the Evening Star of this city quoted an article from the Associated Press to the effect that this study disclosed that out of 900 big companies around 300 executives were receiving more than $100,000 in 1929 in bonuses and salaries. In the boom period about two score received pay checks and bonuses of $200,000. Some 25 got between $200,000 and $300,000; 7 more got between $300,000 and $400,000; 3 between $700,000 and $800,000; 2 between $800,000 and $900,000; 1 something over a million and another more than a million and a half.

A conspicuous example was that of the president of the American Tobacco Co. who between 1929 and 1932 received in bonuses and salary $3,000,000. Another case was that of the president of the Bethlehem Steel Co. whose annual salary from 1928 to 1930 was $12,000 annually but whose bonuses averaged $1,100,000 per annum. A more glowing example was that of an executive of Fox Film Co. who received a salary and bonus of $460,000. Shortly thereafter the company under his management was in financial difficulties.

While I have not sufficient data to establish this statement, it is generally conceded by those in position to have a knowledge of industry that salaries were increased from 1916 to 1929 by several hundred percent. In most instances these increases were not justified on the basis of additional duties. The additional pay in no sense represents earned incomes, but are paid by reason of the fact that these individuals are able to dominate and control oftentimes with very little actual ownership of the business. The excessive salaries which they receive represent accumulated profits diverted from the stockholders into their pockets. The salary of the President of this country is only $75,000. I believe no officer in commercial enterprises should receive more.

(d) *Would take from these individuals the means by which they accumulate unreasonable wealth*

The executives of large corporations for the most part are in a position to have inside information about the possibilities of profits from trading not only in their own stock but that of other companies dominated by friends and associates in like positions. Much of the profits from capital gains reported by wealthy men undoubtedly was the result of confidential information reaching them by reason of their position in the financial world before such information trickled down to the public. The exhorbitant salaries and bonuses is the starting point frequently by which enormous amounts of wealth are accumulated from trading in stocks of this kind. The officers of General Motors, Chrysler, and Studebaker are said to have amassed large sums in this manner.

(e) *Will remove numerous economic evils*

Many economic evils and practices that are common under the present system would not be practical or profitable with such a progressive personal income tax. Holding companies, trusts, monopolies, and other devices for making and covering up excess profits would be of no avail. All such profits would ultimately be passed on as personal income and so would be available for taxation.

The temptation to water stock would be much lessened. Stocks are watered so that a few at the top may reap a bounteous harvest without giving anything in return. What would be the advantage of such manipulation if most, or all, of the profits reverted to the people through taxation?

The proposed tax would make large holdings of unproductive natural resources unprofitable or impossible and so help to restore such resources to the people. It would tend also to break up all large fortunes and holdings however owned or controlled. We would have no millionaires or wealthy playboys, also fewer paupers.

The perennial warfare between labor and capital would be largely avoided by such tax. Labor troubles are usually due to the desire of the employed for a more equitable share of the profits of industry. Given such a share the conflict should cease.

Undue political influence and power that so often goes along with great fortunes and incomes would naturally be much less when such fortunes and incomes no longer exist.

Such a tax would take the excess profits out of the munitions and ship-building industries. It would thus help to eliminate one of the potent factors that tends to promote war.

(f) Would not deprive industry of competent leadership

Would such a tax and such a limitation of personal income deprive us of the services of our great industrial leaders? Would competent men refuse to work for such a pittance? We need have no misgivings about not being able to secure the services of competent men in any line or for any job for an income of $50,000 per year. The net salary of the President is about $50,000. Our Congressmen, Cabinet members, Supreme Court Justices, and business executives all receive less than $25,000 per year. Competent men are found in every line of work who do not receive that much. In fact, all of our so-called "industrial leaders" have worked for less, and would gladly do so again if necessary.

Let us suppose such a one should refuse to work for a paltry $50,000 per year. What would he do? Retire to his million-dollar estate and live off his income? Well, as that income could not be over $50,000 per year, he would not be able to pay taxes and upkeep on that million-dollar estate very long. As a result, the estate would have to be sold. This, of course, would be very desirable. The land would then be available for small-home owners. A number of small-home owners is a far greater asset to any community than is one large estate.

(g) Would not cause an exodus of wealth

Nor need we fear that our millionaires would take their wealth and the country. If they did leave they would not be missed. They could take with them little of real value. Our industries and resources would have to be left behind.

(h) Evasion would decrease

Would the possessors of swollen incomes try to evade such a tax? Probably so. Many of them try to now, and they often get by with it. Under the proposed plan such evasion would be more difficult. The greater the income the more numerous the sources from which it is derived and the more complicated and difficult it is to uncover. A limited income would naturally be derived from a smaller number of sources and so would be much easier to check. Requiring all corporations and employers to report the wages, salaries, bonuses, and dividends paid to all employees, stockholders, and officials would reduce evasion to a minimum. Anyone found spending money clearly in excess of his reported income would, of course, be subject for special investigation.

Some will say it sounds all right, but the people would never stand for such a tax. Well, that depends on what is meant by the people. Under the proposed plan, as under the present one, only a small percent of the voters would pay any income tax at all. The rate on the lower incomes, $4,000 or less above exemptions, would be less than now. We might conservatively conclude that less than 1 percent of the people would then pay more income tax than at the present. The other 99 percent and all the non-income-tax payers would profit either directly or indirectly. If properly presented to the people, their own self-interest should cause them to approve such a tax.

SUMMARY

As stated before, the amount of the tax suggested, 1 percent on the first $1,000 above exemptions and increasing 1 percent with each additional $1,000, is purely arbitrary and may be adjusted to meet the needs of the Treasury Department for income. The practical working of such a plan is the point stressed. To be effective the tax must progressively increase so that excess profits will result in a diminished personal income. A lesser tax, such as our present income tax, is *shifted to the consumer* (italics mine) and so will not produce the desired result.

I realize that the income-tax law is full of exemptions and deductions favorable to wealthy taxpayers. Many of these deductions permit the taxpayer to retain, free of tax, large amounts of actual profits. The limitation, therefore, of $50,000 is far less than the taxpayer will be permitted to retain under the existing law. For example, the capital-gain provision exempts from tax as high as 70 percent of the profits realized from the sale of stocks and bonds and other property. Statistical data of the Bureau of Internal Revenue indicate that wealthy taxpayers have a very large percentage of their net income from this source. It is commonly known that these gentlemen buy stocks, bonds, and real estate when the markets are depressed and the public has little cash for this purpose.

These investments are held until prosperous times, when the markets are inflated, and their investments are then liquidated at excessive prices, a large portion of property sold by this class falls into the hands of small investors, who oftentimes lose much of their hard-earned money in the recessions of the market, when the shrewd investor can buy them up again for another cycle of investment. I see no reason for retaining such loopholes in the law, but if they are to be retained the rate of tax should be exceedingly heavy on that portion of the income subject to tax, for the profits they receive from these investments are not truly earned but represent the wealth of many small investors who are stripped of their savings, which are transferred to the wealthy individual who can take advantage of the economic condition of the times.

ESTATE TAX

In the case of estates, H. R. 8402 proposes a schedule beginning with 2 percent on the first $10,000 in excess of the exemption of $50,000 provided by the revenue act and is graduated upward to a rate of 99½ percent on net incomes in excess of $20,000,000. The rate schedule is so drawn that regardless of the income there remains not over $5,000,000 to be distributed in the case of any estate.

Comparison of estate tax under H. R. 8402 and Great Britain is as follows:

Net estate before exemption	H. R. 8402	Great Britain
$2,500	None	$25
$5,000	None	100
$25,000	None	750
$50,000	None	2,000
$100,000	$9,600	8,000
$150,000	17,600	15,000
$200,000	26,600	24,000
$300,000	44,600	48,000
$400,000	62,600	72,000
$500,000	82,600	95,000
$600,000	102,600	120,000
$800,000	150,600	192,000
$1,000,000	206,600	240,000
$2,000,000	546,600	600,000
$5,000,000	2,026,600	1,900,000
$10,000,000	5,726,600	4,500,000

WHY THESE AMENDMENTS SHOULD BE ADOPTED

I recommend for consideration of this committee the rate schedules which I have proposed in the foregoing bills. I believe that these rates are necessary to carry out the purpose stated in the President's recent message dealing with the subject of taxation.

In regard to our policy of taxation, the President says:

> Our revenue laws have operated in many ways to the unfair advantage of the few, and they have done little to prevent an unjust concentration of wealth and economic power.

In further recognition that taxes should be levied in proportion to ability to pay, the President says:

> Taxation according to income is the most effective instrument yet devised to obtain just contribution from those best able to bear it and to avoid placing onerous burdens upon the mass of our people.

And further recognizing the justness of the movement toward progressive taxation of wealth and income, the President says:

> Wealth in the modern world does not come merely from individual effort; it results from a combination of individual effort and of the manifold uses to which the community puts that effort.

The individual does not create the product of his industry with his own hands; he utilizes the many processes and forces of mass production to meet the demands of a national and international market.

Therefore, in spite of the great importance in our national life of the efforts and ingenuity of unusual individuals, the people in the mass have inevitably helped to make large fortunes possible. Without mass cooperation great accumulations of wealth would be impossible save by unhealthy speculation. As Andrew Carnegie put it, "Where wealth accrues honorably, the people are always silent partners." Whether it be wealth achieved through the cooperation of the entire community or riches gained by speculation, in either case the ownership of such wealth or riches represents a great public interest and a great ability to pay.

In line with the thought expressed in these quotations, I have fixed the limit which anyone should leave as $5,000,000. I believe that this country would be better off with a great many persons of small wealth rather than a less number of very great wealth. France and England are examples today of countries in which there are very few men of extremely great wealth. As a matter of fact, I do not understand that any individual in either of these countries possess anything like the wealth of the Ford family or the Mellon family. The recovery which each of these countries made after the war shows on how stable a basis their social structure rests. If we are to provide opportunities for persons of small means, it is incumbent upon the Government to effectively check the growth of large groups of wealth. This can be effectively done only if rates of income tax, inheritance, and gift taxes are amended which will limit the amount of wealth remaining in the hands of the family at the date of death. I believe that the limit fixed in the bills which I have introduced will do this in an effective way.

GIFT TAXES

I have introduced H. R. 8403 as a companion to H. R. 8402. This bill partially plugs an obvious loophole in the present gift- and estate-tax laws. Under the present law, gifts are taxable at rates 75 percent of rates of similar amounts left by inheritance. The savings in tax which can be effected by means of giving away property prior to death is so large in the case of wealthy taxpayers that a substantial portion of their inheritances will be given away to their children prior to death in order to defeat the inheritance-tax laws. The bill which I have introduced makes the rates on gifts the same as inheritance rates. This will partially discourage the giving away of property merely to defeat the tax. It will not, however, prevent the giving away of property prior to death for that purpose. The tremendous saving which can be effected under the present law is indicated by the following figures. In the case of an estate of $10,000,000, the total estate tax is $3,094,500. If, however, the decedent gives away one-half of the property prior to his death the gift tax on one-half of the property is $848,650; the estate tax on the remaining one-half is $1,149,500, making a total tax of $1,998,150, and the saving to the estate is $1,096,350.

The following data taken from reports of the Bureau of Internal Revenue showing receipts of gift taxes for 1933, 1934, and 1935, by months indicates taxpayers are availing themselves of this loophole to reduce death taxes.

	1933	1934
July	$2,832.87	$15,098.84
August	5,322.34	25,134.33
September	9,091.20	67,142.91
October	11,502.91	13,086.17
November	30,568.78	166,139.01
December	186,103.58	243,031.28
	1934	1935
January	$1,764,987.87	$51,832.79
February	997,601.63	382,132.77
March	7,389,435.04	64,339,757.17
April	694,263.21	3,024,711.09
May	252,558.43	430,271.87

I urge that you substitute higher estate-tax rates such as I have proposed in H. R. 8402 for the additional estate-tax rates imposed by the Revenue Act of 1934. Such a tax in view of decisions of the Supreme Court will reach a large portion of the transfers which are certain to be made in anticipation of an inheritance tax (*Milliken* v. *U. S.*, 283 U. S. 15).

It is hoped that we are now emerging from the most serious depression in the world's history. Experience teaches us that the wealthy during such depressions acquire large volumes of property at bargain-counter prices. The unhealthy condition by reason of accumulation of wealth in hands of too few persons will be greatly aggravated by reason of the profits realized from the purchase of property during the depression. These profits represent the earnings of the great masses who by reason of their unfortunate condition are unable to hold on to their property until normal times. I believe death taxes should be imposed sufficiently high to return a large portion of such wealth to the Government in order that it may be used to liquidate the obligations of the Government now being created for relieving the distressed people of this country.

PROPOSED AMENDMENTS TO STOP LOOPHOLES

The present gift-tax laws enacted to stop a decided loophole in the Federal estate tax laws only partially stop the gap. Two changes are necessary to close the loophole:

1. Reduce the special exemption of gifts to any one person during any taxable year to $500 instead of $5,000 in the present law. The present law was adopted on amendment offered by ex-Senator David Reed, of Pennsylvania.

2. Increase the gift-tax rates to make them equal in every respect to the estate-tax rates.

It may be argued that the estate- and gift-tax laws should encourage the aged to give away their property before death. With the changes I have proposed there will still remain inducement to give away property before death, for even these rates permit substantial savings if portions of property are distributed before death.

ALL TAX LOOPHOLES SHOULD BE STOPPED

It is well recognized that there are many loopholes in our present tax laws through which evasions the Government is losing hundreds of millions of dollars. In addition to the above-suggested amendments, I submit for the Committee's consideration the following proposed amendments as being sound, wholesome amendments that should be made to our tax laws.

1. Effective for any taxable year ending subsequent to the enactment of this act, the Revenue Act of 1934 is amended by adding a new section as follows:

SEC. 169. TRANSFERS TO EVADE TAXATION. (a) Gifts of husband and wife: Where a husband transfers property by gift to his wife, or vice versa, and the husband and wife are living together, or, if separated, there has been no final settlement of their property rights, then the income derived from such property (and from property substituted therefor) shall be included in computing the net income of the spouse who made the transfer as if such transfer had not been made.

(b) Family trust: (1) Where the husband or wife of the creator of a trust is a beneficiary of the trust and the husband and wife are living together or, if separated, there has been no final settlement of their property rights, or (2) where a child or a parent of the creator of the trust is a beneficiary of the trust and under the laws of descent an interest in the corpus of the trust or in the income accumulated for or distributed to the child or parent, as the case may be, may be vested in the creator of the trust, then that part of the income of the trust accumulated for, or distributable to, the husband or wife or child or parent of the creator of trust shall be included in computing the net income of the creator of the trust.

2. Effective for any taxable year ending subsequent to the enactment of this act, section 22 of the Revenue Act of 1934 is amended by adding at the end thereof a new paragraph as follows:

(g) Undivided profits of corporations: Any portion of the net income of a corporation subject to the tax imposed by section 13 (a) of this act remaining undistributed at the close of its taxable year shall be accounted for by the stockholders of such corporation at the close of its taxable year in proportion to their respective shares. Within 45 days after the close of its taxable year and in accordance with rules and regulations prescribed by the Commissioner, with the approval of the Secretary, the corporation shall file a return showing the number of shares held by each stockholder and the amount of undivided net income allocable to each share and shall report to each stockholder the amount of undivided net income allocable to each share.

3. Effective for any taxable year ending subsequent to the enactment of this act, the Revenue Act of 1934 is amended by adding a new section as follows:

SEC. 151. Disclosure of income not reported as taxable: Every person subject to the tax imposed by this title shall file with the collector a statement for each taxable year showing (1) all income for the year not reported on the income-tax return for the year, (2) all distributions from corporations received within the year and not reported on the income tax for the year, and (3) all sales and exchanges of property other than property held primarily for sale in the course of a trade or business and other than sales and exchanges reported on the income-tax return for the year. Such statement shall be in accordance with rules and regulations prescribed by the Commissioner and approved by the Secretary, shall be filed on or before the 15th day of the third month following the close of the taxable year, and shall be duly verified under oath.

4. Effective upon the enactment of this act, section 501 (a) of the Revenue Act of 1932 is amended to read as follows:

(a) For the calendar year 1932 and each calendar year thereafter a tax, computed as provided in section 502, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift or by bequest, devise, or other testamentary disposition. The terms "gift", "gifts", or "net gifts" as used in this title include gifts inter vivos and testamentary gifts and dispositions.

5. Board of Tax Appeals: The present Board of Tax Appeals was created in order to provide an independent review of the taxpayers' cases before assessment of deficiencies. The Bureau by reason of inadequate personnel and incompetent administration imposed ill considered and unreasonable assessments on taxpayers. Congress sought to stop this by providing an independent review body in the Treasury Department. Unfortunately, however, the members soon surrounded their review by the rules adopted by the equity courts of the District of Columbia. This turned what was intended to be a review body into a highly technical court, before which a taxpayer is forced to employ a specially trained lawyer and provide himself with expensive witnesses in order to be given the consideration which was intended without this great expense. In looking over the results of this body I find their rulings are so inconsistent that Bureau officials cannot be consistent in administration because of these inconsistencies. These decisions have laid the groundwork and have been the cause of a flood of litigation equaled in no other country. Administration of our taxing laws is a practical matter. The courts have held that these statutes should be construed liberally in favor of the taxpayer. I see no reason why an administrative problem of arriving at the correct tax should be turned into such a mass of litigation as has resulted from the creation of the Board.

I therefore recommend that you give consideration to abolishing this body. In its stead you should create an independent review body composed not of lawyers only, but of practical tax men such as auditors and engineers. Provide that this body shall function purely as a review body and without the technical requirements of a court. Provision could be made for taking testimony when a case was appealed so that the Board's findings will be given the same status as the findings of Commissioners of the Court of Claims.

The creation of such a body I regard as the first step in simplification and one of the most important ones. I therefore urge its consideration. The following amendment gives effect to my views on this subject.

Tax Adjustment Board: (a) There is hereby created in the Department of Treasury a board to be known as the "Tax Adjustment Board" (hereinafter referred to as the "Board"). The Board shall be composed of nine members. Each member shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 6 years, and shall receive compensation at the rate of $9,000 per annum. The Board shall at least annually designate a member to act as chairman. The Board shall have the powers, duties, and functions described in this section and in section 6 and shall have the power to prescribe rules and regulations governing all appeals filed with it.

(b) Upon receipt of a notice of deficiency in income tax, estate tax, inheritance tax, or gift tax sent to the taxpayer in the manner provided by the Revenue Act of 1924 and subsequent acts, the taxpayer may, within 90 days, or within 90 days after the enactment of this act, whichever is the latest, file a notice of appeal with the Board. Such notice shall be in the form prescribed by the rules of the Board. Within the time provided by the rules of the Board, the taxpayer shall file a statement of all facts and reasons and such documents and papers, or verified copies thereof, which he intends to submit in support of the appeal, and shall, by registered mail, send to the Commissioner a copy of all such statements, reasons, documents, and papers. Thereafter the Commissioner, if he desires to proceed further, shall file with the Board a copy of the income-tax return, a statement of the facts, and reasons and documents relied upon by him and shall send a copy thereof to the taxpayer by registered mail.

(c) The Board shall have the function, power, and duty to hear such appeal and to review, adjust, and determine the tax liability in controversy. All proceedings before the Board shall be in accordance with rules prescribed by it: *Provided, however,* That all hearings shall be open to the public and all records, documents, and papers filed in any proceeding shall be open to public inspection.

(d) The Board shall notify the taxpayer of its decision by registered mail and send a copy thereof to the Commissioner. If dissatisfied with such decision, the taxpayer or the Commissioner may, within 60 days, file with the Board a notice of dissatisfaction. Such notice shall be in the form prescribed by the Board.

(e) Within 60 days from the filing of the notice of dissatisfaction, the Board shall transmit to the clerk of the United States District Court for the district in which it is located the collector's office to which was made the return of the tax in controversy, typewritten copies of the notice of dissatisfaction and of all statements, documents, and papers on file before the Board and relative to the notice of dissatisfaction. The matter shall thereupon be deemed to be an action in the said court ready for trial or hearing: *Provided, however,* That should it be deemed advisable by the court or a judge thereof that pleadings be filed, an order may issue directing the parties to file pleadings.

(f) A taxpayer who files a notice of dissatisfaction shall give bond, in a sum fixed by the Board not exceeding double the deficiency determined by the Board, and shall give security for the costs of the appeal to the district. Failure to file such bond and give such security shall render the notice of dissatisfaction and all proceedings thereunder null and void.

6. Board of Tax Appeals abolished: Effective upon the ninetieth day following the enactment of this act, the Board of Tax Appeals established by section 900 of the Revenue Act of 1924 and section 1000 of the Revenue Act of 1926 is hereby abolished. No petition shall be filed with the Board of Tax Appeals with respect to any deficiency determined subsequent to the enactment of this act. All proceedings pending before such Board on the sixtieth day following the enactment of this act are hereby transferred to the Tax Adjustment Board and all the powers, duties, and functions of the Board of Tax Appeals are hereby transferred to the Tax Adjustment Board for the disposition of such pending proceedings. After the Tax Adjustment Board has entered its decision in such pending proceedings, petitions for review may be filed in accordance with sections 1001, 1002, 1003, 1004, and 1005 of the Revenue Act of 1926. The provisions of this section shall not affect any proceeding pending before any appellate court reviewing the action of the Board of Tax Appeals.

In conclusion let me say that I hope the Ways and Means Committee will give careful consideration to the above-suggested bills and proposed amendments when they begin the consideration of writing the new tax bill of 1935.

EXTENSION OF REMARKS

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein an address delivered by Mr. Bruce Bliven, editor of the New Republic, at the New Jersey Law School.

The SPEAKER. Is there objection?

Mr. LAMBETH. Mr. Speaker, I object.

OLD-AGE PENSIONS

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent to extend my remarks and to include therein a radio address I delivered yesterday.

The SPEAKER. Is there objection?

There was no objection.

Mr. NICHOLS. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following address:

Ladies and gentlemen of the radio audience, I am talking to you today on behalf of 2,175,559 old people of the United States who are over 65 years of age, or so many of them as are now entitled to relief under the old-age pension portion of the social security bill recently considered in Congress.

According to the 1930 census, there were 6,633,805 persons in the United States over 65 years old. Of this number, 2,175,559 now reside in States which would not participate in the benefits of the old-age pension plan as passed by the House of Representatives. This does not mean that all of these people above the age of 65 years would receive an old-age pension but only that portion of the figure who would be able to bring themselves within the regulations prescribed by the social security board.

The social security bill has been passed by both the House and the Senate and is almost certain of receiving the signature of President Roosevelt when it is finally sent to him. Therefore it is no longer a political topic worthy of everyday discussion by the political commentators who seek to keep their fingers upon the hot spots in Washington.

My purpose for addressing you today is to call to the attention of my listeners the thing that is holding up the final enactment of this long-delayed and much-needed legislation.

When the bill was up for consideration in the Senate there was adopted an amendment known as the "Russell amendment", which provided that Federal pensions should be paid for 2 years in all States, to those people 65 year of age or older, whether the State had a pension system to match the Federal allocation or not. As you know, the bill as it passed the House of Representatives provided that only those States which had enacted legislation permitting them to pay a State or county old-age pension, would be permitted to receive any of the funds appropriated for that purpose by the Federal Government. Under this bill, as passed by the lower House, only 30 States of the Union would participate in the expenditure of these Federal funds, while 18 States and the District of Columbia would receive nothing. The Russell amendment is a very vital amendment, and unless it is retained in the bill by the conferees of the House and the Senate, who now have the measure up for consideration, I strongly favor a battle on the floor of the House of Representatives to refuse to accept the conferees' report, and favor carrying on such battle until such time as a bill could be passed which would contain therein the Russell amendment, or some other provision which would have the same effect. I have discussed this matter with enough of my colleagues in the lower House to determine that such a floor battle is almost certain if the Russell amendment is not retained.

When the social-security bill was up for consideration in the House just before the vote on final passage, I attempted to have adopted an amendment to provide that the Federal Government should pay its $15 a month in pensions to the old folks in all States. This was the same as the Russell amendment, except that the Russell amendment places a 2-year limitation upon such payments. But the House Members, under the domination of a well-oiled steam roller, refused to adopt my amendment. Therefore, I am sincerely happy that Senator RUSSELL had better luck in the Senate than I did in the House, and I want here to pay tribute to him as a tireless fighter in this battle for justice for all of the old people, without regard to their residence. And, surely, after calm deliberation you cannot help but agree that a person's residence should not be the gage as to whether or not he or she were entitled to receive any benefits flowing from the Federal Government.

My reason for saying this seems to me fundamental, for when the Federal Government is gathering taxes with which to pay the expense of government, State lines and geographical limitations do not enter into the consideration, but all States and peoples of all States pay Federal taxes exactly alike. Therefore, when the benefits of government, which after all come from the collection of Federal taxes, are to be passed back to the people, they should be passed back upon the same basis that the taxes were collected originally. That is, a man in Oklahoma should be entitled to equal benefit from the Federal Government as a man would receive in New York, California, or Maine.

Unless the Russell amendment is retained, the old folks of 18 States and the District of Columbia will not be eligible for Federal old-age pensions until additional legislation is passed. A bill providing for the District of Columbia system is now pending and has a good chance of passage at this session. But all State legislatures have already adjourned and gone home. Therefore, there is no chance that they can enact old-age-pension legislation for several months, and it is likely that this will be delayed for several years in many States, for many States, like Oklahoma, must first amend their State constitution before their legislatures would have authority to enact old-age-pension legislation. The Congress is to blame in part for this condition, for the legislatures had to quit and go home. They could not continue in session as long as we have, and they could not know what kind of laws to pass until we had set the pattern for them with the Federal social security bill.

I have studied the question of old-age pensions for years, and have yet to hear one logical argument as to why the Federal Government does not owe an old-age pension to the man or woman over 65 years in my home State of Oklahoma, which has no State pension system, the same as it does a man or woman over 65 in Arkansas, right across the line, which has just recently enacted its State system. The old man or the old woman is not responsible for the action, or lack of action, of his State in this respect, although he is just as much entitled to help. He suffers as much from hunger; he is just as cold when he is naked as is a person living in a State who has enacted old-age pensions. I think that when the Federal Government admits that it owes an obligation to the old people of the United States, that it owes that obligation to them all alike, irrespective of State rights. But the Russell amendment gets much closer to the thought of the present administration, because it concedes that the obligation to care for the old folks is primarily upon the States, and it simply gives the 18 States which have no pension system 2 years to enact them. Surely no one can object to this with reason.

Some States, as I know Oklahoma is, are now hard hit financially. The sentiment in Oklahoma is overwhelmingly in favor of an old-age pension, but those who attempt to devise plans for a State system are generally stumped when it comes to raising the needed revenue. Therefore I think since Uncle Sam has already admitted, by the action of the President and the Congress, the obligation, that the least he could now do is to give Oklahoma and States like her 2 years to work out the financial and other problems confronting them. And remember, that if Uncle Sam does not pay this money out in the form of old-age pensions, he is going to have to care for a large portion of these old folks, anyway, through relief funds. How much better it would be to give to the old folks what is justly due them for their part in creating out of the wilderness a great nation, and building her to our present enviable position among all the nations of the world, to give to them gladly and in the spirit of loving kindness rather than to dole it out to them in such a miserly fashion that it will further embitter their hearts.

We in Oklahoma feel especially keen about this proposition, because practically all of our old folks were born and raised in other States. Oklahoma was admitted to the Union only 28 years ago. Most of those in Oklahoma eligible for this pension were restless pioneers and builders by nature. They helped create Tennessee, Missouri, and California. They fought with the patriots of Texas. They grew up in Arkansas, Kentucky, and Virginia. In fact, they came to Oklahoma from everywhere. Therefore I have no hesitancy in asking my colleagues, and in asking you from every State in the Union, to help Oklahoma and her other 17 sister States in this proposition.

One of the arguments against the Russell amendment is that it would be too expensive on the Federal Government. Of course, the expense would be no greater under this amendment than it would be if all of the 48 States adopted legislation to bring them within the provisions of the bill as passed by the House of Representatives. But this argument is not sound, because while the census of 1930 showed that there were in the United States 6,633,805 people over 65 years of age, a recent survey by the Committee on Economic Security indicated that there were only 736,342 persons over 65 years of age on the relief rolls in the United States. Knowing how strict and stringent the regulations will be before a person can receive any money appropriated under the Federal social security bill, I am constrained to the opinion that probably the figure of 736,342 persons would not be far amis from the number of persons who would actually receive these benefits, and using this figure as a basis, it would cost the Government $11,044,130 per month, or $132,529,500 a year, to pay the bill under the Russell amendment, or about the cost of three battleships.

The States which do not now have an old-age pension system are: Alabama, Connecticut, Florida, Georgia, Illinois, Kansas, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Vermont, and Virginia. If you live in one of these States or in the District of Columbia, you have a vital interest in seeing the Russell amendment retained in the bill.

The way you can best serve the old people of these States is to now wire or write to your Congressman or your Senator and insist that they support the Russell amendment. Join us in this fight to do something for the old people of the United States, who are now going down the shady side of life, which will show them that the United States is a nation grateful to them for the service which they have rendered in building her to our present economic and social standing.

I thank you.

RELIGION AND EDUCATION IN MEXICO

Mr. HEALEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include some short excerpts from newspaper dispatches.

The SPEAKER. Is there objection?

There was no objection.

Mr. HEALEY. Mr. Speaker, a dispatch from Mexico reported recently in the Boston Christian Science Monitor indicates that the students of the University of Mexico will not, voluntarily at least, acquiesce to the program of the

Mexican Government to socialize education of school children and college students.

STUDENTS' OPPOSITION TO CALLES INTRODUCED SURPRISE ELEMENT IN MEXICO'S LATEST DISPUTE

By Monitor Correspondent of Latin American News

Mexico's latest political controversy does not surprise persons who have been watching the Government's methods of putting through a 6-year plan. This program for governmental regulation of the economic and social life in the nation hit a snag some time ago. Its platform installing socialistic education in the schools was bitterly opposed by the students of the Universiity of Mexico (now the Natural Autonomous University) and by an organization known as the "National Parents Union."

To make certain the carrying on of the plan the Government has been forced to resort to pressure, and the recent agitation by university students was not the first staged in the capital city. What, however, could have caused surprise, unless observers are hardened to the ways of soldiers and police, was the student demonstration against former President Plutarco Elias Calles. The program being established by the Government is admittedly halfway between the purposes of the present administration at Washington and the chosen few governing the destinies of Russia.

DOMOCRACY *v.* BOLSHEVISM

Any charge, therefore, by the Mexican President that the recent ousting of his cabinet members, chosen by General Calles, was a move to establish an issue between democracy and fascism seems ridiculous. Democracy, as the term is understood and accepted in the United States (and perhaps the world over), does not include the doctrines of bolshevism.

When the 6-year plan was initiated the Government, as I recall, frankly admitted bolshevistic leanings. Calles, the "iron man" of Mexico, is concerned in the welfare of the middle class, particularly the Indians, and has held rather much to the views of business interests. This makes the student agitation against him most puzzling unless the group of several hundred calling for his banishment represented the extreme left wing.

Reports of this nature emanating from reliable sources in Mexico present convincing evidence of the fact that the present regime in Mexico is unquestionably bent upon the establishment of a communistic state in that country. In the light of the present-day insidious activities of radical forces in our own country to influence and subvert our educational sources—especially in institutions of higher learning—the knowledge that the actual installation of the system of socialistic teaching is being undertaken in Mexico is most alarming. Coupled with the socialization of education in Mexico has been the denial of all avenues of religious training to the child. Priests, ministers, and rabbis have been forbidden to conduct religious services and impart spiritual education of any sort to the youth of Mexico. To enforce this drastic proscription, persecution and severe oppression have been exercised. These activities are not directed solely toward members of the Catholic faith but toward all religion.

As an instance of the tyrannical attitude of the Mexican Government toward education it should be noted that the schools belonging to the members of the Mennonite colonies in the State of Chihuahua were closed because of their refusal to accept the Government's plan of socialistic education. There is a special significance in this action because of the fact that the Mennonites came to Mexico and to the State of Chihuahua under the terms of an express contractual agreement which guaranteed them the right of freedom of religion. Here is a definite contractual obligation of the Mexican Government that has been violated. In order to forestall the conventional Mexican quibble wherever religion and education are concerned, let me point out that these 11 schools belonging to the Mennonites were padlocked by an express order of the federal director of education. The Governor of the State of Chihuahua, however, executed the order. Prominent personages among the Mennonites lodged a public complaint with the Mexican Government, calling attention to the contract they had on this point and urging that they be permitted to reopen their schools.

The Mormons who immigrated to Mexico recently had a similar experience in the matter of education. Their temples in Chihuahua were closed some months ago. On the 19th of May 1935 the Government also closed the Mormon schools. Two charges were lodged against the Mormons—first, that some of their teaching was undertaken in English; and, secondly, that they had neglected the socialistic content of various educational courses. Permission to reopen these schools can be obtained only by promising to undertake the so-called "reforms" dictated by the Mexican Government—namely, by the promise to inaugurate courses of teaching the tenets of socialism and communism.

In order to illustrate that even American children are suffering as a result of this heartless policy of educational persecution, I submit the following affidavit by Alberto Andrade, a resident of Brownsville, Tex. From this sworn statement it is clear that the schools which American children were attending were obliged to inaugurate a system of atheistic and socialistic education.

AFFIDAVIT

STATE OF TEXAS,
County of Cameron, ss:

I, Alberto Andrade, a resident of Brownsville, Tex., and formerly of Monterrey, N. L., Mexico, make the following statement of my own volition, and without compulsion or duress.

For 18 months I was a teacher in the Franco-Mexican College for Boys in Monterrey. This school was attended by approximately 30 American children, sons of American citizens resident in Mexico, as this school was recognized for its high standards in the entire State of Nuevo Leon. There were also children of citizens of France, Germany, Italy, Spain, and Austria.

The children of the consuls of several countries were in continuous attendance.

In February 1935, notwithstanding the high standards and the desire of American and other foreign residents in Mexico to give their children the type of education they preferred, our teachers were ordered to sign the atheistic socialist oath or close their school. I could not betray the trust which those parents had put in my hands, and therefore I was forced to flee from Mexico and see the school closed.

In witness whereof I have hereunto set my hand this 2d day of July 1935, at Brownsville, Tex.

ALBERTO ANDRADE.

Acknowledgment

Before me the undersigned authority, at Brownsville, Tex., this 2d day of July, A. D. 1935, personally appeared Alberto Andrade, known to me to be the person making this affidavit, who declares he makes it voluntarily, and that the statements therein are true, to the best of his knowledge and belief.

[SEAL] C. VILLARREAL,
Notary Public in and for Cameron County.

These are but a few of the countless instances which indicate the firm determination of the present regime in Mexico to force upon the people of that country the doctrines of communism and atheism.

It will be observed that those who would impregnate the minds of children with these doctrines leave no choice to the intellect of the child to accept or reject them but—by cruelty, persecution, coercion, and oppression—actually force their doctrines upon the youth. Not content with the denial of the ordinary guaranties of human liberty in the accomplishment of their purpose, they seek to mold in their own image the minds of coming generations, and in pursuance of their purpose deny them access to all sources of spiritual knowledge and inspiration.

The denial of freedom of speech and freedom of religion, the forceful suppression of all liberty of thought, mind, or action, these are the characteristic and inevitable resources of those who seek to establish the communistic system of government.

It is, however, rather singular that those proponents of the doctrine of the dictatorship of the proletariat in our own country and the forceful overthrow of organized government should invoke the guaranties of our own democratic form of government, which provides for freedom of speech, the press, and religion, whenever there is any effort by our Government to control or counteract their subversive plotting and planning. Yet, every instance in which those forces have gained control of governments, they have resorted to iron-shod tyranny, persecution, suppression, and oppression in order to stamp out every vestige of freedom and of individualism. It is a cardinal tenet of their doctrine that, once their power is established, an absolute dictatorship of the proletariat (which in every instance has meant a chosen few) must prevail until steps have been taken to eradicate every trace of the former order and passive acquiescence to their own order has been forcefully impressed upon the people. To achieve that purpose, they recognize no means as too inhuman and no action as too cruel and brutal.

Such a stage now exists in Mexico. It seems unnecessary for me to dwell at any length upon the shocking brutalities which have existed in Mexico. They are all too commonly known and do not require further discussion by me. I recently received from the order of the Knights of Columbus, who have so stanchly championed the cause of those persecuted and oppressed persons of all religious denominations, a resolution which I wish to quote in part.

Thousands of peaceable and defenseless men, women, and children of that country (Mexico) are deprived of their civil and personal liberties, are subjected daily to most distressing indignities and persecutions, are expatriated and murdered because of their religious beliefs. * * * American citizens have been murdered, their properties have been confiscated, and they have been ruthlessly interfered with in the possession of their property and in the enjoyment of their personal rights. They are driven to accept an educational system for their children that compels the teaching of atheistic and red communism. * * * The Mexican Government now in power, with the avowed and open hostility to our form of government, our free institutions, and our principles of civil and religious liberty, which it works steadily to destroy, directs aggressively a continuous propaganda throughout the United States to promote its soviet philosophy of government through its agent, by means of the radio, and by the use of our Postal Department, which distributes free its printed matter.

The sensibilities of Americans throughout the length and breadth of this Nation have been revolted by the shocking brutalities which have been practiced in Mexico against those innocents who have sought to render suitable worship to their God. But even were there any who were deaf to the pleadings and blind to the sufferings of those afflicted ones in Mexico, surely they must at least be alarmed at the threat which is presented to our own organized Government by the presence at our very borders of a government committed to principles which are diametrically opposed to our own. They cannot view with equanimity the vast organized campaign of propaganda being carried on to our own soil via radio, secret agents, and by means of our own mails, which carries free official Mexican literature.

Some days ago hope was held out to us that the Mexican Government would moderate its educational and religious policy of persecution and that an amnesty was to be granted to persons in Mexico and private schools allowed to reopen. Yet an International News Service dispatch, dated July 2, from Mexico City, quotes President Cardenas as stating that the amnesty decree permitting the return of high prelates and others is being held up and that he approved continued enforcement of the program of socialistic education.

With the dissipation of this hope, I feel that it is now time for us to take some definite action in this matter. Others of my colleagues have spoken on this subject, and it would appear repetition for me to go into precedents for our taking action in this connection. Suffice it to say that information on this subject is incorporated into the CONGRESSIONAL RECORD and may there be found by any who may desire to obtain it.

I have a communication which cites precedents from 1840 to 1933 which I shall append to my remarks. In view of those precedents there can be no doubt that there is ample justification and reason for our taking some definite diplomatic action to bring relief, at least to our own American citizens in Mexico.

I have recently introduced a resolution in this House—House Resolution 286—which favors the use of the good offices of the United States Government through the United States Department of State and the American Embassy and consular offices in Mexico, with a view to the reestablishment of places of religious worship for American citizens of all denominations resident in or visiting the Republic of Mexico and the unrestricted exercise of their religious beliefs by them. I wish to commend to this House that some action along these lines be taken at once.

In 1840 John Forsyth, Secretary of State, wrote to the American consul in Damascus with regard to the persecution of Jews in that country.

In 1850 President Fillmore refused to sign a treaty with Switzerland until provisions which discriminated against Jews had been omitted.

In 1853 the United States intervened for the protection of Christian missionaires in Greece.

In 1857 Secretary of State Lewis Cass approved of the action of the Minister to The Two Sicilies in protesting the conviction and execution of a Jew for blasphemy.

In 1870 Secretary of State Fish interceded on behalf of Christian missionaires in Hawaii.

In 1870 President Grant appointed Benjamin F. Peixotto, an American Hebrew, as consul to Rumania, for the purpose of promoting Jewish emancipation and the cessation of anti-Jewish activities in that country.

In 1870 the United States remonstrated with Japan against the persecution and banishment of native Christians.

In 1876 Secretary of State Fish directed the United States Chargé d'Affaires to act in concert with the representatives of other governments in protesting against the denial of religious rights to Protestants by the Constitution of Spain.

In 1878 Secretary of State Evans intervened in behalf of the persecuted Jews in Morocco.

In 1882 Secretary of State Frelinghuysen protested against the discrimination by the Russian Government against the American Bible Society.

In 1885 President Cleveland refused to name another Ambassador to Austro-Hungary when that Government refused to receive the Ambassador who had first been named, because he was married to a Jewess.

In 1891 President Harrison expressed to the Government of Russia serious concern because of the anti-Semitic laws and practices of that Government.

In 1893 the United States interceded for the protection of Christian missionaries in Turkish Kurdistan.

In 1895 the U. S. S. *Marblehead* was sent to the Gulf of Alexandretta as a protest against the threatened massacre of Christians under Turkish rule.

In 1896 the United States interceded on behalf of American religious minorities in the Society Islands.

In 1902 Secretary of State Hay asserted that the right of remonstrance against the treatment of Jews by the Rumanian Government was clearly established and he said:

"This Government cannot be a tacit party to such international wrong. It is constrained to protest against the treatment to which the Jews of Rumania are subjected, not alone because it has unimpeachable ground to remonstrate against the resultant injury to itself but in the name of humanity."

In 1903 President Theodore Roosevelt directed the American Chargé d'Affaires at St. Petersburg to make representations to the Russian Government concerning the massacre of Jews in Russia.

In 1911 the United States terminated a treaty with Russia that had been in effect 79 years because that Government had refused to honor passports to American citizens on account of their race and religion.

In 1915 the United States granted recognition of the Carranza Government in Mexico, upon condition that it would respect every person's right to life, property, and religious beliefs, and in 1921 it submitted to the Government of Mexico a proposed treaty in which it was provided that the nationals of either party were not to be disturbed, molested, or annoyed in any manner on account of their religious beliefs, nor in the exercise of their respective creeds, whether in their homes or in their churches or chapels.

In 1916 the United States Senate adopted a resolution offered by Senator PITTMAN, expressing the hope that the British Government would exercise clemency in the treatment of Irish political prisoners.

In 1919 the United States Government insisted upon inserting in the Treaty of St. Germain stipulations guaranteeing the rights of religious minorities.

In 1919 the Senate adopted a resolution offered by Senator BORAH, with an amendment by Senator WALSH of Massachusetts, requesting the American Peace Commission to endeavor to secure for Edward De Valera, Arthur Griffiths, and Count Plunkett a hearing before the Peace Conference in order that they might present the cause of Ireland, and expressing the sympathy of the Senate with the aspirations of the Irish people for a government of their own choice.

Also in 1919 the United States Senate adopted a resolution requesting the State Department to transmit to the Senate information concerning the massacre of Jews in the Ukraine.

In November 1933 Your Excellency wrote to Mr. Litvinoff, representative of the Russian Government, expressing your concern that Americans residing within the territory of the Union of Soviet Socialistic Republics should enjoy freedom of conscience and religious liberty, and stated that you would expect that they be given the right to have their spiritual needs administered by clergymen, priests, rabbis, or other ecclesiastical functionaries, and that the latter will not be denied entry into the territory of the Soviet Union because of their ecclesiastical status.

In June 1933 protests against the persecution of the Jews in Germany were expressed in speeches on the floor of the United States Senate by Senator ROBINSON, of Arkansas; Senator METCALF, of Rhode Island; Senator COPELAND, of New York; Senator WALSH, of Massachusetts; Senator HATFIELD, of West Virginia; Senator TYDINGS, of Maryland; Senator LEWIS, of Illinois; and Senator WAGNER, of New York.

T. V. A. AND BINDWEED CONTROL

Mr. LUCKEY. Mr. Speaker, I ask unanimous consent to extend my remarks on the T. V. A.

The SPEAKER. Is there objection?

There was no objection.

Mr. LUCKEY. Mr. Speaker, yesterday during the course of the debate on section 4 of this bill (H. R. 8632) a number of remarks were made which quite unintentionally impugned the self-reliance and the industry of the farmers not only of my own State but of the entire Midwest. I want to correct those false impressions and at the same time show clearly why those of us from the Middle States vainly attempted to keep in the T. V. A. bill the provisions for the experimentation in the production of chemicals which would destroy noxious weeds. This refers specifically to the bindweed.

During the last 2 years the growth of the bindweed, or wild morning glory, has come to be a menace to much of our richest farmland. Contrary to the belief of my colleagues—the distinguished Chairman of the Military Affairs Committee, Mr. McSWAIN, and the gentleman from Texas, Mr. BLANTON—our farmers are entirely willing to fight their own battle against this weed pest. No more industrious or more intelligent group of farmers can be found than those in Nebraska and the surrounding States. These farmers want to exterminate this weed menace, and they know that to do so they need sodium chlorate. The present price of sodium chlorate at Lincoln, Nebr., varies from 8 to 9 cents per pound, and this high price makes it impossible for farmers to use this chemical salt for weed extermination. Our people are smart enough to know that this price is unreasonable and that Government production of this salt in foreign countries has made it possible for farmers here to use it. Our farmers have every right to ask that their Government determine whether or not sodium chlorate can be produced at a price sufficiently low to enable them to buy it for weed eradication. Experimentation as to means of killing bindweed is not urgently needed—we have the information; but the experimentation on means of manufacturing this chemical at a low cost is needed. The Department of Agriculture, with its great technical staff, is hardly a producing agency.

All that we have asked is that the T. V. A. be allowed to determine whether or not sodium chlorate can be produced, either directly or as a byproduct, at low cost. Our farmers will buy it; not beg the Government to give it to them nor send men out to put it on the weeds. At the present time our domestic production of this chemical is insufficient to meet our needs. Here is a chance to produce an article which private enterprise has not been able to manufacture in sufficient quantities to prevent importation from abroad. During the 8-month period ending August 1934, we imported from France and Germany 1,799,840 pounds of this salt. The average export value was 4.2 cents per pound. Added to that value the farmer here must pay the costs of containers, all expenses incident to placing the merchandise into condition ready for shipment to the United States, freight, insurance, tariff, and so forth. The present tariff is 1½ cents per pound.

Sodium chlorate was made for a time in Norway by the Vadheim Elektrokemiske Fabriken A/S. This concern then ceased to produce this salt for a time, and only last year it began to operate again, supplying the local market in Norway and in addition producing some for export. This was a governmental operation that was brought about by a need for cheaper source of supply for agricultural usage. The price of this salt in that country is a little over 1 cent per pound at the plant. The market value of sodium chlorate, domestic, is given by the Oil, Paint, and Drug Reporter of January 7, 1935, as 6¼ to 7½ cents per pound at the works. There are only three manufacturers of this chemical in this country. It is manufactured at Niagara Falls by the Roessler & Hasslacker Department of the E. I. Du Pont de Nemours & Co., the Oldbury Electro Chemical Co., and the American Cyanamid & Chemical Corporation.

That is the present status of our domestic supply and the import market. Sometime ago, after a preliminary investigation showed that sodium chlorate could be produced cheaply at Muscle Shoals, I asked Dr. Harcourt Morgan for information on this subject. His reply to me was, in part, as follows: "We have been compelled to conclude in the light of the provisions of the act that the manufacture of sodium chlorate, as such, by the Corporation was not permissible."

This is no pet hobby. It has nothing to do with cows, chickens, hogs, corn borers, and everything. Our farmers will fight their own battle and we will not be asked to go out and put the salt on the weeds for them. We do not ask for a fancy experimental laboratory to determine just what chemicals will kill weeds. All that we have asked was that the T. V. A. be allowed to make the necessary experimentation that would allow them to determine the cost of manufacture of this salt. The fact that we do not produce a sufficient amount of sodium chlorate in this country and that we have to import this from foreign countries should carry some weight with those gentlemen who in the past few months have been so consistently crying for us to reduce imports of articles which we can produce at home.

DISMISSAL OF EMPLOYEES BY THE COLUMBIAN STEEL TANK CO., OF KANSAS CITY, MO.

Mr. WOOD. Mr. Speaker, I ask unanimous consent to extend my remarks and to include therein a letter received by me from Mr. J. N. Davis, assistant president of the Boiler Makers International Union, and also a letter to the President of the United States.

Mr. SNELL. Mr. Speaker, what are these letters about?

Mr. WOOD. They deal with the controversy between the Columbian Steel Tank Co. and the Boiler Makers Union. Also a letter to the President of the United States on June 5, and another letter from Mr. Davis.

The SPEAKER. Is there objection?

There was no objection.

Mr. WOOD. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letters:

INTERNATIONAL BROTHERHOOD OF BOILER MAKERS,
IRON SHIP BUILDERS, AND HELPERS OF AMERICA,
Kansas City, Kans., June 11, 1935.

Hon. R. T. WOODS,
House of Representatives, Washington, D. C.

DEAR SIR: On last evening, the Columbian Steel Tank Co., of Kansas City, Mo., dismissed from its employ two committeemen representing the employees and who were elected as of July 10, 1934, in an election held, supervised, and authorized by the National Labor Relations Board. These men were dismissed for no apparent reason except to intimidate the other employees in the plant and to break down organization which has been established since 1933.

These committeemen have been in the employ of the company for 7 and 19 years respectively. Their work has been of the highest quality and their character is beyond reproach.

We are enclosing a copy of a letter sent to the President of the United States, and we are requesting that this letter be read in the House of Representatives in order that the records of the Government will show the arrogant and unwarranted action taken by this company.

I might also remind you that both of these employees and committeemen have families who are dependent upon them. The 19-year man has quite a large family, and for years worked for 40 cents and 45 cents an hour, but through the organization did succeed in recent months in having increased his wages to 55 cents per hour.

We would appreciate your seeing that this appears in the CONGRESSIONAL RECORD.

Assuring you of our best wishes and kindest regards, I am,
Respectfully,

J. N. DAVIS,
Assistant International President.

INTERNATIONAL BROTHERHOOD OF BOILER MAKERS, IRON SHIP BUILDERS, WELDERS, AND HELPERS OF AMERICA,
Kansas City, Kans., June 11, 1935.

To His Excellency the PRESIDENT OF THE UNITED STATES,
Washington, D. C.

SIR: May we call to your attention the action of the Columbian Steel Tank Co., of Kansas City, Mo., manufacturers of steel-plate products and who have in the recent past done considerable work for the Government, particularly the building of barges for the Missouri River Barge Line, and who also manufacture considerable products for the farmers, particularly in the Middle West.

The employees of this company started organizing immediately after the passage and enactment of the National Industrial Recovery Act, but have been persecuted and opposed continually by the management.

It was necessary, in July 1934, to hold an election to decide representation in this plant in accordance with the National Recovery Act. As a result of this, the employees elected the International Brotherhood of Boiler Makers as their chosen representative and, at the same time, elected a committee proposed by the same organization and employees to represent them in matters concerning wages and working conditions. While the company has met the committee, not one concession has been made by the company, but they have repeatedly put many obstacles in their way and have done

everything possible to discourage the men in their efforts to perfect organization.

The matter that we wish to call to your attention is that on June 10, 1935, the management began dismissing the employees who were elected to the committee at the election held July 10, 1934, by and under the direction of the National Labor Relations Board. We believe that such action warrants the Government giving the widest publicity possible to this, so that the farmers and the petroleum interests and the other industries to which their products are furnished may know of their attitude.

We say this because we have knowledge that both the farmer and the petroleum industry have been hard hit by the action of the United States Supreme Court. Both are now like a ship at sea without a rudder.

The committeemen who have been dismissed from this company have given long and faithful service and their work regarded as being among the best in the plant. Both have served as subforemen and acted as foremen during the absence of the foremen from their department. One has been in the service of the company for 7 years and one has been in service for more than 19 years.

We believe that such cases as this, if called to the attention of the public and given publicity, would create a public feeling and resentment against those employers who attempt to destroy the effectiveness of the act and the good it has accomplished. For, notwithstanding the decision of the United States Supreme Court, there is an overwhelming sentiment and desire among the greater majority of the employers and industries for the continuation of such a set-up as was provided by the National Recovery Act and the National Recovery Administration.

Respectfully and sincerely,

J. N. DAVIS,
Assistant International President.

INTERNATIONAL BROTHERHOOD OF BOILER MAKERS,
IRON SHIP BUILDERS, AND HELPERS OF AMERICA,
Kansas City, Kans., June 11, 1935.

ARBITRARY ACTION OF COLUMBIAN STEEL TANK CO. IN THE DISMISSAL OF COMMITTEEMEN ELECTED AS OF JULY 10, 1934, UNDER SUPERVISION OF THE NATIONAL LABOR RELATIONS BOARD

About July 1, 1933, the employees of the Columbian Steel Tank Co. started organization among themselves for their own mutual benefit, as they understood that such right was guaranteed them by the Federal law enacted and known as the National Industrial Recovery Act.

During the latter part of July 1933 a considerable number of employees were dismissed from service, a number of whom were later reinstated by the company after much contention before the Kansas City Regional Labor Board and after the representatives of the company had made the statement that the men were not to work for them again because "their minds were warped."

From then until July 1934 the men continually waged a program to bring about recognition by the company of their organization. After several appeals and several postponements, an election was conducted by the Kansas City Regional Labor Board, under and by the direction of the National Labor Relations Board, to decide representation and for the election of a committee. The union and the committee proposed by them were both elected and certified to by the National Labor Relations Board. It was not, however, until about October 1, 1934, that certification and decision was made by the National Labor Relations Board in the case of the Columbian Steel Tank Co. against their employees and the union.

Conferences were arranged for and begun during the early part of November 1934. These conferences were held from time to time but from 1 to 3 weeks apart, due to the attitude of the company, and such conferences were intended to bring about an understanding with regards to working conditions and wages of the employees and in the plant. Nothing, however, resulted from such conferences because of the general attitude of the management. It is true, however, that during the period of organization and while conferences were being held some wage increases were had by the employees of the company.

During this period of recognition, however, the management did participate in and help establish a company union of its employees. This latter organization never gained very much headway but was only used by the company as a source of agitation and opposition to the accredited and recognized union among its employees. This, as you know, was in direct conflict with the law itself and with the rulings of the National Industrial Relations Board.

During the latter part of May 1935 the United States Supreme Court declared section 3 of the National Industrial Recovery Act unconstitutional. This automatically affected the status of every code in existence under the act.

The management of the Columbian Steel Tank Co. on June 10, 1935, less than 2 weeks after the Supreme Court decision, notified at least two of the committeemen elected in July 1934 that their services were no longer required. One of the committeemen had been in the employ of the company for 7 years and was generally considered as being among the best in his department. He was generally used as assistant foreman and as foreman when the foreman was off from work for any cause whatsoever. The other committeeman had been in the employ of the company for more than 19 years and for many years acted as subforeman. He, too, was elected in July 1934 as committeeman by popular choice from among the employees.

The Columbian Steel Tank Co., therefore, has by this action demonstrated to all interested that they are not inclined to carry on under the general make-up of the Recovery Act all the codes governing thei ndustry of which they are a part. We know that both of these employees have been loyal and conscientious workers, and this is just another case in which an arrogant employer is demonstrating the need of some national legislation to insure the workingmen of the country that they to have some right in deciding the question of their right to organize and bargain collectively, through organizations of their own choosing, without interference, coercion, or restraint from the employer or his agent.

It is just such employers as the Columbian Steel Tank Co. who have brought about the conditions that now exist in this great land of ours. Through low wages and long hours the employer has grown rich while the employees have grown poorer and poorer each year, until we find that the employees, the workmen of the country, are unable to buy the necessities of life, and therefore industry after industry found itself without a market or a purchaser of their products.

A continuation of the policies followed by the Columbian Steel Tank Co. would eventually bring about a general uprising among the working people of this country, not because they are so inclined, but because of their realization that it would only be by this method that they could ever hope to obtain and secure for themselves that which rightfully belongs to them in "the land of the free."

The farmers should pay particular attention to the attitude of the Columbian Steel Tank Co. in that they produce many articles that are used by the agricultural group, as such policies as the one adhered to by the Columbian Steel Tank Co. could only lessen the opportunity of the farmer to dispose of his crop.

INTERNATIONAL BROTHERHOOD OF BOILER MAKERS,
IRON SHIP BUILDERS, AND HELPERS OF AMERICA,
Kansas City, Kans., July 5, 1935.

Re: Attitude of management Columbian Steel Tank Co., Kansas City, Mo.

Hon. R. T. WOOD,
House of Representatives, Washington, D. C.

DEAR SIR: As an addition to our letter of recent date dealing with the attitude of the Columbian Steel Tank Co., of Kansas City, and the dismissal of committeemen elected in an election held July 10, 1934, by the National Industrial Relations Board, and in which we advised you of the dismissal of Mr. Stewart and Mr. Keegan, we are now advising that Mr. R. H. Reed, another committeeman, elected the same date and who has been in the employ of the company for 6 years, was also dismissed without cause.

This is also true of Mr. William J. Mittelstaedt, who has been an employee of the company since January 1919 as a welder, having served as foreman for 8 years. These dismissals occurred June 24, 1935.

The company has also dismissed without cause or reason Mr. Homer Idleman, who has been in their employ for 8½ years, having been employed in 1927 and dismissed June 28, 1935. While Mr. Idleman was not a member of the committee elected, he was one of our most active members in behalf of the union.

It is our desire that this information be handled in the same manner as the previous information, which was that it be made a matter of record with the hope and thought of bringing some action or pressure to bear on this through the new national Wagner Disputes Act.

Assuring you of our best wishes and thanks, I am,

Sincerely and respectfully,

J. N. DAVIS,
Assistant International President.

JND:MC.

INTERNATIONAL BROTHERHOOD OF BOILER MAKERS, IRON SHIP BUILDERS, WELDERS AND HELPERS OF AMERICA,
Kansas City, Kans., July 5, 1935.

His Excellency the PRESIDENT OF THE UNITED STATES,
Washington, D. C.

Re: Attitude of management, Columbian Steel Tank Co., Kansas City, Mo.

DEAR SIR: Some few weeks ago we wrote you with reference to the dismissal of two committeemen elected July 10, 1934, in an election at the above company held by the National Industrial Relations Board, such action being taken immediately after the action of the United States Supreme Court with regards to the National Recovery Act.

This company was party to the steel plate fabricating code and the metal-tank code. Since that time the company has dismissed William J. Mittelstaedt, who was employed in January 1919 and dismissed June 21, 1935, and was employed in the capacity of welder and had served as a foreman for 8 years. Mr. Mittelstaedt was also one of the committeemen elected July 10, 1934.

The company has also dismissed Mr. R. H. Reed, who was employed in October 1929 and rated as a welder, and who was elected as committeeman in the election held July 10, 1934. They have also dismissed Mr. Homer Idleman, who has been in the service of the company for 8½ years, being employed in 1929 as a welder, and was dismissed June 28, 1935, and, while Mr. Idleman was not a member of the committee, he was one of our most active members.

There is no question in our minds but what the company is taking every unfair advantage of these men because of their having exercised the rights that they believed belonged to them and which were established under the National Recovery Act.

It is not our desire to bother you with these questions, but we feel that they should be made a record of the Government, as we understand this company from time to time is given contracts by the United States Government, and especially through the Engineering Bureau of the War Department, for barges and tanks and the like. We ask that this be made a record, as was our previous letter on this subject.

Assuring you of our whole-hearted support and cooperation, I am,

Sincerely and respectfully,

J. T. DAVIS,
Assistant International President.

REPRESENTATIVE DRIVER

Mr. KVALE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. KVALE. Mr. Speaker, I do this because I want the RECORD at this point to show my personal gratitude to the estimable gentleman from Arkansas [Mr. DRIVER], who has occupied the chair as presiding officer of the Committee of the Whole during the consideration of the T. V. A. bill.

He has done unusually well, in consideration of a highly controversial issue, in maintaining order and decorum and in promoting the public business, and I for one desire to give him my thanks. This body needs presiding officers who insist that order be maintained. [Applause.]

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1206. An act authorizing the transfer of certain lands near Vallejo, Calif., from the United States Housing Corporation to the Navy Department for naval purposes;

S. 2230. An act to authorize the Secretary of the Navy to acquire a suitable site at Pearl Harbor, Territory of Hawaii, for a rear range light;

S. 2378. An act authorizing the Secretary of the Navy to accept on behalf of the United States a bequest of certain personal property of the late Dr. Malcolm Storer, of Boston, Mass.;

S. 2846. An act authorizing the Secretary of the Navy to accept on behalf of the United States the devise and bequest of real and personal property of the late Paul E. McDonnold, passed assistant surgeon with the rank of lieutenant commander, Medical Corps, United States Navy, retired; and

S. 2966. An act to empower the Legislature of the Territory of Hawaii to authorize the issuance of revenue bonds, to authorize the city and county of Honolulu to issue flood-control bonds, and for other purposes.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p. m.) the House adjourned until tomorrow, Thursday, July 11, 1935, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. WARREN: Committee on Accounts. House Resolution 289. A resolution providing for the method of payment of the expenses incurred by House Resolution 288; with amendment (Rept. No. 1443). Referred to the House Calendar.

Mr. COLE of Maryland: Committee on Interstate and Foreign Commerce. H. R. 8025. A bill authorizing the George Washington Memorial Bridge Public Corporation, its successors and assigns, to construct, maintain, and operate a bridge across the Potomac River at or near Dahlgren, Va.; without amendment (Rept. No. 1444). Referred to the House Calendar.

Mr. KELLY: Committee on Interstate and Foreign Commerce. H. R. 8609. A bill authorizing the county of St. Clair, in the State of Illinois, and the State of Illinois, or either of them, to construct, maintain, and operate a toll bridge across the Mississippi River at or near a point on Broadway between Florida and Mullanphy Streets in the city of St. Louis, Mo., and a point opposite thereto in the town of Stites, in the county of St. Clair, State of Illinois, and connecting with St. Clair Avenue extended in said town; with amendment (Rept. No. 1445). Referred to the House Calendar.

Mr. CHAPMAN: Committee on Interstate and Foreign Commerce. H. R. 8680. A bill to extend the times for commencing and completing the construction of a bridge across the Ohio River at or near Shawneetown, Gallatin County, Ill., and a point opposite thereto in Union County, Ky.; without amendment (Rept. No. 1446). Referred to the House Calendar.

Mr. TERRY: Committee on Interstate and Foreign Commerce. S. 2950. An act granting the consent of Congress to the county of Saline, Mo., to construct, maintain, and operate a toll bridge across the Missouri River at or near Miami, Mo.; without amendment (Rept. No. 1447). Referred to the House Calendar.

Mr. WOLFENDEN: Committee on Interstate and Foreign Commerce. House Joint Resolution 297. Joint resolution granting consent of Congress to a compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Toll Bridge Commission and specifying the powers and duties thereof; without amendment (Rept. No. 1448). Referred to the House Calendar.

Mr. SEARS: Committee on Naval Affairs. H. R. 8345. A bill authorizing the Secretary of the Navy to accept without cost to the United States certain lands in Duval County, State of Florida; without amendment (Rept. No. 1449). Referred to the Committee of the Whole House on the state of the Union.

Mr. KELLER: Committee on the Library. Senate Joint Resolution 118. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress; without amendment (Rept. No. 1495). Referred to the House Calendar.

Mr. KELLER: Committee on the Library. H. R. 8755. A bill to provide additional funds for the completion of the Mount Rushmore National Memorial, in the State of South Dakota, and for other purposes; without amendment (Rept. No. 1496). Referred to the Committee of the Whole House on the state of the Union.

Mr. LLOYD: Committee on the Judiciary. H. R. 3998. A bill for the refunding of certain countervailing customs duties collected upon logs imported from British Columbia; without amendment (Rept. No. 1497). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. FADDIS: Committee on Military Affairs. H. R. 1867. A bill for the relief of Orville E. Clark; without amendment (Rept. No. 1441). Referred to the Committee of the Whole House.

Mr. FADDIS: Committee on Military Affairs. H. R. 4435. A bill for the relief of John J. Foley; without amendment (Rept. No. 1442). Referred to the Committee of the Whole House.

Mr. EKWALL: Committee on Claims. S. 1179. An act for the relief of James H. Smith; without amendment (Rept. No. 1450). Referred to the Committee of the Whole House.

Mr. RAMSPECK: Committee on Claims. S. 1935. An act for the relief of Marion Shober Phillips; without amendment (Rept. No. 1451). Referred to the Committee of the Whole House.

Mr. HOUSTON: Committee on Claims. H. R. 977. A bill for the relief of Herman Schierhoff; with amendment (Rept. No. 1452). Referred to the Committee of the Whole House.

Mr. GWYNNE: Committee on Claims. H. R. 1252. A bill for the relief of Odessa Mason; with amendment (Rept. No. 1453). Referred to the Committee of the Whole House.

Mr. EKWALL: Committee on Claims. H. R. 1346. A bill for the relief of J. P. Harris; with amendment (Rept. No. 1454). Referred to the Committee of the Whole House.

Mr. LUCAS: Committee on Claims. H. R. 1362. A bill for the relief of Ramey Bros., of El Paso, Tex.; with amendment (Rept. No. 1455). Referred to the Committee of the Whole House.

Mr. SOUTH: Committee on Claims. H. R. 1369. A bill for the relief of R. L. Tankersley; with amendment (Rept. No. 1456). Referred to the Committee of the Whole House.

Mr. McGEHEE: Committee on Claims. H. R. 1481. A bill for the relief of Roland P. Winstead; with amendment (Rept. No. 1457). Referred to the Committee of the Whole House.

Mr. McGEHEE: Committee on Claims. H. R. 1868. A bill for the relief of Mary E. Roney; with amendment (Rept. No. 1458). Referred to the Committee of the Whole House.

Mr. RYAN: Committee on Claims. H. R. 1913. A bill for the relief of James Luker, Sr.; with amendment (Rept. No. 1459). Referred to the Committee of the Whole House.

Mr. LUCAS: Committee on Claims. H. R. 2155. A bill for the relief of Francisco M. Acayan; without amendment (Rept. No. 1460). Referred to the Committee of the Whole House.

Mr. RYAN: Committee on Claims. H. R. 2495. A bill for the relief of Thomas Berchel Burke; with amendment (Rept. No. 1461). Referred to the Committee of the Whole House.

Mr. RYAN: Committee on Claims. H. R. 2496. A bill for the relief of Thomas J. Moran; with amendment (Rept. No. 1462). Referred to the Committee of the Whole House.

Mr. RYAN: Committee on Claims. H. R. 2497. A bill for the relief of William H. Hildebrand; with amendment (Rept. No. 1463). Referred to the Committee of the Whole House.

Mr. KENNEDY of Maryland: Committee on Claims. H. R. 2527. A bill for the relief of Mrs. Amber Walker; with amendment (Rept. No. 1464). Referred to the Committee of the Whole House.

Mr. NICHOLS: Committee on Claims. H. R. 2619. A bill for the relief of R. E. Sutton, Lula G. Sutton, Grace Sutton, and Mary Lou Drinkard; with amendment (Rept. No. 1465). Referred to the Committee of the Whole House.

Mr. DALY: Committee on Claims. H. R. 3592. A bill for the relief of Florida O. McLain, widow of Calvin E. McLain, who died from injuries received by being struck by a Government Civilian Conservation Corps truck in the city of Knoxville, Tenn., on August 23, 1934; with amendment (Rept. No. 1466). Referred to the Committee of the Whole House.

Mr. LUCAS: Committee on Claims. H. R. 3823. A bill for the relief of the parents of Albert Thesing; with amendment (Rept. No. 1467). Referred to the Committee of the Whole House.

Mr. DALY: Committee on Claims. H. R. 3841. A bill to refund to Theodore Reichhart, Inc., part of the brewers' occupational tax; with amendment (Rept. No. 1468). Referred to the Committee of the Whole House.

Mr. CARLSON: Committee on Claims. H. R. 3864. A bill for the relief of Gladys Robbins; with amendment (Rept. No. 1469). Referred to the Committee of the Whole House.

Mr. HOUSTON: Committee on Claims. H. R. 3952. A bill directing the Secretary of the Treasury to pay the sum of $10,000 to Mr. and Mrs. Bruce Lee; with amendment (Rept. No. 1470). Referred to the Committee of the Whole House.

Mr. SMITH of Washington: Committee on Claims. H. R. 4159. A bill for the relief of Anchorage Commercial Co., Inc.; with amendment (Rept. No. 1471). Referred to the Committee of the Whole House.

Mr. DALY: Committee on Claims. H. R. 4387. A bill for the relief of Barbara Backstrom; with amendment (Rept. No. 1472). Referred to the Committee of the Whole House.

Mr. McGEHEE: Committee on Claims. H. R. 4500. A bill for the relief of Frank Lee Borney; with amendment (Rept. No. 1473). Referred to the Committee of the Whole House.

Mr. CARLSON: Committee on Claims. H. R. 4638. A bill for the relief of Elizabeth Halstead; with amendment (Rept. No. 1474). Referred to the Committee of the Whole House.

Mr. GWYNNE: Committee on Claims. H. R. 4660. A bill for the relief of Robert C. E. Hedley; with amendment (Rept. No. 1475). Referred to the Committee of the Whole House.

Mr. GWYNNE: Committee on Claims. H. R. 4780. A bill for the relief of the widow and five minor children of Arturo Guajardo; with amendment (Rept. No. 1476). Referred to the Committee of the Whole House.

Mr. NICHOLS: Committee on Claims. H. R. 4855. A bill for the relief of Jack C. Allen; with amendment (Rept. No. 1477). Referred to the Committee of the Whole House.

Mr. NICHOLS: Committee on Claims. H. R. 4924. A bill conferring jurisdiction on the Court of Claims to hear, determine, and render judgment upon the claim of William E. B. Grant; without amendment (Rept. No. 1478). Referred to the Committee of the Whole House.

Mr. LUCAS: Committee on Claims. H. R. 5181. A bill authorizing the Secretary of the Treasury to refund to creditors' committee of the Progressive Commercial Co. of Philadelphia, Pa., income taxes illegally and wrongfully paid to the Commissioner of Internal Revenue; with amendment (Rept. No. 1479). Referred to the Committee of the Whole House.

Mr. DALY: Committee on Claims. H. R. 5200. A bill for the relief of Earl Thomas Dodd; with amendment (Rept. No. 1480). Referred to the Committee of the Whole House.

Mr. SEGER: Committee on Claims. H. R. 5474. A bill for the relief of Lt. M. T. Grubham; with amendment (Rept. No. 1481). Referred to the Committee of the Whole House.

Mr. HOUSTON: Committee on Claims. H. R. 5900. A bill for the relief of Joseph E. Moore; with amendment (Rept. No. 1482). Referred to the Committee of the Whole House.

Mr. SOUTH: Committee on Claims. H. R. 6263. A bill for the relief of W. D. Davis; without amendment (Rept. No. 1483). Referred to the Committee of the Whole House.

Mr. LUCAS: Committee on Claims. H. R. 6273. A bill for the relief of J. H. Knott; with amendment (Rept. No. 1484). Referred to the Committee of the Whole House.

Mr. CARLSON: Committee on Claims. H. R. 6335. A bill for the relief of Sam Cable; with amendment (Rept. No. 1485). Referred to the Committee of the Whole House.

Mr. RAMSPECK: Committee on Claims. H. R. 6643. A bill for the relief of Margaret C. (Lacks) King; with amendment (Rept. No. 1486). Referred to the Committee of the Whole House.

Mr. TOLAN: Committee on Claims. H. R. 6698. A bill for the relief of Mae C. Tibbett, administratrix; with amendment (Rept. No. 1487). Referred to the Committee of the Whole House.

Mr. NICHOLS: Committee on Claims. H. R. 6848. A bill for the relief of the First Federal Savings and Loan Association of Shawnee, Okla.; with amendment (Rept. No. 1488). Referred to the Committee of the Whole House.

Mr. EKWALL: Committee on Claims. H. R. 6856. A bill for the relief of William E. Williams; with amendment (Rept. No. 1489). Referred to the Committee of the Whole House.

Mr. SMITH of Washington: Committee on Claims. H. R. 6969. A bill for the relief of Russell J. Vaughan; with amendment (Rept. No. 1490). Referred to the Committee of the Whole House.

Mr. GUYER: Committee on Claims. H. R. 7031. A bill for the relief of Capt. Karl Minnigerode; with amendment (Rept. No. 1491). Referred to the Committee of the Whole House.

Mr. LUCAS: Committee on Claims. H. R. 7034. A bill for the relief of Mr. and Mrs. Edward J. Pruett; with amendment (Rept. No. 1492). Referred to the Committee of the Whole House.

Mr. SOUTH: Committee on Claims. H. R. 8061. A bill for the relief of David Duquaine, Jr.; with amendment (Rept. No. 1493). Referred to the Committee of the Whole House.

Mr. EKWALL: Committee on Claims. H. R. 8390. A bill for the relief of the Eberhart Steel Products Co., Inc.; without amendment (Rept. No. 1494). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RANKIN: A bill (H. R. 8804) to provide for the construction of the Tennessee Valley and Tombigbee River inland waterway, and for other purposes; to the Committee on Rivers and Harbors.

By Mr. SIROVICH: A bill (H. R. 8805) to protect the consuming public of the United States of America, numbering 125,000,000 people, and the honest producers and distributors, numbering 50,000 persons, of food, nonalcoholic or nonintoxicating beverages, drugs, and cosmetics, sold or offered for sale in containers or packages, and to prevent the manufacture, shipment, and sale of adulterated or misbranded food, drugs, nonalcoholic and nonintoxicating beverages, and cosmetics, and to regulate traffic therein; to prevent the false or fraudulent advertisement of food, drugs, nonalcoholic and nonintoxicating beverages and cosmetics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Tennessee: A bill (H. R. 8806) to amend section 302 of the Internal Revenue Act of 1926; to the Committee on Ways and Means.

By Mr. FENERTY: A bill (H. R. 8807) authorizing the erection of a memorial to the memory of the members of the Army Air Corps and the Army Air Corps Reserve who lost their lives carrying the air mail; to the Committee on the Library.

By Mr. MORITZ: A bill (H. R. 8808) to require the name of the writer of every editorial article be appended to each copy thereof deposited in the mails or shipped in interstate or foreign commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. LEE of Oklahoma: A bill (H. R. 8809) to provide for the further development of vocational education in the several States and Territories; to the Committee on Education.

Also, a bill (H. R. 8810) to prohibit the unauthorized sale of State stamps in interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. WILCOX: Joint resolution (H. J. Res. 345) approving the construction and establishment of buildings and facilities for, and the production and operation of, a Pan American Exposition and International Merchandising Mart, at Miami, Fla., and authorizing the Director of the Public Works Administration to cooperate in making available certain funds therefor; providing for the participation by the United States therein, and to permit articles imported from foreign countries for the purpose of exhibition at such exposition to be admitted without payment of tariff, and for other purposes; to the Committee on Ways and Means.

By Mr. FENERTY: Joint resolution (H. J. Res. 346) directing the President to proclaim September 13 of this year 1935 Commodore John Barry Memorial Day, for the observance and commemoration of the one hundred and fiftieth anniversary of the completion of Commodore John Barry's service in the American Navy of the Revolution, and the one hundred and thirty-second anniversary of his death in the American naval service on September 13, 1803; to the Committee on the Judiciary.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of California, re an amendment to the Constitution of the United States relating to tax-exempt securities; to the Committee on the Judiciary.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Roads.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Indian Affairs.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Military Affairs.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on the Territories.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Expenditures in the Executive Departments.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Indian Affairs.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Ways and Means.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Merchant Marine and Fisheries.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Roads.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Mines and Mining.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Claims.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Merchant Marine and Fisheries.

Also, memorial of the Legislature of the Territory of Alaska; to the Committee on Merchant Marine and Fisheries.

Also, memorial of the Legislature of the State of New York supporting H. R. 6 and other legislation; to the Committee on the Post Office and Post Roads.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CASTELLOW: A bill (H. R. 8811) for the relief of John R. Beard; to the Committee on Military Affairs.

By Mr. CULKIN: A bill (H. R. 8812) granting an increase of pension to Mary Delane; to the Committee on Invalid Pensions.

By Mrs. KAHN: A bill (H. R. 8813) for the relief of Jacob Silverberg; to the Committee on Naval Affairs.

By Mr. TAYLOR of Tennessee: A bill (H. R. 8814) for the relief of George Baker; to the Committee on Claims.

Also, a bill (H. R. 8815) for the relief of H. Greeley Harris; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9117. By Mr. CULKIN: Petition of 10 residents of Adams Center, N. Y., urging the support of the national old-age pension; to the Committee on Ways and Means.

9118. By Mr. FENERTY: Resolutions of sundry citizens of the State of Pennsylvania, urging speedy passage of House Joint Resolution 193, directing the President to proclaim July 9 of this year, 1935, Commodore John Barry Memorial Day, for the observance and commemoration of the one hundred and fiftieth anniversary of the completion of Commodore Barry's services in the American Navy of the Revolution; to the Committee on the Judiciary.

9119. Also, resolutions of St. Leo's Holy Name Society and General Sherman Council of the Knights of Columbus, of Corona, Long Island, N. Y., urging the recall of the present American Ambassador to Mexico, Josephus Daniels; to the Committee on Foreign Affairs.

9120. Also, resolution of Mystic Temple, No. 28, Order of United Americans, of Philadelphia, Pa., urging passage of the so-called "Dies bill" (H. R. 5921), relating to immigration and naturalization; to the Committee on Immigration and Naturalization.

9121. Also, resolution of Ella H. Pilling Temple, No. 31, Order of United Americans, of Philadelphia, Pa., urging pas-

sage of the so-called "Dies bill" (H. R. 5921), relating to immigration and naturalization; to the Committee on Immigration and Naturalization.

9122. By Mr. HALLECK: Petition of citizens of Lafayette, Ind., favoring enactment of legislation for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9123. By Mr. JOHNSON of Texas: Petition of C. H. Bier, Texas representative, Brotherhood of Railway Clerks, Amarillo, Tex., favoring House bill 8651, providing for the payment of a retirement pension to railway and express employees; to the Committee on Interstate and Foreign Commerce.

9124. Also, petition of J. R. Cowell, Waxahachie, Tex., favoring House bill 8652, which provides the means for the payment of the pensions set forth in retirement act; to the Committee on Ways and Means.

9125. Also, petition of J. R. Cowell, Waxahachie, Tex., favoring House bill 8651, providing for the payment of a retirement pension to railway and express employees; to the Committee on Interstate and Foreign Commerce.

9126. Also, petition of C. H. Bier, Texas representative, Brotherhood of Railway Clerks, Amarillo, Tex., favoring House bill 8652, which provides the means for the payment of the pensions set forth in the retirement act; to the Committee on Ways and Means.

9127. By Mr. ROMJUE: Petition of citizens of Greentop and Pattonsburg, Mo., requesting the full House Committee on Interstate and Foreign Commerce to reject the subcommittee report on Senate bill 1629, and that the measure as it passed the Senate, or its equivalent, be substituted for the bill reported by the subcommittee; to the Committee on Interstate and Foreign Commerce.

9128. By the SPEAKER: Petition of the Citizens' Forum of Columbia Heights, Washington, D. C.; to the Committee on the District of Columbia.

SENATE

THURSDAY, JULY 11, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Wednesday, July 10, 1935, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 1206. An act authorizing the transfer of certain lands near Vallejo, Calif., from the United States Housing Corporation to the Navy Department for naval purposes;

S. 2230. An act to authorize the Secretary of the Navy to acquire a suitable site at Pearl Harbor, Territory of Hawaii, for a rear range light;

S. 2378. An act authorizing the Secretary of the Navy to accept on behalf of the United States a bequest of certain personal property of the late Dr. Malcolm Storer, of Boston, Mass.;

S. 2846. An act authorizing the Secretary of the Navy to accept on behalf of the United States the devise and bequest of real and personal property of the late Paul E. McDonnold, passed assistant surgeon with the rank of lieutenant commander, Medical Corps, United States Navy, retired; and

S. 2966. An act to empower the Legislature of the Territory of Hawaii to authorize the issuance of revenue bonds, to authorize the city and county of Honolulu to issue flood-control bonds, and for other purposes.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Keyes	Pope
Ashurst	Coolidge	King	Radcliffe
Austin	Copeland	La Follette	Reynolds
Bachman	Costigan	Lewis	Robinson
Bailey	Dickinson	Logan	Russell
Bankhead	Dieterich	Lonergan	Schall
Barbour	Donahey	McAdoo	Schwellenbach
Barkley	Duffy	McGill	Sheppard
Bilbo	Fletcher	McKellar	Shipstead
Black	Frazier	McNary	Smith
Bone	George	Maloney	Steiwer
Borah	Gerry	Metcalf	Thomas, Okla.
Brown	Gibson	Minton	Townsend
Bulkley	Glass	Moore	Trammell
Bulow	Gore	Murphy	Truman
Burke	Guffey	Murray	Tydings
Byrd	Hale	Neely	Vandenberg
Byrnes	Harrison	Norbeck	Van Nuys
Capper	Hastings	Norris	Wagner
Caraway	Hatch	Nye	Walsh
Carey	Hayden	O'Mahoney	Wheeler
Chavez	Holt	Overton	White
Clark	Johnson	Pittman	

Mr. LEWIS. I announce the absence of the Senator from Nevada [Mr. MCCARRAN], occasioned by a death in his family, and the absence of the Senator from Louisiana [Mr. LONG] and the Senator from Utah [Mr. THOMAS], occasioned by important public business.

Mr. AUSTIN. I announce that the Senator from Pennsylvania [Mr. DAVIS] is absent on account of a death in his family.

Mr. VANDENBERG. I again announce that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent because of illness.

The VICE PRESIDENT. Ninety-one Senators have answered to their names. A quorum is present.

PETITIONS AND MEMORIALS

Mr. TYDINGS presented a petition of sundry citizens of the State of Maryland, praying for the enactment of the bill (S. 916) to carry into effect the decisions of the Court of Claims in favor of claimants in French spoliation cases not heretofore paid, which was ordered to lie on the table.

Mr. CAPPER presented petitions of sundry citizens of Independence and Ellis, and of employees of the Atchison, Topeka & Santa Fe Railway Co., of Topeka, all in the State of Kansas, praying for the enactment of legislation to establish a retirement system for railroad employees, which was referred to the Committee on Interstate Commerce.

Mr. COPELAND presented a resolution adopted by the Council of the City of Niagara Falls, N. Y., opposing the enactment of legislation providing that the dividends on municipal securities shall have the exemption which has been granted to them removed, which was referred to the Committee on Finance.

FEDERAL GASOLINE TAX

Mr. COPELAND presented resolutions signed by sundry citizens of the State of New York, which were referred to the Committee on Finance and ordered to be printed in the RECORD without the signatures, as follows:

RESOLUTION AND PETITION RELATING TO THE FEDERAL GASOLINE TAX

Whereas the Congress of the United States in 1932 levied an emergency Federal tax of 1 cent per gallon on the sale of gasoline, the revenues from which since have been utilized for general-fund purposes; and

Whereas the Federal gasoline tax constitutes double taxation of motor fuel since the 48 States and the District of Columbia already were taxing gasoline when the Federal levy was imposed, making the Federal tax an invasion of the rights of the States; and

Whereas the cumulative average of gasoline taxes now levied by Federal, State, county, and municipal governments amounted on June 1, 1935, to 5.46 cents per gallon, which is equivalent to a sales tax of more than 40 percent; and

Whereas contrary to the intent, purpose, and principle of gasoline taxation as originally conceived and later subscribed to by the Congress of the United States in the Hayden-Cartwright Act of 1934, the Federal gasoline tax encourages diversion and evasion of gasoline-tax revenues in this State; and

Whereas for the foregoing reasons, and in view of the additional fact that the Ways and Means Committee of the House of Representatives, the Finance Committee of the Senate, and the Vinson Subcommittee on Double Taxation each has previously recognized the unfairness of the Federal gasoline tax and all have recommended that it be eliminated; and

Whereas we believe that any amendments or bills introduced in Congress for the abolition of this tax should be supported, and we earnestly petition that Senators and Representatives from this State vote for such bills or amendments: Now, therefore, be it

Resolved, That the undersigned citizens of the State of New York urge and petition you to use your utmost endeavors to carry out our desires as expressed in the spirit and words of this resolution to the end that all those citizens who operate motor vehicles, or are consumers of gasoline, be afforded relief from this excessive and duplicating tax burden; and be it further

Resolved, That we petition you to present our views to the Ways and Means Committee of the House, the Finance Committee of the Senate, and to Congress generally, to the end that the Federal gasoline tax will be eliminated in accordance with the declared intent at the time it was enacted.

REPORTS OF COMMITTEES

Mr. HARRISON, from the Committee on Finance, to which was referred the bill (S. 1950) for the relief of Julius Crisler, reported it with an amendment and submitted a report (No. 1061) thereon.

Mr. WALSH, from the Committee on Finance, to which was referred the resolution (S. Res. 100) requesting the United States Tariff Commission to complete an investigation relating to frozen swordfish, reported it with an amendment.

Mr. BARKLEY, from the Committee on Finance, to which was referred the bill (S. 2296) to reduce the interest rate on delinquent taxes, reported it with an amendment and submitted a report (No. 1062) thereon.

Mr. GEORGE, from the Committee on Finance, to which were referred the following bills, reported them each with amendments and submitted reports thereon:

S. 3060. A bill to amend section 6 of title I of the act entitled "An act to maintain the credit of the United States Government", approved March 20, 1933, as amended (Rept. No. 1071); and

H. R. 3979. A bill to safeguard the estates of veterans derived from payments of pension, compensation, emergency officers' retirement pay, and insurance, and for other purposes (Rept. No. 1072).

Mr. BURKE, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 419. A bill for the relief of Ruth Relyea (Rept. No. 1043);

H. R. 1864. A bill for the relief of Henry Dinucci (Rept. No. 1044); and

H. R. 6825. A bill for the relief of Mrs. Clarence J. McClary (Rept. No. 1045).

Mr. BURKE also, from the Committee on Claims, to which was referred the bill (H. R. 3090) for the relief of Mayme Hughes, reported it with an amendment and submitted a report (No. 1046) thereon.

Mr. BAILEY, from the Committee on Claims, to which was referred the bill (S. 2810) for the relief of the State of Pennsylvania, reported it without amendment and submitted a report (No. 1047) thereon.

Mr. GIBSON, from the Committee on Claims, to which was referred the bill (H. R. 351) for the relief of Jane B. Smith and Dora D. Smith, reported it with an amendment and submitted a report (No. 1048) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 2343. A bill for the relief of Maj. Edwin F. Ely, Finance Department; Capt. Reyburn Engles, Quartermaster Corps; and others (Rept. No. 1049);

S. 2808. A bill for the relief of Grier-Lowrance Construction Co., Inc. (Rept. No. 1050);

S. 2875. A bill for the relief of J. A. Jones (Rept. No. 1051);

H. R. 2325. A bill for the relief of James P. Whalen (Rept. No. 1052); and

H. R. 4850. A bill to authorize the settlement of individual claims of military personnel for damages to and loss of private property incident to the training, practice, operation, or maintenance of the Army (Rept. No. 1053).

Mr. LOGAN, from the Committee on Claims, to which was referred the bill (S. 2666) for the relief of the Nacional Destileries Corporation, reported it with an amendment and submitted a report (No. 1054) thereon.

He also, from the same committee, to which were referred the following bills, reported them each with amendments and submitted reports thereon:

S. 470. A bill for the relief of the Hauser Construction Co. (Rept. No. 1055); and

S. 1957. A bill for the relief of the George R. Jones Co., a corporation organized under the laws of the State of New Hampshire (Rept. No. 1056).

Mr. LOGAN also, from the Committee on Claims, to which was referred the bill (H. R. 6549) for the relief of Horton & Horton, reported it without amendment and submitted a report (No. 1057) thereon.

Mr. SCHWELLENBACH, from the Committee on Claims, to which was referred the bill (S. 1118) to authorize the Secretary of the Treasury of the United States to refund to the Bankers Reserve Co., of Omaha, Nebr., and the Wisconsin National Life Insurance Co., of Oshkosh, Wis., income taxes illegally paid to the United States Treasury, reported it with amendments and submitted a report (No. 1058) thereon.

He also, from the same committee, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 2268. A bill for the relief of Bausch & Lomb Optical Co. (Rept. No. 1059); and

H. R. 2606. A bill for the relief of the estate of Paul Kiehler (Rept. No. 1060).

Mr. WHITE, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 1359. A bill for the relief of A. N. Ross (Rept. No. 1063);

S. 2741. A bill for the relief of Maj. Joseph H. Hickey (Rept. No 1064); and

S. 3043. A bill for the relief of the State of Maine (Rept. No. 1605).

Mr. WHITE also, from the Committee on Claims, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

S. 85. A bill for the relief of Homer H. Adams (Rept. No. 1066); and

S. 1120. A bill for the relief of J. P. Nawrath & Co., Inc. (Rept. No. 1065).

Mr. WAGNER, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 739) to provide for the establishment of a national monument on the site of Fort Stanwix, in the State of New York, reported it with amendments and submitted a report (No. 1068) thereon.

Mr. KING, from the Committee on the District of Columbia, to which were referred the following joint resolutions, reported them each with amendments and submitted reports thereon:

S. J. Res. 140. Joint resolution authorizing the use of public parks, reservations, and other public spaces in the District of Columbia; and the use of tents, cots, hospital appliances, flags, and other decorations, property of the United States, by Washington (D. C.) 1935 Improved, Benevolent, and Protective Order of Elks of the World, and for other purposes (Rept. No. 1069); and

S. J. Res. 145. Joint resolution authorizing the appropriation of funds for the maintenance of public order and the protection of life and property during the convention of the Improved Benevolent and Protective Order of Elks of the World in the District of Columbia, August 25, 1935, to August 31, 1935, both inclusive (Rept. No. 1070).

RECOMMITTAL OF A BILL AND JOINT RESOLUTIONS

Mr. COPELAND. I ask unanimous consent that Calendar No. 1041, being the bill (S. 2905) to increase the efficiency of the Coast Guard, be recommitted to the Committee on Commerce. It is desired to have a hearing on the bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. PITTMAN. Under instructions from the Committee on Foreign Relations, I ask unanimous consent that the following joint resolutions be recommitted to that committee:

Calendar No. 1032, being the joint resolution (S. J. Res. 99) to regulate the issuance of passports to American citizens in time of war; and

Calendar No. 1033, being the joint resolution (S. J. Res. 100) to prohibit the extension of credits and the issuance of foreign loans under certain conditions.

The VICE PRESIDENT. Without objection, it is so ordered.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WHEELER:

A bill (S. 3238) to provide compensation for disability or death resulting from injury to employees of contractors on public buildings and public works; to the Committee on Education and Labor.

By Mr. COPELAND:

A bill (S. 3239) to amend the Emergency Relief Appropriation Act of 1935; to the Committee on Appropriations.

By Mr. BYRD:

A bill (S. 3240) for the relief of Bernard F. Hickey; to the Committee on Claims.

By Mr. BAILEY:

A bill (S. 3241) authorizing adjustment of the claims of F. L. Forbes, John L. Abbot, and the Ralph Sollitt & Sons Construction Co. (with accompanying papers); to the Committee on Claims.

By Mr. WALSH:

A bill (S. 3242) for the relief of Homer R. Stickney; to the Committee on Military Affairs.

By Mr. FRAZIER:

A bill (S. 3243) for the relief of the Indians of the Fort Berthold Reservation, N. Dak.; to the Committee on Indian Affairs.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—AMENDMENTS

Mr. LEWIS, Mr. BURKE, and Mr. JOHNSON each submitted an amendment intended to be proposed by them, respectively, to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which were severally ordered to lie on the table and to be printed.

MIXED CLAIMS COMMISSION, UNITED STATES AND GERMANY

Mr. COPELAND submitted the following resolution (S. Res. 168), which was referred to the Committee on Foreign Relations.

Whereas in response to Senate Resolution No. 181, agreed to on June 8, 1932, a report from the Secretary of State on the character and estimated amount of the claims of American nationals against the Government of Germany filed with the Department of State, between June 30, 1928, and June 8, 1932, disclosed that 2,138 notices of claim had been filed having an estimated value of $5,495,000, exclusive of interest; and

Whereas several hundred additional claims of American nationals against the Government of Germany have been notified to the Department of State since June 8, 1932; and

Whereas in future negotiations with the Government of Germany for the settlement of these claims and for the information of the Congress, it is desirable that a survey be made of the additional claims notified to the Department of State since June 8, 1932, in order that a more accurate estimate may be stated as to the total amount to be claimed of the Government of Germany: Therefore be it

Resolved, That the Secretary of State be, and he is hereby, directed to transmit to the agent of the United States, before the Mixed Claims Commission, United States and Germany, all claims and notices of claims of American nationals against the Government of Germany, under the treaty of Berlin of August 25, 1921, filed in the Department of State between June 8, 1932, and the date of the passage of this resolution.

That the agent of the United States, Mixed Claims Commission, United States and Germany, shall examine all of the claims and notices of claims filed in the agency of the United States and/or in the Department of State by American nationals against the Government of Germany, to determine the character and amount of such claims under the decisions of the Mixed Claims Commission, United States and Germany, heretofore rendered under the treaty of Berlin, of August 25, 1921, and the principles of international law applicable thereto.

That the agent of the United States, Mixed Claims Commission, United States and Germany, be, and is hereby, instructed to prepare and transmit within 15 days after the passage of this resolution a report setting forth as nearly as may be ascertained from the documents now on file the character and amount of the additional claims, and notices of claims, of American nationals against the Government of Germany, filed between June 8, 1932, and the date of the passage of this resolution.

RETIREMENT OF ACTING ASSISTANT SURGEONS OF THE NAVY

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 883) directing the retirement of acting assistant surgeons of the United States Navy at the age of 64 years, which were, on page 1, line 5, to strike out "64" and insert "70";

And to amend the title so as to read: "An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 70 years."

Mr. WALSH. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

CUSTODY OF FEDERAL PROCLAMATIONS, ORDERS, ETC.—CONFERENCE REPORT

Mr. BARKLEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6323) to provide for the custody of Federal proclamations, orders, regulations, notices, and other documents, and for the prompt and uniform printing and distribution thereof, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate nos. 1, 2, 3, 4, and 5, and agree to the same.

ALBEN W. BARKLEY,
KENNETH MCKELLAR,
PETER NORBECK,
Managers on the part of the Senate.

HATTON W. SUMNERS,
EMANUEL CELLER,
RANDOLPH PERKINS,
Managers on the part of the House.

The report was agreed to.

STATEMENT BY FRANKLIN W. FORT ON GOLD-CLAUSE BILL

Mr. BARBOUR. Mr. President, I ask unanimous consent to have printed in the RECORD a very able and informative statement made on July 11, 1935, by Hon. Franklin W. Fort, of New Jersey, before the Committee on Banking and Currency of the House of Representatives, of which body he was for a number of years a distinguished Member. This statement refers to the so-called "gold clause" bill now before the Congress, to withdraw from the citizenry of the United States their right to bring suit against their Government.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

From olden times the right of the sovereign to be immune from suit has been recognized, but as enlightenment and democracy spread government after government found means of making it possible for its citizens to secure their just dues even from the sovereign.

In this country until 1855 claims against the Government were heard and their propriety determined by the Congress, which appropriated or not, as it saw fit, treating each case as it pleased. This led to scandals and abuses and to an enormous burden upon the Members of the Congress in the handling of private bills. So in 1855 Congress itself set up the Court of Claims as the forum in which all suits against the Government of the United States on contracts might be heard and determined. When the Court of Claims finds a judgment against the United States the judgment can be paid only out of moneys appropriated by Congress for that purpose. Twice since the institution of the court Congress has exercised its right of refusing to pay such a judgment.

In March 1935 the Supreme Court of the United States handed down its decision in the so-called "gold-clause cases"; 8 of the 9 justices agreeing that Public Resolution No. 10, of June 5, 1933, was unconstitutional and void, but 5 of the 9 justices agreeing in an opinion that inability of the plaintiff to prove damages barred any recovery against the United States.

On June 27 the President sent a special message to the Congress, pointing out that danger existed, that the Government might be held to answer in heavy damages for its action in refusing to pay in gold its obligations which promised such payment. He therefore urged the Congress to make it impossible for the courts to award any such damages by repealing the laws which now permit any citizen recourse to the courts on the obligations of the Government. On June 28 the chairman of this committee introduced House Joint Resolution 339, which purports to carry out the purposes of the President's message, namely, to prevent the Government being mulcted in heavy damages for its failure to pay gold.

Before proceeding to the discussion of this resolution, Mr. Chairman, I want to make it clear that the respect I personally feel for you, based on our years of association in the House, renders me certain that the language of the resolution is not your choice, but that, as is the practice too often, the reso-

lution has been drawn in the executive branch of the Government and sent here for passage.

I say this because I am certain, Mr. Chairman, that you would not have drawn a resolution basing it in its first preamble entirely on Public Resolution No. 10 of June 5, 1933, which you knew to have been declared unconstitutional and void.

I venture the statement that this is the first time in the history of the Congress of the United States that any piece of legislation has been proposed which so flouted the authority and dignity of the Supreme Court of the United States.

Nor can I believe, Mr. Chairman, that you would have written the second whereas of the preamble, which asserts that "The unmatured security issues of the United States * * * underlie our national monetary system and credit structure, with the result that disparity in these security issues * * * would undermine that system and structure." Disparity between the security issues of the Government exists today in the rate of interest, in the tax-exemption privileges, in the right to offer some but not all in payment of public debts, in the date of maturity. Other forms of disparity cannot undermine our credit structures, if these do not. Rendering our security issues unenforceable—removing the power of the courts even to interpret them—can and will undermine our credit structure.

Nor, Mr. Chairman, can I believe that you are guilty of the fourth paragraph of the preamble, which declares that "any speculative holding of, or dealing in the money or securities of the United States, to take advantage of the Government's fixed policy to continue * * * certain and uniform treatment is incompatible with the public interest."

How can any speculator or dealer make any advantage out of a fixed policy to treat everyone alike?

But I am far more concerned today with the substance of the resolution. I refer to the preamble only because it is a collection of gilded words to disguise a hidden purpose. The purpose of the preamble is to make the American people think that all the resolution does is to prevent suits for punitive damages arising out of the gold-clause obligations. Section 2, however, withdraws from the courts any jurisdiction to hear and determine any controversy arising out of any obligation for the repayment of money, now or hereafter issued, whether payable in gold or currency, or confetti, whether demanding damages or the mere face of the bond. For example, no court could hear a controversy arising under section 1 of this very resolution. The Secretary of the Treasury could interpret it as he pleased.

Section 2 is the first step backward in the history of the United States toward the reassertion of the doctrine that the king can do no wrong. As I have pointed out, the Court of Claims was set up voluntarily by the Congress to afford a forum where any citizen might urge that the administrative branch of the Government had deprived him of his just rights under a contract with the United States. The court has no power to pay any claimant any damages. It does have power to determine the right of the citizen to such a payment under the laws previously adopted by Congress. If it decides that the claim is a just one—that any officer in the administrative branch of the Government has failed to carry out the laws of Congress—then Congress may appropriate or not, as it sees fit, to meet the judgment. If you adopt House Joint Resolution 339 in its present form, you are serving notice to the holders of every obligation of the United States for the repayment of money that you are unwilling that the courts which you have set up shall pass upon the merits of their claims. No forum will then exist where the holder of any such obligation may assert his rights, or his belief as to his rights; may take testimony on any facts material to his claim; or may have any judgment of an impartial tribunal either as to the interpretation of his contract or as to the conduct of any major or minor official of the Government of the United States. The Treasury Department will become the court of last appeal.

Our courts of late have insisted that, under the Constitution, Congress may not delegate authority unduly to the executive branch of the Government. If you pass this resolution you are delegating to the executive branch of the Government an absolute power to interpret the laws of Congress relating to its bonds, without supervision or control, save through impeachment. Remember, gentlemen, that no judgment of the court has to be paid if you feel that the reasoning upon which it is based is faulty or its effect is disastrous to the Nation. Under your powers you can control without this resolution the payment of any damages, just or unjust, awarded against the Government in any suit.

The newspapers last night stated that one of the members of this committee referred to this legislation as "repudiation", and that the Attorney General of the United States replied: "I do not feel that 'repudiation' is the proper word for action of the Government in exercising a solemn right."

What is this solemn right? The only parallel that exists in the law to the right of the sovereign to deny remedy against himself is the right of a man to plead in answer to a claim against him that it is a gambling debt—and no gentleman ever pleads that on an honest claim.

Practically, the passage of this resolution will shake the credit of the United States as surely as we sit in this room today. If you doubt it, look at the credit of those States and municipalities which, whether justly or unjustly, have hidden behind technicalities to escape the jurisdiction of the courts on their bonds. If you doubt it, think how much credit you would extend to a man who deliberately made himself judgment proof and advertised it to the world. If you doubt it, look at the States which have passed moratorium legislation on private debts and see how many lenders seek to extend credit there.

The courts of the United States were set up by the Government, either in the Constitution or by act of Congress, and their powers defined and limited. Their judges are appointed by the President and confirmed by the Senate. They interpret the laws which the Congress passes and determine whether the executive officers of the Government comply with those laws. Have we reached a point in this country where on any phase of our national life we can no longer trust those instrumentalities of our own selection to do justice between one of us and all of us? Have we reached a point where, in place of the doctrine that every man is equal before the law, we must substitute the rule that the king can do no wrong? If this resolution is passed, apparently we have, for it closes as it began, with a reference to Public Resolution No. 10, of June 5, 1933, which the Court we created for our protection against our Government has declared void.

STATE RIGHTS AND RESPONSIBILITIES AND THE FEDERAL CONSTITUTION

Mr. SHEPPARD. Mr. President, I present for printing in the RECORD an address delivered by Hon. Karl A. Crowley, Solicitor of the Post Office Department, before the Texas Bar Association at Houston, Tex., on the evening of July 4, 1935, on the subject "State Rights and Responsibilities and the Federal Constitution."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. President and members of the bar association, few honors can come to any Texas lawyer greater than an opportunity to address his fellow members of this association. I deeply appreciate the opportunity you have given me to discuss with you those great principles upon which the earnest attention of all good citizens has been refocused and reconcentrated by the eventful times in which we live. I am deeply sensible of the fact that these principles could not be discussed before any gathering better equipped to understand, preserve, and put them into practice in Texas than the distinguished lawyers and judges assembled here today. And I hope that the bench and my fellow members of the bar will consider that in discussing great issues involving the very framework of our Government, my temerity is at least counterbalanced by the sincerity with which I speak.

CREATION OF THE FEDERAL CONSTITUTION

This Constitution of ours, which has withstood the vicissitude of actual experience, was not carelessly or hurriedly drawn and accepted by the people of the United States. Many months were consumed in the drafting of the charter and its acceptance by the people of the country.

The Constitution of the United States is not a declaration of political theory. It is an intensely practical document designed for practical purposes by practical men. Those who drafted this charter were men of powerful intellect and strong convictions. These convictions sometimes were hostile to each other, and the document which resulted from their combined labors was, as it should have been, the result of a series of well-considered compromises.

By this Constitution the American people chose the form of government they most desired for themselves. They provided for a dual form of government, by the States for matters arising in and concerning only the respective States and by a Federal Government for matters of national concern.

In those days there was a division of opinion among the greatest thinkers of the young country as to just what form this Government should take—whether the people should have the right of local self-government within the respective States concerning matters that related wholly to such State, or whether the country should be ruled by a strong central government with autocratic powers. Naturally, the fiercest and most important controversy on any political question ever presented to the people of the country arose out of the acceptance of the Constitution, and it was only because the people objected to surrendering to the central Federal Government all of the sovereign powers of their States that the ninth and tenth amendments to the Constitution were adopted, reserving to the people or to the States all powers not delegated to the United States. From that issue there developed the two great political parties that we have today.

Alexander Hamilton, in his debates upon the Constitution at the Convention, proposed that the States should be extinguished outright. Not only did Hamilton recommend that the States should be extinguished, but he urged that "the Government of the Union must be empowered to pass all laws" and "the same must be the case in respect to commerce and to every other matter to which its jurisdiction is permitted to extend"; and again, "the National Government, like every other, must judge in the first instance of the proper exercise of its powers and its constituents in the last."

Jefferson, Madison, and others who thought as they did, while conceding that the Federal Government should be empowered to control all truly national affairs, insisted that State lines be preserved, that the States continue sovereign control of local and internal matters, and finally took their stand upon the proposition that all powers other than those specifically granted to the Federal Government should be reserved to the States and their people.

Thus we see that the issue was clean-cut—whether to have all governmental powers centered in the Federal Government or to

continue with the States themselves solving their own local problems. Happily, I think, for our great country, the principles of Jefferson and Madison were accepted and written into the Federal Constitution, providing for the government by the States for State affairs and by the Federal Government for national affairs. Thus was born the doctrine of State rights, the great doctrine bequeathed by Jefferson and Madison to the Democratic Party, which we of the South have always cherished and which we will continue to uphold and protect.

Months passed before the States adopted this Constitution. Its every word and phrase, and every meaning which could possibly be put on every syllable, were debated before conventions, before street crowds, and before the fireplaces of the colonists. The States, when they adopted this Constitution, well knew the form of government for which it provided. Their choice was deliberate and wise, and it should be upheld today.

So clear was the opinion of our people that State rights were recognized and acknowledged by the Constitution that few of them knew, and few probably would have believed, that a vigorous attempt had been made by the Federalists (whose heritage is now claimed by the Republican Party) to destroy those rights, and that the attempt had been repulsed only by the unconquerable courage of Jefferson and Madison and the other political forefathers of the Democratic Party. The proceedings of the Constitutional Convention were not made public until long after the Constitution had been adopted, and the great liberal interpreter of the Constitution, Chief Justice John Marshall, an aggressive Federalist, apparently without knowledge of the true facts, said:

"No political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the American people into one common mass. * * * In America the powers of sovereignty are divided between the Government of the Union and those of the States. They are each sovereign, with respect to the objects committed to it, and neither sovereign, with respect to the objects committed to the other."

The Democratic Party has ever been, and is now, the champion of State rights as against the attacks of the Republicans. When I see those who claim political descent from Alexander Hamilton, such as the Chairman of the Republican National Committee, a former Republican President, Republican Senators and Members of Congress, and candidates for the Republican nomination for President, rushing into the public places and the public prints to preach the doctrine of State rights, one must be reminded that the devil himself can quote scripture for his own purpose. Seeking to distort history for the sake of political expediency they make the amazing claim that in order to prove yourself an advocate of State rights it is necessary to vote the Republican ticket.

It has been my experience to observe that some of these gentlemen, who are now the loudest in their denunciation of the present administration, are so versatile that they will take either side or both sides of any issue without a blush in the hope of embarrassing Democrats.

We have all grown so accustomed to the use of the phrase "State rights" that I fear we do not realize its true significance. Under the Constitution, which the people have granted and also accepted, the phrase "State rights" means that there were granted to the Federal Government of the United States only those powers specifically mentioned in the Constitution, or as the Supreme Court said, those powers which are specifically granted or which must follow by necessary implication. All other powers of government are and must remain vested in the States and their people.

James Madison, urging the adoption of the ninth and tenth amendments of the Constitution, said:

"If they are incorporated into the Constitution independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights. Besides this security there is a great probability that such a declaration in the Federal system would be enforced; because the State legislatures will jealously and closely watch the operations of this Government and be able to resist with more effect every assumption of power than any other power on earth can do; and the greatest opponents to a Federal Government admit the State legislatures to be sure guardians of the peoples' liberty. I conclude, from this view of the subject, that * * * we should offer something, in the form I have proposed, to be incorporated in the system of Government as a declaration of the rights of the people."

We are all more or less familiar with the principles of government and of civil rights and liberties as written by Thomas Jefferson into the Declaration of Independence, but it might be well to quote from one of his papers written in 1800 relative to the adoption of the amendments to the Constitution. He said:

"It (the Government) can never be harmonious and solid while so respectable a portion of its citizens support principles which go directly to a change of the Federal Constitution to sink the State governments, consolidate them into one, and to monarchize that. Our country is too large to have all its affairs directed by a single government. * * * I do verily believe that if the principle were to prevail of a common law being in force in the United States * * * it would become the most corrupt government on earth. * * * What an augmentation of the field for jobbing, speculating, plundering, office building, and office hunting would be produced by an assumption of all the State powers into the hands of the General Government. The true theory of our Constitution is surely the wisest and best, that the States are independent as to everything within themselves and united as to everything respecting foreign nations."

The greatest champion of State rights Texas has ever produced, and one of the greatest statesmen who have ever sat in the Senate of the United States, was none other than Joseph Weldon Bailey. His great orations upon the subject have resounded throughout the country, and no truer words were ever spoken than those of Joseph Bailey when he said, on March 9, 1908:

"There are greater misfortunes in this world than poverty and the greatest of all will be the loss of that liberty which can only be perpetuated through the preservation of State rights."

From the days of Jefferson to the present moment an adherence to these principles by the followers of Jefferson has kept and preserved this Nation, and if our republican form of government is to survive, the love of these principles must be forever kept alive in our hearts.

JUDICIAL CONSTRUCTION OF THE CONSTITUTION

The Constitution is a written instrument. With respect to the powers reserved it is not susceptible of any meaning except that plainly written into it. Not only is the fact that State rights were reserved and preserved by the Constitution clear to the student of political history but the courts have consistently affirmed this doctrine. No "construction" of the Constitution negativing the reservation of these rights to the sovereign States will ever be indulged in by conscientious judges. The Constitution sets up a Federal Government composed of sovereign States, and, as the Supreme Court said:

"* * * The sovereign powers vested in the State governments by their respective constitutions remained unaltered and unimpaired, except so far as they were granted to the Government of the United States. That the intention of the framers of the Constitution in this respect might not be misunderstood, this * * * interpretation is expressly declared in the tenth article of the amendments, namely: 'The powers not delegated to the United States are reserved to the States, respectively, or to the people.' The Government of the United States, therefore, can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication. The General Government and the States, although both exist within the same territorial limits, are separate and distinct sovereignties, acting separately and independently of each other within their respective spheres. The former in its appropriate sphere is supreme; but the States, within the limits of their powers not granted, or, in the language of the tenth amendment, 'reserved', are as independent of the General Government as that Government within its sphere is independent of the States."

And again:

"Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their union under the Constitution, but it may be not unreasonably said that the preservation of the States and the maintenance of their governments are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States."

In holding that a Federal income tax, otherwise constitutional, could not be collected from a State judge, the Supreme Court said:

"The supremacy of the General Government, therefore, * * * in respect to the question before us, cannot be maintained. The two governments are upon an equality. In respect to the reserved powers, the State is as sovereign and independent as the General Government."

The fact being established that this dual system of government was established by a grant of certain powers to Federal officials and the reservation of all other powers to the States and the people, the question is presented as to just how far, in the light of changed and changing conditions, Congress is empowered to go in enacting general laws applicable to the people of the several States. Chief Justice Marshall said:

"That the United States form for many and for important purposes a single nation has not yet been denied. In war we are one people. In making peace we are one people. In all commercial regulations we are one and the same people."

He held that the Constitution recognizes a distinction between that commerce which concerns more than one State and the exclusively internal commerce of the several States. Originally the Supreme Court held that the term "regulate", as applied to commerce, meant the power to govern commerce. In later years the Court went much further and held that the power of Congress under the commerce clause of the Constitution was the power to foster, protect, and promote commerce. The Court has not held—in my opinion it should not and will not hold—that under this law Congress has power to prohibit the free flow of normal commerce between the States upon visionary social considerations. We must remember what Justice Day of the Supreme Court said should never be forgotten. Wisely he stated that:

"In interpreting the Constitution it must never be forgotten that the Nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the National Government are reserved. The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority is inherent and has never been surrendered to the General Government."

PRESIDENT ROOSEVELT AND STATE RIGHTS

There are those who have charged President Roosevelt with having abandoned the Democratic theory of local self-government. It must be remembered that he is a Democrat from choice; that he

grew up in an environment saturated with the Hamiltonian theory of an autocratic central government as opposed to the theory of State rights; but, nevertheless, with courage and freedom and independence of mind which characterize him, he chose to be a Democrat. His past record proves in itself that he is a supporter of our Democratic theory of government and all that it implies. Only a supporter of State rights could say, as he has said:

"The preservation of this home rule by the States is a fundamental necessity if we are to remain a truly united country. * * * To bring about government by oligarchy masquerading as democracy it is fundamentally essential that practically all authority and control be centralized in our National Government; the individual sovereignty of our States must first be destroyed. * * * We are safe from the danger of any such departure from the principles upon which this country was founded just so long as the individual home rule of the States is scrupulously preserved and fought for whenever they seem in danger. Thus it will be seen that this home rule is a most important thing—a most vital thing if we are to continue along the course on which we have progressed with such unprecedented success."

There are those who have said that he has departed from these principles. No person has ever accused President Roosevelt of being insincere or dishonest, and no reasonable man can believe that this champion has overnight changed his views concerning the rights and liberties of the American people.

We must remember that when this administration came into office this country was involved in a deadly crisis far more serious than that of war. Commerce had ceased. The channels of credit were clogged. Millions of people were destitute and becoming desperate through hunger. It cannot be denied that the country was prostrate and that immediate extraordinary remedies must be found in order to preserve this country itself. President Roosevelt did not seize the reins of power. He did not take advantage of the faith that a desperate people had imposed in him and seize the power of a dictator, but he did have the courage to submit to Congress, as provided in our Constitution, plans which he believed would aid in the restoration of economic peace to our citizenship. Recognizing his grave responsibility, he must have been mindful of the words of that great jurist, Justice Holmes, who has just passed on:

"It is not lightly to be assumed that in matters requiring national action, a power which must belong to and somewhere reside in every civilized government is not to be found."

No statement made by President Roosevelt can by any stretch of the imagination be construed to mean that he advocates a change in our democratic form of government. At most, the recent utterances of President Roosevelt can only be construed to mean that he believed that the crisis brought on by the economic depression justified extraordinary powers for a temporary period and that the exercise of the power provided by the National Industrial Recovery Act was, in his opinion, authorized by the commerce clause of the Constitution. Unquestionably, he believes that the Constitution is a living, vital, moving thing; that it should not be so narrowly construed as to prevent Congress from exercising full power to enact legislation within the limitations prescribed by the Constitution, to promote the public welfare and the peace and happiness of all the people guaranteed to them by the Constitution itself. With Woodrow Wilson he believes that:

"We must treat the Constitution as a vehicle of life, and not as a strait-jacket.

"There was a time when the thoughtful eye of the judge rested upon the changes of social circumstances and almost palpably saw the law arise out of human life."

The President can ask no more than that he be judged by his own words and by his own acts. It should be borne in mind, however, that there is a deliberate dishonest design by his vicious political enemies and predatory interests to convince our people that the President plans to set up a dictatorship, to abolish State lines and State governments, and to that end has overridden and violated his oath to defend and support the Constitution. His every statement is distorted and misinterpreted, and the very hopes and plans which he has for the betterment of the people are sought to be utilized in this attempt to destroy his beneficent influence.

The enemies of the President have sought to make capital of the decision of the Supreme Court of the United States in the Schechter case. Especially have they unfairly sought to create the impression among lawyers, who naturally regard this Court with reverence and affection, that there has been in his attitude an element of disrespect. He has recognized, most properly, that the Court had power to render this decision involving the constitutionality of the National Recovery Act. Immediately upon the rendition of the decision he suspended the operation of the codes and ordered the dismissal of all suits involving their enforcement. This entire and respectful compliance with the Court's mandate in this particular case certainly is evidence of his willingness to be bound by decisions of the courts of our country. It is true that the President has indicated that in his opinion the National Industrial Recovery Act was authorized by the commerce clause of the Constitution. To hold this opinion and to express it he has the inalienable right of every American citizen, as you or I have the right to consider and to say that the decision of the Court is most sound. I honor the courage of the President in making sincere statements of his opinion when he knew he would face vicious and unwarranted attacks made upon him as the result. Certainly there can be no deserved censure of the President for expressing his natural disappointment when one of those measures which he, acting under authority delegated to him by Congress, inaugurated for the benefit of the people was held unconstitutional.

The enactment of the National Recovery Act and the action taken thereunder was not an attempt by the President to seize power for himself. It was an attempt by the President himself to be of service to the people. He presented a problem to Congress and carried out the directions of Congress expressed in public laws. While the Supreme Court has held that the law enacted by Congress was unconstitutional, it may not honestly be said that the enactment of this law, or the action of the President taken thereunder, was either usurpation of power or an attack upon State rights. They were neither, but merely the extraordinary measures which the President and Congress alike considered necessary to deal with an extraordinary situation, for the welfare of the American people. While the President's utterances clearly indicate that he does not consider the Constitution a shackle enslaving a progressive people, he has nowhere indicated by act or deed that the Constitution or laws should be used as instruments to establish a bureaucratic centralized government, which upon so many occasions he has forcefully denounced.

Lawyers may differ with the President's construction of the commerce clause of the Constitution. Business men may question the soundness of the economic principles of the codes. But every patriotic American knows that President Roosevelt has been actuated by the highest motive which impels the action of great men—the honest, sincere desire to relieve suffering humanity and to advance the economic welfare of this country.

The present tactics of the President's political enemies are as inconsistent as they are despicable. Why did they not call it despotism when he saved every solvent bank in the United States? There was no talk of tyranny and oppression when the Government saved big business from destruction. Then why should it be called tyranny and oppression for the President and Congress to undertake to save small business from similar destruction?

Was it considered an act of dictatorship when by the President's authority hundreds of millions of dollars were poured into the railroads to save them from ruin? Was it considered usurpation of power when the President provided means to save great insurance corporations from bankruptcy? Was it considered an attack upon State rights to provide ways and means for saving the great mortgage companies from destruction? These statements are not the statements of honest men, but the outward evidence of a deliberate attempt by partisan politicians to undermine the trust of the American people, which the President has so richly merited. America should be thankful, however, that honest business has the greatest confidence in the wisdom of the President, as well as in his sincerity and courage.

It will take a lot more than a "dead grass" convention composed of reactionary leaders of a dead Republican Party to dislodge the confidence now reposed by the people in Franklin D. Roosevelt.

AMENDING THE CONSTITUTION

I well and thoroughly understand the apprehension with which so many view the possibility of any change in the Federal Constitution. Those of my political faith have always feared changes in this document because proposed changes have usually involved an attack upon the sovereignty of the States. Yet 21 amendments to the Constitution have been adopted by the will of the people of the several States, the only way in which the Constitution may be amended. The greatest champion of American civil liberties, Thomas Jefferson, toward the end of his eventful life and shortly before his death, said:

"Some men look at constitutions with sanctimonious reverence, and deem them, like the Ark of the Covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age well; I belonged to it and labored with it. It deserved well of its country. It was very like the present, but without the experience of the present—I am certainly not an advocate of frequent and untried changes in laws and constitutions—but I know also that laws and institutions must go hand in hand with the progress of the human mind."

Let us remember that the Constitution is not an end in itself, but a means to an end. It is not the master of the people, but their servant. As it has been amended in the past, so it will inevitably be amended in the future when circumstances make this necessary. The constitution of every government must keep pace with the necessities of the people. But never, so long as we are liberty-loving Americans, will the Constitution of the United States be amended to change our republican form of government into dictatorship or monarchy, or to surrender our rights of local self-government.

THE RESPONSIBILITIES OF THE STATES

The existence of rights assumes the existence of corresponding responsibilities. State rights of themselves create State responsibilities. That political entity asserting the right to self-government must be prepared to govern itself. We in Texas, more perhaps than those who live in other States, believe in State rights and local self-government. The history of our State, once a free and independent nation, treating on equal terms with other nations of the world, is a proud heritage. Even today the State of Texas possesses rights guaranteed specifically when admitted into the Union which no other State can claim. Other States may surrender their sovereignty, but none of our generation of Texans, whether native born or citizens by adoption, will ever surrender that political freedom consecrated in blood on the mud floors of

the Alamo and confirmed in flame at San Jacinto. But demanding these rights, as we do, we must be honest with ourselves. We insist that the Constitution of the United States guarantees to us the right of local self-government. And so demanding, and so insisting, we must fully recognize our own responsibility and our officers must faithfully discharge their duty; otherwise our own people will be fully justified in surrendering the governing power to a capable government. The Constitution and Government of the United States were intended to promote, as they have promoted, the best interests of all the people of the Nation, not just the best interests of all the people of Texas who embraced the Constitution when the State was admitted to the Union.

The complexity of modern business, the rapidity of modern communication and transportation have brought all the people of our country so close together that the economic problems of a single State may easily become the economic problems of all other States. An unsound economic condition in a single State may impinge sharply upon the economic welfare of the Nation. Failure of one State to enact necessary legislation or adequately enforce its laws may bring about a general breakdown of law enforcement throughout the country. A weak, inefficient State may become like an infected house in a community. Either the inhabitants must clean it up for themselves or their neighbors will do it for them. In order to safeguard and protect the rights we claim we must demonstrate our willingness to enact, administer, and enforce laws sufficient to protect the best interests of our own State and to safeguard those in other States who may suffer from the inefficient handling of our own State affairs.

Specific instances where the nonuse of our own rights has brought about Federal action are well known. The Federal narcotic law was passed because many States could not, or would not, enact and enforce laws sufficient to deal with the menace of the rapidly spreading traffic in habit-forming drugs. Only the failure of the States to deal with the problem of stolen automobiles could have brought about the passage of a Federal law under the commerce clause of the Constitution. Kidnaping is a crime under the laws of every State in the Union. Yet the pitiful inefficiency of the several States in putting down this crime which strikes at the fireside of every American family cannot be denied. The complete failure of local and State officers to arrest, convict, and punish kidnapers brought about the passing of what is known as the "Lindbergh law." Except for the utter breakdown of State law enforcement, it would never have been necessary for the Federal Government to intervene. I am no reformer, but I must say that there is a vast difference between strict law enforcement, vigorous prosecution, and prompt punishment of criminals violating the laws of the United States and the namby-pamby way in which our States deal with crime. The violator of a Federal law is faced with prompt arrest, speedy trial, and just punishment. In our own State, as well as in many other States, we find that the protection of every technicality is thrown about a criminal by the very State whose laws he has flagrantly violated. He is seldom arrested; often never tried, and when tried and convicted he is more than apt to be paroled or pardoned for insufficient reasons. I do not hesitate to say that the indiscriminate parole and pardon of multitudes of State offenders is a disgrace to our State governments and a menace to the Nation.

Even now there is a bill pending in the Congress of the United States, a bill to subject the oil business, Texas' greatest natural resource, to the control of a Federal bureau. It is specifically and effectively charged that the duly elected railroad commission, attorney general, Governor, and other law-enforcing agencies of Texas are either incapable or unwilling to control waste in the production of oil, and that the way in which the State deals or fails to deal with this problem is bringing great injury to the Nation as a whole. I do not believe these charges are true, but nevertheless they are made in support of this bill. And unless these warnings are heeded, this great industry in which our State institutions and our public-school system have property rights may soon be managed and directed by a Federal bureau. I have faith in our officers and know that they have the ability to enforce our State conservation laws. I do not want this thing to happen, and hope our officers will demonstrate always that we are capable of exercising the rights of local self-government with respect to the production of oil if it takes the services of every sheriff and ranger in Texas.

Now on every hand we hear the doleful statement that we are living the twilight of State rights. Those who would extinguish the States make it appear in every conceivable manner that our State governments are incapable and inefficient; that they do not secure to their own people the rights guaranteed by the Federal Constitution; they do not regulate labor problems that affect other States, and that they do not afford adequate protection and security to unfortunates within the borders of the State. Little as we like it, there is much truth in the charges. The argument is the foundation of practically every Federal law which has touched upon the affairs of the States and has brought about the building up of a Federal bureaucracy of magnitude and with powers undreamed of when our Constitution was written and adopted.

The failure of the States to exercise the rights and powers which are theirs has led to Federal encroachment that can only be attributed to a disposition of the States themselves to evade their own responsibilities and unload their own duties upon the Federal Government. I know, and every lawyer knows, that the States have ignominiously and abjectly surrendered their sovereignty in every instance where an opportunity was presented to benefit financially by the contributions of the Federal Government. Seemingly the States have forgotten the price that must be paid for such cowardly and unworthy action. If the States are to be financially supported from the National Treasury they will inevitably be governed in detail as to every such expenditure by Federal authority. The people of Texas have elected Senators and Representatives and sent them to Washington to represent the State of Texas. This State has the most powerful congressional delegation in the Capital. The concerted influence of our two great Senators and our Congressmen, numbering among them the chairmen of most of the important committees, is so powerful that should the people of Texas demand it they could prevent almost any encroachment upon State rights. But being representatives of the people they listen, as they should listen, to the voice of the people; and the people of Texas have urged—they have actually demanded—that these Senators and Congressmen support the passage of laws by which the Federal Government has increasingly come to control those matters which could and should be handled by the State itself. Texas is not alone in this. Almost all the States, through the medium of their Representatives in Congress, are singing the same discreditable tune.

How consistent are we, the people of the greatest State in the Nation, when on one hand we complain of the invasion of Texas by Federal agents and on the other hand run to Washington pleading for Federal aid and intervention in our State affairs? If any State in the Union should be self-sufficient and capable of handling its own social and economic affairs it is Texas. Yet our people rush pell-mell to Washington like a ragged and supplicating group of beggars beseeching the Federal Government to favor the great State of Texas with a dole sugar-coated by the term "State aid."

If we are capable of self-government; if we have any right to State government; if we are competent to solve our own problems, then why this rush to Washington every time there appears to be an opportunity to get more Federal money? Our own public-school system may be cited as an example. Under the Constitution of Texas the maintenance and support of this system are positively and directly guaranteed by the allocation of taxes for its benefit. But at this very time, the operation of our schools has resulted in the situation where the Governor has seen fit to plead successfully for Federal aid for the country schools of Texas, in the amount of one and one-half million dollars. I personally cannot understand the necessity for Federal aid for Texas schools when the State board of education has just reported that there will be a surplus of $2,500,000 at the end of the present fiscal year, ending August 31. Can we consistently complain of Federal intervention when we do not even budget our school system on a basis which can be supported by our fixed school revenues? Just how capable are we of demonstrating and showing good and sufficient reasons why we should be left alone in the administration of our internal affairs?

Thinking Texans cannot be blind to the effect of tremendous Federal expenditures within our State. We know that the expenditure of every Federal dollar in Texas is controlled by Federal boards and bureaus. The contributions always carry with them the power of this control, but I have heard no complaint that it may be "unconstitutional" for the Federal Government to expend untold Federal millions in the public improvements in this State. Surely we have not convinced ourselves that we are not paying for these contributions. Surely we have not lulled ourselves into the belief that we are getting all this without ultimate cost. But if we have failed to take into account the fact that we are indirectly paying and are to pay every penny of this money in direct and indirect taxation, and to pay even a greater price in Federal control of our State affairs, then we are due to have a very rude awakening. Chief Justice Marshall truly said that the power to tax is the power to destroy. If we demand the dole, then we may expect higher taxes, and if Federal money is spent, we may expect Federal supervision and control.

We have seen, during the crisis through which we have just passed, the necessity for the Federal Government to directly donate hundreds of millions of dollars to relieve suffering and distress. I think most of us have thought that the responsibility for taking care of the poor rested first with their families; then with the cities and counties; and then with the States. Never before in this land of plenty has it been considered necessary for any State in the Union to demand money from the Federal Government for such purposes. The plain truth is that our States, proudly calling themselves "sovereign", have dodged their responsibilities and loaded them upon the Federal Government. Our States are responsible for a condition where too many shiftless and trifling loafers, both white and black, are being comfortably supported at the expense of the honest, hard-working taxpayers of this Nation. This undoubtedly jeopardizes the title of sovereignty of our States. Our Constitution does not guarantee every man a comfortable living at the expense of taxpayers. He can only expect an opportunity to work and to earn a living. This is being afforded through the great Public Works program. Those who want to work will be given an opportunity to work, and I confidently make the prediction that this program will be so successful that there will not be a single Federal relief agency of any kind maintained in Texas after November 1.

THE REMEDY

While none of us believe that State rights will ever be destroyed, we must not be so blind as not to recognize that danger. We must avoid any possibility of the destruction of our Government as it is now constituted by reawakening to our responsibilities. Lawyers, especially, directly and indirectly, both through their public statements and their private counsel to those who rely upon their judgment, exercise tremendous influence upon public affairs.

The lawyers of Texas might well dust off their copies of the Constitution and reacquaint themselves with the provisions of this ancient charter of human rights and liberties. Especially is it the duty of lawyers to see that the younger members of the profession are encouraged to know and understand the Constitution and its history, to recognize it and be familiar with its principles, not as some mystic document, chiefly useful as something to read at a Fourth of July celebration, but as the familiar companion and guiding light of our everyday affairs. We should make very sure that the glories and beauties of the Constitution should be taught in all our schools, so that future generations will grow up with intelligent knowledge of the rights and privileges guaranteed by that old compact, so wisely adopted by the founders and saviours of this Nation. Let us also have more harmony between the various branches of our State government. Let our legislature enact laws adequate to reduce the cost of government to our citizens, to protect our people efficiently against organized crime and vice, and adequately deal with our economic problems. Let the government of Texas stand upon its own feet, demonstrate its ability to cope with the problems of its own people, with the hope that other States may do likewise, and the people of Texas will never be ruled by a Federal bureaucracy. Let these things be done, to the end that we shall be safeguarded in the rights of individuals to life, liberty, and the pursuit of happiness, and that the right of local self-government will be forever maintained and cherished.

LOBBYING ACTIVITIES IN CONNECTION WITH HOLDING COMPANY BILL

Mr. BLACK. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate consider at this time Senate Resolution 165.

The VICE PRESIDENT. Is there objection to the request of the Senator from Alabama?

There being no objection, the Senate proceeded to consider the resolution (S. Res. 165), which had been reported from the Committee to Audit and Control the Contingent Expenses of the Senate with amendments, on page 1 to strike out lines 1 to 7, inclusive, as follows:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of the lobbying activities in connection with the so-called "holding-company bill." The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendations.

And to insert in lieu thereof the following:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of all lobbying activities and all efforts to influence, encourage, promote, or retard legislation, directly or indirectly, in connection with the so-called "holding company bill", or any other matter or proposal affecting legislation. The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendation.

On the same page, line 12, after the word "employ", to strike out "such" and insert "and to call upon the executive departments for"; and on page 2, line 7, after the word "exceed", to strike out "$150,000" and insert "$50,000", so as to make the resolution read:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of all lobbying activities and all efforts to influence, encourage, promote, or retard legislation, directly or indirectly, in connection with the so-called "holding-company bill", or any other matter or proposal affecting legislation. The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendation.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth and succeeding Congresses, to employ and to call upon the executive departments for clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

The VICE PRESIDENT. Without objection, the amendments are agreed to.

Mr. HASTINGS. Mr. President, I desire to offer an amendment to the resolution, and I wish to know if the Senator from Alabama has any objection to including in the resolution a direction that the committee to be appointed be instructed to investigate the activities of any person on the Federal pay roll, or drawing money from the Federal Government for services, in causing the farmers to come to Washington and assemble here on May 13 to 16 last?

Mr. BLACK. I may state to the Senator that personally I would not favor any direction to single out any particular type or any particular group, but I will state that I have drawn the amendment which has just been agreed to in such way that the resolution includes the right to investigate any effort of any kind or type to influence or promote or retard the passage of legislation.

Mr. HASTINGS. I listened with great care to the reading of the resolution because the Senator had assured me that it did undertake to cover everything, but I was not certain that it would cover this matter. While we are trying to clean up the situation generally by an investigation, I see no reason why the amendment I suggest should not be adopted. I have the amendment in the particular phraseology which I send to the desk.

Mr. WALSH. Mr. President, may we have the amendment read?

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to insert at the proper place in the resolution the following:

That said committee be requested and directed to investigate the activities of any and all persons drawing any pay from funds furnished by the Federal Government, in causing the farmers from all over the country to gather in the city of Washington, from about May 13 to May 16, 1935.

Mr. WHEELER. Mr. President, the amendment is an assertion that that did happen. The resolution is broad enough to cover the situation if it did happen, but the amendment assumes as a matter of fact that it did happen.

Mr. HASTINGS. I have no intention to make such an assumption. I merely want to draw the matter to the attention of the Senate and have it included in the resolution.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. ROBINSON. I do not believe there is any justification for the adoption of the amendment. The resolution, as stated by the Senator from Alabama, is broad enough to authorize the investigation of any effort to influence or control legislation. In my judgment, it would be improper to single out an individual or group as the proposed amendment seeks to do. I hope the amendment will be rejected.

Mr. BLACK. Let me say a word further, and then I shall yield the floor to the Senator from Delaware. I have no doubt in the world that the resolution as drawn would permit an investigation of the matters referred to in his amendment. Personally I should object to any direction to the committee which singled out one particular circumstance and directed mandatorily that it be investigated. It is my judgment that if the committee should be directed to go into any one particular field, it should be an investigation of the holding company bill situation, activities in connection with the T. V. A. legislation, and possibly some others which have apparent reason to be investigated.

My objection to the proposal of the Senator from Delaware is simply that it singles out one thing. Quite a number of Senators have mentioned to me that they wish investigation made of certain activities which they have suggested in reference to the particular resolution. One Senator, for instance, wanted an investigation of activities against the pure food and drug bill. Another Senator was interested in an investigation of activities against the agricultural program. A number of other Senators are interested in other activities.

I hope the Senator will not insist upon the adoption of his amendment, which attempts to single out a single group for investigation.

Mr. HASTINGS. Mr. President, will the Senator give us assurance that if he should be a member of the investigating committee he would endeavor to carry out the suggestion made in the proposed amendment?

Mr. BLACK. Of course, I should not assume to speak for what the committee might do. I state that it would be my judgment that the proper way for the committee to proceed would be not to announce in advance that which it intended

to do. Experience in the past has demonstrated to me that that is the best way to frustrate an investigation. The most effective way to investigate anything is to investigate it before too much public announcement has been made as to the plans and intentions of the committee.

It is my judgment that any matter in which a Senator may be interested should be presented to the full committee in order that they might determine at that time what was worthy of investigation under the power to be given the committee in connection with the various subjects suggested. Personally I should not be willing to say that any Member of the Senate should commit himself in advance that he would or might do this or that. I think it would not be a proper procedure.

So far as I am concerned as a member of any investigating committee, it is my opinion that if there is sufficient reason to believe that something has been done which should be exposed to the public gaze, the committee should investigate it.

Mr. HASTINGS. Mr. President, I shall not address the Senate upon the amendment. I have suggested it in good faith. I have suggested it because of certain information which came to me in the regular way with respect to the matter about the time the farmers came here.

I desire to take this occasion to address the Senate briefly on another subject.

Mr. ASHURST. Mr. President, I wish to discuss briefly an amendment to the resolution if the Senator will yield.

Mr. HASTINGS. I yield to the Senator from Arizona for the purpose indicated by him.

Mr. ASHURST. I thank the Senator for yielding and I hope he will not think me ungracious in view of his yielding when I say I support the view of the Senator from Alabama [Mr. BLACK] on this particular question.

I am very much in favor of the proposed investigation. I think it ought to be made. There may be some wayfaring Senator who does not know or who is oblivious of the fact that there was aroused an intense lobby against the bill and also an intense lobby for the bill. There may be some Senator who does not know that, and the resolution, of course, would bring the fact to light.

Mr. President, I invite attention to lines 10 and 11 of the resolution where it is proposed to strike out the word "such" and insert the words "and to call upon the executive departments for clerical and other assistants." I doubt the wisdom of an investigating committee of the Senate calling upon the executive branch of the Government for clerical and other assistants, not assistance, it will be observed—meaning "persons." I believe the country wishes this investigation made. I know of no action which would be more welcomed by our constituents generally than this investigation. The investigators and the honorable committee to be appointed by the Chair would be harassed and embarrassed when it became known that their clerical assistants, their clerks and experts, were drawn from the executive department.

Mr. CLARK. Mr. President, will the Senator from Delaware yield for the purpose of enabling me to make a statement to the Senator from Arizona?

Mr. HASTINGS. I yield for that purpose.

Mr. CLARK. I am certain the Senator from Arizona misunderstands the purport of that language in the resolution. In any investigation which involves departmental records and matters of that sort, necessarily there is a great deal of information which must be obtained from the records, and the matter of copying such records and furnishing them to the committee involves a great deal of clerical assistance which might as well be furnished by the department as to be paid for out of the committee funds. I think every Senator who has served on an investigating committee has had the experience and found that it very much facilitates the investigations if they were able to call upon the executive departments for such assistance. I am sure that is the purpose of the resolution.

Mr. ASHURST. If that be the purpose, I shall conclude by saying that the Senator from Missouri, with his usual crystal clearness, has made it obvious to me that if that be the purpose there could be no reasonable objection to the amendment.

Mr. BYRNES. Mr. President——

The VICE PRESIDENT. Does the Senator from Delaware yield to the Senator from South Carolina?

Mr. HASTINGS. I yield.

Mr. BYRNES. Permit me to say to the Senator from Arizona that the Senator from Missouri [Mr. CLARK] is correct in his statement. Similar language has been included in many other resolutions providing for such investigations.

Mr. ASHURST. I thank the Senator.

If the Senator from Delaware will be so kind as to allow me to utter another sentence, let me say that, with the understanding that the clerical help, the stenographers, the attorneys, the investigators, the experts, are not to be drawn from the staff of the executive departments, but that the executive departments are to be called upon for documents and copies thereof, and even for the purpose of explaining them, I am perfectly content; but, I repeat, in an investigation of this kind I doubt the wisdom of having in the employ of the committee anyone who is in the employ of the executive branch of the Government. With the explanations made by my friends from Missouri and from South Carolina, however, I am perfectly content.

I wish to thank the Senator from Delaware for yielding to me.

Mr. BLACK. Mr. President, will the Senator from Delaware yield to me?

Mr. HASTINGS. I yield.

Mr. BLACK. Since I have an engagement that I need to fill, if possible, I simply desire to say to the Senator from Delaware that if he is going to speak on some other subject, and not on this, I should appreciate it if he would permit us to have action on the resolution.

Mr. HASTINGS. Just a minute. The Senator from Arizona has raised a question, and the Senator from Missouri has answered it in a way which is not entirely satisfactory to me. Do I understand that it is the purpose that the committee may call upon investigators now employed by the Government and may press them into service in making this investigation?

Mr. BLACK. I may state to the Senator that it is absolutely impossible for the Senate to adopt a resolution which will confer upon any committee an absolute right to call upon the executive branch of the Government and to secure assistance from it. I doubt, however, if in a long time there has been a single investigating committee which has not utilized some of the agencies of the various executive departments.

For instance, in connection with the investigation of ocean and air mail contracts, our committee called on the Interstate Commerce Commission to know if they could let us have temporarily some clerks who were more or less familiar with the system of accounting and the system of bookkeeping, and so forth, which was used by the companies we investigated. We obtained some assistance from that source. We called on the Commerce Department for some assistance on the part of those who were peculiarly familiar with shipping, and obtained that assistance. I understand that the committee of which the Senator from Missouri [Mr. CLARK] is a member has found it necessary to obtain and has obtained, without any provision in the resolution authorizing it, assistance from some of the other departments; I believe the Senator said the Interstate Commerce Commission.

Mr. CLARK. If the Senator will pardon me, we have received assistance from many departments of the Government, which has very greatly facilitated the investigation and reduced the expenses of the committee. At the same time, I did mention to the Senator from Alabama that at present we are receiving very valuable assistance from the Interstate Commerce Commission, which is furnishing material which it would be of great disadvantage and great trouble for us to gather for ourselves, and which would result in added expense to the Government if obtained by a new organization.

Mr. HASTINGS. Mr. President, I desire to call attention to what the Senator from Arizona has so well said. He referred in particular to the holding-company bill, which, as he pointed out, is probably the best example of having more lobbying done on both sides than any other bill which has been before Congress. I agree with him and I agree with the Senators from Alabama and from Missouri that it may very well be wise to have an investigation, but it ought to be an impartial investigation. While the holding companies are made defendants on one side, it is well known that there are other defendants besides them who were lobbying for the other side; and all of us who are anxious to have the work done properly are anxious that the country shall be informed as to what was done on both sides.

If certain persons are to be taken from the various Government departments to assist in the investigation, the investigating committee may find itself having in its employ a person who is trying to protect someone for whom he is working. For instance, take the Power Commission, which is very much interested in this bill, and was largely responsible for its being drawn, and had its counsel up here lobbying for it all the time. That is well known to the country and well known to all of us. The facts with respect to it ought to be made known; and we ought not to call, for instance, upon the Power Commission to aid in this investigation.

I am not asking that anything be done about the matter. The Senator from Arizona pointed it out and reached the conclusion that with the purpose in mind explained to him, he was satisfied with it, and I have no desire to pursue the matter further.

With respect to the amendment I offered, I desire to say that I should very much prefer to withdraw the amendment than to have it rejected, because if it should be rejected it might deprive the committee of authority to do what I wish to have done. For that reason I withdraw the amendment, but I express the hope that the committee may carry out my request and make some investigation of that matter.

Mr. President, I dislike to detain the Senator from Alabama, but I have had pending here for some days a resolution which I desire to discuss, and it seems to me the chances of getting it before the Senate at any time in the near future are not very bright.

Mr. BLACK. Mr. President, if the Senator will yield, I believe there is to be no further discussion of the resolution.

Mr. HASTINGS. I understand that two Senators wish to discuss the resolution.

Mr. BLACK. If the Senator will yield for that purpose, I believe we can adopt the resolution. I do not know any Senator who wishes to speak against it.

Mr. HASTINGS. I will yield for that purpose.

Mr. CLARK. Mr. President, I desire to occupy 2 or 3 minutes in connection with an explanation of my own feeling about the resolution which is now before the Senate.

Mr. HASTINGS. I shall not delay the Senate longer than a few minutes.

Mr. CLARK. If the Senator from Delaware will yield for the purpose of allowing the resolution to be voted on, I am perfectly willing to make my remarks about the resolution after it shall have been agreed to.

Mr. HASTINGS. If that can be done, I will yield.

Mr. NORRIS. Mr. President, I will say the same thing. I wish to say something about the resolution, but I am willing to say it afterward.

Mr. HASTINGS. I have no objection to the question being put to the Senate as to whether the resolution shall be adopted.

The PRESIDENT pro tempore. The question is on agreeing to the resolution, as amended.

The resolution, as amended, was agreed to.

Mr. BLACK. I thank the Senator from Delaware for his courtesy.

LEGISLATIVE PROGRAM AND ADJOURNMENT

Mr. HASTINGS. Mr. President, some days ago, in my absence, the distinguished Senator from Oregon [Mr. McNARY] was good enough to submit, in my behalf, the following concurrent resolution (S. Con. Res. 20):

Resolved by the Senate (the House of Representatives concurring), That when the Congress shall have completed its legislative program, except the revenue bill, it shall adjourn until noon on Monday, November 18, 1935;

Further resolved, That between the day of adjournment and November 18, 1935, the proper committees of the two Houses are requested to study the financial conditions of the Government as to income and expenses and make such recommendations as they find necessary to balance the Budget and begin the reduction of the national debt;

Further resolved, That when the Congress reconvenes on November 18, 1935, such revenue bill as such committees may recommend shall be the first order of business.

Mr. President, this resolution is the result of a sincere effort on my part to make some suggestion that would be helpful—helpful to the Congress itself and helpful to the country as a whole.

I think it is reasonably safe to say that at the time the President's tax message was read to the Senate, and for some days thereafter, a great majority of the Senate had the impression that the President did not expect his recommendations to be carried out at this session. When the Finance Committee met a day or two thereafter the distinguished senior Senator from Wisconsin [Mr. LA FOLLETTE] made some effort to have the proposal attached to the resolution extending the nuisance taxes, but this, by a large majority, was rejected. A day or two later we ascertained from newspaper reports and otherwise that a sincere effort would be made in the Senate to take up the matter at this session. Shortly afterward we found that the President desired this course of action.

I assume there is enough opposition to this resolution to defeat it. I assume those opposed to it may properly be divided into three or more groups. There are those who will want to do the job now, because that is the desire of the President. There are some who hope and believe the legislation may be passed speedily, and they, therefore, would rather stay here and complete it than to return the middle of November. Then there is that sincere and earnest group of Senators who believe this will at least prove to be the entering wedge to that economic theory that the welfare of the Nation requires that the wealthy people of the Nation should bear a greater share of the financial burden of the Government; and I suppose there may be some also who agree with the President in promoting this legislation because of the new social order or reform it may bring about.

Mr. President, I do not question the sincerity of those who disagree with me. I shall undertake to show, however, that there is merit in my proposal, and that it is worthy of support.

It is needless for me to point out how important it is that a tax bill be carefully considered by the committees of both Houses. Under normal conditions, that is done. I have no doubt that under the leadership of the distinguished Chairman of the Committee on Finance of the Senate every effort will be made to do it in this case, even though we are compelled to take the matter up in the month of July. But may I call attention to how impossible it will be for the chairman and the members of his committee to carry out their good intentions? The Congress has been in session for more than 6 months, and during that time has been considering and passing legislation of the greatest importance. The fact that some of us look upon much of it as harmful rather than helpful does not weaken the statement I make, for many bills were indeed weighty measures, and were given laborious consideration. For the committee and the Congress to begin the study and consideration of a tax bill now is unreasonable. The work cannot be adequately and well done in a short time. This would be true if we were physically and mentally at our best. The fact that we are worn out, our patience almost exhausted, makes certain that we shall do a poor job.

These facts are emphasized when it is borne in mind that there are likely to be in the Senate many different views upon this subject, views which cannot be reconciled. A complete and exhaustive hearing and study by the committee would go a long way toward harmonizing these views.

Information could thus be made available to many of us who do not know now what ought to be done, and will not be able to learn from the information gathered from a few interested persons who may voluntarily appear before the committee.

I have stated on many occasions my opposition to many things, if not most things, that have been done by this administration. I have protested time after time against the delegation of the power of the Congress to the Executive. Such acts, in my judgment, are the opening wedge to a dictatorship, and, unless checked, will ultimately destroy our form of government.

The most dangerous of all these is the appropriation of money. The placing in the hands of the Secretary of the Treasury of the sum of $2,000,000,000 upon the express condition that neither he nor the President should be required to account to the Congress for a period of 3 years was a dangerous and an un-American thing to do. The purpose of the authority given was itself dangerous. The huge sums which the Congress has turned over to the President, at one time $3,300,000,000, and at another time $4,880,000,000, were acts which will at some time shame the Congress.

Even though no major scandal develops in the use of these funds, thinking people will shudder at what might have happened when the Congress thus abdicated its power and authority and violated its plain duty.

The demand by the President for legislation that is known to be beyond the power of Congress to enact is to me a shocking thing. The readiness with which Congress yields to such demand is deplorable.

Even though these things be as serious as I believe them to be, they can in time be overcome. But there is one thing confronting the Nation that is more serious than these, and that is the ever-increasing deficit and the ever-increasing public debt, which in the end may mean uncontrolled inflation. I know there are those who think this is a mere bugaboo, but to me and millions of other citizens it is a very real danger.

The fact that it has become necessary for the banks of the country and the Government itself to protect the Government bond market shows how very close we are to a financial crisis. It has been said by persons who ought to know that a decrease of 10 percent in the price of Government bonds would make it necessary to close nearly every bank in the country.

It is hardly worth while to review the history of this administration with respect to deficits and Budget balancing. It is sufficient to call attention to the fact that in 2 years the national debt has been increased more than 40 percent, and that we are spending each year two or three times as much as our annual income. There is no effort to economize on the part of the President; no effort to economize on the part of the Congress. The effort is confined to bringing about "the more abundant life" by planning and manipulating the material things of life. It is argued that the balancing of the Budget must wait upon the routing of the depression, but every day we sit here, almost every message the President sends here, makes more certain that the depression is to continue for a long time to come.

The only way we will be able to end this spending spree is to boldly prepare a tax bill that will eliminate any deficit for the coming fiscal year. As we begin to study that situation and begin to levy taxes upon everything we can think of and upon every person that has anything more than enough to sustain himself, we shall better appreciate how necessary it becomes to begin to economize. We shall see how important it is to begin to eliminate and consolidate bureaus and abolish useless offices in an effort to reduce Government expenses by at least 25 percent. We shall see how important it is to stop paying out Government money to persons who are doing nothing more than raking leaves and picking up paper in the public parks. We shall see how necessary it becomes to reduce the relief rolls and confine the public-works program to essential and useful projects.

In my judgment, we must find some method of drastically reducing expenses before we can even hope to balance the Budget. After we have done our best in this direction we shall not be able to put our financial affairs in order by increasing the income tax in the higher brackets; we shall not be able to do it by increasing the taxes on large corporations and reducing them on the small; we shall not be able to do it by any new scheme of taxing the inherited wealth.

In a democratic form of government like ours the only way in which we can hope to keep the expenses of government down to a minimum is to make the whole Nation tax-conscious. So long as a great majority of the people are free from any direct tax, or free from increase in taxes, just so long will there be a demand for increased expenditures. We must remember always that the right of franchise is equal, and the poor have the same right and the same responsibilities in electing those who make and enforce the laws, as have the people of wealth.

A proportionate responsibility in the burden of taxation, as nearly as may be, ought to be provided for. It is agreed by all that this ought to be based upon the ability to pay.

I think it will be admitted by all that no such program as this can be worked out in a few weeks in midsummer by a Congress whose membership, to say the least, is not in the best frame of mind.

My own thought in suggesting that the Congress adjourn until November 18, and let the committees of the two Houses work upon this program 6 or 8 weeks before the Congress reconvenes is that we would thus have the advantage of the study of such committees. The President and the Treasury Department would have the advantage of that information in preparing the next Budget for submission to the Congress. We could dispose of the suggestions of the President of eliminating unnecessary holding companies in all lines of business and discouraging unwieldy and unnecessary corporate surpluses, instead of having the suggestion hanging over the heads of such corporations, without knowledge as to what is contemplated or what is to be done by the Congress. Such suggestions are not helpful to recovery. The uncertainties that confront them prevent business concerns from going forward.

I realize that no such plan as balancing the Budget is contemplated in the President's message sent to us on June 19. In that message, and subsequently, he emphasized that he has a twofold purpose, one incidentally to raise revenue, and the other to bring about a better social order.

I think it is unreasonable to expect Congress to stay here and pass legislation in an effort to change a social order that has existed for so many years, and under which the country has grown to be the most prosperous and powerful country in the world.

The President says:

> The transmission from generation to generation of vast fortunes by will, inheritance, or gift, is not consistent with the ideals and sentiments of the American people.

Again he says:

> Such inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our Government.

It will be observed from these quotations from the President's speech that he has reached the conclusion that the transmission of vast fortunes is inconsistent with the ideals and sentiments of the American people, and is as inconsistent with the ideals of this generation as inherited political power. In other words, the President goes so far as to say that the people of the Nation are as much opposed to permitting a man with a vast fortune to pass it on to his heirs as the people during the Revolutionary times were opposed to permitting America to be ruled by a king who would at death pass his crown to his eldest son.

I think it is not too much to say that the President has overdrawn the illustration in his effort to impress the importance of his program upon the Congress. From almost the very beginning it has been the policy of America to permit wealthy persons to dispose of their estates as they pleased.

The great George Washington was one of the wealthy men of his time, and that fact was known to the people who established our form of government, yet no limitation was placed upon the accumulation of wealth by the framers of the Constitution, and no such issue as is involved in this proposition has ever been submitted for decision to the American people.

Washington demonstrated his desire that America should be free from any appearance of being ruled by any individual or any dictator by setting the all-time precedent of only two terms as President for any man.

We cannot afford to be rushed off our feet with the suggestion of Dr. Townsend to pay every person in the land who has reached the age of 60 years $200 a month; nor can we afford to adopt the E. P. I. C. plan of Sinclair; nor have we yet been convinced that the share-the-wealth movement sponsored by the distinguished senior Senator from Louisiana is to be the salvation for the country.

Neither do I think we can afford to take the less radical suggestion of the President of the United States and approve it without a better knowledge of the effect it will have upon the country as a whole and without in all fairness having submitted it to the people of the Nation for a definite decision.

The President calls attention to the fact that a man having a $5,000,000 income pays at the same rate as one whose income is a million dollars. Of course, when a man's income reaches the huge sum of $5,000,000 annually, his ability to pay a large sum to the Government is perfectly apparent. It has been suggested that the rate should be increased until out of the last two million received as income the Government should take $1,400,000 and leave the taxable $600,000.

I am frank to say I do not know whether it is a wise policy to take so much of a person's income or not. There are those who insist that the Government gains nothing by increasing the taxes in the higher brackets, because the man who has been able to create such an income is liable to withdraw his money from the business activities which have permitted him to accumulate such a fortune and place it in staple securities at a low rate of interest. It is the expectation of large returns which induces capital to invest in new enterprises and new ventures of all kinds. It can hardly be expected that a wealthy man will invest his money in any kind of business when he knows that the Government will take 70 or 80 percent of any profit he may make, while he must take all the chances of a loss. It is contended that taxes which are too high not only prevent business from going forward, but that the Government would collect a greater sum in the aggregate if the rate were made lower instead of higher than the present rates.

These are important questions upon which intelligent and honest men may differ. They ought to be decided only after careful consideration and investigation and without prejudice.

In this connection I might say that I have for some time had in mind the desirability of permitting persons and corporations to deduct from their income as an expense a certain portion of the cost incurred in constructing new buildings, repairing old buildings, and so forth, involving the employment of labor and the purchasing of new materials. My thought has been that this might in some degree start things moving a little faster and without seriously affecting income.

There are very real differences of opinion with respect to the President's proposal that there be a difference of 6 percent between the rate of tax upon small corporations and the rate upon the large corporations. The President also suggests that we might well provide a tax on dividends in order to prevent evasion by the large corporations by the organization of affiliates. This suggestion, it may well be noted, if adopted, largely disposes of the elimination of holding companies in all lines of business which the message suggests is too complicated to be disposed of in the remaining days of the Congress.

These recommendations with respect to corporations show very clearly that the President is much more interested in changing the social order than he is in raising revenue. They are punitive, and clearly intended as such. I doubt whether so-called "big business" is a menace to America today. I doubt whether it has ever been. It has become necessary for Congress many times to regulate and control it in many respects in order to prevent some unscrupulous man here and there from imposing upon the public. There is ample authority to do this and enough willing and anxious minds to apply the remedy. This is as it should be. The antitrust laws are important. If properly enforced, they ought to insure competition, which is the one stimulating thing in America which ought to be maintained. American institutions survived, however, for a long time before these laws were enacted. Corporations are prohibited from making campaign contributions. If these laws did not exist, we might find corporations contributing to both sides, and thus making sure that whoever won would be under some obligations to them. This would, of course, be a bad thing for a democracy like ours. I am not impressed with the suggestion that there is danger in the economic power possessed by several thousand stockholders who own a large corporation merely because of the amount of money invested or the amount of money earned. So long as other groups have the same right to go into the same kind of business, thus assuring reasonable competition, the public is fairly well protected; and the people of this generation need have no more fear for the safety of American institutions from this source than the people of other generations have had.

And, Mr. President, if we had the time to learn the facts, and the courage to tell the truth about them, I have no doubt we could find much to justify the existence of the so-called "big business." If we should trace the history of the kerosene lamp, the electric light, the electric refrigerator, the vacuum cleaner, the washing machine, the steamboat, the railroad, the street car, the airplane, the automobile, the telegraph, the telephone, the radio, the moving and talking pictures, much of the modern foods and medicines, as well as many other things which go so far to make up the high standard of living enjoyed by the masses of our people, we would find some great organization of wealth responsible for most if not all of them. They could afford to take the risks involved. True, it was done, most of it if not all of it, for gain, but that is of no great concern to the millions of men who have prospered because of the jobs these industries have furnished and are furnishing. Neither are the millions of people who are enjoying these developments alarmed about the concentrated economic power that made such things possible.

We must bear in mind also that individual wealth and the wealth of a corporation are not comparable. The large corporations are, speaking generally, owned by millions of our citizens, savings banks, insurance companies, churches, hospitals, and other charitable institutions. People of small means have invested in them because they have believed them to be safe. It is not reasonable, it is not equitable to compel such corporation to pay a tax of 17½ percent on its profits and permit a small corporation to pay 6 percent less. The mere statement of the fact that the large corporation may only earn 3 or 4 percent on the investment while the small one may earn 30 or 40 percent is sufficient to show the unfairness of such a proposal.

No, Mr. President; the real danger today is not to be found in the concentrated economic power which may be attached to wealth of any kind or in any form, in the private individual. The real danger is to be found in the concentration of political power and the concentration of public money in the hands of the present President of the United States. Think of a President complaining about the power that accompanies a fortune, the power possessed by a large corporation, when he has demanded and received from the Congress in a single appropriation the huge sum of $4,880,000,000; a sum to be expended as his own judgment may dictate. He may loan it, he may give it away, he may use it to send young men and women to college, he may use it in business ventures in competition with private capital, he may use it to aid one State or congressional district and punish another, and all this in the year in which

he will be a candidate to succeed himself. One gets the impression that the President really believes that any kind of power is dangerous unless it be in his own hands.

I repeat that I am not impressed with this part of the message. I am much concerned about economy in government and the desirability of raising sufficient revenue to balance the Budget. I think this can only be done properly by the use of much time, energy, and patience. These essential things are not to be had without a congressional vacation.

Mr. President, I now desire to read an editorial by Mr. Raymond Moley in Today, which is reprinted in the New York Herald Tribune of this morning, under the heading, "Our Democratic Friends Plead for a Little Peace." The editorial by Mr. Moley is as follows:

FAITHFUL ARE THE WOUNDS OF A FRIEND—PROVERBS XXVII: 6

OUR DEMOCRATIC FRIENDS PLEAD FOR A LITTLE PEACE

(On reading Ecclesiastes—An editorial by Raymond Moley in Today)

There has rarely been a time when people yearned more unmistakably for serenity and certitude than they do now, but they seem to be getting it less and less.

Business men are getting so "sore" that they greet everything emanating from Washington with the bitterest epithets in their vocabularies. The same jumpy nerves are visible in official Washington itself.

This battle-to-the-death spirit is not going to solve anything. In fact, it has a tendency to create in this country precisely the issue the man in the street ought to fear above all things—bitter political conflict between those vested with the moral and economic responsibility of administering business and those who are vested with the political and no less moral responsibility of governing the country.

In the heat of conflict extremists on both sides conceive of the new deal's activities in patching up our civilization as bitter class warfare. I have often heard hotheaded Congressmen and administration subordinates in Washington speak of the necessity, "now that business is down", of clipping its wings and of crippling its means of locomotion in still more serious ways. The more naive exponents of this view are positive, as Mr. Bryan used to be, that a little group of bespattered and overupholstered gentlemen meet every day in a back room in Wall Street and plot with precision the enslavement of the American people. These gentlemen manipulate the price of stocks. They hammer out crosses of gold. They weave crowns of thorns for labor. They corrupt the press and otherwise bedevil mankind.

Among New Yorkers I hear equally fantastic things. The President listens only to dangerous Communists who scuttle in and out of his presence like messenger boys in a broker's office (ante 1929). He is pursuing a private vendetta against his old friends of Groton and Harvard. His advisers are all either impecunious theorists or men who have failed in business and are seeking Freudian compensation by socking business generally. * * *

I should be a poor judge of public opinion if I did not sense that large sections of the American public are getting a little tired of the fray. Better judges of public opinion, such as the President and his congressional leaders, probably have known it for some time and breathe a sigh of relief when they assure us that final action on the remainder of the 1935 program—the banking bill, the A. A. A., the T. V. A. amendments, and the tax proposals—can be had in a month. Wisely they offer the inference that they will then write finis to the 1935 program of the new deal. But it seems to be difficult for them to drag the actors off the stage. The actors are too intent upon what they are doing to see the restlessness of the audience and hear the mutterings of boredom.

Mr. Lippmann has also sensed this boredom of the public. He says that people have come to recognize the point where reform should stop and recovery be permitted to move unrestrained by "uncertainty." To my mind the man in the street has drawn no line so precise and intellectualized as this. The reaction of the man in the street is compounded of a strong measure of hope and a dash of cynicism. He believes in a new deal—this new deal, in fact. He does not believe that all the evils that vexed him will be exorcised by the magic of law. But he believes that things are better than they were and that some particular "raw deals" of the golden decade cannot be repeated. He knows that the President has tried gallantly to give him a better break and he appreciates the extent to which the President has succeeded. But he does not believe that business men are all devils and that unless crippled they will rise and smite him again. He is not concerned with abundance in the future. He wants a chance to enjoy the little additional abundance that he has now. Above all, he wants to get away from the strain of listening to so many people saying so many fierce things so many hours of the day. For the time being, he has heard enough about saving the world. * * *

The public is developing a terrific thirst for a long, cool swig of political quiescence. The danger to liberalism at such a moment is that a reactionary party will offer it a long, cool but narcotic swig of "normalcy." The Democrats can, if they will, meet the situation gracefully by the simple process of offering a quiet interlude for adjustment, education, and the taking of stock.

This is the best way for Democrats to save the precious gains they have made. They must realize that such a policy is not reaction, but rather the assurance of continued progress. They must recognize that every social crusade, from Cromwell to Wilson, has sooner or later come face to face with the stubborn refusal of human nature to rise too high or stay high too long.

"To every thing there is a season, and a time to every purpose under the heaven."

Of course, Mr. President, everybody knows who Mr. Moley is and everybody knows how close he is to the President of the United States.

On the same page is an editorial from the Herald-Journal, of Greensboro, Ga., a part of which I read, as follows:

IT IS ROOSEVELT

[An editorial in the Herald-Journal, of Greensboro, Ga.]

The Atlanta Constitution concludes a double-leaded editorial on the President's program with this paragraph:

"We repeat what we have often said, that the most urgent need of the country is relief from the uncertainty that will inevitably exist as long as Congress is in session, and that the best service the national lawmakers can render at this time is to adjourn and go home, giving the people a rest and business a chance!"

I ask that the remainder of that editorial be printed in the RECORD as a part of my remarks.

The PRESIDING OFFICER (Mr. HATCH in the chair). Without objection, permission is granted.

The remainder of the editorial is as follows:

As usual, the Constitution is not giving all sides of the picture, but is studiously trying to carry water on both shoulders.

It is President Roosevelt himself who has caused the country to have a case of jitters.

Why try to transfer the blame to Congress, to Tugwell, to Wallace, etc.?

It is Roosevelt himself who started out to fight the Supreme Court, but ran to cover when he found the reaction of the country to be in no uncertain terms that as between the Supreme Court and Roosevelt the country wanted the Supreme Court to stand.

Abraham Lincoln once said that when he took the oath to support and defend the Constitution he meant just that, and not to take the oath as a means to get into power to fight and defeat the Constitution of the United States.

Folks in Georgia and elsewhere should stay off the Federal Government pay roll before running around criticizing and attacking the motives of people who disagree with President Roosevelt.

Mr. McKELLAR. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Tennessee?

Mr. HASTINGS. I yield to the Senator.

Mr. McKELLAR. The Senator from Delaware took the President to task about the large appropriation of $4,800,000,000. A majority of the Senator's own party voted for that bill. Eleven Members on the Republican side, including the Republican leader, our esteemed friend the Senator from Oregon [Mr. MCNARY], voted for the bill as an emergency measure, and only nine Republicans voted against it. It seems to me the Senator and his party are not as one as to the benefits of that bill, which intrusted to the President the amount of money of which the Senator from Delaware complains.

Mr. HASTINGS. I may call attention to the fact, which ought to be known to the Senator from Tennessee, that I speak only for myself. Unless he has something from the record that contradicts what I have said today, I think his statement is inappropriate.

Mr. McKELLAR. I think the whole record contradicts what the Senator has said.

Mr. COPELAND. Mr. President, will the Senator from Delaware yield to me before he takes his seat?

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from New York?

Mr. HASTINGS. I yield.

Mr. COPELAND. Where I sat I could not hear all the Senator from Delaware said. He was making an argument, I assume, regarding the propriety of an increase in taxes. Did the Senator address himself to his resolution proposing a postponement of action on the tax program?

Mr. HASTINGS. That is what I tried to do. I may say to the Senator from New York that what I have said in support of that resolution was in an effort to indicate how important it is that the Congress get down to the point of trying to make "both ends meet", and that that could not be done if we tried to pass a tax bill in midsummer by staying here 3 or 4 additional weeks. That was the purpose of my argument.

Mr. COPELAND. Mr. President, I should like to say to the Senator that, regardless of any motives he may have in mind—and I assume they are lofty ones—I agree fully with his idea that Congress ought not to attempt tax legislation at the moment. This is not the way to legislate. The matter of changing our tax laws is very important. I know how agitated my State is over the subject, and if, coupled with the worry they have over the idea of changing taxes, they are to have the additional worry that the bill is to be formulated and passed in a hurry, and, therefore, that it may be careless and perhaps dangerous legislation, that will largely increase the discontent of my immediate constituents.

I am firmly of the belief that tax legislation ought to be had to balance a well-considered Budget. Yet I question if the taxation should be in the form that is now proposed, doubtless I should find myself in opposition to many of the particular taxes proposed.

Regardless of that, there is a firm conviction in my mind that we ought not to attempt such legislation at this moment. It is too important to be considered hastily; the measure should be worked out carefully.

While I spoke somewhat facetiously the other day, I speak solemnly now when I say that the Congress is not in a physical condition to deal wisely with a matter so important as are taxes. I said then that I have seen many operations spoiled when performed by tired surgeons. When we come into the field of economics, where the problems involved are so important that it is necessary to use the very clearest thinking, I am convinced that we ought not now to attempt legislation of this character.

If it were to be legislation covering last year's income, that would be one thing; but no one contends that the taxes are to be retroactive. The point is that the proposed tax law is to apply to taxes due at the end of 1935. If the committees of the two Houses, at their leisure, could work out a tax plan and present it to Congress some time next fall or early in the winter, when it could be enacted after due study and consideration, I am confident it would be very much better legislation and certainly it would be better received by the country. To force upon the country now a radical change in our tax structure would add to the uncertainty and the discomfort felt throughout the business world, and there can be no question of that almost universal feeling of discontent.

There is now some sign of recovery, and it would be, I think, a very great mistake to proceed at this moment when there is no need for haste and when by waiting a few months we would have better legislation.

Mr. HASTINGS. I thank the Senator for his observations.

Mr. COPELAND. Regardless of the motives, worthy as they are in the mind of the Senator, I wanted to say for myself, representing my particular constituency, that I think we would be better satisfied to have more considerate legislation than that which will be hastily prepared. Likewise, I repeat, I am convinced that Congress is not in the frame of mind to operate wisely and conservatively on a matter of so great importance.

Mr. VANDENBERG. Mr. President, will the Senator from Delaware yield?

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Michigan?

Mr. HASTINGS. I yield.

Mr. VANDENBERG. I should like to add to what the Senator from New York has said that there is one further consideration, a very practical one, it seems to me—and I speak in no partisan sense but in an economic sense. The Senator has emphasized the fact that the proposed new taxes are not to be collected until the middle of next March, and that their present determination in no sense will hasten or affect the actual public revenue. In other words, not a penny of prospective Federal revenue is delayed or jeopardized by a decision on the tax bill postponed until next winter after competent, adequate, and deliberative consideration.

I wish to add to the reasons the Senator has given—and I think they are cogent, unanswerable reasons—that there is no possible way that the administration can associate its new tax program with its next Budget program except as it waits until next winter; and I can think of no more fundamental fallacy than to pretend to develop and promote an adequate supplemental tax program except as it be effectively related to paying all the bills which are being incurred by the Government in respect to its obligations. The two things must be effectively related in fairness to the American people and in fairness to the American taxpayer. They must be related in simple tax honesty and tax decency.

I do not believe there is going to be serious objection on the part of taxpayers to whatever assessment is necessary in order to pay the Government's legitimate bills, although this prospectus is becoming increasingly painful. I think the American taxpayer will be willing to face this burdensome duty, provided he can know that he is buying final public solvency, that the spending spree is over, and that he is not merely pouring more money into a bottomless well. I do not think it is fair to the American taxpayer to proceed with a tax program unrelated to the Budget program. If we are still to have an unbalanced Budget in spite of new taxes, then the new taxes have failed to serve their appropriate and essential purpose.

Supplementing the observations of the Senator from New York and the Senator from Delaware, and particularly adding to the reasons advanced by the Senator from New York, in behalf of a rational, considerate, deliberative postponement of this problem, I submit that it has to be postponed in order to relate it to the problem of spending and paying. It is not enough for congressional committees merely to inquire where and how new tax revenues can be obtained. It is more necessary—and it is prerequisite—to inquire how much new revenue is required to produce a balanced Budget after waste, experiment, and extravagance have ceased. We do not and cannot know these things now. There seems to be no thought of presently making any such inquiry. We are merely to soak a few tax victims. Such process is an affront to tax logic and tax sanity. Rational postponement is both desirable and necessary.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H. R. 8632. An act to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933; and

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

COMPENSATION OF PAGES

Mr. GLASS. Mr. President, I ask that the Chair lay before the Senate House Joint Resolution 347, which has just come from the House of Representatives.

The PRESIDING OFFICER laid before the Senate the joint resolution (H. J. Res. 347) to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress, which was read twice by its title.

Mr. GLASS. I ask unanimous consent for the present consideration of the joint resolution.

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. SCHALL. I ask unanimous consent of the Senate to use the eyesight of the clerk to make some remarks upon the pending agricultural bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. PITTMAN. Mr. President, such consent cannot be granted under the rules unless by unanimous consent the rules are set aside for that purpose. This courtesy has been extended to the Senator from Minnesota on several occasions. I do not desire to take away that courtesy from him. However, one of the reasons for the rule is that it is impossible for the Senate to know what is going to be read until it is read. I am not going to object at the present time, but I reserve, during any period of the reading of the speech, the right to object to its further reading. With that understanding, I make no objection at this time.

Mr. McKELLAR. Mr. President, I make the same reservation.

The PRESIDING OFFICER. The Senator from Minnesota has asked unanimous consent that a speech by him be read by the clerk. The Senator from Nevada and the Senator from Tennessee both reserve the right to object later. Is there objection to the request of the Senator from Minnesota? The Chair hears none.

The speech of Mr. SCHALL is as follows:

DO AMERICAN FARMERS NEED A FEDERAL DICTATOR?

Mr. President, I am in favor of crop control by the farmers themselves through their own cooperative organizations, or through State and local or interstate agencies of their own direct control. But I am not in favor of extending until December 31, 1937, or for 2½ years longer, the Federal dictatorship of the A. A. A. which not unlikely may be declared unconstitutional at the next session of the United States Supreme Court.

I am in favor of an American system of crop control under the provisions of the United States Constitution and the constitutions of the respective States. I am not in favor of the Moscow system brought here from Russia by Prof. Rexford Guy Tugwell and his fellow assistant college professors, who know less and care less about the future of American agriculture than any farmer in the United States.

I am not in favor of further extending the processing taxes on farm products until December 31, 1937. Up to date, as shown by the Treasury statement, these processing taxes on farm products have aggregated $850,000,000. They have burdened every processing industry that makes a home market for American farm products. They have worked to cut down the cash returns of the farm from the crops because every bushel of grain, bale of cotton, or hog or steer is bought subject to the conditions of the tax—and the farmer pays, just as the theatergoer pays, for the nuisance tax, or as the smoker pays the tobacco and cigarette tax.

Processing taxes on food products and fiber products are pyramided through all the industrial processes and commercial transactions and pile up the living costs on 30,000,000 families, increase the difficulty of the unemployed to obtain bare existence, and force the Government to increase the doles until we have 22,000,000 public charges, or 10 times as many as in 1932.

Besides cutting down our home market for the farm, the processing taxes burden both agriculture and American manufactures and destroy the ability of American producers to compete with industry abroad.

One of the outstanding results is the increasing flood of foreign imports. We are not only losing our markets abroad, through this handicap of $850,000,000 added to American production costs, but for the first time in American history imports for the vast majority of our staple farm products exceed our exports. New England and the cotton South join in the protest against the processing tax on cotton which has brought from Japan in the present fiscal year 10 times the volume of cotton goods that came in 1932 before the processing tax cursed our textile industry.

Moreover, if the N. R. A. is unconstitutional in its attempts to control intrastate industry—and all industries are intrastate, the Court finds, up to the point when their products move in interstate commerce—what can be said for the processing taxes on farm products moving to their home primary markets or mills?

The processing taxes levied by the A. A. A. are unconstitutional not only under the commerce clause of the Constitution, but grossly unconstitutional under the taxation clause—article I, section 8:

1. The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

This power of taxation is exclusive and cannot be delegated by Congress to the President or any of his executive bureaus. The power to tax has been defined by the Supreme Court, since the day of Chief Justice John Marshall in the United States Bank case, 1819, as the "power to destroy." It is the chief power of Congress, as of parliamentary bodies in general under a national constitution. This taxation "power to destroy" is today exercised by an executive bureau, the A. A. A., and this bill, H. R. 8492, proposes to extend the power of the A. A. A. to levy unconstitutional processing taxes up to December 31, 1937.

In the 25 months of the A. A. A. to date, this executive bureau has levied $850,000,000 of processing taxes without the authority of the Constitution. In defiance of all the Supreme Court decisions since the United States Bank case of 1819, and in defiance of the decision of May 27, 1935, that we cannot delegate our legislative powers to the President and his bureaus, do we now propose to extend these A. A. A. taxes 31 months longer till December 31, 1937?

Do we propose to do this thing in the face of the reasonable likelihood that one or more of the 100 or more A. A. A. cases now pending in sundry courts may do to the A. A. A. in October what the Court did to the N. R. A. in May? We have had fair notice. We have no alibi. Before we meet again in the coming session in January 1936, we have every prospect that the A. A. A. will go the way of the N. R. A. into innocuous desuetude.

It is a shame to vote the great agricultural industry of America into the pending calamity of this A. A. A. mirage. It is like driving a caravan over the precipice in search for water that has no existence except a reflection on a floating cloud. We are presumed to have been elected to Congress to protect our respective constituencies—not to delude them to get their votes. Yet I am unable to persuade myself that there is a lawyer in Congress who does not feel, in his heart, that the A. A. A. has even less chance of a favorable Supreme Court decision, if possible than even the unconstitutional N. R. A.

The N. R. A. was unconstitutional, first, because it involved an unconstitutional delegation of the commerce power of Congress, and, second, because it involved an invasion of the Federal Government into intrastate business subject to State control. The A. A. A. is unconstitutional on both these grounds, involving the commerce power, and, furthermore, is unconstitutional as involving the chief power of all government, namely, the power to tax.

No pretense of emergency can come to the rescue of a processing tax levied by an executive bureau. Even granting an emergency, no one will pretend that the only way to meet it was to give an executive bureau the taxing power of Congress. The processing tax was a meddlesome experiment that has miserably failed, and has even created new dangers for agriculture by destroying both its home market and its foreign market and inviting a flood of imports that constitute a major menace both to agriculture and to all American industries that afford a market for farm products.

On economic grounds and on constitutional grounds, the processing taxes of the A. A. A. are both a menace to agriculture, a menace to the processing industries, a menace to

the chief powers of Congress, and a menace to the perpetuity of this Republic, built upon the "indissoluble Union of indestructible States." They aid the destruction of both the home market and the foreign markets of the American farm. They help agriculture abroad and competing manufacturing industries abroad and help to undermine half the industries at home. They increase our production costs and our living costs. They strike down the industries that employ American labor and pay American taxes. They increase the army of the unemployed, now numbering nearly 12,000,000, and increase the number of public charges, now numbered at 22,000,000. Then why vote to extend their blight until December 31, 1937?

For over two generations, ever since the original homestead acts of the Lincoln administration in Civil War days, Congress has passed laws and voted appropriations to promote agriculture as the foundation of the country's food and clothing supply. The A. A. A. provides for a Federal dictatorship to dominate and destroy agriculture.

The Treasury daily statement carries at the top of its "emergency fund" allocations the vast sum of $1,722,000,000, subject to the will of our "Russian Commissar of Agriculture" to plow under the crops, convert the pigs into fertilizer, dictate the crops and acreage, fix the farm prices, levy processing taxes, distribute the funds, and commandeer the processors and the various distributing agencies. There are 53 pages of the pending A. A. A. extension bill and over 100 sections and subsections that give the Secretary of Agriculture and his agents autocratic powers over both the farmer and the processing industries which handle the crop and distribute the finished product to the consumer.

Section after section confers upon the Secretary autocratic powers, such as the following, found on page 11:

(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title—

And so forth; or an autocratic taxing power such as the following, found on page 36 of the bill:

SPECIFIC TAX RATES

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugar cane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

Congress herewith is asked to delegate to the Secretary of Agriculture the legislative power in fixing the rate and the executive power of the treasurer, assessor, and sheriff in the levy, assessment, and collection of taxes.

Under the head of "Adjustment of rate", we read (p. 42):

And after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title, and shall, subject to such formulae, standards, and requirements, thereafter be effective.

Here the delegation of the tax power to the Secretary is as complete as under Secretary General Stalin in Moscow.

Not only have the farmer and the processor no voice in the taxes laid upon their intrastate industry but Congress itself has no voice in the tax rates which Congress alone, under the Constitution, has the power to exercise.

The taxing power and licensing power of the Secretary of Agriculture appears to be a star-chamber affair, to which even the State authorities may have access only by Federal permission. On page 49, beginning in line 10, we read:

Provided, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential—

And so forth. We are then asked to give a blanket endorsement to legalize and ratify all star-chamber tax levies made by the Secretary or by the approval of the President, as appears herewith on page 60:

(c) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed—

And so forth. We are asked to legalize, ratify, and confirm all the taxation acts of this star chamber, with no possible opportunity to know what we are legalizing.

Congress, which under the Constitution is presumed to exercise the complete legislative power, including the power to govern Federal taxation and commerce, is made by this bill a scapegoat and rubber stamp as completely as are the so-called "parliamentary" bodies of Russia, Italy, and Germany under the new deals over there—simply a "fall guy" for the star-chamber proceedings of a Federal bureau of racketeers.

We are asked, first, to authorize a dictator to ride agriculture; second, to provide a dictatorship for the government of the mills, packing houses, warehouses, and other facilities for marketing farm crops and the products thereof; third, to delegate our legislative functions to a Federal bureau with regard to power over both commerce and taxation; fourth, to legalize and ratify all the acts of this star-chamber proceeding; and, finally, to vote hundreds of millions from a Treasury deficit to aid drought, disease, and bugs to destroy agriculture, and all in the name of "agricultural adjustment" and "recovery."

Were the President to apply the A. A. A. policy of this bill to his weekly or monthly fishing expeditions his economic procedure, or modus vivendi, might be something like this:

First. He would prepare for his fishing trip by plowing under the bait supply and converting the angleworms and "shiners" into fertilizer.

Second. He would squander a huge sum on rusty hooks, broken rods, and rotten nets to reduce any possible catch of fish.

Third. He would subsidize all the fishermen likely to aid his expedition by giving them barracuda checks, trout checks, and sucker checks to bribe the fishermen to keep the fish away.

Then he would load his craft down with newspapermen, as he has the A. A. A., to concoct the largest fish stories, and direct the Government Printing Office to publish and distribute these fish stories as official executive documents.

In harmony with such policy he has already made Vincent Astor's fishing yacht *Nourmahal* the Noah's Ark of the new deal. He has also staged Henry A. Wallace as the gullible Jonah, who is trying, under his orders, to swallow the whale.

The next step is to require this Congress to ratify the fish stories, legalize all the Frankenstein foolery, rescue the expedition, and foot the bills under the White House order:

Go and fetch it! Congress! Bring it here to me, the Commander in Chief of the Army and Navy!

There was a day—a long day from March 4, 1789, to March 4, 1933, the American era of 144 years—when American farmers were freemen, the free yeomanry who fought our battles and occupied the chair of President at the White House. Under the plan of the new deal, the planned economy and planned emergency on which this Soviet measure is based, Prof. Rexford Guy Tugwell—or "Comrade Tugwell" as he is known in Moscow—points the American farmer to the European peasant as the model which he should emulate. The American farmer is presumed, under the Tugwellian theory of this bill, to submerge his rights to life, liberty, and pursuit of happiness under a Federal dictatorship which tells him what to plant, what to destroy, what price he shall get, and deliver all his rights to his own soil to a group of political professors in Washington, as completely as the Russian peasant to the Soviet General Council, or the serfs of the Dark Ages to their feudal lords.

As my mind goes back to my early days, when I milked the cows, plowed corn, and drove the harvester on the old homestead, where I began life as a farm boy with my widowed mother, in a sod shanty on Minnesota's prairie frontier, and

when I compare that life of freedom and self-reliant poverty with the condition of the Russian peasant under the Tugwell system of planned agriculture, where the farmer loses first his farm and crop, and then his liberty and his son and daughter, all subject to the rule of Moscow, I cannot bring myself to the support of a bill which sacrifices the freedom of the soil for which we have fought since the first pioneer settlement of America.

Let those who prefer the Russian system of centralized autocracy prove their faith by their works and take up the life of the Russian peasant under Moscow rule. Did you ever hear of a "collectivist", as Tugwell and Stalin call themselves, sticking to the soil of Russia longer than the time required to make a get-away? If there is one collectivist who by choice has pursued the life of a Russian farm peasant subject to the planned economy of Moscow, it is strange that the world has never heard of him. How many of the thousands of Russians who, it appears in census returns, form the leading nationality of New York City, would return to Russia if not deported? There are today in this country, the Sunday press tells us, 5,000,000 aliens embracing collectivist or communist doctrines. Even they prefer American institutions and life and liberty under an American Constitution to the serfdom of planned economy in Russia. I fail to understand why any American legislator can vote to establish on American soil a system which drives even its Russian advocates to get out of Russia and seek this land of liberty and opportunity. The remedy for this kind of bill would seem to be to deport the Tugwellites who like this kind of bill to the country where the Tugwell system belongs.

The American farmer needs no dictator. It was the plowman who, in 1776, as Emerson tells us, "fired the shot heard round the world"; and what American plowmen did in 1776 they are capable of doing again even in 1936. Next year, if we are allowed to have an election, may not be a good year for would-be dictators.

Mr. President, I am in receipt of a letter from Milo Reno, president of the National Farmers Holiday Association, which reads:

NATIONAL FARMERS' HOLIDAY ASSOCIATION,
OFFICE OF THE PRESIDENT,
Des Moines, Iowa, July 1, 1935.

Senator THOMAS D. SCHALL,
Washington D. C.

DEAR SENATOR: The proposed amendments to the triple A, stripped of all deceit, simply mean that the power of the Secretary of Agriculture will be increased.

Both the House and Senate are well aware that the decision of the Supreme Court is entirely clear, that the power to tax or interfere with intrastate business cannot be delegated by Congress or the President to a head of a department, and it is hardly understandable how this measure can be consistently passed.

The effort to protect the Government as to recovery by those who had been robbed through an illegal processing tax is a repudiation of Government responsibility that to the average American mind is unthinkable. It is still more to be regretted that, in order to excuse this perfidious proposal, that its proponents have undertaken to camouflage their real intentions through propaganda, which is to protect the Government from being looted by the big packers. This is the rankest hypocrisy. They well know, or should know, that the packers made a larger profit than for many years, and they were not especially burdened by the processing tax. They lowered the price paid to the farmer to the full extent of the $2.25 a hundred processing tax and then a slice off of the consumer as well. A careful investigation of prices paid farmers in Canada and in the United States is evidence of this fact. The only one entitled to recover is the farmer, who had too much respect for his manhood, for his American citizenship, to sign a contract making the Secretary of Agriculture his dictator, giving him complete and absolute control of his affairs; who refuses to surrender his rights guaranteed under the Constitution, to appeal to our courts for redress.

This man was fined $2.25 per hundredweight, or approximately $5 a head, for every hog he sold. It was the confiscation of his property without due process of law—unconstitutional, un-American, reprehensible in every sense. This man is entitled to recover the $2.25 a hundred of which he was robbed under the contemptible disguise of a processing tax; so the attempt that is being made, and will perhaps succeed, to immune the Government from the penalty of its sins will affect only the man who has been deliberately robbed of values he had created and given nothing in return.

I hope that the Senators from the Middle West will have the courage of their convictions, regardless of administrative pressure, and defeat this ungodly and unholy measure.

Very respectfully yours,

MILO RENO. *President.*

AMENDING AN A. A. A. ASSAULT UPON THE CONSTITUTION

Mr. President, pertinent to the consideration of H. R. 8492—the proposed amendment of the A. A. A. enactment now before the Senate—I ask permission to publish in connection with my remarks thereon two wires from Milo Reno and John Bosch, of the National Farmers' Holiday Association, and a number of press articles revealing important country-wide court developments precipitated by this bill. These articles are largely Associated Press and United Press dispatches appearing in the Washington Post and Star and the New York Times and Herald Tribune.

The attempt of this bill to legalize processing-tax levies and collections even if, as we find on page 33, line 15, "finally held invalid by reason of any provision in the Constitution", and to declare such tax levies lawful, as we find in page 33, lines 16 to 20, even if "finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him", has started a host of suits in Federal courts in all the States where food products are milled or processed and in something like 50 leading cities where grain, livestock, or textile products are manufactured.

In my own city of Minneapolis week before last six restraining orders were granted in United States District Court by Judge Molyneaux against collection of processing taxes, the industries affected including flour milling, sundry cereal foods, and newsprint. Something like $2,000,000 of processing-tax collections are tied up in court.

In Chicago, twoscore small packers joined an uprising of textile manufacturers and millers seeking injunctions to be heard in the Federal courts on Monday. They seek both to bar the July 1 collections, and also ask for rebates on past payments held to be illegal under the recent N. R. A. decision in the "sick chicken" case.

Similar cases have arisen in the Federal courts at Indianapolis; New York; Louisville; Salina, Kans.; Philadelphia; Rochester, N. Y.; St. Paul, Minn.; Davenport, Iowa; likewise Dubuque and Fort Dodge, and several in St. Louis and Kansas City. In Sherman, Tex., a temporary restraining order has been granted against collection of tax in a wheat-milling case. In San Francisco cases have been filed by packing companies. In Washington, D. C., the American Newspaper Publishers Association seeks "compensating taxes" on imported newsprint.

There is nothing surprising in this sudden flood of new cases against the A. A. A. to anyone who has carefully read the 53 printed pages of this bill, and especially those provisions which seek to invade the judiciary powers of the United States and declare lawful the provisions held by the Court to be unconstitutional, and to legalize the Executive acts held by the Court to be illegal.

In addition to the hundred or more pending cases brought by the textile industries of the North and South Atlantic States, we may see during this or the coming week several hundred new cases, which the pending bill, which should be entitled "A bill to annul the judiciary powers of the United States and deprive citizens of the rights guaranteed in the fifth and tenth amendments, including the right of due process of law", has inspired throughout the agricultural and industrial States wherever a factory offers the farm a home market.

The original A. A. A. measure raised enough questions of constitutionality. Besides the question of invading the intrastate commerce of the State and seeking to control local industries, such as the farms, mills, warehouses, and stores—in other words, the issued settled in the N. R. A. decision—the A. A. A. raised the even greater issue of a bureau exercising both the tax power of levying and collecting process taxes and the disbursement power by distributing the collected revenues to other producers.

This amendatory A. A. A. bill raises at least two more questions of constitutionality. First, it seeks to invade article III of the Constitution, which provides:

> The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

The bill provides that the processing tax shall be legal, and that refunds of illegal taxes may not be recovered by due

process of law, notwithstanding the fact that the taxes shall be "finally held invalid by reason of any provision of the Constitution."

It defies the courts, it seeks to annul the rights of citizens for a day in court, and it defies the Constitution itself. It seeks to set up the racketeers of the A. A. A. as superior to the judiciary power of the land.

This bill asks Congress to legalize illegal acts and ignore article V of the Bill of Rights if these illegal acts are committed by the Secretary of Agriculture and his A. A. A. dictatorship. And the victims of the illegal acts are to be deprived of a hearing in court. The Secretary of Agriculture in this bill seeks not only the legislative power of levying taxes and the executive authority to collect and disburse taxes but a superjudiciary power to set aside the powers and jurisdiction which the courts of America have exercised for 146 years.

Consistently the bill should go one step further and give Wallace and his A. A. A. crowd of deputy sheriffs a jail and hangman's noose and a central office off in some safe mountain district, where the gold hoard of Washington, nearly half the gold of the world, is about to be stored under military guard against citizen raids, and after chaos, riots, and revolution have been put down it ought to come in handy to cement the dictatorship of F. D. R. (Fabian-deal Roosevelt).

In order to popularize this high-handed measure a pretense is made of cooperation with "State and local committees" and "to permit cooperative associations of producers." But please read this section of the bill closely, and see if there is anything there but a paternalistic pretense. Read this language on page 46, line 24:

(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8.

In other words, cooperative associations have no initial powers whatever. All they are allowed to do is to act as messengers in the "distribution of payments" if and when in Wallace's "judgment they are qualified to do so."

All that amounts to is this: Wallace's Pullman-car crowd of paid politicians will get the job of passing out the checks which Wallace sends out from Washington. No genuine cooperative associations of local origin, independent of Washington, have any powers under this bill. He will name the "State and local committees." He will permit them to distribute checks "when in his judgment they are qualified to do so." And, of course, they will not be "qualified to do so" unless they follow the political orders of James Aloysius Farley. This "cooperative" provision begins and ends with Federal political association, as, indeed, is the whole present design of the A. A. A.

The successive steps of unconstitutionality involved in this bill proceed as follows:

First. The tax power of Congress, which John Marshall termed the "power to destroy", is delegated to the Secretary of Agriculture and his fellow legislators of the A. A. A., who may impose such levy of processing taxes as he in his omniscience may determine.

Second. Having concluded his legislative job of fixing the tax levy, he proceeds with the executive duty of assessment and collection.

Third. He now assumes a second legislative function, namely, the appropriation and allocation of the collected taxes—taking money from Peter to pay Paul—increasing the production costs of every mill and factory that provides a home market for the farm, and finally passes the whole amount of taxes and administrative costs on to the consumer, namely, the wage earners, employed or unemployed, and the 30,000,000 homes.

Fourth. The amended bill before us then seeks to set aside and annul the powers of the courts and deprive citizens of their constitutional rights under the fifth amendment, which provides that no citizen shall be "deprived of life, liberty, or property without due process of law."

Fifth. The bill likewise ignores the tenth amendment, which provides:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Sixth. In order to forestall any appeal to the courts to seek justice against unlawful seizure of property and against collection of taxes held to invalidate the Constitution, this bill invades the judiciary powers and the civic rights of the fifth amendment in section 21 of the bill, found on page 44, as follows:

SEC. 21. (a) No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed.

This section, if not an ex post facto law per se, and therefore prohibited by the Constitution, is so near the line that it may help to swell the mass of cases now springing up like mushrooms all over the United States against the high-handed provisions of a measure that has no counterpart in the history of republican government.

Section 21 then proceeds through subsections (b), (c), (d), (e), (f), and (g) for five pages of doubtful constitutionality, and winds up with a penalty provision providing that "any false statement" in securing a "refund of any tax" shall be punishable "by a fine of not more than $1,000 or by imprisonment not exceeding 6 months, or both."

The judge of the false statement regarding the amount of tax due is the Commissioner of Internal Revenue. Then comes this interesting limitation upon the functions of the Comptroller General of the United States, apparently prohibiting the Comptroller from reviewing the fact of the payment of the tax. I refer to pages 48 and 49:

Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue.

Thus the heads of two executive offices, the Secretary of Agriculture and the Commissioner of Internal Revenue, are made supreme in their combined legislative and judicial powers. Levy and collection of taxes, the finding of guilt of "false statement" in securing refund of tax, and the fine of $1,000 and 6 months' imprisonment follow their decisions. And no suits can be brought to show the illegality of their official acts. Hitler, Mussolini, or Stalin could not write a bill more to his taste than this.

The advance "whitewash" of all illegal acts—which may logically be termed the "permanent immunity" paragraph—is found in section 21 (c), which reads as follows:

(c) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

A large amount of space could be saved if this section were reduced to the following six words:

The king can do no wrong.

It is here made unlawful for the court to construe illegality to any unconstitutional or illegal act of the Secretary of Agriculture or the President. Other acts of Congress stand the

gantlet of court review, but the taxation power of the new deal's "King John" is so far above that surrendered by his British predecessor at Runnymede in 1215 that no court shall construe to the contrary, and it shall be unlawful for any victim to plead the fifth amendment in demanding due process of law in defense of liberty and property.

The Senate will do well to put a quietus upon this proposal of autocratic tyranny before the country is torn up with strikes and riots, "holiday" raids, martial law, and impeachment trials. The President proposes to double the ranks of his C. C. C. shock troops, although last year the C. C. C. cost $100,000,000 more than the Regular Army. With the expanded 600,000 of the C. C. C., the sheriffs of the A. A. A., and the Army and training-camp Reserves, all told, together with such State militias as he may be able to muster, he will have a combined military force practically equal to that of Mussolini or Hitler—but he will need them all if such bills as this are foisted upon the American people by usurpation of the legislative power of Congress, by annulment of the judicial power of the courts, and defiance of the rights alike of the States and of their citizens under the Constitution.

These $880,000,000 of processing taxes, levied by the A. A. A. bureau by an unconstitutional delegation of legislative power to the President, have so thoroughly destroyed the ability of American farms and manufacturers of agricultural products to compete with like industries abroad that this country is now, for the first time in history, flooded with imports of all foreign products having an agricultural content.

During the first quarter of this year alone, as reported on Saturday, June 29, by the United States Chamber of Commerce, agricultural imports, including manufactured foodstuffs, reached the maximum figure of $496,000,000, or at the rate of nearly $2,000,000,000 of imports annually in a country whose exports of agricultural products once totaled $3,000,000,000.

Imports of grain and meat and dairy products exceeded exports in all the staple articles which once developed the 12 States of the Middle West. Under the A. A. A. we have squandered over $1,000,000,000 of public funds to help drought, weeds, dust, bugs, and disease destroy the greatest agricultural empire on the globe. We have reversed the aims of a century to make two blades of grain grow where one grew before, and helped disaster grow one blade where two grew before.

By unconstitutional delegation of the legislative power of Congress, a "Step-and-fetch-it" Congress has delivered the tax power to an executive bureau to levy a tax burden of $880,000,000, which has "cracked down" the greatest market on the globe—the American home market, to which every country on earth, unburdened with processing taxes, looks with glee, while our own once independent and self-reliant farm yeomen are living like serfs on the doles of their feudal lord in Washington.

There can be no national recovery unless and until, first, we repeal the processing taxes; second, permit industry its freedom from political domination; third, restore the guarantees of our Constitution to the 128,000,000 Americans of our 48 sovereign constituencies—that "indissoluble Union of indestructible States", which until this new deal was known as the American Republic.

This bill in itself is a confession, first, that the A. A. A. is invalid and a violation of the Constitution; second, that the acts of the Secretary of Agriculture and his A. A. A. "shock troops" are illegal; third, that the taxes levied and collected by them cannot look a judge in the face.

Otherwise, why section 21 (a), providing that "No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, or refund" of taxes levied by the Secretary of Agriculture and/or the President?

Why section 21 (c), providing that all taxes imposed hitherto by the Secretary of Agriculture and/or the President are "hereby legalized and ratified and confirmed"? Lawfully collected taxes need no such whitewash immunity.

Why is it made a crime to construe illegality to "any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment"? Never before have the courts of the United States been debarred from reviewing the legality of the acts of public servants. If Federal activities under the A. A. A. are lawful, they need no law to prohibit their review by the courts.

Why is the Comptroller General of the United States "directed" to certify payment of amounts scheduled to him by the Commissioner of Internal Revenue, "without review of the fact of the payment of the tax"?

The Comptroller General of the United States is an officer of Congress. It is his lawful duty to "review the facts" of tax-refund payments. That was one of the chief functions of the office—to check the financial operations of the Executive departments to see that they conformed with the law. This attempted prohibition upon the freedom of the Comptroller General is in itself an admission that the acts of the executive bureaus in the levy and collection of processing taxes will not stand public scrutiny. We have here a "planned" alibi and immunity set up in advance of the fiscal crime.

This bill affords the best proof yet advanced to warrant the indictment that the purpose of the new deal is to legalize unlawful acts; to impose upon the country by force of ballyhoo and subsidy foreign policies abhorrent to our Constitution; to substitute a Federal autocracy for a Republic; to substitute "government of men" for what Tugwell calls the "fiction" of "government of laws."

If we are true to our oaths to uphold the Constitution, if we would not see in this country what we have seen happen under Mussolini, Hitler, and Stalin in Europe—the abolition of the Constitution and Bill of Rights—we shall vote to kill this bill.

Mr. SCHALL. Mr. President, I ask unanimous consent that the newspaper items and editorials to which I referred in my speech be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The newspaper articles and telegrams are as follows:

[From the New York Herald Tribune, June 29, 1935]

SMALL PACKERS JOIN FIGHT ON A. A. A. TAXES—NEARLY 40 MINOR FIRMS SUE TO BAR FURTHER PAYMENTS; SOME ASK REFUNDS

CHICAGO, June 29.—The "Big Four" held to the sidelines tonight as nearly twoscore smaller packing concerns joined an uprising of textile manufacturers and millers against A. A. A. processing taxes.

With the next installment of the collections, from which farmers are paid corn, hog, and cotton benefits, due July 1, several of the injunction proceedings seeking to bar further tax payments were scheduled for hearing in Federal courts over the country on Monday.

Some of the concerns ask a refund of taxes already paid. Government officials have estimated that nearly $900,000,000 in processing taxes have been collected to date.

At Washington Farm Administration authorities scoffed at the triple-headed attack on the taxes and charged rumors of widespread strikes contemplated against their payment were spread by opponents seeking defeat of A. A. A. amendments.

The big Chicago firms of Armour, Wilson, Cudahy, and Swift, which turn in approximately $1,000,000 a month to the A. A. A., took no steps toward withholding any sums due. Swift & Co. announced it "would pay all processing taxes due at the end of June for which extensions have not been granted."

Firms which have begun actions included Kingan & Co., of Indianapolis; Adolph Goebel, New York; Louisville Provisions Co., Louisville; Butzer Packing Co., Salina, Kans.; F. G. Vogt & Sons, Philadelphia; the Rochester Packing Co., Rochester; J. R. McMillan Co., St. Paul; Kohrs Packing Co., Davenport, Iowa; the American, Heil, Krey, and Laclede packing companies, of St. Louis; J. H. Belz Provisions Co., St. Louis; Dubuque Packing Co., Dubuque, Iowa; and Tobin Packing Co., Fort Dodge, Iowa.

MILLERS GET INJUNCTIONS

MINNEAPOLIS, June 29.—Six temporary restraining orders were granted in United States district court today by Judge Joseph W. Molyneaux against the collection of processing taxes. Five of the temporary orders were obtained by milling companies and the other by a paper company. They tied up taxes to have been paid to the collector of internal revenue today amounting to approximately $1,327,728.

The restraining orders were granted by Judge Molyneaux to Gold Medal Foods, Inc., a subsidiary to General Mills, Inc., which was to have paid $17,862.92; International Milling Co., with a payment of $269,814.20; King Midas Milling Co., $100,301.46; Russell-Miller Milling Co., $165,832.67; Pillsbury Flour Mills Co., $768,101.65; and the Harvey Paper Mills Co., $5,816.04.

Hearings were set for 10 a. m., July 8, when arguments will be heard on the requests for temporary injunctions. In practically

all of the requests for relief against the processing taxes, violations of the Constitution were claimed.

[From the Washington Star, June 29, 1935]

MILLIONS INVOLVED IN LEGALITY CONTEST—UNITED STATES CLAIMS LAW PREVENTS EFFORT TO STOP PAYMENTS UNTIL SUPREME COURT TEST

CHICAGO, June 29.—Packers and millers joined cotton manufacturers today in a rebellion against the processing taxes of the administration's Agricultural Adjustment Act.

A survey showed some 35 packing houses had filed petitions for injunctions to restrain collection of the hog processing tax with the next installment, due on July 1.

General Mills, Inc., with headquarters in Minneapolis, joined the attack by filing a similar suit in Buffalo, N. Y., seeking to restrain collection of the Federal wheat-processing tax.

The packers were reluctant to discuss the suits, but it was explained that they are intended to lift the tax until the Supreme Court rules on the validity of the A. A. A. Privately, attorneys for the Chicago packers have been predicting a defeat for A. A. A. since the Court's N. R. A. ruling.

HEARING DUE MONDAY

Many of the injunction proceedings are scheduled for hearing Monday, and a victory for the processors would tie up taxes totaling hundreds of thousands of dollars, although the big Chicago packers, who pay $250,000 a week, do not figure in the fight.

Among the bigger packing firms which have taken the taxes to court are Kingan & Co., of Indianapolis; Adolf Gobel, New York; Louisville Provision Co., Louisville, Ky.; Butzer Packing Co., Salina, Kans.; F. G. Vogt & Son, Philadelphia; and the Rochester Packing Co., Rochester, N. Y.

Also asking injunctions to halt collection of the processing taxes are three Iowa firms—the Tobin Packing Co., Fort Dodge; the Kohrs Packing Co., Davenport; and the Dubuque Packing Co., Dubuque.

In the St. Louis area alone suits on file would tie up collections of more than $1,000,000. Firms seeking injunctions include Heil Packing Co., Krey Packing Co., Laclede Packing Co., J. H. Belz Provision Co., and the American Packing Co.

DENY TAX RESTRAINT POSSIBLE

The Government has answered the St. Louis suits with the claim that Federal statutes prohibit the maintenance in any court of a suit to restrain the collection of Federal taxes. A similar answer has been filed to a suit by the Scala Packing Co., Utica, N. Y., over $17,702 in processing taxes.

The Chicago packers generally said they would pay the July 1 installment and await developments in the court fight.

Cotton processing taxes are under fire in a $2,500,000 action filed by the Amoskeag Manufacturing Co., seeking to recover taxes already paid.

The packers' suits do not seek recovery, it was explained, since to win would subject the houses to a flood of similar suits for farmers and consumers.

Washington offices of the A. A. A., the Justice Department, and the Internal Revenue Department said a complete list of suits filed and money involved was not available.

A. A. A. WINS ROUND

The A. A. A. tax program, however, has already won an initial victory in the tax fight. This came when Federal Judge Albert L. Reeves, of Kansas City, recently dismissed a petition of the Larabee Flour Mills protesting the processing tax and asking an injunction restraining collection of the wheat processing tax. At the same time the court refused to rule on the constitutionality of the A. A. A. program.

But another Federal judge, Judge William H. Atwell, at Kansas City last Wednesday granted a temporary injunction to the G. R. Smith Milling Co., of Sherman, Tex., restraining the Government from collecting the Federal processing tax on wheat in the Kansas City district.

The milling company attacked the tax on the grounds it violated the fifth and tenth amendments to the Constitution. The case will be tried September 19 on its merits. The company posted $125,000 bond to guarantee payment of the tax if it is proved to be legal.

OVER $496,000,000 FARM PRODUCTS IMPORTED—UNPRECEDENTED FIGURE FOR FIRST QUARTER OF THIS YEAR REPORTED BY CHAMBER OF COMMERCE

Unprecedented importations of agricultural products during the first quarter of this year were reported today by the Chamber of Commerce of the United States.

An analysis issued by the organization said import trade for the quarter was the heaviest in 4 years, value of the goods moving inward amounting to $496,000,000.

Heavy imports of materials for industry and some agricultural products attracted to the United States by drought needs and high internal prices were described as "prime factors" in the increase.

[From the Washington Post, June 29, 1935]

FOOD INDUSTRY ALLOWED WRITS IN WAR ON A. A. A.—TEMPORARY RESTRAINT PUT ON PROCESS TAX BY UNITED STATES COURT IN WEST

CHICAGO, June 29.—The Nation's food industry, striking as if by prearranged signal, revolted in the courts today against the new deal's A. A. A. processing taxes from which huge benefits are paid to farmers.

The revolt, which began brewing after the Supreme Court's invalidation of N. R. A., threatened the nucleus of the administration's agricultural recovery program.

General Mills, Inc., largest milling company in the world, and four other concerns obtained temporary restraining orders in Federal court at Minneapolis against further collection of the A. A. A.'s processing taxes.

Other suits will be filed in scattered parts of the country, it was announced.

The packing industry was reported mobilizing for a Nation-wide campaign against the tax on meat packing which pays to the Government benefits given stock raisers. Several scattered injunctions against this division of the tax already have been granted.

Companies in addition to General Mills making application for temporary writs were Pillsbury Flour Mills Co., Russell Miller Milling Co., International Milling Co., and King Midas Mills Co.

In adjoining St. Paul the J. T. McMillian Co. filed a petition in Federal court asking an injunction against further collection of the processing tax on pork.

At Des Moines a joint suit by two meat packers challenging constitutionality of the hog-processing taxes was filed in Federal court by the Korhs Packing Co., of Dubuque, Iowa, and the Davenport (Iowa) Packing Co.

All the suits charged that the tax was unconstitutional because it levied taxes on one class of citizens for the benefit of another. Many lawyers have argued since the Supreme Court's N. R. A. ruling that the A. A. A. is equally illegal.

The first of the General Mills' many subsidiaries to file suit for an injunction was the Washburn Crosby Co. at Buffalo. More than a dozen other similar actions followed in quick order.

A significant gesture toward the Treasury's staff of hard-boiled tax collectors was the reply of Farm Administration officials to talk of a general strike against processing-tax payments.

A. A. A. spokesmen said processing taxes were in the same classification as all other Federal taxes, and that willful failure to pay would make the processors liable for heavy penalties.

But it was reported that many processors have applied to the Government for postponement of payment, hoping to see the tax declared invalid by the Supreme Court.

Under the A. A. A. Act, the Secretary of the Treasury may grant postponements of processing-tax payment for 180 days.

The office of Secretary of Agriculture Wallace announced officially that no reports have been received of a wholesale failure to pay the disputed tax or of any general strike against payment.

[From the New York Times, June 29, 1935]

A. A. A. BILL MODIFIED TO AVOID N. R. A. FATE—SENATE GROUP REVISES AMENDMENTS FOR CONSTITUTIONAL SAFETY AND TO AVERT TAX SUITS—EXPORT SUBSIDY DROPPED—MEASURE DROPS MANY HOUSE PROVISIONS—WRITS HALT $2,000,000 COLLECTIONS

WASHINGTON, June 29.—Revised in an effort to meet possible constitutional objections and carrying a provision designed to block suits to recover processing taxes, the A. A. A. amendments bill today was ordered favorably reported by the Senate Agriculture Committee.

This new-deal measure to give Secretary Wallace broad authority to "order" controlled marketing under growers-processors' agreements is slated for Senate action next week.

Withdrawn hurriedly from Senate consideration when the Supreme Court's N. R. A. decision was handed down, the measure was rewritten, passed by the House, and revised again by the Senate group.

"The feature of the bill, which I believe reconciles it to the decision of the Court in the N. R. A. case, is that all its provisions are made to apply only in reference to interstate commerce", Chairman SMITH, Democrat, of South Carolina, said. "Their effectiveness in intrastate affairs is made possible only by the cooperation of the States in providing the necessary laws and machinery and government to carry on in the State the control provisions the Federal Government has in interstate commerce."

Recently scores of processors have filed suits against the Government for recovery of millions paid in processing taxes. As revised, the measure provides that no suits may be filed against the Government for any operation of the law up to the time of the passage of the amendment bill.

It also is designed to shut out suits for any amounts claimed by some growers to have been collected in excess of parity prices the measure seeks to establish.

Chairman SMITH said the limitation was justified because it was evident that in such cases the tax would already have been passed on to the consumer or deducted from the price paid the grower and that there would be no justice to such suits filed by processors.

As a limitation on any further excess processing taxes, the committee amended the bill to provide that when any farm commodity under the tax schedule is brought up to parity, or near parity, the tax may be reduced or abolished. Its restoration would be permitted only in the event the price sagged. Heretofore the tax has been fixed by the Secretary of Agriculture, subject to little change.

The committee attached a "compensatory tax" on "rayon and all fiber that in physical quality competes with cotton." An extra 25-percent levy was attached, Mr. SMITH explained, because a pound of rayon compared in its cloth-producing ability with more than a pound of cotton.

Provisions permitting the Secretary of Agriculture to use 30 percent of the Nation's customs receipts in financing export of surplus farm commodities and giving regional groups of citrus growers the power to pull out of any control agreement, were stricken out by the committee.

EXPORT PLAN HELD A PERIL

At one time a supporter of the customs receipts export subsidy provision, Mr. SMITH said the committee had been convinced it would work to the detriment of American farmers and processors, particularly in the case of cotton.

"That," he said, "would be inviting disaster."

The citrus-fruit amendment originally was attached at the insistence of Senator FLETCHER, Democrat, of Florida, because some Florida growers objected to quota restrictions sought by California and Rio Grande growers.

Fruits intended for canning were exempted by the bill as passed by the House but restored by the Senate committee. Added also to the list of "controllable" crops were poultry and eggs, wool and mohair. The latter two had been deleted by the House.

Other provisions of the revised bill include:

1. To authorize the Secretary of Agriculture to order marketing agreements for handlers of milk, tobacco, fresh fruits (except apples), fresh vegetables (except those for canning), soy beans, walnuts, pecans, hops, poultry, eggs, wool, and mohair provided 50 percent by volume of the handlers in a given class or region agree with it or if two-thirds of the farmers desire it. Milk is subject also to price fixing and milk retailers to "orders."

2. To permit crop control to move up or down, rather than merely downward as under the present A. A. A. Act.

3. To permit the President to fix quotas or compensating taxes on imports he finds are depressing domestic farm products below the determined "parity prices."

WOULD EXTEND SUGAR QUOTAS

4. To extend the Jones-Costigan Sugar Quota Act from May 9, 1937, to December 31, 1937, and to extend the Bankhead Cotton Control Act and the Smith-Kerr Tobacco Control Act through another crop year.

5. To permit refunds of taxes paid on floor stocks in event the processing tax is dropped.

6. To authorize the Secretary to maintain an ever normal granary by buying up surpluses in bumper years and redistributing to the farmers in lieu of benefit payments in lean years.

7. To promote State cooperation in carrying out for intrastate commerce what is intended by the Federal act for interstate commerce.

To meet complaints that some of the cooperative marketing organizations were merely private merchandising arrangements, the bill was amended to provide that Government loans would be extended to such groups only where 50 percent of the commodity they handled was provided by its members.

PRESS AMENDMENTS ABSENT

WASHINGTON, June 29.—Absent from the draft of the A. A. A. amendments bill, as approved by the Senate committee today, were the freedom-of-the-press amendments proposed by the American Newspaper Publishers' Association, which would have prevented the levying of any compensating taxes on imported newsprint and provided that nothing in the A. A. A. amendments was to be construed as carrying authority to regulate advertising.

Called a "compromise" by some agricultural officials, the Senate tax provisions are calculated to bring about an almost immediate reduction in levies on tobacco and a curtailment of that on hogs and other basic commodities later.

Meanwhile Seth Thomas, counsel of the A. A. A., in a statement late today advised processors that it was unnecessary for them all to rush into court with suits against the A. A. A. to safeguard their legal rights. Chester Davis, A. A. A. Administrator, said he was giving wide publicity to the opinion, since many honest manufacturers undoubtedly feared they would lose out if they did not file suit.

Under the new bill a processing tax of 30 cents a bushel would become effective August 1 on rye, together with taxes of 35 cents a bushel on flaxseed and 25 cents a bushel on barley.

CHANGE IN HOG-CORN PROVISION

Among the several House bill provisions stricken out by the Senate group was one which would have included permission to treat hogs and field corn as one commodity, so that tax collections on pork processing might be used to make benefit payments on corn-production control. Another deleted provision would have required that benefit payments for each commodity be not less than the processing taxes levied thereon.

The new processing tax formula adopted in the Senate committee would provide that when prevailing farm prices surpassed parity prices by 20 percent the processing tax would be at the rate of 20 percent of the parity level. Should the prevailing price go to more than 20 percent above parity the processing tax would be cut to 10 percent. Parity prices are defined as the difference between the current exchange value of such commodities and those prevailing from 1909 to 1914.

The Nation-wide court tests on the legality of the processing taxes, based partly upon charges of an unwarranted delegation to the Secretary of Agriculture of legislative power, indicate a bitter controversy when the new amendments are taken up in the Senate.

An extended controversy between the Senate and House conferees also was foreseen by some observers today as the result of the deletion of important provisions insisted upon by the House Agricultural Committee.

BIG MILLERS WIN TEMPORARY WRITS

CHICAGO, June 29.—A series of temporary orders restraining collection of nearly $2,000,000 in processing taxes tonight marked a new development in the battle of big millers, textile, and packing concerns to overturn the A. A. A.

Temporary injunctions issued by Federal Judge Joseph W. Molyneaux at Minneapolis at the request of five large milling firms and one paper concern, prevented collection of nearly $1,500,000 and set the site for one of the leading assaults on the statute for that jurisdiction.

The Federal revenue collector for Oklahoma likewise was temporarily restrained against collecting wheat-processing taxes on petition of three milling and elevator firms at Oklahoma City.

The Minneapolis actions were brought by Gold Medal Foods, Inc., a subsidiary of General Mills, Inc.; International Milling Co.; Russell-Miller Milling; King Midas Milling Co.; Pillsbury Flour Mills Co.; and the Harvey Paper Mill Co. They charged generally that the taxes were unconstitutional, and hearings were set for July 8.

The Pillsbury petition said it owed $768,101.65 in taxes, the largest single amount involved.

In a score of other jurisdictions, suits by nearly twoscore packing firms as well as by other millers and textile manufacturers were pending. The "Big Four" Chicago packers, however, were on the sidelines in the fight.

NEXT INSTALLMENT DUE JULY 1

With the next installment of the collections, from which farmers receive corn-hog and cotton benefits, due July 1, several of the injunction proceedings seeking to bar further tax payments were scheduled for hearing in Federal courts over the country Monday.

Some of the concerns ask a refund of taxes already paid. Government officials have estimated that nearly $900,000,000 in processing taxes have been collected to date.

The big Chicago firms of Armour, Wilson, Cudahy, and Swift, which turn in approximately $1,000,000 a month to the A. A. A., took no steps toward withholding any sums due.

Swift & Co. announced it "will pay all processing taxes due at the end of June for which extensions have not been granted."

For the suing packers, it was said unofficially in trade quarters here that the petition of the Rothblum Packing Co., filed in San Francisco yesterday, probably summarized the general stand.

The Farm Administration won one action brought by the Larabee Flour Mills when the Federal court at Kansas City dismissed the company's petition for an injunction, but lost a later action before another Federal judge. The second judge granted the Smith Milling Co., of Sherman, Tex., a temporary order against collection of the wheat-processing tax in that district.

DES MOINES IOWA, *July 1, 1935.*

Senator THOMAS D. SCHALL:

Triple A amendments increase Secretary's power as agricultural dictator and should be defeated. The proposal to protect the Government from paying back what it has unconstitutionally obtained, through processing taxes, is most reprehensible. The millions of dollars taken from the farmer who refused to sign a contract that made of him a slave is entitled to recover.

MILO RENO.

ST. PAUL, MINN., *July 2, 1935.*

Senator SCHALL,

Senate Office Building, Washington, D. C.:

Minnesota Farmers Holiday Association opposed to A. A. A. amendments. Particularly the attempt to deprive farmers who refused to sign A. A. A. contracts of constitutional right to recover losses as result of processing tax.

JOHN H. BOSCH.

HURLEY BERATES ADMINISTRATION ON SUBTERFUGE—TELLS G. O. P. GROUP "ATTACK ON CONSTITUTION IS SIGNIFICANT"

CHICAGO, July 10.—The Democratic Party was accused today by Patrick J. Hurley, Secretary of War under President Hoover, of attempting to change the Constitution by subterfuge and of repudiating both its 1932 platform and the preelection promises of President Roosevelt.

In a speech prepared for delivery to a Republican meeting at the Hamilton Club, Hurley declared, "when we do come out of the depression it will not be because of the new-deal policies, but because the new-deal policies have been defeated.

He called upon the Republican Party to lead the revolt of the people against coercion, and said the final defense of the Constitution must be made at the polls.

"The attack of the new deal upon the Constitution is significant", he said. "Certainly it would be easier for a dictator to govern America under a collectivist form of government than under a democracy. * * *

"The attempt to centralize the Government and make it the master of the people has not been completely stopped by the decisions of the Supreme Court. The same Machiavellian language is still being used in the preamble of every act of Congress introduced by the 'new dealers' for the purpose of circumventing the Constitution, while appearing to operate under it.

"The Constitution should not be changed by subterfuge. If it is to be changed, the people have a right to consider the proposed changes and to approve or reject them."

Touching on Democratic promises, Hurley said, "The Democratic Party has repudiated the preelection declarations of its leader, the President. It has repudiated that statesman-like document known as the 'Chicago platform.' What promises can the Democratic Party now make to the people that can reasonably be believed and relied upon by the people?"

Hurley declared that, counter to promises, the new deal "created the greatest bureaucracy in the history of this Republic, created the most stupendous debt in the history of our Nation, and created the greatest deficit our Government has ever had."

Mr. DICKINSON obtained the floor.

Mr. LEWIS. Mr. President, I ask the Senator from Illinois to yield in order that I may offer an amendment to the pending bill.

Mr. DICKINSON. I yield.

Mr. LEWIS. I tender an amendment to the pending bill with the understanding with the Chairman of the Senate Committee on Agriculture and Forestry, in charge of the bill, that the amendment shall lie upon the table for the time being, or be placed in the bill at such point as may be wholly convenient in the arrangement of the proposed legislation. The amendment I tender, if I may be pardoned to intrude further upon the time of the Senator from Iowa, is to cover the production of cotton in Illinois. I may say that the subject of the amendment was accidentally omitted to be presented for consideration by the committee in making up the bill. I have submitted the amendment to the chairman of the committee, and he understands its purpose. I now tender the amendment, which has already been considered in connection with the House measure and has already passed in the House. I ask that this amendment be placed in the bill at such convenient point as will not disturb the harmony of the committee's program in connection with the bill.

Mr. SMITH. Mr. President, I have looked over this amendment and I think it is very pertinent. So far as I am concerned, as chairman of the committee, I should like to have it added at the proper place, or as an independent section, because I think it ought to be in the law.

Mr. KING. Mr. President, I have no objection to the amendment being tendered, but I object to it being inserted in the bill.

The PRESIDING OFFICER. Without objection, the amendment will be printed and lie on the table.

Mr. COPELAND. Mr. President, may I ask what the amendment relates to?

Mr. KING. The production of cotton in Illinois.

Mr. COPELAND. We do not raise any cotton in New York.

The PRESIDING OFFICER. The amendment will be printed and lie on the table for future action.

Mr. DICKINSON. Mr. President, the Senator from Minnesota [Mr. SCHALL] has made reference to the sections of the bill which I desire to discuss for just a few moments. I refer first to section 32, on page 57 of the bill. I read the language beginning on top of page 58:

> No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector—

And so forth. I now read from a provision found on page 59, subparagraph (b), as follows:

> (b) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act—

And so forth. On the next page is subparagraph (c), which provides that all acts of the Secretary of Agriculture—

> Are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed—

And so forth.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. COPELAND. Is all this material new to this bill? Is there nothing in the present law which is in accord with the provisions referred?

Mr. DICKINSON. Absolutely nothing. This is a new amendment. The report says:

> Section 32 also proposes to add a new subsection, 21 (d).

That adds to the original act a new section, 21 (d), which prohibits the bringing of suits for refund or credit of any taxes paid under the act prior to the adoption of the amendment or for damage on account of their collection.

Mr. COPELAND. May I ask the Senator, does that mean that the courts are closed to citizens of the United States who might have a claim otherwise?

Mr. DICKINSON. That means that we are proposing to adopt a policy whereby provisions of that kind are going to be imposed upon the individuals and the business interests of this country; and on top of that, if an unlawful, an unconstitutional, act has been committed, affecting any individual, that act is legalized, and, therefore, there is no recourse to the courts. We might just as well abolish the Department of Justice and close the courts, so far as the Agricultural Adjustment Act is concerned, if this provision goes into the law.

Mr. SMITH. Mr. President, will the Senator allow me to make a statement there, since he has raised the question?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. DICKINSON. I yield.

Mr. SMITH. In case the Supreme Court should declare the processing tax unconstitutional, does the Senator think, if a processor who paid the tax and either subtracted it from the price paid to the producer or added it to the price for which he sold the commodity to the consumer, that, in equity, the processor should be entitled to recover a tax which he, himself, has already passed on to the numerous individuals who have either bought the commodity, on the one hand, or have sold the raw material, on the other hand?

Mr. DICKINSON. Let me say that it is my belief that there has been a deliberate effort on the part of the present administration to prevent much of this unconstitutional legislation ever reaching the Supreme Court for a delayed length of time. That being the case, there was no way by which a man who had this tax imposed upon him could really find out what his remedy was. Therefore he had to run the risk; and he has run the risk.

I am not so much interested in that phase of it as I am in the phase of it under the provision of subsection (b) which provides that an individual who has a processing tax imposed upon his business cannot go into court and ask for an order restraining the collection of that tax, and that all taxes are legalized, including penalties, interest, and so forth.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. DICKINSON. Yes.

Mr. VANDENBERG. The Senator from South Carolina is addressing himself to the physical fact of what shall become of the taxes which have been collected in the event the law should be declared to be unconstitutional, and there might be a very practical question involved as to who should be the ultimate beneficiary of a collected unconstitutional tax. But I ask the Senator from Iowa and the Senator from South Carolina, even though it is contemplated to take care of that situation, where is the justification for saying in plain language under clause (2), on page 59, that a citizen shall not even be permitted to use the Federal Declaratory Judgments Act to find out whether or not his rights have been invaded and the law is unconstitutional? That is a totally different question.

Mr. SMITH. I would much prefer to leave such questions to some of those here who are more familiar with the processes of the courts and of the manner of redress; but I understand the provision to which the Senator refers is in strict accordance with the law.

I am fully aware of the fact that there may be a question of the constitutionality of this tax. I, for one, have always opposed it, not on the ground of its constitutionality alone but

for other seasons. However, it must be manifest to every Senator that the tax has been in operation for nearly 2 years, the amount collected has been used under the provisions of the law, and the processor has not been prohibited either from taking it out of the commodity he bought by lowering its price or by adding the tax to the price for which he sold it after it was processed.

Mr. DICKINSON. Is the Senator going to proceed to make a bad matter worse by trying to leave in the statute something which will involve the fundamental right of a citizen of the United States not only as to paying this tax but which will bar the court from having a determination whether he had to pay it or not, and, in addition, provide that what has been done to him is going to be legalized and he cannot complain about it?

Mr. SMITH. I think, Mr. President, in justice to all parties, that this provision takes care of the equities of the case, because it provides, where a tax has been paid upon a floor stock or a surplus stock still in the hands of the processor, which he has not passed on to the consumer or otherwise, that he may recover if the tax is declared to be unconstitutional.

Mr. DICKINSON. Let me ask the Senator who is going to be the loser? The Government has already collected the money and has paid it to the producer. If the Government now should have to pay it back, who would stand the loss? Poor old Uncle Sam—the taxpayer.

Mr. SMITH. To whom is the Government going to pay it if it has to pay it back?

Mr. DICKINSON. To the man who paid the tax.

Mr. SMITH. How are we going to find that man if the processor has manufactured the goods and distributed them to the thousands of people who bought the processed goods? By what process are we going to refund it? The producer has got it. The object of the tax was to bring up the purchasing power of the producer's commodity as near parity as may be. In good faith the Government collected the tax and distributed it product for product in benefit payments. That was the very object of the original law.

Mr. DICKINSON. May I ask the Senator how under subsection (b) one can get into court? That section debars the individual from going into court.

Mr. SMITH. That is only in reference to future taxes; it has nothing to do with this.

Mr. JOHNSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. DICKINSON. I yield.

Mr. JOHNSON. What troubles me is whether or not the very fundamental idea of Anglo-Saxon jurisprudence is denied. I have read them only hastily and therefore I venture no dogmatic opinion concerning them, but do these sections deny the right of access to the courts of the land on the part of citizens who complain that they have been injured by some specific action under this bill?

Mr. SMITH. Only in reference to the recovery of taxes already imposed. The provision runs up to and is contemporaneous with the passage of this proposed act as affecting the taxes heretofore collected. As to them the courts shall be denied to those who might want to seek a judgment or to have a rebate apportioned.

Mr. VANDENBERG. Mr. President, I call the Senator's attention to the fact that, in the language of the bill, the prohibition is effective in respect to taxes "on and after the date of the adoption of this amendment."

Mr. SMITH. Certainly.

My attention has been called to the fact that the Senator is now quoting from subparagraph (b) which has reference to future taxes. An individual may sue after the passage of this act, and if he can show damage done he may recover, but the prohibition against the court action only refers to the tax that has already been collected and has already been passed into the different channels for which it was levied.

Mr. DICKINSON. No such interpretation can be read into the wording of the bill, for the reason that it provides—

> No suit, action, or proceeding * * * shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed.

That is plain English.

Mr. COPELAND. Mr. President, will the Senator yield there?

Mr. DICKINSON. I yield.

Mr. COPELAND. If a layman were applying his logic to the provision it would be the same as having it read:

> No suit, action, or proceeding * * * shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose of preventing the court from sending a man to jail for murder.

It is exactly the same thing. To me it is unthinkable that an American citizen shall be denied the right to go into court.

Mr. SMITH. He is not denied the right to go into court. I am not familiar with the terminology of the law, but, as explained to the committee, and as the lawyers here should readily see, the citizen is prohibited from seeking injunctions and declaratory judgments, but he has every other opportunity to go into court and to have his case adjudicated.

Mr. DICKINSON. If I am faced with the payment of an unconstitutional tax, the very thing I want is the right to go into court and secure an order enjoining the officer of the law from collecting the tax against me.

Mr. BORAH. Mr. President, may I ask the Senator from South Carolina a question?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. DICKINSON. I yield.

Mr. BORAH. I wish to understand what this provision of the bill really does. As I understand—and if I am mistaken, I wish to be corrected—under this bill, if it should be enacted, an individual could not have the right to sue to test the constitutionality of the tax, and could not bring suit to recover an illegal tax.

Mr. SMITH. He could sue for a refund.

Mr. BORAH. Well, could he?

Mr. SMITH. Yes; as to future taxes.

Mr. BORAH. Could he sue as to future taxes?

Mr. SMITH. Yes, sir.

Mr. BORAH. If that be true, let us suppose that in the past a man has paid $10,000 in taxes, which are found to have been illegally levied and collected, this provision denies him the right to recover, although it should be determined that the tax was illegal.

Mr. SMITH. Yes; up to the time of the passage of this measure on the ground——

Mr. BORAH. I understand the ground. The ground is that he has likely passed it on.

Mr. SMITH. Yes.

Mr. BORAH. I think that is sound. The argument for that proposition is the only argument I can conceive of against giving these people a full right to go into court.

Mr. SMITH. I think that is the only argument.

Mr. BORAH. That perhaps can be remedied by providing that in case of action being brought, the Government shall be permitted to show that the party bringing the action has passed the tax on or has not paid the tax.

Mr. SMITH. My attention has been called to another point, which I think the Senator will appreciate. It may be possible for such a system of bookkeeping to be resorted to by certain individuals as to make it appear that they have not passed the tax on when perhaps they really have done so.

Mr. BORAH. Of course, such matters would have to be dealt with in the lawsuit, and there would be a question whether or not the proof was available. I venture to say that if the Government were permitted to show in advance that the tax had been passed on, the doubt would always be resolved in favor of the Government rather than in favor of the individual. That has been my experience in lawsuits with the Government. It would be very rare indeed that the individual would receive the benefit of the doubt.

It seems to me there is a very fundamental question involved, and that is whether or not we are going to incorporate into our system of legislation a denial of the right of the citizen to go fully and freely into the courts to test the legality of any action of the Government, and, if anything has been done wrongfully, accord him the remedy to which he is entitled.

We are faced with the proposition, of course, that the king can do no wrong, and therefore the Government should not be sued. That is the point we have to reach pretty soon in determining these matters, because we are extending this principle in all directions. Certainly if it be true that the principle that the sovereign may not be sued without his consent has been embodied in our jurisprudence, nevertheless that consent ought very rarely to be denied. There ought to be very rare occasions when the citizen should be denied the right to go into court and litigate the wrong, even if the Government is charged with the wrong.

Mr. SMITH. I heartily agree with the Senator from Idaho, and, were it not for the peculiar circumstances surrounding this individual proposition and the complications which may arise, I should insist along with him that the Government be made to show whether or not the tax has been passed on. But it is establishing a precedent for us to enact such legislation, though it is wholly within our power to do it. The question for us to determine is whether it is better for us to close this matter up to the time of the passage of the bill after the taxes have been collected and distributed, or whether it would be better for us to open the way for endless litigation and leave the Department uncertain as to whether or not the amounts which they have collected are to be refunded or what portion of them is to be refunded, and what they may hope to do in carrying on a work which seems to be meeting the approbation of the agricultural population.

Mr. DICKINSON. Let me suggest to the Senator from South Carolina, in view of the fact that he is speaking in my time, that lines 12 to 14, page 58, provide:

> Any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or for damages for the collection thereof.

It is impossible for the Senator from South Carolina to read the meaning of those lines into paragraph (b) on page 59. If that be the case we must absolutely restate the proposal.

Mr. SMITH. One relates to a time prior to the date of the passage of the bill, and the other to a time "on and after" the date of its passage. That is the difference.

Mr. DICKINSON. But paragraph (b) is not bound by the dates mentioned in paragraph (a), and none of the young draftsmen can read it in there.

Mr. SMITH. If the Senator will turn to page 59 he will see, beginning in line 10, that it reads as follows:

> Of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on and after the date of the adoption of this amendment.

Mr. DICKINSON. That means absolutely that we are going to bar the individual from going into court, even after the amendment shall be adopted, to obtain an order enjoining the collection of the tax.

Mr. SMITH. Yes; but he can sue for relief.

Mr. DICKINSON. There can be no suit for relief. The tax is legalized and validated in paragraph (b).

Mr. VANDENBERG. Mr. President, will the Senator from Iowa yield?

Mr. DICKINSON. Certainly.

Mr. VANDENBERG. Even in paragraph (b) the first two words are "no suit." It provides that—

> No suit * * * shall be brought or maintained.

No suit of any kind or nature whatsoever. Every right of legal recovery is barred.

Mr. DICKINSON. I cannot understand how the Government can ever justify enacting unconstitutional legislation and imposing it upon the public for a matter of 2 years, collecting money which belongs to the people who paid it, and then say that under no circumstances can they get it back; that they cannot bring a suit for injunction to enjoin its collection, and that the whole transaction is legalized and made valid, and therefore the Government can be just as crooked as it wants to be, and as American citizens we have to like it.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. DICKINSON. I yield.

Mr. BORAH. As I read the phraseology, there is another proposition involved. Not only is suit barred on the question of constitutionality or of fact, but malfeasance and misfeasance in office are protected under this provision. I think, as the Senator from California [Mr. JOHNSON] well stated, the fundamental question involved is not the amount of the taxes which are paid or which may be refunded, but whether we are going to establish practically as a permanent policy that the citizen may not go into court and have his rights adjudicated even when those rights run against the contention of the Government.

Mr. GORE. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. GORE. I wish to submit a question to the Senator from Idaho [Mr. BORAH] as well as the chairman of the committee [Mr. SMITH]. I have had in mind the idea of submitting an amendment of this character, and I did suggest it to the Committee on Banking and Currency this morning in connection with the resolution forbidding suits against the Government for damages resulting from the repeal of the gold clause—an amendment providing that where a taxpayer alleges that actual damages or actual losses have been suffered, and makes proof thereof, in that case he shall be entitled to recover. That would obviate the objection suggested by the Senator from South Carolina. Where the tax has been passed on to the consumer there would be no recovery, but where the taxpayer has suffered the loss himself and has not passed it on, he would be entitled to recover.

I noticed a tobacco case in New York the other day where the taxpayer paid more than $200,000 processing tax, and his sales had not equalled the amount of the tax. It was self-evident that he had not been able to pass the tax along to the consumer. The report said he was in danger of insolvency or bankruptcy. He certainly ought to have his day in court to prove his damages or loss in the event the processing tax should be adjudged to be an unconstitutional and void tax. I think that he has a right, an indefeasible right, to have the question as to the constitutionality of the tax heard and determined.

Mr. SMITH. Mr. President, if the Senator will yield, let me say that there has been handed to me a decision of the Supreme Court touching the question of injunction, relating to a section of the Revised Statutes, which provides that—

> No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

That is now the law of the land. Therefore, the remedy for the individual would be to sue for a refund where he could make it appear that the tax had been collected illegally; but he could not restrain the tax collector or enjoin him. That is now the law.

Mr. GORE. Mr. President, will the Senator from Iowa yield further?

Mr. DICKINSON. I yield.

Mr. GORE. In a recent case, the Board of Trade case—*Hill* v. *Wallace* (259 U. S.)—the court held that that section did not prevent or prohibit an injunction in a case involving the "extraordinary and exceptional" circumstances presented in that particular case, where a constitutional question was involved, and where the injunction would obviate a multiplicity of suits. That case was entertained in spite of that section, and a part of that act was held to be invalid.

Mr. BORAH. Mr. President——

Mr. DICKINSON. I yield to the Senator from Idaho.

Mr. BORAH. Of course, there has always been a sound principle of law that the collection of taxes should not be restrained by injunction. Otherwise, the operations of the Government might be entirely stopped; and within the limited sphere in which that principle has been permitted to operate, so far as I am concerned, I should have no objection to it here. What I am contending, however, is that, if I read this section correctly, after the citizen has been denied an injunction, he is denied the right to go into court to recover.

Mr. SMITH. No; not as to any future transaction.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. DICKINSON. I yield to the Senator from Georgia.

Mr. GEORGE. Since this question is now before the Senate, I should like to make inquiry to ascertain if my understanding of the bill is correct.

As I read the bill, so far as any taxes are concerned which were assessed, paid, or collected prior to the adoption of the pending amendment, they are entirely cut off. There is no remedy. As I read the bill further, that is true, irrespective of whether such taxes were paid under an unconstitutional law or because of misfeasance or malfeasance of the officers levying them. I direct attention to the language on page 58 as it relates to taxes already paid. The taxpayer is given no remedy whatsoever for—

> Any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title.

Even if there had been a double tax payment, due to willful fraud or to mistake, the taxpayer is left wholly without remedy in any court and under any circumstances.

Mr. SMITH. If the Senator will allow me, if he will read further down on the same page, page 58, he will see that the bill provides:

> The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15, under paragraph (1) of subsection (e) of section 16, or under section 17 of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

Mr. GEORGE. Yes; but that takes care only of cases where the tax has been doubled merely by mistake.

Mr. SMITH. Or by an error in computation.

Mr. GEORGE. Or by an error; yes.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New York?

Mr. DICKINSON. I do.

Mr. WAGNER. I may be mistaken—I had nothing to do with the drafting of this provision—but I assume its purpose is to prevent the refund of taxes in the event the law should be declared unconstitutional.

Mr. SMITH. That is exactly the purpose.

Mr. WAGNER. I suppose the theory is that, since the processor probably has passed on to the consumer the amount of tax which he paid, he would be recovering a sum that he really did not pay, but which the consumer paid.

Mr. SMITH. That is it.

Mr. WAGNER. Whether or not that is a sound theory I do not know.

Mr. GEORGE. I grant that that is the purpose of the provision, but this language is broader than that. I assert that this language would cut off a suit because of willful fraud or because of actual malfeasance on the part of an officer of the Government in a case where a tax had been imposed and collected. Nothing in the world is taken care of here but a mere error or duplication of tax.

Mr. SMITH. Mr. President, if the Senator will allow me, I take it that all of us are trying our best to formulate some law by which agriculture may be taken care of. We do not wish to punish other people when we are doing that; and if, as the Senator from Georgia contends, we should unwittingly be protecting malfeasance or dishonesty, why can we not amend this part of the bill and provide that it shall not exclude a suit based upon rascality in carrying out the law, or whatever the case may be? WeW are not prohibited from doing that.

Mr. DICKINSON. Let me reply to the Senator. There is only one remedy which I think can be applied here, and that is to adopt the amendment which I understand the Senator from Idaho [Mr. BORAH] is going to offer, namely, to strike out section 32.

Mr. GEORGE. Mr. President, if the Senator will yield—I do not wish to take the Senator off his feet—I am trying to understand the section. I would now, in my place in the Senate, repudiate the idea that the American farmer demands any dishonest legislation for his legitimate protection.

Mr. SMITH. That is the very point I am now making. If the attention of those who drafted this section was not called to the possibility that language was left out which would bring to justice someone who had been guilty of a crime, let us amend the section, so that he can be brought to justice; but let us not go back and, under the form of suits for recovery, permit somebody to have the tax paid back to him after he has passed it on, or deducted it from others.

Mr. GEORGE and Mr. WAGNER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Iowa yield; and if so, to whom?

Mr. DICKINSON. I yield to the Senator from Georgia.

Mr. GEORGE. Mr. President, I merely wish to ascertain what the bill means. I am now directing attention to the language which applies to taxes already paid, assessed, accrued, or collected. I again assert that this language is not appropriate to the exclusion of a remedy in the courts merely because the law itself under which it was collected has been declared to be unconstitutional, but it is a legislative ratification of everything that may have been done under that act, although it may have been done in positive violation of the original act. I assert that that is a dishonest suggestion to Congress. I do not charge the committee with it, of course; but it is dishonest. It is essentially dishonest.

Mr. President, I have called attention to that matter because if an appropriate amendment should not be offered by some other Senator I should like to offer it. I can very well understand that, with respect to taxes which have been passed on to the consumer, it may be properly determined by the Congress that there should be no recovery whatsoever. I also concede that where the tax has been collected under a law which it was within the power of the Congress to enact, although there may have been some unlawful delegation of authority or failure to comply with some technical requirement, the Congress may cut off all remedy, that is, with respect to taxes already paid. But this language is far broader than that. While I do not care to indulge in any argument about the matter, I am confident that if, under the original Agricultural Adjustment Act, the power did not exist in the Congress to levy and collect the tax, this whole provision, of course, is void; but if the power resided in the Congress to levy and collect the tax under the original Agricultural Adjustment Act, then, because of any failure of the Congress constitutionally to exercise the power, the Congress may cut off recovery.

So that finally and at last the question which must be presented to the courts with respect to these taxes, whether or not they are passed on to the consumer, is whether the power really existed in the Congress to levy and collect the processing taxes under the Agricultural Adjustment Act. If so, the failure of Congress constitutionally to exercise the power may and can, of course, become the basis of this provision of the bill, and this provision of the bill would be held to be constitutional.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New York?

Mr. DICKINSON. I do.

Mr. WAGNER. I should like to ask a question. I do not wish, by my statement a moment ago, to defend this particular provision, because—and that is what I was about to

ask the Senator—is there not an injustice involved? We know that in a number of cases the processor himself was compelled to absorb the tax. He was not able to pass it on to the consumer. In those cases we are really doing him a grave injustice, because he has paid a tax which the Government did not have a right to exact, and, at the same time, he has no remedy to recover the tax.

Mr. GEORGE. I think the Senator is correct.

With respect to the taxes to be imposed under this measure, and collected on and after its passage, I can well understand, and I can appreciate the necessity for an enactment by the Congress restraining actions in the courts directed against the collector of internal revenue, or against other officers of the Government; and I can appreciate the necessity of restricting the taxpayer to his legal remedy rather than to the broader equitable remedy, in the interest of maintaining and operating and carrying on the orderly processes of government. I think it would be far wiser to permit a direct attack upon the constitutionality of the act, and in the long run it would be much more in keeping with our theories of the law and of justice, going beyond mere technical law—the fundamental theories upon which we have generally predicated our course of action as a people.

I find here that there is a provision with reference to all future taxes—that is, taxes paid under this amendatory bill—for the recovery of the tax, the burden being thrown upon the taxpayer to show that he had not passed on the tax, or that he had not covered up the tax in the price for which he sold his goods. I rose, however, to call attention to the fact that particularly, with respect to the taxes already paid, the language was far broader than the necessities or justice would seem to justify, because it is not restricted and confined to outlawing the claim to the tax or the refund in the event only that the law under which it was collected or paid is declared unconstitutional, but it goes much further than that.

As the distinguished Senator from New York has well said, while the great bulk of the processing taxes has undoubtedly been passed on, in that event there could be no moral justification for their recovery by the taxpayer. Therefore, in my judgment, no legal remedy should be afforded. But in many instances the processing taxes were not passed on, they were actually absorbed by the processors, sometimes voluntarily, and sometimes involuntarily, because the sales could not be made at the market price plus the additional expenses attached.

Mr. DICKINSON. Mr. President, let me suggest to the Senator from Georgia that in many instances concerns were compelled to absorb the processing tax, and did absorb it, when it practically put them in the red, and in an insolvent condition. Yet if this measure should be enacted into law in the shape in which it now is, any such concern or citizen would have absolutely no remedy.

Mr. BORAH. Mr. President, will the Senator yield to me?

Mr. DICKINSON. I yield.

Mr. BORAH. So far as the provision relating to injunctions against Federal taxes is concerned, I would say it ought to be in the bill. I do not think we ought to stop the processes of the Government by enjoining the collection of taxes, and ordinarily that is the principle to which we have adhered. But I do think that the right to recover the tax in case it is illegally levied ought to be open and free to the citizen, whether it be a future tax or a past tax.

So far as the man who has passed on the tax is concerned, that can be taken care of by a provision in the bill, and it ought to be taken care of. Of course, if a man has passed on the tax, he ought not to be permitted to recover it, and I believe that without any provision of the statute at all he would be denied the right to recover it, if that fact were shown. But that could be included in the statute by providing an efficient injunctive process, and also providing for the defense on the part of the Government that the tax has been passed on. After that it seems to me we ought to leave the matter open and free for the citizen to test the question. I do not believe the nonsuability of the Government should be innovated in full. I do not think that principle has any sound basis under constitutional government. I recognize that the principle has become imbedded in our system of jurisprudence and that consent must be given, but I am in favor of giving the consent.

The Senator from Georgia has made a distinction which I think is entirely sound, that if the power existed but the method of using it was wrong, that would be a different proposition from the condition when there is no power existing. But the right to test whether or not the power does exist ought to be open to be determined, and the citizen ought not to be embarrassed or impeded in his right to test that question. The very foundation principle of free government is that there is a remedy for every wrong.

Mr. DICKINSON. Let me suggest to the Senator from Idaho that subsection (c) validates the entire transaction. Let me read the first provision of subsection (c), on page 60:

> The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized.

In other words, it would not make any difference if there were fraud involved in the collection of the tax, it would not make any difference what the conditions were, the citizen would be barred from any remedy.

Mr. BORAH. Mr. President, that raises another question—a very serious constitutional question which I think the friends of the measure would desire to avoid. Can the Government take property from a person illegally and then by process of law provide that it was taken legally or deny the citizen the right to test the question of whether it was taken legally? Would not that be taking property without due process of law? It is the very essence of tyranny to collect taxes illegally and then deny the citizen the right to test the question of whether they were taken legally.

Mr. DICKINSON. Is it not true that the Government took the gold, and is going to give it back when it wants to, and denies the citizen the right to make any claim of his loss?

Mr. BORAH. Of course, the gold contract raises the same question we are now discussing.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. WAGNER. Perhaps those in charge of the bill would accept an amendment simply providing that the burden should be on the taxpayer to show that he did not pass the tax on.

Mr. BORAH. I should think they would accept such an amendment.

Mr. WAGNER. I think that would be a fair provision.

Mr. BANKHEAD. Mr. President, this discussion has proceeded on the theory that the matter being debated is pending before the Senate. It is simply brought to the floor of the Senate by the speech of the Senator from Iowa; it is not in the pending measure. Therefore I think it is unfortunate at this time to talk about a proposed revision of this section. Doubtless when we get to it the whole section will be gone over again.

Mr. SMITH. Mr. President, will the Senator from Iowa yield to me?

Mr. DICKINSON. I yield.

Mr. SMITH. Of course, I recognize that the Senator from Iowa had the right to take the floor and speak; but I desire to call the attention of the Senator to the fact that we have reached a certain point in the committee amendments, on page 71, and when the Senator shall have concluded, unless some other Senator shall desire to discuss the question, I should prefer, if the Senate will permit, to finish the consideration of the Senate committee amendments, and then the bill will be open for presentation of amendments on the floor of the Senate, and we can also take up the amendments which have been passed over.

Mr. DICKINSON. Mr. President, let me suggest to the Senator from South Carolina that it is not my desire to delay the consideration of the committee amendments, but I think that Senators ought to be thinking about some of the phases of the provisions of the bill to which I am referring. Therefore I think it is well to have them advanced at an early date so that we can think them over a little.

I now desire to read a short suggestion which I received this morning, a quotation from the Daily Record, of Baltimore, Md. I read:

[From the Daily Record, Baltimore, Md., July 11, 1935]

LETTER TO THE EDITOR ON THE A. A. A. BILL—ABOLISHING LEGAL REMEDIES DANGEROUS TO LIBERTY

The proposal in the new A. A. A. bill, as it passed the House of Representatives, to destroy the taxpayers' legal remedy for the recovery of an illegally levied processing tax, is a very dangerous proceeding. Such proposal should be defeated in the Senate.

Woodrow Wilson had something to say on that subject as follows:

"A man is not free through representative assemblies, he is free in his own action, in his own dealings with the persons and powers about him, or he is not free at all. There is no such thing as corporate liberty. Liberty belongs to the individual, or it does not exist.

"And so the instrumentalities through which individuals are afforded protection against the injustice or the unwarranted exactions of government are central to the whole structure of a constitutional system. From the very outset in modern constitutional history until now it has invariably been recognized as one of the essentials of constitutional government that the individual should be provided with some tribunal to which he could resort with the confident expectation that he should find justice there, not only justice as against other individuals who have disregarded his rights or sought to disregard them but also justice against the Government itself, a perfect protection against all violations of law. Constitutional government is par excellence a government of law." (Constitutional Government in the United States, by Woodrow Wilson, pp. 16, 17.)

See also Prof. Frank J. Goodnow in his Principles of Constitutional Government to the same effect, where he points out that without such judicial remedy, before a judicial tribunal independent of executive control, constitutional government is impossible.

A citizen and taxpayer who is deprived of his day in court (upon whatever ground), and thus prevented from recovering back a tax he has been illegally compelled to pay, lives under a tyranny. He has no rights which the Government is bound to respect. He does not live under a government of law. He has ceased to be a citizen of a free country. It is difficult to distinguish his position from the subject who lives under fascism.

To say, as the bill says, that he cannot recover back an illegal tax unless he can show that the consumer has not paid to him the amount of the illegal levy does not make the proposition fair or just to either taxpayer or consumer.

The only protection the consumer has against the effect of an illegal tax, in increasing the price of the goods he must purchase, is to have the immediate taxpayer contest the illegality of the tax. So that the effect of the proposal is to preserve the tax notwithstanding its illegality, and thus illegally mulct the consumer.

To deprive the taxpayer of his legal remedy unless he can show a business impossibility; that is, that he did not add the amount of the illegal tax to his price to the consumer only aggravates the injury and injustice. It seems to attempt to make two wrongs into a right. It attempts to justify a wrong because the consumer in the end inevitably suffered the wrong.

It says to the taxpayer, we intend to levy money illegally from you unless you are so virtuous that you refuse to collect the illegal amounts from the consumer. In other words, you must protect the consumer from the illegal effect of the Government's action in levying an illegal tax on you if you expect to recover back the illegal tax.

The business effect of that unfair proposal is to successfully enforce the collection of illegal taxtion.

MEMBER OF THE BALTIMORE BAR.

Mr. President, this tax question is going much further than any other phases of what we call the "new deal."

In support of the amendment to strike out section 32 of this bill, I desire to draw the Senate's attention to a special phase of this great question, which not only appears to have escaped proper examination and scrutiny but casts an ever more threatening shadow toward the future. In five momentous decisions the Supreme Court recently has passed upon the delegation of power which Congress can make to the Executive. It has gone to great lengths to point out that by merely declaring an "emergency" no additional powers can be conferred upon the Federal Government. It has also affirmed that, no matter what the circumstances, there can be no abdication or surrender of legislative authority into the hands of the President without specific direction as to its use.

These are principles inherent in and inalienable from our system of constitutional government. They have won the admiration of the world because, even more than any bill of rights, they constitute practical safeguards for liberty itself. Never throughout the 150 years of our history has this separation of legislative and executive power been a partisan issue; on the contrary, it has been supported unanimously by all parties and by all shades of political opinion. Nor do I need to remind my Democratic colleagues who have so zealously defended that other ark of our liberties—State rights—that maintaining the integrity of Congress against encroachment by the executive branch always has been regarded as a special obligation which rested upon the disciples of Thomas Jefferson.

Yet since the Schechter decision was handed down the Senate has considered and passed the social-security bill and the Wagner industrial-disputes measure. It will soon vote upon the Guffey coal-control bill, amendments to the Agricultural Adjustment Act, and other items on the administration's "must" program. In these bills, as in the original new-deal acts of last year, there rises, like Banquo's ghost, that same broad, underlying question of delegation of power. Many distinguished constitutional lawyers have already laid before the Senate their views upholding the position taken by the Court. Notwithstanding the hasty reconsideration that has been given these measures by both Senate and House committees, misgiving and doubt still persist as to their constitutionality.

ATTEMPTS AT NATIONAL REGIMENTATION

In redefining that control over business, for example, asked by the Secretary of Agriculture under the A. A. A. amendments, it is difficult to see how substituting the word "order" for the word "license" can change the actual authority that it is intended to convey. No matter what the phraseology or the new disguise, the attempt at national regimentation will not down. It will not down because such regimentation is the basic philosophy of the new deal itself. All these measures aim at the same purpose: The conferring of more and more power upon the Executive; yet, by adroitly playing upon words, to conceal or avoid that very limitation which the courts have declared to be inseparable from a grant by Congress. The tenuousness of this authority has been recognized by the administration itself. Let me quote from a recent speech on the social-security bill made by Audrey Williams, second in command of the Federal Emergency Relief Administration:

In the light of the recent unfortunate experience with the N. R. A. great doubt arises as to whether the Federal Government has authority to establish a national system of unemployment compensation, however desirable that may be. There is no constitutional basis for such action except the taxing power and the welfare clause. The latter has never been regarded by the Supreme Court as conferring any powers on the Congress not granted specifically; and the former, while broad, cannot be employed where the Court deems the tax a mere subterfuge for unauthorized regulation.

During the hearings before the House committee on that bill, many witnesses questioned whether Congress could legislate on such sweeping lines; but without effect. For when the bill emerged, the form remained substantially the same as had been received from the White House. In passing let me note that under its provisions taxes are to be laid upon all industry and all workers which by 1950 will total $1,700,000,000 annually, or nearly the entire taxable corporate income for all business reported last year. Yet when the actuarial basis for such a comprehensive program was under review, only one witness who could be qualified as an expert was heard by the House committee.

Similarly, when the Railroad Retirement Act was passed by Congress last year, it contained a clause making retroactive charges on the carriers totaling $3,000,000,000. To the merest legal neophyte it would seem obvious that such a provision was almost certainly unconstitutional, and so the courts declared it.

Questions of this character, relating to these measures which the Senate has just passed, have been raised here repeatedly by Senators who are experts on the Constitution. I profoundly respect their judgment. Yet the majority lightly passes over and disregards these considered opinions. By this acquiescence another statute is sent on its way toward almost certain judicial disapproval.

Now I am concerned over the consequences likely to flow from this failure on the part of Congress to discharge fully its own duties. This neglect in examining carefully into the constitutionality of laws enacted so light-heartedly in itself sets up a strain on the Constitution that was never contemplated. Under the unusual circumstances that have prevailed, this point has been overlooked, I fear, on both sides of this Chamber by many who have been reared in what is now regarded in some circles as an old-fashioned reverence for that charter of liberty. Let us be honest and candidly face the facts.

"PASSING THE BUCK" TO THE COURTS

From an examination of these cases, cannot the inference be drawn that Congress has sought, as if deliberately, to hide behind the courts? that, rather than assume responsibility for economic policies in which it did not believe, it adopted the more expedient course of giving the President what he demanded and then "passed the buck", placing upon the judiciary the burden of disapproval? or that, lacking courage to oppose those who had suborned the Democratic Party's solemn platform pledges, Congress itself sought to evade its plain duty in the preparation of legislation?

When the Schechter decision was announced the audible relief of the majority Membership in Congress was plainly evident through comment in the press. They did not share the President's views that abolition for N. R. A. meant economic retrogression, or a return to any "horse and buggy" era. What was more important to them was the fact that, at one stroke, the accumulated political liabilities gathered during the first year of General Johnson's "blue buzzard", had been wiped out. But we must not permit the popularity of that verdict to mislead us in considering its possible consequences.

Let us assume for a moment that, in those equally vital cases which have not yet been passed upon by the Supreme Court, the administration should lose. Let us examine the possibilities that may arise should the T. V. A. be denied its announced function as a "yardstick" for the electric-power industry; should the processing taxes, which Secretary Wallace has set up as "internal tariffs" to equalize price levels between agriculture and industry, be declared invalid as restricting commerce between the States; should the Wagner industrial disputes or the social-security measures be held unconstitutional exercises of Federal power.

In such an eventuality the new deal is at once stripped of the political nostrums through which, like hypodermic injections, it sought to restore the Nation's economic health. The pretense of a planned economy, which, by bureaucratic license, seeks to regulate all economic activity, must then be abandoned. A situation arises without parallel in American history. With the experiment of regimentation revealed to the public for what it really is—a disastrous and monumental failure—the issue is joined between utopian dreams and the actuality of economic law. Faced with such facts, how is the administration to justify itself to the people?

USING THE COURTS TO "ALIBI" THE NEW DEAL FAILURES

Now, the implications from such a contingency—from an unprecedented impasse between the executive and judicial branches of the Government—would be grave enough under any circumstances. How much more serious must they be when the administration, so challenged, is seeking reelection? When it asks, as it must, public ratification either on its record, or by alibi-ing that record?

Is not the strain placed upon the Constitution, to which unintentionally and carelessly Congress has contributed, plainly evident? The Supreme Court is to be dragged into politics, not because it has performed its sworn duty in saying "no" to hastily conceived and imperfectly drawn legislation but because it is charged with having thwarted the public will. It must be made the scapegoat to hide administrative incompetency. Nor can the Court defend or explain its own acts; it can speak only in the decisions it hands down. It must remain aloof from political battles which may be decisive for the Nation's whole future.

The dangers to the Republic from any such distorted controversy cannot be minimized. They rise above partisanship; they must be repelled by all believers in constitutional government. No one has painted a more realistic picture of what might happen under these circumstances than Gen. Hugh Johnson. Because of his intimacy with those who now guide our national destinies, his comment on the issue that is raised must receive careful attention. Let me quote the general:

A drama is being enacted. The possible catastrophe is the eventual complete destruction of the new deal by the Court, piece by piece. The conclusion will then scream so that all will understand, and it cannot even be debated: "No progressive legislation will be permitted by the Court. Humanity is being crucified on the cross of a reactionary reading of the Constitution of the United States."

Now, this points to revolution. There are more kinds of revolution than one, and blood is not necessary in all of them. * * * When the conclusion toward which events are rushing in the courts becomes plain to everybody—that the Court holds that our Constitution, as it is, prevents social legislation—then an overwhelming popular demand for a radical change in either the Court or the Constitution is as sure as sunrise.

Now that is bad. It is bad because it is pointing up right now to a crisis in a Presidential election. That means bigotry, bitterness, and the red fires and sirens of hot emotion. It means a struggle over something far deeper than the issues of any ordinary campaign. On the one side, people who have any property, much or little, will be made to think they are fighting for all they have. On the other side, people who have been hurt and battered by the depression will be convinced that they are being exploited and enslaved; that "the interests" have taken control even of the courts—in other words, that they are fighting for very freedom against tyranny and oppression.

These are the seeds of civil war. That is a very heavy responsibility on the leaders of both extremes in the controversy. It should cause them to pause and consider. It is a terrific responsibility for the Court, which is being placed between the fires of two extremes on the hottest spot it has ever occupied.

Hasty and equivocal legislation ought not to be rushed. Die-hard resistance to every reasonable and necessary reform in our old do-nothing policies ought to be tempered to the conditions under which we live. The Court would do well to start all over on the basis of the Constitution itself and forget its tangle of interpretations, "judge-made words," and constitutional bypaths onto which some of its opinions have fallen.

REAL ISSUES BEFORE THE PEOPLE

Such is General Johnson's estimate of the situation that we face. It is not a pleasant picture. "A struggle over something far deeper than the issues of an ordinary campaign", says the general. In that diagnosis I agree. But the issue is not between the "haves and have nots", as Federal Relief Administrator Hopkins is reported to have declared.

I cannot conceive of the American people dividing on the proposition of envying one another's goods or engaged in pulling down each other's houses. The real issue is whether as a Nation we have lost our resourcefulness and courage and, in the psychology of despair, embraced a near communism, with Government doles exchanged for those things our forefathers held to be more precious than life itself. I cannot believe that a Nation, born in a struggle for high principles and which has never hesitated to sacrifice blood and treasure in upholding those principles, will now accept regimentation modeled on Hitlerism, its citizenship reduced to the status of robots, blindly goose-stepping to commissars enthroned at Washington.

There is another phase to this question which also requires examination. I turn to it reluctantly because I find it difficult for myself to impugn the motives of the President of the United States. I have long felt, as Members of this body well know, that responsibility for the new deal's errors must be laid where it belongs—on the doorstep of the White House itself. I have not subscribed to the doctrine that, right or wrong, Mr. Roosevelt should be followed blindly and that criticism should be suppressed. That seemed to me a false kind of patriotism, one calculated to raise exactly such issues as now confront us. But I have not been willing to believe that the President would deliberately set out to attack, through the instrumentality of the Supreme Court, the very Constitution that he has sworn to uphold.

Yet one cannot ignore obvious facts or the deductions which must inevitably arise from them. The facts I have cited. The deduction from them is supplied by the distinguished political commentator and historian, Mr. Mark Sullivan. Recently Mr. Sullivan wrote, and it was widely published throughout the United States:

Congress has passed, or is in process of passing, several measures which are widely believed to be unconstitutional, either as a whole or vital parts of them. These measures are pressed on Congress by the President. If Mr. Roosevelt did not press them, Congress would not enact them or would not enact them until after taking the unconstitutional features out of them. President Roosevelt will not permit that. The parts of the measures he insists on are the parts that most plainly raise the doubt about constitutionality.

Mr. Roosevelt is described as pounding his fist on his desk to Democratic leaders of Congress. Some of these leaders are well known to hold private views differing from what they do under Mr. Roosevelt's demand. To get some of the measures through leaders have been obliged to adopt the device of avoiding a roll call, because individual Democrats are unwilling to go on record as favoring the measures. The labor-disputes bill and the A. A. A. measures were adopted by viva voce vote—that is, without a roll call.

One question thus presented is the propriety of a President insisting on passage of measures whose constitutionality is seriously doubted, or which some of those who confer with him tell him are unconstitutional. Another is the question of Democratic leaders insisting on passage of legislation which privately they believe to be unconstitutional. President and Members of Congress alike take an oath to support the Constitution. They are supposed to be just as duty bound to support the Constitution as the Supreme Court is.

A more immediate question is, Just what lies in Mr. Roosevelt's mind; what is his motive in insisting on measures that are believed to be unconstitutional, and especially on the particular parts of the measures which are supposed to violate the Constitution most directly?

The motive, it seems tenable to assume, has to do with the political future and with Mr. Roosevelt's opposition to the Supreme Court and the Constitution. Everybody knows that Mr. Roosevelt was profoundly displeased by the decision in which the Supreme Court, by unanimous action, held N. R. A. to be invalid. It is not so generally known, but Mr. Roosevelt had even more reason to be angered by the other decision, in which the Court, also by unanimous action, curtailed Mr. Roosevelt's power to remove at will members of the Federal Trade Commission and similar governmental bodies. That decision made it difficult for the President to impose his will on such bodies as the Federal Trade Commission, the Federal Reserve Board, and the similar bodies. This deprived Mr. Roosevelt of an important power, one that was essential in bringing about the "new economic order" which Mr. Roosevelt said was his purpose.

A common assumption about Mr. Roosevelt's recent actions is that he has privately dedicated himself to overcoming the handicaps which the Supreme Court decisions have put upon him. Almost certainly this is his purpose, and he is strongly determined to bring it about.

This purpose could be carried out directly. It could be done directly by merely proposing and putting through an amendment changing the Constitution. Or it could be done, also directly, by putting through Congress a measure curtailing the powers of the Supreme Court. It is apparent, however, that Mr. Roosevelt prefers not to do it directly. As was said of Mr. Roosevelt by Mr. Lippmann when Mr. Roosevelt was a candidate for the Presidency and Mr. Lippmann thought less well of him than now, "his purposes are not simple and his methods are not direct."

The common assumption is that Mr. Roosevelt hopes to make the Supreme Court and the Constitution less popular next year than they are now. The Court will be obliged to find unconstitutional the measures now being forced through Congress. Such decisions by the Court can be expected to offend groups of voters. To declare unconstitutional the A. A. A. amendments now being passed would take the cash benefits away from farmers. To declare the labor-disputes bill unconstitutional would offend labor. To declare the Guffey coal bill unconstitutional would likewise offend labor in that industry. To declare anything unconstitutional in the utility holding-companies bill or the Tennessee Valley Authority would offend those who believe in Government ownership and radicals generally. The sum of these groups, offended by decisions handed down by the Supreme Court next year, might give Mr. Roosevelt the support he does not have now, both for his project of changing the Constitution or curtailing the power of the Supreme Court, and also for reelection to the Presidency.

Then Mr. Sullivan adds this conclusion:

However, beneath this assumption about Mr. Roosevelt's motive lie some solid conditions which tend to support the assumption. The new deal cannot go on to fruit except by giving the Government greater power to compel the individual. That means the new deal cannot go on except by depriving the courts of their independence, depriving them of their present function of holding the scales even between the Government and citizen.

Furthermore, the new deal contemplates a centralized government, what in Europe is called a "totalitarian" state. That cannot be in America except by changing the Constitution so as to take away from the 48 States and giving to the Government at Washington many of the powers which the States now possess.

Now those are sober and measured words; they do not spring from hysterical emotion like those of General Johnson's. Yet they must be read together with the general's statement. They must also be read in connection with the President's own criticism of the Supreme Court's N. R. A. decision. They cannot be dismissed as partisan or inconsequential. For it is the essence of statesmanship, not to await or accept the inevitability of events, but to anticipate and seek to forestall them.

DUTIES LAID UPON THE SENATE

When fundamental principles established under the Constitution are involved, as I stated in the beginning, there are no differences between Republicans and Democrats. Interpretations of basic law cannot be made on the basis of current economic theories. Nor can there be any difference of opinion, I believe, as to the duties laid upon the Senate in this connection. We cannot proceed blindly down a road, ignoring all the danger signals that have been set, to end up at last in that catastrophe predicted by Mr. Roosevelt himself when as Governor of New York he said:

It was clear to the framers of our Constitution that the greatest possible liberty of self-government must be given to each State and that any national administration attempting to make all the laws for the whole Nation—

Those are Mr. Roosevelt's own words—

* * * would inevitably result * * * in a dissolution of the Union itself.

Under those constitutional provisions which require concurrence by the Senate in the ratification of foreign treaties and in the appointment of Federal officials—including members of the Supreme Court—by the President, it was the plain intention of the founders that this body should be charged with the special task of jealously watching any aggrandizement of the Executive power. The mere fact that the Supreme Court has already declared invalid delegations of congressional power establishes that we have been negligent in that duty. With such warnings, must we continue to repeat the same mistakes?

Fortunately, it is not yet too late for amends. Much important legislation remains to be acted upon by the Senate. The prospect seems to be that we will be here most of the summer. In the measures that come before us we must redouble our vigilance as to their unconstitutionality. We must not permit a continuance of this unfair burden to lie upon the Supreme Court.

There is only one further phase of this matter to which I wish to call attention for just a moment, and that is that Congress ought not to disregard its duty to consider the constitutionality of legislation. The theory that legislation should be sent here from the other end of the Avenue, that it should be passed, and that we should give no consideration to its constitutionality is a theory which I think cannot be defended.

I read in the Washington Evening Star of yesterday an article by David Lawrence. Mr. Lawrence quoted from a President's letter, as follows:

I hope your committee will not permit doubts as to constitutionality, however reasonable, to block the suggested legislation.

Then David Lawrence writes:

This is tantamount to saying that it doesn't matter whether a bill is plainly unconstitutional, it should be passed anyhow. If this philosophy were followed there would be an end to the Constitution altogether. For if Congress were to ignore Supreme Court decisions and pass laws in conflict with the Constitution, it might conceivably feel it also had the power to suspend certain articles of the Constitution. Congress could, if it chose, refuse to appropriate money to carry on the judicial branch of the Government.

And so forth. In other words, I do not believe Congress ought to shirk its duty to examine the constitutionality of every piece of legislation which comes to the floor of the Senate.

I am glad to see that this bill is being given some real consideration. I was glad to see the interest shown in the

suggestions I made with reference to section 32. I believe every Member of the Senate ought to look at these questions from the constitutional standpoint.

In support of what I have been saying, Mr. President, I ask that there be printed at this point in the RECORD an article by Frank L. Peckham, of the bar of the District of Columbia, on the subject, Is the Supreme Court Guilty of "Usurpation"?

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

IS THE SUPREME COURT GUILTY OF "USURPATION"?

(By Frank L. Peckham, Bar of the District of Columbia; Joseph H. Choate Chapter, 1907)

The right of the Supreme Court of the United States to set aside acts of Congress as being unconstitutional has been the subject of much able discussion in recent months. There are, however, a few points which might be emphasized as conclusively answering those demagogues and radicals who charge the Supreme Court with "usurpation" of power, because that Court has declared unconstitutional some of their pet measures and more especially because they know that the Court would hold unconstitutional a great number of measures which political mountebanks and incompetent experimenters are desirous of foisting on the people.

"Usurpation" means the forcible seizure of place, power, functions, or the like, without right; to commit unjust encroachments. In other words, it means to take or exercise powers or functions rightfully belonging to others.

The strident-voiced radicals create the impression that the Supreme Court has reached out and assumed without right the power to declare legislative enactments unconstitutional; that it has arrogated to itself a function that was not granted to it, and they seek to terrify the public with the bugaboo of threatened government by the judiciary through gradual extension by the courts of their prerogatives.

It would be well to note, in passing, that the judiciary has been most cautious in the exercise of its right to review legislation and has avoided any tendency to exercise its power improperly, as is evidenced by the fact that among the thousands of cases which have been before the Supreme Court during the 135 years that have elapsed since the adoption of the Constitution, in only 48 cases has that Court held acts of Congress to be unconstitutional.

An examination of the provisions of the Constitution, of the history of its development and enactment, of the statements and acts of men, courts, and legislative bodies before and immediately after its adoption, will show that the right to examine into the constitutionality of legislative acts was granted to the judiciary by the Constitution and was intended to be so granted by the framers of that document.

The Supreme Court was created directly by the Constitution. Section 1 of article III provides distinctly and without conditions or qualifications that "the judicial power of the United States shall be vested in one Supreme Court * * *." As to the creation of that one Court, nothing was left to the discretion of that Legislature. It was ordained and established by the Constitution, while the same section left to the discretion of Congress the creation of inferior courts. Certainly that provision and the provisions regarding tenure of office and compensation of judges show an unequivocal intention that the judiciary should be entirely independent of the legislative and executive branches of the Government.

Section 2 of article III provides that "the judicial power shall extend to all cases * * * arising under this Constitution, the laws of the United States * * *." Certainly no judicial function can be exercised by a court without involving the interpretation of the laws applicable to the case under consideration, and it is equally certain that the provisions of the Constitution are applicable to any litigation that possibly could be brought in any court of the United States. In article VI we find the provision, "This Constitution, and the laws of the United States which shall be made in pursuance thereof * * * shall be the supreme law of the land * * *." The framers of the Constitution did not say simply, "The laws of the United States." On the contrary, they qualified the phrase by the requirement that the laws should be made in "pursuance" of the Constitution, not in derogation of it, or contrary to it, or beyond the bounds set by it.

There is ample evidence that the intention expressed in the words of the Constitution squares with the intention of its framers.

Prior to the adoption of the Constitution, and so shortly before its adoption that the circumstances were fresh in the memories of the members of the conventions, at least four State courts in four separate States—New Jersey, Virginia, Rhode Island, and North Carolina—had asserted and exercised the right to set aside legislative acts as being contrary to the constitutions of the States.

In the New Jersey case (*Holmes* v. *Walton*, decided in 1780) (see *State* v. *Parkhurst*, 9 N. J. L. (4 Hal.) 444; Prof. A. W. Scott's "*Holmes* v. *Walton*, the New Jersey Precedent", Rutgers College Pub. No. 8) a State statute providing for a trial by a jury of six persons was held as being in conflict with the State constitution, which provided that "the inestimable right of trial by jury shall remain confirmed as a part of the law of this Colony, without repeal, forever." Complaint was made to the legislature that the court had set aside one of its laws as being unconstitutional. The legislature, instead of attempting to curtail the power of the courts, enacted a new law providing for a jury of 12 persons when demanded by a party to litigation, thus confirming by inference at least the judicial finding.

In the Virginia case (*Commonwealth* v. *Caton*, decided in 1782) (4 Call 5) Judge Wythe said: "If the whole legislature—an event to be deprecated—should attempt to overleap the bounds prescribed to them by the people, I, in administering the public justice of the country, will meet the united powers at my seat in this tribunal and, pointing to the Constitution, will say to them, 'Here is the limit of your authority, and hither shall you go, but no further.'"

In the Rhode Island case (*Trevett* v. *Weeden*, decided in 1786) (Thayer's Cases on Constitutional Law, vol. 1, p. 73; McMaster's History of U. S., vol. 1, p. 338; Durfee's Judicial History of Rhode Island, pp. 51 et seq.) the court held that a statute of the legislature, providing for the summary conviction of persons declining to receive paper currency, operated to deprive the defendant of the right of trial by jury and, therefore, was void as being contrary to the charter of Rhode Island.

In the North Carolina case (*Bayard* v. *Singleton*, decided in 1787) (1 Martin (N. C.) 48; N. C. R., Martin & 2d Haywood's Law & Equity, by Battle, 42) the superior court of the State, in May 1787, declared that a certain act of assembly of 1785 was unconstitutional and not binding upon the court. The court held: "The Constitution (which the judicial power was bound to take notice of as much as of any other law whatsoever) standing in full force as the fundamental law of the land, notwithstanding the act on which the present motion was grounded, the same act must, of course, in that instance stand as abrogated and without effect."

In 1785, in a written address to the Assembly of Pennsylvania, Gouverneur Morris, who later represented Pennsylvania in the Constitutional Convention, commenting upon the action of the court in *Holmes* v. *Walton* as negativing any suggestion of unlimited legislative authority, used the expression "the Constitution is no more if it can be changed by the legislature." (Sparks, Life of Gouverneur Morris, vol. 3, p. 438).

These acts of the courts were clearly in the minds of many of the men who participated in the Constitutional Conventions. Some of the delegates had been interested, directly or indirectly, in the litigation. During the debates on the Constitution the right of the judiciary to review legislative enactments was asserted again and again. Gerry, of Massachusetts, stated at one time that the judges could protect the judicial department against encroachment by their exposition of the laws, and said that "judges had actually set aside laws as being against the Constitution, and this was done, too, with general approbation" (Elliott's Debates, 2d ed., vol. V, p. 151). Gouverneur Morris said: "A law that ought to be negatived will be set aside in the judiciary department" (Id., vol V, p. 321).

Luther Martin, of Maryland, said, "As to the constitutionality of laws, that point will come before the judges in their official character; in this character they have a negative on the laws" (Id., vol. V, p. 346). And again, in his report to the Legislature of Maryland, Martin said, "Whether, therefore, any laws or regulations of the Congress, any acts of its President or other officers, are contrary to, or not warranted by, the Constitution, rests only with the judges, who are appointed by Congress, to determine; by whose determinations every State must be bound" (Id., vol. I, p. 380). Other of the delegates made similar assertions. There is every reason to believe that a majority of the delegates assumed that the judiciary would have the right to review legislative enactments unless definitely prohibited by the provisions of the Constitution, and yet they adopted the provisions creating the Supreme Court and neglected to limit its authority.

During the debates in the Virginia convention that valiant champion of the people's liberties, Patrick Henry, said, "* * * Yes, sir; our judges opposed the acts of the legislature. We have this landmark to guide us. They had fortitude to declare that they were the judiciary, and would oppose unconstitutional acts. * * * I take it as the highest encomium on this country that the acts of the legislature, if unconstitutional, are liable to be opposed by the judiciary (Id., vol. III, p. 324).

It is particularly interesting to note the views expressed by Samuel Adams in the Massachusetts convention. Adams was not a lawyer. He had at one time commenced to study law, but gave it up because of his mother's disapproval. He was an ardent rebel. He managed the Boston Tea Party. He was one of the two excepted from Governor Gage's proclamation of pardon as being one whose offenses against the Crown were "of too flagrant a nature to admit of any other consideration than that of condign punishment." He consistently failed in all commercial pursuits and even was unsuccessful as a tax collector. Certainly no one will accuse him of harboring capitalistic sentiments. Yet he accepted as a matter of course the right of judicial review of legislative enactments. During the debate, when Governor Hancock had submitted a proposal or reservation containing practically the substance of the first 10 amendments, Adams said:

"This appears to my mind to be a summary of a bill of rights which gentlemen are anxious to obtain. It removes a doubt which many have entertained respecting the matter, and gives assurance that if any law made by the Federal Government should be extended beyond the power granted by the proposed Constitution and inconsistent with the constitution of this State, it would be an error, and adjudged by the courts of law to be void" (Id., vol. II, p. 131).

Similar evidence of the general assumption on the part of all concerned that the judiciary had the power to review legislative enactments is found in the debates in the other State conventions.

In the Draft of a Constitution, reported to the Federal convention August 6, 1787, by the committee of five, section 3 of article XI (now sec. 2, art. III) read: "The jurisdiction of the Supreme Court shall extend to all cases arising under laws passed by the Legislature of the United States * * *." This was amended on the floor of the convention to read "the jurisdiction of the Supreme Court shall extend to all cases arising under this Constitution, the laws of the United States", etc. (Id., vol. I, pp. 229, 268).

In the committee's draft article VIII read: "The acts of the Legislature of the United States made in pursuance of this Constitution * * * shall be the supreme law * * *." The convention amended that provision so as to make it read: "This Constitution, and the laws of the United States made in pursuance thereof * * * shall be the supreme law * * *." (Id., vol. I, pp. 227, 259).

Other incontrovertible evidence as to the intention of the framers of the Constitution and the general acknowledgment of the authority of the judiciary to review legislative enactments is found in the acts of the Legislatures of Delaware, Rhode Island, Massachusetts, New York, Connecticut, New Hampshire, and Vermont in response to the Virginia and Kentucky resolutions seeking to annul the alien and sedition acts. (Id., vol. IV, appendix; Cooper American Politics, book II, pp. 3–14.)

In the latter part of 1798, about 10 years after the ratification of the Constitution, the Legislatures of Virginia and Kentucky, being opposed to the alien and sedition acts then recently adopted by Congress, passed resolutions declaring those acts unconstitutional, and inviting the other States to do likewise. These resolutions proceeded upon the theory that the Constitution was a compact between the States and that the States as parties thereto might decide the question of the constitutionality of Federal enactments. In 1799, having considered the Virginia and Kentucky resolutions, the respective legislatures of seven of the other States passed resolutions refusing to join with Virginia and Kentucky on the issue raised and declaring that the Federal courts could decide the constitutionality of Federal statutes. Thus a majority of the Original Thirteen States, through their chosen representatives, expressed their views about 14 years before the Supreme Court, in the case of *Marbury* v. *Madison*, first asserted the right of the judiciary to review legislative acts and to declare void such as were contrary to the provisions of the Constitution. It will be interesting to note the expressions used by some of the legislatures in their resolutions.

The Rhode Island resolutions included the following resolve:

"That, in the opinion of this legislature, the second section of the third article of the Constitution of the United States, in these words, to wit, 'The judicial power shall extend to all cases arising under the laws of the United States', vests in the Federal courts exclusively and in the Supreme Court ultimately the authority of deciding on the constitutionality of any act or law of the Congress of the United States."

The Legislature of Massachusetts resolved:

"That this legislature are persuaded that the decision of all cases in law and equity arising under the Constitution of the United States, and the construction of all laws made in pursuance thereof, are exclusively vested by the people in the judicial courts of the United States."

The resolutions of the Legislature of New York included the following:

"And whereas the judicial power extends expressly to all cases of law and equity arising under the Constitution and the laws of the United States, whereby the interference of the legislatures of the particular States in those cases is manifestly excluded."

The New Hampshire Legislature resolved:

"That the State legislatures are not the proper tribunals to determine the constitutionality of the laws of the General Government; that the duty of such decision is properly and exclusively confided to the judicial department."

Said the Legislature of Vermont:

"It belongs not to State legislatures to decide on the constitutionality of the laws made by the General Government, this power being exclusively vested in the judiciary courts of the Union."

Evidence on this subject could be cumulated and multiplied, but there is no need to go further. There can be no doubt in the mind of the unbiased student that the Federal judiciary was intended to have and did receive through the Constitution the authority to interpret the Constitution and to review congressional acts and to declare void such as contravene the provisions of the Constitution. Furthermore, the failure of the judiciary to exercise that authority would constitute a cowardly violation of its manifest duty and a breach of the trust reposed in that branch of the Government by the framers of the Constitution and the people of the United States.

"Usurpation" is simply a catchword used by self-seeking politicians, by radical enemies of American institutions, by misguided intellectual weaklings, who inveigh against the judiciary not because it has usurped any powers but because it stands as a bulwark against usurpation by the National Legislature of powers not delegated to it by the Constitution.

Any enactment which is contrary to any provision of the Constitution would constitute an amendment of that document. If the National Legislature is to be the final judge of the constitutionality of its own acts, it is ridiculous to provide any method of amendment save through legislative enactment by a temporary majority of Congress. Even were the constitutionality of an act dependent upon a two-thirds vote of both Houses, the entire Constitution might just as well be repealed.

Restrain the courts from declaring legislative enactments unconstitutional, and there will be left solely to the whim of the Congress the preservation or nullification of those guaranties of liberty so dear to the Anglo-Saxon race and so necessary to the happiness and prosperity of a people.

"An elective despotism was not the Government we fought for", said Thomas Jefferson, "but one which should not only be founded on true free principles, but in which the powers of Government should be so divided and balanced among general bodies of magistracy, so that no one could transcend their legal limits without being effectually checked and restrained by the others. (Jefferson Cyclopedia, p. 392).

With equal certainly can it be said that "legislative despotism", the inevitable result of unrestricted legislative power, has no place in the sort of democracy for which this Nation fought and sacrificed so much in the late war and for the preservation of which our race has struggled from the earliest days of the Republic.

Remove from the Constitution the authority conferred by it on the judiciary to review legislation, and soon the average citizen will have occasion to adopt the words of Patrick Henry, who, as a member of the Virginia ratification convention, protested against what he considered probable oppression by the proposed Federal Government and exclaimed: "Old as I am, it is probable I may yet have the appellation of rebel. I trust that I shall see congressional oppression crushed in embryo. As this Government stands, I despise and abhor it" (Elliott's Debates, 2d ed., vol. III, p. 546).

Without the restraining power of the judiciary, there are no limits to which the legislature might not go. The love of power and the craving for its extension are normal human characteristics. Congress could change the entire form of Government and could make of itself a self-perpetuating body. In one stroke it could nullify all of the principles of the Bill of Rights and violate every guaranty of private liberty. It might by legislation—and there is already ground for sensing a tendency in that direction—wipe out all the rights, prerogatives, and functions of State governments and assert in itself the entire, complete, and exclusive legislative functions of the whole country.

Stifle the courts and revoke their right of interpretation of the Constitution and their power to refuse to enforce, and to prevent the enforcement of legislative acts which violate or transcend the provisions of the Constitution, and, by the proposed changes, make Congress the sole judge of its prerogatives, the final arbiter of its authority, there is no end to which the legislature cannot reach, and there will be no remedy against its impositions save revolution by a people who will have learned too late that protection by force must be resorted to when protection by the courts is no longer available.

Mr. DICKINSON. With these suggestions, I yield the floor to the Senator from South Carolina.

Mr. SMITH. Mr. President, I should like to take up now the next committee amendment, which begins with line 20 on page 71. The Senator from Alabama [Mr. BANKHEAD] is the author of that amendment; and if there should be any questions concerning it, he will answer them.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 71, after line 18, it is proposed to insert the following:

AMENDMENTS TO BANKHEAD COTTON ACT

SEC. 40. (a) Section 2 and the first sentence of section 3 (a) of the act entitled "An act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, are amended by inserting after the phrase "the crop year 1935–36", wherever such phrase appears, the phrase "or the crop year 1936–37 or the crop year 1937–38."

(b) Section 3 (a) of such act, as amended, is amended by adding at the end thereof the following new sentence: "In ascertaining the sentiment of the producers with respect to the crop year 1936–37 or the crop year 1937–38, the vote in favor of the compulsory tax features of this act, by two-thirds of the producers voting, shall be deemed sufficient for the purposes of this subsection."

(c) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935–36 that may be marketed exempt from payment of the tax levied by such act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed specifically by act of Congress.

SEC. 41. Section 17 of an act entitled "An act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate

and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, is amended by inserting "(a)" before the first sentence thereof and by inserting at the end thereof the following new subsection:

"(b) Appropriations for administrative expenses under this act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this act with respect to cotton harvested and ginned during any crop year when the above-mentioned act is in effect, and who applies to the Secretary therefor, compensation at the rate of 25 cents per bale of such cotton ginned by such person."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SMITH. The next amendment begins on page 73, "Amendments to Kerr Tobacco Act." I will state to the Senate that this is practically a continuation of the present act.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 73, after line 17, it is proposed to insert the following:

AMENDMENTS TO KERR TOBACCO ACT

SEC. 42. The title of the act entitled "An act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, and for other purposes", approved June 28, 1934, is amended to read as follows:

"An act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, to raise revenue, and for other purposes."

SEC. 43. Section 1 of said act is amended by adding at the end thereof the following new subsections:

"(l) The term 'Puerto Rican tobacco' means all leaf tobacco classified as type 46 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

"(m) The term 'cigar-wrapper tobacco' means all leaf tobacco classified in class 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

SEC. 44. Section 2 of said act is amended by inserting after the words "consumption of tobacco" a comma and the words "to raise revenue."

SEC. 45. Subsection (b) of section 3 of said act is amended by striking out the period and the remainder of the subsection following the first sentence and inserting in lieu thereof the following: "and to all tobacco harvested in the crop year 1935–36, except Maryland tobacco, Puerto Rican tobacco, and cigar-wrapper tobacco. Thereafter whenever the Secretary of Agriculture determines (1) that the imposition of the tax upon any particular type of tobacco is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this act, and (2) that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco, he shall proclaim such determination at least 60 days prior to the next succeeding crop year, and the tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1939."

SEC. 46. Subsection (a) of section 5 of said act is amended by inserting after the designation "(a)" at the beginning thereof the following: "(1)"; and by inserting at the end of said subsection the following paragraph:

"(2) The Secretary of Agriculture shall issue to any person, who, because of religious or moral scruples, is unwilling or unable to become a contracting producer, similar tax-payment warrants covering the quantity of tobacco produced by such person: *Provided*, That the Secretary determines that such person has not planted a greater acreage of tobacco nor sold a greater quantity of tobacco than he could have planted or sold as a contracting producer."

SEC. 47. Subsection (b) of section 5 of said act is amended by striking out the first sentence of said subsection and inserting in lieu thereof the following:

"There shall be available for issuance by the Secretary of Agriculture further warrants, covering an amount of tobacco of any type equal to 3 percent of the amount of tobacco of such type covered by the warrants issuable or issued to all contracting producers under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco contracts. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this act and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted: *Provided*, That warrants covering two-thirds of the amount of any type of tobacco to cover which warrants are available under this subsection shall be issued, upon application therefor, only to persons who receive warrants covering 1,500 pounds or less of any type of tobacco."

SEC. 48. Subsection (d) of section 5 of said act is amended to read as follows:

"If any tax-payment warrant is erroneously issued to any person, or if the Secretary of Agriculture determines pursuant to this subsection that any person to whom any tax-payment warrant is issued has failed to comply in any crop year with any provision of any agreement entered into by such person pursuant to the Agricultural Adjustment Act or has failed to comply with any rule or regulation issued by the Secretary of Agriculture pursuant to this act or the Agricultural Adjustment Act, any warrant issued during such crop year to such person shall be void upon demand in writing for the return of such warrant made by the Secretary of Agriculture to the person to whom such warrant was issued. If any tax-payment warrant which has been accepted in payment of the tax imposed by this act upon the sale of tobacco becomes void pursuant to this subsection either before or after such acceptance, the person to whom such warrant was issued shall, notwithstanding such acceptance of such warrant, be liable for the full amount of the tax upon such sale."

SEC. 49. Section 8 of said act is amended by striking out subsection (b) of that section and inserting in lieu thereof two new subsections as follows:

"(b) All persons, in whatever capacity acting, including producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration and collection of the tax. Any person required to make any such return shall render a true and accurate return to the Commissioner of Internal Revenue.

"(c) Any person willfully failing or refusing to file any return required to be filed under this section, or filing willfully any false return, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000."

SEC. 50. Section 9 of said act is amended by adding at the end thereof the following new subsection:

"(c) Any person who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of this act shall, while he is acting as such agent, have the power to administer oaths in connection with the execution of forms required by regulations issued pursuant to sections 7 and 8 of this act, but no fee or compensation shall be charged or received by any such agent for administering such an oath."

SEC. 51. The first sentence of subsection (a) of section 10 of said act is amended to read as follows: "The proceeds heretofore and hereafter derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for rental and benefit payments under the Agricultural Adjustment Act to contracting producers, for administrative expenses, refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 3 of this act, and other payments under this act."

SEC. 52. Subsection (a) of section 11 of said act is amended effective as of the date of the enactment of the said act by striking out the words "6 months" and by inserting in lieu thereof the words "1 year."

SEC. 53. Section 14 of said act is amended to read as follows:

"The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within 30 days after the date of the proclamation by the Secretary of Agriculture, pursuant to subsection (b) of section 3 of this act."

Mr. COPELAND. Mr. President, I wish to ask the Senator from South Carolina whether any hearings were held on this part of the bill?

Mr. SMITH. No, Mr. President, for the reason that it is practically the law as it now stands.

Mr. COPELAND. Did any appeals come in from any concerns to have hearings on this subject?

Mr. SMITH. No; only on the processing tax.

Mr. COPELAND. Not on this part of the bill?

Mr. SMITH. No.

Mr. COPELAND. What part of the bill was it on which these gentlemen desired hearings?

Mr. SMITH. It was with reference to the processing tax?

Mr. COPELAND. Where do we find it in the bill?

Mr. SMITH. It is just the reenactment of the Smith-Kerr bill. That is the point to which I called attention heretofore, that in levying the processing tax, when the parity price was reached, or when the price was above the parity price, the processing tax should be reduced in proportion as it approached parity. That subject was discussed somewhat yesterday.

Mr. COPELAND. What effect will this provision have upon the cigar industry?

Mr. SMITH. It has nothing to do with it.

Mr. COPELAND. Will the Senator point out to me, so that I may not make any mistake about it—because I am unfamiliar with the bill—the part of the bill over which the cigar manufacturers are disturbed?

Mr. SMITH. It is the processing tax.

Mr. COPELAND. Will the Senator point out to me where in the bill that is?

Mr. SMITH. It has already been passed over. That is on page 20 of the bill. The pending amendment has nothing whatever to do with that; and if the Senator will permit us to act on this amendment, I shall return to the matter to which he has referred.

Mr. COPELAND. Very well. With that understanding, I shall be glad to desist.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GERRY. Yesterday I was discussing with the Senator from South Carolina the committee amendment on page 40; and I understood from the Senator that the processing tax, when it reached a certain amount would cease entirely. Apparently that is not the case. It is always 10 percent. Is that correct?

Mr. SMITH. No; it is 10 percent during a current period, but if 2 months preceding the beginning of the next current year it is evident that the conditions are such that the price will be parity or above, then it will be seen that the bill provides that it may be zero.

Mr. GERRY. Where is that provision? I do not understand that.

Mr. SMITH. If the Senator will allow us to get through with the pending amendment, we will return to that question.

Mr. COPELAND. May I say to the Senator from Rhode Island—I assume his interest is the same as mine—that I am taking it for granted that we shall have the opportunity to present the cause of the cigar manufacturers as it should be presented.

Mr. GERRY. I was not thinking of that. I was thinking of the matter in a broader sense.

Mr. JOHNSON. Mr. President, may I ask what section is under consideration?

Mr. SMITH. It is the last committee amendment, beginning on page 73, after line 18.

Mr. COPELAND. I may say to the Senator from California that some of us who live in States where cigars are manufactured have been told of the manufacturers' great distress over the processing tax on tobacco. I thought it was to be found in connection with the amendment which we have just reached, but I have been assured by the Senator from South Carolina, who is all wisdom on this matter, that this is not the place in the bill where it is to be found.

Mr. SMITH. No; this is not the place.

Mr. COPELAND. I am told that it is on page 40, and that it has already been agreed to take it up again. Relying upon that assurance, I am willing, so far as I am concerned, to desist for the moment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment beginning on page 73 and continuing to the end of the bill.

The amendment was agreed to.

Mr. SMITH. Mr. President, the committee amendments now have all been passed upon except those which were passed over. I ask that the clerk now may begin with the first amendment which was passed over.

Mr. LA FOLLETTE. Mr. President, probably the amendments were passed over at the suggestion of Senators who may wish to be present. Therefore, would it not be well to have a quorum call?

Mr. SMITH. That is a good suggestion. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Keyes	Pope
Ashurst	Coolidge	King	Radcliffe
Austin	Copeland	La Follette	Reynolds
Bachman	Costigan	Lewis	Robinson
Bailey	Dickinson	Logan	Russell
Bankhead	Dieterich	Lonergan	Schall
Barbour	Donahey	McAdoo	Schwellenbach
Barkley	Duffy	McGill	Sheppard
Bilbo	Fletcher	McKellar	Shipstead
Black	Frazier	McNary	Smith
Bone	George	Maloney	Steiwer
Borah	Gerry	Metcalf	Thomas, Okla.
Brown	Gibson	Minton	Townsend
Bulkley	Glass	Moore	Trammell
Bulow	Gore	Murphy	Truman
Burke	Guffey	Murray	Tydings
Byrd	Hale	Neely	Vandenberg
Byrnes	Harrison	Norbeck	Van Nuys
Capper	Hastings	Norris	Wagner
Caraway	Hatch	Nye	Walsh
Carey	Hayden	O'Mahoney	Wheeler
Chavez	Holt	Overton	White
Clark	Johnson	Pittman	

The PRESIDING OFFICER. Ninety-one Senators having answered to their names, a quorum is present.

The first amendment passed over will be stated.

The CHIEF CLERK. The first amendment passed over, at the request of Mr. MCNARY, is in subsection (2), on page 10, after line 21, under the heading "Commodities to which applicable."

Mr. JOHNSON. Mr. President, that is the provision, I take it, beginning with the title "Commodities to which applicable", and proceeding from there down through line 10, on page 11?

The PRESIDING OFFICER. The Senator's statement is correct.

Mr. JOHNSON. I wish to offer an amendment perfecting the committee amendment, if I may do so.

Mr. STEIWER. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Oregon?

Mr. JOHNSON. I yield.

Mr. STEIWER. This particular proposal was, as I remember, passed over at the request of my colleague [Mr. MCNARY]. It happens that my colleague at the moment is not in the Chamber, and I do not know whether or not he is advised that the matter is now being called up. I am wondering if it might not be agreeable to all concerned that the Senate proceed for the moment to the consideration of some other amendment and return to this amendment at a later time?

Mr. BANKHEAD. I have no objection to that.

Mr. JOHNSON. I have none.

Mr. STEIWER. I am sure my colleague would appreciate that courtesy being extended.

Mr. BANKHEAD. Is it agreeable to the Senator from California that the amendment be passed over?

Mr. JOHNSON. It is perfectly agreeable to me, but let me say to the Senator in charge of the bill that what I want to do is to add one item so that it will come under the purview of the bill. It will be observed in lines 5 and 6, on page 11, the words appear "not including vegetables for canning." I want to add to that particular provision so as to make it read "not including vegetables, other than asparagus, for canning." I will not take the matter up now because of the absence of the Senator from Oregon. I am simply submitting that thought for consideration, and, inasmuch as it affects a single product which comes prac-

tically altogether from the State which I have the honor in part to represent, I question if there will be any objection to it.

Mr. GEORGE. Mr. President, I do not now want to argue the matter, but I may have to take issue with the Senator from California, because Georgia is now raising asparagus and is canning asparagus.

Mr. JOHNSON. I congratulate Georgia and welcome her to the fold.

Mr. GEORGE. We do not want to have our growth arrested by too much restriction upon us. However, I understand this particular part of the bill, subsection (2), is to be passed over.

Mr. JOHNSON. May I file my amendment?

Mr. GEORGE. I understand the Senator is offering an amendment, but may I ask that it be passed over until morning, because those of us from the Southeast are very much interested in other phases of this provision.

Mr. BANKHEAD. That will be perfectly agreeable to me.

Mr. COPELAND. May I ask the Senator from Georgia in what particular provision on page 11 he is interested?

Mr. GEORGE. I am very much interested in the House provision which is stricken out beginning on line 4, page 11, which reads "(not including fruits for canning)."

Mr. COPELAND. That is, the Senator wishes to restore the House language?

Mr. GEORGE. I wish to restore the House language.

Mr. COPELAND. I desire to join with the Senator in that wish.

Mr. BANKHEAD. So do I.

Mr. JOHNSON. May I say to the Senator from Georgia, in the language which he used a moment ago in respect to California's famous asparagus that I am sorry, indeed, to take issue with him, but I shall take issue with him upon the particular suggestion he makes.

Mr. President, I may add that this is one of the important amendments to this bill so far as producers and canners are concerned, and it will take some considerable time to dispose of it, I have no doubt. I say that to the Senator in charge of the bill in order that he may govern himself accordingly. With the consent of the Senate I filed my amendment in relation to asparagus.

Mr. COPELAND. Mr. President, I should like to ask the Senator from California a question. He is seeking a modification of the words in parenthesis, in line 5, by inserting in the clause "not including vegetables for canning" the words "other than asparagus." Is that his amendment?

Mr. JOHNSON. Yes; so as not to include asparagus in the exception in the canning process.

Mr. COPELAND. I am not quite clear as to the Senator's objective.

Mr. JOHNSON. If the Senator from New York will observe, the clause reads:

> Vegetables (not including vegetables for canning).

In the clause relating to canning I am seeking to include asparagus, which is not included in the bill as presented.

Mr. KING. Mr. President, will the Senator yield?

Mr. JOHNSON. I yield.

Mr. KING. As I understand, the position of the Senator is that vegetables and fruits, particularly to which vegetable he is now addressing himself, should be exempt from the operation of the bill; that is to say, that vegetables which are used by the canners should not be subjected to the tax or to the regimentation provided in the bill?

Mr. JOHNSON. No; I am not saying so. The bill exempts all vegetables that are canned. I am seeking to include in the bill asparagus and exempting it from that particular provision of the bill.

Mr. KING. If I understand the Senator correctly, I agree with him.

Mr. JOHNSON. Very well. Fruits, however, are in a different category.

Mr. KING. I understand; and I would treat them as I would treat vegetables.

Mr. JOHNSON. I would not.

Mr. KING. I understand California has some citrus and other fruits. It merely shows—and I say it with the utmost good feeling—that geography cuts some figure in legislation.

Mr. WAGNER. Mr. President, I understood a moment ago the Senator in charge of the bill to say that the provisions on page 11, subparagraph (2) of section 8 (c), are to go over until tomorrow for consideration?

Mr. BANKHEAD. That is my understanding of the request. I merely want to accommodate those who are interested in the section.

Mr. DUFFY. Mr. President, I have proposed and there is now lying on the desk an amendment striking out the word "hops" in the same section and "hops and their products" in another section. I want to be certain that we have some definite understanding as to when the provision may come up.

Mr. BANKHEAD. Mr. President, in the interest of making progress, I should like to suggest that particular items of this section as to which there is such a request be passed over, and let us finish those which are not in controversy and as to which there is no request that they go over until tomorrow.

Mr. JOHNSON. I am perfectly willing to abide by any decision which may be agreeable.

Mr. BANKHEAD. That will preserve the right to have any amendment go over which any Senator desires to have passed over.

Mr. JOHNSON. That is perfectly satisfactory to me. The amendment in question, as the Senator will understand, was being passed over at the instance of the Senator from Oregon [Mr. McNARY].

Mr. GEORGE. Mr. President, my request related only to the provision affecting fruits and vegetables, if the amendment of the Senator from California should be held in order. I do not know whether that amendment would be in order at this time, though, of course, it subsequently would be. My reason for making the request was that at the moment I did not see the Senators from Florida in the Chamber, and I must leave the Chamber at an early hour this afternoon.

Mr. BANKHEAD. The Senator wants the committee amendment striking out the words "and not including fruits for canning" passed over?

Mr. GEORGE. That is the particular amendment.

Mr. JOHNSON. On that amendment there will be considerable debate.

Mr. GEORGE. I apprehend it will take some time to debate it, and probably its consideration could not be concluded today.

Mr. BANKHEAD. The Senator from California desires his amendment incorporating the words "other than asparagus" passed over.

Mr. JOHNSON. I am ready to take it up, but, as I understand, the entire provision is to be passed over.

Mr. FLETCHER. Mr. President, a parliamentary inquiry. The amendment suggested by the Senator from California [Mr. JOHNSON] is not now in order. It is not an amendment to a Senate amendment. It is an amendment to the House text, and we are now considering committee amendments. The amendment of the Senator from California will come up as an individual amendment at the proper time.

Mr. JOHNSON. That is quite true, as the Senator says. I merely offered it for the purpose of having it before the Senate when this subject should come before it, in order that we might discuss the whole proposition; but, inasmuch as the particular provision which relates to commodities to which the title is applicable has gone over, I have presented the small amendment as to asparagus so that the Senate may know what ultimately is the intention of those of us who are going to argue on one side of this question.

The PRESIDING OFFICER (Mr. BLACK in the chair). Does the Senator from California desire his amendment to lie on the table?

Mr. JOHNSON. I do.

The PRESIDING OFFICER. The amendment will be received and lie on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the joint resolution (H. J. Res. 201) giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in the month of September 1936, and for other purposes, incident to said encampment.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (H. J. Res. 201) giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in the month of September 1936, and for other purposes, incident to said encampment, and it was signed by the Vice President.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. KING. Mr. President, I was advised during the consideration of this bill by the Committee on Agriculture and Forestry that no hearings would be granted. I had a number of requests for hearings and communicated that fact to the chairman of the committee.

Upon receiving information that no hearings would be held, I made further inquiry and learned that Mr. Chester Davis and representatives of the Department of Agriculture were holding conferences with the committee and aiding in drafting the bill now before us. I am making no criticisms, but cannot understand why the public were afforded no opportunity to be heard when a measure of such vital importance to the country was under consideration. When I learned that no public hearings were to be held, I wrote the following letter to the chairman:

JUNE 23, 1935.

Hon. ELLISON D. SMITH,
Chairman Committee on Agriculture and Forestry,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am advised that the so-called "A. A. A. bill" is before the Agriculture Committee of the Senate for consideration. I am not a member of the committee, but I shall be glad to obtain information, which I think is available to your committee, in order that I may be better advised how to vote upon the various provisions of the bill when it shall come before the Senate. I shall be glad to have information regarding the matters herein referred to, all of which, I believe, are pertinent to the questions involved in the bill now before your committee.

A. Under the head of "Operation of processing taxes, benefit payments, and voluntary agreements to reduce production of wheat, corn, and hogs", I shall be glad to have information respecting the following:

1. Amount of money raised by processing taxes—the amounts by commodities and by States.

2. The amounts, by commodities and by States, paid to producers.

3. The amount of reduction of production (a) wheat acreage, by States; (b) corn acreage, by States; (c) sows and pigs slaughtered, by States.

4. Amount of increase in consumers' costs, including increased prices for flour, bread, and typical cuts of pork and beef not only in rural communities, but in typical cities.

Mr. COPELAND. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from New York?

Mr. KING. I yield.

Mr. COPELAND. This is a letter which the Senator addressed to the chairman of the committee, is it not?

Mr. KING. Yes.

Mr. COPELAND. The Senator will be interested to know that in Rochester, N. Y.—familiar to the Senator as near the birthplace of his father—this tax has added to the food costs as regards meat, which the Senator has just mentioned, as follows:

Pork loins, 4.86 cents per pound.

Bacon, 4.29 cents per pound.

Fresh ham, 4.98 cents per pound.

Smoked ham, 5.15 cents per pound.

Pork sausage, 1.71 cents per pound.

Mr. KING. According to the views of some persons the Senator ought not to be interested in the consumers.

Mr. COPELAND. Oh, no; not at all. My people up there should live on sawdust. [Laughter.]

Mr. MURPHY. Mr. President, will the Senator permit a single observation?

Mr. KING. I should prefer to continue reading the letter, but I yield to the Senator from Iowa.

Mr. MURPHY. Will the Senator from New York advise us where he got the figures showing these increases?

Mr. COPELAND. From the Rochester Chamber of Commerce.

Mr. MURPHY. From a chamber of commerce?

Mr. COPELAND. Yes.

Mr. MURPHY. I would expect that. Furthermore, would the Senator advise whether or not all these price increases were due to the processing tax, or was some part of it due to the mark-up made by the retailers?

Mr. COPELAND. I dare say both would enter into it, but there is no question at all that somebody is paying the processing tax, and that "somebody" is the consumer. There is no question, of course, that advantage is taken of the situation and that the price is marked up, as the Senator from Iowa suggests. Nevertheless, the great consuming public are the ones who pay the bill.

Mr. KING. Obviously the Senator from Iowa does not wish the Senate to reach the conclusion that the imposition of a 30-cent tax upon wheat—which I am informed is to be advanced to 33 cents—will add to the cost of flour to the consumer?

Mr. MURPHY. No; I would not make such a contention. I presume that the Senator from New York is prepared to vote for that provision in the bill which denies the right to the processors to recover the processing taxes paid, because he has stated that those taxes were paid by the consumer.

Mr. KING. Mr. President, I shall continue and let my two friends, one from Iowa and one from New York, fight this matter out between themselves; but I do assert that a processing tax upon commodities raises the prices to the consumers, and I fear that Congress and executive authorities too often refuse to consider the interests of the millions of consumers. This has resulted in industrial disturbances, buyers' strikes, and in some cases demoralization in our social and economic life.

Mr. COPELAND. O Mr. President, I do not have to fight with anybody. I do not want to fight with anybody, but I know that when, by reason of legislation, we increase prices the consumers, the public, pay the bill.

Mr. KING. Undoubtedly.

Mr. COPELAND. I am interested, because I have in my State 13,000,000 consumers. They have gone along very patiently with these legislative proposals. Nevertheless, they are paying at least 10 percent of the cost of these taxes. Therefore we have in our State some interest in this matter.

Mr. BANKHEAD. Mr. President, may I ask the Senator from New York a question?

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Alabama for that purpose?

Mr. KING. I yield.

Mr. BANKHEAD. Are not the same consumers paying tariff taxes on manufactured articles in his State?

Mr. COPELAND. Yes; but the manufacturing industries in my State represent a very small proportion of the population. I have thousands and millions of constituents in my State who do not have anything to eat but "the sidewalks of New York", and they are not interested in the tariff which the manufactured products may have; but they have an interest, when somebody gives them a dollar, to be able to go out and buy some food with it. When they have to pay an additional 4 or 5 cents a pound for the meat which they buy with that dollar, then the consumers in my State have a direct personal interest in what this tax may be.

Mr. KING. Mr. President, it seems to me we might rise above local or sectional or geographical lines in dealing with

legislation, especially proposed legislation of the importance of the pending bill, and envision the entire people and seek legislation promotive of the happiness and welfare, not of my State or any particular State, not of one group or another, but of the entire population. Any proposed legislation which discriminates against the millions of consumers, whether it be through the tariff or processing taxes or otherwise, calls for serious scrutiny, indeed, for severe condemnation. Undoubtedly many tariff laws have unduly favored industry and adversely affected agriculture and the wage earners of our country. The farmers for decades blindly followed the powerful captains of tariff monopolies. They supported the Republican tariff policies to their own injury and to the disadvantage of the mass of the American people.

Mr. DICKINSON. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. DICKINSON. I am wondering whether or not the A. A. A. amendments are on the "must" list. I understand representatives of certain interests went to the Executive Offices yesterday and were told by one of the secretaries there that this legislation was not on the "must" list. It is so reported in the New York Herald Tribune of today.

Mr. KING. May I say very frankly that I am not guided by the alleged "must" lists. I attempt to vote my own convictions regardless of the convictions or attitude of others.

I continue reading the letter:

5. The advance in bread prices in various cities; also advance in meat prices in various cities.
6. Estimated cost to consumers by reason of increase of prices in the commodities referred to.
7. Estimated number of consumers not living on farms benefited by benefit payments.
8. Total number of farmer beneficiaries; that is, those receiving benefit payments in wheat, corn, and hog programs.
B. Legality of processing taxes.
1. List of cases already brought to test the validity of processing taxes
2. Present status of each case.

Before we conclude the debate upon this bill I shall place in the RECORD the number of cases which are now pending challenging the constitutionality of the A. A. A. Act; and may I add, judging from the provisions and terms of the measure before us, more such will be instituted, if this bill shall be enacted into law, than have been brought under the original A. A. A. Act. Its provisions are so conflicting, confused, and subtle, and, as I believe, so in contravention of personal and State rights, that numerous actions will be instituted in the courts to restrain its enforcement and to obtain decisions against its validity.

Returning to the letter from which I am reading:

C. Administrative cost of the A. A. A.
1. Number of employees on Federal pay roll in A. A. A. work, including the number for each month since the A. A. A. law went into effect: (a) List of employees receiving above $5,000 per year; (b) total annual pay roll as of January 1, 1935.
2. Number of county agents and assistants on joint Federal and State pay rolls, and also the number active in the A. A. A. work, giving the number by States.

May I add parenthetically that in President Wilson's administration for the fiscal year ending June 30, 1917, the entire cost of the Government, including Federal employees, the Army, the Navy, and every activity of the Government, was but approximately $1,000,000,000.

For the fiscal year 1935 the salaries of Federal employees will exceed one and a quarter billion dollars. With the enormous Federal expenditures, it is not to be wondered that there are deficits of three or four billions a year, mounting taxes, and complaints from people in all parts of the United States because of the heavy burdens resting upon them.

3. Number of women and men placed on community or commodity committees working on A. A. A. activities. If possible list by States.
(a) The manner in which these committee men and committee women are paid, and the source of the funds.
(b) The total amount of such payments by States.
D. Activities of Consumers' Council.
1. List of employees and persons engaged in this activity in A. A. A. since its organization.
2. Salaries paid, and to whom, above $5,000.
3. Sample copy, cost and circulation of Consumers' Guide, and list of other published material and news releases.
4. List of State and city consumers' councils cooperating with Federal Consumers' Council.
E. Operation of marketing agreements and licenses.
1. List of licenses put into effect for each and all commodities.
2. List of licenses now in effect.
3. List of court cases brought against the A. A. A. with respect to licenses, with present status of each case.
4. General statement with respect to number and localities in which A. A. A. or license administrators have made either voluntary or involuntary inspections of books and records of processors and handlers.

As stated, I assume that the committee will have information respecting the matters herein referred to, and for that reason I am respectfully asking for the same.

Sincerely yours,

WILLIAM H. KING.

The chairman of the committee—and I am betraying no confidence in making this statement—told me he thought that the information sought would be available from the Department of Agriculture; and I understood him—if I am incorrect I hope he will correct me—to say that I would receive the information. I shall be glad when I receive the information referred to in my letter.

Mr. COPELAND. Mr. President, may I ask the Senator the date of his letter?

Mr. KING. June 23 of this year.

Mr. COPELAND. That was about 3 weeks ago.

Mr. KING. That was after I learned that the committee would grant no hearings. Believing the data mentioned in my letter was pertinent to the legislation sought and would be helpful in its consideration, I endeavored to secure the same.

Mr. WAGNER. Mr. President——

Mr. KING. I yield to the Senator from New York.

Mr. WAGNER. I wished to have the Senator know that he is not the only one who is complaining of the refusal of the committee to grant a hearing to those affected by the proposed legislation. The Senator knows that there is invested in the rayon industry about $250,000,000; it employs nearly 200,000 persons; and the industry sought a hearing upon a proposal to impose upon it a compensatory tax of 5½ cents per pound.

The imposition of that particular tax simply means that our domestic rayon industry will have to surrender its market to imported silk commodities. The imposition of the tax is so serious that it may be destructive of the industry; yet the representatives of the industry were not granted a hearing before the committee, and without such a hearing this tax is to be imposed.

Mr. KING. Mr. President, I regret that hearings were not granted. I know that the House Committee on Agriculture held hearings and hearings were had before the Senate committee when it considered either the first or the second bill referred to it for consideration. Four or five bills, as I recollect, have been considered by the Agriculture Committees of the House and Senate during this session, and the one now before us is either the fourth or the fifth. So unsatisfactory to the country have been the bills prepared by the A. A. A. officials and their technical experts and legal and other advisers, that over and over again they have been reconsidered by the committees referred to; and each reconsideration has, in my opinion, made the succeeding bill more oppressive, bureaucratic, and undemocratic.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Alabama?

Mr. KING. I yield.

Mr. BANKHEAD. In order that there may be no misunderstanding I desire to say that for about 2 weeks the Committee on Agriculture and Forestry held protracted hearings, and gave an opportunity to come before the committee to everybody who desired to come before us on the bill which was reported to the Senate and was on the floor of the Senate for consideration the day the N. R. A. decision was rendered. Practically all the changes made after the bill went back to the committee were made to put it in line with the decision in the N. R. A. case. The committee felt that after 2 weeks of hearings on all other phases it was unnecessary again to open up the matter and hold additional hearings.

Mr. MURPHY, Mr. WAGNER, and other Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield; and if so, to whom?

Mr. KING. I will yield in a moment. I have the bill which is now reported, 80 pages in length. I have the three or four bills which preceded the one before us, the first one containing but a few pages; but the more the subject was considered the more voluminous were the succeeding bills and the more expansive and drastic were their terms. The evolutionary powers continued until there was born the measure before us containing 80 pages of confused, complex, and subtle provisions.

Mr. WAGNER. Mr. President——

Mr. KING. I yield to the Senator from New York.

Mr. WAGNER. I desire to ask the Senator whether it is not a fact—I have been so informed by those interested in the rayon industry—that not one interested party was heard by the committee before this amendment was included in the bill by the Agricultural Committee?

Mr. BANKHEAD. I will say to the Senator that his information is correct. The amendment was put in by the committee toward the close of its consideration of the bill; but the Senator should know, and I assume he does, that the matter had been the subject of active hearings by the Department for some months, so that the facts were developed.

Mr. WAGNER. Exactly; but I do not think the committee took advantage of those facts, because the matter was under consideration by the Agricultural Adjustment Administration for a period of over a year, and they did not impose the tax which it is proposed to impose under this bill.

Mr. BANKHEAD. They did not render any decision at all.

Mr. WAGNER. My conclusion is that they were persuaded that the imposition of the tax would be an injustice.

Mr. BANKHEAD. They never reached that conclusion so far as any announcement was concerned; but I simply made that statement to indicate to the Senator that the subject had been one of long investigation, and everybody had had an opportunity to go on record.

Mr. WAGNER. Mr. President, will the Senator from Utah yield for just one more question?

Mr. KING. I yield.

Mr. WAGNER. It is a fact that the Agricultural Adjustment Administration did not recommend the particular amendment to which I have reference?

Mr. BANKHEAD. They made no recommendation either way to the committee about it.

Mr. COPELAND. Mr. President, will the Senator from Utah yield to me? He has been very patient.

Mr. KING. I yield for a question.

Mr. COPELAND. I desire to emphasize what my colleague [Mr. WAGNER] has said. There is very great resentment in my State because those interested in rayon and those interested in tobacco were not given an opportunity to be heard. I believe that in fairness to all American citizens there should have been an opportunity for hearings. I am not blaming the committee. I know my own committee has been very active. It has been impossible to hear everybody who desired to be heard. Nevertheless, when there are to be imposed upon this industry and that industry great contributions, it is wise and proper and American that they should be heard upon their request. They have not been heard, and of course they resent it.

Mr. GERRY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Rhode Island?

Mr. KING. I yield for a question.

Mr. GERRY. Since the Agricultural Adjustment Administration did not recommend the imposition of this tax, is it not fair to infer that they did not think it was a wise tax to put upon the industry? They had long hearings, I understand, upon the subject of rayon.

Mr. KING. I shall not attempt to answer the Senator's question as to the views of the A. A. A. officials.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. KING. I yield for a question.

Mr. McKELLAR. I think I can answer the Senator from Rhode Island. Last year's bill provided, I believe, and the original bill provided, that the Department might put a processing tax on rayon. It gave them the authority to do it. The Department had a hearing, when all sides were heard; and after that hearing they declined to do it, and now have made no recommendation about it. Under those circumstances, it seems to me——

Mr. GERRY. It is very clear, then, that the Department felt that the tax was not a just tax.

Mr. McKELLAR. And ought not to be put on. I think so.

Mr. WAGNER. Mr. President, the Senator from Utah has been so gracious about yielding that I desire to add just one word. I wish to say that under the existing law the Agricultural Adjustment Administration have the power to impose this tax if they think it a fair compensatory tax. They have not done so. This provision is to compel the imposition of the tax by legislative mandate.

Mr. KING. Mr. President, perhaps I was a little inaccurate in stating that I had received no information in response to the letter which I wrote to the chairman of the committee. I wish to modify that statement to this extent: I found on my desk 2 or 3 days ago a number of papers which came from the Department of Agriculture, but had no opportunity to examine them.

During the colloquy since I have had the floor I have hastily glanced at several pages of the same and shall refer to them in a few minutes. First let me refer to the statement made by the Senator from Alabama [Mr. BANKHEAD].

My recollection is that a bill was before the Senate which had been reported by the Committee on Agriculture and Forestry after the decision of the Supreme Court in the Schechter case, perhaps before; I am not quite sure as to the time. The Senator from New Mexico will advise me.

Mr. HATCH. The bill was under consideration in the Senate at the time the decision was handed down.

Mr. KING. The bill was being considered in the Senate, the Senator from New Mexico advises us—and he is a member of the committee—when the famous and important Schechter case was decided by the Supreme Court of the United States. It was evident that the A. A. A. Act of 1933, and the bill pending in the Senate when the Schechter case was decided, were unconstitutional; and the Senate thereupon referred back to the committee the measure then before it.

I had supposed, and I think the public had supposed, that when the bill went back to the committee there would be hearings, because the bill was of vital importance not alone to agriculture but to the American people as a whole.

But the committee granted no hearings. The public were accorded no opportunity to present their views and to meet the situation resulting from the decisions of the Supreme Court, which not only challenged the validity of the A. A. A. Act but in effect declared that provisions such as are found in the bill before us would be violative of fundamental law. I am advised that representatives of the A. A. A. were permitted to meet and confer with the committee, but the public and those who would be affected by the measure were not consulted or heard.

Mr. SMITH. Mr. President——

The PRESIDING OFFICER (Mr. RUSSELL in the chair). Does the Senator from Utah yield to the Senator from South Carolina?

Mr. KING. I yield.

Mr. SMITH. In justice to the committee and to all parties concerned in the bill let me say that the Committee on Agriculture of the Senate waited until the House had completed its investigation and had passed the bill and sent it to the Senate. Hearings were had in the House. They went through all of the procedure that was necessary to take care of the public, and when the Committee on Agriculture and Forestry of the Senate took the House bill under consideration they called in officials of the Department of Agriculture to find out in what respect the amendments now before us conform to the decision of the Supreme Court. We were not asking them for their advice; we simply wanted to know and to be shown what modification should be made so as to make the bill conform to the decision of the Supreme Court.

I think I can show by reading a part of the old law where the Secretary of Agriculture was given blanket power over nearly every agricultural commodity and practically to do

his will. After the decision of the Supreme Court the articles which were to be affected by the bill were named specifically, and provisions were made that those who produced them should go through the process indicated in the law. We went over it line by line and paragraph by paragraph, in the presence of the full committee, with those who had suggested what they called "clarifying amendments", and I state here and now that there is not half the power conferred under the proposed amendments that was provided in the original law or was in the amendments previous to the decision of the Supreme Court.

We did not think it was necessary to hold hearings. We felt that the House had covered the ground, had met the requirements of the decision of the Supreme Court, and the committee, having reached the conclusion they did reach, reported the bill.

Mr. KING. Mr. President, I am not questioning the good faith of the committee; but I cannot resist the conclusion that a measure so vitally affecting the entire country should have been examined, analyzed, and passed through the crucible of public consideration and criticism before being reported back to the Senate. I cannot help but believe that the measure before us, as interpreted by the A. A. A. officials, will produce a radical change in the economic and political life of the people. It projects the Federal Government, through a powerful and Nation-wide organization, into intrastate concerns, and lays the foundation for compounding our political institutions into one colloidal mass.

I repeat that without hearings, without full opportunity to consider the bill and all of its implications, there has been thrust upon us a bill of 80 pages which is so complicated that it is difficult to interpret. As stated, this is the fourth or fifth edition, and each time it is considered and reconsidered it comes out changed, enlarged, and exaggerated. I suppose that if it went back to the committee it would emerge in a more gigantic form, physically and infinitely more complex and difficult of understanding.

Mr. President, I submit this criticism with respect to legislation, and I do it in the utmost good feeling, because committees upon which I serve are just as amenable to the criticism, and perhaps more so, than other committees.

Much of the important legislation enacted by Congress is prepared by so-called "experts", "brain trusters", lawyers from Harvard and New York, rather than by Members of the House and the Senate.

I repeat that many important measures are drafted by the departments. We are drifting into a departmental government, into a bureaucratic government, and, of course, relying, as we do, upon the bureaus and upon the departments and governmental agencies for information and for the preparation of bills, little by little we abdicate the responsibility resting upon us and take the measures which are submitted for our consideration.

So we have before us now a bill comprising 80 pages, whereas in the first bill that was offered and considered by the chairman of the committee, my recollection is that there were only 10 or 15, and it is quite likely it was a better bill than the one before us now. However, I shall not pursue that theme any longer.

The Senator states that the bill is less drastic than the original A. A. A. Act; that act, as many know, in many respects conferred almost unlimited power upon the Secretary of Agriculture to deal with agricultural products, and, though its oppressive and invalid features were pointed out in both Houses and in many parts of our country, it became a law.

Many persons believed that it contained provisions which attempted to delegate legislative power to the Secretary of Agriculture and that it was unconstitutional.

Mr. President, I fear that this measure, if enacted into law, conferring, as it does, such power upon the Secretary of Agriculture, will be regarded as a guide and precedent for further legislation infringing upon individual and State rights. It will be interpreted by many as an abdication by Congress of its authority and an illegal delegation of authority to executive agencies. It is the thought of some that in the near future measures will be presented to Congress recommended by some department of the Government which will compel every person to obtain a license to engage in every form of interstate commerce.

And the railroads under this plan will not be permitted to accept for transportation between States any commodity without having evidence that the producer and the shipper obtained the necessary license from the Department of Agriculture, or some agency set up by the executive department authorizing its shipment.

There is a movement to destroy local self-government, State sovereignty, and many inseparable and natural individual rights. Under the interstate-commerce provision the Constitution will be misinterpreted and distorted and perverted efforts will be made to control through a powerful bureaucracy the business life and the conduct of the people generally. This bill may be a step in that direction.

Mr. President, corroborative of what was said by the Senator from South Carolina [Mr. SMITH], I have here a pamphlet of 24 pages, and there are two or three supplements, prepared by the Department of Agriculture and signed by the Secretary of Agriculture, dealing with the subject of milk in the Los Angeles area; and I presume that similar publications have been prepared with respect to other sections of the United States. I think Senators would be surprised if they were carefully to read the provisions of this pamphlet. It contains provisions for the fixing of prices not only for what shall be paid to the producer, but what shall be paid by the handler; prices are fixed with respect to transportation charges; advisory committees are set up, and the Secretary of Agriculture is authorized in this code of rules, regulations, if not laws, to exercise almost unlimited authority in the selection of agents and in the execution of the rules and regulations which he may formulate.

His agents are authorized to impose a tax upon the producers of milk and the handlers, those who sell it. The fund collected by such agents appointed by the Secretary of Agriculture may be employed to pay their expenses and the expenses of administration.

Mr. President, let me read a few sentences to show how subtle has been the way by which it has been attempted to bring the domestic production and consumption of milk in Los Angeles district under the control of Federal agencies. It might be thought by some that I am reading from a legislative code. We have abdicated the authority to the Secretary of Agriculture, and he promulgates this law.

Whereas section 8 of the Agricultural Adjustment Act, as amended, provides as follows—

Then it quotes section 8—

SEC. 8. In order to effectuate the declared policy, the Secretary of Agriculture shall have power—

Then it quotes subsection 3—

(3) To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof.

Such licenses shall be subject to such terms and conditions not in conflict with existing acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof.

This code further declares that the Secretary may—

require any licensee under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such system of accounts as may be necessary for the purpose of part 2 of this title.

And whereas—

Now this is the important part—

R. G. Tugwell, Acting Secretary of Agriculture, acting under the provisions of said act, for the purposes and within the limitations therein contained, and pursuant to the regulations issued thereunder has on the 31st day of May 1934 isued a license for milk in the Los Angeles sales area, which license was subsequently amended on August 21, September 29, and on December 15, 1934.

Keep in mind that issued licenses were amended and again amended, as there is no limitation upon the authority of the Secretary of Agriculture or Mr. Tugwell, who was the Acting Secretary, to issue licenses and amend the same.

And whereas the undersigned finds that the marketing, distribution, and handling of milk and the products thereof covered by this license—

Keep in mind that this is a limited area of the State of California. It is not Nevada or Utah or Oregon. This area is a segment of the State of California. The language is so framed that it may be made to appear that the transactions in milk are intended and subject to the code or regulations of the Secretary of Agriculture. The code continues—

are in the current of interstate and/or foreign commerce since the portion thereof which occurs within the bounds of a single State affects and actually and potentially competes with the marketing, distribution, and handling of commodities and products which occur between or among several States.

This is a clever and subtle way of endeavoring to deal with local and intrastate business as if it were interstate. In effect the order states that the production of milk in Los Angeles affects the production and consumption of milk in other States—perhaps in New York or Maine—and therefore every transaction relating to its production or sale must come within the interstate-commerce clause of the Constitution. I continue to read:

And since the commodity and the products thereof covered by this license cannot be separated into interstate and intrastate portions, the supply and the marketing, distribution, and handling thereof being inextricably commingled, so that it is impossible to regulate the interstate marketing, distributing, and handling without also regulating the intrastate marketing distribution and handling, and the failure to regulate the latter will defeat and obstruct the purposes of the act with respect to the former; and

Whereas the undersigned has found, and does hereby find, as follows:

That on June 1, 1934, the effective date of the license for milk in the Los Angeles sales area, and for a protracted period prior thereto, a severe disparity existed between the prices received by producers of milk supplying the Los Angeles sales area and the prices of nonagricultural commodities, which disparity had largely destroyed the purchasing power of such producers for industrial products, had broken down the orderly exchange of commodities, had seriously impaired the assets of such producers, had affected the marketing and distribution of milk in the Los Angeles sales area—

Not other States, but a limited part of the State of California—

with a national public interest, and had burdened and obstructed the normal currents of commerce in milk in the Los Angeles sales area—

Mr. COPELAND. Mr. President, will the Senator yield at that point?

Mr. KING. I yield.

Mr. COPELAND. The testimony of milk producers in my State is exactly what the Senator from Utah is bringing out with reference to California. My State is the greatest dairy State, so far as potable milk, beverage milk, is concerned, and I do not know of any dairy farmer in my State who is not in bitter opposition to this provision.

Mr. KING. Absolutely; and yet the dairy interests there would be brought under the powerful hand of the Secretary of Agriculture by virtue of the statutes which he promulgates.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. TYDINGS. I wonder if the Senator will permit me in his time to ask the chairman of the committee [Mr. SMITH] if any substantial number of dairy farmers have asked that this milk provision be inserted in the bill?

Mr. SMITH. From the facts submitted to the committee I think every member of the Senate now knows that there has been no more notorious chiseling of the producer and the consumer than with respect to milk, even if only half of what was brought before the committee was true. The producers throughout the country, according to the statements given to the committee, were desirous of having made some provision by which they could be assured that in the channels of interstate commerce they could be protected, so at least they could get some return for the milk they produced.

Mr. TYDINGS. Mr. President, will the Senator yield for another question?

Mr. KING. I yield.

Mr. TYDINGS. I was dealing primarily, of course, with intrastate licensing such as is now being described by the Senator from Utah. I did not want to intrude on the Senator, but I thought I was going to get a shorter answer from the Senator from South Carolina; and I say that respectfully. My question was whether any considerable number of farmers—hundreds of thousands or millions—were represented at the hearings by petition or telegram or otherwise, or was this bill written by those who know better than the farmers themselves know what is good for them?

Mr. SMITH. My impression is that of all the commodities outside of the staple crops which are under a processing tax—and milk is not—this provision is one which met the approval of all the farm organizations. How many people they represented is quite a different proposition.

Mr. TYDINGS. May I ask the Senator if the farmers of Pennsylvania asked for this provision?

Mr. SMITH. I am of the impression that the farm organization leaders, both of Pennsylvania and New Jersey, which is contiguous to the metropolitan territory of the Senator from New York [Mr. COPELAND] known as "Greater New York", did ask for it.

Mr. TYDINGS. I wonder if the milk farmers of New York asked for this bill?

Mr. SMITH. I am rather of the opinion that those of the State did.

Mr. MURPHY. Mr. President, I can answer that question "yes", and that the New York State authorities asked for it.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. COPELAND. I wish to say a little more about the milk business. I had a visit the other day from Mr. Homer Jones, who is one of the largest producers of milk in New York State. I am speaking of the man who owns a herd and sells milk. He is not in the creamery business. He is a private individual and represents a large group of men I know. It so happens that once my job was to supervise the quality of milk sold in my city, and so I came in contact with these gentlemen. It is my judgment, from the testimony given to me by these actual producers of milk, that they are in bitter opposition to the bill.

Mr. KING. Mr. President, I do not intend to discuss the question of the attitude of the milk producers throughout the United States at this time. I can only say that I have received many protests against the assertion of authority by the Secretary of Agriculture over the production and handling of milk and milk products.

If I may be pardoned a personal allusion, the Senator from Nevada [Mr. MCCARRAN] and myself conducted hearings 2 years ago with respect to the milk shed in the District of Columbia. There were violent protests against Professor King, who was in the Department of Agriculture, attempting to formulate measures I assume analogous to those from which I am now reading.

I believe that a State has the right, under its police powers, to deal with the question of the protection of those within its limits, subject, of course, to constitutional limitations, State and National. What I am complaining about is the unlimited and unrestricted authority given under the A. A. A. Act, which authority the Secretary of Agriculture attempts to exercise, to handle not only the producers of milk but the distributors, and to fix prices and to exercise by licenses or orders absolute control over the milk industry in all parts of the United States, regardless of State lines and regardless of wise legislation which many States have enacted to deal with this important industry.

Mr. TYDINGS. Mr. President, will the Senator yield again?

Mr. KING. I yield.

Mr. TYDINGS. Not only can the constitutionality of this bill be questioned under the N. R. A. decision insofar as intrastate commerce is concerned, but I may point out to the Senator from Utah, with whose argument I am in general

agreement, that many of the producers of milk have formed cooperatives and have their own organizations. In my opinion, they are perhaps better off than almost any other general class of farmers of the country. I am loath to interfere, particularly in intrastate commerce, where they are getting along perhaps better than they will after the Federal Government meddles with them.

Mr. KING. May I say to my friend from South Carolina that the farmers' cooperative associations have done a great deal of good, and I have been in favor of them. I fear that their usefulness may be impaired by the policies of the A. A. A. and the army of agents which it employs and uses in all parts of the land.

Mr. SMITH. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. SMITH. If the Senator would study the bill he would find that the cooperatives are assimilated. They are taken care of. Their activities and their rules and regulations are not disturbed. The bill attempts to promote them, to try to add to their influence.

So much so is that true that under the authority which we have under the interstate commerce clause, the cooperatives of the States, the cooperatives engaged in intrastate business, are asked to cooperate with the regulations applying to interstate commerce, and wherever there is within the State an organization which is doing the work that is proposed to be done in interstate commerce, it is hoped that the officers will cooperate with the Federal officers.

Mr. KING. Mr. President, there is much truth in what my friend says, but I am expressing my opposition to the efforts which are being made by some officials in the Government to control every activity and regiment individuals to socialize industry, to bring the Government under the influence of great socialistic organizations or oppressive Federal bureaus and agencies.

I believe our fathers were wiser than we are, and that the Government which they handed down to us, if preserved in letter and in spirit, will enable this Nation to increase in influence, in power, and in moral leadership until its influence will be pervasive throughout the world.

If, however, we socialize this Republic, socialize industry, destroy private initiative and private property, and subject the people to the rule of a powerful bureaucracy here in Washington, this Nation will fail in reaching the goal which the fathers envisioned; and in accomplishing here and throughout the world the good which it was hoped by them, and is hoped by patriots now, it will accomplish.

I have been interrupted by my friends. I shall now recur to this code enacted by the Secretary of Agriculture:

That in order to maintain the prices required to be paid to producers for milk in and by said license for milk, Los Angeles sales area, as amended, it was and is necessary (a) to classify the prices which distributors shall pay for milk—

Price fixing; and if there was anything that made the N. R. A. unpopular it was the determination of big and little officials of the organization to fix commodity prices—

In accordance with the form in which it is ultimately consumed; (b) to provide for the equitable distribution among all producers supplying milk to the Los Angeles sales area of the aggregate return realized by all producers from the sale of such milk; and to encourage the production of milk at a uniform level throughout the year.

7. That all of the terms and conditions of said license—

The returns and conditions are to be prescribed by the representative of the Department of Agriculture—

for milk—Los Angeles sales area, as amended, were and are necessary to establish and maintain prices for milk specified in said license, as amended—

And it has been amended several times, as I have indicated—

and were and are necessary to and do (a) effectuate the policy of the Agricultural Adjustment Act, as declared by Congress in section 2 thereof—

And so forth. Then I find another provision as follows:

Whereas the undersigned has determined to modify—

"The undersigned" promulgates the rules, enacts the law, and then modifies it—

modify the terms and provisions of said license for milk, Los Angeles sales area, as amended, by issuing this amended license pursuant to section 8 (3) of the Agricultural Adjustment Act and applicable general regulations of the Agricultural Adjustment Administration; and

Whereas the undersigned finds that the subject matter of this amended license is embraced within the scope of a hearing heretofore held on a marketing agreement pursuant to applicable general regulations of the Agricultural Adjustment Administration; and

Now, therefore, the undersigned, acting under the authority vested in the Secretary of Agriculture under the provisions of the Agricultural Adjustment Act, as amended, hereby amends and modifies the terms and conditions of said license, as amended, and hereby licenses each and every distributor to engage in the business of distributing, marketing, or handling milk or cream as a distributor in the Los Angeles sales area, subject to the terms and conditions set forth in this amended license, hereinafter called the "license."

Then follow, on page 3, definitions, and, on page 4, further provisions—"Market administrators", for example. They are to be designated and named, with but little limitation upon their authority. The statute continues—and I have not time to examine its 24 pages—dealing with that question down in Los Angeles—not an interstate area but an intrastate area. Prices are fixed; producers and consumers and all others are placed under this blanket authority which is asserted by the Secretary of Agriculture.

Mr. President, the A. A. A. has been a rather costly experiment, and I have no doubt that if the bill before us is enacted into law, its demands upon the Government and the public will be greater than the exactions under the present A. A. A. Act.

I stated a few moments ago that I have some data sent to me by the Agricultural Department, which are, in part at least, a response to the request for information which I submitted to the chairman of the committee to supply.

The statement I have before me is headed:

Summary of expenditures through April 30, 1935, analyzed by State and character.

The total expenditures of the Agricultural Adjustment Administration, as certified here by the office of the comptroller of that organization, amount to $1,001,596,291.48.

The general administration amounts to $48,774,996.27.

The rental and benefits which have been paid amount, as stated here, to $727,391,226.08.

The amount paid for removal of surplus amounts to $225,430,069.48.

As stated, these items aggregate over a billion dollars. Who have paid for these enormous expenditures? The consumers of the country have paid the bill.

I find in the same list another statement, signed by John B. Payne, Comptroller, which shows that $225,985,152.40 have been paid for rental and benefit for cotton; $163,592,147.41 for wheat; $33,573,077.23 for tobacco; $293,354,931.17 for corn-hogs—these being listed together—$10,885,917.87 for sugar.

Those are rental and benefit items. Then for the removal of surplus, and so forth, of hogs, wheat, dairy products, cattle, sheep, and goats, seeds, sugar, peanuts, rice, and cotton tax-exemption certificates, the total amount is $225,430,069.48; so that the total expenditures, as stated, amount to $1,001,596,291.48.

Mr. President, I shall have more to say in regard to some of the provisions of this bill before the discussion upon the bill shall be concluded.

I desire to read a few paragraphs from a pamphlet, Revised A. A. A. Amendments.

I should like to read the following:

The bill, H. R. 8492, revised from earlier drafts to meet legal points raised as a result of the Supreme Court's decision in the Schechter case invalidating codes under the National Industrial Recovery Act, represents both a confession of the unconstitutionality of the present law and an attempt to postpone as long as possible a verdict by the highest court.

Provisions of the bill which embody specific admissions of the invalidity of the existing statute include the following:

1. Enactment of present rates of processing taxes in lieu of an existing undue delegation of blanket power to the Secretary of Agriculture.

2. Retroactive ratification of the assessment and collection of nearly $900,000,000 in processing taxes.

3. A prohibition against the bringing of suits for refunds or credits of processing taxes on the ground of their invalidity.

4. A prohibition against suits to enjoin the collection of processing taxes or to obtain a declaratory judgment in connection with them.

5. Repeal of the present general authority to the Secretary of Agriculture with respect to rental or benefit payments to producers and substitution of lengthy new language setting forth methods and policies in detail.

6. Repeal of the present licensing section and substitution of new language authorizing the issuance of "orders" applicable to processors and other handlers of a restricted list of agricultural commodities.

I may say in passing that the word "orders" is as much abhorred as the word "licenses", and is just as offensive to provisions of constitutional authority and right as is the word "licenses." In other words, the word "orders" means "licenses", and it is proposed under this bill to license processors as well as producers and others; and the word "others" is susceptible of a multitude of interpretations. It may mean the man who produces and sells some of his products. He may be a producer and a processor, a vendor or a vendee, and he is to be subject to orders, which means, of course, to licensing. I read further:

7. Nominal restriction of orders and marketing agreements to interstate commerce, but in language designed to make possible continued control of a considerable volume of intrastate business.

* * * * * * *

Under a mass of verbiage is concealed a recognition of the complete demolition of the A. A. A. by the Schechter case decision. Scarcely anything of importance was left in the act within constitutional bounds, judging from the repeal of virtually all important sections and substitution of entirely new language. The bill bears little resemblance in text either to the present law or to the earlier drafts of amendments to the act which have been before the Congress throughout the present session.

In effect, the bill conveys an admission that the entire A. A. A. structure is unconstitutional. Nevertheless it is attempted to validate everything that has been done and to continue the same regimentation of agriculture without substantial change. The draftsmen who drew the original act failed to make it conform to the Constitution. It is now proposed to try a different set of legal phrases to accomplish the same purposes.

While in some particulars the powers of the Secretary of Agriculture are strengthened as contemplated by the earlier bills, it is obvious that the immediate objective now is to delay a final determination of the constitutionality of the Agricultural Adjustment Act by the Supreme Court.

* * * * * * *

The pending legislation has had a remarkable history. H. R. 8492 is the fifth draft of the bill actually introduced in the House during the present session. An even earlier draft, different from any of the five, was offered in the 1934 session of the Congress.

Each time the bill has been revised it has been expanded. The 1934 version consisted of only about eight pages. It was sidetracked after protests were voiced against its far-reaching character. H. R. 5585, introduced on February 12, 1935, consisted of 10 pages. H. R. 7088, introduced on March 28, and H. R. 7713, introduced on April 24, each contained about 20 pages. H. R. 8052, introduced on May 14, had 23 pages. H. R. 8492, introduced on June 14, less than 3 weeks following the decision of the Supreme Court in the Schechter case, has 53 pages.

Mr. President, the bill now before us contains 80 pages. As stated by me a short time ago, if we had another draft, it would pass the century mark. I read further:

Several of the drafts were actually reported to the House, the bills being withdrawn for reconsideration as new developments occurred.

The substitution of H. R. 8492 for the previous draft, which was less than half as long, took place upon the recommendation of the Secretary of Agriculture.

Not the consumers, not the people, but the Secretary of Agriculture.

It was reported to the House one day after its introduction.

I might say that the standing vote as announced by the Speaker was 168 to 52. The 220 Members thus shown to have voted represented only slightly more than a quorum of the Membership, which amounts to 435.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. WALSH. Is it not a fact that there are several cases pending before the Supreme Court raising the question as to the constitutionality of the provisions of the A. A. A.?

Mr. KING. I am not sure, although I have a list here of all the cases pending, but I have not had time to examine it, and I do not know whether any of the cases on the list have reached the Supreme Court.

Mr. WALSH. I understand there are several cases which raise serious question as to the constitutionality of the processing tax, and also as to the licensing provisions of the A. A. A., and that these cases are likely to be heard next winter.

Mr. KING. There are a number of decisions in the district courts and, as I am advised, in the circuit courts of appeals, challenging the validity of the act in the respects referred to by the Senator from Massachusetts.

Mr. WALSH. In view of that fact, does not the Senator think that we should postpone any action on this measure at the present time.

Mr. KING. Of course, but the Senator knows what the result of any effort to postpone consideration would be.

Mr. President, I yield the floor.

Mr. BAILEY. Mr. President, I desire to give notice of a motion to reconsider the vote by which the amendment in subsection (B) on page, 40, including subsections under subsection (B); that is, the subsections marked "(i)" and "(ii)", going over to page 41. I will undertake to bring the motion up tomorrow. I am giving this notice after consultation with the Chairman of the Committee on Agriculture and Forestry.

Mr. SMITH. Mr. President, in view of all the circumstances I think it might be well for us to take a recess at this time; but I wish to make an observation. I hope that we may be able to conclude the consideration of the bill tomorrow. Every Member of the Senate is familiar with all the terms of the bill, and I trust the lengthy speeches have all been made and that we may proceed to vote tomorrow on the amendments which have been passed over. I plead with Senators to cooperate with the committee. Let us conclude the consideration of the bill.

I ask the leader on this side whether it is now desired to have an executive session.

Mr. BURKE. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

DEPARTMENT OF AGRICULTURE EXTENSIBLE BUILDING

Mr. COPELAND. Mr. President, I ask unanimous consent that Senate bill 3192 may be considered at this time. There is a reason for its present consideration, as failure to pass the bill is interfering with the completion of a building well known to the Committee on Public Buildings and Grounds.

The VICE PRESIDENT. The Clerk will read the bill by title.

The CHIEF CLERK. A bill (S. 3192) to increase the limit of cost for the Department of Agriculture Extensible Building.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. BANKHEAD. Mr. President, I desire to know what the bill is.

Mr. ROBINSON. Mr. President, the bill provides for an increase in the limit of cost of the building referred to from $12,800,000 to $13,150,000. The building is the Department of Agriculture Extensible Building.

Mr. McNARY. Mr. President, I shall have to object.

The VICE PRESIDENT. Objection is heard.

TENNESSEE VALLEY AUTHORITY

Mr. NORRIS. Mr. President, I ask the Chair to lay before the Senate the House bill in regard to the T. V. A.

The VICE PRESIDENT laid before the Senate the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933, which was read twice by its title.

Mr. NORRIS. Mr. President, Senators will remember that the Senate passed Senate bill 2357, which went to the House; but the House passed a House bill on the same subject very much like the Senate bill. I ask unanimous consent that the House bill be considered and amended by striking out all after the enacting clause and inserting in lieu thereof the Senate bill.

The VICE PRESIDENT. Is there objection?

Mr. KING. Mr. President, does not the Senator think we ought to have a chance to examine it?

Mr. NORRIS. I am going to ask that it go to conference.

The VICE PRESIDENT. Is there objection?

Mr. McNARY. Mr. President, my attention was distracted for the moment, and I did not hear the request.

The VICE PRESIDENT. The Senator from Nebraska asks unanimous consent for the consideration of House bill 8632, which is known as the "T. V. A. measure", for the purpose, as the Chair understands, of amending the House bill by substituting the Senate bill, and to send it to conference.

Mr. BAILEY. Mr. President, one moment. I do not wish to stand in the way of action on this measure. However, I should like to confer for a moment with the Senator from Nebraska [Mr. NORRIS] before action is taken.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933.

Mr. NORRIS. Mr. President, I move to amend the House bill by striking out all after the enacting clause and inserting the text of Senate bill 2357, as heretofore passed by the Senate.

The VICE PRESIDENT. The question is on the amendment in the nature of a substitute offered by the Senator from Nebraska.

The amendment was agreed to, as follows:

Strike out all after the enacting clause and to insert in lieu thereof the following:

"That subdivision (1) of section 4 of the act entitled 'An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes', approved May 18, 1933, be, and the same is hereby, amended by adding thereto the following proviso: '*Provided*, That nothing contained herein or elsewhere in this act shall be construed to deprive the Corporation of the rights conferred by the act of February 26, 1931 (46 Stat. 1422, ch. 307, secs. 1 to 5, inclusive), as now compiled in section 258a to 258e, inclusive, of title 40 of the United States Code.'

"SEC. 2. That subdivision (j) of said section 4 of said act be, and the same is hereby, amended to read as follows:

"'(j) Shall have power to construct such dams, and reservoirs, in the Tennessee River and its tributaries, as in conjunction with Wilson Dam, and Norris, Wheeler, and Pickwick Landing Dams, now under construction, will provide a 9-foot channel in the said river and maintain a water supply for the same, from Knoxville to its mouth, and will best serve to promote navigation on the Tennessee River and its tributaries and control destructive flood waters in the Tennessee and Mississippi River drainage basins; and shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines.'

"SEC. 3. That said section 4 of said act be, and the same is hereby, further amended by adding a new subdivision, (k), at the end of said section as follows:

"'(k) At any time before the expiration of 5 years from the date when this section, as amended, becomes law may in the name of and as agent for the United States and subject to approval of the President, dispose of any of such real property as in the judgment of the Board may be no longer necessary in carrying out the purposes of this act.'

"SEC. 4. That subdivision (c) of section 5 of said act be, and the same is hereby, amended to read as follows:

"'(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, with farmers, landowners, and associations of farmers or landowners, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction, and for promoting the prevention of soil erosion by the use of fertilizers and otherwise. The Board is also authorized to experiment in the production of chemicals and other modes and methods for the extermination of noxious weeds and the destruction of plants injurious to agriculture.'

"SEC. 5. That said act be, and the same is hereby, further amended by adding a new section after section 9 of said act, as follows:

"'SEC. 9a. The Board is hereby directed in the operation of any dam or reservoir in its possession and control, to regulate the stream flow primarily for the purposes of promoting navigation and controlling floods. So far as may be consistent with such purposes, the Board is authorized to provide and operate facilities for the generation of electric energy at any such dam, for the use of the Corporation and for the use of the United States or any agency thereof, and the Board is further authorized, whenever an opportunity is afforded, to provide and operate facilities for the generation of electric energy in order to avoid the waste of water power, to transmit and market such power as in this act provided, and, thereby, so far as may be practicable, to assist in liquidating the cost or aid in the maintenance of the projects of the Authority.'

"SEC. 6. That section 10 of said act be, and the same is hereby, amended by adding thereto a proviso as follows: '*Provided further*, That the Board is authorized to include in any contract for the sale of power such terms and conditions, including resale rate schedules, and to provide for such rules and regulations as in its judgment may be necessary or desirable for carrying out the purposes of this act, and in case the purchaser shall fail to comply with any such terms and conditions, or violate any such rules and regulations, said contract may provide that it shall be voidable at the election of the Board: *Provided further*, That in order to supply farms and small villages with electric power directly from its transmission lines as contemplated by this section, the Board in its discretion shall have power to acquire existing transmission lines and facilities: *And provided further*, That the terms "States", "counties", and "municipalities" as used in this act shall be construed to include the public agencies of any of them unless the context requires a different construction.'

"SEC. 7. That said act be, and the same is hereby, further amended by adding a new section after section 12 of said act, as follows:

"'SEC. 12a. In order (1) to make possible the disposition of the surplus power of the Corporation according to the policies set forth in this act; (2) to give effect to the priority herein accorded to States, counties, municipalities, and nonprofit organizations in the purchase of such power by enabling them to acquire facilities for the distribution of such power; and (3) at the same time to preserve existing distribution facilities as going concerns and avoid duplication of such facilities, the Board is authorized to acquire, within transmission distance from any dam where such power is generated by the Corporation, (a) existing distribution facilities and incidental works, including generating plants, and (b) interconnecting transmission lines, or to acquire any interest in such facilities, incidental works, and lines, and to dispose of them to States, counties, municipalities, and nonprofit organizations. No such distribution facilities and incidental works or interest therein shall be acquired by the Board unless in its judgment it shall appear practicable so to dispose of the same. It shall be the duty of the Board to use all reasonable diligence to negotiate contracts upon such terms and conditions as in its judgment may be reasonable, just, and equitable with States, counties, municipalities, and nonprofit organizations for the transfer to them of distribution facilities, incidental works, or any interest therein acquired by the Board, and for the sale of surplus power of the Corporation for distribution through such facilities. If at the expiration of 5 years from the date of the acquisition of any such distribution facilities, incidental works, or interest therein the Board shall have found it impracticable or inadvisable to make the transfer herein contemplated, it shall make a full report of the facts to the Congress of the United States, together with such recommendations as it may deem appropriate. Pending such transfer, the Board is authorized to operate, maintain, and improve such facilities and incidental works for the sale and distribution of electricity and to make such contracts, rules, and regulations in connection with such sale and distribution as in its judgment may be reasonable, just, and equitable.'

"SEC. 8. That said act be, and the same is hereby, further amended by adding to section 14 of said act the following:

"'For the purpose of accumulating data useful to the Congress in the formulation of legislative policy in matters relating to the generation, transmission, and distribution of electric energy and to the Federal Power Commission and other Federal and State agencies, and to the public, the Board shall keep complete accounts of its costs of generation, transmission, and distribution of electric energy and shall keep a complete account of the total cost of generating, transmission, and distribution facilities constructed or otherwise acquired by the Corporation and a description of the major components of such costs according to the uniform system of accounting for public utilities as accepted by the Bureau of

Internal Revenue, together with records of such other physical data and operating statistics as may be helpful in determining the actual cost and value of services, and the practices, methods, facilities, equipment, appliances, and standards and sizes, types, location, and geographical and economic integration of plants and systems best suited to promote the public interest, efficiency, and the wider and more economical use of electric energy. Such data shall be reported to the Congress by the Board from time to time with appropriate analyses and recommendations, and, so far as practicable, shall be made available to the Federal Power Commission and other Federal and State agencies which may be concerned with the administration of legislation relating to the generation, transmission, or distribution of electric energy.'

"SEC. 9. That section 15 of said act be, and the same is hereby, amended to read as follows:

"'SEC. 15. With the approval of the Secretary of the Treasury, the Corporation is authorized to issue bonds not to exceed in the aggregate $100,000,000 outstanding at any one time, which bonds may be sold by the Corporation to obtain funds for acquiring any property which may be acquired under section 12a of this act, or exchanged as hereinafter provided, in order to acquire any property which may be acquired under said section 12a. Such bonds shall be in such forms and denominations, shall mature within such periods not more than 50 years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ percent per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, or exchanged for such property or such interest in property, including stocks, bonds, or other securities, as may be prescribed by the Corporation, with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold or exchanged at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ percent per annum: *Provided further*, That such bonds shall be exchanged for property only at a price or on terms which in the judgment of the Board is fair and equitable. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand, when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price. No bonds shall be issued hereunder to provide funds or bonds necessary for the performance of any proposed contract negotiated by the Corporation under the authority of section 12a of this act until the proposed contract shall have been submitted to the Federal Power Commission, and the said Commission shall have found that the consideration stipulated therein to be paid or exchanged by the Corporation for any property or interest therein is not excessive. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds hereunder shall expire at the end of 5 years from the date when this section as amended herein becomes law, except that such bonds may be issued at any time after the expiration of said period to provide bonds or funds necessary for the performance of any contract for the acquisition of property entered into by the Corporation, prior to the expiration of said period, under the authority of section 12a of this act.'

"SEC. 10. That section 26 of said act be, and the same is hereby, amended to read as follows:

"'SEC. 26. The net proceeds for each fiscal year derived by the Board from the sale of power and any of the products manufactured by the Corporation, and from any other activities of the Corporation, including the disposition of any real or personal property, after deducting the cost of operation, maintenance, depreciation, amortization, interest on bonds, and an amount deemed by the Board as necessary to withhold as operating capital, or to be devoted by the Board to new construction, improvements, betterments, or the acquisition of facilities to carry out the purposes of this act, shall be paid into the Treasury of the United States at the end of each calendar year.'

"SEC. 11. That said act be, and the same is hereby, further amended by adding after section 26 of said act a new section, as follows:

"'SEC. 26a. The unified development of the Tennessee River system requires that no dam, appurtenant works, or other obstruction, affecting navigation, flood control, or public lands or reservations shall be constructed, and thereafter operated or maintained across, along, or in the said river or any of its tributaries until plans for such construction, operation, and maintenance shall have been submitted to and approved by the Board, and the construction, commencement of construction, operation, or maintenance of such structures without such approval is hereby prohibited. When such plans shall have been approved, deviation therefrom either before or after completion of such structures is prohibited unless the modification of such plans has previously been submitted to and approved by the Board.

"'Such construction, commencement of construction, maintenance, or operation of any structures or parts thereof in violation of the provisions of this section may be prevented, and the removal thereof enforced by the injunction of any district court exercising jurisdiction in any district in which such structures or parts thereof may be situated, and the Corporation is hereby authorized to bring appropriate proceedings to this end.

"'The requirements of this section shall not be construed to be a substitute for the requirements of any other law of the United States or of any State, now in effect or hereafter enacted, but shall be in addition thereto, and any approval, license, permit, or other sanction now or hereafter required by the provision of any such law for the construction, operation, or maintenance of any structures whatever, except such as may be constructed, operated, or maintained by the Corporation shall be required notwithstanding the provisions of this section.'"

"SEC. 12. That said act be, and the same is hereby, further amended by adding at the end of said act a new section, as follows:

"'SEC. 31. This act shall be liberally construed to carry out the purposes of Congress to provide for the disposition of and make needful rules and regulations respecting Government properties, provide for the national defense, improve navigation, control destructive floods, and promote interstate commerce and the general welfare.'

"SEC. 13. That section 4 of said act of May 18, 1933 (48 Stat. 58), be amended by adding subsection (l) as follows:

"'(l) Shall have power to advise and cooperate in the readjustment of the population displaced by the construction of dams, the acquisition of reservoir areas, the protection of watersheds, the acquisition of rights-of-way, and other necessary acquisitions of land, in order to effectuate the purposes of the act; and may cooperate with Federal, State, and local agencies to that end.'

"SEC. 14. That said act be, and the same is hereby, further amended by adding at the end of said act, as amended, a new section, as follows:

"'SEC. 32. The Cumberland River and Cumberland River Basin shall be included by the provisions of this act, and the "Tennessee Valley Authority" shall exercise the same jurisdiction and power over the Cumberland River and the Cumberland River Basin as over the Tennessee River and the Tennessee River Basin, and all the provisions of this act that apply to the Tennessee River and the Tennessee River Basin and the Mississippi River Basin shall likewise, and with like force, apply to the Cumberland River and the Cumberland River Basin.'"

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. NORRIS. Mr. President, I now move that the Senate insist on its amendment to House bill 8632, ask for a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. SMITH, Mr. WHEELER, and Mr. NORRIS conferees on the part of the Senate.

UNITED STATES CONNECTICUT TERCENTENARY COMMISSION

The VICE PRESIDENT appointed the Senators from Connecticut [Mr. LONERGAN and Mr. MALONEY], the Senator from Kentucky [Mr. BARKLEY], the Senator from Maine [Mr. HALE], and the Senator from Vermont [Mr. AUSTIN] as the members on the part of the Senate of the United States Connecticut Tercentenary Commission, authorized under Public Resolution 18, approved May 14, 1935.

PRODUCTION, TRANSPORTATION, AND MARKETING OF WOOL

The VICE PRESIDENT appointed the Senator from Colorado [Mr. ADAMS], the Senator from New Mexico [Mr. HATCH], the Senator from Montana [Mr. MURRAY], the Senator from Oregon [Mr. STEIWER], and the Senator from Wyoming [Mr. CAREY] as the members of the Special Committee to Investigate the Production, Transportation, and Marketing of Wool, authorized by Senate Resolution 160.

INVESTIGATION OF LOBBYING ACTIVITIES

The VICE PRESIDENT appointed the Senator from Alabama [Mr. BLACK], the Senator from Indiana [Mr. MINTON], the Senator from Washington [Mr. SCHWELLENBACH], the Senator from North Dakota [Mr. FRAZIER], and the Senator from Vermont [Mr. GIBSON] as the members of the Special Committee to Investigate Lobbying Activities, authorized by Senate Resolution 165.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The VICE PRESIDENT. If there be no further reports of committees, the calendar is in order.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that nominations of postmasters on the calendar be confirmed en bloc.

The VICE PRESIDENT. Without objection, it is so ordered and the nominations are confirmed en bloc. That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 36 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Friday, July 12, 1935, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, July 11 (legislative day of Monday, May 13), 1935

POSTMASTERS

ARIZONA

Caleb O. Rice, Douglas.
Zola W. Buffington, Pima.

ARKANSAS

Bascom B. Bevens, Booneville.
Raymond M. Moore, Vilonia.

MICHIGAN

Daniel A. Holland, Hancock.
Claude E. Cady, Lansing.
Geraldine M. O'Hearn, Marne.
Frank D. Kruger, Ravenna.
George A. Buchmiller, Watersmeet.

NORTH DAKOTA

Carl F. Brandes, La Moure.
Thomas J. Dougherty, Mohall.

OREGON

Mabel Cummings, Philomath.

TENNESSEE

James S. Aken, Copperhill.
Pearl M. Harris, Dandridge.

HOUSE OF REPRESENTATIVES

THURSDAY, JULY 11, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O God, the source of all wisdom, purity, and power, speak to us that we may be guided this day. We pray that Thy spirit may come in all its fullness and possess us. Heavenly Father, come into our lives and clothe us with a fine sense of honor, with idealized love, with gentleness of manners, with refinement of tastes, with moral charm, and with the beauty of excellence. Most gladly may we glory in weakness that the strength of our Savior may rest upon us. Adorn and consecrate our relations with the needs of all men. In Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

TENNESSEE VALLEY AUTHORITY

The SPEAKER. The unfinished business is the vote on the motion to recommit the bill H. R. 8632.

The question is on the motion of the gentleman from New York [Mr. ANDREWS] to recommit the bill with instructions.

The question was taken; and on a division (demanded by Mr. SNELL) there were ayes 38 and noes 90.

Mr. SNELL. Mr. Speaker, I object to the vote on the ground that there is no quorum present.

The SPEAKER. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 102, nays 276, not voting 51, as follows:

[Roll No. 121]

YEAS—102

Allen	Eaton	Kee	Ransley
Andrew, Mass.	Edmiston	Kinzer	Reed, Ill.
Andrews, N. Y.	Ekwall	Kleberg	Reed, N. Y.
Arends	Engel	Knutson	Rich
Bacon	Englebright	Lambertson	Robsion, Ky.
Biermann	Fenerty	Lamneck	Rogers, Mass.
Blackney	Ferguson	Lanham	Seger
Bolton	Fish	Lehlbach	Short
Buckbee	Focht	Lord	Smith, W. Va.
Carlson	Gifford	McLean	Snell
Cavicchia	Gilchrist	Mapes	Stewart
Christianson	Goodwin	Marshall	Taber
Church	Guyer	Martin, Mass.	Thomas
Claiborne	Gwynne	Merritt, Conn.	Thurston
Cole, N. Y.	Halleck	Michener	Tinkham
Cooper, Ohio	Hancock, N. Y.	Millard	Tobey
Crawford	Hartley	Mott	Treadway
Crowther	Hess	Nichols	Turpin
Culkin	Hoffman	Patterson	Wadsworth
Darrow	Hollister	Perkins	Wigglesworth
Deen	Holmes	Pettengill	Wilson, Pa.
Dirksen	Hope	Pittenger	Wolcott
Ditter	Huddleston	Plumley	Wolfenden
Dondero	Jenkins, Ohio	Polk	Woodruff
Doutrich	Johnson, W. Va.	Powers	
Duffy, N. Y.	Kahn	Randolph	

NAYS—276

Adair	Cross, Tex.	Gillette	Larrabee
Amlie	Crosser, Ohio	Gingery	Lea, Calif.
Arnold	Crowe	Goldsborough	Lee, Okla.
Ashbrook	Cullen	Granfield	Lemke
Ayers	Cummings	Gray, Ind.	Lesinski
Barden	Daly	Gray, Pa.	Lewis, Colo.
Beam	Dear	Green	Lloyd
Beiter	Delaney	Greenway	Lucas
Binderup	Dempsey	Greenwood	Luckey
Bland	Dickstein	Greever	Ludlow
Blanton	Dietrich	Gregory	Lundeen
Bloom	Dingell	Griswold	McAndrews
Boehne	Disney	Haines	McClellan
Boileau	Dobbins	Hamlin	McCormack
Boland	Dockweiler	Hancock, N. C.	McFarlane
Boylan	Dorsey	Harlan	McGehee
Brennan	Doughton	Hart	McGroarty
Brewster	Doxey	Harter	McKeough
Brooks	Drewry	Healey	McLaughlin
Brown, Ga.	Driscoll	Higgins, Mass.	McMillan
Brown, Mich.	Driver	Hildebrandt	McReynolds
Brunner	Duffey, Ohio	Hill, Ala.	McSwain
Buchanan	Duncan	Hill, Knute	Mahon
Buck	Dunn, Pa.	Hill, Samuel B.	Mansfield
Buckler, Minn.	Eagle	Hobbs	Marcantonio
Burch	Eckert	Hoeppel	Martin, Colo.
Burdick	Ellenbogen	Hook	Mason
Caldwell	Evans	Houston	Massingale
Cannon, Mo.	Faddis	Hull	Maverick
Carmichael	Farley	Imhoff	May
Carpenter	Fiesinger	Jacobsen	Mead
Castellow	Fitzpatrick	Jenckes, Ind.	Meeks
Celler	Flannagan	Johnson, Okla.	Merritt, N. Y.
Chapman	Fletcher	Johnson, Tex.	Miller
Citron	Ford, Calif.	Jones	Mitchell, Ill.
Clark, N. C.	Ford, Miss.	Keller	Mitchell, Tenn.
Coffee	Frey	Kennedy, N. Y.	Monaghan
Colden	Fuller	Kenney	Montague
Cole, Md.	Fulmer	Kerr	Montet
Colmer	Gambrill	Kloeb	Moran
Connery	Gasque	Kniffin	Moritz
Cooley	Gassaway	Kocialkowski	Murdock
Cooper, Tenn.	Gavagan	Kopplemann	Nelson
Costello	Gearhart	Kramer	O'Brien
Cox	Gehrmann	Kvale	O'Connor
Crosby	Gildea	Lambeth	O'Day

O'Leary	Rogers, Okla.	Spence	Vinson, Ga.
O'Malley	Romjue	Stack	Vinson, Ky.
O'Neal	Rudd	Starnes	Wallgren
Palmisano	Russell	Steagall	Walter
Parks	Sabath	Stefan	Warren
Parsons	Sadowski	Stubbs	Wearin
Patman	Sanders, La.	Sullivan	Weaver
Patton	Sanders, Tex.	Sumners, Tex.	Welch
Pearson	Sandlin	Sweeney	Werner
Peterson, Fla.	Sauthoff	Tarver	West
Peterson, Ga.	Schaefer	Taylor, Colo.	Whelchel
Pfeifer	Schneider	Taylor, S. C.	White
Pierce	Schuetz	Taylor, Tenn.	Whittington
Ramsay	Schulte	Terry	Wilcox
Ramspeck	Secrest	Thom	Williams
Rankin	Shanley	Thomason	Wilson, La.
Rayburn	Sirovich	Thompson	Withrow
Reece	Smith, Conn.	Tolan	Wolverton
Reilly	Smith, Va.	Tonry	Wood
Richards	Smith, Wash.	Truax	Woodrum
Richardson	Snyder	Turner	Young
Robertson	Somers, N. Y.	Umstead	Zimmerman
Robinson, Utah	South	Utterback	Zioncheck

NOT VOTING—51

Andresen	Chandler	Higgins, Conn.	Peyser
Bacharach	Clark, Idaho	Kelly	Quinn
Bankhead	Cochran	Kennedy, Md.	Rabaut
Bell	Collins	Kimball	Rogers, N. H.
Berlin	Corning	Lewis, Md.	Ryan
Buckley, N. Y.	Cravens	McGrath	Scott
Bulwinkle	Darden	McLeod	Scrugham
Burnham	DeRouen	Maas	Sears
Cannon, Wis.	Dies	Maloney	Shannon
Carter	Dunn, Miss.	Norton	Sisson
Cartwright	Eicher	O'Connell	Sutphin
Cary	Fernandez	Oliver	Underwood
Casey	Hennings	Owen	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. McLeod (for) with Mr. Sisson (against).
Mr. Andresen (for) with Mr. Chandler (against).
Mr. Maas (for) with Mr. Sears (against).
Mr. Corning (for) with Mr. Rogers of New Hampshire (against).
Mr. Bacharach (for) with Mr. Berlin (against).

General pairs:

Mr. Scrugham with Mr. Burnham.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Cochran with Mr. Carter.
Mr. Kennedy of Maryland with Mr. Kimball.
Mr. Rabaut with Mr. Collins.
Mr. DeRouen with Mr. McGrath.
Mr. Maloney with Mr. Scott.
Mr. Buckley of New York with Mr. Ryan.
Mr. O'Connell with Mr. Dunn of Mississippi.
Mr. Lewis of Maryland with Mr. Eicher.
Mr. Cartwright with Mr. Hennings.
Mr. Bankhead with Mr. Walter.
Mr. Cary with Mr. Quinn.
Mr. Cravens with Mr. Bell.
Mr. Casey with Mr. Owen.
Mr. Underwood with Mr. Darden.
Mr. Kelly with Mr. Bulwinkle.
Mr. Oliver with Mr. Clark of Idaho.
Mr. Dies with Mr. Fernandez.

Mr. DUFFY of New York changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER. The question is on the passage of the bill.

Mr. SNELL. Mr. Speaker, on the final passage I ask for the yeas and nays.

Mr. McSWAIN. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 279, nays 99, not voting 51, as follows:

[Roll No. 122]

YEAS—279

Adair	Brennan	Celler	Crosser, Ohio
Amlie	Brewster	Chapman	Crowe
Arnold	Brooks	Citron	Cullen
Ashbrook	Brown, Ga.	Clark, Idaho	Cummings
Ayers	Brown, Mich.	Clark, N. C.	Daly
Barden	Brunner	Coffee	Dear
Beam	Buchanan	Colden	Delaney
Beiter	Buck	Cole, Md.	Dempsey
Biermann	Buckler, Minn.	Colmer	Dickstein
Binderup	Burdick	Connery	Dietrich
Bland	Caldwell	Cooley	Dingell
Blanton	Cannon, Mo.	Cooper, Tenn.	Disney
Bloom	Carmichael	Costello	Dobbins
Boehne	Carpenter	Cox	Dockweiler
Boileau	Cartwright	Cravens	Dorsey
Boland	Cary	Crosby	Doxey
Boylan	Castellow	Cross, Tex.	Drewry
Driscoll	Hobbs	Merritt, N. Y.	Shanley
Driver	Hoeppel	Mitchell, Ill.	Sirovich
Duffey, Ohio	Hook	Mitchell, Tenn.	Smith, Conn.
Duffy, N. Y.	Houston	Monaghan	Smith, Wash.
Duncan	Huddleston	Montet	Snyder
Dunn, Pa.	Hull	Moran	Somers, N. Y.
Eagle	Imhoff	Moritz	South
Eckert	Jacobsen	Mott	Spence
Ekwall	Johnson, Okla.	Murdock	Stack
Ellenbogen	Johnson, Tex.	Nelson	Starnes
Evans	Jones	O'Brien	Steagall
Faddis	Keller	O'Connor	Stefan
Farley	Kennedy, N. Y.	O'Day	Stubbs
Fiesinger	Kenney	O'Leary	Sullivan
Fitzpatrick	Kerr	O'Malley	Sweeney
Flannagan	Kloeb	O'Neal	Tarver
Fletcher	Kniffin	Palmisano	Taylor, Colo.
Ford, Calif.	Kocialkowski	Parks	Taylor, S. C.
Ford, Miss.	Kopplemann	Parsons	Taylor, Tenn.
Frey	Kramer	Patman	Terry
Fuller	Kvale	Patton	Thom
Fulmer	Lambeth	Pearson	Thomason
Gambrill	Lamneck	Peterson, Fla.	Thompson
Gasque	Lanham	Peterson, Ga.	Tolan
Gassaway	Larrabee	Pettengill	Tonry
Gavagan	Lea, Calif.	Pfeifer	Truax
Gearhart	Lee, Okla.	Pierce	Turner
Gehrmann	Lemke	Quinn	Umstead
Gilchrist	Lesinski	Ramsay	Utterback
Gildea	Lewis, Colo.	Ramspeck	Vinson, Ga.
Gillette	Lloyd	Randolph	Vinson, Ky.
Gingery	Lucas	Rankin	Wallgren
Goldsborough	Luckey	Rayburn	Walter
Granfield	Ludlow	Reece	Warren
Gray, Ind.	Lundeen	Reilly	Wearin
Green	McAndrews	Richards	Weaver
Greenway	McCormack	Richardson	Welch
Greenwood	McFarlane	Robinson, Utah.	Werner
Greever	McGehee	Rogers, Okla.	West
Gregory	McGroarty	Romjue	Whelchel
Griswold	McKeough	Rudd	White
Haines	McLaughlin	Russell	Whittington
Hamlin	McReynolds	Sabath	Wilcox
Hancock, N. C.	McSwain	Sadowski	Williams
Harlan	Mahon	Sanders, La.	Wilson, La.
Hart	Mansfield	Sanders, Tex.	Withrow
Harter	Marcantonio	Sandlin	Wolverton
Healey	Martin, Colo.	Sauthoff	Wood
Higgins, Mass.	Mason	Schaefer	Woodrum
Hildebrandt	Massingale	Schneider	Young
Hill, Ala.	Maverick	Schuetz	Zimmerman
Hill, Knute	Mead	Schulte	Zioncheck
Hill, Samuel B.	Meeks	Secrest	

NAYS—99

Allen	Eaton	Kee	Reed, N. Y.
Andrew, Mass.	Edmiston	Kinzer	Rich
Andrews, N. Y.	Engel	Kleberg	Robertson
Arends	Englebright	Knutson	Robsion, Ky.
Bacon	Fenerty	Lambertson	Rogers, Mass.
Blackney	Ferguson	Lehlbach	Seger
Bolton	Fish	Lord	Short
Buckbee	Focht	McLean	Smith, Va.
Burch	Gifford	McMillan	Smith, W. Va.
Carlson	Goodwin	Mapes	Snell
Cavicchia	Gray, Pa.	Marshall	Stewart
Christianson	Guyer	Martin, Mass.	Taber
Church	Gwynne	May	Thomas
Claiborne	Halleck	Merritt, Conn.	Thurston
Cole, N. Y.	Hancock, N. Y.	Michener	Tinkham
Cooper, Ohio	Hartley	Millard	Tobey
Crawford	Hess	Montague	Treadway
Crowther	Hoffman	Patterson	Turpin
Culkin	Hollister	Perkins	Wadsworth
Darrow	Holmes	Pittenger	Wigglesworth
Deen	Hope	Plumley	Wilson, Pa.
Dirksen	Jenckes, Ind.	Polk	Wolcott
Ditter	Jenkins, Ohio	Powers	Wolfenden
Dondero	Johnson, W. Va.	Ransley	Woodruff
Doutrich	Kahn	Reed, Ill.	

NOT VOTING—51

Andresen	Collins	Kimball	Peyser
Bacharach	Corning	Lewis, Md.	Rabaut
Bankhead	Darden	McClellan	Rogers, N. H.
Bell	DeRouen	McGrath	Ryan
Berlin	Dies	McLeod	Scott
Buckley, N. Y.	Doughton	Maas	Scrugham
Bulwinkle	Dunn, Miss.	Maloney	Sears
Burnham	Eicher	Miller	Shannon
Cannon, Wis.	Fernandez	Nichols	Sisson
Carter	Hennings	Norton	Sumners, Tex.
Casey	Higgins, Conn.	O'Connell	Sutphin
Chandler	Kelly	Oliver	Underwood
Cochran	Kennedy, Md.	Owen	

So the bill was passed.

The Clerk announced the following additional pairs:

On this vote:

Mr. Sisson (for) with Mr. McLeod (against).
Mr. Chandler (for) with Mr. Andresen (against).
Mr. Sears (for) with Mr. Maas (against).
Mr. Rogers of New Hampshire (for) with Mr. Corning (against).
Mr. Berlin (for) with Mr. Bacharach (against).

Until further notice:

Mr. Scrugham with Mr. Burnham.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Cochran with Mr. Carter.
Mr. Kennedy of Maryland with Mr. Kimball.
Mr. Rabaut with Mr. Collins.
Mr. DeRouen with Mr. McGrath.
Mr. Maloney with Mr. Scott.
Mr. Buckley of New York with Mr. Ryan.
Mr. O'Connell with Mr. Dunn of Mississippi.
Mr. Lewis of Maryland with Mr. Eicher.
Mr. Bankhead with Mr. Walter.
Mr. Casey with Mr. Owen.
Mr. Underwood with Mr. Darden.
Mr. Kelly with Mr. Bulwinkle.
Mr. Dies with Mr. Fernandez.
Mr. Doughton with Mr. Hennings.
Mrs. Norton with Mr. McClellan.
Mr. Sumners of Texas with Mr. Bell.
Mr. Miller with Mr. Nichols.
Mr. Bulwinkle with Mr. Peyser.

Mr. McREYNOLDS. Mr. Speaker, I desire to announce that my colleague the gentleman from Tennessee, Mr. CHANDLER, is unavoidably absent. Had he been present he would have voted "yea" on the Hill amendment, "nay" on the motion to recommit, and would have voted "yea" this morning on the bill.

Mr. CULLEN. Mr. Speaker, my colleague the gentleman from New York, Mr. BUCKLEY, is unavoidably absent. If present, he would have voted "nay" on the motion to recommit and "yea" on the final passage of the bill.

Mr. PITTENGER. Mr. Speaker, my colleague the gentleman from Minnesota, Mr. RYAN, is unavoidably absent. He has asked me to state that had he been present he would have voted "yea" on the final passage of the bill.

Mr. WILSON of Louisiana. Mr. Speaker, my colleague the gentleman from Louisiana, Mr. MALONEY, is absent on account of illness. He requested me to announce that had he been present he would have voted against the motion to recommit and for the bill.

The result of the vote was announced as above recorded.

On motion of Mr. McSWAIN, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENSION OF REMARKS—THE TENNESSEE VALLEY AUTHORITY

Mr. PETTENGILL. Mr. Speaker, since the original Tennessee Valley Act—Muscle Shoals bill—was passed in 1933 much has happened in its administration of which I do not approve. The apparent disregard of Congress and the Constitution of the United States by those in charge has been such as to dampen confidence.

There is a lack of candor in its administration which impresses me very unfavorably. The original House bill advertised the project chiefly as one for the production of fertilizer to replenish worn-out farm lands. But fertilizer has not been produced. Instead, Tennessee Valley Authority has gone into the business of producing electricity where there is, as I am told, a surplus of electricity. This hydroelectrical development will compete with coal produced in Indiana and elsewhere. Besides, as electricity is produced as a result of subsidies from the pockets of the taxpayers of the Nation, the project will inevitably seek industries to leave Indiana and elsewhere and settle there. It has been charged that their agents have secretly been soliciting factories north of the Ohio River to close their doors and move into the Tennessee Valley. That has been denied.

I do not know who is telling the truth. But the inevitable tendency will be to do that very thing. In fact, one of the directors of T. V. A. has practically admitted this in public addresses, for example:

> Although we are bending every effort to greatly increase the use of electricity in the home and on the farm, it is obvious that only a large scale industrial expansion will absorb the great pool of power which is thus being created. As we lay our plans for developing this cheap power in great quantities, it seems to me to be mandatory that we also lay plans for utilizing it in an industrial expansion program.

If this is the plan, and it is carried out, Indiana industries and our citizens will first be taxed to provide cheap electricity in the Tennessee Valley, and then industries will move there, leaving their stranded workmen behind.

However, the project has been started and is now in operation as a yardstick of the cost of producing electricity. If the yardstick is honest, and it demonstrates that private power and light utilities operating under like conditions have been charging too much, it will serve a useful purpose.

The reason why I shall vote for the present bill amending the act of 1933 is that it provides that the T. V. A. must set up a system of cost accounting to be laid down by the Federal Power Commission. This is a principle for which I have long contended. It applies the principle of the Clark-Shannon bill—S. 1—for uniform cost accounting for which I have argued for the past 3 years. This provision is our mandate that the yardstick shall be an honest one, so that costs of publicly and privately produced electricity can be measured by the same standards and an honest-to-God comparison made.

There are also some salutary provisions with reference to having their accounts audited, as are other Government bureaus, by the General Accounting Office.

The bill should go further. It should provide that T. V. A. pay State, county, and municipal taxes to the same extent as private utilities are required to do on so much of its property investment as is allocated to the production of electricity for sale to the public.

Another thing: I should like to see the Board of Army Engineers required to determine the value of the property "used and useful" in producing electricity for sale to the public as a basis for rates. Heavy charge-offs or write-downs of property investment on account of flood control or navigation make the cost of electricity look cheap, whereas actually the taxpayer is footing the bill for the electricity user. Write-downs can be as essentially dishonest as the write-ups with which privately owned utilities are sometimes charged.

It should provide further that money used for building generating plants and transmission lines for producing and distributing electricity for sale shall be borrowed on the credit of the property itself and not on the credit of the Nation. As it is, T. V. A. goes to the United States Treasury for its money at 3 percent or less, an interest rate that privately owned plants cannot hope to get.

Unless T. V. A. electricity is placed on an equality with private plants with respect to taxes, capital investment, and the cost of borrowed money, I shall reserve my doubts as to whether the yardstick will ever be 36 inches long.

This bill is not as I would draw it. But the provisions for uniform cost accounting and audit by the Comptroller General ought to be adopted.

Mr. LUDLOW. Mr. Speaker, I want President Roosevelt to have every opportunity to demonstrate through the Tennessee Valley Authority just how cheaply electric light and power can be furnished to American consumers. I want him to have every opportunity to carry to complete fulfillment this important experiment. I want him to have every facility to perfect his Tennessee Valley yardstick so that it may serve as an accurate measuring rod to determine the maximum rates that should be charged by private utilities and the exact point in the rate structure where reasonableness ends and piracy begins.

In order that the President may have absolute freedom and authority to establish this yardstick without obstacles and handicaps, I voted today to pass the so-called "T. V. A. bill"—the bill to broaden the authority of the Tennessee Valley Authority—and I voted for every one of the amendments advocated by President Roosevelt, called "the Hill amendments", which were offered and sponsored by my friend and colleague, Representative LISTER HILL, of Alabama. We passed the bill in the House in the exact form desired by the President.

The bill which we passed today and sent on its way to the Senate is a perfect corollary and companion piece of that other bill we passed in the House the other day, known as "the House holding-company bill", which is the most far-reaching regulatory measure ever enacted for the control of public utilities. The two bills fit together perfectly.

The Tennessee Valley Authority can establish the yardstick—that is to say, the maximum rates that private utilities should be allowed to charge—and the Federal Securities and

Exchange Commission, under authority conferred in the House Holding-Company Act, can force the utilities to make their rates conform to that yardstick.

As the result of these two acts—the Tennessee Valley Authority Act and the House Holding-Company Act—the Federal Government will be equipped as it never has been equipped before to deal with the problem of power and utilities. The day of the consumer is at hand. These two acts together will protect every right of the consumer. First, the regulatory bill passed by the House will enable the Federal Securities and Exchange Commission to visa all proposed stock issues of holding companies, to kill off all obnoxious holding companies, and to compel all honest companies to obey rules and regulations adopted in the public interest. The Tennessee Valley yardstick will show how private utilities should be conducted and the rates they should charge to conform to the best public policy, and the authority conveyed to the Federal Securities and Exchange Commission in the House Holding-Company Act will enable that Commission to compel the utilities to conform to the Tennessee Valley yardstick. This is an ideal arrangement from the public's standpoint.

Out in Indiana we have an object lesson of what can be accomplished by wise management to bring down rates of utilities. Washington, Ind., has conducted a very successful experiment in municipal ownership. It was the hope and dream of Mayor John W. McCarty, one of the most successful mayors any city ever had. He devoted the unremitting attention of his splendid mind to it over a long period of years, and at last his dreams came true so that now Washington, Ind., is cited as Exhibit No. 1 among the cities where municipal ownership is in full and satisfactory operation. The city has been able to acquire its electric light plant, and it is using earnings of that plant at the rate of $75,000 a year to pay for a water plant, which also will be publicly owned, and the savings through public ownership have enabled the mayor to bring down the city's tax rate to 11 cents per hundred dollars. There would be something akin to a riot in Washington if the authorities should seriously propose a return to private ownership of utilities in that city.

Generally speaking, I am opposed to Government in business, and I believe in the widest latitude for private initiative, and I want to do all I can to assist honest private business, but I have no patience or charity for the utility company that takes advantage of a lack of proper Government supervision to rob consumers. I believe we should encourage private companies provided they are content with reasonable profits and adhere to ethical practices. Thanks to the timely action of the House in passing the bill regulating holding companies and this bill giving the President the authority he asks to establish the Tennessee Valley yardstick, utility pirates have about come to the end of their rope. They are face to face with the day of judgment, which I firmly believe will also be the day of redemption for the American consuming public.

Mr. CHANDLER. Mr. Speaker, I am the bearer of a message of appreciation from the grateful people of the Ninth Congressional District of Tennessee for the benefits in which they have participated, and those yet to come, through the development of the Tennessee Valley. The Seventy-third Congress was most generous to us, and I would be recreant to the trust conferred upon me if I did not express our gratitude here at the first available opportunity.

Anyone who comprehends the progressive purposes of the Tennessee Valley Authority Act of 1933 and surveys the achievements already accomplished will see at once the vast possibilities of the great program, the results of which will redound to all parts of our wonderful country over the years to come. I have faith and confidence that the present Congress will not retard the work that is under way, but will carry on in the spirit of its predecessor, and will add its own incentive toward the fullest development of this valuable natural resource of the Nation.

My confidence in the soundness of the Tennessee Valley program is confirmed and my interest in its continued advancement is increased by reason of the approval of my distinguished precedessor, the Honorable E. H. Crump, whose mature judgment and uncanny foresight are unexcelled. No man surpasses this eminent Tennesseean in energetic loyalty to the best interests of the people, and those who know him, especially those who served with him in the Seventy-second and Seventy-third Congresses, will attest to his wisdom and his integrity.

I have had occasion to study various constitutional phases of the present act, and if my investigation will aid any of my colleagues in determining the prerequisite of constitutionality which should be present in every measure approved by us, I shall feel rewarded for this effort. I honor every Member of Congress who holds high his solemn oath to support and defend the Constitution of the United States. We are bound by the Constitution just as judges are bound by it. It is the people's yardstick for our guidance, and if it is to be shortened, or lengthened, it is they who must change it and not we ourselves.

It is my opinion that the Tennessee Valley Authority Act of 1933, and the bill which is now before the House, and the pending amendments thereto, are constitutional measures; and that the conversion of the water power unavoidably created by the construction of various dams on the Tennessee River into electric energy, and the transmission and sale of the surplus electric energy are reasonable and lawful means of disposing of this byproduct, pursuant to the following provisions of the Federal Constitution:

First. The power to regulate commerce, article I, section 8.

Second. The war powers, article I, section 8 (1, 11–16).

Third. The power to dispose of and make needful regulations concerning Government property, article IV, section 3 (2).

To understand clearly the applicability of the foregoing constitutional provisions, we must review briefly the historical background of the Tennessee Valley development and recount the existing operations.

In merest outline the history of the Tennessee Valley project began in 1824 with a suggestion by John C. Calhoun to President Monroe that a survey of Muscle Shoals in Alabama be made with the view of improving navigation on the Tennessee River. Electricity was almost an unknown quantity then. People were looking for easier means of access to the growing Southwest, and this river commended itself as a natural waterway. In 1827, after a survey, Congress authorized an expenditure of $700,000 for certain improvements at Muscle Shoals. In 1871 Army Engineers recommended further improvements designed to open the channel of the stream. Construction of the 11-lock canal around Elk River Shoals was completed about 1875 at a cost of $3,200,000, and from that time until 1900 other navigational changes were made at considerable outlays.

Discussion continued back and forth from 1905 until 1915 regarding additional aids to navigation and the conservation of natural resources, and a detailed survey of the Muscle Shoals area was made at an expense of $150,000.

This 37-mile long section of the stream divides it into an upper and a lower stretch where navigation is relatively unimpeded. Muscle Shoals, however, constitutes the narrow neck of the bottle. Above and below this section there is considerable traffic movement in heavy and bulky commodities, but very little traffic passes through this section on account of poor water conditions.

When the European war began to menace the peace and happiness of the American people, the Tennessee Valley was turned to as an excellent place for the development of hydroelectric power in the production of nitrogen for explosives. Linked with this war-time demand was an increasingly urgent requirement for the manufacture of fertilizer to restore once fertile lands throughout the country, and, in 1916, Congress appropriated $20,000,000 for the production of nitrates. Land for the construction of Wilson Dam No. 2 was acquired in 1917, and, by 1921 nitrate plant no. 2 had been completed. Congress appropriated $7,500,000 in 1922 to continue work on Wilson Dam and the appurtenant power

plant, these projects being completed in 1925 after a total expenditure of $45,000,000. Also in 1922, Congress authorized a complete survey of the entire Tennessee River Basin, at a total cost of $1,090,000, and on the data and reports of all of the surveys, the general plans for the development of the river and its tributaries have been based. Thus, prior to the passage of the Tennessee Valley Authority Act, Congress had expended a total of approximately $80,000,000 on the development, and it is quite evident that the manufacture of hydroelectric power was not the primary purpose, navigation, common defense, flood control, and fertilizer being the predominant designs of Congress, and no reported litigations arose to stop the extensive development over a period of 100 years.

Usually, questions of law are based on established facts, and it becomes necessary to know certain essential facts in order to determine the constitutionality of the functions of the Tennessee Valley Authority. These facts have been found in a pending litigation—*Ashwander et al.* v. *T. V. A. et al.* (U. S. District Court, Ala.)—and, in part, are that the Wilson Dam improved navigation over the Muscle Shoals rapids and is the only feasible means of eliminating this most serious obstruction to navigation on the Tennessee River; that the Muscle Shoals plants, including eight hydroelectric units installed at Wilson Dam, were authorized for war purposes, and that by maintaining them we have a wholesome national-defense asset; that the Wilson hydroelectric plant will provide 50,000 kilowatts of continuous electricity; that a large amount of this electric power was generated at Wilson Dam during 1934 and used in serving Government properties; that the T. V. A. is now engaged at Wilson Dam in generating the electric power being used in the operation of nitrate plant no. 2, and is engaged in the formulation of a program of watershed protection for the Tennessee River that will require a large consumption of the Wilson Dam electricity; and that profits from sales of surplus power may be used to reimburse the Government for the cost of the dam or aid in the construction of new dams.

At the time of the passage of the Tennessee Valley Authority Act the properties owned by the United States at Muscle Shoals included the Wilson Dam hydro plant and reservoir, United States nitrate plant no. 1, United States nitrate plant no. 2, and the Sheffield steam plant. These properties were acquired or constructed in the years 1916 to 1926 under section 124 of the National Defense Act to make available to the United States facilities capable of producing nitrates and other products for war. Although the activity at Muscle Shoals resulting in the construction of Wilson Dam was initiated because of the compelling necessities of war, it also marked the fruition of a long congressional attempt to improve navigation on the Tennessee River. Wilson Dam, therefore, is peculiarly a structure originally acquired for and presently serving two distinct constitutional functions.

Of course, the water power at Wilson Dam was harnessed by the construction of the dam. It is true that the energy existed in the natural flow and fall of the river, but in that form it necessarily was lost. The dam concentrates the head of water and its fall at one point, and in this fall power is inevitably created.

The market for power at the site of Wilson Dam is negligible. Indeed, practically all navigation dams are remote from rural and urban markets.

This explains the elementary fact that generation and transmission of electric energy are the customary and indispensable means of marketing water power.

It is recognized also that disposal of the water power to private parties would involve a subsidy to a private monopoly or a waste of the power, and three alternatives faced Congress when the Tennessee Valley Authority Act was passed: First, monopolistic conditions not in the public interest; second, waste; third, Government operation.

It is well known that the problem, including the liquidation of a tremendous war-time investment, has been one of the most controversial legislative issues of this century. Between the time of their completion and the inauguration of activities by T. V. A., the nitrate plants stood idle. On completion of Wilson Dam in 1925, the problem of use of the Muscle Shoals properties became further complicated. A small amount of electric energy was used to operate the locks and service the reservation. In addition, the War Department generated and sold substantial portions of the surplus powers at Wilson Dam to the Alabama Power Co., the only available purchaser at the plant. Those sales were intermittent and at "dump power" prices.

Now, with these established facts, let us consider in brief the constitutional questions involved. It is unnecessary to cite authorities for the fundamental propositions that a strong presumption exists in favor of the constitutionality of an act of Congress; the question as to the economic wisdom of a statute, or of its desirability, is a matter for the determination of Congress; and that where Congress is faced with a problem, such as that concerning the disposal of power at Wilson Dam, the choice of means is legislative and not judicial.

The Tennessee Valley Authority Act embodies the best judgment of the legislative branch of the Government for the utilization of the resources at Wilson Dam. In passing it, Congress acted on the assumption that the right to generate and sell electric energy in excess of that required for governmental uses was undoubted, and it acted in accordance with the well-established governmental practice of disposing of surplus hydroelectric power made available in the performance of various constitutional functions. Sale of such surplus had been authorized under the National Defense Act, and the right to sell was not challenged over a period of 7 years.

In the Boulder Canyon Project Act the generation and sale of fixed quantities of electric energy at Boulder Dam were authorized. Under the act of March 3, 1909, the War Department was permitted to lease any excess water power at navigation works. By virtue of various statutes the Bureau of Reclamation has been selling annually, in connection with many projects, fixed quantities of electric energy to municipalities, private interests, and individuals. The sale of surplus power from Wilson Dam, as authorized by the T. V. A. Act, is an exercise of each of the constitutional powers hereinabove enumerated, and I shall cite and quote from a few of the United States Supreme Court decisions sustaining this view.

THE COMMERCE POWER

Ever since the historic decision in *Gibbons* v. *Ogden* (9 Wheat. 1 (1824)), the Supreme Court has interpreted liberally the commerce power in order to enable the Government to conserve, protect, and improve the navigable waters of the United States (*United States* v. *Rio Grande*, 174 U. S. 690 (1899); *Scranton* v. *Wheeler*, 179 U. S. 141 (1900); *Wisconsin* v. *Duluth*, 96 U. S. 379 (1877)).

In the course of the development of this commerce power it became apparent early that "the protection and improvement of navigation is physically, functionally, and economically related to other phases of water use and control, such as flood control, watershed protection, pollution, diversion for irrigation or domestic water use, and hydroelectric power. As each of these problems has arisen, the Federal commerce power over navigable waters has been invoked to act affirmatively in certain of those fields in aid of navigation and to regulate in fields where activities of others may injure navigation." For example: Flood control—*Jackson* v. *United States* (230 U. S. 1 (1913); *Bedford* v. *United States* (192 U. S. 217 (1904); cf. *Cubbins* v. *Mississippi River Commission* (241 U. S. 351 (1916); cf. *Kincaid* v. *United States* (35 F. (2d) 235 (1929)); watershed protection—*United States* v. *Griffin* (58 F. (2d) 674 (1932)); *North Bloomfield Gravel Mining Co.* v. *United States* (88 Fed. 664 (C. C. A., 1898)); irrigation—*Arizona* v. *California* (283 U. S. 423 (1931)); diversion for domestic use—*Sanitary District* v. *United States* (266 U. S. 405 (1925)).

In 1913 a great American lawyer, the Honorable Elihu Root, declared in the Senate of the United States:

The right to sell or lease the water power or the electricity created by the water power from the increased flowage caused by a

dam built by the Government in the exercise of its constitutional functions to improve navigation is a necessary incident to the performance of these functions.

In every instance in which the Supreme Court of the United States has been called upon to deal with the rights of Congress in relation to hydroelectric power at Federal navigation dams, there has been an unvarying recognition of the broad Federal power of development, utilization, and disposal. In the limited time and space I can mention only a few of these cases. In *Green Bay & Mississippi Canal Co.* v. *Patten Paper Co.* (172 U. S. 58) (1898), which involved a controversy between a riparian owner and a grantee of water-power rights of the United States over the use of waters conserved for navigation, the Court held that Congress had complete power to transfer these rights.

The right to dispose of incidental water power was confirmed in the leading case of *United States* v. *Chandler-Dunbar Water Power Co.* (229 U. S. 53) (1913). There the claimant was the owner of land alongside and in the bed of a navigable river and of the water-power works in the river. Damages were claimed for the condemnation of these works pursuant to section 11 of the act of March 3, 1909. One of the items of damage was a claim of $550,000 as compensation for the water-power right of the company in the undeveloped water power of St. Marys River at St. Marys Rapids in excess of the supposed requirements of navigation.

It was contended that section 12 of that act, which authorized the Secretary of War to lease any water power resulting from the conservation of the river flow by navigation works, rendered the condemnation a taking of private property for commercial uses, and not for the improvement of navigation. This contention was rejected by the Court, and the right to dispose of the power by lease was upheld as an incident to the power over navigation. The Supreme Court said:

> But aside from the exclusive public purpose declared by the eleventh section of the act, the twelfth section declares that the conservation of the flow of the river is "primarily for the benefit of navigation, and incidentally for the purpose of having the power developed, either for the direct use of the United States, or by lease through the Secretary of War." If the primary purpose is legitimate, we can see no sound objection to leasing any excess of power over the needs of the Government.

Let me mention one other case on this proposition—that of *State of Arizona* v. *State of California* (283 U. S. 423 (1930)). I think that this decision has settled definitely the right of the Federal Government to generate and sell electric energy at a navigation dam. In that case, the Supreme Court upheld the constitutionality of the Boulder Canyon Project Act, which authorized the Secretary of the Interior, at the expense of the United States, to construct on the Colorado River a dam, a storage reservoir, and a hydroelectric plant. An injunction was sought by Arizona on the ground that the Secretary had not complied with the laws of the State requiring approval of the plans and specifications of the structures.

The right of the Secretary to proceed with the construction depended on the constitutional validity of the project as authorized by the act. It is clear from explicit provisions of the act itself, from the bill of complaint, and from the opinion of the Court that the right of the Federal Government to generate and sell electric power was confirmed. The Court refused to enjoin the Secretary from proceeding with the construction and, in its opinion, said:

> As the river is navigable and the means which the act provides are not unrelated to the control of navigation (*United States* v. *River Rouge Improvement Co.*, 269 U. S. 411, 419; 70 L. Ed. 339, 345; 46 S. Ct. 144), erection and maintenance of such dam and reservoir are clearly within the powers conferred upon Congress.

At Boulder Dam the hydroelectric plants were brought into being chiefly for the purpose of selling electric energy, no governmental use at the dam being contemplated, and all the power generated there was to be disposed of. At Muscle Shoals the Wilson Dam and hydroelectric plants were already in existence, legally created in the exercise of constitutional powers. It would seem, therefore, that the Arizona case justifies the right of Congress to authorize the commercial sale of all electric energy which may be created and which otherwise will be wasted. The decision in Arizona against California was based solely on the constitutional power to improve navigation.

If, as in that case, the installation of generators and the sale of electric energy are justified on the power to improve navigation, certainly the sale of electric energy at Wilson Dam, where the generators were installed for navigation and also for national defense purposes, will be held, a fortiori, a valid exercise of Federal power.

THE WAR POWERS

Now, let us turn to the question from another point of view—the provisions of the Constitution granting war powers to Congress. "The measures necessary and proper for carrying on war and for maintaining a national defense authorize a broad sweep of activities, and there is no general denial that the construction of Wilson Dam and the acquisition of the Muscle Shoals properties were proper measures for exercising the war powers." It is recognized also that the current maintenance of the Muscle Shoals properties in operating condition with a stand-by of an abundant supply of electric energy constitutes a valuable ally in national defense.

The war power does not expire with the cessation of hostilities. The necessity for a military organization in all its details is ample proof of that fact. In the words of a leading case:

> The (war) power is not limited to victories in the field and the dispersion of the insurgent forces. It carries with it inherently the power to guard against an immediate renewal of the conflict and to remedy the evils which have arisen from its rise and progress.—*Stewart* v. *Kahn*, 11 Wall. 493, 507 (1870).

It is not questioned that the water power in a navigable stream harnessed by the Government as an incident to navigation improvement is property of the United States. Nor has the authority to install generating equipment and operate it in war and peace for Government uses been doubted.

> Under the war power the issue becomes a narrow one—can the United States convert the unused water power into electric energy by the simple mechanical operation of opening the additional penstock gates which are not already opened to supply current for the nitrate plant at Muscle Shoals, and dispose of the wasting surplus of power in the form of electricity?

I think that this can be done.

In the famous case of *McCulloch* v. *Maryland* (4 Wheat. 316 (1819)) the Supreme Court of the United States said:

> Throughout the vast Republic, from the St. Croix to the Gulf of Mexico, from the Atlantic to the Pacific, revenue is to be collected and expended, armies are to be marched and supported. The exigencies of the Nation may require that the treasure raised in the North should be transported to the South; that raised in the East conveyed to the West; or that this order should be reversed. Is that construction of the Constitution to be preferred which would render these operations difficult, hazardous, and expensive; can we adopt that construction (unless the words imperiously require it), which would impute to the framers of that instrument when granting these powers for the public good, the intention of impeding their exercise by withholding a choice of means? If, indeed, such be the mandate of the Constitution, we have only to obey; but that instrument does not profess to enumerate the means by which the powers it confers may be executed.

An outstanding example of the broad attitude toward acts related to the war power is found in *United States* v. *Gettysburg Electric Railroad Co.* (160 U. S. 668 (1896)), in which a condemnation by the United States of land for the establishment of the Gettysburg Battlefield Memorial Park was upheld. That power was one of the Federal powers considered as supporting the act. It is not required that the measure adopted be indispensable in order to place it within the "necessary and proper" category. See *Everard's Breweries* v. *Day* (265 U. S. 545 (1924)); *United States* v. *Fisher* (2 Cr, 202 (1804)). Congress must possess the choice of means, and must be empowered to use any means which are, in fact, conducive to the exercise of a power granted by the Constitution.

THE PROPERTY CLAUSE

Clause 2 of section 3 of article IV of the United States Constitution provides:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

This provision contains no limitations in terms, and the decisions of the Supreme Court establish, firstly, that Congress has an unlimited authority to dispose of the public property upon such terms and conditions as it deems in the public interest, and, secondly, that Congress has a wide discretion with respect to the choice of means to make such dispositions. The Congress has plenary power to dispose of the public property to such person or persons, and for such purposes, as the public interest requires. It may make grants of public lands to railroads in order to develop adequate transportation, and to States for educational purposes. Or it may open the public domain to preemption or settlement "in order to convert waste space into homes." See *Ruddy* v. *Rossi* (248 U. S. 104, 106 (1918)); *Camfield* v. *United States* (167 U. S. 518, 524 (1897)); *Light* v. *United States* (220 U. S. 523, 536 (1911)); *United States* v. *Gratiot* (14 Peters, 526 (1840)).

The principle that Congress may adopt all reasonable means to promote its chosen method of disposition has received wide application. The Supreme Court repeatedly has sustained the power of Congress to forbid acts on private lands which interfere with the settlement or other sanctioned use of the public domain (*Camfield* v. *United States*, supra; *McKelvey* v. *United States*, 260 U. S. 353, 359 (1922); *United States* v. *Alford*, 274 U. S. 264 (1927)). The power of Congress is not limited to the mere prohibition of acts which interfere with the accomplishment of its chosen method of disposition. It is well established that Congress may take affirmative measures to improve the public property in order to render it marketable (*Hanson* v. *United States*, 167 Fed. 881 (C. C. A. 9th, 1909); *Burley* v. *United States*, supra; *Kansas* v. *Colorado*, 206 U. S. 46, 92 (1907)).

Consequently, it is plain that the water power necessarily created as a byproduct by the construction of a valid navigation dam is property of the United States, and that Congress has the power to dispose of this byproduct in order to avoid waste, or to liquidate the cost of the dam, or to make wide-spread distribution of the benefits of the power so created. It results, therefore, that Congress has not exceeded its constitutional powers by the passage of the Tennessee Valley Authority Act, and will not do so if the pending legislation is enacted.

There are many collateral questions involved in the proper determination of this expansive question, but I believe that the adjudication of all of the principal and subordinate points will be in favor of the constitutionality of this great internal improvement. It is insisted by those who oppose the extension of the Tennessee Valley Authority Act that its functions will interfere with the operation of or will compete with privately owned public utilities, and that the generation, sale, and transmission of electric energy constitute "proprietary business" beyond the permissive functions of the National Government. It is sufficient here to say that almost every State, county, and municipality, and certainly the Federal Government itself, exercise proprietary functions in addition to purely governmental functions, and that—

> It is no constitutional objection to its existence or to its exercise that the property or contracts of individuals may be incidentally affected (*Juilliard* v. *Greenman*, 110 U. S. 421, 448 (1884)).

This Nation, through its Federal Government, has sovereignty over vast water-power resources in many parts of the United States, and as stated by Franklin D. Roosevelt while Governor of the great State of New York:

> The water power of the State should belong to the people. The title to this power must rest forever in the people. No commission has any right to give, for any consideration whatever, a single potential kilowatt in virtual perpetuity to any person or corporation whatever. It is the duty of our representative body to see that this power is transferred into usable electrical energy and distributed at the lowest possible cost. It is our power, and no inordinate profits must be allowed to those who act as the people's agent in bringing this power to their homes and workshops.

I stand with the President in the application of this principle to the obligation of Congress to transfer into usable electrical energy and distribute at the lowest possible cost all of the surplus electricity produced by the Tennessee Valley Authority in the discharge of the functions lawfully conferred upon it by Congress.

I stand also with the President in his statement that:

> I do not hold with those who advocate Government ownership or Government operation of all utilities. I state to you categorically that, as a broad general rule, the development of utilities should remain, with certain exceptions, a function for private initiative and private capital. But the exceptions are of vital importance, local, State, and National, and I believe that the overwhelming majority of people in this country agree with me.

In the Tennessee River we have the most notable exception in the annals of our country and the best interests of the greatest number of people are paramount to the personal interest of any indivdual or group of individuals. It is regrettable that anyone may be injured by the action of a duly constituted authority, but it is not proven that anyone will be adversely affected permanently by the carrying out of all of the purposes of this magnificent undertaking.

Indeed the electric-power output of public utilities in the South increased in 1934 over 1933, and continues to gain during 1935, and those who analyze the probable future development with a progressive viewpoint have confidence in the further progress of the South's privately owned public utilities. It is only natural that the individual who finds himself enjoying exceptional prosperity should inveigh against interference therewith and magnify the potentialities of competition, but the high purpose of the great majority of the people, and most especially of their chosen Representatives in Congress is, and should be, the promotion of the general welfare and the securing of more abundant blessings of liberty and justice and peace and happiness for everyone.

Mr. CROWTHER. Mr. Speaker, in the Sixty-seventh Congress I was a member of the Committee on Military Affairs and its chairman was the distinguished gentleman from California, the late Julius Kahn. The gentleman from Pennsylvania [Mr. RANSLEY] also served and is still a member of that committee.

We are the only two Members of this Seventy-fourth Congress who were on that committee in 1921. I mention this fact because we had before us at that time a proposition to sell the Muscle Shoals development, now known as the "Tennessee Valley Authority", to Henry Ford for $5,000,000. I helped to prepare the minority report on that legislation, and, in view of what has developed in the intervening years, I feel that perhaps I should have better played the part of wisdom if I had contributed my vote toward placing it in Mr. Ford's hands.

Much has been said of the value of T. V. A. as a yardstick for determining the fairness of power rates charged by the private producers. In spite of the lengthy and heated argument to support this claim, I am convinced that the so-called "yardstick" has a considerable content of rubber mixed with a dash of socialism.

In regard to the disastrous effect upon the bituminous-coal industry, let me present a statement by John Lewis made before the Ways and Means Committee on May 24:

> Mr. LEWIS. Obviously, the development and sale of electrical energy for power purposes depresses coal.
>
> Mr. REED. Have you figured out at all, looking to the potentialities, the number of tons of coal that it will displace?
>
> Mr. LEWIS. It is impossible to give any accurate figures on that, because we do not know to what degree these power projects will be developed or extended, how far their direct power may be transmitted, and what usage may be made in volume of that energy.
>
> For instance, the power to be developed at Boulder Dam will practically eliminate the use of coal in all of the communities in those areas of California, Arizona, New Mexico, Nevada, and Utah which it will serve. There is not much coal used in that area, a limited quantity. In itself it is not important, but such as it is, it will be largely displaced by the transmission and utilization of the power from Boulder Dam.
>
> With the Tennessee Valley Authority, it is impossible for me to say what tonnage will be affected or will be displaced over a certain period, because we do not know to what degree the Tennessee Valley project will be extended, or what range in distribution and power it will encompass.
>
> The same is true as to the Hudson River development involving the Canadian treaty, and the Grand Coulee, and the Loup River project in Nebraska, and elsewhere.
>
> The mine workers, of course, the men who work in the mines, rather have a dread or apprehension pass over them every time

they read about the financing of a new water-power electrical development. I suppose that is human nature. The displacement of a million tons of coal annually, roughly, will destroy the jobs of 1,000 miners. The ratio is about a thousand men to a million tons, on the basis of the record of the industry. That does not take into consideration the men involved in transportation or distribution of that tonnage.

The mine workers have been told repeatedly, of course, that they cannot stand in the path of progress, that there are equalizing and compensating factors involved in this question of progress. But it is true that in the past 15 or 20 years there has been displaced about 200,000,000 tons of coal per annum by the development of hydroelectric projects, the use of fuel oil and the use of natural gas, substitutes for fuel.

In other words, if it had not been for the development of the hydroelectric industry, the gas industry, and the oil industry, we would be producing now 200,000,000 tons of coal more than we are, and would be employing 200,000 more men in our industry.

Mr. Speaker, I am opposed to the policy of placing the Federal Government in business to compete with private industry. The new deal has accentuated this development, and Uncle Sam now finds himself in the railroad, realty, mortgage loan, power, fertilizer, furniture, and a host of other forms of business. This policy is repugnant to the average American citizen, and when he has an opportunity he will express his resentment in no uncertain terms.

Thomas Edison made the following statement in 1929, and it seems to apply so aptly to the present situation that I desire to present it:

STATEMENT BY THOMAS EDISON

We shall steadily require more power, but a great deal more fuss is being made over hydroelectric power than its intrinsic value warrants. The first and best source of power is coal. The amount of coal available is not limited, but for all practical purposes it is limitless. We can probably use coal at our present rate for a thousand years or so without any danger of exhausting our supply, and it is highly improbable that we really know our supply. * * *

The development of hydroelectric power is very important, but also it is very expensive and usually requires an auxiliary coal steam plant. Some of the best water power is too far away from our manufacturing centers to make its utilization wholly practical.

Water power is a political issue, not a business one. It can never at the best mean very much to us except as something to talk about. The monopolizing of water power is also just a political idea. * * * There is far more danger in public monopoly, for when the Government goes into business it can always shift its losses to the taxpayers. If it goes into the power business, it can pretend to sell cheap power and then cover up its losses.

The Government never really goes into business, for it never makes ends meet. And that is the first requisite of business. It just mixes a little business with a lot of politics, and no one ever gets a chance to find out what is actually going on.

Mr. Chairman, the following letter is from Mr. C. M. Ripley, one of my constituents and an engineer of standing in the electrical world. Its factual conclusions are most interesting:

SCHENECTADY, N. Y.

Hon. FRANK CROWTHER,
House of Representatives, Washington, D. C.

MY DEAR MR. CROWTHER: You would be amazed if you were to see a want ad as follows:

"Situation wanted: Man of all work desires steady position doing odd jobs in a household. Wages $2.45 a week. In the basement he will tend the furnace all winter, spring, and fall and tend the water heater the year round and will keep you supplied with plenty of very hot water; will turn the clothes washer and turn and heat the ironing machine, and in bad weather will dry the clothes indoors. Will keep the laundry well ventilated the year round.

"In the kitchen he will make ice cubes and refrigerate your food so well that you can go away for a week and on your return eat 98 to 100 percent of the food you left. Will bake in the oven, mix food, and wash the dishes—all while the cook's back is turned (making the beds or otherwise engaged). While she is in the kitchen will entertain her with songs and have her instructed by experts in recipes and home economics—all without the trouble or expense of radio batteries. Will tend the stove and provide fast heat for cooking, yet keep the kitchen cool in summer and well ventilated the year round.

"In the dining room he will provide cool, fast, flameless, smokeless heat right on the table so that you can make coffee, toast, and waffles, and boil, scramble, or poach eggs—all without rising from your chair.

"In the bedroom he will wake you up on time every morning, provide you morning exercise and a sun bath; will turn the sewing machine for you. In case of sickness will keep wet or dry pads steadily hot, or provide ice packs, as the doctor may prescribe. Also will heat your curling iron and hair dryer, whenever you want them.

"In the bathroom he will provide a sun bath for half a cent while you take a tub bath, which cost 3 to 5 cents.

"In general, he will light your home and keep a clock running in every room—upstairs and down; will exterminate moths, flies, ants, spiders, and all other insect pests; will operate 3 fans to keep you cool in hot weather; will keep 8 small lights burning all night for burglar protection; will light your house number so visitors can easily locate you; will clean carpets and rugs; will provide power for chimes, both for your doorbell and for one of your downstairs clocks; and will be on the job 24 hours a day."

Now, Dr. CROWTHER, that's what electricity does in my house, and the electric bill averages $9.80 a month, $2.45 a week, or 35 cents a day.

It is beyond my comprehension why the electric companies should be assailed in Washington, when in general—a national average—the rates have gone down about 36 percent since 1914, while almost everything else has skyrocketed upward!

America was the first to use vast amounts of electricity in industry. It did much to raise America's economic power. It reduced manufacturing expenses. It also raised the standard of living and standard of comfort in our homes, as well as the working conditions in our mills, mines, and factories. So I believe these indiscriminate attacks are positively unpatriotic at any time, and particularly so in these times.

The communities where electric rates are high are conspicuous exceptions, as was demonstrated in the recent report of the Federal Power Commission.

I believe that those who further encourage the indiscriminate attacks on power and light companies are functioning emotionally and not logically.

Sincerely yours,

C. M. RIPLEY.

ANCHORAGE, ALASKA

Mr. DIMOND. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 7882) to authorize the incorporated city of Anchorage, Alaska, to construct a municipal building and purchase and install a modern telephone exchange, and for such purposes to issue bonds in any sum not exceeding $75,000; and to authorize said city to accept grants of money to aid it in financing any public works.

The Clerk read the title of the bill.

Mr. SNELL. Mr. Speaker, reserving the right to object, as I understand this is a local bill that the people up there want; that there is no obligation so far as the Federal Government is concerned.

Mr. DIMOND. The gentleman's understanding is correct, Mr. Speaker.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the incorporated city of Anchorage, Territory of Alaska, is hereby authorized and empowered to construct a municipal building and purchase and install a modern telephone exchange, and for such purposes to issue bonds in any amount not exceeding the sum of $75,000.

SEC. 2. Before said bonds shall be issued a special election shall be ordered by the common council of the said city of Anchorage, Alaska, at which election the question of whether such bonds shall be issued in the amount above specified for the purpose hereinbefore set forth shall be submitted to the qualified electors of said city of Anchorage, Alaska, whose names appear on the last assessment roll of said city for purposes of municipal taxation. The form of the ballot shall be such that the electors may vote for or against the issuance of bonds for the purposes herein specified up to the amount herein authorized. Not less than 20 days' notice of such election shall be given to the public by posting notices of same in three conspicuous places within the corporate limits of the city of Anchorage, Alaska, one of which shall be at the front door of the United States post office at Anchorage, Alaska. The election notice shall specifically state the amount of bonds proposed to be issued for the purpose herein specified. The registration for such election, the manner of conducting the same, and the canvass of the returns of said election shall be, as nearly as practicable, in accordance with the requirements of law in general or special elections in said municipality; and such bonds shall be issued for the purposes herein authorized only upon condition that not less than a majority of the votes cast at such election in said municipality shall be in favor of the issuance of said bonds for such purpose.

SEC. 3. The bonds herein authorized shall be coupon in form and shall mature in not to exceed 30 years from the date thereof. Such bonds may bear such date or dates, may be in such denomination or denominations, may mature in such amounts and at such time or times, not exceeding 30 years from the date thereof, may be payable in such medium of payment and at such place or places, may be sold at either public or private sale, may be nonredeemable or redeemable (either with or without premium), and may carry such registration privileges as to either principal and interest, or principal only, as shall be prescribed by the common council of said city of Anchorage. The bonds shall bear the signatures of the mayor and of the clerk of the city of Anchorage, and shall have impressed thereon the official seal of said municipality. The coupons to be annexed to such bonds shall bear the

facsimile signatures of the mayor and of the clerk of said municipality. In case any of the officers whose signatures or countersignatures appear on the bonds shall cease to be such officers before delivery of such bonds, said signatures or countersignatures, whether manual or facsimile, shall nevertheless be valid and sufficient for all purposes, the same as if said officers had remained in office until such delivery. Said bonds shall bear interest at a rate to be fixed by the common council of the city of Anchorage, not to exceed, however, 6 percent per annum, payable semiannually, and said bonds shall be sold at not less than the principal amount plus accrued interest.

SEC. 4. The bonds herein authorized to be issued shall be general obligations of the city of Anchorage, Territory of Alaska, payable as to both interest and principal from ad valorem taxes which shall be levied upon all of the taxable property within the corporate limits of such municipality in an amount sufficient to pay the interest on and the principal of such bonds as and when the same become due and payable.

SEC. 5. No part of the funds arising from the sale of said bonds shall be used for any purpose or purposes other than those specified in this act. Said bonds shall be sold only when and in such amounts as the common council of the city of Anchorage shall direct; and the proceeds thereof shall be distributed only for the purposes hereinbefore mentioned and under the orders and direction of said common council from time to time as such proceeds may be required for said purposes.

SEC. 6. The city of Anchorage is hereby authorized to enter into contracts with the United States of America or any agency or instrumentality thereof under the provisions of the National Industrial Recovery Act and acts amendatory thereof and acts supplemental thereto, and revisions thereof, and under any further acts of the Congress of the United States to encourage public works, for the relief of unemployment, or for any other public purpose, including the Emergency Relief Appropriation Act of 1935, for the sale of bonds issued in accordance with the provisions of this act, or for the acceptance of a grant of money to aid said municipality in financing any public works; or to enter into contracts with any persons or corporations, public or private, for the sale of such bonds; and such contracts may contain such terms and conditions as may be agreed upon by and between the common council of said city of Anchorage and the United States of America or any agency or instrumentality thereof, or any such purchaser.

SEC. 7. This act shall take effect immediately.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONVEYANCE OF CERTAIN LANDS IN NOME, ALASKA

Mr. DIMOND. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 2779) to authorize the conveyance of certain lands in Nome, Alaska.

The Clerk read the title of the bill.

Mr. SNELL. Mr. Speaker, reserving the right to object, I think the gentleman should make a little explanation of this bill.

Mr. DIMOND. Mr. Speaker, as originally built, the city of Nome, Alaska, had very narrow and crooked streets. Last fall all the business section of the city was destroyed by fire. The endeavor now is to straighten out and widen the streets. In order to accomplish this it is necessary for the city to convey to the Federal Government certain odd tracts of land and for the Federal Government to convey to the city certain odds and ends of land.

Mr. SNELL. This is simply for the purpose of straightening the streets of this city?

Mr. DIMOND. Precisely.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to convey to the city of Nome, Alaska, the following-described two parcels of land designated as tracts A and B, respectively, and forming part of the Nome (Alaska) Customhouse site: Beginning, for the description of tract A, at stake no. 1 or the original northwest corner of the reservation as described in Executive order dated April 16, 1907; running thence south 70° east 152 feet to stake no. 2 or the original northeast corner of the reservation; thence south 28°15′ west 270 feet, more or less, along the easterly boundary of said reservation, to its intersection with the northerly boundary of block K of the amended portion of the townsite of Nome, identical with the southerly boundary of Front Street, amended; thence north 70°37′ west 102 feet, more or less, along said southerly boundary of Front Street, amended, to its intersection with line 5–6 of said reservation; thence north 57° west 13 feet, more or less, to stake no. 6 of said reservation; thence north 19°21′ east 87 feet, more or less, along the westerly boundary of said reservation to its intersection with the northerly boundary of Front Street, amended; thence south 70°37′ east 108 feet, more or less, to the intersection of the northerly boundary of Front Street with the westerly boundary of Federal Way; thence north 19°23′ east 150 feet, to the intersection of the said westerly boundary of Federal Way with the southerly boundary of Second Avenue, amended; thence north 70°37′ west 105 feet, more or less, along the southerly boundary of Second Avenue, amended, to its intersection with the westerly boundary of the said customhouse reservation; thence, along said boundary line, north 23°57′ east 30 feet, more or less, to stake no. 1 or the place of beginning; and, beginning for the description of tract B at stake no. 3 or the original southeast corner of said customhouse reservation; thence north 69° west 87 feet, to stake no. 4 or the original southwest corner of the reservation; thence north 27°25′ east 47 feet, more or less, along line 4–5 of said reservation to its intersection with the northerly boundary of Seashore Avenue; thence south 70°37′ east 87 feet, more or less, along said northerly boundary of Seashore Avenue, to its intersection with line 2–3 of said reservation; thence south 28°15′ west 51 feet, more or less, to said stake no. 3 or the place of beginning; and to convey to the owner of record of lot no. 1, block K, of the amended portion of the townsite of Nome, the following-described piece or parcel of land designated as tract C: Beginning at the northwest corner of block K of the amended portion of the townsite of Nome; running thence south 70°37′ east 8 feet, more or less, along the northerly boundary of the said block K, to its intersection with line 2–3 of the customhouse reservation; thence south 28°15′ west 51 feet, more or less, to the intersection of said line 2–3 with the westerly boundary of said block K; thence, along said westerly boundary, north 19°23′ east 50 feet, more or less, to the northwest corner of the said block K or the place of beginning: *Provided*, That there is conveyed to the United States as an addition to the aforesaid customhouse site, the following-described three pieces or parcels of land, designated as tracts D, E, and F, respectively, in order to provide a customhouse site of uniform dimensions in connection with the amended plat of a portion of the city of Nome made subsequent to the fire which destroyed a large portion of the buildings of the said city in September 1934; beginning for the description of tract D at the northwest corner thereof, identical with the northeast corner of block C of the amended portion of the townsite of Nome; thence south 70°37′ east 95 feet, more or less, along the southerly boundary of Second Avenue, amended, to its intersection with line 7–1 of the aforesaid customhouse reservation, whence corner no. 1 of said reservation bears north 23°57′ east 30 feet, more or less, distant; thence, along line 7–1 of said reservation, south 23°57′ west 41 feet, more or less, to corner no. 7 of said reservation; thence south 19°21′ west 108 feet, more or less, along line 5–6 of said reservation, to its intersection with the northerly boundary of Front Street, amended; thence, along said northerly boundary of Front Street, north 70°37′ west 90 feet, more or less, to the southeast corner of block C of the amended portion of the townsite of Nome; thence, along the easterly boundary of said block C, north 19°23′ east 150 feet, to the northeast corner or place of beginning; and, beginning for the description of tract E at the northwest corner thereof, identical with the northeast corner of block J of the amended portion of the townsite of Nome; thence south 70°37′ east 105 feet, more or less, along the southerly boundary of Front Street, amended, to its intersection with line 5–6 of the aforesaid customhouse reservation; thence, along said line 5–6, south 57° east 13 feet, more or less, to corner no. 5 thereof; thence south 27°25′ east 110 feet, more or less, along line 4–5 of said reservation, to its intersection with the northerly boundary of Seashore Avenue, of the amended portion of the townsite of Nome; thence, along said northerly boundary of Seashore Avenue, north 70°37′ west 104 feet, more or less, to the southwest corner, identical with the southeast corner of the aforesaid block J; thence, along the easterly boundary of said block J, north 19°23′ east 100 feet to the northwest corner or place of beginning; and, beginning for the description of tract F at the southwest corner of block K of the amended portion of the townsite of Nome; thence north 70°37′ west 8 feet, more or less, along the northerly boundary of the aforesaid Seashore Avenue, to its intersection with line 2–3 of the aforesaid customhouse reservation; thence north 28°15′ east 50 feet, more or less along said line 2–3, to its intersection with the westerly boundary of the aforesaid block K; thence, along said westerly boundary of block K, south 19°23′ west 49 feet, more or less, to the place of beginning.

SEC. 2. The transfer of this property and its use for the purposes mentioned shall be without expense to the United States of America.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider and a similar House bill (H. R. 7893) were laid on the table.

COMPENSATION OF PAGES

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent for the present consideration of House Joint Resolution 347, to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

The Clerk read the title of the joint resolution.

Mr. SNELL. Mr. Speaker, reserving the right to object, as I understand we provide for the pages per session.

Mr. BUCHANAN. Per session; yes.

Mr. SNELL. And the session is supposed to close the 1st of July?

Mr. BUCHANAN. The session is defined in the law as lasting from January 1 to the 30th of June.

Mr. SNELL. And this joint resolution provides compensation for these pages of the Senate and House during the balance of the session?

Mr. BUCHANAN. Yes. The next pay day for the Senate pages is the 15th of July and for the pages in the House the 31st.

Mr. KVALE. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield.

Mr. KVALE. Can the gentleman tell the House whether or not the Senate has adopted a resolution which proposes to pay the pages during the interim at a per diem rate?

Mr. BUCHANAN. I do not know whether they have adopted such a resolution or not.

Mr. KVALE. If the Senate adopts such a resolution would the Appropriations Committee and the Accounts Committee, or whichever committee has charge of the matter, be inclined to give friendly consideration to a similar proposal on the House side?

Mr. BUCHANAN. Does the gentleman mean to put them on an annual basis?

Mr. KVALE. Yes; put them on an annual basis with pay in the interim.

Mr. BUCHANAN. No; I would not be inclined toward it.

The SPEAKER. Is there objection to the consideration of the resolution?

There being no objection, the Clerk read the joint resolution, as follows:

House Joint Resolution 347

Resolved, etc., That for the payment of pages of the Senate and House of Representatives for the period commencing July 1, 1935, and ending with the last day of the month in which the first session of the Seventy-fourth Congress adjourns sine die, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary for each of the following respective purposes:

Senate: For 21 pages for the Senate Chamber at the rate of $4 per day each.

House of Representatives: For 41 pages, including 10 for duty at the entrances to the Hall of the House, at $4 per day each.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ABSENCE OF MEMBERS

Mr. McSWAIN. Mr. Speaker, I am requested to announce that the gentleman from New Hampshire, [Mr. ROGERS], a member of the committee, is necessarily detained at his home in New Hampshire and was therefore unable to vote on the final passage of the Tennessee Valley Act. If present, he would have voted in favor of the passage of the bill.

Mr. BOLAND. Mr. Speaker, my colleague the gentleman from Pennsylvania [Mr. BERLIN] is unavoidably detained out of the city. If he had been present, he would have voted for the passage of the Tennessee Valley Act.

SEVENTIETH NATIONAL ENCAMPMENT OF THE GRAND ARMY OF THE REPUBLIC

Mr. PALMISANO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House Joint Resolution 201, giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in the month of September 1936, and for other purposes, incident to said encampment, with a Senate amendment, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 6, line 13, after "Columbia", insert "*And provided further*, That any such buildings, parks, reservations, and other public spaces which shall be used or occupied by the erection of stands or other structures, or otherwise, shall be promptly restored to their condition before such occupancy, and the said citizens' executive committee shall execute and deliver to the Commissioners of the District of Columbia a satisfactory bond with a penalty of $10,000 to secure such prompt restoration and to indemnify the District of Columbia for all damage of any kind whatsoever sustained by reason of any such use or occupancy."

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

MOSES ISRAEL

Mr. GAVAGAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 5393) for the relief of Moses Israel, with a Senate amendment, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 6, strike out "$3,500" and insert "$2,500."

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PERCY C. WRIGHT

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 2566) for the relief of Percy C. Wright, with a Senate amendment, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

That the Administrator of Veterans' Affairs be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Percy C. Wright, former Reserve officer, and pay him a pension at the rate of $100 per month: *Provided*, That such pension shall be in lieu of any pension now received from the Veterans' Administration by said Percy C. Wright: *And provided further*, That this act shall not deprive said Percy C. Wright of such insurance payments to which he may be entitled.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

Mr. SNELL. Mr. Speaker, reserving the right to object, I think the gentleman better explain the bill.

Mr. McSWAIN. Mr. Speaker, this bill provides for the relief of a soldier who had the status of what is known as a "Reserve officer on active-duty status", and was therefore not entitled to the benefits of the officers' retirement law. This officer was disabled in line of duty, and it has been found that he is seriously disabled. If he were entitled to come under the Regular Officers' Act, he would receive liberal retirement pay. By virtue of his status, not being a retired officer of the Regular Army, he is not entitled to retirement.

Mr. SNELL. How many of these provisional officers are there?

Mr. McSWAIN. I do not know of any others at this time. We have to take them up one at a time.

Mr. SNELL. Are we not establishing a pretty broad principle by taking in people who are not intended under the law to come under the provisions of that act?

Mr. McSWAIN. Relief has been granted to two or three others, I think. It is a very exceptional case, and we feel that it is in the interest of human justice to grant this relief.

Mr. SNELL. Is it unanimously reported by the committee?

Mr. McSWAIN. Yes; and the bill passed the Senate unanimously with this amendment.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GEORGE ROGERS CLARK SESQUICENTENNIAL COMMISSION

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2865) to amend the joint resolution establishing the George Rogers Clark Sesquicentennial Commission, approved May 23, 1928, and its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. SNELL. Mr. Speaker, reserving the right to object, I think the gentleman from Indiana should make an explanation of this bill, and I would like to ask a few questions.

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes in order to explain this bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. GREENWOOD. Mr. Speaker, this bill, S. 2865, which has been passed by the Senate, was reported by the House Committee on the Library. It is an emergency measure, and for this reason I am calling it up at this time.

The George Rogers Clark Sesquicentennial Commission expired on the 1st of July of this year. This bill proposes to extend the time for 2 years and requests an authorization of $50,000 with which to complete the memorial. I may say that up to this time the State of Indiana has expended between $900,000 and $1,000,000 for the site upon which this memorial is built, and the Federal Government has appropriated $1,750,000. At this time there is an additional piece of land that is covered by a gas tank and reservoir at the rear of the 23 acres. The State of Indiana proposes to buy the additional land, and this authorization will carry out the original understanding that where the State furnishes the land, funds will be provided with which to embellish it. The $50,000 will be used to embellish the ground, build walks, extend the drives, build the river wall, and finish this memorial and its surroundings as the Commission believes it should be finished. The statement that was made before the Library Committee was that this amount was necessary in order to make a complete, beautiful, artistic, and finished piece of work as they believed it should be, and with the further understanding they would seek no more funds to expend on this memorial.

Mr. SNELL. The gentleman just stated this was to carry out the original program. As a matter of fact, this additional land never was included in the original program.

Mr. GREENWOOD. The gentleman did not understand me quite accurately. The understanding was that the State would purchase the land and then the Government would build the memorial and embellish the land, and I concede that it was not originally deemed necessary to buy this particular land.

Mr. SNELL. According to this program they might go just as far as they wished, and if the State of Indiana bought the land you would then ask us to improve it and embellish it.

Mr. GREENWOOD. We could not go any further than this authorization would permit.

Mr. SNELL. You could do the same thing again.

Mr. GREENWOOD. No; the statement was made before the Library Committee that this would be the final amount that would be sought, and it was explained fully to the committee—and the gentleman from Massachusetts [Mr. TREADWAY] and the gentleman from Illinois [Mr. KELLER] are both here—there would be no further seeking of any assistance from the Federal Government either to purchase land or embellish any land.

Mr. SNELL. Let us go back a little into the history of this matter. When it was originally presented to the House it was understood that the State of Indiana and the city of Vincennes would spend between $900,000 and $1,000,000 and the Federal Government would match that by appropriating $1,000,000.

Mr. GREENWOOD. One million seven hundred and fifty thousand dollars.

Mr. SNELL. You have spent $900,000 and the Federal Government has already expended $1,750,000, and it seems to me the Federal Government has done its part toward this memorial.

Mr. GREENWOOD. There was no such limitation placed upon it at the time, although it is true that there was an understanding.

Mr. SNELL. It was the understanding of the House at that time that this amount was going to finish the job.

Mr. GREENWOOD. I would not undertake to say what statement was made before the committee, but I do know that at that time the acquisition of this particular tract of land where this tank is located, of course, was not contemplated.

Mr. SNELL. That is what I stated—it was not contemplated at that time.

Mr. GREENWOOD. But since the memorial has been built this gas tank stands out like a sore thumb in the rear of the beautiful memorial, and the Commission believes that in order to have a finished job, this tract of land should be purchased. So arrangements were made for the State of Indiana to purchase it, and these arrangements are being carried out; and, as I have said, the understanding in the beginning was that the State of Indiana would purchase the land and the memorial, and its embellishments would be built by the Federal Government, and this is the same theory or understanding that was had in the beginning.

Mr. SNELL. But this is not a part of the original program, and you could continue adding on to this program and asking us to appropriate money without limit.

Mr. GREENWOOD. I did not mean to convey the idea that the purchase of this particular tract was contemplated in the beginning, but it is true that in the beginning of this memorial the purchase of land was by the State and the embellishment by the Federal Government.

Mr. SNELL. Does not the gentleman think that if we spend $1,750,000 against the local community spending $900,000 we have done pretty well by the State of Indiana?

Mr. GREENWOOD. Of course, the Federal Government has been very liberal about it, and I think the gentleman sees the point, which I think we all should appreciate, in building a memorial of this character, when a circumstance like this arises which prevents an appreciation of its complete beauty, through lack of a proper background——

[Here the gavel fell.]

Mr. SNELL. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana may proceed for 5 additional minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GREENWOOD. And after all, the gentleman will concede that this is a very small amount of money to finish a project of this character in which the Federal Government has this amount of money invested, and if it requires this amount to make a complete job, I believe the gentleman would join with me in thinking that it should be done.

Mr. SNELL. But, originally, you said it would cost $1,000,000, and then $1,250,000, and then $1,750,000; and I think now to come back and say that you have got to have another appropriation in order to secure more ground is going too far.

Mr. GREENWOOD. The gentleman is not quite correct in saying it was originally $1,000,000. That was the amount granted by the Federal Government and asked for in the first instance, when Mr. Luce, of Massachusetts, was chairman of the committee; but he stated with respect to the appropriation of $1,000,000 that he felt we would be back later for more money to finish the job, and later on he went to the amount asked originally and became entirely converted to the position I am now taking.

Mr. SNELL. I appreciate that, but there is a limit to the amount of money we ought to put in these memorials in different parts of the country, and I think we have gone too far already.

Mr. GREENWOOD. I concede that the Federal Government has gone to the extent we anticipated, but I am explaining to the gentleman and the House that this situation has arisen which the Commission did not contemplate, and therefore the work should be extended in order to make it as complete as I am sure the gentleman would like to have it, as well as the rest of us.

Mr. SNELL. I appreciate there is not any use in trying to do anything in this Congress to keep down expenditures, and for that reason I am not going to object.

Mr. GREENWOOD. I thank the gentleman for that.

Mr. SNELL. If I had the votes behind me, I would object to spending any more money on this memorial.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from New York.

Mr. TABER. How large a territory does this chunk of land that is covered by a gas station cover—an acre or two?

Mr. GREENWOOD. Several acres—4 or 5 acres.

Mr. TABER. And we are going to spend $50,000 to embellish 4 or 5 acres of land?

Mr. GREENWOOD. No; that is not the point at all. This tract is down at one end of the memorial and there have to be drives and walks and a river wall constructed and a railroad switch removed from the ground, as well as various other things that the gentleman would understand if he could see a picture of it. The ground also has these tanks and buildings on it that will have to be removed.

Mr. TREADWAY. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from Massachusetts.

Mr. TREADWAY. I think the opposition to the appropriation of an aditional $50,000 is somewhat due to a misunderstanding of the location. Photographs were submitted to the committee, showing the beautiful memorial that has been erected. Of course, any memorial must have suitable surroundings. I was not a member of the Library Committee at the time the memorial was first proposed, and the appropriation made by the Congress, but, as I understand, the question of the removal of this gas tank was not brought up, and therefore was not given consideration as to whether or not the gas tank should be removed in order to make the surroundings attractive.

Now that it is nearly completed, or practically completed, how can you leave the unfinished landscape gardening proposition out?

Mr. SNELL. What are you going to do with the gas tank?

Mr. TREADWAY. I appreciate the efforts of the gentleman from New York to economize and I join with him in it, but since the Government has gone thus far in cooperation with the State you do not want that sore thumb sticking up near this beautiful monument. Whether it was right to have it originally or not is not the question involved. There is assurance here that this is the final request for aid from the Federal Government and will secure proper surroundings for a beautiful structure.

The SPEAKER. The time of the gentleman from Indiana has expired.

Mr. GREENWOOD. Mr. Speaker, I ask for 5 minutes more.

Mr. LUDLOW. I ask that the gentleman from Indiana have 5 additional minutes.

The SPEAKER. Is there objection?

Mr. YOUNG. I object. There has been too much time expended on this now.

Mr. TABER. I object.

EXPLANATION

Mr. McCLELLAN. Mr. Speaker, I was unavoidably absent during the roll call on H. R. 8132. I was called from the Chamber, but if I had been here I would have voted "aye."

BADGE OF THE AMERICAN LEGION

Mr. KRAMER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 4410) granting a renewal of Patent No. 54296, relating to the badge of the American Legion.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. SNELL. Will the gentleman from California explain what this is?

Mr. KRAMER. This is simply a renewal of the patent on the emblem used by the American Legion. It has been used by the Legion ever since 1919. This is a renewal of their patent rights.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, That a certain design patent issued by the United States Patent Office of date of December 9, 1919, being Patent No. 54296, is hereby renewed and extended for a period of 14 years from and after the date of approval of this act, with all the rights and privileges pertaining to the same, being generally known as "the badge of the American Legion."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BADGE OF THE AMERICAN LEGION AUXILIARY

Mr. KRAMER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 4413) granting a renewal of Patent No. 55398, relating to the badge of the American Legion Auxiliary.

This is the same kind of a bill, but it pertains to the American Legion Auxiliary.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That a certain design patent issued by the United States Patent Office of date June 1, 1920, being patent no. 55398, is hereby renewed and extended for a period of 14 years from and after the date of approval of this act, with all the rights and privileges pertaining to the same, being generally known as "the badge of the American Legion Auxiliary."

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

THE PUBLIC-UTILITY BILL

Mr. PETTENGILL. Mr. Speaker, I ask unanimous consent to proceed for 3 minutes to read a letter which I have written to Hon. Joseph P. Kennedy, of the Securities and Exchange Commission.

The SPEAKER. Is there objection?

There was no objection.

Mr. PETTENGILL. I will read this letter, dated July 10, 1935:

JULY 10, 1935.

Hon. JOSEPH P. KENNEDY,
Securities and Exchange Commission,
Washington, D. C.

DEAR MR. KENNEDY: I have read with interest, even amazement, your letter to Senator WHEELER with reference to the public-utility bill which he yesterday read to the Senate, as shown on page 10838 of yesterday's CONGRESSIONAL RECORD. It is very evident that you did not read the House draft of the bill which you undertook to criticize.

With respect to section 11 of the House bill, you say that "the phrase 'public interest' is not defined in the House bill, thus this bill furnishes no effective standard to guide the Commission in the momentous decisions it must make", etc. As a result, you state that you cannot be "too vehement in urging upon you my feeling that this section as now drawn is most unfortunate."

It may be that a better bill can be drawn than the House bill. It may be that a better definition of public interest can be drawn. It may be that better and more explicit standards to guide administrative discretion can be drawn, but when you say that the phrase "public interest" is not defined and the bill furnishes no effective standard, you are entirely inaccurate.

I call your attention to section 1 of the House draft of the bill. Without setting it forth at length, section 1 can be summarized as follows:

Section 1 (a) states that public-utility holding companies and their subsidiaries are affected by the national public interest, with five specified reasons.

Section 1 (b) states that upon the basis of facts disclosed by the reports of the Federal Trade Commission and the investigation conducted by the House Committee on Interstate and Foreign Commerce, it is stated that "It is hereby declared that the 'national public interest' and the interest of investors and consumers are or may be adversely affected", for reasons set forth in five subparagraphs.

Subsection 6 states with reference to the abuses above enumerated that "It is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted" (which, of course, would include sec. 11) "to prevent the adverse effect upon the public interest", etc.

The above standards and definitions of public interest were worked out after days of discussion by Mr. Beaman and Mr. Perley, of the legislative drafting service.

Let me again say that if better definitions of the public interest can be drawn and better standards can be defined, I would welcome them.

This letter is written only to make plain that the statement in your letter to Senator WHEELER that "the phrase 'public interest' is not defined in the House bill" is a misstatement of fact, which upon your attention being called to it, I would assume you would be glad to make efforts to correct.

Very truly yours,

SAMUEL B. PETTENGILL, M. C.

I have made this statement in justice to the Members of this House who voted for the House bill as against what is very clear to me is an entirely erroneous misrepresentation of the House bill by Mr. Kennedy, which has been given much publicity, and about which editorials have already been written. We used three printed pages to define the public interest, and I am surprised that Mr. Kennedy did not take the pains to read them.

Mr. COLE of Maryland. Mr. Speaker, will the gentleman yield?

Mr. PETTENGILL. Yes.

Mr. COLE of Maryland. The gentleman referred to Mr. Perley and Mr. Beaman of the drafting service and the part they took in the drafting of this bill.

Mr. PETTENGILL. That is correct.

Mr. COLE of Maryland. Is it not a fact that when the Committee on Interstate and Foreign Commerce considered the bill in executive session, the specific question was asked of the drafting service; that is, of the two gentlemen who were there, mentioned in the gentleman's letter, whether section 1 and section 11 were not to be read together, one affecting the other?

Mr. PETTENGILL. Yes. In addition they stated that the only hope of the bill being constitutional depended on the definition of the public interest set forth in section 1.

Mr. COLE of Maryland. Which directly contradicts Mr. Kennedy's letter?

Mr. PETTENGILL. That is absolutely correct.

The SPEAKER. The time of the gentleman from Indiana has expired.

CUSTODY OF FEDERAL PROCLAMATIONS, ETC.

Mr. CELLER. Mr. Speaker, I present a conference report and statement upon the bill (H. R. 6323) to provide for the custody of Federal proclamations, orders, regulations, notices, and other documents and for the prompt and uniform printing and distribution thereof, for printing under the rule.

LEAVE TO ADDRESS THE HOUSE

Mr. LUCAS. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes.

The SPEAKER. Is there objection?

Mr. COX. Mr. Speaker, I reserve the right to object, though I shall not; but I do wish the gentleman would withhold his request until after we can dispose of a matter that is pending here and which was expected to be taken up this afternoon.

Mr. LUCAS. I should be very glad to do that, and I withdraw my request, Mr. Speaker.

WAR MINERALS RELIEF STATUTES

Mr. COX. Mr. Speaker, I call up House Resolution 240 by direction of the Committee on Rules, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 240

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of S. 1432, a bill to amend section 5 of the act of March 2, 1919, generally known as the "War Minerals Relief Statutes." That after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Mines and Mining, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Mr. JENKINS of Ohio. Mr. Speaker, I rise to make a point of order.

The SPEAKER. The gentleman will state it.

Mr. JENKINS of Ohio. It is very simple and very persuasive. It is that the report accompanying the bill which the resolution makes in order does not comply with the Ramseyer rule.

The SPEAKER. The Chair will hear the gentleman.

Mr. JENKINS of Ohio. I could go into great detail with my objections to this bill, which I and others have opposed successfully for several years, and which discussion might bear somewhat on the point of order which I make. But the point of order may be confined within a very narrow limit. In just a few words, my point of order is that the report accompanying the bill does not comply with the Ramseyer rule, and I should like to cite one precedent which I have here. This is conclusive of my position.

The SPEAKER. The Chair thinks that the point of order that the gentleman makes is a little premature, because we are now in the consideration of the rule. That point of order can be made when the bill is being considered.

Mr. JENKINS of Ohio. I have a precedent exactly on that point. I first intended to raise the point of order after the rule had been adopted, but if the Speaker will refer to the CONGRESSIONAL RECORD of June 12, 1930, he will see that that very identical question came up, in this way: At that time a point of order was made by the gentleman from Mississippi, Mr. Busby. He raised the point that the report did not comply with the Ramseyer rule. The Speaker first decided that the point of order was made prematurely, but later on the Speaker, who happened to be Mr. Tilson, acting as Speaker pro tempore at the time, held that his first impression was wrong and that the point of order could be made at that time. The decision is not exclusive, and does not say that the point might not be made after the rule is adopted, but says specifically that the point may be made before the rule is adopted.

Mr. VINSON of Georgia. Mr. Speaker, as far as I can see, there can be no objection to the Chair passing on the point of order at this time. I am satisfied to have the Chair rule on the point of order instead of the Chairman of the Committee. No doubt it could be raised either in the House or in the Committee of the Whole. As to the point of order, if the Chair will examine the Senate bill, he will find that the Senate bill does not amend any existing law, and if it does not amend any existing law, then the Ramseyer rule does not apply. There is no amendment to the War Minerals Act. It merely refers to it in designating what the legislation is about. There being no amendment to it, the Ramseyer rule does not apply.

Mr. JENKINS of Ohio. The very title of the bill reads:

To amend section 5 of the act of March 2, 1919, generally known as "War Minerals Relief Statutes."

Mr. VINSON of Georgia. As a matter of fact, that is a mere designation. The text of the bill provides:

That in any claim that has heretofore been filed within the time and in the manner provided by the act approved March 2, 1919 (40 Stat. 1272), as amended, generally referred to as the "War Minerals Relief Statutes", in which the Supreme Court of the District of Columbia, under the authority conferred upon said court by the act approved February 13, 1929 (45 Stat. 1166), has adjudged or decreed interest payments or obligations to be losses reimbursable within the meaning of the act of March 2, 1919, as amended, the Secretary of the Interior shall open or reopen such claim—

And so forth. There is no amendment whatsoever to section 5 of the War Minerals Act of 1919. It is entirely a new proposition, merely designating what it relates to by that reference.

The SPEAKER. The Chair is prepared to rule.

The Chair reiterates the statement that he is inclined to think that this point is raised prematurely, because the matter immediately before the House now is the special rule which has been reported by the Committee on Rules; but, since the gentleman from Ohio [Mr. JENKINS] and the gentleman from Georgia [Mr. VINSON] have expressed willingness that the matter should be settled now, the Chair is entirely willing to rule on the point of order.

It is true that S. 1432 does, so far as the title is concerned, purport to amend the War Minerals Act of 1919, but the title does not govern or control what is contained in

the body of the bill. We must look to the contents of the bill itself and not to the title in passing on the point of order. Nowhere in this bill is there any reference to an amendment of any particular law now on the statute books.

The Chair is fortified in his opinion by a ruling which was made by the gentleman from New York [Mr. SNELL], the present minority leader and a distinguished parliamentarian, who was acting as Speaker pro tempore [applause], on February 7, 1931, very shortly after the Ramseyer rule was adopted. The Chair will read only the portion of the opinion which is now applicable. The Speaker pro tempore ruled as follows:

> It has been generally held, the Chair thinks, that section 29 of rule XIII is applicable where a bill seeks to repeal or amend specifically an existing law; but when it applies to a general proposition or a general amendment of an entire statute, it does not come under the rule. It must amend the law directly and refer to the specific section of the statute that it seeks to amend or repeal. The Chair does not think that this bill comes within the provision of the rule and, therefore, overrules the point of order.

As the Chair stated, the bill which this rule seeks to make in order does not, in its context, seek to amend any particular statute, and certainly does not refer to any particular or specific section of any statute. The Chair, therefore, thinks that the so-called "Ramseyer rule" has no application to this bill and overrules the point of order.

Mr. TABER. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. TABER. I make the point of order that there is not a quorum present.

The SPEAKER. The Chair will count. [After counting.] Evidently there is no quorum present.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 123]

Amlie	DeRouen	Kennedy, Md.	Robertson
Andresen	Dickstein	Lambertson	Rogers, N. H.
Bacharach	Dirksen	Lee, Okla.	Ryan
Bankhead	Doutrich	Lemke	Scott
Bell	Dunn, Miss.	Lewis, Md.	Scrugham
Berlin	Eicher	McGrath	Sears
Binderup	Evans	McKeough	Shannon
Buckley, N. Y.	Fernandez	McLeod	Sisson
Bulwinkle	Gambrill	Maas	South
Burnham	Gillette	Maloney	Stack
Cannon, Wis.	Gingery	May	Stubbs
Carter	Gray, Pa.	Moran	Sumners, Tex.
Casey	Hamlin	Nichols	Sutphin
Cochran	Harlan	Norton	Sweeney
Cole, N. Y.	Hart	O'Connell	Underwood
Collins	Hartley	Oliver	Wadsworth
Cooley	Hennings	Peyser	White
Corning	Higgins, Conn.	Quinn	Wood
Cummings	Higgins, Mass.	Rabaut	
Darden	Johnson, Okla.	Richardson	

The SPEAKER. Three hundred and fifty Members are present, a quorum.

Mr. TAYLOR of Colorado. Mr. Speaker, I move that further proceedings under the call be dispensed with.

The motion was agreed to.

EXTENSION OF REMARKS

Mr. FISH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including an address given by our former colleague, Franklin Fort, of New Jersey, before the Committee on Banking and Currency, a very able, clear, and informative address which, I think, will be useful to the Members of the House.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. McFARLANE. Reserving the right to object, what does the address cover?

Mr. FISH. It is an address delivered today before the Committee on Banking and Currency to cover the gold-clause bill. It is a very informative statement.

Mr. McFARLANE. Will that not be in the hearings?

Mr. FISH. But it will not be published for perhaps a week or two.

Mr. TRUAX. Reserving the right to object, I would like to ask the gentleman if Hon. Franklin Fort is not the gentleman who in 1923 wrecked the McNary-Haugen bill, for the relief of the farmers at that time?

Mr. FISH. All I can say to the gentleman is that I have just reintroduced myself the McNary-Haugen bill.

Mr. TRUAX. But the gentleman did not reply to my question.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. SABATH. Reserving the right to object, what is the request, Mr. Speaker?

The SPEAKER. The request is that the gentleman from New York [Mr. FISH] be allowed to extend his remarks and to include therein an address delivered by Hon. Franklin Fort.

Mr. SABATH. One of those banker speeches, insulting the Members of the House and insulting everyone? I object, Mr. Speaker.

The SPEAKER. Objection is heard.

EXPLANATION OF VOTE

Mr. DIES. Mr. Speaker, during the vote on the T. V. A. I was unavoidably detained. If I had been present, I would have voted "aye" on the passage of the bill and "no" on the motion to recommit.

TO AMEND WAR MINERALS RELIEF STATUTES

Mr. COX. Mr. Speaker, as the reading of this resolution discloses, its purpose is to make in order the bill (S. 1432) amending the war minerals relief statute, in order to make possible the Government making adjustment with certain of its citizens upon a basis that is equitable and fair.

Mr. TABER. Will the gentleman yield?

Mr. COX. I yield.

Mr. TABER. The bill that seems to be available at the desk is H. R. 2077, and that seems also to be the report that is available. I wonder if there is a House report on the Senate bill and if the Senate bill is available, or if there is any difference between the House and the Senate bills?

Mr. COX. The Senate bill is identical with the House bill.

Mr. BLANTON. There is a House report printed, on the Clerk's desk. The House and Senate bills are identical.

Mr. TABER. With reference to the Senate bill?

Mr. HANCOCK of New York. With reference to the House bill. The House report is on the House bill.

Mr. COX. The House bill and the Senate bill are in identical language.

Mr. BLANTON. Will the gentleman yield?

Mr. COX. I yield.

Mr. BLANTON. During the first 6 months of the session when the gentleman from Georgia is fresh and is not worked down, like all of us are just now, I follow him on all of his actions, for his judgment is sound, but this is a bill that comes up during the seventh strenuous month of this strenuous session when we are all worked down, having been subjected to a constant grind.

The Secretary of the Interior has sent to the committee an adverse report on this bill and has stated that he does not think it ought to be passed. It involves $1,250,000 of the people's money to pay interest added way back to 1918, when these claimants have already been paid their principal and are not justly entitled to one dollar more. Was the gentleman from Georgia exercising his usual acumen in passing on these matters during this seventh month of the session?

Mr. COX. Let me say to my friend the gentleman from Texas [Mr. BLANTON] that I regard him to be one of the most valuable men who has served in Congress during the 11 years I have been a Member.

Mr. BLANTON. I thank the distinguished gentleman from Georgia, and he already knows that I deem him one of the ablest and most valuable Members with whom I have had the honor to serve in this House, and usually I follow him when he takes a position on this floor.

Mr. COX. In protecting the Government against bad claims, I believe the gentleman from Texas [Mr. BLANTON] has been worth many times his weight in gold to the country; but I would say to the gentleman, knowing him as I do,

that I am confident if he understood this bill in detail he would be for it.

Mr. Speaker, I am at a tremendous disadvantage in trying to represent the Committee on Rules in presenting this resolution. I had hoped it might be possible the House would be willing to accept the rule without any considerable debate. There is no demand for time on the part of the minority. The rule has been twice reported by the Rules Committee after long and careful consideration, and it makes provision for the consideration of a bill that has been twice passed by the Senate and twice reported out by the House committee. Now, in accommodating the necessities of my case, if you might find yourselves so disposed, I believe you would at the same time be accommodating the convenience of the membership in not resisting the adoption of the rule; and I trust you will not resist it, but that it may pass without any consumption of time in debate. Then you may test the proposal in the consideration of the bill when it comes up if you adopt the rule.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. COX. I yield.

Mr. TABER. This is practically the same bill that was brought up on June 16, 1934, is it not?

Mr. COX. Yes; it is.

Mr. TABER. The resolution at that time provided for its consideration, and after the resolution had been under consideration for a considerable time the bill was withdrawn by unanimous consent.

Mr. COX. That was because of the request of the gentleman from South Carolina [Mr. McSWAIN], Chairman of the Military Affairs Committee. The gentleman will recall that McSWAIN made the disclosure to the House at that time that his committee was investigating charges that had been made against certain individuals involving their manner of handling some of these claims. The Military Affairs Committee did make some investigation of the claims that are set out in the bill. The gentleman from South Carolina states that he found nothing wrong with them, that they are clean, and that he is supporting the bill.

Now, may I not appeal to you, my friends, to support the rule and then if you want to vote against the bill after considering the bill on its merits, you will take that position and cast that vote.

Mr. WOODRUM. Mr. Speaker, if the gentleman from Georgia will permit, I should just like to reemphasize what the gentleman from New York has said and what the gentleman from Georgia has said, that the bill made in order by the pending resolution has already passed the Senate twice. It has been reported out by the House twice, and at the last session of Congress a rule was granted for its consideration. The rule was adopted by the House, the bill was brought up for consideration with, I think I may say, very fair prospects of favorable action by the House. During its consideration the statement was made by someone that an investigation then under way by the Military Affairs Committee had reflected very adversely on the sincerity, the integrity, and the merits of this legislation; and it was just like the case of giving a dog a bad name.

We had no opportunity then, while the bill was under consideration, to go into that. The gentleman from South Carolina [Mr. McSWAIN], Chairman of the Military Affairs Committee, said that the matter was under the consideration of that committee, and that he really thought the House ought to defer further consideration until the Military Affairs Committee had gone into it. Feeling that retreat at that time was strategic, we withdrew the bill. The Military Affairs Committee has gone into it carefully. They have found nothing whatever that in any way reflected upon this bill or its merits. The bill has been reported out again by the House committee, another rule has been granted for its consideration, and there is no reason why it should not be considered. The position of the gentleman from Georgia is well taken, that the House ought now to be willing, without further ado, to adopt the rule and go to the merits of the bill, letting whatever controversy there is come up on the merits of the bill.

Mr. PITTENGER. Mr. Speaker, will the gentleman from Georgia yield that I may ask a question of the gentleman from Virginia?

Mr. COX. Mr. Speaker, I yield for that purpose.

Mr. PITTENGER. It subsequently proved that there was no substantiation for the statements made on the floor.

Mr. WOODRUM. No; and the gentleman from South Carolina will substantiate that, I am sure, during the consideration of the bill.

Mr. MILLARD. Mr. Speaker, will the gentleman yield?

Mr. COX. I yield.

Mr. MILLARD. Has the Secretary of the Interior changed his views in regard to the Senate bill?

Mr. VINSON of Georgia. Yes. If the gentleman from Georgia will yield, I would call the gentleman's attention to the statement of the War Minerals Commissioner to clarify the point raised by the gentleman from New York and the gentleman from Texas.

Mr. COX. I yield.

Mr. VINSON of Georgia. In testifying before the committee, the War Minerals Commissioner said this—and bear in mind the Secretary's report urges us not to enact this bill into law. Listen to this:

Mr. SOMERS. Commissioner, as I read this letter, the objection raised by the Secretary of the Interior does not lie so much against the merits of this particular case, as it might open up the possibility of 161 cases now pending in the Supreme Court of the District of Columbia making the same claim, and undoubtedly in that 161 cases not all of them are as meritorious as this particular one.

Do you suppose that is the real objection he has to this legislation?

Mr. FERTICH. The real objection to the bill is simply the appropriation of this money at this session of Congress.

Mr. SOMERS. At this session of Congress; why do you say this session of Congress?

Mr. FERTICH. That is when the bill applies.

Mr. VINSON. Then the real objection to the bill is that the Department of the Interior does not desire to ask for money to settle these claims at this time?

Mr. FERTICH. Under the theory that it is inconsistent with the administration's present economy program.

Mr. VINSON. The merits of the case have not caused you to reach any adverse decision, but the only hesitancy is that you have to ask Congress to appropriate money to settle these claims.

Now, those are the views of the Secretary. The only objection that the Department had against this bill was the appropriation of money when the economy program was in force.

Mr. KVALE. Will the gentleman yield?

Mr. COX. I yield to the gentleman from Minnesota.

Mr. KVALE. May I say that I have given some study to this measure because of previous statements, but I intend to support the measure if and when the House considers it. Does not the gentleman believe that it is a justifiable plea to ask that the House adopt a rule allowing for a fair consideration of a measure of this kind?

Mr. EDMISTON. Will the gentleman yield?

Mr. COX. I yield to the gentleman from West Virginia.

Mr. EDMISTON. I should like to ask a question of the gentleman from Virginia [Mr. WOODRUM]. I got the impression from the statement made by the gentleman from Virginia [Mr. WOODRUM] that the House Committee on Military Affairs reported this bill. As a matter of fact, this bill was reported out by the Committee on Mines and Mining.

Mr. WOODRUM. I did not mean to make that statement if I did.

Mr. EDMISTON. I do not think the bill would have been reported out by the House Committee on Military Affairs.

Mr. BEAM. Will the gentleman yield?

Mr. COX. I yield to the gentleman from Illinois.

Mr. BEAM. Is it not a fact if this bill is enacted into law, as the Secretary states here, the effect of this bill if enacted into law would be to extend the date from March 2, 1919, to the date of the approval of this act for the payment of interest? In other words, after these cases have all been adjudicated, and a decree has been entered, and after the money has been paid, the effect of this bill is to give them a license to collect additional interest up to the time of the present enactment of this law?

Mr. VINSON of Georgia. Will the gentleman yield?

Mr. COX. I yield to the gentleman from Georgia.

Mr. VINSON of Georgia. The gentleman from Illinois [Mr. BEAM] is clearly in error. The original act of 1918 that appropriated $50,000,000 authorized just compensation to be paid to these people who responded to the request of the Secretary of the Interior. On March 2, 1919, when the Congress passed the amendment known as the "amendment to section 5", it provided that there should be paid the net losses. Nowhere in the act of Congress was there any cut-off date of March 2, 1919.

Mr. BEAM. The gentleman is familiar with the Supreme Court decision as set forth in the letter written by Secretary Ickes in which he says that under the Supreme Court decision interest was not allowed. The purpose of this act, as I interpret it, is merely to pay these people interest on a debt that has already been adjudicated and adjusted.

Mr. VINSON of Georgia. The object and purpose of this legislation is merely to clarify what was the intent of Congress. It was pointed out in the decision of the Supreme Court that Congress, while it sought to do a certain thing, did not accomplish its intent by the language used.

Mr. COX. Mr. Speaker, I must bring this discussion to a close.

Mr. KENNEY. Will the gentleman yield?

Mr. COX. I yield to the gentleman from New Jersey.

Mr. KENNEY. Did the Rules Committee report this bill by a unanimous vote?

Mr. COX. I do not believe there were any votes against the rule, and I may say that the committee considered it very carefully.

Mr. RICH. Will the gentleman yield?

Mr. COX. I yield to the gentleman from Pennsylvania.

Mr. RICH. How many claims are involved?

Mr. COX. I think about 119.

Mr. RICH. Is there a list available showing the amounts of these various claims?

Mr. COX. I am not sure there is a list showing the amounts. There is a list giving the names of the claimants and their locations.

Mr. RICH. What is the highest amount of any one particular claim?

Mr. COX. I think in the neighborhood of $600,000.

Mr. ZIONCHECK. Six hundred and fifty-eight thousand dollars up to April 30, 1935.

Mr. VINSON of Georgia. Will the gentleman yield?

Mr. COX. I yield to the gentleman from Georgia.

Mr. VINSON of Georgia. In response to the gentleman from Pennsylvania [Mr. RICH], may I say that if he will look at the hearings he will find a list of the claimants and the individual amounts involved. There are 91 claimants.

Mr. BLANTON. If we can defeat this rule, that will kill the bill.

Mr. COX. Mr. Speaker, in view of the fact there is no request for time on the part of the minority, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the adoption of the resolution.

The question was taken; and on a division (demanded by Mr. TRUAX and Mr. MCFARLANE) there were—ayes 59, noes 22.

Mr. TRUAX. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify the absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 131, nays 196, not voting 102, as follows:

[Roll No. 124]

YEAS—131

Arends	Brooks	Christianson	Cullen
Barden	Brown, Ga.	Clark, N. C.	Daly
Beiter	Brunner	Cole, Md.	Delaney
Bland	Buck	Cooley	Dies
Bloom	Buckler, Minn.	Cooper, Tenn.	Dietrich
Boileau	Caldwell	Cox	Dockweiler
Boland	Carmichael	Crosby	Dorsey
Boylan	Castellow	Cross, Tex.	Drewry
Brewster	Chapman	Crowe	Driver
Duffy, N. Y.	Hobbs	Patman	Smith, Conn.
Eagle	Hook	Peterson, Fla.	Smith, Va.
Eckert	Huddleston	Peterson, Ga.	Smith, W. Va.
Ekwall	Hull	Pittenger	Stack
Englebright	Jenckes, Ind.	Quinn	Starnes
Evans	Jones	Ramspeck	Steagall
Faddis	Kniffin	Rayburn	Tarver
Fitzpatrick	Knutson	Reece	Taylor, Colo.
Flannagan	Kvale	Reed, Ill.	Taylor, Tenn.
Frey	Lee, Okla.	Reilly	Tonry
Fuller	Lemke	Richards	Turpin
Fulmer	Lewis, Colo.	Richardson	Umstead
Gavagan	McCormack	Robertson	Utterback
Gearhart	McLaughlin	Robinson, Utah	Vinson, Ga.
Gehrmann	McReynolds	Rogers, Okla.	Walter
Gildea	Mansfield	Romjue	Warren
Goldsborough	Martin, Colo.	Rudd	Welch
Green	Maverick	Sanders, La.	Whelchel
Greenway	Merritt, N. Y.	Sanders, Tex.	Wilcox
Greenwood	O'Connor	Sauthoff	Williams
Greever	O'Day	Schneider	Wilson, La.
Griswold	O'Leary	Schulte	Woodrum
Hart	O'Neal	Shanley	Zimmerman
Hill, Ala.	Owen	Short	

NAYS—196

Adair	Farley	Lambeth	Randolph
Amlie	Fenerty	Lanham	Rankin
Andrews, N. Y.	Fiesinger	Larrabee	Ransley
Arnold	Fish	Lea, Calif.	Reed, N. Y.
Ashbrook	Fletcher	Lesinski	Rich
Ayers	Focht	Lord	Rogers, Mass.
Bacon	Ford, Calif.	Lucas	Sabath
Beam	Ford, Miss.	Luckey	Sandlin
Biermann	Gasque	Ludlow	Schaefer
Binderup	Gifford	Lundeen	Schuetz
Blackney	Gilchrist	McAndrews	Secrest
Blanton	Gillette	McClellan	Seger
Boehne	Goodwin	McFarlane	Sirovich
Brennan	Granfield	McGehee	Smith, Wash.
Buchanan	Gray, Ind.	McGroarty	South
Buckbee	Gregory	McKeough	Spence
Burdick	Guyer	Mahon	Stefan
Cannon, Mo.	Gwynne	Mapes	Stewart
Carlson	Haines	Marcantonio	Stubbs
Carpenter	Halleck	Marshall	Taber
Church	Hancock, N. Y.	Martin, Mass.	Taylor, S. C.
Citron	Harter	Mason	Terry
Coffee	Healey	Massingale	Thom
Colden	Hess	Meeks	Thomas
Colmer	Higgins, Mass.	Merritt, Conn.	Thomason
Cooper, Ohio	Hildebrandt	Michener	Thompson
Costello	Hill, Knute	Millard	Thurston
Cravens	Hill, Samuel B.	Miller	Tinkham
Crawford	Hoeppel	Mitchell, Ill.	Tobey
Crosser, Ohio	Hoffman	Mitchell, Tenn.	Tolan
Crowther	Holmes	Monaghan	Treadway
Darrow	Hope	Montague	Truax
Deen	Houston	Moran	Turner
Dempsey	Imhoff	Mott	Vinson, Ky.
Dickstein	Jacobsen	Murdock	Wallgren
Disney	Jenkins, Ohio	Nelson	Wearin
Ditter	Johnson, Tex.	O'Brien	Werner
Dobbins	Johnson, W. Va.	O'Malley	West
Dondero	Kahn	Palmisano	White
Doughton	Kee	Parks	Whittington
Doxey	Keller	Parsons	Wigglesworth
Driscoll	Kennedy, N. Y.	Patterson	Wilson, Pa.
Duffey, Ohio	Kenney	Pearson	Wolcott
Duncan	Kinzer	Pettengill	Wolfenden
Dunn, Pa.	Kloeb	Pierce	Wolverton
Eaton	Kocialkowski	Plumley	Wood
Edmiston	Kopplemann	Polk	Woodruff
Ellenbogen	Kramer	Powers	Young
Engel	Lambertson	Ramsay	Zioncheck

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Allen	Connery	Kelly	Peyser
Andresen	Corning	Kennedy, Md.	Pfeifer
Andrew, Mass.	Culkin	Kerr	Rabaut
Bacharach	Cummings	Kimball	Robsion, Ky.
Bankhead	Darden	Kleberg	Rogers, N. H.
Bell	Dear	Lamneck	Russell
Berlin	DeRouen	Lehlbach	Ryan
Bolton	Dingell	Lewis, Md.	Sadowski
Brown, Mich.	Dirksen	Lloyd	Scott
Buckley, N. Y.	Doutrich	McGrath	Scrugham
Bulwinkle	Dunn, Miss.	McLean	Sears
Burch	Eicher	McLeod	Shannon
Burnham	Ferguson	McMillan	Sisson
Cannon, Wis.	Fernandez	McSwain	Snell
Carter	Gambrill	Maas	Snyder
Cartwright	Gassaway	Maloney	Somers, N. Y.
Cary	Gingery	May	Sullivan
Casey	Gray, Pa.	Mead	Sumners, Tex.
Cavicchia	Hamlin	Montet	Sutphin
Celler	Hancock, N. C.	Moritz	Sweeney
Chandler	Harlan	Nichols	Underwood
Claiborne	Hartley	Norton	Wadsworth
Clark, Idaho	Hennings	O'Connell	Weaver
Cochran	Higgins, Conn.	Oliver	Withrow
Cole, N. Y.	Hollister	Patton	
Collins	Johnson, Okla.	Perkins	

So the resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Withrow (for) with Mr. Cole of New York (against).

Until further notice:

Mr. Scrugham with Mr. Burnham.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Cochran with Mr. Carter.
Mr. Kennedy of Maryland with Mr. Kimball.
Mr. Oliver with Mr. Snell.
Mr. Mead with Mr. Lehlbach.
Mr. Burch with Mr. Wadsworth.
Mr. Bankhead with Mr. Allen.
Mr. O'Connell with Mr. Doutrich.
Mr. Darden with Mr. Hartley.
Mr. Connery with Mr. McLean.
Mr. Rogers of New Hampshire with Mr. Robsion of Kentucky.
Mr. Gassaway with Mr. Perkins.
Mr. Sears with Mr. Maas.
Mr. May with Mr. Hollister.
Mr. Sumners of Texas with Mr. Collins.
Mr. Hancock of North Carolina with Mr. Dirksen.
Mr. Kelly with Mr. Bacharach.
Mr. Kerr with Mr. Culkin.
Mr. Harlan with Mr. Bolton.
Mr. DeRouen with Mr. Andrew of Massachusetts.
Mr. Corning with Mr. Cavicchia.
Mr. Chandler with Mr. Andresen.
Mr. Lamneck with Mr. Bell.
Mr. Lewis of Maryland with Mr. Claiborne.
Mr. Bulwinkle with Mr. Lloyd.
Mr. McSwain with Mr. Berlin.
Mr. Cary with Mr. Moritz.
Mr. Montet with Mr. Cummings.
Mr. Patton with Mr. Dingell.
Mr. Fernandez with Mr. Rabaut.
Mr. Gambrill with Mr. Dunn of Mississippi.
Mr. Sullivan with Mr. Eicher.
Mr. Hamlin with Mr. Russell.
Mr. Sweeney with Mr. Gray of Pennsylvania.
Mr. Weaver with Mr. Scott.
Mr. Johnson of Oklahoma with Mr. Hennings.
Mr. Underwood with Mr. Snyder.
Mr. Somers of New York with Mr. Gingery.
Mr. Ferguson with Mr. Sadowski.
Mr. Pfeifer with Mr. Ryan.
Mr. Dear with Mr. Nichols.
Mr. Casey with Mr. Brown of Michigan.
Mr. Clark of Idaho with Mr. McGrath.
Mr. Celler with Mr. McMillan.
Mr. Cartwright with Mr. Buckley of New York.
Mrs. Norton with Mr. McLeod.

Mr. BUCHANAN, Mr. DUFFEY of Ohio, Mr. WEST, Mr. LESINSKI, Mr. HILDEBRANDT, Mr. LUCAS, and Mr. MCGROARTY changed their votes from "aye" to "no."

Mr. HOBBS changed his vote from "no" to "aye."

The result of the vote was announced as above recorded.

On motion of Mr. BLANTON, a motion to reconsider the vote by which the resolution was rejected was laid on the table.

ENROLLED JOINT RESOLUTION SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H. J. Res. 201. Joint resolution giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in the month of September 1936, and for other purposes, incident to said encampment.

Mr. LUCAS. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMERICAN LIBERTY LEAGUE

Mr. LUCAS. Mr. Speaker, I think it to the interest of Members of the House to take cognizance of the document sent to me through the mails by the American Liberty League, wherein by resolution the heartiest congratulations are extended upon my vote to eliminate the so-called "death sentence" clause from the utility bill.

The American Liberty League was founded a short time after President Roosevelt was inaugurated, and is more or less of a hangover of the Democratic convention held in Chicago in 1932. The platform under which the league is presumed to operate contains ideals and principles which seek the preservation of the American institutions, and certainly there can be no justifiable criticism of such noble ideals so long as the league in mental activity remains within that sphere and drafts resolutions and issues statements which are in keeping with those fundamental American principles. But when the league, under the cloak of constitutional democracy, seeks to push forward into controversial fields outside and beyond the scope of its original objects and purposes, the administrative body responsible for such action must assume all responsibility for any adverse criticism that may be leveled against the league.

This preliminary statement leads me up to the language and thoughts expressed in the message of congratulation. I doubt that there was ever penned a resolution like it. I commend it to the Members of Congress for careful study. I am certain that after you read and reread it you will reach the conclusion that no resolution of such brevity has ever been so chucked full of derision, approbation, exaggeration, insolence, and arrogance. Never have I read a resolution that contained such powerful inferences and damning innuendos against citizens charged with the responsibilities of carrying on the legislative and executive branches of the most powerful and independent Government in all the world.

Let me take up these charges in seriatim as they appear in the resolution. In the first paragraph the League hails with satisfaction the vote of every Member of the House who voted against the so-called "death sentence" in the utility bill, and speaks forth boldly that at last Members of Congress "have reasserted the independence of the legislative branch of this Government."

My colleagues, at first blush one would believe that here was fulsome praise being extravagantly bestowed upon Members of this House, and yet before one regards this utterance as worthy it is well to realize that the League has by inference charged us with losing our independence in all legislation upon important bills passed by the Congress before the utility bill was enacted. It is more than significant that overnight the League should become so interested in congressional voting independence. It is worthy of particular notice that the League has ascribed so much importance to our vote upon an issue where billions of dollars are involved. Obviously the resolution discussing independence and Independence Day, in connection with this resolution, leads us into the fields of research to determine whether or not there have been any Members of Congress who have heretofore exercised independence in voting upon legislation, and what position the League adopted with respect thereto.

Once upon a time there appeared in this legislative hall a bill or two which had for their avowed purpose the payment to the soldiers of the World War their adjusted-service certificates in full. As I recall, considerable importance was attached to this bonus agitation and several record votes were taken. As I recall, the legislation was so serious in financial character that the President delivered in person a veto message which made American history. The CONGRESSIONAL RECORDS are filled with statements by Members of this body that such legislation was the most important that had appeared or would appear for our action.

Did it take courage to defy the President upon that question? Did Members of this House supinely submit to the wishes of the Chief Executive? I doubt that there is a parallel of voting independence and courage in all of our legislative history as was exhibited by Members immediately following the departure of the President upon the afternoon he came in person and delivered his powerful and persuasive veto message.

Were members of the league in the galleries that afternoon observing these acts of independence? Were there any resolutions or manifestos issued praising the Members of the House for their return to the "fundamental principles of American constitutional democracy"? No, my friends; there was not a squeak, not a chirp, not a hum, and not even a grunt which would indicate that the administrative committee of the league had the slightest concern in the battle of independence.

If we are to believe the utterances of the league, they are only concerned in a vital principle of government. If that be true, what a paradoxical position the league is in upon

these two important measures. They raise all this hullabaloo about congressional independence and constitutional democracy upon the utility bill, but upon our independence on H. R. 1 they are as silent as the unknown soldier in the tomb at Arlington.

Therefore, I reach the conclusion that all this "independence baloney" put out by the league in the resolution is a delusion and a snare. The league revels in our independence and gratitude if we see eye to eye with its members upon legislative matters in which they as individuals are vitally interested.

Let us continue to examine this resolution in the light of candor and truth. The league sets forth with boldness the following:

In the conscientious discharge of duties imposed by their oaths of office these Members have defied the most ruthless pressure exerted upon them by the executive branch of the Government and have demonstrated that there is ground for hope that we are returning to orderly constitutional methods of legislation.

I must confess that my vote against the so-called "death clause" was not in defiance of Executive pressure, ruthless or otherwise. I have never understood that Presidential recommendations on public measures were considered as manifestations of mandatory action, nor that such recommendations were notice to Members of Congress that they should abdicate from the orderly constitutional methods of legislation. Assuming, for the sake of argument, that the league rests upon a sound premise in the position it takes, it is well again to pointedly refer to the silence of the league when the President of the United States exerted some pressure in person by reading his veto message of the payment of the adjusted-service certificates. Where were the league critics of ruthless pressure upon that day and year? Did the league object to that procedure by sending out contemptible congratulatory messages? If so, they all went to the Members of the House who voted against the Patman bill. Those who stood fast and exercised that same independence of judgment and conscience which the present congratulatory message we are discussing commends were upon that occasion condemned by the Liberty League, because at that time, as now, the members of the league were more interested in material issues than independent voting, notwithstanding the present resolution to the contrary.

The fair and liberal construction of this portion of the resolution not only inveighs against pressure by Executive decree and authority but also infers that Members of Congress were besieged in person by individuals who were representing the executive branch of the Government, insisting that the will of the Chief Executive be followed by voting for the Senate amendment. This subtle, yet powerful, innuendo demonstrates how ruthless and reckless the Liberty League was in failing to ascertain in advance the true and correct facts. But, my friends, the league does not want facts. They want to play at cross purposes. They want their true reason for exhibiting so much interest in this bill concealed and misunderstood.

Let me state emphatically, and with the last degree of certainty, that during the long siege of the utility struggle no cruel or pitiless pressure was exerted upon me from the White House or any other source. Let it be understood that no human being connected with the executive branch of the Government ever discussed the merits or demerits of this bill. I entered this controversy with an open mind. It was one of the major bills pending at the beginning of the Seventy-fourth Congress, and since that time I have received hundreds of letters from all over the United States dealing with this issue. I have discussed it frequently with Members of Congress. I have read articles in the press about the same, and I have listened to the debates upon the floor of the House. And especially was I interested in the remarks made by the distinguished gentleman from Mississippi [Mr. RANKIN] when he said that those who failed to vote for the "death sentence" would pay the penalty at the hands of the American people. I understood that the literal interpretation of those remarks is that those who voted against the Senate amendment would not return to the next Congress; and if that be an issue in my district, I gladly accept the challenge.

Notwithstanding all of the arguments for and against the bill, I reached the very definite conclusion that the Federal Government could ultimately accomplish through regulation what it was seeking through extermination. In addition to that, I am certain that the House bill more nearly approaches constitutionality. Whether or not the bad holding companies will be exterminated under regulation depends primarily upon the attitude of mind of those in charge of the Federal Securities Commission and the Federal Power Commission.

I now reach the portion of the resolution which is more devastating in its scope, charging the President of the United States with dictating the laws of the Nation, because, first, of his control over billions of dollars of the people's money; second, his unusual power of patronage. This is a bold and damaging utterance. It should not go unchallenged. It should be investigated. It is an indictment against every Member of Congress who has voted for an administrative measure. It implies through inference and innuendo that Members of Congress are selling their votes for a "mess of patronage", and that the President of the United States is in a wicked conspiracy with Members of Congress to control their votes by patronage plums.

Let me speak boldly again upon that phase of the unjust resolution. Let there be no misunderstanding that patronage at no time has ever been given the slightest consideration upon any vote that I have cast upon legislation during the Seventy-fourth Congress. Believe me, my colleagues, when I say that I express a mighty hope that the time will come when Members of the American Congress will be barred from dealing with patronage problems. I should be happy at any time to turn over all of my interests in the problems of patronage to the Democratic organization in Illinois or some other agency designated to carry out these administrative functions. Frankly, I should like to know more about government. Candidly, I should like more time to investigate for research work upon the grave problems which are constantly before us. Even a fair conception of government requires long hours of study and application.

[Here the gavel fell.]

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois may proceed for 5 additional minutes.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object—and I shall not object—but I should like to know for the benefit of the Members of the House what is going to be the program following this speech.

Mr. TAYLOR of Colorado. There is a conference report on the desk.

Mr. MARTIN of Massachusetts. Are we going to have any more rules brought up?

Mr. O'CONNOR. Mr. Speaker, it is not the intention to call up any more rules today.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. LUCAS. I yield to the gentleman from Texas.

Mr. PATMAN. Does the gentleman know the names of the directors of this American Liberty Bond League? The gentleman has referred to the background of the directors controlling this Liberty Bond League.

Mr. LUCAS. For the information of the gentleman from Texas, I desire to advise him I am not acquainted with the names of all the members of the league. However, in the pamphlet that they issue there is disclosed their platform and the names of the members of the executive committee.

Mr. PATMAN. Would the gentleman mind placing in the RECORD at this point the names of the directors and their business connections?

Mr. LUCAS. I have that information, and with the permission of the House I will insert in the RECORD at this point the names of the executive committee of the league and their financial and other connections.

The list is as follows:

Sewell L. Avery, Chicago, Ill.: President and director United States Gypsum Co.; Chicago Great Western Railroad, director;

State Bank & Trust Co. of Evanston, Ill., director; Chicago Daily News, director; Armour & Co., director; Northern Trust Co., director; Montgomery Ward & Co., chairman of board, president, and director; United States Steel Corporation, director; Peoples Gas Light & Coke Co., director; Commonwealth Edison Co., director; Nash Motors Co., director; Container Corporation of America, director; Pullman Co., director.

Thurmond Chatham, Winston-Salem, N. C.: President and director Chatham Manufacturing Co.; Hanes Dye & Finishing Co., director.

Colby M. Chester, New York, N. Y.: President and director General Foods Corporation; Putnam Trust Co., director; Zonite Products Corporation, director; Park and Forty-sixth Street Corporation, director; Manning, Maxwell & Moore, director; Central Hanover Bank & Trust Co., director; Lehigh Valley Railroad, director.

W. L. Clayton, Houston, Tex.: Chairman of board, Anderson Clayton & Co.

John W. Davis, New York, N. Y.: Partner in Davis, Polk, Wardwell, Gardiner & Reed; Mutual Life Insurance Co., director; United States Rubber Co., general counsel; Guaranty Trust Co., director; American Telephone & Telegraph Co., director.

Irénée du Pont, Wilmington, Del.: Vice chairman of board and director of E. I. Du Pont de Nemours & Co.; General Motors Corporation, director; Reading Co., director; Ethyl Gasoline Corporation, director.

H. B. Earhart, Detroit, Mich.: H. B. Earhart, Inc., president; Vacuum Oil Co., director; Earhart Foundation, trustee.

Mills B. Lane, Savannah, Ga.: Chairman and director Citizens' & Southern National Bank, Savannah, Ga.; Savannah Sugar Refining Corporation, vice president and director; Fifteen Drayton Street, Inc., president and director; Ocean Steamship Co. of Savannah, director; Citizens & Southern Bank, Dublin, Ga., director; Citizens & Southern Bank of South Carolina, chairman and director; Citizens & Southern Holding Co., president and director; Savannah & Atlanta Railway, director; Bibb Manufacturing Co., director; Savannah Morning News, director.

Nathaniel L. Miller, New York, N. Y.: Secretary-treasurer and director H. G. Craig & Co., Inc.; May-Craig-Thompson, Inc., treasurer and director; Craig-Thompson Real Estate, Inc., secretary-treasurer and director; Newton Creek Dock Properties, Inc., secretary-treasurer and director.

J. Howard Pew, Philadelphia, Pa.: President and director Sun Oil Co.; Sun Shipbuilding & Dry Dock Co., director and president; Philadelphia National Bank, director.

Joseph Proskauer, New York, N. Y.: President and director William C. Popper & Co.

Frank C. Rand: Chairman of board and director International Shoe Co.; Columbia Terminals Co., vice president; Cleveland, Cincinnati, Chicago & St. Louis Railway Co., director; Vanderbilt University, trustee; Washington University, trustee.

H. B. Rust, Pittsburgh, Pa.: Chairman of board and director Koppers Co.; Westinghouse Electric & Manufacturing Co., director; Eastern Gas & Fuel Associates, chairman of trustees.

Albert A. Sprague, Chicago, Ill.: Director Sprague, Warner & Co.; Chicago & North Western Railway Co., director; Continental Illinois National Bank & Trust Co., director; Chicago, St. Paul, Minneapolis & Omaha Railway, director; B. F. Goodrich Co., director; Wilson & Co., director; Clearing Industrial District, director; International Harvester Co., director.

Alfred E. Smith, New York City: Empire State, Inc., president and director; Lawyers' County Trust Co., chairman of board and director; Knott Hotels, Inc., director; National Surety Co., director; Consolidated Indemnity & Insurance Co., director; Federal Broadcasting Co., director; New York Life Insurance Co., director; Meenan Coal Co., director.

James W. Wadsworth, Geneseo, N. Y.: New York Joint Stock Land Bank, director; Geneseo Valley National Bank, president and director.

Jouett Shouse, Washington, D. C.: Member of the law firm of Shouse, Doolittle, Morelock & Shrader, Kansas City, Mo., and Washington, D. C.

Sources: Poor's Register of Directors of the United States, 1935; Who's Who in America, 1934–35.

Note: No financial connections are shown for Mrs. Henry B. Joy, Mrs. Charles H. Sabin, and Mrs. James Ross Todd.

Mr. RANDOLPH. Mr. Speaker, will the gentleman yield?

Mr. LUCAS. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. When did the gentleman receive this congratulatory message?

Mr. LUCAS. The message was received, as I recall, on the 3d of July.

Mr. RANDOLPH. The reason I ask the question is because my colleagues here on my left and right, the gentleman from Illinois [Mr. THOMPSON] and the gentleman from Utah [Mr. ROBINSON], as well as myself, voted against the "death clause" and we have received none of these messages, and I was wondering if it were general or confined to the gentleman.

Mr. LUCAS. This came through the mails on July 3.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. LUCAS. I yield.

Mr. FISH. I think the gentleman wants to be fair. He has made a very bitter arraignment of the Liberty League——

Mr. LUCAS. I just yielded for a question.

Mr. FISH. My question is, Is it not a fact that two former chairmen of the Democratic National Committee are officials of this league; and also Mr. Alfred E. Smith?

Mr. LUCAS. I think they are on the executive committee.

Mr. FISH. Including John W. Davis.

Mr. LUCAS. That is correct, as the record will so show.

Mr. SABATH. Does not the list of members also include many Republicans who have contributed to the league and furnished more than a million dollars to finance it?

Mr. LUCAS. There are many Republicans on the list.

Mr. DUNN of Pennsylvania. Does the Liberty League have a platform?

Mr. LUCAS. The Liberty League has a platform.

Mr. DUNN of Pennsylvania. Does not the gentleman think their platform is full of splinters and would not be safe for any Democrat to sit on?

Mr. LUCAS. I would not agree to that in toto because there are many high ideals of Americanism expressed in their platform.

Mr. DUNN of Pennsylvania. I think it would be dangerous for any of them.

Mr. LUCAS. For years the science of government has become more intricate and complex until today no man in any department has the mental capacity and time to thoroughly appreciate and understand all of the problems which arise in government every day. It goes without saying that the present emergency is primarily responsible for this condition, and the net result is that much legislation is passed by implication rather than through sound reasoning and mature deliberation. This is no reflection against any Member of Congress or anyone else connected with government. Take the holding-company bill for example. Members of the committee in charge of that bill have spent practically all of their time upon that controversial measure. That bill, with all of its ramifications, is of sufficient importance to keep every member of that committee in constant study, and to give such a bill the serious consideration it deserves from a governmental viewpoint a Member of Congress has no time to meet the many other problems which are constantly before him. Therefore I say that government needs help. America needs leaders who are skilled in the arts and science of government. It is common knowledge that the leaders of the sovereign rights of the people have not kept the pace in the advanced march of civilization when compared with the great leaders of science and industry. The result is that divers fields of governmental activities are constantly calling Members of Congress to their open forum, yet because we are busy with other matters, including patronage, we respectfully decline the inspiring invitation.

Mr. Speaker, patronage has no right to dictate the Nation's laws, and to say that the President of the United States would stoop to such an indefensible practice is as odious as it is absurd. But the message makes the charge. It comes from an organization whose roster carries some of the outstanding citizens of the Nation, and for that reason, if no other, the challenge should not go unanswered.

In the conclusion of the resolution they express high hope that the independent vote on the utility bill will mark the end of the enactment of visionary reform theories by Executive decree with the Congress acting the humiliating role of a "rubber stamp."

Here is another insidious implication that every man who voted for the "death clause" yielded to Executive pressure and therefore is automatically classed as a "rubber stamp." This, my friends, I deny and scornfully resent.

[Here the gavel fell.]

Mr. CITRON. Mr. Speaker, I ask unanimous consent that the gentleman may have 5 more minutes.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. CITRON. Mr. Speaker, will the gentleman yield?

Mr. LUCAS. I yield to the gentleman from Connecticut.

Mr. CITRON. Under date of July 9, 1935, there appeared the following sentence in the Washington Herald, of Washington, D. C.:

It is likely that a large, separate campaign fund will be raised for the election of a Republican House, independent of the national campaign fund.

Does the gentleman know whether or not this league is going to help the Republicans procure this campaign "slush" fund or whether this has anything to do with this Power Trust we have heard so much about?

Mr. LUCAS. I will let the gentleman answer his own question by reading this speech after it is printed, as well as examining the list of those who are in charge of the Liberty League with respect to their financial standing in this country.

Mr. MARTIN of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. LUCAS. I must refuse to yield further.

No man who is honorable and fair will impugn the motives of a Congressman upon any vote so long as that vote is an honest one and in accord with the political thought in which he has been schooled. I may disagree with you as to your political philosophy, but I shall not attack or challenge the mental make-up which advocates that philosophy.

The "rubber stamp" theory is being overplayed by observers who disagree with the administration's program. As I recall, some of the distinguished brethren on the Republican side have seen fit to use it with pleasure and satisfaction. The press frequently headlines the "rubber stampers." Even the "grass rooters" at Springfield had this hackneyed expression in their mental make-up when they declared in no. 6 of their list of grievances against the President that "he", meaning the President, "has reduced the Congress to a group of 'time servers.'" Digressing for a moment, let me say that it was to be expected that such a phrase would originate at a Republican conference where no Republican Congressmen were invited. It is common knowledge throughout this Nation that the Grand Old Party knows more about "time serving" in the accepted terms of the code than any other party that ever existed in America. There is a long list of political "time servers" during the last 14 years, but time does not permit me to call the roll.

Mr. MARTIN of Massachusetts. Will the gentleman yield?

Mr. LUCAS. I yield to the gentleman from Massachusetts.

Mr. MARTIN of Massachusetts. I should like to ask the gentleman if he thinks that no matter how much the league can raise it would be able to beat the four and a half billion dollar appropriation?

Mr. LUCAS. That is just the kind of a question I would expect the gentleman from Massachusetts to ask. [Laughter.]

The "rubber stamp" condemnation in the resolution in question affects all Republicans and Democrats who have stood with the President upon important measures during the Seventy-fourth Congress. I want to say this in defense of the Members of the House. I am a new man in Congress, but daily have I watched the activities of Democrats and Republicans. I have seen you cool and dispassionate; I have seen you in the moments of anger; but I am glad to observe that when the exigencies of the situation demands, the leadership on both sides of this House meets the subject matter at hand with courage, independence, and honor. These are serious days in government; these are times that test the mettle of men; we are in the throes of economic chaos; we are drifting through one of the greatest depressions in all history. The emergency demanded that we yield to many immediate measures which are destined to pull this country from the yawning chasm of fascism, communism, and socialism. And in the future to come, if I am firmly convinced that further emergency measures are necessary to save America, I shall stand with the President of the United States in his herculean task of placing our beloved America on the road to recovery.

Mr. CHURCH. Will the gentleman yield?

Mr. LUCAS. I refuse to yield.

In conclusion, as one Member of Congress, I resent the message of heartiest congratulations sent to me by the American Liberty League. It strikes me that they have returned a blanket indictment with serious charges by innuendo and inference against the Members of this House. In the interests of Members of Congress, in the interest of legislative independence, and in the interests of true representative government, I sincerely hope that in the course of the investigation of lobbying activities on the utility bill that those responsible for framing the congratulatory resolution upon the "death sentence" clause will be called to explain their interests in connection with the defeat of the Senate amendment.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. McGROARTY, indefinitely;

To Mr. MEAD, indefinitely; and

To Mr. STARNES, indefinitely.

Mr. CHURCH. Mr. Speaker, I make the point of order that no quorum is present.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 55 minutes p. m.) the House adjourned until tomorrow, Friday, July 12, 1935, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. LANHAM: Committee on Public Buildings and Grounds. H. R. 8559. A bill to convey certain land to the city of Enfield, Conn.; without amendment (Rept. No. 1498). Referred to the Committee of the Whole House on the state of the Union.

Mr. MILLER: Committee on the Judiciary. H. R. 6982. A bill to amend section 80 of chapter 9 of an act to amend the act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898; with amendment (Rept. No. 1499). Referred to the House Calendar.

Mr. LEA of California: Committee on Interstate and Foreign Commerce. H. R. 5844. A bill to encourage travel to and within the United States, and for other purposes; without amendment (Rept. No. 1500). Referred to the Committee of the Whole House on the state of the Union.

Mr. LANHAM: Committee on Public Buildings and Grounds. S. 3038. An act to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration facility, Alexandria, La.; without amendment (Rept. No. 1501). Referred to the Committee of the Whole House on the state of the Union.

Mr. LANHAM: Committee on Public Buildings and Grounds. H. R. 8749. A bill to increase the limit of cost for the Department of Agriculture Extensible Building; without amendment (Rept. No. 1503). Referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 8795) granting an increase of pension to Emma J. Campbell, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COLE of New York: A bill (H. R. 8816) authorizing a preliminary examination and survey of the Chenango, Tioughnioga, Susquehanna, Delaware, Canisteo, Conhocton, Tioga, and Chemung Rivers, and Keuka, Seneca, and Cayuga

Lakes, in Delaware, Otsego, Chenango, Broome, Tioga, Madison, Cortland, Steuben, Yates, Ontario, Schuyler, Cayuga, Seneca, Tompkins, and Chemung Counties, N. Y., with a view to the controlling of floods; to the Committee on Flood Control.

By Mr. McSWAIN (by request): A bill (H. R. 8817) fixing the computation of travel distances; to the Committee on Military Affairs.

By Mr. SMITH of Washington: A bill (H. R. 8818) to provide for the construction of a post-office building at South Bend, Wash.; to the Committee on Public Buildings and Grounds.

By Mr. WARREN: A bill (H. R. 8819) to amend the Agricultural Adjustment Act to make all varieties of potatoes included in the species Solanum tuberosum a basic agricultural commodity, to raise revenue by imposing a tax on the first sale of such potatoes, and for other purposes; to the Committee on Agriculture.

By Mr. REED of Illinois: A bill (H. R. 8820) to amend section 907 of the Code of Law for the District of Columbia, approved March 3, 1901, as amended up to and including June 7, 1924; to the Committee on the District of Columbia.

Also, a bill (H. R. 8821) to define the crime of bribery and to provide for its punishment; to the Committee on the District of Columbia.

By Mr. COLDEN: A bill (H. R. 8822) to amend the act of February 16, 1889, as amended, relating to disposition of useless papers; to the Committee on the Disposition of Executive Papers.

By Mr. DICKSTEIN: Resolution (H. Res. 293) to authorize an investigation of un-American propaganda and un-American activities, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Louisiana; to the Committee on Flood Control.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRUNNER: A bill (H. R. 8823) for the relief of Edith Jordan; to the Committee on Claims.

By Mr. BOYLAN: A bill (H. R. 8824) for the relief of the estate of John Gellatly, deceased, and/or Charlyne Gellatly, individually; to the Committee on the Judiciary.

By Mr. CROSSER of Ohio: A bill (H. R. 8825) granting a pension to Mary A. Fairchilds; to the Committee on Pensions.

By Mr. CROWTHER: A bill (H. R. 8826) for the relief of Edward H. Karg; to the Committee on Claims.

By Mr. GRAY of Pennsylvania: A bill (H. R. 8827) granting a pension to James Y. Bowser; to the Committee on Pensions.

By Mr. PETERSON of Florida: A bill (H. R. 8828) granting a pension to Kathryn E. Fraley; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9129. By Mr. SNELL: Petition of various citizens in northern New York, urging adoption of constitutional amendment "Except in the event of an invasion of the United States or its territorial possessions and attack upon its citizens residing therein, the authority of Congress to declare war shall not become effective until confirmed by a majority of all votes cast thereon in a Nation-wide referendum. Congress may by law provide for the enforcement of this section"; to the Committee on the Judiciary.

9130. By Mr. TRUAX: Petition of Valley Builders Supply Co., Cincinnati, Ohio, opposing the plan of Admiral Peoples, Relief Administration, which intends to purchase all materials direct from producers, as they believe this would entail expense of handling materials by the Government and would affect thousands of men and millions of invested capital in the industry; to the Committee on Labor.

9131. Also, petition of the Toledo Chamber of Commerce, Toledo, Ohio, by their transportation commissioner, opposing Senate bill 2944, which would prevent and make unlawful the practice of law before the governmental departments, bureaus, commissions, and their agencies, by those other than licensed attorneys at law; to the Committee on the Judiciary.

9132. Also, petition of E. C. Shafer, of Mansfield, and numerous other members of Union Grange, Richland County, Ohio, urging support of the Townsend revolving pension plan; to the Committee on Ways and Means.

9133. Also, petition of the Young Men's Christian Association, Canton, Ohio, by their recording secretary, F. M. Broda, urging that the youth of their community, State, and Nation are entitled to immediate consideration as applicants for employment upon the Federal works project; to the Committee on Labor.

9134. Also, petition of the Young Men's Christian Association, Canton, Ohio, by their recording secretary, F. M. Broda, resolving that their organization and other private agencies whose record of service for youth has stood the test of time and experience are entitled to participate in the public-works projects on the same footings as public departments, wherever such projects are justified on the grounds of public service and public policy; to the Committee on Labor.

9135. Also, petition of Dan T. Wolfe, in behalf of many people in the Mississippi Valley whose homes and farm lands were destroyed 5 years ago by the Government engineers in executing the Flood Control Act of 1928, urging support of Mr. Wilson's "levee set-back" bill (H. R. 7349); to the Committee on Flood Control.

9136. Also, petition of the Lorain County Democratic Executive Committee, by Howard J. Cobb, chairman, urging modification of the President's $1,400 highway ruling to include the equivalent of work for one man for 1 year directly or indirectly employed; to the Committee on Labor.

9137. Also, petition of the Central Dairy Producers Council, by J. R. Smart, president, Columbus, Ohio, urging defeat of the Kleberg bill and the enactment of such legislation as will place at least a 5-percent tax per pound on all oleomargarine; to the Committee on Ways and Means.

9138. Also petition of the council and officials of the city of Wellsburg, Brooke County, W. Va., by their mayor, Charles F. McGlumphy, asking careful consideration for and favorable action on the Wellsburg bridge bill, listed as no. 247 on the Consent Calendar; to the Committee on Interstate and Foreign Commerce.

9139. By Mr. WIGGLESWORTH: Petition of Wollaston Mothers Club, Quincy, Mass., urging the enactment of House bill 6472, providing for the abolition of compulsory block booking and blind selling of moving-picture films; to the Committee on Interstate and Foreign Commerce.

SENATE

FRIDAY, JULY 12, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, July 11, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum and ask for a roll call.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson	Pittman
Ashurst	Coolidge	Keyes	Pope
Austin	Copeland	King	Radcliffe
Bachman	Costigan	La Follette	Reynolds
Bailey	Davis	Lewis	Robinson
Bankhead	Dickinson	Logan	Russell
Barbour	Dieterich	Lonergan	Schall
Barkley	Donahey	McAdoo	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	Frazier	McNary	Smith
Borah	George	Maloney	Steiwer
Brown	Gerry	Metcalf	Thomas, Okla.
Bulkley	Gibson	Minton	Townsend
Bulow	Glass	Moore	Trammell
Burke	Gore	Murphy	Truman
Byrd	Guffey	Murray	Tydings
Byrnes	Hale	Neely	Vandenberg
Capper	Harrison	Norbeck	Van Nuys
Caraway	Hastings	Norris	Wagner
Carey	Hatch	Nye	Walsh
Chavez	Hayden	O'Mahoney	Wheeler
Clark	Holt	Overton	White

Mr. VANDENBERG. I again announce that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent because of illness.

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed without amendment the bill (S. 2779) to authorize the conveyance of certain lands in Nome, Alaska.

The message also announced that the House had agreed to the amendment of the Senate to each of the following bills of the House:

H. R. 2566. An act for the relief of Percy C. Wright; and

H. R. 5393. An act for the relief of Moses Israel.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4410. An act granting a renewal of Patent No. 54296 relating to the badge of the American Legion;

H. R. 4413. An act granting a renewal of Patent No. 55398 relating to the badge of the American Legion Auxiliary; and

H. R. 7882. An act to authorize the incorporated city of Anchorage, Alaska, to construct a municipal building and purchase and install a modern telephone exchange, and for such purposes to issue bonds in any sum not exceeding $75,000; and to authorize said city to accept grants of money to aid it in financing any public works.

CLOSING OF MILITARY ROAD AT WASHINGTON-HOOVER AIRPORT

The VICE PRESIDENT laid before the Senate a letter signed by Harry H. Woodring, Assistant Secretary of War; Harllee Branch, Second Assistant Postmaster General; and Eugene L. Vidal, Director Bureau of Air Commerce, being an informal interdepartmental committee appointed by the Secretary of War, the Postmaster General, and the Secretary of Commerce to study the traffic situation at the Washington-Hoover Airport and to make recommendations looking to the elimination or reduction of existing hazards, favoring the prompt enactment of the joint resolution (H. J. Res. 330) to close Military Road temporarily, which, with the accompanying papers, was referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following concurrent resolution of the Legislature of the State of Louisiana, which was referred to the Committee on Commerce:

House Concurrent Resolution 6

Whereas the amended United States flood-control bill, as prepared by the Chief of Engineers of the United States Army, and which is now being considered by the United States Flood Control Committee of the House of Representatives, will be, when enacted into law, of such vast benefit to the alluvial sections of the State of Louisiana, and is so much more acceptable to the citizens of this State than the existing United States Flood Control Act: Therefore be it

Resolved by the Legislature of Louisiana (the house of representatives and the senate thereof concurring herein), That the United States Flood Control Committee of the House of Representatives be urged to speed its deliberations and report this bill out favorably and promptly, so that there may be no uncertainty of congressional action at this session of Congress; be it further

Resolved, That a copy of this resolution be forwarded to the United States Senators of the State of Louisiana, the Congressmen of the State of Louisiana, and further, a copy to the Speaker of the National Congress, and to the Vice President of the United States.

The VICE PRESIDENT also laid before the Senate a resolution adopted by a mass meeting held under the auspices of the American League of Ex-Servicemen, New York City, N. Y., favoring the prompt enactment of House bill 8365, providing for the immediate full cash payment of the so-called "soldiers' bonus", which was ordered to lie on the table.

He also laid before the Senate a resolution adopted by a mass meeting held under the auspices of the American League of Ex-Servicemen, New York City, N. Y., favoring the prompt repeal of the so-called "Economy Act" for the benefit of World War veterans, which was ordered to lie on the table.

He also laid before the Senate a resolution adopted by a mass meeting held under the auspices of the American League of Ex-Servicemen, New York City, N. Y., favoring the prompt enactment of social and unemployment insurance legislation, which was ordered to lie on the table.

He also laid before the Senate a resolution adopted by a mass meeting held under the auspices of the American League of Ex-Servicemen, New York City, N. Y., protesting against the publication of an article in the New York American, on June 9, 1935, by Rear Admiral Yates Stirling, Jr., Commandant of the Brooklyn Navy Yard, allegedly advocating the making of war against the Soviet Union, and favoring the removal of such officer, which was ordered to lie on the table.

Mr. CAPPER presented petitions of sundry citizens of Fort Scott, Wauneta, and Greensburg, all in the State of Kansas, praying for the enactment of legislation to establish a retirement system for railroad employees, which were referred to the Committee on Interstate Commerce.

FEDERAL TAXATION ON DISTILLED SPIRITS

Mr. BARBOUR. Mr. President, I ask consent to have printed in full in the RECORD, and appropriately referred, copy of a joint resolution adopted by the New Jersey State Legislature, memorializing Congress to reduce Federal taxes on distilled spirits.

The resolution was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

Joint Resolution 14

Joint resolution memorializing the President and Congress of the United States to reduce taxes on distilled spirits and requesting Congress to call a conference between its representatives and representatives of the several States to consider the proper relationship between Federal and State taxes on alcoholic beverages

Whereas despite the repeal of the eighteenth amendment and the enactment by the several States of statutes regulating the manufacture, sale, and distribution of alcoholic beverages, the racketeer and bootlegger continue to flourish; and

Whereas investigation and study by the New Jersey State Commissioner of Alcoholic Beverage Control have resulted in the conviction that present excessive taxes are the major cause of illicit alcoholic beverage activity and that it is essential that the tremendous incentive resulting therefrom be withdrawn to insure the elimination of the racketeer and bootlegger: Therefore be it

Resolved by the Senate and General Assembly of the State of New Jersey:

1. That the President and Congress of the United States are hereby memorialized to reduce the present Federal taxes on distilled spirits.

2. That the Congress of the United States is hereby requested to call a conference between its representatives and representatives of the several States to consider the proper relationship between Federal and State taxes on alcoholic beverages.

3. That a copy of this resolution be transmitted to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Member of the Senate and House of Representatives of the United States from the State of New Jersey.

4. This joint resolution shall take effect immediately.

REPORTS OF COMMITTEES

Mr. SCHWELLENBACH, from the Committee on Claims, to which was referred the bill (S. 2697) for the relief of the United Pocahontas Coal Co., Crumpler, W. Va., reported it

without amendment and submitted a report (No. 1073) thereon.

Mr. McADOO, from the Committee on Patents, to which were referred the following bills, reported them each without amendment:

H. R. 4410. A bill granting a renewal of Patent No. 54296, relating to the badge of the American Legion; and

H. R. 4413. A bill granting a renewal of Patent No. 55398, relating to the badge of the American Legion Auxiliary.

Mr. DUFFY, from the Committee on Military Affairs, to which was referred the bill (H. R. 3558) for the relief of Capt. Walter S. Bramble, reported it without amendment and submitted a report (No. 1074) thereon.

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (H. R. 1073) for the relief of John F. Hatfield, reported it without amendment and submitted a report (No. 1075) thereon.

Mr. FLETCHER, from the Committee on Banking and Currency, to which was referred the bill (S. 3123) to provide for the relief of public-school districts and other public-school authorities, and for other purposes, reported it without amendment and submitted a report (No. 1076) thereon.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 11th instant that committee presented to the President of the United States the following enrolled bills:

S. 1206. An act authorizing the transfer of certain lands near Vallejo, Calif., from the United States Housing Corporation to the Navy Department for naval purposes;

S. 2230. An act to authorize the Secretary of the Navy to acquire a suitable site at Pearl Harbor, Territory of Hawaii, for a rear range light;

S. 2378. An act authorizing the Secretary of the Navy to accept on behalf of the United States a bequest of certain personal property of the late Dr. Malcolm Storer, of Boston, Mass.;

S. 2846. An act authorizing the Secretary of the Navy to accept on behalf of the United States the devise and bequest of real and personal property of the late Paul E. McDonnold, passed assistant surgeon with the rank of lieutenant commander, Medical Corps, United States Navy, retired; and

S. 2966. An act to empower the Legislature of the Territory of Hawaii to authorize the issuance of revenue bonds, to authorize the city and county of Honolulu to issue flood-control bonds, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of sundry officers for appointment in the Regular Army.

Mr. TRAMMELL, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers in the Marine Corps.

Mr. KING, from the Committee on the Judiciary, reported favorably the nomination of John Dickinson, of Pennsylvania, to be an Assistant Attorney General, vice Harold M. Stephens, appointed Assistant to the Attorney General.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

He also, from the same committee, reported adversely the nomination of Andrew J. Roper to be postmaster at Saltillo, Miss.

The VICE PRESIDENT. The reports will be placed on the Executive Calendar.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McNARY:

A bill (S. 3244) relating to the Oregon-Washington Bridge Board of Trustees; and

A bill (S. 3245) to extend the times for commencing and completing the construction of a bridge across the Columbia River at Astoria, Clatsop County, Oreg.; to the Committee on Commerce.

By Mr. WAGNER:

A bill (S. 3246) granting a pension and relief to Mary H. Denison; to the Committee on Pensions.

Mr. GEORGE. I ask leave to introduce a bill conferring upon the Administrator of Public Works the power to make compensation to States, counties, and cities in lieu of taxes in certain instances, and I ask that it be referred to the proper committee.

The VICE PRESIDENT. Without objection, the bill will be received and appropriately referred.

By Mr. GEORGE:

A bill (S. 3247) to amend title II of the National Industrial Recovery Act as amended by the Emergency Appropriation Act, fiscal year 1935, and as extended by the Emergency Relief Appropriation Act of 1935; to the Committee on Finance.

By Mr. LEWIS:

A bill (S. 3248) to improve the Government services, and for other purposes; to the Committee on Civil Service.

(By request.) A bill (S. 3249) to create an Industrial Commission on Negro Affairs; to the Committee on the Judiciary.

By Mr. HATCH:

A bill (S. 3250) to prohibit the acquisition by the United States of any land located in any State without the consent of such State; to the Committee on Public Lands and Surveys.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated below:

H. R. 4410. An act granting a renewal of Patent No. 54296 relating to the badge of the American Legion; and

H. R. 4413. An act granting a renewal of Patent No. 55398 relating to the badge of the American Legion Auxiliary; to the Committee on Patents.

H. R. 7882. An act to authorize the incorporated city of Anchorage, Alaska, to construct a municipal building and purchase and install a modern telephone exchange, and for such purposes to issue bonds in any sum not exceeding $75,000; and to authorize said city to accept grants of money to aid it in financing any public works; to the Committee on Territories and Insular Affairs.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—AMENDMENTS

Mr. GUFFEY and Mr. MOORE each submitted an amendment, and Mr. LONERGAN and Mr. RUSSELL each submitted two amendments, intended to be proposed by them, respectively, to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which were severally ordered to lie on the table and to be printed.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. HAYDEN submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 47, line 6, at the end of the section, to insert a colon and the following proviso:

Provided, That expenditures out of sums gratuitously appropriated by Congress made prior to the date of the law, treaty, agreement, or Executive order under which the claims arise shall not be offset against the claims or claim asserted and expenditures under the act of June 18, 1934 (48 Stat. L., p. 984), shall not be charged as offsets against any claim on behalf of an Indian tribe or tribes now pending in the Court of Claims or hereafter filed.

POST-OFFICE FIXTURES, EQUIPMENT, AND RENTALS

Mr. McKELLAR submitted the following resolution (S. Res. 169), which was referred to the Committee on Post Offices and Post Roads:

Resolved, That the Committee on Post Offices and Post Roads of the Senate, or any duly authorized subcommittee thereof, shall, during the recess of the Congress, examine into the matter of fixtures and equipment in post offices and rentals therefor, and all

other questions pertaining thereto, the expenses incurred in pursuance thereof, not to exceed $3,000, to be paid from the contingent fund of the Senate.

ADMINISTRATION OF JUSTICE IN THE COURTS

Mr. McADOO submitted the following resolution (S. Res. 170), which was referred to the Committee on the Judiciary:

Resolved, That in addition to the authority conferred upon the Special Committee of the Senate to Investigate the Administration of Receivership and Bankruptcy Proceedings in the Courts of the United States, created under Senate Resolution No. 78, Seventy-third Congress, first session, agreed to June 13, 1933, and supplemented by Senate Resolution No. 72, Seventy-fourth Congress, first session, agreed to February 15, 1935, said committee shall have authority to make a full and complete investigation of the administration of justice in the courts of the United States. The Department of Justice is requested to furnish to the committee such investigators and legal assistants as the committee may require in its investigation.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—ADDRESS BY SENATOR BANKHEAD

Mr. BYRNES. Mr. President, on July 11, in the city of Washington, the junior Senator from Alabama [Mr. BANKHEAD] delivered a very interesting and pursuasive radio address on the subject of the Agricultural Adjustment Administration, familiarly known as the "three A's." In the course of the address he said:

The public is now hearing much about the propaganda engaged in, in opposition to the utility holding company bill. It has not been informed about the extensive and wide-spread propaganda which has been carried on since this Congress met by handlers, processors, and distributors of farm commodities. Members of Congress know, however, how their mail has been filled with protests from people who knew nothing about the provisions of the pending bill, but who had been led to believe that it directly touched their business. Any investigation of propaganda relating to congressional legislation should by all means include a thorough scrutiny of the efforts made and money expended by interested persons who have been diligently striving to create adverse sentiment against the bill amending the Agricultural Adjustment Act. The identity of these persons should be disclosed and the public given full information on the subject.

Further on he said:

In my judgment, the Agricultural Adjustment Act is the outstanding piece of legislation, from the standpoint of beneficial administration, that Congress has enacted during my service in the Senate.

I commend this address to the attention of my colleagues. I ask that the entire address be printed in the RECORD at this point as part of my remarks.

There being no objection, the address delivered by Hon. JOHN H. BANKHEAD, United States Senator from Alabama, over N. B. C. National Forum, Washington, D. C., July 11, 1935, was ordered to be printed in the RECORD, as follows:

During this session of Congress the Agricultural Adjustment Administration, familiarly known as the "three A's", has been under a steady fire from its enemies. A microscopic examination of all phases of its activities has been publicly conducted. An exhaustive search has been made to find weak spots.

The public is now hearing much about the propaganda engaged in, in opposition to the utility holding company bill. It has not been informed about the extensive and wide-spread propaganda which has been carried on since this Congress met, by handlers, processors, and distributors of farm commodities. Members of Congress know, however, how their mail has been filled with protests from people who knew nothing about the provisions of the pending bill, but who had been led to believe that it directly touched their business. Any investigation of propaganda relating to congressional legislation should by all means include a thorough scrutiny of the efforts made and money expended by interested persons who have been diligently striving to create adverse sentiment against the bill amending the Agricultural Adjustment Act. The identity of these persons should be disclosed, and the public given full information on the subject.

Attempts have been made to array industrial workers against farm workers. Partisan critics have insisted that the rise of prices in farm commodities which has resulted from programs administered by the A. A. A. constitute a burden upon industrial workers. Farmers have not protested against higher priced industrial commodities as an improper burden upon them. They demand and are entitled to the same consideration. Farmers realize that industrial workers need good wages to enable them to buy farm products. Everybody understands that shorter hours, higher wages, and so-called "fair trade practices" by industries have increased prices paid by consumers, including the farmers. Without fair prices, farmers, constituting 25 percent of our population, cannot do their normal part in supporting industry, and in enabling industry to provide employment at fair wages.

The welfare of the farmers depends upon the ability of industrial workers to buy farm products. Regular employment of industrial workers at good wages depends upon the ability of the farmers to pay for industrial products and services. There is a relation of interdependence between these two major groups of producers. The efforts of politicians, self-styled pro bono advisers and critics, to array farm workers and industrial workers against each other have miserably failed. It is pleasing to note that the horrible loss, in purchasing and debt-paying power during the great depression, of 30,000,000 people upon the farms of our country has brought most of our industrialists to an acute realization of the sad plight of agriculture and of the dire necessity of remedial measures for the financial rescue of the farmers. There has not been, there is not now, a complete accord on what are the best methods to accomplish that result.

Constructive criticism is helpful and welcomed by those in positions of responsibility and power. But destructive objections are obnoxious. When the Agricultural Adjustment Act was passed there were many doubting Thomases both in Congress and out. In the entire history of America no comprehensive plan had been tendered to the farmers to aid them collectively in adjusting supply to consumptive demands.

During the World War and the post-war boom period, while large credits were being extended to foreign countries to buy our surplus farm crops, cultivated acreage had been expanded by the millions of acres, machinery for more production per acre had been widely acquired on the farms, and production of basic commodities largely in excess of normal domestic requirements became the established order of things. When the cruel crash came in 1929 domestic consumption greatly decreased, and within a few years foreign trade almost vanished.

Farm production, however, continued at capacity levels. By 1932 a carry-over of 360,000,000 bushels of wheat and 9,000,000 bales of cotton had accumulated. Wheat went from $1.25 to 35 cents a bushel, cotton from 20 cents to 5 cents a pound. Corn went down to 10 cents a bushel. Six million farmers scattered over the hills and valleys, across the plains, and on opposite sides of the great rivers and mountains were dazed and bewildered. A great financial disaster had descended upon them.

A wheat or cotton farmer reasoned that all the wheat or cotton his farm could produce at prevailing bankrupt prices would not bring him over 25 percent of his former income, and his income had been entirely too low for some years. He felt that he should produce as much as was possible on his farm. He knew his fellow farmers would produce all they could for the same reason. There was no way for the millions of farmers to get together to consider the state of their affairs and agree upon adjustment programs. They had no machinery for controlling aggregate farm production, such as the United States Steel and other industrial corporations have through their stockholders and boards of directors and executive officers for the control of their production.

While industry discharged millions of employees and caused them to go on public relief rolls in order to adjust supply to demand, the farmers continued to toil long hours, producing the full capacity of the farms, and selling their year's yield at poverty prices.

Landlords, out of a spirit of loyalty and faithfulness to their tenants, continued to advance to them the credit and equipment necessary to make crops. Many farms were under mortgage when the depression started, and mortgages were placed upon many other farms. As a necessary condition for keeping the farms in operation, this wide-spread financial difficulty applied both to farms occupied by their owners and farms occupied by tenants. Everywhere in the agricultural sections newspapers were filled with notices of foreclosures, and as a result many thousands of farmers who owned their farms were translated into tenants, while thousands of landlords lost their farms.

With conditions so alarming, it is not strange that an agrarian revolt was in evidence in many sections. The Government, through the Farm Credit Agency, saved for the owners several hundred thousand farms through new credit facilities with a lower rate of interest and at generously protracted installment payments.

It was recognized, however, that pay day must come. With the prevailing prices of farm commodities, the day of reckoning was merely being postponed. The fundamental thing to do was to bring about, if possible, an increase in farm prices comparable with the prices of industrial commodities, or, expressed in other words, to arrange for parity prices.

As the result of such a change in the earning power of the farmers, it was plain that the farmers would be advanced to a position where it could be reasonably expected they would meet their obligations.

This administration was convinced from the beginning that the depression could not be overcome until agriculture, constituting such a large part of the consumers of America, had been financially rescued.

Then came the passage of the Agricultural Adjustment Act, and with it the dawning of a new and better day for American agriculture. Machinery was provided for effective cooperative programs by producers of the basic commodities through crop adjustments and for the producers of specialty crops through marketing agreements. There was much resistance to the passage of this act. It was new in the domain of legislation and of practical administration. I recall that some of my colleagues in the Senate who voted for it did so with great reluctance. Others could not see their way clear to vote for the bill. There existed a feeling that farmers, notoriously individualistic, would not cooperate in voluntary adjustment plans in sufficient numbers to accomplish the desired results.

There was fear of too much opposition from those for whose welfare it was intended. Some of these same colleagues, after observing the operations of the Agricultural Adjustment Administration for the past 2 years, are now enthusiastic supporters of the act.

If anyone doubts the beneficial results of this new lease on farm life, let him examine the record from the standpoint of increased farm income and from the attitude of the farmers. Wheat has advanced in price from 35 to 90 cents, cotton from 5 to 12 cents, corn from 10 to 80 cents, hogs from 2 to 10 cents, flue-cured tobacco from 11.6 to 27.3 cents, burley tobacco from 12.5 to 16.9 cents, and rice from 39.1 to 77.5 cents. Specialty crops have in the main had splendid increases in prices. The Nation's cash farm income rose from $4,328,000,000 in 1932 to $6,090,000,000 in 1934.

The attitude of the farmers is clearly demonstrated by votes cast in recent referenda to ascertain whether the producers favored continuance of adjustment programs. The votes were as follows: Cotton, 1,361,347 for, 160,540 against. Kerr-Smith Tobacco Act, 370,907 for, 23,633 against. Flue-cured tobacco program, 184,755 for, 3,408 against. Corn hogs, 389,139 for, 190,577 against. Wheat, 404,270 for, 62,291 against. Grand total, 2,430,418 for, 440,379 against.

The chief opposition to the A. A. A. has grown out of the processing tax. The division on that subject is similar to the controversy that has raged for more than 100 years over the protective tariff tax. The farmers have paid the tariff tax on industrial commodities while basic farm commodities have been sold at world prices. The processing tax is a countervailing compensatory tax for the protection of the farmers. It now appears clear that any party which favors taking the benefits of the processing tax away from the farmers will not hereafter have their support, regardless of former political affiliations.

The recent self-styled "grass-roots convention" evidently granted that fact. The name adopted was an apt one. From newspaper accounts about the volunteer delegates composing the convention, it appears to have been an assembly of politicians who are not acquainted with the practice of destroying grass roots. If left to their efforts, grass roots would be the principal crop on all farms.

It is certain that the delegates were politicians, and good ones. After much preliminary ballyhooing against everything the administration has done the convention, guided by the advice of older heads, in effect endorsed the Agricultural Adjustment Administration.

With the farmers overwhelmingly favoring its continuance, with the Democratic Party favoring it, and the first big assembly of Republican politicians acquiescing, it appears certain that the A. A. A. is here to stay.

The present law is not perfect. Congress, in framing the act, was traveling a new road. In farming parlance, new ground was being plowed. Difficulties and obstructions have been encountered in putting administratively practical programs, national and regional, in operation. That was to be expected. No one could anticipate perfection in such a comprehensive and far-flung effort.

With all the wisdom accorded by history to the framers of our Constitution, it should be remembered that 10 amendments were shortly adopted, and 11 more have been added to meet the evolution of social and economic progress.

Congress is now considering a bill amending the original Agricultural Adjustment Act in order to strengthen weak spots that have developed in its administration and to make whatever changes are deemed necessary to avoid legalistic and technical difficulties in line with the recent decision of the Supreme Court. The original bill authorized the Secretary to put under license the handlers and processors of specialty crops such as vegetables and fruits. The present bill eliminates all authority in the Secretary to use the licensing power. It substitutes, in lieu of that plan, marketing agreements to prevent unfair trade practices, and authorizes the Secretary to issue orders to cease and desist. In the same fashion power is now exercised over industries by the Federal Trade Commission. Any handler or processor who feels that his rights have been violated by such an order is given the right to test the issue in the courts.

Marketing agreements are put in operation only upon the request of 75 percent of the producers in the region involved, and may be terminated at any time by the request of 50 percent of such producers. This program is intended to bring about orderly marketing of the crop involved. It is intended to avoid an excessive flow to a given market in a way that has so frequently resulted in prices insufficient to pay the freight or express from the farm to the market. This plan has been in operation for the last 2 years and has resulted, in numerous instances, in splendid benefits for the producers. However, the best results in many cases have not been obtained because of the resistance of handlers and distributors and frequently because of interference through a resort to the courts. It is believed by the supporters of the pending bill that many of the obstructions and difficulties that have heretofore prevailed will be eliminated.

While farmers are still greatly burdened with the debts saddled upon them by the former loss of debt-paying power, an overwhelming majority of them are looking to the future with new hope and with splendid courage. We hear nothing now about farmers mobbing judges when they render decrees foreclosing mortgages. The Agricultural Adjustment Administration has pointed the way to a better and fairer part in the national income for the producers of the food and the raw material for clothing all the people of our country.

Those who doubted the cooperation of the farmers did not truly appraise their spirit and their understanding of the effect of the age-old law of supply and demand. When given the opportunity to make that rule operate in their favor instead of against them, farmers gladly seized the opportunity and are now moving in harmony toward a better day in agricultural life.

The bill amending the Agricultural Adjustment Act, now pending before the Senate, has for its primary purpose bringing the original act clearly and definitely in line with the Supreme Court decision in the N. R. A. case. The question of delegation of power to levy a processing tax is settled by the pending bill. Congress in the exercise of its taxing power is now directly levying the tax and ratifying what its agent, the Secretary of Agriculture, has done on that subject.

A large number of processors and packers have begun suits to enjoin collection of the tax and are also demanding a refund of taxes heretofore voluntarily paid. It is a well-known fact that the taxes in nearly all instances have been deducted from producers' prices or passed on to consumers.

Representatives of some of the packers testified recently before the Senate Committee on Agriculture and Forestry that the hog tax was deducted from the price paid the farmers for the hogs. The processing tax on cotton and wheat has been generally included in the price paid by consumers. Notwithstanding this situation, a number of processors and packers, after deducting the tax at one end of their transactions or collecting it at the other end, are now attempting to enrich themselves by trying to get the taxes as a profit out of the United States Treasury. Be it said to the credit of the big packers and most of the cotton and flour mills that they have not attempted a raid of that kind.

Those who succeed in getting the taxes back, if any do, may expect the most searching examination of their books and business before any money is repaid to them, and they may also expect countless suits by producers from whom it is claimed to have been deducted, and by merchants who have paid the tax when buying the processed commodities. The pending bill, if passed, will avoid unjustified raids on the Treasury and will at the same time prevent a great multiplicity of recovery suits by producers and merchants.

No opposition to the bill from farmers has manifested itself. The principal objectors are a vociferous group of handlers of the fruits of the farmers' labor. They are concerned about the quantity handled and object to any restrictions, however necessary they may be, to avoid glutting the markets and destroying farm prices.

These minorities, whose business is based solely upon handling farm commodities, should not be permitted to wreck or weaken a program which is confessedly highly advantageous to the great mass of farmers and their families. To that group of processors, packers, and distributors, who have gone along with the program and who have gracefully submitted to the new order as presented by the A. A. A., the farmers owe a debt of gratitude.

By friendly cooperation and mutual understanding and helpfulness, all interests will in the long run be benefited.

Mr. Chester C. Davis, Administrator of the A. A. A., is doing a great job in a splendid way. In a remarkable fashion, he possesses the confidence of Members of Congress who have had contacts with him.

In my judgment, the Agricultural Adjustment Act is the outstanding piece of legislation, from the standpoint of beneficial administration, that Congress has enacted during my service in the Senate.

EDUCATION AND THE GENERAL WELFARE—ADDRESS BY SENATOR COSTIGAN

Mr. LA FOLLETTE. Mr. President, on July 2, at Denver, Colo., the senior Senator from that State [Mr. COSTIGAN] delivered an able and interesting address to the National Education Association on Education and the General Welfare. I ask unanimous consent that the address may be printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

As a Colorado official, with a somewhat roving commission, I ask leave to repeat our State's hospitable welcome to every present visitor. We rejoice with you over the inspired messages of this memorable convention. Your influence will be cherished when you have scattered to your homes. Our majestic mountains, living streams, and fertile plains—symbolizing freedom and achievement as fully as do the seven seas—have recorded and will often echo your eloquence and wisdom.

Our greetings, too, are not solely for this visible audience. Our hearts are also warm toward the vital, unseen spirits of your splendid predecessors in the world of education. Among them are those who, many years ago, took our young hands in theirs and, with sensitive, guiding care, made us their deathless debtors. Those teachers of other days unlocked for us life's doors of knowledge and character. Nor are these bonds all that unite us. As sons and daughters of this State's pioneers—whose faith in education was only second to their love for their children—we see in you prophetic forerunners of civilization's ultimate universe of mind, heart, and spirit. You are the chosen spokesman of unfolding destiny, and for that reason I have hurried here from a crowded and contentious National Senate to pay tribute to you as educators and to American education. Surely, in these times, as never before, you of the scholars' forum and we of legislative halls, should counsel on policies, cooperating, without the slightest trace

of partisan or other self-seeking, to solve the blended and supreme problems of education and public welfare.

It is unnecessary to discuss in this presence the intimate relation between education and the general welfare. By education presumably we mean the full development, fit for practical use, of our human faculties and powers; by the general welfare the harmonizing of all those faculties and powers, aided by nature's inexhaustible resources, for the common good. If that fairly states the basic elements, then life is all and education is all but all. This great continent is well adapted to be the beneficiary of the costly experiments of old-world successes and failures, including the lessons taught by such great periods of human unrest and effort as the crusades, the Renaissance, the Reformation, and various revolutionary upheavals. As a country we still have the chance, by using educational forces, to emerge purified as gold without passing through the furnace of feverish human experiences. We are still offered a matchless opportunity to combine under government the planting of education and the peaceful harvest of general welfare in self-governing life.

A half dozen years ago a gathering like this might have been reasonably satisfied by eulogies on the traditional greatness of America. It was customary in those days to glory over this country's limitless wealth of natural resources, the sturdy and tested qualities of our diversified, adaptable, and relatively well-educated people and the idealism of America, which draws us all onward in the name of freedom and equality under law. No longer are we so easily satisfied. Today, without minimizing the force and value of that old attitude, we face the future less confident of our triumphant leadership, more informed about unhappy human facts behind our former facade of amazing but deceptive prosperity, more humble under the chastening blows of adverse years, and at times alarmed over the insecurity of America and even the future of civilization. Who longer can dispute our sound reasons for concern? Our own generation has seen a world as peaceful as that by which the sun rose and set today, rush senselessly into fratricidal war, which drew to it, as the flame the moth, nations, including our own, wholly remote from its causes. Today, in spite of pious pledges to peace—and no people have more sincerely given that pledge than America—nations which have not learned to conquer peace and fortify it for human happiness are again arming as if determined to mutliply human misery by precipitating other wars that can only make future peace unendurable and future human happiness all but impossible.

As if our daily problems were not sufficiently overwhelming, without complicating them with international violence! In our own day we have, what we began years before, though since 1929 the problem has expanded beyond all prophecy—millions of unemployed men and women in this country—among them, strangely enough, an army of educators. We have also had countless families in this land of wealth living below the level of decent subsistence and reaching the end of life propertyless; innumerable children toiling for miserable wages in place of adults who are unable to secure any employment whatever; the old a burden on the young and without reserves or socially-provided care on which to build self-respect or to cushion their forgotten loneliness. We are tried, too, as a people by tax burdens seriously increased by the World War. Yet we emerged from that conflict after doing little more than touch its boundaries of confiscated or destroyed property, incredible cruelities, and lost lives. We entered that war with reluctance; we look back on it now with regret. And we see, as never before, that our participation in future wars is certain to be sought with equal or larger provocation, and, unless education and morality can direct a sufficiently wide area of public opinion, our children and their children are doomed to far more tragic and treacherous disasters in a world of shrinking economic possibilities than our generation has visioned for America.

Let us, for the sake of balanced judgment, draw on historical perspective and compare such a modern State as ours, the richest and most favored of our time, with self-governing Greece 24 centuries ago. Greece in the golden hours of Pericles was a country relatively insignificant in size and power. Nevertheless, it was then so transcendent in intelligence and resourcefulness that its leaders expressed little concern over a possible end to its glory. Even its standards of human worth were startlingly like ours. At the close of the Peloponnesian War, Pericles voiced an exultation over the merits of the Athenian State and the secret springs of Greek genius which recalls nothing so much as the confidence in our form of government immortally phrased by Lincoln in his Gettysburg address. A chastened humility has properly made American leadership less confident in more recent years. Pericles in the ancient world, in language that fits our conception of America, praised the freedom of Athens, inherited from generations of Greek ancestors. He contrasted liberty-loving Athens with militaristic Sparta, where education glorified discipline above all other virtues, and with Corinth, stamped with the degeneracy of a land "where men care only for riches."

To Pericles, even as to Washington, Jefferson, Jackson, Lincoln, Wilson, and Roosevelt, deeds were more important than words; good spirits surpassed all material equipment for battle; minds nourished by free principles outran all advantages of military rigor; love of beauty without extravagance and wisdom without unmanliness were exalted; suffering was preferred to weakness and honor, and achievement outranked wealth. Above all, Pericles emphasized the uselessness to Greece of citizens who did not participate in public life, thereby superbly stressing the importance of treating private and public duties as inseparable.

It is well to revive such a picture of an earlier, worth-while civilization. Grecian contributions of that brilliant age vitally persist today. Not to look further, we do them homage in the commanding architecture of our new Supreme Court Building and the Lincoln Monument in our National Capital. Let us not forget, however, that deficiencies in Greek education undermined Greece; Greek civilization rested, not to look further, on false attitudes toward women and the forced involuntary servitude of those who do the manual work of the world. Looking back, it is perfectly apparent that Greek civilization was doomed, despite its dazzling brilliance, if only because it was built on human slavery, wholly without reference to the striking circumstance that Greek intelligence was hardly more than an island in a wide sea, or a pioneer clearing among the forests, of a largely barbarian world. Nor, though the international scene has greatly changed, can anyone doubt that, with all its world leadership, its immense resources of men and nature, its incomparably sounder economic foundations than those of Greece, America must rally all that education can contribute to natural resources, native talent, and common sense, if our civilization, like that of Greece, is eventually not to become a closed chapter in world history?

We started well. From the beginning of our national life, public leaders have been friends of education. Jefferson, the father of modern democracy, in one of his most noted declarations, the sincerity of which was attested by his years of devotion to founding the University of Virginia, insisted that no people can be ignorant and remain free. Webster considered our practice of universal education the chief glory of the Union. With the approval of these and other leaders—themselves educators in their several ways, and aided by other educators in all branches of professional and informed American life—we have had, in every generation and all regions since our Nation was formed, progressive educational development directed toward equal opportunities for all who care to draw near the light of intelligence. Thus we began, and have ever since maintained, in no little measure without Federal aid, our American school system, for the most part close to and supported by local public opinion. Accordingly, our educational system has been fed and enriched from the springs of popular understanding and conviction. Our fundamental aim has been to establish and promote the agencies and instruments of free and universal education. In so doing, we have sought to reverse Gray's Elegy by creating a land in which there shall be no "mute, inglorious Miltons", no hidden Hampdens, no concealed Cromwells, no artists denied the right to wake the world to living ecstacy. Instead, despite all handicaps, we have striven to keep in constant view trained citizens, contributing to their country their full measure of natural and instructed talents.

In education, however, as in other fields, change is the law of life. Our world moves, and, moving, is transformed. We, therefore, find ourselves today with an American educational system properly and widely rooted in popular support, yet increasingly dependent, as are other national activities, on scientific and material help from our National Government. Even in the past, Federal aid has been an important factor in the evolution of our public schools. Land grants to States for educational purposes have provided over large areas basic subsidies to support a successful and expanding educational system, and more recently, with some necessary Federal supervision over expenditures, vocational education has been widely and systematically extended by the aid of Federal contributions.

No doubt these tendencies will continue and increase, as promises to be true with respect to aid to the unemployed directly and through public works. This is the more true because many contrasted parts of our country are less prosperous than others, and our Federal system of taxation serves as an equalizer of our divergent wealth and needs. Science and invention, equally with economic forces, pass State lines without the slightest consciousness of impediments, and the Nation more and more becomes the unit of our common life. National power correspondingly grows with national expansion, even though it draws its strength from all local and individual sources. In a period of tragic economic stress, early in my Senate experience, I discovered that such admirable agencies of earlier days as the Red Cross and community chests were unprepared, without fault of their own, to meet adequately our unforeseen national emergencies. Modern life is startlingly complex. Its economic crises often spread universally and rapidly, as the last 6 years particularly illustrate. In such hours we must, without hesitation, enlist national powers and resources if we are to avoid national disaster.

Accordingly, as already suggested, we find in the modern world peace-time necessities which match in importance and magnitude the issues of war. Without depreciating the significance of local units, it is certain that our fathers obeyed a sound, fundamental instinct when they sacrificed all to save the Union as the indispensable guaranty of a reasonable and contented world for them and their descendants. Today we realize as never before how tragic the lot of vast multitudes of our people would be if they were scattered through separate States devoid of a national federation.

It should be easy, as a sequel to the welfare experiments of the last 2 years, to agree on at least a partial program of national aid to State and local educational agencies based upon such sobering facts about school conditions as the following: We have about one-fourth of the population of the country, pupils and teachers—28 million persons, not counting beyond elementary and secondary schools—in one way or another actively associated with public education; practical and vocational needs constantly expanding; an ever-pressing problem to provide an adequate teaching force to

deal with individual students; 200,000 teachers at present wholly unemployed; a much larger number of teachers not receiving remuneration for a substantial portion of the regular teaching period; a host of children of school age receiving far less than full-time education; about 5 million pupils occupying unsafe or insanitary rural schools; and compensation for teachers deplorably below the level of proper subsistence, with about one-third receiving approximately $750 per year and about two-fifths less than $1,000 per year. In other words, on the material side, school buildings are today inadequate in number and frequently neither safe nor sanitary, and suitable textbooks are often unavailable; and, on the side of mental training, pupils are at a sad disadvantage educationally in many parts of America because of the restricted number of teachers, the small compensation many of them receive, and the corresponding lack of dignity and leadership suffered by a profession which is discounted because it is ill-rewarded and left without the stimulus which comes from proven public appreciation of the importance of the task teachers discharge.

Already certain constructive efforts on a Nation-wide scale to free educators from economic difficulties and widen the opportunities for pupils are urgently and federally required. Not only pupils, but teachers also, should be given the largest possible opportunities for liberal training as part of the gratifying development of a science of education. The priceless possibilities of children must be concretely affirmed in enlarged privileges during years of sensitive and responsive growth, alike in school equipment and inspiration from those who guide awakening minds. Our Nation should lend the stimulus of appropriations to States and localities under conditions which will reasonably promote the great ends in view. America should hold itself ready to do regularly for education what heretofore it has done spasmodically. It should be prepared to sacrifice, if need be, lesser values for the illimitable possibilities of a future of wholly free and thoroughly sound popular education.

In support of these necessary steps I bring you assurances that many progressive leaders in public life stand ready to assist and will prove helpfully responsive to any well-conceived, human program of Federal aid to education which your united authority is prepared to recommend.

Certainly we ought to be able, without further argument, to agree on such minimum Federal steps as these:

First. Grants-in-aid by the Federal Government to States, where necessary, for free public education designed to liberalize and equalize opportunities for teachers and students, without undermining traditions of wholesome local school control and direction. As suggested, this does not mean the sacrifice, but rather the strengthening, of values which have long marked our school system. Undoubtedly today reasonable Federal contributions are needed to keep sound local forces alive and effectively functioning. The precedents already set by federally donated lands for State schools and Federal grants in aid of vocational education—not to mention the Nation's experiment with public works, State relief grants, and our public-roads policy—demonstrate the adaptability, with safeguards for uniform standards and decentralized management, of a Federal-State program.

Second. Nation-wide insistence on minimum school facilities and attendance for a period of from 8 to 9 months of every school year.

Third. Teachers in all schools adequately trained and fairly compensated for their professional responsibilities.

Fourth. Safe, healthful, and modern schools in all parts of the United States, with proper school and mechanical equipment, including suitable textbooks available to all pupils.

In undertaking these and other experiments in education, as in government, we must have, of course, a sane and natural merger of State and Federal activities, with broad opportunities for effective local agencies, side by side with the beneficial stimulus flowing from our national living principles and destiny. If America is fairly to follow the path of its logical development, we must continue the values of our interwoven local and national educational system. The significance of the task justifies us in demanding from those who benefit by such an educational program both personal development and dedication to community welfare. We are all partners in building and perpetuating our country and contemporary civilization. The modern world, through education and aroused morality, if it is to pay its debt to the past, must steadily eliminate such fatal flaws as weakened and wrecked earlier governmental experiments. This can be done as always by substituting good for bad and better for worse, by widely distributing educational resources and opportunities for national human life, and by modern invention and scientific achievements which override the demands of human selfishness by insistence on universal brotherhood.

We are aided in all such efforts by those subtle forces of the universe that keep alive, despite all odds, beauty, virtue, and truth. We have, too, the support of nature's latent and reborn life and powers. Recognizing the imperfections of any individual contribution, we refuse to accept any education which claims to be "finished." We demand, instead, a better and more progressive humanity, inspired by our world's evolutionary plan. We adopt Professor Breasted's conclusion that man throughout history has followed, and must continue to follow, "a rising trail."

What I have been trying in part to express or imply is the wisdom of the old Athenian message that all citizens, teachers, and students alike should have, or acquire, and faithfully perpetuate a living interest and participation in public affairs. Perhaps it is natural, in view of my own activities, that I should conclude that no other test of truly educated men or women is so final or unerring as that of active and effective citizenship. Our Nation's ideals of a perfect Union, established justice, insured domestic tranquillity, provision for the common defense, and assured general welfare must stand or fall with education. There is no substitute. If I am to be permitted to leave with you one remembered word, it is that. Happily in so saying, I do not speak either presumptuously or as a voice crying in the wilderness. Others with higher educational authority than mine, leaders in your profession, have not failed to speak in candid criticism of the economic, social, and political failures of the modern world as the product of defective education. Indeed, educators have spoken as frankly of the shortcomings of their magnificent profession as have prophets of the practice of divine religion. They know and you know—though the fault rests in some degree on all of us who in our separate spheres contribute to the educated mind—that when civilization has failed education has failed, and by the same token when civilization has succeeded education has triumphed. It may be added, with equal confidence, that when the America our forefathers planned shall have succeeded in establishing sound political and industrial equality and self-government, and in utilizing the resources of this continent for the general welfare, American education will have come to its own. Either way, whether our banners rise or fall, the major responsibility must in the long run be borne by American educators in every walk of life.

In what has been thus far said, it has been assumed that there will be little difficulty in agreeing on a modest beginning of a national effort to underwrite the improvement and renovation of our American educational system. The purpose is to adapt that system to our rapidly changing civilization and to fit the youth of a new generation to take their proper place in the front ranks of priceless living citizenship. If it be argued that, in so doing, we are cutting across inherited traditions and experiences, the answer is that the New World makes new attitudes unavoidable. We must remember that we have, under State and Federal Constitutions, both State and National citizenship. We must, accordingly, educate every new generation to meet its new responsibilities. Educational leadership will certainly not oppose the common-sense view that Nation and States can only coexist in harmonious efficiency if we continue, through education, to promote equipment for essential services and the general welfare. If we fail to achieve those ends by reason of conflicts between limited respective jurisdictions, the General Government will surely find public opinion rallying to endow the Nation with ample authority to grapple with important problems which States, by reason of limited territorial authority, are admittedly unable to control.

Recently in Washington an important decision of the United States Supreme Court has been interpreted by some as revitalizing the authority of States to deal with problems within their borders, and as excluding the Federal Government from legislating on subjects not obviously interstate in nature and effect. That decision has temporarily involved in chaos the far-reaching Federal experiment of the National Industrial Recovery Act of 1933, which had increased employment, raised wages, largely abolished child labor, and at least substituted a form of industrial planning for previous industrial planlessness. The decision has also clouded with confusion the assumed authority of the Federal Government to legislate effectively on Nation-wide industrial problems. Uncertainty is added by the fact that not many years ago the United States Supreme Court likewise denied to States the right, among other activities, to fix minimum wages, even for women workers who are especially handicapped in bargaining with employers, or otherwise secure wages for work assuring a decent level of subsistence. It has similarly become apparent that some States, seeking industrial advantages over others, by the employment of children and other cheap labor, have brought us face to face with competitive national problems which can be solved, if at all, only by uniform national legislation.

It follows that if the Supreme Court adheres to such precedents we must, soon or late, decide whether this Nation can afford to ignore resulting human tragedies, or by constitutional amendment is to secure enlarged power enabling it to legislate for proper and indispensable national objectives. Indeed, a constitutional crisis may be approaching in America similar to those stirring historical controversies, which in the past have taken the Nation into new legislative paths and have given it new constitutional guaranties of human rights and liberties. We have long rejoiced over the immortal 10 first amendments to the Federal Constitution. They are our personal Bill of Rights. With their inspired safeguards before us, if the denial of flexibility to the Federal Constitution continues, we may soon be called upon to write other amendments to our Constitution, defining the standards of an economic bill of rights.

To many it will be startling to discover that we are being driven into the crosscurrents and delays of amendments to the Federal Constitution. It has long been the boast of liberal leaders of the American bench and bar that, under the present powers of the Constitution, authority may be found enabling our Nation boldly and with originality to experiment for the general welfare. On that reasonable and happy constitutional theory Congress enacted much humane legislation between 1933 and the present hour. However, the recent unanimous decision of the Supreme Court indicates a regrettably inflexible change of judicial mood. Indeed, many qualified constitutional lawyers view that decision as nothing less than one of those legislative declarations of our highest judicial tribunal, which in the past have proven vital turning points in history.

The justification of nationally uniform and often humane legislation, which, from time to time, has thus been halted by unex-

pected judicial construction, is to be found in the essential purposes—including the general-welfare clause—of our Federal Constitution. In an address in November 1787 before the Pennsylvania Convention, which was elected to consider the adoption of our American Federal Constitution, James Wilson, one of the ablest of the Constitution's framers, gave the following as his view of the merger under the Constitution of State and National authority:

"Whatever object of government is confined, in its operation and effects, within the bounds of a particular State, should be considered as belonging to the government of the State; whatever object of government extends, in its operation or effects, beyond the bounds of a particular State, should be considered as belonging to the Government of the United States."

We have even higher authority. Our hero-worshipers are making us forget that George Washington was a great forward-looking liberal, who smashed precedents at will. Virginia was the first State to act on the proposal to call the Convention at Philadelphia, which wrote our Federal Constitution. The Journal of James Madison discloses that George Washington headed the Virginia delegation which took a leading part in the work of that Convention. That delegation was specially instructed by the General Assembly of Virginia "to join—in devising and discussing all such alterations and farther provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union. * * *" The Virginia delegation, undoubtedly with the approval of George Washington, subsequently submitted proposals for the consideration of the Philadelphia Convention, including the declaration that "the National Legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confederation and moreover to legislate in all cases in which the separate States are incompetent or in which the harmony of the United States may be interrupted by the exercise of individual legislation. * * *" Thus we discover the incomparable name and approval of George Washington behind a liberal interpretation of the intent of the enumerated powers granted Congress by the Constitution. Here is but part of the persuasive evidence in the proceedings of the Constitutional Convention of Washington's far-sighted view that Congress was designed to be free, within expressed and implied constitutional grants, to legislate in behalf of general well-being in the United States in all cases where the States, acting separately, are unable to cope with national problems.

These expressions of our forefathers are but other ways of declaring that this Nation should be equipped to deal, in peace as in war, with all pervasive problems of the general welfare which cannot be solved by State action. It was the failure to act on that assumption which resulted in the sword of Civil War carving into the body of our Federal Constitution its thirteenth, fourteenth, and fifteenth amendments.

Is it not evident that the best assurances of the survival of our self-governing institutions lies in minds which place rights and duties beyond the temptation of profit; and which insist at all cost on free discussion, religious liberty, a free press, the right of free assemblage, fair trials, and other priceless guarantees of our Bill of Rights, as well as the industrial democracy which is the inevitable, modern sequence of those earlier assertations of individual liberty and equality? We must never forget that the framers of the Constitution provided the authority to adopt constitutional amendments. In this connection, let us recall that the Federal Constitution went into effect on March 4, 1789, and that on September 25, 1789—little more than 6 months later—Members of the First Congress, under the Constitution and the Presidency of George Washington, showed their readiness to use the amendatory method by submitting to the States 12 amendments, 10 of which were subsequently ratified by the original States, have ever since been retained, and are today known to the world as "the American Bill of Rights."

The founders of the American Union were well aware that free government, like free education, must be subject to change; that the ultimate governmental issue in the world is between flexible popular rule and ever-encroaching inflexible dictatorships; and that only under popular sovereignty, with the aid of expanding education, can life be permanently desirable and liberated from the threats of ever-increasing tyranny, under which the alternatives for human beings are submission to arbitrary rule, revolt, or suicidal wars. Equally important to bear in mind is the truth that, under free government, education forever leads those who teach and those who learn toward illimitable horizons of science, literature, free utterance and criticism, and triumphant fraternity. Soon or late it will be apparent that our world's progressive evolution discards the evils of one age to make way for the glories of another.

Fortunately, we are an adaptable and practical people, and there can be little doubt that, in the long run, we shall continue to advance with reasoned judgment along the highways of necessary national authority, in the exercise of which our final security must be guaranteed by government of, by, and for the people. Certainly, in that forward drive, we can do no harm by adopting, through constitutional amendments Federal authority, favored by George Washington, adequate to meet national problems and serve the whole Nation's well-being. Thus, from the largest to the least governmental units, the Federal-State plan of the founders of our system of government will rule the length and breadth of the land, giving assurances of a mighty destiny in which education will accept as its highest duty the support of the general welfare.

REGULATION OF HOLDING COMPANIES

Mr. BONE. Mr. President, I ask unanimous consent to have printed in the RECORD two brief editorial observations of the Philadelphia Record of July 11, 1935, the first dealing with the pending utilities bill, and the second discussing the attitude of the reactionary newspapers toward the President of the United States.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Record of July 11, 1935]

AS THOUSANDS DO NOT CHEER

The holding companies are still celebrating their great victory for the little investor in the House defeat of the Wheeler-Rayburn bill "death clause."

Unfortunate that a sour note should zoom over the horizon to annoy the celebrants.

In New York Federal District Court Monday, 23,000 little investors in Insulll holding-company securities were denied the right to recover $30,000,000, represented by securities which Insull pledged with a group of New York banks.

These little investors believed what they read on their debenture certificates—or what they thought they read:

"In Insull Utility Investment Corporation 'covenants' not to pledge 'any of its assets without securing the debenture holders equally, except for short-term loans in the usual course of business.'"

But the court ruled that when Insull put up $30,000,000 worth of the good securities of his operating companies—the real assets behind these debentures—he was merely obtaining a loan "in the usual course of business."

In other words, the "covenant" was worthless. It didn't mean a thing, even back in 1929.

How tragic that the power lobby wasn't on hand then to protect the right of the little investors.

DAMNED IF HE DOES, DAMNED IF HE DOESN'T

On one thing the reactionary newspapers of the United States are agreed:

That whatever Mr. Roosevelt does—it's wrong.

Two years ago the Record warned the President that no matter what he did, no matter how conciliatory he might wish to be, he couldn't please the Tories, because the Tories would simply refuse to be pleased.

Last week the New York Herald Tribune, commenting on the Wheeler-Rayburn bill, denounced Mr. Roosevelt as a President "who has so lost his sense of perspective as to try to assume dictatorial powers over Congress."

This week the New York Herald Tribune, commenting on the Roosevelt tax program, denounces the President for "passing the buck" to the House Ways and Means Committee as to how much the new taxes should raise. And it adds: "Beyond the very general recommendations contained in the President's message, the administration refuses to be of assistance. * * *"

Damned as a dictator yesterday.

Damned for lack of leadership today.

Commenting on the holding-company bill, the Philadelphia Inquirer upheld the House for "defending the rights of the people from destruction by Presidential command."

Now, speaking of the tax bill, the Inquirer declares that "Secretary Morgenthau refuses to be headed in any definite direction, and he leaves the situation as much in the fog as ever."

Had the President demanded that Congress raise a specific sum, say, $500,000,000—

The Tories now would be denouncing him for interfering with the legislative prerogatives of the House of Representatives.

Mr. Roosevelt is damned if he does, damned if he doesn't.

The Tories stick to their theme song:

"No matter what it is, we're against it."

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The clerk will state the first committee amendment passed over.

The first committee amendment passed over was, in section 5, paragraph (2), page 11, line 4, after the word "apples", to strike out "and not including fruits for canning."

The VICE PRESIDENT. Without objection, the amendment is——

Mr. COPELAND. Mr. President, I hope this amendment will not be acted upon quite so speedily. The people in my section of the country are anxious to have the House language restored, and I think there is abundant reason why it should be restored. I do not happen to be prepared today to discuss it at great length, but there are those here who

desire to do so. I know that my seat mate, the Senator from Georgia [Mr. GEORGE], is very much interested in this amendment, and is anxious to have the House language restored. I notice that the Senator from California [Mr. JOHNSON] is on his feet.

Mr. SMITH. Mr. President, will the Senator from New York allow me time to make an explanation?

Mr. COPELAND. I yield.

Mr. SMITH. I suppose there was no subject in the bill that was more thoroughly discussed than was this one. Fruits are more or less perennials. Orchards are of yearly production without replanting and without the ordinary methods necessary in cultivating an annual crop. It was evident to the committee that the canning of fruits was as much a part of their marketing as was selling them in the fresh state. The fact is it was brought to the attention of the committee that perhaps at times the major portion of the fruits which are produced, such as peaches, apricots, apples, and other fruits, are used in canning. Therefore, if the object of this bill is to create such a condition as will give the producer the opportunity to have a price which will enable him to receive a return somewhat approximating the profits which are made by the processors, his market should be taken care of, and we cannot leave one half the product unregulated and the other half regulated. We must either do away with any attempt to have the fruit market regulated or we have got to put both fruits used for canning and fresh fruits in the same category.

I think before the consideration of this paragraph shall have been concluded I will offer an amendment putting vegetables in the same category in which the Senate committee put fruits.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SMITH. I do.

Mr. LOGAN. I note what the Senator says, but, so far as tobacco is concerned, with the processing tax imposed on the firm or corporation or individual manufacturing tobacco and yet the individual farmer allowed to sell his natural-leaf tobacco to the consumer without the processing tax at all, it interferes very seriously with those who manufacture twist tobacco and other natural-leaf products. Has the Senator given or did the committee give any consideration to that question?

Mr. SMITH. I think that is the first time my attention has been called to any situation where the farmer was manufacturing his own tobacco.

Mr. LOGAN. The farmer is allowed to sell his leaf tobacco to the consumers. The farmers are organized and doing that throughout the tobacco district. They sell the tobacco to those who want to use the natural leaf. The manufactured twist tobacco has to pay a processing tax. The farmer who can sell his own tobacco to the consumer does it without a processing tax.

Mr. SMITH. Does the Senator mean the one who uses it for chewing or smoking gets it direct from the farmer and uses it in the unmanufactured and raw state?

Mr. LOGAN. Absolutely that is what I mean to say, and that is done very extensively.

Mr. SMITH. I never heard of it before.

Mr. LOGAN. It is done very extensively, and the manufacturers of twist and other natural-leaf products are making very serious complaint.

Mr. COPELAND. Mr. President, I may state that my seat mate, the Senator from Georgia [Mr. GEORGE], who is necessarily absent at the moment, is very much interested in this item. It has been suggested to me by the Senator from California [Mr. JOHNSON], and others who are interested, that perhaps the Senator from South Carolina would allow this item to go over for an hour or two.

Mr. MCNARY. Mr. President, I hope the Senators now engaged in conversation will speak loudly enough for us over here to understand what is taking place.

Mr. SMITH. The Senator from New York has made request that this amendment, which I had hoped might be disposed of, may go over for an hour or two. If there is no objection, I am agreeable that it shall be passed over temporarily.

The VICE PRESIDENT. The Chair understands the Senator from South Carolina to ask unanimous consent that the amendment which has just been stated may go over for 1 hour. Is there objection?

The Chair hears none, and it is so ordered.

Mr. KING. Mr. President, while we are in this subject, I should like to ask the Senator from South Carolina, the chairman of the committee, for information with reference to fruits which are perishable, such as peaches, plums, apricots, and all kinds of berries. Upon what theory can or should they be made subject to the terms of the bill? I cannot fathom the regulations which would be put into effect and the orders which would be submitted which would deal with such perishable products.

Mr. SMITH. It was the impression of the committee that of all producers in America who really ought to have aid, those whose products are perishable should be given consideration. The Senator must be familiar with the fact that watermelons, with which product I am somewhat familiar, have been shipped from time to time in carload lots to the great metropolitan centers. After a lapse of time, in many cases, the producer would get a freight bill back with the statement that the watermelons did not sell for sufficient to pay the freight. In other words, he gave someone a carload of watermelons and paid a bonus to have them take the melons.

I know that in my own community a certain individual some years ago started to raise artichokes for pickling purposes. Being a thrifty individual, he went to New York and engaged them at $5 a barrel. He shipped about 3 barrels preliminarily. The freight was $4.90, so that he got 10 cents out of the fruit. When I recounted that incident here years ago the Senator from Oklahoma [Mr. GORE] said the railroad companies had made a mistake and had overlooked the 10 cents.

The perishable nature of fruits and vegetables is such as to lend those products very readily to exploitation by the handlers and those who market them. Of all the people who need some kind of organization so that they can secure fair treatment and get a return for that which they produce for the benefit of the consumer, the producers of fruits and vegetables are the ones who need this kind of legislation, properly framed, without doing violence to the handler, and yet seeing to it that the producer gets an equitable return for what he produces and sells.

That is my answer to the Senator from Utah.

Mr. FLETCHER. Mr. President, I may not be able to be present in the Chamber when the Senator from Georgia [Mr. GEORGE] is here and the amendment with reference to fruits and canning of fruits is again before the Senate for discussion. Therefore I wish to say at this time briefly that in Florida there is no antagonism between the grower and the canner. So far as I can learn, one helps the other.

In the matter of grapefruit, for instance, I have eaten grapefruit ripened on the tree, perfectly wholesome and delicious because ripened in that way. It would not be possible to ship grapefruit of that kind at all. It has to be used at once. It cannot reach the market at all.

Then there is grapefruit which, because of some discoloration or defect on the outside, is not marketable. That kind of grapefruit the canner can and does use. Without the canner the grower would get nothing for it. It would be a total loss to him. That being true, the fruit which is not marketable, which cannot be carried any distance, depends upon the canner for a market. The canner comes and selects his fruit and pays for it, and that is the end of it so far as the producer is concerned. There are no packing charges, there are no hauling charges, and there are no freight charges. The grower gets just that much out of the crop which he would not otherwise get. Consequently he is interested in maintaining and encouraging the canner. There is no conflict between them, but there is a mutual desire to help each other.

The canner can get fruit which does not go to market and would not be marketed at all, which is perfectly good fruit and delicious in every way, wholesome and healthy and eminently suited for canning purposes. The grower gets a return for fruit which would otherwise be lost to him and wasted.

Consequently there is no antagonism between the grower and the canner. They are, I repeat, mutually helpful. The canners do not want to be included under the bill, and that is universally the position they take in Florida, so far as I am advised. They want the provision retained as it came from the House, and therefore object to the committee amendment which would eliminate fruit for canning purposes. We believe in the House provision, and when the time comes we shall vote against the amendment of the committee in that respect.

Mr. KING. Mr. President, I listened with a great deal of interest to the statement made by the chairman of the committee in answer to my interrogation as to the propriety and wisdom of including fruit under the provisions of the bill. I return very briefly to the subject.

The Senator from South Carolina knows that farmers and owners of small orchards produce fruit for their own use. There are millions of orchards in the United States in which are grown limited quantities of peaches, apples, plums, and apricots, as well as all kinds of berries. It seems to me it is absolutely impossible to set up a workable plan, even if we desired to do so, which would subject all persons who grow fruits for their own use, or for shipment, to the regimentation which is provided or will be provided under the terms of the bill if it should be enacted into law.

Mr. SMITH. Mr. President, will the Senator yield?

Mr. KING. Certainly.

Mr. SMITH. There is no provision whatever relating to fruits growing for personal use. This is wholly with respect to that fruit which is grown for marketing purposes, and that in interstate transactions only. There is nothing in the bill which pertains to the regimentation or the regulation of fruits grown for personal use.

Mr. KING. Mr. President, I have read the bill rather carefully and I have not found the line of delimitation which is indicated by the able Senator from South Carolina. If it could be made very clear that the bill is to include only fruits that may be grown for shipment in interstate commerce, it would remove some of the objections which I am now attempting to urge against the provisions of the bill with respect to this particular matter. When we again take up this subject, upon the return of the Senator from Georgia to the Chamber, I may renew my observations or inquiries concerning it.

The VICE PRESIDENT. The clerk will state the next amendment passed over.

The CHIEF CLERK. On page 11, line 6, after the words "(not including vegetables for canning)", it is proposed to insert "soybeans, hops, package bees and queen bees, poultry."

Mr. DUFFY. Mr. President, I offer an amendment to the committee amendment.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 11, line 6, it is proposed to strike out the word "hops."

Mr. DUFFY. Mr. President, I also have presented an amendment which would strike out, on page 16, the words "hops and their products"; and because they should be considered together I ask unanimous consent that the two amendments may be considered together.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. MCNARY. Mr. President, I do not understand the request of the Senator from Wisconsin. I gather that he desires to strike out the word "hops" on page 11 in line 6. He then referred to the word "products." That is found on line 1, page 11. Therefore, what is the full nature of the Senator's proposal?

Mr. DUFFY. The proposal is to strike out the word "hops", on page 11, line 6, as the Senator has stated. However, to carry out the purpose of eliminating the word "hops" at that place it would also be necessary to strike out the words "hops and their products" on page 16, lines 11 and 12; and the two proposals should be considered together.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. DUFFY. I yield.

Mr. BORAH. The insertion of the word "hops" is a committee amendment; so the question would arise on rejecting or approving the committee amendment, would it not?

Mr. DUFFY. I present my amendment as an amendment to the committee amendment, proposing to strike out the word "hops." I am not raising any question as to the remainder of the committee amendment including "soybeans, package bees and queen bees, poultry." I merely wish to strike out the word "hops."

At the present time there are approximately 1,300 hop growers in the whole United States. Largely, they are located in the State of Oregon, and some also in the States of Washington and California. After the manufacture of beer was legalized in 1933, hops commanded an unusual and an unwarranted high price. Perhaps it was warranted by the scarcity at the time; but many persons, especially in the three States I have named, rushed into the hop-growing business, I suppose upon the theory that the excessively high prices for hops would continue; and I assume that the purpose of putting hops in this bill is to give them, possibly, some relief.

The same amendment that the committee has recommended was proposed in the House of Representatives. The amendment was defeated. I do not refer to my amendment; but in the House it was proposed to insert the word "hops" in the bill. That proposal was defeated in the House by a vote of approximately, as I recall, two and a half to one. I do not recall that it was a record vote. I believe it was a standing vote; but I think the action of the House was correct, and that hops should not be included in the bill.

Hops and the products of hops would be subject to the orders of the Secretary of Agriculture if the word "hops" should be permitted to remain in the bill. Such orders dealing with the handling of hops and their products may limit the total quantity of hops of any grade, size, or quality that may be marketed or transported to market by handlers during any specified period. They may also allot the amount of such commodity which each handler may purchase from producers. Such allotment is required to be made in accordance with some uniform rule based upon the amount of the commodities produced or sold by producers during a representative period, and such period would be determined by the Secretary of Agriculture.

Allotments to individual handlers are required to be made in accordance with a uniform rule. They may provide in such orders as to the extent of any surplus or of any grade, size, or quality; and the justification, apparently, from the report of the committee, is:

> There is a market supply in excess of quantities sufficient to meet an effective consumption demand.

Mr. President, in my opinion, the system which has been proposed in this bill does not lend itself at all readily to the conditions under which hops are marketed. Hops are used almost exclusively in brewing beer and similar fermented malt liquors. It is the hops which give the beer its flavor; and although there are several tests recognized for hops, strange as it may seem, the most important test is the test for aroma.

If seeds and stems are not eliminated in picking hops, each pound of hops is much less valuable for brewing purposes. I am reliably informed—and I have been consulting with the departments here which seem to have information on the subject—that there has been only a very small carry-over as to the better grade of hops; that is, the grade of hops suitable for brewing purposes.

Many people who rushed into raising the crop of hops in the past year or two were not prepared for it. They did not have suitable kilns for drying the hops. The stems and the seeds were picked and were not carefully separated, and the result has been that a good many of the hops produced in this country have not been very suitable for brewing purposes; and as the aroma is an important element in the grading and quality of hops, it seems to me it is quite apparent that hops cannot be so susceptible of standardization as to justify their being placed in this bill.

To allot by any uniform rule, as required by the bill, would be, in my opinion, to penalize the growers of the better grade of hops, and to penalize the brewers of the country. I say that because, for instance, if production should be restricted by 25 percent, it would mean that there would be available next year 25 percent less of a good grade and the lower grades which are not so suitable and not so readily adapted to brewing purposes, and a brewer would have two alternatives. He would either have to make up the 25-percent reduction from a lower grade than he would otherwise like to do, or else he would have to use imported hops.

I am informed that the hop growers are not all in accord with the sentiment of my friend from Oregon [Mr. McNARY]. Oregon has the largest crop of hops. I am informed, for instance, that the growers of 70 percent of the hops, in Sonoma County, Calif., where the better grade of hops is grown, have telegraphed various Senators and members of the committee that they do not desire to have hops included under the bill. I do not think, generally speaking, that the growers of the better grade of hops do desire to be under the bill.

For instance, the New York State Agricultural Department is now doing some experimental work to rehabilitate the hop-growing industry in that State. I doubt very much if it would be possible for them to do so if the Secretary of Agriculture should undertake to limit the distribution and exercise the power and authority which he would have under this bill.

Senators will note that the bill says "hops and their products." On page 10 it says:

> Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof.

What are the products of hops? Where would the line be drawn? Is not the language broad enough in its terms to include beer as a product of hops? If so, then it seems to me certainly there should be no such provision as this in the bill, because if it is a reasonable interpretation of what are the products of hops that beer might be so construed, the bill would give the Secretary power, by an order, to regulate the marketing of beer, including the fixing of trade practices, prices, and many other things which obviously should not be attempted in a bill of this kind.

Because of the practical impossibility of the standardization of hops, and because it seems to me it has not any place in this bill, I have urged this amendment, which will be in accord with the action taken by the House of Representatives.

Mr. McNARY. Mr. President, I think it would be well for me to explain to the Senator from Wisconsin [Mr. DUFFY] and to other Members of the Senate the situation from a parliamentary standpoint as it affects hops.

The Senate Committee on Agriculture and Forestry a month ago reported favorably a bill to amend the original Agricultural Adjustment Act so as to include hops as a basic commodity. I offered an amendment to that measure to place a processing tax of 2 cents a pound on hops. The bill is on the calendar, and no action has been taken on it.

The brewers of the country and some of the hop dealers, not interested in the production of hops, objected to any legislation affecting hops, upon the false theory that it was an attempt to penalize them by making them pay a higher price. For that reason, I have not asked to have taken from the calendar and considered the bill making hops a basic commodity, which carries with it a processing tax.

Consequently, when the committee met to consider the amendments to the Agricultural Adjustment Act, I offered an amendment to include hops, and the committee included it, but it affects hops only so far as marketing agreements are concerned.

Mr. President, I agree with what the Senator from Wisconsin has said; there is no desire whatsoever on the part of the producers of hops along the Pacific coast to have beer included under a marketing agreement, or in any way to have it brought within the jurisdiction of the Department of Agriculture, so far as the particular legislation now before us is concerned. Therefore I suggest at this time as an amendment—and I think I have such an amendment in my files—that after the word "hops", on page 11, line 6, there shall be included the following language: "Not including the products thereof." At this time I ask that the committee amendment be modified in that respect.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection, and the committee amendment is modified as suggested by the Senator from Oregon.

Mr. McNARY. Mr. President, that takes entirely out of consideration the interest of the brewer.

Mr. DUFFY. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. DUFFY. Of course, there are in my State a great many brewers, and I have consulted with them in regard to this suggestion, and they have told me that the statement just made by the Senator is not in accord with their ideas. In other words, they feel that hops should not be in the bill at all, that it is much better to have it as the Senator now proposes in his suggestion, but it still seems to me so fundamental that I do not think hops ought to be included in the bill.

Mr. McNARY. Mr. President, I am not attempting to dispute the statement of the Senator from Wisconsin. I have received telegrams from brewers to the effect that they would be perfectly satisfied with hops included in a marketing agreement. It is only as it affects their product, beer, or brings them under the processing tax, which this amendment would not do, that they object.

I think I can also well disregard any opposition of the few brewers who may not be favorable to this proposal—and I think some of them may reside and conduct their business activities in the State of Wisconsin—because nearly all the brewers, so far as I know, have either assured the hop men or the dealers that they had no objection to the plan which I am now proposing.

Mr. President, the production of hops is one of the substantial industries in three Pacific Coast States—Oregon, Washington, and California. The growers of hops in those States do not in any way desire to impose any new obligations or burdens on the brewery business. In those three States millions of dollars are invested in the production of hops as an agricultural occupation. It is a crop, produced from the soil, that requires more labor than the production of any other agricultural crop. Men, and women and children particularly, are engaged in the production of hops, and in their cultivation and harvesting. It is a crop whose production affects the poorer homes more particularly, thereby resulting in greater social relief than the production of any other crop harvested along the Pacific coast.

Recently a plebiscite was held, and all the hop growers of the country took a vote on whether they wanted to come within the provisions of the pending bill, and the Secretary of Agriculture, through his agents, notified me a few days ago that the vote was 7 to 1—seven producers of hops favored the inclusion of that commodity in the pending bill against one who did not.

What effect would the adoption of the proposal have on the breweries? It would be so infinitesimal that I am surprised that any one brewer, however many brewers there may be in the United States, should object to the provision. On my desk here is a statement from the Department of Agriculture, with which I am conversant, that less than 1 pound of hops goes into a barrel of beer which contains

32 gallons—less than 1 pound of hops is required to season a barrel of beer which contains 32 gallons.

Mr. DUFFY. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. DUFFY. Does the Senator know anything concerning the suggestion I made that there are growers of better grades of hops on the Pacific coast who do not desire to come under the bill?

Mr. McNARY. I know of only one such grower, and he is Mr. E. Clem Horst, who has a farm not far from where my farm is located in the beautiful Willamette Valley in western Oregon.

Mr. President, what does the Department of Agriculture say with regard to parity? If there is any virtue in the bill before us, if there is any desire upon the part of the Members of Congress to help the grower, the desire is to put him on a parity with other products and with industry. The Department of Agriculture says that by reason of the price which hops bring their parity is 38 percent, on the basis of 100 as an index number. The market price is 100 percent under the cost of production.

The hop growers cannot live under those conditions. If we are to include in the bill soybeans, package bees, queen bees, fruits, and vegetables, upon the theory that marketing agreements affecting them may bring about better conditions in the particular industries, the appeal for the growers of hops is stronger than is the appeal as to any other agricultural commodity within the bill.

If one would just look at this proposal soberly, and in the interest of the grower and not the brewer, he could see its advantages.

Mr. DUFFY. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. DUFFY. I assume the reference to "sober consideration" has nothing to do with the product of hops? [Laughter.]

Mr. McNARY. No, indeed; I qualified that.

Mr. SHIPSTEAD. Mr. President, will the Senator yield to me?

Mr. McNARY. I yield.

Mr. SHIPSTEAD. I understand the Senator's amendment would eliminate the products of hops.

Mr. McNARY. Exactly. I am standing here as a representative of the growers of hops. The amendment would have no effect on the brewers of the country, who can look after their own interests.

Mr. SHIPSTEAD. If the Senator will permit me, I believe the Senator from Wisconsin said that the chief and most valuable product of hops was the aroma of beer. If this tax should be imposed upon hops, does the Senator think it would have a deleterious effect on the aroma of beer? [Laughter.]

Mr. McNARY. Not at all. I have some interest from the grower's standpoint, and it is not the burr which makes the aroma of the beer. It is the lupulin, a pink substance which lies close to the core or seed. That is what produces the aromatic quality in beer.

The PRESIDENT pro tempore. Let the Chair call attention to the parliamentary situation, which the Senator may desire to consider. As the Chair understands, there are two amendments to be considered as one on page 11. On request of the Senator from Oregon, and by unanimous consent, an amendment to the committee amendment, including the words "not including the products thereof" after the word "hops" in line 6, has been adopted; but the amendment of the Senator from Wisconsin also deals with the word "hops" on line 11, page 16. The two are to be voted on together, as the Chair understands.

Mr. McNARY. Yes. I stated very frankly, with some knowledge of the subject matter, that it was far from my idea, that it was wholly outside of my purpose, to involve the brewers and their products in the bill at all, and wherever the word "products" appears in the bill I wish to have it removed. I appeal to Members of the Senate from the standpoint of the grower of the raw material. I am only asking that hops be included in this particular section as it affects marketing agreements. I do not know whether it is tremendously important or not, but the hop growers think so.

In the original act the subject was treated from the standpoint of a license. In the pending bill there is an effort to treat it from the standpoint of an order. At this particular time the Department of Agriculture has worked out a hop agreement which, I think, has been adopted by the hop growers of the country and the salesmen of hops and the handlers thereof in a very satisfactory way. The proposed amendment merely clarifies the original act, and agreements based thereon. In other words, the Secretary of Agriculture, with the consent of the hop producers, and upon their petition, without the opposition of the brewers of the country, has worked out an agreement under this section as contained in the organic act, and all I am doing, I repeat, is to ask for the insertion of hops as an agricultural commodity, for the purpose of clarifying the language, making certain what the agreement is, and eliminating the brewer and his interests, and the products of hops.

Mr. President, when we stop to consider what we are trying to do by this bill, and realize that the hop industry is a very large one in these States; that the cost of production is 100 percent under the sale price, and that the proposal now made will not take any of the profits away from the brewer or affect him injuriously in any way, I think we shall come to the conclusion that this commodity ought to stay in this provision in order that there may be certainty with respect to the law and the agreements based thereon.

The PRESIDENT pro tempore. Will the Senator from Oregon [Mr. McNARY] give his attention to page 16, line 11, where the word "hops" occurs, following which there occur the words "and their products."

Mr. McNARY. Mr. President, I ask unanimous consent that the words "and their products", following the word "hops", on page 16, line 11, be stricken out.

The PRESIDENT pro tempore. Without objection, the words "and their products", following the word "hops" in lines 11 and 12, on page 16, of the bill are stricken out.

Mr. SMITH. Mr. President, let me call attention to a necessary amendment in line 1, page 11, which follows in line with the argument of the Senator from Oregon [Mr. McNARY]. The sentence begins at the bottom of page 10, line 23, as follows:

> Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores).

I suggest that to carry out the request made by the Senator from Oregon he should include hops at that point so it would read "(except products of hops and of naval stores)."

Mr. McNARY. Mr. President, I have no desire to quarrel with the chairman of the committee or make any suggestion other than the one I originally made, which was that after the word "hops" in line 6, page 11, there be inserted the words "not including the products thereof."

Mr. SMITH. I thought perhaps it would simplify the matter if the language were inserted in line 1, page 11, because they both come within the same category.

Mr. McNARY. I am perfectly willing to do so. I want to keep out of this bill any reference at all to the brewery interests, and I wish to have the provision placed at the point where it is most suitable.

Mr. SMITH. We had excepted naval stores, and I thought it would be well to place the exception as to hops in the same place.

Mr. BORAH. Mr. President, are we sure now that the brewers have been left out?

Mr. McNARY. I had hoped so. I think they are perfectly able to take care of themselves. I made the statement I did in order to declare the purposes of the amendment, and simply to make it certain that I am only dealing with the growers of hops and not with the brewers.

Mr. BORAH. I wanted to be sure.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Wisconsin [Mr. DUFFY] to the committee amendment as amended, to strike

out the word "hops" on page 11, line 6, and also to strike out the word "hops" on line 11, page 16.

The amendment was agreed to.

Mr. McNARY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Clark	La Follette	Radcliffe
Ashurst	Connally	Lewis	Reynolds
Austin	Coolidge	Logan	Robinson
Bachman	Davis	Lonergan	Russell
Bailey	Dieterich	McAdoo	Schall
Bankhead	Donahey	McGill	Schwellenbach
Barkley	Duffy	McKellar	Sheppard
Bilbo	Fletcher	McNary	Shipstead
Black	Frazier	Maloney	Smith
Bone	George	Metcalf	Steiwer
Borah	Gerry	Minton	Townsend
Brown	Gibson	Moore	Trammell
Bulkley	Glass	Murray	Truman
Bulow	Gore	Neely	Tydings
Burke	Guffey	Norbeck	Vandenberg
Byrd	Hale	Norris	Van Nuys
Byrnes	Hastings	Nye	Wagner
Capper	Hatch	O'Mahoney	Walsh
Caraway	Johnson	Overton	Wheeler
Carey	Keyes	Pittman	White
Chavez	King	Pope	

The PRESIDENT pro tempore. Eighty-three Senators having answered to their names, a quorum is present.

Mr. McNARY. Mr. President, the question was put to a vote very hurriedly. I ask unanimous consent that the vote by which the amendment was adopted be reconsidered in order that I may ask for a yea-and-nay vote on the amendment.

The PRESIDENT pro tempore. The Senator from Oregon asks unanimous consent that the vote by which the amendment of the Senator from Wisconsin [Mr. DUFFY] to the committee amendment was agreed to be reconsidered. Is there objection?

Mr. DUFFY. I understand the request is made by the Senator from Oregon in order that there may be a yea-and-nay vote on the question?

Mr. McNARY. Yes.

The PRESIDENT pro tempore. The Chair hears no objection, and the vote by which the amendment to the amendment was agreed to is reconsidered.

Mr. McNARY. On the question of the amendment offered by the Senator from Wisconsin to the committee amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STEIWER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. STEIWER. I think I understand the situation, but I wish to state my understanding of it. The question now recurs upon the motion of the Senator from Wisconsin [Mr. DUFFY] to perfect the committee amendment by striking out the words "hops, not including the products thereof", in line 6, page 11, and on page 16, line 11, striking out the word "hops." Those who favor the committee amendment would, therefore, vote "nay", and those who are in favor of striking out the word "hops" and the words "not including the products thereof" would vote "yea"?

The PRESIDENT pro tempore. That is the parliamentary situation.

Mr. McNARY. Mr. President, as I understand the parliamentary situation, those desiring to vote for the amendment offered by the junior Senator from Wisconsin will vote "yea" on this question.

The PRESIDENT pro tempore. That is correct.

Mr. FLETCHER. Mr. President, does the question also involve the provision on page 16?

The PRESIDENT pro tempore. The two questions are considered together. The committee amendment was amended at the request of the Senator from Oregon [Mr. McNARY] by unanimous consent, by inserting after the word "hops" in line 6, page 11, the words "not including the products thereof"; and on page 16, lines 11 and 12, after the word "hops", striking out the words "and their products."

Mr. BANKHEAD. Mr. President, the committee included hops in this bill on the suggestion and at the request of the Senator from Oregon [Mr. McNARY]. I should like to know if there is any real division among the Senators from the hop-growing States with respect to this provision. I desire to ascertain their sentiments. I understand hops are produced in Oregon, Washington, and California. If there is a division of opinion on the question, I should like to know it.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. SCHWELLENBACH. As I understand, the Senator from Alabama asked whether there was any division among the Senators representing the States in which hops are grown.

Mr. BANKHEAD. That is correct.

Mr. SCHWELLENBACH. I will state that so far as the hop growers of the State of Washington are concerned, they are almost unanimously in favor of being included in the bill.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SMITH. Do I understand that the amendment on page 11, line 6, after the word "hops", to insert "not including the products thereof", has been agreed to?

The PRESIDENT pro tempore. That amendment to the committee amendment was agreed to by unanimous consent.

Mr. SMITH. Therefore, if we vote "yea", we vote to strike out the word "hops" with the amendment providing that the products thereof are not included.

The PRESIDENT pro tempore. That is correct.

The clerk will call the roll.

The Chief Clerk called the roll.

Mr. LEWIS. I desire to announce that the Senator from Alabama [Mr. BLACK], the Senator from Colorado [Mr. COSTIGAN], the Senator from Mississippi [Mr. HARRISON], the Senator from Arizona [Mr. HAYDEN], the Senator from Iowa [Mr. MURPHY], and the Senator from Oklahoma [Mr. THOMAS] are necessarily detained from the Senate on official business.

The Senator from New York [Mr. COPELAND] is detained in a conference at the White House. I am advised that if present and voting he would vote "yea."

I also desire to announce that the Senator from Nevada [Mr. McCARREN] is absent because of a death in his family, and that the Senator from Louisiana [Mr. LONG], the Senator from Utah [Mr. THOMAS], and the Senator from West Virginia [Mr. HOLT] are detained by important public business.

I announce further a general pair between the Senator from Nevada [Mr. McCARRAN] and the Senator from Iowa [Mr. DICKINSON]. I am not advised how either Senator would vote on this question.

Mr. AUSTIN. I wish to announce that the Senator from New Jersey [Mr. BARBOUR] has been called from the Senate on official business. If present, he would vote "yea."

The result was announced—yeas 48, nays 34, as follows:

YEAS—48

Adams	Coolidge	La Follette	Reynolds
Bachman	Davis	Lewis	Russell
Borah	Dieterich	Logan	Schall
Brown	Donahey	Lonergan	Sheppard
Bulkley	Duffy	Maloney	Shipstead
Bulow	Fletcher	Metcalf	Trammell
Burke	Gerry	Minton	Truman
Byrd	Glass	Moore	Tydings
Carey	Gore	Neely	Vandenberg
Chavez	Guffey	O'Mahoney	Van Nuys
Clark	Hatch	Overton	Wagner
Connally	King	Radcliffe	Walsh

NAYS—34

Ashurst	Caraway	McGill	Robinson
Austin	Frazier	McKeller	Schwellenbach
Bailey	George	McNary	Smith
Bankhead	Gibson	Murray	Steiwer
Barkley	Hale	Norbeck	Townsend
Bilbo	Hastings	Norris	Wheeler
Bone	Johnson	Nye	White
Byrnes	Keyes	Pittman	
Capper	McAdoo	Pope	

NOT VOTING—13

Barbour	Couzens	Holt	Thomas, Utah
Black	Dickinson	Long	Thomas, Okla.
Copeland	Harrison	McCarran	
Costigan	Hayden	Murphy	

So Mr. DUFFY's amendment to the amendment of the committee, as amended, was agreed to.

Mr. TYDINGS. Mr. President, while the senior Senator from South Carolina is on the floor, and in order that a question brought out by the bill may receive brief comment from him, I should like to ask him if he will turn to page 14 of the bill, at the bottom of the page? I understand that section (D), beginning in line 18, is probably desired by the majority of the milk producers of the country.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. TYDINGS. Yes.

Mr. NORRIS. Has the Senator any objection to the pending committee amendment?

Mr. TYDINGS. I have not, except that the whole philosophy of the measure is involved in this provision, and I am using it in order to make an inquiry.

I am going to read, on page 14, line 18, section (D):

(D) Providing that, in the case of all milk purchased by handlers from any producer who was not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing for 3 full calendar months from the first day of the next succeeding month, shall be made at the price for the lowest use classification specified in such order.

In my State we have such an arrangement by agreement between the producers and the distributors, I understand, with the consumer being represented.

I am not attacking the merit or the wisdom of the provision. What I am asking is, can anyone show under what authority in the Constitution we have the right to fix the price of milk produced in South Carolina and sold in Charleston, S. C. Certainly, if the decision in the N. R. A. case is to apply to this bill, the bill is manifestly going to be held to be unconstitutional by the highest court, and all our work will have gone for naught.

Mr. SMITH. Mr. President, if the Senator will turn to page 10, beginning with line 17, he will understand that the provision of the bill which he has just read is governed by this clause:

Only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

I will state to the Senator that there are those here who are vitally interested in and who are a good deal more familiar with the complex question of milk handling and distribution than am I. I dare say that this matter gave the Agricultural Department, and certainly it gave the committee, more trouble and was worked on more diligently than any other provision of the bill. As the Senator says, in his State, in order to protect the regular customers, outsiders are not permitted to take advantage of any exigent condition and come in and destroy the market. This provision, of course, is subject to the limitation as to interstate commerce and also to the cooperation of the States, where they desire to cooperate. The provision does not in any way affect the right of any citizen to use all the markets available to him, but will be subject, of course, to the power under the Constitution to regulate interstate commerce.

Mr. TYDINGS. I thank the Senator from South Carolina, who has answered my question quite clearly.

I am not attacking the merits of a proposition of this kind; on the contrary, I can see ample reason for it, and I am not attacking the proposition as an enemy of what is sought to be done by that section of the bill. I am only attempting to point out that, in my humble and very fallible constitutional judgment—for I do not argue constitutional questions on this floor very often—that provision is not worth the ink which is necessary to print it, because the Congress has no more authority, whether the States agree or do not agree, to enforce a national law which attempts to fix the price of milk, we will say in Charleston, S. C., if that milk is produced in South Carolina. There is no warrant for it in any decision of the court of which I know and, therefore, in my judgment, we are writing something that in a year or a year and a half from now will find its way to the highest tribunal and in all likelihood it will be held to be invalid.

My purpose in bringing out this point—and it has already been discussed more or less on the floor—is to ascertain whether or not we want to take time to set up an agricultural policy which many men who are friendly to the philosophy of this particular section feel will not stand the test when the test comes.

Mr. NORRIS. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Nebraska?

Mr. TYDINGS. I yield.

Mr. NORRIS. I am certainly not finding fault with the Senator in his constitutional argument on this question. If the Federal Government should undertake to do what the Senator has described and in Charleston fix the price of milk which was produced in South Carolina, it would be an unconstitutional undertaking. There is no intention to do such a thing.

The operation of the milk provision, as the chairman of the committee has said, is one of the most difficult things possible; but unless the milk business be regulated, the situation can become most harmful and disastrous to the producers. The Senator says those interested are operating in his State under an agreement just like the one here proposed.

Mr. TYDINGS. That is true.

Mr. NORRIS. Mr. Davis went into considerable detail before the committee in discussing the situation. It is not intended that Mr. Davis, as administrator, or the Federal Government shall under any circumstances undertake any procedure which would affect the price of milk in intrastate markets unless it is done in cooperation with the State authorities.

Suppose, in the case the Senator stated, the Federal Government did not cooperate with the South Carolina authorities. Then those engaged in interstate commerce would in turn be able to put out of business the intrastate men. We thought this provision necessary in order to enable the interstate part of the milk market in Charleston to be controlled by the Federal Government, letting the intrastate part be controlled by the authorities of the State of South Carolina. By working in harmony they could produce good results. I believe the Senator from Maryland will admit that. There is no intention to do anything else.

Mr. TYDINGS. In view of the explanation made by the Senator from Nebraska, if it would work out that way——

Mr. NORRIS. I am not sure that it would, and I think no one can be sure; but I think the only way to find out is to try it.

Mr. SMITH. This is an attempt to make it work.

Mr. TYDINGS. My thought in reading that provision—and I did not necessarily connect it with the amendment on page 10—was that it would be silly, taking section (D) alone, for us to say we would do something which, when the question got into the courts, we would promptly find we were not able to do. My interest is not primarily to oppose the section, because in Maryland such a plan worked very well and has been fair to producer, distributor, and consumer under the agreement.

I am a little concerned, but I do not think it need be great concern, as to whether, if interstate shipments should not be included, they would affect to any great extent the existing agreement covering the intrastate milk business. However, I think that an effort has to be made to regulate interstate shipments, and in view of the explanation of the chairman of the committee and the Senator from Nebraska I shall not interpose further objection to the provision.

Mr. BORAH. Mr. President, I did not exactly understand the explanation of the Senator from Nebraska [Mr. NORRIS]. Is it the intent to combine the two powers, interstate and intrastate, in seeking in any sense to control the intrastate action through the Federal Government.

Mr. NORRIS. I think that is correct. The milk question is one of the most difficult to handle.

Mr. BORAH. Yes; I realize that it is.

Mr. NORRIS. Let us take the city of Baltimore, in the State of Maryland. It is desirable to regulate the sale of milk and not have somebody come in and put others out of business by first making too low a price and later raising it to a higher level. The State of Maryland can make regulations about the sale of milk in Baltimore if the milk is produced in Maryland. But if the milk is produced in South Carolina and shipped into Baltimore, then Maryland has no control over that interstate shipment.

If the Federal Government had no authority to go into the milk problem it could not help the State at all, but if it had such authority, and we seek to give it that authority here, then if the Federal authorities and the Maryland State authorities worked in harmony they could completely control the milk situation in Baltimore. As I understand, that is what the section is trying to accomplish. It is admitted to be difficult. It is admitted that it involves some close questions of constitutional law.

However, it is desirable and admitted on all hands, except perhaps by a few producers who might want to drive somebody else out of business, that we should have this regulation. The intention is for the Federal authorities, in a case like that of Baltimore, and in similar cases all over the United States in the larger cities, to get in touch with the State authorities and try to work in harmony with them to control the situation.

The PRESIDENT pro tempore. The question is on agreeing to the amendments of the committee, as amended, on pages 11 and 16. Without objection, the amendments, as amended, are agreed to.

Mr. LONERGAN. Mr. President, I send to the desk two amendments which I ask to have stated.

The PRESIDENT pro tempore. The first amendment submitted by the Senator from Connecticut will be stated.

The LEGISLATIVE CLERK. It is proposed on page 29, after line 20, to insert the following new paragraph:

(B) No order shall be issued under this act prohibiting, regulating, or restricting the advertising of any commodity or product covered hereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

Mr. BORAH. Mr. President, before we go to that, may I ask the status of the amendments on page 11 with which we were dealing?

Mr. SMITH. Mr. President, I call attention to the fact that the hour having expired, the first amendment passed over is in order; and I ask that the amendment of the Senator from Connecticut [Mr. LONERGAN] be temporarily withheld until we dispose of the amendments which have been passed over. I refer now to the amendment on page 11, where the committee struck out "and not including fruits for canning."

The PRESIDENT pro tempore. The Chair will state the parliamentary situation. The debate by the Senator from Maryland [Mr. TYDINGS] had ceased, and the Chair stated that the question was upon the adoption of the committee amendments, as amended, on pages 11 and 16, and that without objection they would be agreed to.

Mr. GEORGE. Mr. President, the Senate misunderstood the Chair. I was listening attentively to the statement by the Chair; and while the occupant of the chair has correctly stated his language, that immediately followed a vote simply eliminating hops; and I assumed that the purpose was to deal only with the part of the amendment on which the vote had been taken.

Mr. SMITH. The part of the amendment which was passed over was the amendment in reference to whether fruits for canning should be excluded or included.

Mr. GEORGE. Yes; so if adverse action has been taken upon the amendment proposed by the Senate committee to the House text in line 4, page 11, I ask unanimous consent that it be reconsidered.

The PRESIDENT pro tempore. The language referred to by the Senator from Georgia in lines 4 and 5 of page 11 was not under consideration. Its consideration was suspended for 1 hour by unanimous consent. It is now before the Senate for consideration.

Mr. MCNARY. Mr. President, I do not know what action was taken a moment ago, or just what statement was made by the occupant of the Chair. The two products mentioned on page 11, line 6—soybeans and hops—were cared for by a vote of the Senate. The question now should recur upon the next item, package bees.

The PRESIDENT pro tempore. The committee amendment is in one clause. That clause was amended by striking out "hops." Then the question recurred on the amendment as amended, and it was adopted.

Mr. MCNARY. Oh, no; if that was done, it was not done with forethought.

The PRESIDENT pro tempore. The Chair is not responsible for the forethought of Members of the Senate.

Mr. MCNARY. I am not responsible, either. I am now speaking about proper legislation and the form it should take. We all know that each one of these commodities must be acted upon deliberately and according to the rules. It is not possible, under the rules, to say from one page to another that action was taken. If such a thing does appear in the RECORD, I ask unanimous consent that the vote by which the action announced by the Chair was taken be vacated.

The PRESIDENT pro tempore. Let the Chair make a statement in answer to that suggestion.

The committee amendment under consideration was to insert the words "soybeans, hops, package bees and queen bees, poultry" before the words "and naval stores, as included in the Naval Stores Act and standards established thereunder." That was the committee amendment. It was amended by the Senator from Oregon by inserting, after the word "hops", the words "not including products thereof", which was agreed to. An amendment by the Senator from Wisconsin [Mr. DUFFY] was adopted, striking out the word "hops."

Naturally, after being amended, the question recurred on whether or not the Senate would adopt the committee amendment as amended. The Chair stated that that was the question before the Senate, and that, if there was no objection, it would be adopted.

Now the Senator from Oregon has asked unanimous consent that the vote by which the committee amendment as amended was adopted be reconsidered. Is there objection?

Mr. FLETCHER. Mr. President, I inquire of the Senator from Oregon whether he objects to any of those items.

Mr. MCNARY. I may not object; other Senators may; but we cannot legislate in that wholesale fashion and have our action record the views of the majority of the Senate.

The PRESIDENT pro tempore. The question is, Is there objection to the request of the Senator from Oregon?

Mr. CONNALLY. Mr. President, reserving the right to object, is the request of the Senator from Oregon merely that the committee amendment be reconsidered, but not the amendment of the Senator from Wisconsin?

Mr. MCNARY. Oh, no; I am not trying to revive that.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Oregon? The Chair hears none, and the vote by which the amendment as amended was adopted is reconsidered. The question now is on the committee amendment, as amended.

Mr. SMITH. Mr. President, I call attention to the fact that in the first paragraph on page 11, line 4, the committee struck out the words "and not including fruits for canning." That amendment was passed over for 1 hour for the purpose of allowing the Senator from Georgia [Mr. GEORGE] to be present at the time of its consideration. The hour now having elapsed, I ask that the amendment be considered at this time.

The PRESIDENT pro tempore. The Chair will state that the pending question before the Senate is on the adoption

of the committee amendment just referred to as amended. Does the Senator desire to take up some other matter?

Mr. SMITH. Mr. President, a parliamentary inquiry. Since we reserved that amendment for separate consideration, would it be proper now to dispose of the italicized part beginning with "soybeans"?

The PRESIDENT pro tempore. Without objection, then, the pending amendment will be temporarily set aside, and the question will recur on the amendment in line 4, page 11, striking out the words "not including fruits for canning." Is there objection to that? The Chair hears none.

Mr. GEORGE. Mr. President, I rise for the purpose of saying that I hope the Senate will reject this amendment and restore to the bill the original text as passed by the House.

In the first place, as it seems to me, there can be no real reason for including canned fruits within the operation of this bill, because, under the orders which the administrator is authorized to issue, the price of fruits to the grower or producer may be and can be fixed. Certainly under the committee amendment the producer's price can be fixed on the portion of the crop purchased by the canner as well as upon the portion of the crop of fruits covered by this bill that is disposed of as green fruits.

I do not think there can be any serious question about that; but if there is a question on the part of the proponents of the bill, or those who have it in charge, I respectfully invite attention to the provisions of the bill as they appear on page 18, line 13, subsection (F), which authorizes the fixing of a minimum price which anyone, including a canner, must pay to a grower for the raw material he purchases.

That this power is absolute, even though against the will of any and all canners, is clearly set forth in the bill on page 21, lines 3 to 25, inclusive, and page 22, lines 1 to 25, inclusive, and page 23, lines 1 to 6, inclusive.

The existence of such power is clearly evidenced on page 9 of the report of the committee itself; and it will be observed that canners may be brought under marketing agreements without their consent. It does not require cooperation.

I read from the report of the committee:

> Without such consent of the handlers to be covered thereby, a proposed order may become effective only if the Secretary of Agriculture, with the approval of the President, finds (1) that the failure of the requisite number of handlers to sign a marketing agreement, upon which a hearing has been held, tends to prevent the effectuation of the declared policy; (2) that the issuance of the proposed order is the only practicable means of carrying out the declared policy; and (3) that the issuance of the proposed order is approved or favored by at least two-thirds, by number or volume, of those producing the commodity for market.

So, Mr. President, so far as the price of green fruit is concerned, this bill authorizes the fixing of the price to the producer, and it authorizes the fixing of the price without the consent of the canner and against his will. Therefore there can be no legitimate reason for bringing the canners under the jurisdiction of the Department of Agriculture and of the A. A. A. Administrator, so far as the price to the producer of the fruit is concerned.

Is there any other legitimate purpose of the act? Is there any other just reason why a valuable food product should come under the jurisdiction of such an official, when it has paid to the producer the price that has been fixed under the law, and fixed even for the canner himself, and which he cannot avoid, because he may be involuntarily compelled to come within the terms of the order?

Mr. BANKHEAD. Mr. President, may I ask the Senator a question?

Mr. GEORGE. I yield to the Senator from Alabama.

Mr. BANKHEAD. How can the price agreement be enforced on the canner unless he is subject to the orders?

Mr. GEORGE. How can a price agreement be enforced upon anybody?

Mr. JOHNSON. Mr. President, pardon me. What is the question that was asked? We could not hear it.

Mr. BANKHEAD. The Senator from Georgia, as I understood him, was making the argument that the price for the producer having been fixed, that price controlled the canner; he was obliged to pay the price fixed for the producer. The question I ask the Senator is how the canners can be obliged to pay the price if they are exempt from the operations of this measure.

Mr. GEORGE. They are not exempted from the operations of this measure. They are brought in against their will. They may be covered under the agreement upon the finding of three simple things which, of course, will be found. How is anybody going to be made to pay the price? If that is what the Senator means to ask, I desire to say frankly that it cannot be done, because the price of any article moving in interstate or intrastate business cannot be fixed unless it be affected with a public use.

However, I am waiving that question, which I am not arguing, I am saying that under the bill the price which must be paid to the producer of fruits is fixed, and it brings the canners who purchases fresh fruit under this provision, because here is a provision which expressly says that though a majority of the handlers do not agree, the Secretary of Agriculture, with the consent of the President, may bring them under the marketing agreement.

Mr. HATCH. Mr. President——

The PRESIDING OFFICER (Mr. MURPHY in the chair). Does the Senator from Georgia yield to the Senator from New Mexico?

Mr. GEORGE. I yield.

Mr. HATCH. I merely desire to ask a question, because I know the thought was expressed in the committee, as I recollect, that if the amendment proposing to strike out the words "not including fruits for canning" were rejected, that would constitute an exception of fruits for canning which would go throughout the entire bill, and all the orders and marketing agreements and prices to producers could not be fixed if the fruits were to be used for canning purposes.

Mr. GEORGE. Of course; and that is the reason why I am asking that we reject this amendment, because there is no substantial necessity for including the canners when the price of the fruit to the producer is fixed.

Mr. HATCH. The point I was making is that the price would not be effective to the producer.

Mr. GEORGE. Will the Senator tell me why it would not be effective if the price at which the fruit is to be sold to anybody will be effective?

Mr. HATCH. If the words "not including fruits for canning" were inserted in the bill as in the House measure, that would constitute an exception for all purposes.

Mr. GEORGE. Exactly.

Mr. HATCH. That was the thought expressed in the committee.

Mr. GEORGE. That is true, and that is why I am asking that this amendment be rejected. But the bill does authorize the fixing of the price to the producer. Then there is an effort made to bring the canner of fruits under the terms of the bill so that the price of the canned product itself may be fixed.

Mr. BANKHEAD. Let me suggest to the Senator that it does not bring the canners under the bill except so far as the effect of the fruit for canning is concerned.

Mr. GEORGE. That is true, of course.

Mr. BANKHEAD. It does not bring the canners directly under it. The bill, as it passed the House, excepted fruits for canning, just as it excepted apples.

Mr. GEORGE. Exactly.

Mr. BANKHEAD. And therefore took them wholly out of the bill.

Mr. GEORGE. That is, fruits for canning purposes.

Mr. BANKHEAD. Yes; fruits for canning, just as it did apples.

Mr. GEORGE. Yes.

Mr. BANKHEAD. So that if we leave the House language, then we eliminate entirely any program covering fruits used for canning purposes.

Mr. GEORGE. That is so far as controlling the price or making allocations are concerned.

Mr. BANKHEAD. It just takes them out of the bill, just as apples have been taken out.

Mr. GEORGE. It does not take fruits out.

Mr. BANKHEAD. No.

Mr. GEORGE. But canners would not be brought within the bill if the House language were agreed to.

Mr. BANKHEAD. It would not. It is "fruits for canning", as the Senator from New Mexico pointed out.

Mr. GEORGE. That is true. I may not have made myself very clear.

Mr. HATCH. I am afraid I did not make myself clear.

Mr. GEORGE. I think I understand the Senator's position, and perhaps I was at fault because I did not make my own position clear. My position is that the price of fruits to the producer may be fixed under the bill.

Mr. BANKHEAD. Except for canning purposes.

Mr. GEORGE. If the House language is taken, except for canning purposes. If the Senate amendment is taken, of course, even for canning purposes.

Mr. BANKHEAD. They are fixed.

Mr. GEORGE. They are fixed for the producer.

Mr. BANKHEAD. That is correct.

Mr. GEORGE. Let me ask the committee again, in order that I may understand the situation; if canners are brought under the bill, are not other provisions of the bill relating to handlers made applicable to the canners and to the products of the canners?

Mr. BANKHEAD. I think so, so far as paying the price is concerned. I call the Senator's attention to the beginning of this section, on page 10:

COMMODITIES TO WHICH APPLICABLE

Orders issued pursuant to this section—

Which covers the whole order program—

Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof.

Certain ones are listed and then there appears the clause "and not including fruits for canning." So if the House language is left in the bill, as I previously pointed out, we simply eliminate entirely from the producer's standpoint and from every other standpoint all power of any sort to control, under this order program, fruits used for canning.

Mr. GEORGE. Mr. President, I am asking that the Senate reject the Senate committee amendment and let the House language stand, because I cannot see any practical necessity for the amendment that will equal or offset the very great disadvantages which may be placed upon consumers and may be placed upon the industry itself in sections of the country where the industry has not been developed by the adoption of the amendment made by the Senate committee to the House text.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. CONNALLY. Is it the Senator's contention that elsewhere in the bill there is an effort to control the price of fruit after it is canned?

Mr. GEORGE. Oh, yes; I think undoubtedly that is the effect of the bill.

Mr. CONNALLY. May I ask the Senator from Alabama if that is also his view?

Mr. BANKHEAD. I think under the bill as it passed the House fruits for canning are entirely eliminated from the bill.

Mr. GEORGE. The Senator means if the Senate committee amendment is agreed to?

Mr. CONNALLY. No; I mean if we restore the language as the Senator desires, does he contend that the Secretary would then have jurisdiction over the price of the canned fruits?

Mr. GEORGE. That is the effect of the bill.

Mr. BANKHEAD. I do not agree with that.

Mr. GEORGE. That is the effect.

Mr. BANKHEAD. The object is to give the producer the price.

Mr. GEORGE. The effect of it is also substantially to control the price of the canned goods.

Mr. CONNALLY. I see the Senator's point, but on the other hand, if we restore the language of the House, it would seem to me legally that it would absolutely operate to exclude from the operation of the law any fruit intended for canning.

Mr. GEORGE. It would.

Mr. CONNALLY. Therefore the Secretary could not, by agreement or otherwise, fix the price of the fruit, provided it was going to be used for canning.

Mr. GEORGE. That is true if the House text is taken.

Mr. CONNALLY. So there would be no control whatever.

Mr. GEORGE. That is true.

Mr. CONNALLY. If the Department has control of that kind of fruit, inevitably it is going to react upon the price of other fruit, because if it is kept a little while it will deteriorate, and no longer be good for anything except probably for canning. Why could not the Senator accomplish his object by offering an amendment making it clear that after the fruit has once been canned then the Department shall have no jurisdiction over it? I am inclined to vote with the Senator on that, but I am not inclined to vote with him to exempt it because it is simply to be used for canning, for the canning industry is well organized, and if we remove any control of the price, it is going to play havoc with the producer. After anyone has bought it and paid the producer, he ought to be able to sell it in the market as he sees fit.

Mr. GEORGE. There are so many restrictions under the bill, allocations and marketing areas, that substantially the price is fixed. There can be no escape from that conclusion.

Mr. CONNALLY. Why could not the Senator use the language, "not including canned fruit", or "not including fruit after it is canned"?

Mr. GEORGE. I do not know how an appropriate amendment could be drawn unless there should be a general exception of canned fruits from the operation of the entire bill.

Mr. CONNALLY. That is not what the Senator is asking.

Mr. GEORGE. No; I am not.

Mr. CONNALLY. He is asking to exempt fresh fruits.

Mr. GEORGE. I am.

Mr. CONNALLY. If he will exempt canned fruit, I am with him.

Mr. GEORGE. I am asking first that fruits for canning be exempted from the act for the reason that the canned-fruit industry of this country is confined very largely to a small geographic area. If the growth of a fully matured man is fixed, it does not hurt him, but if his growth is arrested when he is a boy of 10 or 15, then he is destroyed. That is exactly what this bill does. It gives to a few, one or two of the Western States, a stranglehold upon the canning industry of the country. That is precisely what it does. That is what it is intended to do, in my honest opinion.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. NORRIS. I know the Senator does not desire to misrepresent anyone, and when he says it is intended to do that thing, I want to object.

Mr. GEORGE. I do not mean by the committee, but I mean by those who have asked for this particular amendment.

When the bill was first presented to the Senate I inquired of the chairman of the committee as to who asked for the amendment. I am not imputing bad faith. It is simply the desire of those who virtually have a monopoly to keep it.

Mr. NORRIS. Did the Senator receive an answer to his question?

Mr. GEORGE. I received the answer that it originated with the committee, that is to say, that there was no particular person back of it.

Mr. NORRIS. I will be frank and state to the Senator that, so far as the action of the committee is concerned, the amendment striking out the words "and not including fruits for canning" was upon my motion. I am not ashamed of it. I do not apologize for it.

Mr. GEORGE. I am not asking the Senator to apologize for it; but the effect is to give to one or two States practically a control of canning or production of fruit for canning.

Mr. NORRIS. As a matter of fact, Mr. President, so far as I know, there is not a constituent in my State who has asked for it or written to me about it. I may be very ignorant and very dense, but I had no knowledge whatever as to any

fruit industry in which my constituents may be interested. I was influenced by what, in my ignorance, I supposed to be a fair deal. It seemed to me, and it seems to me now, notwithstanding the very forceful argument and some insinuations——

Mr. GEORGE. I did not mean to make any insinuation, if the Senator from Nebraska will pardon me. I will withdraw any insinuation; but I repeat that the effect of the bill is to give one or two States a practical control of canning, in my opinion.

Mr. NORRIS. I have no objection to the Senator saying that, of course.

Mr. GEORGE. And I am proceeding with my argument on the theory that whenever an industry is fairly well developed within a given locality of the United States, to arrest the development of that industry in other sections of the United States is to continue the control enjoyed by the few States.

Mr. NORRIS. Mr. President, will the Senator yield further?

Mr. GEORGE. I yield.

Mr. NORRIS. It will only take a sentence or two to let the Senator understand why I believe as I do. My belief is based entirely on the proposition that fresh fruit and canned fruit are to so great a degree in competition that I think, to be fair, they ought to be both included or both excluded. I would just as soon have both of them out as to have both of them in the bill. I am not speaking for any industry. However, if we put in one, we ought to put in the other, as I see it. If we take one out, we ought to take out the other. It is immaterial whether they are both in or both out.

Mr. GEORGE. I appreciate the Senator's view. The view, of course, which the Senator emphasizes is that if the price paid by the canner—who is one of the buyers, of course, of fruits—is to be free, fixed by him at his discretion or will, in accordance with general marketing conditions, we shall have altogether destroyed the purpose of including fruits in this provision of the bill. I can appreciate that.

Mr. President, I desire to call the attention of the Senate to the following provisions of the bill:

On page 16, at line 20, subdivision (A), there is authority for a limitation upon the total quantity of canned fruit or the quantity of any grade or size of canned fruit which a canner may transport or market. I have not any doubt that it will be so construed. This comes under the " orders ", it is true; but if this language remains in the bill the canner may be brought under and made subject to the orders without his consent, merely if the given number of producers ask it—not all the canners. So that the orders to be issued by the Secretary, with the approval of the President, against the will of all the fruit canners, necessarily under this particular subdivision, in these particular lines and page, may be construed to limit the total quantity of canned fruit or the quantity of any grade or size of canned fruit which a canner may transport or market.

Then, again, under subsection (B), page 17, line 1, there is authority to limit the quantity, grade, or size of fruit which any canner may purchase from producers.

Again, at page 17, line 12, subdivision (C), there is authority to allot the amount of canned fruit which any canner may market in each and all markets by sizes and grades or otherwise.

Then, on page 18, line 1, subdivision (D), authority is given to determine the existence and extent of any surplus in the hands of a canner or canners and to take over the control and distribution of such surplus.

On page 18, at line 9, subsection (E), authority is given to establish reserve pools of any canning fruit or any canned fruit and distribute the net returns from such pools.

If the language remains in the bill, as I have attempted to argue in the first instance, subsection (F), line 13, page 18, provides for fixing the minimum price which the canner must pay to a grower for the raw material he purchases; and the power is made absolute, and without the consent of canners, but only upon condition that a specified percentage of the producers of the fruit themselves ask the Secretary of the Treasury and the President to issue the order covering the canners.

Mr. President, I believe that approximately 90 percent, let us say, of asparagus is canned in a single State. The same thing is true, varying only in degree, when other fruits are considered. If approximately 90 percent of a given fruit is canned in a single State, under this bill the industry cannot expand, except in a like proportion, if at all, in the other sections of the United States. That does not seem to me to be fair. It does not seem to me to be just. It does not seem to me to be right, even though the purpose of the bill may be, by the insertion of this particular amendment, to give to the producer a fixed price for his product. In other words, even though the purpose of the bill may be entirely consistent with the object in view and with the original act, and may be altogether desirable, it cannot be necessary to give that advantage to a State which already possesses a virtual monopoly so far as canned fruits are concerned.

To illustrate, let us take the case of peaches, or the case of asparagus, or of citrus fruits, save that the State of Florida has very rapidly become a great canner of citrus fruits.

Now, Mr. President, it becomes necessary for me to speak plainly, and I propose to speak plainly. The Pure Food and Drug Division of the Department of Agriculture has within the last 10 years virtually outlawed peaches canned in Georgia. They did it not upon the ground that the peaches were not good, not that they were not pure, not that they were not wholesome, not that they were not edible, not that they did not possess all the qualities, and perhaps additional ones, of the California peach—I regret to refer to any State, but I must make this argument clear—but they did it upon the ground that in point of appearance the Georgia peaches had to carry a label which virtually excluded Georgia canned peaches from the market, and from that hour canning in Georgia, although it is a great peach-producing State, was arrested. Why? Because this department of government, the Department of Agriculture, or those acting under it, were administering the law partially, notwithstanding the fact that delegation after delegation of representatives and senators came here and protested against the requirement that we must put upon our canned fruit a label which would necessarily result in excluding Georgia canned peaches from the markets.

Senators may say that we may rely upon the Department not to be unfair. I assert now that the Department of Agriculture 10 years ago was unfair and seriously crippled the canning industry of my State with respect to one of its important products. I assert now that they admitted that the Georgia peach was not only as good as any other, but that it possessed qualities which were not possessed by some other peaches; but the Department had their own peculiar standards, and those who had most voice in fixing those standards, and the men who administered the law for the most part did not come from Georgia, had never been in Georgia, and knew nothing about Georgia industry.

One can so easily make partial rules and regulations, and it is so difficult, so very difficult, to meet them, and it is impossible to get a bureau to change its decisions. It will not do it.

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. FLETCHER. The Senator's position is that the language on page 16, line 6, " and not including fruits for canning ", should likewise be rejected?

Mr. GEORGE. That would follow, if the committee amendment were rejected on line 4, page 11.

Mr. President, I have never before made an argument of this kind.

Mr. ASHURST. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. ASHURST. The Senator from Georgia asserted that the Department has been unfair and is unfair. I do not think the Senator need produce any lengthy argument to demonstrate that contention. To read this bill is sufficient

to convince any man who thinks directly of things instead of around things that it is not fair. No American who wishes to be fair will vote to impose a tax of doubtful validity and then urge Congress to deny the citizen the right to go into the courts and test the validity of that tax. I thank the Senator from Georgia.

Mr. GEORGE. I thank the Senator from Arizona for his observation.

Mr. President, I have said that I have never before made an argument of this kind in the Senate. I hesitate to make it.

Mr. BANKHEAD. In order to have the point clearly in my mind, let me ask the Senator a question. I understand his statement to be that the unfair administration to which he referred was in connection with the Pure Foods and Drugs Act?

Mr. GEORGE. I was merely illustrating by that suggestion.

Mr. BANKHEAD. I refer to the particular application which the Senator made as affecting Georgia.

Mr. GEORGE. The particular illustration which I gave related to Georgia.

Mr. BANKHEAD. Under laws which are now on the statute books?

Mr. GEORGE. Yes; under laws which are now on the statute books.

Mr. BANKHEAD. So the law of which the Senator is complaining is already in existence?

Mr. GEORGE. That is true, but this provision will bring canned fruits under the control of the Department if the committee amendment shall be agreed to. I am trying to call to the Senator's attention the provision of the bill which, through allocation, limitation, and restriction, makes it possible to confine the development of the canning industry within those localities or geographical areas in which that industry has already been very largely developed. I do not say completely developed, because the development may, of course, continue; but the progress of the canning industry in the United States has been most seriously hampered because of the partial interpretations which have been made, particularly as to fruits, and also as to some vegetables, as I recollect, under provisions of the Pure Foods and Drugs Act.

Mr. President, who do this? The fresh-fruit market is not, as a rule, controlled by the price paid by canners. The contrary is true, generally speaking, of the Southeast, at least, though I would not say that it is true universally. The supporting element in the market of the Southeast is the canner. He is the man who will contract in advance for fruits, and in some instances for vegetables, and will agree to pay a price. He is the man who, very largely, makes it possible for us to carry on the industry in our section. There is always the canner when the fresh-fruit market goes to pieces and the producers are not able to sell their fruits on that market. I will illustrate my thought. When it comes to melons, let us say, the canning of which has not as yet developed in the Southeast, there is virtually no market upon which the producer may put any reliance or dependence. Time after time in the memory of every man who has grown melons of any kind in the Southeast the producers have loaded their melons onto the cars, unloaded them, and given them away. That is not true in the case of green vegetables where a cannery is available; it is not true where there is some support for the fresh-fruit market. It is not true in the case of asparagus; it is not true in the case of peaches, and would be far less true if the peach-canning industry were further developed; but in the case of melons and fruits, for the canning of which no facilities have been developed, the market is substantially without support, and that market is frequently not only disorganized but it is often destroyed in the midst of a growing or marketing season. So the producers of fruits and vegetables, at least, in the Southeast, will, in my judgment, be seriously hurt if the canners shall be brought under the conditions and terms of this bill. Why?

Canned fruits and canned vegetables in large measure are the fruits and vegetables which are used and consumed by the poor and by those who have but moderate purchasing power.

The greater quantity of our canned fruits and vegetables go into the homes of people of very moderate means. They become almost the only source of supply of fruits and vegetables for many of our people whose purchasing power has been greatly reduced.

Why add to that burden? Why advance the cost of these necessities of life? Why do so when, so far as the fresh-fruit market is concerned, the price may be fixed without reference to this particular amendment? So far as the bill goes, the price may be absolutely fixed to the producer, and anyone who is buying from the producer must pay that price.

It is true, A or B or C, canner or individual, cannot be compelled to buy at that price, but the price is fixed, and the producer is given the benefit of that fixed price; he has his products in his hands, and he may take advantage of that situation to prevent, reasonably at least, any unjust combination on the part of canners to beat down the price of his product and to buy it below the market.

Mr. FLETCHER. Mr. President, may I interrupt the Senator?

Mr. GEORGE. Certainly.

Mr. FLETCHER. The Senator is familiar with the condition in Florida, where we produce grapefruit and oranges in connection with which, particularly in the case of grapefruit, a considerable canning industry has been developed. The Senator knows—and I think he will bear me out in the statement—that much of the fruit used for canning the juice is just as good and healthy and wholesome as is the fresh fruit, but is not available for the fresh-fruit market on account of some discoloration or other defect that interferes with the appearance of the fruit. So such fruit is not afforded a market as fresh fruit, but its use is confined to canning purposes. If the canner should be eliminated and could not take from the grower such fruit, the grower would lose the entire product and would have no market.

Mr. GEORGE. The Senator from Florida is entirely correct. Every person who is familiar with Florida fruit knows that the portion of the citrus fruit crop which goes to the canner to have the juices extracted and canned is perhaps the very best part of that crop in point of fact; but, because it does not meet some standard requirement, of course it is not put on the market in competition with the fresh fruit.

I do not think it can be emphasized too strongly, Mr. President, that the poor of this country, as a rule, cannot pay the prices charged for green vegetables and fresh fruits. They must, very largely, at least, depend upon the canning industry to supply them with their necessary fruits and vegetables.

I would not make the plea that the grower of fruits is not entitled to a fair and just price; but when he is given the power to fix the price of his fresh fruits, and, with that power in his hands, he has also the power to organize, it does seem unfair to a great mass of the consumers of the country that we are asked by the committee amendment to place the canners under the bill, to regulate and control the canners, and therefore, in effect at least, to control and regulate the price to all consumers.

Mr. President, I wish to repeat that under this bill and under the particular subsections to which I have called attention I believe there can be no doubt that the orders which may be imposed without the consent of the canner—bear that in mind; against his will in fact—can and will limit the total quantity of canned fruit or the quantity of any grade or size of canned fruit which the canner may transport or market. If that be so, we may expect a very sharp and rapid advance in the prices paid by those who consume canned fruits and vegetables. If that be so, we may expect those States that already have a fully developed industry to be able practically to prevent the spread and expansion of that industry into other States. Under this bill and under the particular subsection to which I call attention, the order may limit the quantity or the grade or size of fruit which

any canner may purchase from a producer. It does not make any difference about the quality of the fruit; its size may be the determining factor. Furthermore—and this is most important—the amount of canned fruit which any canner may market in each market may be alloted. When we write such a provision in this bill we stifle the industry in any other State where it is being developed or is in process of development.

Mr. President, I earnestly hope that the committee amendment will be disagreed to and that the House text will be restored to subsection 2 of section 8 (c) on page 11 of the bill, and that the corresponding amendments which will then, of course, be necessary may be made in subsequent sections of the bill, to which the Senator from Florida has directed attention.

Mr. President, I wish that every section of this Union had an equal voice in the administration of its laws; I wish that were true, but I would not be candid with the Senate if I did not say that not an important office, not an office carrying policy-fixing power in the division that will administer this proposed provision of the bill, is held by any man from my State.

Mr. KING. Or any man elected by the people.

Mr. GEORGE. Yes; or by any man elected to office. That will be the story over and over again. It may not be an argument that should be made, but it is the fact. With a State now canning within its borders 89 percent of the canned asparagus, and having a correspondingly high percentage of other fruits and vegetables grown and canned within its borders, and with a bill here which simply puts the halter around the neck of the industry to prevent its expanding in any other part of the country, I think the South and Southeast—I even feel emboldened to say a single State—may properly come to the Senate and ask that this provision be stricken out of the bill and the House text retained by the Senate.

Mr. JOHNSON. Mr. President, it is very natural that the distinguished Senator who has just taken his seat should speak on this question from the standpoint of the State which he represents. It is equally natural that I should speak from the standpoint of the State I represent.

I express my very deep regret that the Senator's State has been treated in the fashion he suggests in respect to the glorious peach which he described. I would go with him any length in order to rectify a wrong of that sort or to do aught that might be done to see that justice be accorded him, and accorded him most fully. But, sir, the objections he presents to the amendment here before us, an amendment which is submitted by the committee after due deliberation, are not in reality objections to the amendment. The objections he has are objections to the bill. As I followed him in what he has said in that regard, he insists that the administration of the bill by those who may not be familiar with his particular territory is what he fears may result in wrong in his territory or what he fears may result in injury to the industries of his State.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Utah?

Mr. JOHNSON. I yield.

Mr. KING. I do not want to misunderstand the Senator. My understanding of the basis of the argument of the Senator from Georgia—and I came in from a committee meeting just before he concluded—was that he was pleading not only for his State, but to have a uniform rule throughout the United States, namely, that fruit which is canned should not come within the operations of the bill. He did not confine it to his State alone, but to all States, including the State of the Senator from California.

Mr. JOHNSON. Mr. President, let me suggest that I would not for the world misstate what was said or indulge in any intent to cause misapprehension of what was said by the Senator from Georgia. I think that accurately I stated the conclusion which might have been drawn from the remarks he made.

However that may be, the committee comes here with an amendment which we believe ought to be sustained. It is an amendment which puts fruits which are canned in the same category as other fruits—fruits which are not canned. That that should be so, anyone familiar with the fruit industry ought, it seems to me, readily admit.

In some States, I grant, there is not a friendly feeling between the canners on the one side and producers on the other. In other States, I grant, there is a relationship between canners on the one side and producers on the other which may render them desirous of carrying out the views of either one side or the other.

In the State from which I come the fruit industry is so great that interrelated are the proceedings and the sales and the activities of green fruits and those which subsequently may be canned. That the fears of the canner are wholly fanciful will be demonstrated by a knowledge of what is sought to be done by the bill in the provision under discussion. We seek, in this particular provision, relating to commodities to which the bill may be applicable, to list those things which will come within the purview of the bill. These provisions relate to marketing agreements.

Marketing agreements can be made only if 50 percent of the canners in the one instance shall agree or two-thirds of the growers or producers in the other instance shall demand it. If, as in the State of Georgia, the producers are in such relationship to the canners that they feel their interests are one, no marketing agreement can ever be consummated, because two-thirds of the growers are required in order that it shall be consummated or, on the other hand, one-half of the canners.

If, in a State like that from which I come, there are differences existing between the canners on the one hand and the growers on the other, exactly the same situation prevails. Marketing agreements, therefore, need never be feared by any State where canners and growers are in accord and where they are acting in concert, as the Senator from Georgia would indicate they are acting in concert in his State.

What is more reasonable? I am not going to argue the merits of the bill nor speak of those provisions concerning which the Senator from Georgia has spoken, which, in his opinion, make the bill one which ought not probably be passed. I am not going to argue now in reference to any of those provisions which he thinks may be administered by those who are not familiar with his particular territory. But I ask, if we adopt this measure, if we make it applicable to agricultural products, on what theory shall we make it applicable to a part of the fruit-raising agricultural productivity of particular States and not applicable to other parts?

Where such quantities of fruit are produced, as in my State, of course we must take into consideration in any legislation relating to the subject matter not alone the green fruit which is but a part of that which is raised, but the very great and considerable quantity of canned fruit which results therefrom. It is perfectly obvious that if we deal with only a moiety of fruit thus produced and do not deal with the other part of the fruit thus produced, we will have chaos so far as marketing conditions are concerned and difficulty under a bill such as is presented here today.

Much was said by the Senator from Georgia about production in a single State. What of it? I cannot see that it is either something that is derogatory to a State or something that should be apologized for by anybody coming from that State. I have no apology, of course, to make in that regard. Consider the fruits and other commodities which are canned in this country. All the canned apricots are produced in the State of California; all the canned olives are produced in the State of California; from 97 to 99 percent of the canned peaches are produced in the State of California. What State, therefore, has a greater interest in this bill and in the endeavor to give a market to that which comes from the soil than has the State which

thus produces and thus cans such an extraordinary proportion of that which is consumed in and that which is exported from the United States? So, with the knowledge of what is done in the State of California, with its productivity conceded and admitted, with the statistics demonstrating just what I have said, why should not the State of California stand here and express its views as well as the State of Georgia upon a subject matter of this character, which means such extraordinary things in the agricultural life of that State?

Something was said by my friend from Georgia about asparagus. Do Senators realize where the greatest amount of asparagus is canned in this country? In California, in 1934, 1,914,000 cases were canned. Do Senators realize what percentage that is of all the asparagus that was canned in the United States? It is 89 percent of all that was canned in the United States.

So, of course, I endeavor to present an amendment here in relation to asparagus by which it shall be in a different category from vegetables generally, as stated in the clause on page 11 of the measure; and I present it because the asparagus growers desire it; and I state here on behalf of the fruit growers of the State of California, who produce such an extraordinary proportion of the canned fruits of this Nation, that they desire that their product, when it goes into the cannery, shall be put upon a parity with their product when it is of a different character, and that it shall be treated under this bill exactly as all fruits are treated under the bill. There is nothing in that which strikes me as being in the slightest degree something that ought not to be done, nor anything that requires caviling or criticism from any source, of any character, or under any circumstances.

What is it that is desired? Solely that as the process goes on with the fruits of the State, as they are finally canned in such an extraordinary amount, that product shall be in exactly the same relationship to the law it is sought to pass as the remainder of the fruit may be.

That is all there is to this amendment.

Mr. TRAMMELL. Mr. President, I understand that as the House passed this bill it was provided that fruits for canning purposes should not be included within the provisions of the measure. The Senate committee proposes to amend the bill by striking out that provision, which would subject fruits for canning purposes to the imposition of the various rules and regulations contained in the bill.

In Florida the canners have succeeded in making remarkable progress during a period of some 10 or 15 years since the industry was established in that State, and I understand they are getting along nicely at the present time in spite of the depression. The fruit growers of the State have made no complaint whatever that the present Agricultural Adjustment Act does not apply to fruits for canning purposes. This amendment seeks to require that all the fruits used in canneries shall be subjected to the terms of the bill, just the same as the fruit that is placed on the general market.

I am unable to see why the fruits sold to the canneries should be subjected to these provisions. In my State both the producers and the canners are against having them included. There is a difference in the grade of fruit used for canning and that shipped in to the general market.

Mr. BANKHEAD. Mr. President, will the Senator allow me to ask him a question?

Mr. TRAMMELL. I will.

Mr. BANKHEAD. I should like to ask the Senator if he thinks it is unreasonable to provide a plan under which the producer may get a decent price for his fruits, even though they are bought for the cannery?

Mr. TRAMMELL. The producers are very well satisfied with the present plan. Of course, if we are going into details, I will say that in my State they did go under this proposal to obtain decent prices, as the Senator states. They did not obtain decent prices. They have become weary of the system and have withdrawn from the system. That is the result among the producers in Florida. They have withdrawn from it.

It is one thing to say we are going to get decent prices for the producers, that we are going to promote the interests of agriculture, and we are going to promote the interests of the fruit growers; but obtaining those beneficent results is another thing. I cannot go into details, but I know that the people of my own State have decided that they were getting no benefits by reason of the trade agreements affecting fruits being under the provisions of the present law; and the citrus-fruit growers of Florida generally, producing under ordinary circumstances approximately 36,000,000 boxes of fruit per annum, have recently withdrawn from such agreements.

There is no one from my State who is asking for this amendment. The producers are perfectly content and satisfied to remain outside of the bill, and they are satisfied to be let alone in regard to the fruit which is supplied to the canner.

The canners in my State have been a great aid to the citrus-fruit growers, the pineapple growers, and others. They have purchased a great quantity of fruit and utilized it in that way, and thus have removed the necessity for placing such a great surplus of fresh fruits in the usual channels of trade. I do not know of any reason whatever for this measure, by means of which we are trying to assist the agricultural interests of the country, except that there are surpluses that have to be cared for.

That is true of cotton; that is true of wheat; that is true in regard to fruits. The question of proper, systematic marketing at least comes into it; and I myself, conforming to the wishes of the producers of my State, hope that the Senate will reject the amendment proposed by the Senate committee and allow the text to stand just as it was in the House bill as it came to the Senate.

I am speaking, of course, as one of the representatives here of a very large fruit-producing State; but many States prepare for market different kinds of fruits. To say that every time a producer in one of the various States throughout the Union proposes to sell fruit to canners for canning purposes he shall have to place his head in the halter and go through the process required by this bill is, in my opinion, an absurdity. The producers should not be required to subject themselves to the provisions of the measure, which is intended to apply to general industries needing assistance from the Government.

Mr. COPELAND obtained the floor.

Mr. SMITH. Mr. President, will the Senator from New York allow me at this point to call attention to what seems to be a misapprehension of the whole procedure, with particular respect to citrus fruits?

There are three independent sections, not treated collectively but treated separately: the Florida section, the Rio Grande—that is, the Texas—section, and the California section. Neither one of these, except with the consent of the majority of the producers, comes under the terms of the bill. It was brought out, as anyone reading the hearings will find verified, that at any time, even during the marketing season, when a majority of the producers say, "We want to withdraw", all they have to do is to take a vote and they are out. If they want to come in, they can take a vote and come in. There is nothing arbitrary about it. There is no noose for anyone to put his head into unless he makes the noose and puts his head into it.

Mr. McADOO. Mr. President, may I ask the Senator a question?

Mr. SMITH. Yes.

Mr. McADOO. The Senator is addressing himself now to the citrus-fruit provision?

Mr. SMITH. I refer to the provisions of the bill as to canners—any provisions which affect those three sections.

Mr. BYRD. Mr. President, will the Senator yield? The Senator says this is voluntary. I wish to repeat what I said the other day, that the licenses or orders provided for can be imposed by the votes of 50 percent of the handlers of any given commodity without the votes of the producers.

Mr. SMITH. The Senator is referring to a section to which he has offered an amendment, which I think is a very

good one. That refers to a portion of the bill which does not affect this provision. The Senator is referring to the provision requiring certain handlers to reach an agreement, and the votes of 50 percent of them are necessary; and he has offered an amendment including a certain percentage of the producers under that particular paragraph. I have reference now to the question of canning fruits and vegetables. This all comes under the general head of an agreement on the part of the growers. If they vote themselves out, they are out. If they vote themselves in, they are in.

Mr. BYRD. Mr. President, I desire to repeat that the bill does not give to the growers the power to vote themselves in. It gives to 50 percent of the handlers the power to determine whether or not marketing agreements shall be entered into.

Mr. SMITH. That is in relation to the handlers in interstate commerce.

Mr. BYRD. That is in reference to the entire marketing agreements which we are now discussing under the amendments.

Mr. SMITH. I beg the Senator's pardon.

Mr. BYRD. Mr. President, if the Senator will read his own report, on page 3, he will find this statement:

> Under the proposed amendments it is made clear that the Secretary must issue an order whenever the handlers of 50 percent by volume of the commodity to be covered in the order have signed a marketing agreement regulating the handling of such commodity.

Mr. SMITH. Precisely; having reference entirely to the handlers, when it is a question of orders that govern the handlers.

Mr. BYRD. Mr. President, with all due deference to the Senator, he is mistaken about that. The orders which are promulgated regulate the producers just as well as they do the handlers. Under this provision the handlers may initiate the orders whereby the producers will be restricted as to what they shall do, and the Senator's own report plainly so declares.

Mr. SMITH. Mr. President, that has reference entirely to the question of the handlers in marketing. It is absurd to say that an agreement on the part of the handlers has reference to the marketing agreements of the producers. They are two distinct things.

In reference to the particular point at issue, namely, the citrus-fruit question and the production in certain regions, I call attention to the objection of the Senator from Florida [Mr. FLETCHER]. He sent to the committee a letter which we discussed. In the letter he did not indicate that the provision as to citrus fruit would cover all the citrus fruit produced in this country.

It was made clear, and it is so indicated, that Florida is distinct, and is treated as a distinct unit. The Rio Grande production is a distinct unit, as is that of California. So that whatever agreement may be reached in California will not affect Florida or the Rio Grande.

Mr. President, I do not want any misapprehension to be entertained in regard to the bill. On page 22 this language occurs:

> That the issuance of such order is the——

Mr. COPELAND. Mr. President, may I ask whether I still have the floor?

The PRESIDING OFFICER (Mr. ADAMS in the chair). The Chair was in some doubt. The Senator from New York was recognized.

Mr. COPELAND. There was nothing for the Senator from New York to do but to subside. I used to believe we had rules here which protected debate, but apparently they do not now exist. However, I yield to the Senator from South Carolina to go on indefinitely, and sometime I will try to get the floor on my own account.

Mr. SMITH. Mr. President, with abject apology to the Senator from New York, I yield the floor, and will allow him to take it at his pleasure. [Laughter.]

Mr. COPELAND. I would not have denied the Senator from South Carolina the opportunity to make a speech.

Mr. SMITH. I thought it was a courtesy which was extended to the chairman of the committee on a very important point, which he was very ably elucidating for the benefit of the Senate. [Laughter.]

Mr. COPELAND. I will say one more disagreeable thing. If the Senator from South Carolina the next time will ask whether I am willing to yield I shall be glad to yield to him, but I dislike being swept off the floor, as happens too commonly in the Senate. Either we ought to proceed in an orderly fashion or just have a pow-wow all the time.

Mr. SMITH. Mr. President, I apologize and humbly retire.

Mr. COPELAND. The apology is accepted with pleasure.

Mr. President, I am sorry that I represent a constituency which cannot give its full support to this particular measure. If I represented some other constituency, perhaps I could think this bill was wise, but when I know that the enactment of the bill would increase the cost of living and make greater the misery of countless citizens in my State, and particularly in the city where I live, where there is more unemployment than anywhere else, there being there 2,000,000 unemployed, I feel impelled to rise and say a word or two about it.

I know the bill means that every barrel of flour the people buy will cost $1.50 more, that every pound of meat will cost 4 to 5 cents more, and that everything the people consume will be increased in cost, as, indeed, costs have been increased by the law which is now sought to be extended.

Mr. President, I now come to the matter which has been so ably presented by the Senator from Georgia that it seems silly for me to say even a word about it, but we cannot ride through the country anywhere in the fall, when fruits are ripe, without seeing the tremendous waste. Fruits are permitted to drop off the trees and bushes and to rot upon the ground.

Why should there be imposed upon the fruits which may be used for canning another burden of tax in order to prevent their use for such purpose? I wish everybody in the United States could have fresh fruit and fresh vegetables every day of the year, but that, unfortunately, is not possible. Many people are too poor to have fresh fruits and vegetables, taken from refrigerated cars or from refrigerators. They depend upon canned fruits and canned goods of other kinds. That is America. The chief equipment of a home in the United States is the can opener, and every household depends upon canned goods.

An effort is being made to impose a burden upon the food of the poor, and, so far as I am concerned, if I were the only one, I should stand up to resent it and to oppose it. It is not right that we should do it, and I can see no reason why we should do it.

Granting for the moment that it is proper to include under the terms of the bill fine, perfect fruits, that is one thing, but to include those fruits which are to be canned and used in the homes of the poor of the United States, to my mind is a crime against humanity, and I want to enter my solemn protest against the procedure.

Mr. SMITH. Mr. President, in answer to what the Senator from Virginia has called attention to, I was about to read from the bill, and I hope all Senators who are interested will read the text of the bill.

I do not care to enter into any argument at all as to the necessity for including canned fruits and vegetables under the terms of the law, for the reason that the canning of fruits and vegetables constitutes as much their marketing by those who produce them in the raw state as does the marketing of fresh fruits and vegetables.

As to fruits and vegetables being obtained in the canned form for the poor, I do not think it is necessary for me to call attention to the fact that the most notoriously poor people, who actually produce the volume of wealth of this country, are the farmers. The people who produce the vast majority of the wealth of the country, the material out of which the wealth is made, are the farmers, and they are the most notoriously universally poor of all those who actually produce wealth. The volume of the production of the people who produce the material out of which we are all clothed

is the underlying foundation upon which our organized society rests.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. COPELAND. Was the Senator ever in a tenement house?

Mr. SMITH. Yes; I have been, and I am here to state that by some strange psychology there are thousands of people who would rather stay in a metropolitan center, in a tenement house infested with rats and vermin, than to go out and make an honest living in the country. Everybody knows that to be so.

Mr. COPELAND. Will the Senator yield?

Mr. SMITH. There is a stigma attached to farming. The farmer is called the "old hayseed" and the "old farmer." He is the butt of every caricature; he is the sign and symbol of ignorance and incompetency. Thousands of people think it is a disgrace and a lowering of social status to be either classified with or to come into social contact with a farmer.

Mr. COPELAND. Mr. President, will the Senator yield at that point?

Mr. SMITH. No; I am speaking well, and I do not want to be interrupted. [Laughter.]

Mr. COPELAND. I wish to give the Senator an example. I was born on a farm, so I am an example of exactly what the Senator is talking about.

Mr. SMITH. Judging from the Senator's speech, I am afraid he has become an apostate. I will illustrate my point. I am just back from the Senate restaurant. There was not an article on the table that was not produced by those who could ill afford to eat the quality of the things we ate in the restaurant. We might just as well face this thing at one time as another and settle it, if possible.

The farmers of this country are the Chinese of America's organized society. What would happen if in this day of strikes the farmers were to combine and for 12 months strike and not sell a single article produced on the farm? I wonder what effect it would have. I wonder what would be the result. Labor sometimes strikes, and produces disastrous financial and social results; but what would become of the great metropolitan centers of the country if the farmers, in self-respect and self-protection, were to strike and refuse to sell any of the products of the field? Because of their unorganized condition and helpless financial condition, however, they are disregarded here.

We came here and asked for $100,000,000 to help the farmers stay on the farm and make a living for themselves and their dependents. Congress did not provide that amount for them. We proposed to loan the money to them and take a lien on their crops. We haggled about the amount until we cut it down to $60,000,000; and, in spite of the disastrously low prices and the terrific conditions under which they produced, the farmers paid back 99 percent of the money loaned them. Yet, on the other hand, without batting an eye, we appropriated $5,000,000,000, the greater portion of which is to be handed out to those who have not produced and will not produce a single thing for the convenience and advantage of our economic and industrial and organized social life!

I am amazed, as I sit here, that there should be such an attitude as has been exhibited toward organizing some kind of resistance so that the man who produces the material which feeds and clothes the country may have some little opportunity to share in the wealth he produces; yet he is shot at from every side.

Mr. President, with all the opportunities in America for one to make at least a subsistence, it comes with ill grace for any Senator to stand on this floor and demand that the farmer shall still be denied any opportunity to live decently and comfortably in order that those who live in the slums may be provided with a little better living.

I begged Senators when they started to consider this bill to consider it farmer-minded. A majority of us have been away from the farm too long to appreciate the terrible conditions under which the farmers live. I hope this bill will be considered as an attempt to help the helpless; to create a line of resistance where now there is no line of resistance; and if, in the judgment of the Senate, there are provisions of the bill which are not beneficial, and are not sufficient to give the farmer, in his unorganized condition, a chance in this superorganized world, let Senators offer amendments, but let them not come with destructive criticisms.

Because the farmer is not organized and cannot, in an organized body, demand what he wants at the ballot box, he is disregarded. We should sing a different song if he were organized and could speak with an organized backing. We know what the result would be if the farmers were organized.

I am not going to draw any comparisons, but every colleague I have on this floor knows that when certain organizations speak they are heard because they are organized. In their case it is not a question of justice and equity and no discrimination; it is a question of whether or not they will have a telling number of votes if we should dare oppose their demands.

I am pleading here today for a square deal; not a new deal but a square deal, an honest deal; that we on our part shall recognize the condition of the farmer as compared to others, and give him a chance.

Mr. NORRIS. Mr. President, does not the Senator think a square deal would be a new deal?

Mr. SMITH. The Senator has hit it. Yes; I do.

Mr. NORRIS. Mr. President, I confess that I am very much surprised at some of the argument which has been used in relation to this particular committee amendment, and that I am surprised at the heat and even anger which is shown in debate in opposition to this committee amendment. I am surprised there should be such feeling, inasmuch as it seems to me there has never been the slightest idea or tinge of an unfair or dishonest motive actuating the committee in proposing the amendment. It seemed to me that yesterday, and to some extent today, there was amazement in the minds of some Senators that any committee should dare to bring in an amendment of this kind, and there seemed to be an effort to search out who was guilty of proposing such an amendment. It developed only today, upon my own confession, that I was the guilty party who offered this amendment in the committee.

I was dumfounded, when listening to the debate, to hear some of the reasons which were given in opposition to this amendment—reasons which I had never heard of before, which had never occurred to me as existing, and I do not now know why they are offered or why they should exist. Of all the committee deliberations in which I have taken part since I have been a Member of this body or of the House of Representatives I do not recall a single instance, Mr. President, where there seemed to be such an honest endeavor on the part of the committee to do what was right in framing a very difficult piece of legislation. So far as I observed, no one was trying to intimidate the committee; no one representing the Department even tried to suggest how any member of the committee should vote.

I had no constituents interested in this committee amendment, so far as I know. So far as I was concerned, I knew that in my own heart I was moved by no desire to help one industry or to hurt another one. It occurred to me, on the face of the House language in the bill, that there would often be injustices if that language were permitted to remain in the bill.

It is charged that the canning industry is organized. The growers are not so well organized, and in regard to some products they are not organized at all. So if there was any undue advantage attempted to be taken, it was perhaps attempted on the part of the canners. I am not making such a charge, but if such an attempt were made, it would be more apt to be made by the canners.

A Senator can go into the Senate Restaurant and, I presume, get a fresh grapefruit. He probably can get canned grapefruit at the same time. If he cannot get it at that restaurant, he can get it from almost any grocery dealer in the city of Washington. Fresh grapefruit and canned grapefruit are in competition at this moment The House language

which this amendment strikes out regulates one and lets the other go free. I submit that is not fair. No matter what industries Senators have in their respective States or what their interests are, that is not fair. It is like saying to a man who produces oranges, "We will regulate you, but we will not regulate your neighbor."

So it seemed to me that the producers of fresh fruits and of canned fruits ought to be treated alike. I have nothing against either one of them; I have not, directly or indirectly, politically, or in any other way, any interest whatever in the question; but it seems to me, in order to be fair, to regulate one, with the tendency probably sometimes to increase his expenses, and to put no burden whatever upon the other producer would be unfair. So I said include both in the regulation or exclude both from it, and I say that now.

Mr. COSTIGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Colorado?

Mr. NORRIS. I yield to the Senator.

Mr. COSTIGAN. May I ask whether or not the Committee on Agriculture and Forestry was divided on the question of bargaining agreements for fresh fruits?

Mr. NORRIS. No; I think there was no disagreement.

Mr. President, that reminds me that we ought to consider what kind of a bill is the measure pending before us. In the main, it is a bill to assist the producers—the farmers and other producers, if they are not all classified as farmers—to give them a square deal, as the chairman of the committee said; and in order to do it, it is deemed proper, if possible, to have them organized on a basis by which they may prevent unfair and ruinous competition amongst themselves. That is the secret of all production, whether it be of wheat, corn, cotton, fruit, or anything else. That may be wrong. If it be wrong, then the whole policy is wrong; and every attempt to regulate and to help production with the idea of producing prosperity where there is now depression is wrong. It ought, however, to be a sufficient answer to say that in various laws which we have passed we have adopted the theory of helping the producer of food products, and that includes the producer of fruit. We realize that what the Senator from New York said is true in the case of fruit, for instance, and in other lines also; one may go into sections of the country where the fruits are produced and find tons of them rotting on the ground. When we are talking about the poor man, the man who is producing that fruit, we find he has not been able to find a market, perhaps because in some other locality so much fruit has been produced that it cannot be consumed, and he is ruined. That, after all, if one desires to analyze it, is the source, to a great extent, of unemployment.

The pending measure is founded on the theory of helping the producers to avoid such overproduction as will bring ruin to the producers themselves as well as to the consumers; that we shall all go down together if we go down. If the producers and the canners of fruit are competitors in the very nature of their business, then if we regulate the one and let the other go unregulated, we are unfair, as I see it. That is the reason why I offered this amendment; that is the reason I am defending it. I have not heard an argument, coming to the concrete proposition, that has caused me to lose my faith in the justice of the position taken by the Senate committee.

Aspersions to some extent have been cast upon representatives of the Department. The committee was in executive session, as I remember, every day for 2 weeks, and the work was a burden on them. Many Senators had to neglect other duties in order to be present, but they were nearly all in the committee at all times. They were all trying and striving together to frame a good bill. We realized the deplorable condition that confronted the producers of food products in this country; we realized what had happened by virtue of the recent decision of the Supreme Court. The idea was, if possible—I do not know whether we succeeded or not—to meet the situation in the face of that adverse Supreme Court decision.

Some of these regulations and rules are very intricate. I do not believe any man outside, perhaps, the official who is going to administer the law, understands all of them; I confess that I do not; but when we reached this amendment, as was the case with other amendments, the representatives of the Department were in the executive session. We had present with us at that executive session Mr. Davis, who has charge and will have charge of carrying out the provisions of the bill should it be enacted, and also some of his assistants. Never once was there any intimation from any one of those men that they wanted to control a single vote in the committee. Time and time again Mr. Davis said, "That will add to the work if it shall be put in, but we have nothing to say about it; we are going to do the best we can, whether the provision shall be inserted or left out; it is up to Congress to legislate." They told us their difficulties; they gave us the reasons why, if we wanted to have this kind of bill, such and such a provision ought to be put in it; they came there with the attorneys who had defended the original law in the courts of justice, who had studied it in the light of the Supreme Court decision which invalidated the N. R. A. Never once was an intimation made as to how any Senator should vote. I did not get my idea of offering this amendment from anything that came to me from Chester Davis or from any other representative of the Agricultural Department.

I give the Agricultural Department credit—whether they are doing a thing that is impossible or not is different—for honestly and fairly trying to execute the law and trying to help make a law that will meet the decisions of the Supreme Court. All the members of the committee acted that way; everybody proceeded in good faith; and this amendment was suggested, as I have already said, because I believed that the language of the House bill created an injustice that would work harm to the producers of fresh fruits and I did not want to have that done.

I say now, in all fairness, I do not believe we can take canned fruits out of the bill and leave fresh fruits in it. Let us take them both out or put them both in. I do not care very much what is done. If the Senate wants them both to go in, I should like to see them both in, but I should very much dislike to see one go in and the other be kept out.

Mr. TRAMMELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Pope
Ashurst	Copeland	Lewis	Radcliffe
Austin	Costigan	Logan	Reynolds
Bailey	Davis	Lonergan	Russell
Bankhead	Dickinson	McAdoo	Schall
Barbour	Dieterich	McGill	Sheppard
Barkley	Donahey	McKellar	Shipstead
Bilbo	Duffy	McNary	Smith
Borah	Fletcher	Maloney	Steiwer
Brown	George	Metcalf	Thomas, Okla.
Bulkley	Gerry	Moore	Townsend
Bulow	Glass	Murphy	Trammell
Burke	Gore	Murray	Truman
Byrd	Hale	Neely	Tydings
Byrnes	Harrison	Norbeck	Vandenberg
Capper	Hatch	Norris	Van Nuys
Carey	Hayden	Nye	Walsh
Chavez	Johnson	O'Mahoney	White
Clark	Keyes	Overton	

Mr. LEWIS. I announce the absence of the Senator from Nevada [Mr. McCARRAN] occasioned by a death in his family. I also announce the absence of the Senator from Louisiana [Mr. LONG], and the Senator from Utah [Mr. THOMAS], on important public business.

The PRESIDING OFFICER. Seventy-five Senators have answered to their names. A quorum is present.

Mr. GEORGE. Mr. President, as I understand the parliamentary situation, the question is on the adoption of the committee amendment on page 11, line 4. Those of us who oppose it should therefore vote in the negative in order to retain the House language. I demand the yeas and nays.

Mr. KING. Mr. President, the Senator from South Carolina [Mr. SMITH] has, upon numerous occasions since I have

been in the Senate, evinced his deep interest in our agricultural problems and has been a genuine friend of the farmers. I join with him in paying tribute to not only the pioneers but their successors, who through their toils and efforts upon the farms and in all branches of agriculture, laid the foundations of commonwealths and contributed to the progress and development of our country. The tillers of the soil in all ages have been the most important factors in building communities and nations. The remarkable growth of our country is attributable in a very large degree to those hardy and courageous men and women who conquered rebellious soils and wrung from Mother Earth the various agricultural products which not only sustained life but materially added to the wealth of the Nation. Every consideration should be shown toward those who care for field and farm and furnish to the American people the products essential to the maintenance of life. Our foreign trade and commerce have assumed large proportions as a result of the export of farm commodities. Our cities and towns owe their progress and development and, indeed, whatever prosperity their inhabitants enjoy, to the labors of the millions who give their lives to the production of those things essential to life and to the wealth and welfare of the people.

But agriculture alone is inadequate to meet all the needs and problems of a progressive and highly civilized State. The agriculturist must find markets for his products, and those employed in mills, plants, and mines in the varied industrial activities of a great nation furnish an important market for such surplus products. Agriculture and industrial development should go hand in hand; the farmers have never asked for special privileges; they only ask that they be permitted to enjoy the fruits of their toil and labor and have equal participation in the benefits and blessings of a free government.

In this as well as in other countries there have been measures and policies adopted, ostensibly for the benefit of agriculture, but which proved to be either valueless or injurious. Not infrequently plans have been suggested violative of economic laws or of the lessons of history, and their application has tended to the injury of the farmers rather than to their benefit.

During the past few years farmers, and, for that matter, all classes, have passed through a severe depression. The depression has not entirely vanished, and its unfortunate consequences will linger perhaps for many years to come. Abnormal conditions are often the parents of unwise laws and of disappointing policies. Too often in periods of economic or financial trouble the voices of doctrinaires and impractical individuals assume commanding influence and lead to the inauguration of disappointing and unfortunate policies.

I referred yesterday to legislation creating the Farm Board and to the unfortunate and evil results flowing therefrom. The policies of the Farm Board, instead of aiding agriculture, proved to be of great disservice to the farmers of our country. The farmers were led to expect great benefits under the policies that were adopted, but they were compelled to eat the fruits of grievous disappointment.

All of the problems and difficulties in our political, economic, and industrial life may not be successfully met by legislative enactments. Indeed, history has demonstrated that legislative bodies and legislative enactments have more frequently than otherwise aggravated unsatisfactory conditions and added to the burdens which the people were compelled to bear. It will be conceded, of course, that special privileges may be provided by legislative enactments and that favoritism may be shown in behalf of groups or sections or industries.

As I have indicated, the farmers are not demanding discrimination in their favor, or subsidies and bounties at the expense of others. I believe that they only desire that just laws and sound economic principles shall prevail. They are willing to suffer when all suffer; they desire to prosper when the fruits of prosperity are enjoyed by all.

I cannot divorce myself from the conviction that the measure under consideration, if enacted into law, will in the long run prove disappointing to those engaged in agriculture. I feel reasonably certain that if the authority which is sought to be conferred upon the Secretary of Agriculture and the agencies and organizations that under the bill will be created is exercised as by the measure authorized, further efforts will be made by bureaucratic agencies and those who favor a powerful central government and the striking down of the States and local self-government, as well as individual rights, to introduce into our political and industrial life policies and principles at variance with democratic institutions and hostile to the principles of free government as they have found expression in the life of this Republic.

This bill, if enacted into law, will be regarded as a precedent for further legislation calculated to control individual conduct and to subject the economic and industrial life of the people to a system of regimentation inconsistent with liberty and obnoxious to the views of free men.

In this, as well as in other countries, artificial measures have been resorted to for the stimulation of trade and for the benefit of groups and sections. Undoubtedly subsidies, bounties, and legislation providing special privileges will bring temporary benefits from such discriminatory policies and legislation. Artificial prices may bring temporary benefits but artificial stimulation may not be continued indefinitely, and with its termination injurious consequences will prove inevitable. Wealth is the product of toil and labor. It does not result from the destruction of products. When Sherman marched to the sea all forms of property for hundreds of miles was destroyed. Cotton fields were laid waste and agricultural products were destroyed. The things destroyed were capital; they constituted a part of the wealth of the country. There are hundreds of millions of people in the world without adequate food supplies or clothing to meet their needs. In my view, a sound economic policy as applied to agriculture and industry calls for increased production, which means an increase in the capital of individuals and of the Nation.

The bill before us will not create more wealth, and aside from the restrictive provision upon capital production it creates and maintains an autocratic and bureaucratic system that will prove in the end intolerable to the American people.

But, Mr. President, I took the floor not for the purpose of making an extended address but rather to submit a few observations and to call attention to a number of communications which I have received bearing upon the provisions of the bill now under consideration. First, I desire to read into the RECORD a communication addressed to me which I received only a few days ago. It is as follows:

We are greatly alarmed over the effect which the amendments to the A. A. A. will have on the canning and growing of canning fruits.

Under these amendments now before the Senate (H. R. 8492) the President and the Secretary of Agriculture have unrestrained power to dictate to all canners the price which they shall pay growers for raw material, the quantity which each shall pack, and the method by which they shall grade the product. Although not as yet fully understood by growers, these powers obviously mean that in the final analysis the same control could be extended to each and every producer of fruit. These powers are vested in the President and the Secretary and may be exercised even against the will of each and every fruit canner in the country. No more drastic or unfair assumption of power has ever in our judgment been before the Congress.

Attached are the proper references in the bill to support fully the above statement.

We respectfully urge that you vote against the bill, not alone on account of its effect on the entire fruit industry but on the consuming public as well, and further because it is a despotic misplacement of arbitrary power over the Nation's food supply and is contrary to American principles.

Yours truly,

CANNERS LEAGUE OF CALIFORNIA,
PRESTON MCKINNEY, *Vice President.*

The memorandum referred to in the letter is as follows:

The canner who has developed over a long period of years, at considerable expense, the present world market for California canned products, adds in actual cost to him for labor, cans, sugar, boxes, labels, and carrying costs, over twice the price he pays for the fruit. Thus, with an acceptable and highly profitable price to the grower, the actual cost to the canner is roughly 30 percent for fruit and 70 percent for the costs above enumerated. Therefore, the stake of the canner is far greater than the stake of the

grower, and the canner's position is different from that of the processor of most other agricultural products.

Despite these facts, the bill provides in section 6, under the heading "Terms—other commodities", that orders issued by the Secretary with the approval of the President may, against the will of any or all of the fruit canners, bring about the following:

Page 16, line 20, subsection (A): Limit the total quantity of canned fruit or the quantity of any grade or size of canned fruit which a canner may transport or market.

Page 17, line 1, subsection (B): Limit the quantity or the grade or size of fruit which any canner may purchase from producers.

It will be conceded, I believe, that unlimited power under this language is conferred upon the Secretary of Agriculture and may be exercised through agents appointed by him. The authority granted in this provision is similar to them which is found in the regulations promulgated by the Secretary of Agriculture dealing with the milk situation in the Los Angeles area. Yesterday I called attention to these regulations, which I denominated a "code of laws" and showed their autocratic and unlimited authority in dealing with producers and distributors of milk.

Think of the arbitrary power which is thus to be conferred: Under it a representative or agent of the Secretary of Agriculture in Arizona, or California, or Utah, or elsewhere, would be authorized to determine the quantity or the grade or the size of fruit which canners may purchase from the producer.

Page 17, line 12, subsection (C): Allot the amount of canned fruit which any canner may market in each and all markets, by sizes and grades, or otherwise.

Mr. President, I am amazed that such an unlimited grant of authority should be desired by the Secretary of Agriculture and his associates.

Page 18, line 1, subsection (D): Determine the existence and extent of any surplus in the hands of a canner, or canners, and take over the control and disposition of such surplus.

Page 18, line 8, subsection (E): Establish reserve pools of any canning fruit or canned fruit, and distribute the net returns from such pools.

Under this provision, as I read it, agents of the Secretary of Agriculture would be authorized to enter any State and declare that pools of canning fruit or canned fruit should be established. In other words, that the fruits referred to should be under the control of such agents to the extent that they could not be dealt with by the producers in violation of the determination that they should become part of established pools. In addition, the agents are authorized to distribute the net returns from such pools; that means that the agents will have authority to concentrate in pools such fruit or fruits as they may desire to exercise their authority over, and also to distribute—that is, to sell or handle—the same as they may see fit. Under this provision it would seem that the producers of the fruits referred to were to lose jurisdiction or control over the same and the agent of the Secretary of Agriculture was to have unlimited authority to determine just what disposition should be made of the same.

Page 18, line 13, subsection (F): Fix the minimum prices which a canner must pay to a grower for the raw material he purchases.

I said yesterday, and I repeat, that the most offensive and objectionable feature of the National Recovery Act was that which permitted price fixing, often by devious and not by open and fair methods; but here, probably encouraged by the assured acceptation by the people of the provisions of the National Recovery Act for price fixing, the Agricultural Department now comes out boldly and demands, through this bill, the authority to fix the prices which shall be paid and the amounts which shall be purchased by the canners.

That this power is absolute, even though against the will of any and all canners, is clearly set forth in the bill as follows:

Page 21, lines 3 to 25, inclusive; page 22, lines 1 to 25, inclusive; and page 23, lines 1 to 6, inclusive.

The existence of such absolute power is clearly evidenced on page 9 of the report accompanying the bill, Senate Report No. 1011.

You will note these paragraphs provide that any order issued pursuant to this section shall become effective, notwithstanding the refusal or failure of canners to sign a marketing agreement.

Thus, the Secretary of Agriculture could arbitrarily, by administrative order, take over the entire operations of the fruit-canning industry insofar as prices, size of pack, grading, and allocation of markets are concerned.

Mr. President, I have a number of telegrams and letters from my State in regard to this bill. I take the liberty of calling attention to two or three of them.

OGDEN, UTAH, *June 11, 1935.*

Senator WILLIAM H. KING,
Senate Office Building, Washington, D. C.:

Canning industry Utah seriously disturbed by A. A. A. amendments proposed by administration and presented to House Agricultural Committee June 5. Control of processors and distributors contemplated by these amendments so drastic that Secretary will have power arbitrarily to dictate prices to be paid growers which are now worked out harmoniously each year between Cooperative Growers Association and Canners Association; also to dictate prices for which canners may sell their products. As prices must meet the competitive situation in various markets where sold this means the Secretary can also dictate where and to whom we can sell, which, in turn, means he has power to break down and destroy markets which we have spent years of time in establishing. These drastic powers, with others proposed in the amendment, mean that our businesses will be entirely dictated from Washington. Our State association has just taken action with respect to maintenance of wages intended to avoid any demoralizing effects from abolition of N. R. A. and the spirit of our entire industry here is one of cooperation and a desire for constructive action, but we are unanimously opposed to the proposed delegation of such sweeping power and control over our businesses. We ask your vigorous assistance, as our Representative, to protect us from this proposed Government control.

UTAH CANNERS ASSOCIATION,
By FRANK A. JUGLER, *Secretary.*

OGDEN, UTAH, *June 12, 1935.*

Senator WILLIAM H. KING,
Senate Office Building, Washington, D. C.:

Our views on triple A amendments, proposed by the administration, contained in telegram of even date from Utah Canners' Association. Would appreciate your assistance in helping our industry to survive.

UTAH FISH CANNING CO.

WOODSCROSS, UTAH, *June 14, 1935.*

Senator WILLIAM H. KING,
Senate Office Building:

Woodscross Canning Co. opposed to A. A. A. amendments presented to House committee, June 5, account of power invested in Secretary to dictate prices to be paid growers and how and where goods can be sold. This company is paying wages set up under N. R. A. and is working in harmony with growers.

WOODSCROSS CANNING CO.

I have another telegram reading as follows:

OGDEN, UTAH, *February 26, 1935.*

Senator W. H. KING,
Washington, D. C.:

We protest the passage of Senate bill 1807 and House bill 5585 as the bills give the Secretary of Agriculture unlimited powers, which could be used in such a way that the canning industry in Utah could be seriously injured. Also we think the giving of unlimited power to anyone is undesirable. This represents 100 percent of Utah canners.

UTAH CANNERS' ASSOCIATION.

I have a letter from the Rocky Mountain Packing Corporation, signed by Mr. Harold P. Fabian, president, excerpts from which I ask may be inserted in the RECORD without reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter is as follows:

* * * * * * *

While the canning industry is not talked about very much here (I suppose that is because such a large part of our product is marketed in outside markets), nevertheless it is a substantial and fundamental industry for the State of Utah. Our Utah valleys produce an exceptionally fine quality of vegetable products. The production capacity of our farms is very much in excess of the local consumption. Hence, in order to find an outlet for these farm products that will permit full use of that portion of our farm acreage suitable for such products, it was necessary to find a way to transport the products over hundreds of miles of desert and to hold them in storage over months of time. The canning factory, its warehouse facilities, and marketing outlets is the instrument that has been developed to do this. As a result of many years of experience and patient building of market channels, Utah canned products are now sold in large quantities in both Los Angeles and San Francisco territories in the Pacific Northwest, and as far east as New York and Boston, and as far south as New Orleans. Notwithstanding the handicap which we are always under here in Utah, by reason of freight rates, these markets have been built up in face of severe competition as a result of our quality product and years spent in establishing channels of distribution.

A disruption for even one season in the flow of our products through their established channels of distribution would do us

great harm. It would not only mean our goods were out of the consumers' use during that time, but that goods of other sections would take their place. One experienced in food marketing can readily understand how destructive that would be and how much time and effort would be required to repair the damage done. Like so many other fields of commerce and industry, the established flow of products from the farm through the cannery, the broker, the jobber, and the retailer to the consumer is a delicate fabric, and only years of experience and practical knowledge and understanding can protect it. You can therefore well appreciate with what consternation the canners met in a State-wide convention the day before I sent you my wire, to protect themselves from the threat of having this entire industry taken out of their own hands and placed in the control of an official in Washington. A single mistaken order, made with the best intentions in the world, could do untold harm to the canning industry in this section. I think I expressed in my wire to you the principal points involved. I assure you the protest I voiced is not only that of our own company but also that of the other canners in the State. It is made with the utmost sincerity and firm belief that the proposed amendments would most seriously threaten our industry and the welfare of the farmers dependent on it.

* * * * * * *

Mr. KING. Mr. President, just one moment, and then I shall yield the floor.

The Senator from Massachusetts [Mr. WALSH] yesterday asked me in regard to the number of cases pending in the courts challenging the validity of the Agricultural Adjustment Act. I have here a list of most of the cases. I am pursuing the inquiry further, and when we take up the bill for consideration a little later I hope to bring the list down to date. My attention was called a few moments ago to the Washington Post of this morning, which contains an Associated Press dispatch from Minneapolis. I crave the indulgence of the Senate while I read from this report:

MINNEAPOLIS, July 11.—A three-judge tribunal of the Federal district court today held "there was probable cause to believe" the A. A. A. processing taxes were unconstitutional and refused to rescind a temporary order barring their collection from 14 large milling concerns and two coplaintiffs.

Declining the Government's motion to dismiss petitions of the firms, the court decided their pleas for permanent injunctions and a testing of the constitutionality of the Agricultural Adjustment Act would be heard at its September term.

The court, which included Judges M. M. Joyce, Joseph Molyneaux, and Gunnar H. Nordbye, gave the petitioners, several of whom had made an issue of only 1 month's taxes, the additional right to apply for an extension of the injunctions due in subsequent months. The suits covered more than $1,000,000 in taxes owed as of July 1.

In declining United States District Attorney George Sullivan's request for the vacation of the temporary writs, the court agreed:

"The so-called 'tax' is imposed to raise funds not for the support of the Government but for the benefit of a private class of individuals; it is an attempt on the part of the Federal Government to regulate production within the States," and "an unlawful delegation of legislative authority to the executive officers of the Government."

Pending amendments to the Agricultural Adjustment Act, which, if passed, would deprive processing-tax payers of the right to contest such payments, figured in both arguments and the court's opinion.

"With enactment of his proposed legislation," said the court, "there will be summarily withdrawn any such opportunity for legal remedy for a refund of taxes improperly assessed and paid.

"Plaintiffs are placed in a dilemma from which the only means of relief is invoking the equitable jurisdiction of this court," said the opinion.

"Common prudence justifies the apprehension that the uncontroverted status of the bill creates an imminent threat to the rights of these plaintiffs, and therefore is presented an appropriate case for the exercise of the equitable protection of the court."

Most of the 14 flour mills involved are subsidiaries of General Mills, Inc. The Harvey Paper Bag Co. and the J. T. McMillan Packing Co. were the other plaintiffs.

Mr. JOHNSON. Mr. President, the Senator from Utah [Mr. KING] has seen fit to read a letter he received from the State of California concerning this amendment, or which he applies to this amendment. That is his right, and with it I do not quarrel; but it should be observed that the letter which he read was from a gentleman who is engaged in packing and canning; and what he read made it very plain that the controversy which exists in the State of California, at least upon this subject, is a controversy between farmers on the one hand and canners on the other.

So there is not any difficulty in my choosing in this contest, and there ought not to be any difficulty in anybody else choosing, because nearly 80 percent of the canning of fruits that is done in the United States of America is done in the State of California. So we have here now plainly the contest—the canner on the one side, the producer on the other—and we can make our choice. We have as well what is presented here logically—a regulation, a determination, a method of control of a part of the fruit that is raised in the United States, and then a special favor to a canner, or somebody who is in the business of canning a part of that fruit.

What ought to be done under the circumstances by men who wish to do justice and to understand the situation? What should be done here? Farmers come as suitors to this body. They say, "We are raising fruit. We submit ourselves to this bill." We say to them, "Oh, you may submit yourselves in part to this bill, but where you are concerned with the canning industry you cannot submit yourselves at all."

There is the issue. Choose ye between the farmer on the one side and the canner on the other!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee on page 11, line 4.

Mr. GEORGE. I call for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, a parliamentary inquiry. As I understand, those who are for the committee amendment striking out the exemption of canners will vote "yea."

The PRESIDING OFFICER. Those who are in favor of including canning fruits within the bill will vote "yea." Those who are in favor of excluding canning fruits will vote "nay."

Mr. SMITH. I am afraid there is still a misapprehension.

The PRESIDING OFFICER. The committee amendment brings fruits for canning within the bill; so that those who are for the committee amendment will vote "yea", and those who vote "yea" will vote for including canning fruits within the provisions of the bill.

Mr. SMITH. Very well.

The PRESIDING OFFICER. The clerk will continue the calling of the roll.

The legislative clerk resumed and concluded calling the roll.

Mr. DICKINSON. I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON], who is necessarily absent from the Chamber on official business. I transfer that pair to the senior Senator from Vermont [Mr. GIBSON] and vote "nay."

Mr. AUSTIN. I announce the necessary absence of my colleague [Mr. GIBSON], who if present, I am informed, would vote "nay."

Mr. TOWNSEND. I desire to announce the unavoidable absence of my colleague the senior Senator from Delaware [Mr. HASTINGS]. If present, he would vote "nay." My colleague has a general pair with the junior Senator from Utah [Mr. THOMAS].

Mr. LEWIS. I desire to announce the following general pair on this question:

The Senator from Pennsylvania [Mr. GUFFEY] with the Senator from Wisconsin [Mr. LA FOLLETTE].

I wish also to announce that the Senator from Tennessee [Mr. BACHMAN], the Senator from Washington [Mr. BONE], the junior Senator from Arkansas [Mrs. CARAWAY], the Senator from Massachusetts [Mr. COOLIDGE], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Nevada [Mr. PITTMAN], the Senator from Arkansas [Mr. ROBINSON], the Senator from New York [Mr. WAGNER], and the Senator from Montana [Mr. WHEELER] are detained on important departmental matters.

I wish further to announce that the Senator from Alabama [Mr. BLACK], the Senator from Indiana [Mr. MINTON], and the Senator from Washington [Mr. SCHWELLENBACH] are detained in a meeting of the Lobby Committee.

I desire further to announce that the Senator from West Virginia [Mr. HOLT], the Senator from Louisiana [Mr. LONG], and the Senator from Utah [Mr. THOMAS] are detained on important public business.

I wish to announce that the Senator from Nevada [Mr. McCARRAN] is absent on account of a death in his family.

Mr. COPELAND. I wish to announce the absence of my colleague the junior Senator from New York [Mr. WAGNER], who is officially detained. If present, he would vote "nay."

Mr. NYE. I wish to announce that my colleague the senior Senator from North Dakota [Mr. FRAZIER] is detained in a Senate hearing. If present, he would vote "yea."

The result was announced—yeas 29, nays 46, as follows:

YEAS—29

Bankhead	Connally	McKellar	Sheppard
Barkley	Costigan	Murphy	Shipstead
Bilbo	Donahey	Murray	Smith
Borah	Hatch	Norbeck	Thomas, Okla.
Bulow	Hayden	Norris	Truman
Burke	Johnson	Nye	
Byrnes	McAdoo	Overton	
Capper	McGill	Pope	

NAYS—46

Adams	Davis	King	Russell
Ashurst	Dickinson	Lewis	Schall
Austin	Dieterich	Logan	Steiwer
Bailey	Duffy	Lonergan	Townsend
Barbour	Fletcher	McNary	Trammell
Brown	George	Maloney	Tydings
Bulkley	Gerry	Metcalf	Vandenberg
Byrd	Glass	Moore	Van Nuys
Carey	Gore	Neely	Walsh
Chavez	Hale	O'Mahoney	White
Clark	Harrison	Radcliffe	
Copeland	Keyes	Reynolds	

NOT VOTING—21

Bachman	Frazier	Long	Thomas, Utah
Black	Gibson	McCarran	Wagner
Bone	Guffey	Minton	Wheeler
Caraway	Hastings	Pittman	
Coolidge	Holt	Robinson	
Couzens	La Follette	Schwellenbach	

So the amendment of the committee was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating or marketing securities in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. RAYBURN, Mr. HUDDLESTON, Mr. LEA of California, Mr. COOPER of Ohio, and Mr. HOLMES were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the amendments of the Senate to each of the following bills of the House:

H. R. 4751. An act to amend section 24 of the Interstate Commerce Act, as amended, with respect to the terms of office of members of the Interstate Commerce Commission; and

H. R. 4760. An act to increase the statutory limit of expenditure for repairs or changes to naval vessels.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 6453) to amend the act of May 13, 1924, entitled "An act providing for a study regarding the equitable use of the waters of the Rio Grande", etc., as amended by the public resolution of March 3, 1927; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MCREYNOLDS, Mr. BLOOM, and Mr. FISH were appointed managers on the part of the House at the conference.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the President pro tempore:

S. 883. An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 70 years;

S. 2779. An act to authorize the conveyance of certain lands in Nome, Alaska;

H. R. 2566. An act for the relief of Percy C. Wright;

H. R. 5393. An act for the relief of Moses Israel;

H. R. 5599. An act to regulate the strength and distribution of the line of the Navy, and for other purposes; and

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

USE OF WATERS OF THE RIO GRANDE

The PRESIDING OFFICER (Mr. ADAMS in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 6453) to amend the act of May 13, 1924, entitled "An act providing for a study regarding the equitable use of the waters of the Rio Grande", etc., as amended by the public resolution of March 3, 1927, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PITTMAN. I move that the Senate insist upon its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PITTMAN, Mr. CONNALLY, and Mr. JOHNSON conferees on the part of the Senate.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. METCALF obtained the floor.

Mr. JOHNSON. Mr. President, may I submit a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSON. I have presented and had printed an amendment to the particular section under discussion, and I do not know whether it would be admissible to call it up now while we are on the committee amendments or whether I must await the presentation of amendments other than committee amendments.

Mr. SMITH. Mr. President, I think it would be better for us to finish the consideration of committee amendments which were passed over and then take up individual amendments.

Mr. JOHNSON. Very well.

Mr. FLETCHER. Mr. President, will the Senator from Rhode Island yield?

Mr. METCALF. I yield for a question.

Mr. FLETCHER. Involved in the vote just taken was the amendment on page 16 in the same language found in the amendment just voted on. Can we not have that settled now? The Senator from Georgia will recall that the language on page 16 is the same as that we have just passed on. The vote would be the same, I take it, and I think we might dispose of that now.

Mr. JOHNSON. That is in a different category, I think. We had better wait until we reach it.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. FLETCHER. I thought we might dispose of the matter.

The PRESIDING OFFICER. If the Chair understands the inquiry of the Senator from Florida, he points out that the language in the amendment on page 16 is substantially identical with that on which the Senate has just acted.

Mr. FLETCHER. Exactly.

The PRESIDING OFFICER. And that the sentiment of the Senate would naturally result in the same vote on that amendment.

Mr. FLETCHER. That is correct. I was inclined to think we ought to dispose of it now. We might take a vote on the amendment on page 16 and dispose of that at this time.

Mr. SMITH. Mr. President, I think it would expedite matters, since identically the same words occur on page 16, and I ask unanimous consent that the Senate now take a vote on that amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will state the amendment.

The CHIEF CLERK. On page 16, line 8, after the word "apples", the committee proposes to strike out the words "and not including fruits for canning."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Idaho?

Mr. METCALF. I yield.

Mr. BORAH. If I may have the attention of the chairman of the committee, the other amendment on page 11, where the committee proposes to insert the words "soybeans, hops, package bees and queen bees, poultry", has not as yet been acted upon?

The PRESIDING OFFICER. That amendment has not as yet been acted on.

Mr. SMITH. The ruling of the occupant of the chair who just preceded the present occupant of the chair was that the amendment had been acted on, but that action was reconsidered. So that amendment will have to be acted on.

Mr. BORAH. I suggest that those different subjects should be considered as different amendments. There is one item there, namely, poultry, which I should like to have acted upon separately.

Mr. BANKHEAD. Could not the Senator accomplish what he desires by an amendment to strike out the word "poultry"?

Mr. BORAH. I can do that; but I do not want the Senate to act upon that today. The Senate may act upon the other items, so far as I am concerned, and I do not know that I will make a motion in regard to the matter at all. I am simply in communication with people who desire to be heard on the subject.

Mr. SMITH. Let us have a vote on the remaining part of the amendment, with the exception of the word "poultry."

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. METCALF. Mr. President, I prefer not to yield at present. Of course, I always like to oblige my distinguished friend the Senator from South Carolina, but if he will allow me to continue, it will only take me a short time to complete what I have to say.

Mr. SMITH. I certainly do not wish to interfere with one of the few friends I have in the Senate. [Laughter.]

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). The Senator from Rhode Island declines to yield.

Mr. METCALF. Mr. President, we of the Senate constitute the higher of the two bodies of Congress. We recently decided that no man is a Member of the Senate until he has taken an oath of office which I shall read:

> I, * * * do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

In order to become a Senator we took an oath to "bear true faith and allegiance" to the Constitution. We swore our allegiance only to that document and promised to well and faithfully discharge the duties of our office. Nowhere, either in the Constitution or in the generally accepted responsibilities of the Senate, may be found any intimation that we are obligated to do the bidding of any other Department of the Government. On the contrary, our oath of allegiance is first to the Constitution. A similar oath is taken by all Federal officers.

The Congress, through one of its Members, has just received a most appalling and remarkable document. It was addressed indirectly to this body from the executive arm of the Government and it suggested that we adopt certain legislation regardless of our doubts as to its constitutionality. In other words, we are asked not to bear true faith to the Constitution, but to bow to the executive arm of the Government in respect to its demands for action. The duty of the Executive, as set forth in the Constitution, is to report upon the state of the Nation and to recommend action for the public good. There is no provision that any law or any act may be demanded. There is no provision for "must" legislation.

If we are to adopt the philosophy that the legislative is to be in any degree subject to the Executive arm of the Government we must accept full responsibility for that act. Whether or not the Executive may wish to lay on the doorstep of the Congress the blame for passage of unconstitutional laws in order that the people may become impressed with the presumed limitations of the Constitution, and thereby amend it, is a matter for grave conjecture. There can be no law of sufficient importance to warrant our ignoring the independence of the Congress. We are the elected representatives of the people and we should represent them within the reasonable limitations established by those who founded the Government. To amend the Constitution is a tedious process. It was so intended in order that we might be protected from rash acts which we might ourselves undertake in a moment of panic.

We are facing the proposition of whether we are to discharge our responsibilities as an independent establishment of the Government, or whether we are to become a voluntary adjunct to that branch which was created to administer our laws. We have already abdicated some of our power to make treaties; we have bestowed upon the Secretary of Agriculture many of our responsibilities in regard to taxation; we have deprived the States of powers expressly reserved for them; we have authorized a department head to interfere with the laws of nature and regulate the marketing and the prices of the necessities of life; and we have approved the production and sale of electric power by the Government itself.

Now, it is proposed that we go further and adopt amendments to the A. A. A. which are an unwarranted delegation of power to the Secretary of Agriculture. These amendments mark a new high in the surrender of our legislative powers and the shirking of our direct obligations to the American people. They give to the Secretary of Agriculture the power to define fair trade practices and to impose them upon industry without even the concurrence of a majority of the industry involved. One man has been given the authority to force marketing agreements on those engaged in industrial and agricultural pursuits and to regulate the manner in which their products are distributed.

Certainly no emergency exists which can justify such extraordinary action on the part of Congress. The Secretary of Agriculture has already demonstrated the utter futility of this program. While acting in the hope of assisting one portion of our citizenry, he manages to virtually destroy another. One needs only to examine the effects of his policies on the cotton and the cotton-textile industries to visualize what will happen to other industries if these powers are granted. Rather than consider legislation of this sort it would seem more to the interest of this country for the Congress to repeal some of that now being administered. The cotton-processing tax has long been the subject of much discussion and complaint throughout the country. The gradual disintegration of the cotton-textile industry is traceable directly to the processing taxes and the numerous regulations imposed upon that industry by this administration.

The manufacturers of cotton textiles are no longer able to compete in foreign markets with foreign producers of these goods, and they are likewise unable to sell their products within the United States because of abnormal prices created by the Secretary of Agriculture. If, instead of pursuing the vicious circle set in motion by the Secretary, we should stop this nonsense and repeal the processing tax, we might be able to rehabilitate the textile industry and at the same time give

the cotton farmer some hope of a stable and prosperous future. Formerly 40 percent of all cotton grown in this country was consumed here. What is the percentage now?

In April 1934, about 26,500,000 cotton spindles were in operation in the United States. In February of this year, it had fallen to 25,100,000. In March the number of spindles in operation declined to 24,900,000 and in April 23,800,000 were operated. In the New England States less than 60 percent of the cotton spindles in place were active during that month. In my State which had 1,689,000 spindles in place, less than 800,000 were active. The average number of hours these spindles were in operation during the month was only 114, the lowest in the country. The same situation exists throughout New England.

The strong and highly justified demand for repeal of the cotton-processing tax and for curbing the increasing importations of textiles has been quieted by a special committee appointed by the President to look into the cotton-textile situation. This committee is composed largely of men who have previously expressed strong approval of the cotton-processing tax, one of whom has declared that if anything took place, it would be an increase in the tax. We have heard little of the findings of this committee. What is the meaning of this inertia? Are they attempting to quiet the storm of protest against the policies which are wrecking the cotton-textile industry until the amendments we are now considering can be written into law? Are they trying to wear down the resistance of industries in New England and the South, which are now fighting for their very existence?

With these amendments we make a sort of Delphian oracle out of the Department of Agriculture, with the Secretary of that Department presiding as the sacred prophet. We authorize him to finance his guesses at the expense of the taxpayers of the Nation, and we give him the power to apply any one of several devices for increasing the prices of agricultural commodities. After making his guess as to what the sun and the clouds and the wind and the rain may do next year, the Secretary will use his divining powers as a basis for buying up and storing farm products, or for dumping them abroad with Government subsidies. He may pay bounties on that portion of basic crops needed for domestic consumption and these payments will be in addition to rental and benefit payments. Are these amendments given in answer to the desperate prayer of the cotton textile regions for relief from the burden of the processing tax? Are we answering this prayer by making it no longer mandatory upon the Secretary to reduce processing taxes after parity prices are reached? He may go on and on forever, reaching into the pocketbooks of the American people for money to finance his dictatorship.

Furthermore, there is a question as to whether or not this bill is simply a deceptive move to continue the A. A. A. in spite of its unconstitutionality. There are many who believe that this is one of the principal reasons it is pending in Congress.

New England has little agriculture, and if these wild experiments continue it will have little industry. The people of New England are working almost as hard to earn money to pay the farmers to plow under their crops as they are working to feed and clothe their own children. With one hand the Secretary of Agriculture is emptying our pocketbooks and with the other he is making it impossible for us to replenish them. It is claimed that it is now necessary to put a tax on rayon because it competes with cotton, and it is claimed necessary to put a tax on silk because it competes with rayon. We are setting in motion a vicious circle which has no end—no end unless it be the collapse of our whole economic system.

There is no good reason for continuing any of these processing taxes. Section 15 of this bill seeks to levy a compensatory tax on rayon in direct violation of the mandate of Congress in the original Agricultural Adjustment Act. Rayon is not a basic commodity and any levy must be in the nature of a compensating tax to be adopted after due hearing and investigation. Has a hearing been granted the industry? The placing of a tax on rayon or any product competing with a basic commodity is the responsibility of the Secretary of Agriculture under the present law. Has he been unable to find ground for such a tax and is he now attempting to use the Congress as a means for levying those few taxes for which he can find no excuse under the law?

To place a tax on any commodity without a hearing or investigation is certainly a most unfair and unwise practice and one in which the Senate should not indulge. If the Secretary of Agriculture wishes to do so, that is his responsibility. No compensating tax has been placed on rayon to this date, and it is within the power of the Secretary to do so after establishing a need for it. What is the peculiar situation which prompts an action such as this?

We should delete all these processing taxes and finance our agricultural program from the General Treasury. We can expect nothing from this burden of taxes except an influx of competing goods from abroad and a further curtailment of our domestic market for our textiles. Consumer resistance cannot be regulated by law nor overcome by propaganda.

Not only are we authorizing the executive arm of the Government to impose taxes and to tamper with the natural laws of economics and of nature, but we are as well authorizing that branch to tamper with the orderly procedure of our courts. It is astonishing that we will even consider amendments which are so radical and far-reaching that they will prevent a taxpayer from recovering money illegally and unconstitutionally collected by the processing tax. The administration seeks to prevent taxpayers from securing refunds and to enable the Government to collect and keep taxes assessed even though they be declared unconstitutional. The bill provides that no suit shall be brought or maintained in the courts for a refund of processing taxes previously paid.

It further provides that a taxpayer shall not be permitted to obtain a declaratory judgment nor to secure a decision from the courts as to the validity of a tax. The attempt to deprive the taxpayer of every remedy to secure a refund of processing taxes previously paid is but a bare-faced repudiation of a Government obligation. It is in no way to be distinguished from the repudiation of a Government bond or other legitimate obligation. The proponents of the bill declare this is justified on the ground that the taxes paid have been passed on to the consumer. Is Congress possessed of such rare wisdom that it is able to determine that taxes have in all cases been passed on to the consumer? Those cotton mills that have lost hundreds of thousands of dollars during the past 2 years since the A. A. A. was enacted will doubtless be somewhat surprised at this arbitrary finding of fact without investigation.

The issue here involved is not the narrow question of whether or not the taxpayer should be deprived of all remedies with respect to the processing tax, but whether the Federal Government should be permitted to collect from the citizens of the country, in the guise of taxes, and retain as its own, without remedy on the part of the taxpayer, money to which it may have no lawful right. If this can be done, property in unlimited amount can be taken from our citizens without regard to constitutional limitations and devoted to such purposes as the Federal Government may in its absolute discretion see fit. It should be no answer to say in any case that the burden of the tax has been passed on to another, particularly where the tax has not in express terms been so transferred.

The question is one between the Government and the person who paid the tax; and if the tax was improperly collected, the money should be returned to the person paying it. Whether he should be permitted to keep it or should be required to pay the whole or part of the sum refunded to someone else is an entirely separate and independent question. Should it be desired as a means of protecting third persons who may have an interest in the refund, to permit them to intervene in any tax suit brought to secure such refund, this, of course, would be entirely proper and unobjectionable; but the Government should not be permitted to retain a tax illegally collected on the mere ground that it

is not clear whether the person who paid the tax, if he recovers it, will be required to share the refund with someone else.

In the case of the processing tax the Government is acting as an intermediary for the transfer of money from one person to another. Is this a true tax for the general welfare or is the Government unconstitutionally acting as a collecting and disbursing agency? If it is a true tax, the funds should be used for the general good instead of benefits for a specific group, and if the converse is true, the tax is obviously unconstitutional.

This then is the administration's answer to the urgent appeal of the cotton-textile industry for relief from the processing tax. The tax is to be continued even though unconstitutional.

It has been almost exactly 300 years since the followers of Roger Williams sought relief from autocratic oppression and settled on the shores of Rhode Island. In his pocket he carried the first constitution adopted on these shores. The signature of all settlers was required to that document. I think this is an appropriate time to read it:

We whose names are hereunder written, being desirous of to inhabit in the town of Providence, do promise to submit ourselves in active and passive obedience to all such orders or agreements as shall be made for public good of the body, in an orderly way, by the major consent of the present inhabitants, masters of families incorporated together into a township, and such other things and they shall admit into the same, only in civil things.

This then was the origin of free government on these shores. Are we to destroy the work of three centuries by impulsive and rash acts sought from us by the executive arm of our Government?

Mr. DICKINSON. Mr. President, yesterday afternoon we had discussion with reference to a provision of the pending bill which would prevent the courts from entertaining petitions for injunction to prevent the collection of taxes. In view of the suits being started, some 150 or 160 in number, I think it is fair to state that it is on account of the fact that the bill attempts to deny the taxpayer his remedy for a refund of the tax paid that the suits are being entertained by the Federal judges.

In cooperation with others I have prepared a rather careful brief on this subject, which I ask may be printed in the RECORD at this point following these remarks for the information of the Senate.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON TAX PROVISIONS OF H. R. 8492 (AMENDING THE AGRICULTURAL ADJUSTMENT ACT OF MAY 12, 1933, AS AMENDED)

I. LIMITATION ON SUITS FOR REFUND OF TAXES PAID PRIOR TO THE PROPOSED AMENDMENT

Section 32, on page 57, et seq., of H. R. 8492 as reported by the Senate Committee on Agriculture and Forestry provides:

"The Agricultural Adjustment Act, as amended, is amended by adding after section 20 the following new section:

"'SEC. 21. (a) No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer, or any person who has been such a collector or officer, or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment, or (2) for damages for the collection thereof. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recovery, recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed. The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) (reduction of tax if Secretary of Agriculture in his judgment determines that it will increase consumption of processed goods) or (c) (processed goods delivered to any charitable organization for its own use) of section 15, under paragraph (1) of subsection (e) of section 16 (adjustment to conform to current change in rate of tax determined by Secretary of Agriculture), or under section 17 (exports) of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.'"

The report (No. 1011) of the Committee on Agriculture and Forestry of the Senate states (p. 23) that:

"The practical effect of this provision will be to prevent any refunds of taxes already collected upon the ground that the act or the actions of the Secretary thereunder are illegal. The justification for such a provision denying refunds is found in the fact that the taxes paid have been passed on to the consumer. The constitutional basis for such a provision is found in the power of the United States at any time to assert its sovereign right not to be sued, and the power of Congress to determine the jurisdiction of the courts."

(a) Alleged justification for the provision

The reason given by the Senate committee, as well as that publicly assigned, for this proposed amendment, is that the processors who have paid these taxes have passed them on and should not now be entitled to recover. This premise is not justified in many cases. These taxes were not usually added to the invoice, as were certain automobile excise taxes (sec. 424 (a) of the Revenue Act of 1928). They were, in substance and fact, one of the costs of the raw material (cotton, wheat, etc.) which was added to the other manufacturing costs going into the finished product. The manufacturer then had to sell his product on the market in competition with others.

For instance, the selling prices of some textile goods (by trade practice and custom) bear a fixed relation to one another dependent upon their quality—e. g., cotton shirts at $1, $1.50, and $2. The margin of profit in the case of the lowest price is so small that it would not permit the retailer merely to add the tax to the selling price and still keep his market. The margin of profit on the higher-priced goods would be more apt to take care of the tax. If he added the tax to the selling price of the lowest-priced goods, but did not increase the standard price of the next higher grade of goods by the amount of the tax (because the margin of profit on the latter is already sufficient to cover the tax), he would be violating the trade custom of a fixed ratio between the prices of the various classes of goods. This would lead to sales resistance and would tend to reduce the consumption of goods contrary to the purpose of the Agricultural Adjustment Act. Accordingly, the retailer would not assume the burden of the tax on the lower-priced goods, and the wholesaler therefore could not pass it on.

We have been advised that the rayon manufacturers have for some time been selling their products at cost—presumably by reason of Japanese competition. If a tax is now imposed on rayon (as proposed by section 15 of the amendment as reported by the Senate committee), the manufacturers cannot possibly pass it on, because if they should increase the selling price (at cost) they would lose even such part of the market as they have so far been able to retain. This is but another illustration of the impossibility of passing on the tax.

The processing tax cannot be identified in the selling price with any more certainty than any other item of manufacturing cost—and, if the processor did not receive sufficient income to offset his costs and provide a reasonable return upon his capital, or if he operated at a loss, which was frequently the case, it is difficult to justify the assumption (as a reason for the statutory provision) that the processor was reimbursed for processing taxes any more than for any other type of expense. In such cases it is most certain that some of the manufacturing costs have not been recovered and therefore have not been passed on.

For example, many cotton mills during 1934 were not earning a reasonable return upon their investment (National City Bank Bulletin on Economic Conditions, Apr. 1935, p. 58), and from the middle of 1934 operated at a loss (Report of Federal Trade Commission on Textile Industries, pt. I, relating to investment and profit, Dec. 31, 1934, p. 10). Certainly an industrial group which has operated at a loss has not passed on all its expenses and costs. It is difficult to predicate upon these facts an assumption that the processor has been reimbursed for the processing tax and thus passed it on, but has not been reimbursed for some of the other costs. While the theory asserted may have been that the mills should only act as a collecting agency for the processing tax, the practical situation is that the tax became a part of the increased cost of the raw material, and the processor has not been able to increase his sales price proportionately.

It has normally been necessary for the processor to pay the tax before receiving any reimbursement from the sale of the manufactured goods. With the prevailing unfavorable conditions and with the unfair competition fostered by overproduction, the tax, in part or in whole, could not, in many instances, be passed along. This added to losses already existing and increased the deficit. (Brief submitted by the Rhode Island Textile Association to the Governor's Committee to Investigate the Problems of the Textile Industry, Mar. 4, 1935.) The preliminary findings of the survey of the cotton-textile industry in New England (prepared by the New England Council, Mar. 22, 1935) includes the following statement:

"Practically every one of the 73 companies mentioned took pains to state their experiences with the processing tax and its effects on their respective businesses.

"Considerable diversity of opinion is shown in the returns as to the effects of this tax. There is, however, nearly unanimous agreement that current selling prices do not cover total costs. A few returns point out that for a time after the tax became effective, prices covered all costs, including the tax. (Recent Government statistics on cotton-textile profits, North and South, indicate that this must have been true for about the first year of the tax.)

"The relatively steady rise during the last 12 months in the price of raw cotton, an average increase per pound equal to if not greater than the 4.2 cents per pound tax may be the major reason why prices do not now cover costs. The majority of the manufacturers who replied say that they have had to absorb from 25 to 100 percent of the tax. This is because of the extremely competitive situation prevailing due to production being in excess of demand, the inroads into the domestic and also the foreign markets by Japanese and other foreign producers of cotton textiles, and the increasing resistance of consumers generally to any higher prices for cotton goods."

It is clear that the Senate committee's report stating "that the taxes paid have been passed on to the consumer", is incorrect in many cases—probably in the majority of them. There is, therefore, no blanket justification for the above proposed amendment.

(b) *Denial of due process*

The fifth amendment, as is well known, provides that no person shall "be deprived of * * * property without due process of law." This in itself is a substantive right guaranteed by the Constitution. Denial of due process therefore takes away a substantive right. All the Court decisions have held that Congress may not take away a right guaranteed by the Constitution even if it can limit the legal remedies.

"It must be confessed, however, that the constitutional meaning or value of the phrase 'due process of law', remains today without that satisfactory precision of definition which judicial decisions have given to nearly all the other *guarantees of personal rights* found in the constitutions of the several States and of the United States" (*Davidson* v. *New Orleans*, 96 U. S. 97, 101). (Italics supplied.)

Nevertheless, the Supreme Court has marked out certain limitations imposed upon the legislative power by the requirement of due process. Thus in *Murray* v. *The Hoboken Land & Improvement Co.* (18 How. 272), at 276, the Supreme Court made the following statement:

"* * * The Constitution contains no description of those processes which it was intended to allow or forbid. It does not even declare what principles are to be applied to ascertain whether it be due process. It is manifest that it was *not left to the legislative power to enact any process which might be devised.* The article is a restraint on the legislative as well as on the executive and judicial powers of the Government, and cannot be so construed as to leave Congress free to make any process 'due process of law', by its mere will." (Italics supplied.)

Judge Cooley, in his Constitutional Limitations (sec. 356), gave the following definition of due process:

"Due process of law in each particular case means such an exertion of the powers of government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs."

From the above it is clear that there are some safeguards which Congress must recognize in protection of a person's constitutional right. To deny all remedy in this instance is to deny the right itself—due process.

It has been held that "a denial by a State court of a recovery of taxes exacted in violation of the laws or Constitution of the United States by compulsion is itself in contravention of the fourteenth amendment" (*Carpenter* v. *Shaw*, 280 U. S. 363, 369). The phrase "due process" has the same meaning in the fifth and fourteenth amendments (*McGarvey* v. *Swan*, 17 Wyo. 120, 96 Pac. 697; *Hurtado* v. *California*, 110 U. S. 516, 535).

When the processing taxes were paid the taxpayer, by virtue of section 3224 of the Revised Statutes, could not enjoin their collection. It was understood, as the law permitted at the time, that claims for refund could be filed (on the ground that the taxes were unconstitutional or illegally imposed) and that if denied, suit could be brought for the refund. The courts, in upholding Revised Statutes, section 3224, have done so upon the understanding that another remedy was available to the taxpayer; that is, a suit to recover taxes paid after refund has been denied (*Dodge* v. *Osborn*, 240 U. S. 118), and they have refused to obey the mandate of section 3224 to deny an injunction, where no adequate remedy at law was available.

An appeal to the executive department on the ground that the taxes were unconstitutional or illegal for other reasons would have been of no avail, so that, as a practical matter, the taxpayer had no right of appeal to the executive department in this respect.

The Senate provision would bar suits not only against the United States but even against the collector of internal revenue or his representatives. For Congress now to deny the right to sue for refund or to obtain judgment therefor is certainly denying recovery of taxes exacted in violation of the Constitution, provided their imposition is unconstitutional.

But Congress proposes to go further than to deny the taxpayer the right to sue in court. It would deny the right to any refund or recovery of the tax at all, irrespective of any remedy which someone might conceive the taxpayer had and in total disregard as to whether the taxes were constitutionally imposed or legally collected. This undoubtedly is the ultimate in the denial of a remedy. No safeguard of the taxpayer's rights is left under the provision, and therefore it must follow that Congress would be denying the substantive constitutional right to due process.

In *Lynch* v. *United States* (292 U. S. 571), it is said that Congress is under no obligation to provide a remedy through the courts and that it may limit the individual to administrative remedies. The decision went so far as to add "* * * withdrawal of all remedy, administrative as well as legal, would not necessarily imply repudiation. So long as the contractual obligation is recognized, Congress may direct its fulfillment without the interposition of either a court or an administrative tribunal." But in the case of processing taxes imposed prior to the proposed amendment, Congress would not be recognizing the right of due process. It should be noted, however, that in the Lynch case some form of remedy was not denied.

Even in the case of *Cary* v. *Curtis* (44 U. S. 236), the Supreme Court did not hold that Congress could deny, or intended to deny, all remedy. It merely held that the taxpayer could not sue the collector by virtue of a statute therein involved, despite any interpretation which might be given Mr. Justice Story's forceful dissenting opinion.

It was said in *Brinkerhoff-Faris Trust & Savings Co.* v. *Hill* (281 U. S. 673, 682):

"But, while it is for the State courts to determine the adjective as well as the substantive law of the State, they must, in so doing, accord the parties due process of law. Whether acting through its judiciary or through its legislature, a State may not deprive a person of all existing remedies for the enforcement of a right, which the State has no power to destroy, unless there is, or was, afforded to him some real opportunity to protect it."

The Supreme Court, as late as 1931, in *Graham* v. *Goodcell* (282 U. S. 409), citing the case of *Brinkerhoff-Faris Trust & Savings Co.* v. *Hill*, said:

"* * * it is not necessary to consider the authority of the Congress to withdraw the consent of the United States to be sued. (See *United States* v. *Heinszen & Co.*, supra, at p. 391 of 206 U. S., 27 S. Ct. 742.) The argument of the Government in this respect is not adequate to dispose of the controversy. Some of the present suits were brought against the collector individually and were based upon the right to recover as against him by reason of his illegal acts. Such an action is personal and not against the United States (*Sage* v. *United States*, 250 U. S. 33, 37, 39 S. Ct. 415, 63 L. Ed. 828; *Smietanka* v. *Indiana Steel Co.*, 257 U. S. 1, 4, 5, 42 S. Ct. 1, 66 L. Ed. 99). If the Congress did not have the authority to deal by a curative statute with the taxpayers' asserted substantive right, in the circumstances described, it could not be concluded that the Congress could accomplish the same result by denying to the taxpayers all remedy both as against the United States and also as against the one who committed the wrong."

The proposed amendment, denying to the taxpayer, as it does, any and all remedy, clearly runs counter to the Supreme Court's interpretation of the fifth amendment. The proposed amendment would not be merely denying a remedy, but would be denying the substantitive right of due process.

(c) *Policy*

1. Perhaps Congress can prohibit the protection of rights guaranteed under the Constitution by withdrawing the privilege of suit in any form and preventing any refunds of taxes. Nevertheless, is Congress justified in accomplishing whatever it has in mind by using any means to do so, even if they are in violation of the Constitution? For the United States publicly to declare that it will retain taxes, even though unlawfully taken, is beneath its dignity.

2. The proposed statutory provision will penalize those who have paid the processing taxes and benefit those who have refused to pay or have evaded the tax.

3. Taxpayers will be encouraged in the future to understate and underpay taxes of any kind. They will fear similar legislation endeavoring to prevent suits for refund. The contrast in this connection is significant between the cooperation of the taxpayer in England with his Government and the attitude of the taxpayer in France. The difference can be attributed in large part to the policy of the British Government in fostering the good will of the taxpayer. England is the only country in Europe which has not been compelled to resort to the sales tax for revenue purposes. (See T. M. Gordon, The Canadian Sales Tax, 1930; National Industrial Conference Board, Sales Taxes; General, Selective, and Retail, 1932.)

4. The proposed amendment, if enacted, would seriously interfere with the collection of the revenues. Until recently taxes were collected first and litigated through claims for refund. By reason of public demand, the right to litigate income and estate taxes before payment was first granted in 1924 when the Board of Tax Appeals was created (secs. 274, 280, and 308, Revenue Act of 1924—and similar sections in subsequent revenue acts). For other taxes, however, taxpayers were left to their suits for refund after payment. If this right is taken from them, Congress will find itself confronted with an overwhelming demand to litigate all taxes before payment, with consequent delay in collection and ultimate loss of revenues.

5. As pointed out above, for many years the Revised Statutes (Sec. 3224) have provided that no injunction should be issued restraining the collection of taxes. This has generally been upheld by the courts on the ground that an adequate remedy at law was available by a suit for refund. The courts have refused to follow that provision, however, where it has been shown that the remedy at law was inadequate. If Congress may do away with that remedy, and if Congress does so with respect to these taxes, may not the courts hereafter say, with respect to any tax, that the right to sue for refund is not an adequate remedy? Will Congress not have disclosed how inadequate is that remedy? And if the right of refund is disclosed as inadequate because it may be revoked, will the courts hereafter be justified in refusing

an injunction against collection of any tax which is doubtful in any respect? It is reasonable to predict that if Congress passes this statute the courts will hereafter permit injunctions in tax suits. The results will necessarily be a serious and permanent damage to all future taxes.

6. Several cases are already pending in the courts in which the taxpayers have been put to substantial trouble and considerable expense in litigating their tax liability for floor stock and processing taxes. It is unjust to deny them the right to continue these cases to judgment and to obtain any proper recovery of tax, even on the ground that the taxes are unconstitutional or illegally collected.

If Congress should see fit to cut off the claims of taxpayers who had not yet made demand for refund of moneys erroneously collected, it should at least follow the policy indicated in sections 810 (d) and 1106 (b) of the Revenue Act of 1932, wherein it is provided that new provisions in those sections shall not "bar from allowance a claim for refund filed prior to enactment of this act which, but for such enactment, would have been allowable." Failing this, Congress should follow the policy indicated in section 424 (a) (1) of the Revenue Act of 1928 regarding refund of excise taxes, wherein it is provided that restrictions on refund should not apply in suits duly begun prior to a specified date. See also, section 1103 (b) of the Revenue Act of 1932. Some saving clause should be provided as an addition to the amendment now proposed, and at least the following:

"Suits in court instituted before the enactment of this amendment shall not be affected by its provisions."

II. LIMITATION ON REFUNDS OF TAXES PAID SUBSEQUENT TO THE PROPOSED AMENDMENT

Section 32, on page 59 et seq., of H. R. 8492, as reported by the Senate Committee on Agriculture and Forestry, provides amendments to the Agricultural Adjustment Act, as amended, by adding sections 21 (b) and (d). Without quoting the provisions herein, it is sufficient to point out that not only are suits to enjoin the collection of taxes and to obtain declaratory judgments under the Federal Declaratory Judgments Act denied but also any refunds pursuant to suits for refund, unless the taxpayer proves to the satisfaction of the Commissioner of Internal Revenue, or to the court, that he has himself sustained the burden of the taxes. This latter requirement, as a practical matter of proof, probably cannot be met by many, if any, taxpayers. The provisions of the proposed section 21 (d) are obviously inserted to prevent refunds in practice, because it is known the taxpayer, except possibly in a few instances, cannot prove that he sustained the burden of the tax. This may be so, even though such evidence as exists indicates that he did, in fact, bear the tax himself.

It is noted that section 21 (d) provides that if section 21 (a) is declared unconstitutional, with respect to taxes already accrued, it shall be up to the taxpayer to prove that he sustained the burden of the tax. The taxpayer was not forewarned that he should keep records which would enable him to prove that he ultimately sustained this burden.

If suit to enjoin or to obtain a declaratory judgment and recovery under suits for refund is in substance denied, the taxpayer's constitutional right to due process is abrogated. The same reasons therefore exist against these proposed amendments as obtain in respect to the amendment first discussed in this memorandum.

These provisions are contrary to the letter and spirit of the Constitution and to all principles of fairness for which the courts and Congress have stood. They are the entering wedge by which citizens may be deprived of their constitutional rights and the courts of their jurisdiction to protect the rights of person and property. They go too far for public support. They should receive no encouragement from any officer of the Government who values a constitutional form of government or his oath of office.

Mr. GORE. Mr. President, I desire to ask the Senator from Iowa whether his remarks are intended to convey the impression which prevails that if these suits be brought now in expectation of the passage of the bill, they will have a status in court which will continue, notwithstanding the passage of the bill?

Mr. DICKINSON. I think that is correct.

Mr. GORE. As I remember the language of the bill, it is that no suits shall be brought or maintained, which language would vacate the suits now being filed.

Mr. DICKINSON. That may be true, but it is my understanding that the suits are being entertained by the Federal courts on the theory that they are being filed in anticipation that the pending bill may become the law.

Mr. GORE. I do not believe that the statute read yesterday constitutes a bar in the way of bringing suit to test the constitutionality of a tax. I placed in the RECORD yesterday a reference to the case of *Hill* v. *Wallace* (259 U. S.), where the court entertained such a suit notwithstanding the section read yesterday by the Senator from South Carolina [Mr. SMITH]. The section which he read provides that no injunction to restrain the collection of a tax shall be issued, or rather that the collection of a tax shall not be enjoined. In the case to which I have referred, an injunction was issued and was sustained, and the tax was held unconstitutional.

REGULATION OF UTILITY HOLDING COMPANIES—APPOINTMENT OF CONFEREES

Mr. SMITH. Mr. President, the matter which I desire to discuss for just a minute does not pertain to the bill under consideration, but I presume it might be put in the category of a parliamentary inquiry. I desire to know if the custom and rule of nearly 150 years have been abrogated and set aside in the matter of appointing conferees on the part of the Senate?

So far as I am individually concerned, I do not think any of my colleagues are very desirous of going through the arduous work of serving as conferees, especially on a highly controversial subject; but in spite of the fact that I have twice been Chairman of the Committee on Interstate Commerce, and have been its ranking member for a number of years, without a word being said as to whether or not I desired to go on the conference committee under the custom of 150 years, I notice that conferees were appointed who were notoriously in favor of a certain controversial provision of the bill. I wish to have my constituents who read the RECORD advised as to how it happens that a rule which is so old has been suddenly ignored, and that apparently the Vice President hereafter will name conferees without regard to the members of the committee or the chairman thereof.

We seem to have set aside the former rule. It is not law. It is not a constitutional provision. It is, however, a rule which by age and custom has grown to be more powerful or as powerful as the law. I ask the Chair if hereafter a new rule which has been arbitrarily made will be observed? I make that inquiry in order that the public may be advised that it is not a question of discrimination, but simply a question of the selection of those more favorably inclined toward measures that come to this body.

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). The present occupant of the chair will answer that he is not informed as to whether or not that is to be the rule from this time on.

Mr. SMITH. Mr. President, I am very sorry, because I had hoped this matter could now be settled. I have been here for more than a quarter of a century, and this is the first time I have ever known that custom to be broken.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McNARY. I am unable to gather the force of the Senator's remarks. To what conference is he referring?

Mr. SMITH. I am referring to the fact that certain names were put on the list of conferees on the utilities holding company bill that certainly did not come within the category of rank on the committee or of length of service.

I have not a particle of feeling in the matter. If it is to be the rule of the Senate hereafter that the chairman of the committee shall have nothing to do with the appointment of conferees, and that the Vice President shall name them, it is all well and good; but I should not like the impression to go out that some of us who have been here for a long time happen adventitiously to be left off conference committees for some reason that might cause our constituents to wonder why it was done.

On the conference committee on the utilities bill I think there was but one member who had been a member of the committee for any considerable time. I now ask the Vice President, if there be no law on the subject, if it is to be the rule hereafter that the Vice President will name the conferees, regardless of the custom which heretofore has prevailed.

The VICE PRESIDENT. The Chair will say to the Senator from South Carolina that sometime ago, in a discussion of conferees, he announced that so far as he was concerned, when the Senate put upon him the obligation and duty of appointing conferees, he was going to try, so far as possible,

to select conferees who represented the sentiment of the Senate.

The present occupant of the chair has just entered the Chamber. The Chair understands that in this particular case the Senator is complaining about the conferees appointed on the utilities bill.

Mr. SMITH. No, Mr. President; not particularly that. I observed that several times lately conferees have been appointed without regard to their seniority on the committee. I have been here for more than a quarter of a century, and I never knew that to occur but once or twice heretofore; and even then, when it occurred, the ranking members were consulted before the appointment was made.

The VICE PRESIDENT. The Chair has taken the responsibility of appointing conferees. If the Senate desires to take the responsibility, the Chair will be very happy and very much delighted to have the Senate itself take the responsibility; or, if the Senate will adopt a rule making it the duty of the Chair to appoint conferees according to their seniority, the Chair will carry out the rule of the Senate.

Mr. SMITH. All I desired was to have the statement go into the RECORD that the Vice President has assumed that responsibility, and will maintain it until such time as the Senate may provide some other rule. I did not wish any reflections to be cast on myself or my colleagues by virtue of the sudden abandonment of the former rule in the face of some very important legislation.

Mr. LA FOLLETTE. Mr. President, I wish to make a few brief remarks concerning the statement of the Senator from South Carolina.

In the first place, there is nothing in the rules, either directly or indirectly, which suggests that conferees appointed on the part of the Senate should be selected by seniority from the committee which had the bill under consideration when it was in committee. As a matter of fact, that is merely a practice which I acknowledge, as the Senator has stated, has been followed in this body for a great many years.

The fact is, however, that when the motion is made, it provides that the Chair shall appoint the conferees. Therefore, the Vice President has not usurped any power. He is merely discharging a responsibility which is placed upon him by the Senate when it adopts a motion that the Chair shall appoint conferees.

So far as the seniority practice is concerned—which, I reiterate, is not provided for by the rules—I desire to say that, in my humble opinion, it has nothing whatever to do with the fitness of individual Senators to represent the Senate in a conference over the disagreeing votes of the two Houses as to a particular piece of legislation, because time after time in my experience in this body, when that practice has been followed, Senators have been selected to represent the Senate because of their position of seniority upon committees who, in their capacity as Members of the Senate, have fought against the position which ultimately prevailed, and therefore, in my opinion, were not logically in a position where they could properly defend, in good conscience, the position which this body had taken by a majority vote.

Therefore, Mr. President, as one Member of this body, I desire to state for the RECORD that I think the present Presiding Officer of the Senate is discharging his responsibility to this body and to the country, and that the course he has adopted will result in a more adequate, a more appropriate, and a more fitting defense of the position which the Senate takes upon legislative questions than will be obtained by following the precedent of seniority.

Mr. SMITH. Mr. President, I am not going to have the Senator from Wisconsin lecture me on question of customs or morals or fitness. I simply rose to ask whether in this emergency the rule was temporarily changed or whether it was to be the permanent custom to dispense with the form—and it was a mere form—that the Presiding Officer should name the conferees suggested to him. We all knew the names were furnished the Presiding Officer. All I wanted to know was whether he was to name the conferees in the first place.

I do not doubt but that it will work out all right, and I do not doubt but that there are younger Members of the Senate who can serve more satisfactorily than the older Members. Fitness may be determined by a man's service in the Senate. I was not questioning the efficiency of anyone. I was simply seeking information as to whether a new rule had been invoked.

There was no responsibility on the Vice President. We all knew that the custom was for names to be written and handed up to him. We all knew that. If he is to assume the responsibility which we had previously assumed, I have not a word to say. It relieves a lot of us of some very unpleasant work, and relieves those of us who are not efficient from being put in places where efficiency is called for. It simply makes it possible for the Vice President to select efficient men and to leave the inefficient off. Of course, he will discharge that duty in accordance with the position taken by the Senator from Wisconsin.

Mr. LA FOLLETTE. Mr. President, I have no desire to proceed with this debate; but I wish to say that if the Senator from South Carolina got the impression from anything I said that I was attempting to reflect upon the efficiency or the sincerity of any Senator, including the Senator from South Carolina, I withdraw any such imputation, if it is to be found in my remarks.

As I see it, it is a very important question whether the Vice President is to discharge his responsibility under a motion adopted by the Senate to select conferees, or whether such a motion is to be made and the Chair is to have the responsibility only in form, and the actual selection of the conferees is to be made by the chairman of a committee, who proposes a list of names. I did not intend to imply that there is any question of efficiency involved in the situation. As I see it, it is a question of selecting conferees who are in sympathy with the position which the Senate takes on questions of legislative importance; and that, of course, is to be determined by a consideration of the votes and by the position which Senators take upon important questions when a particular measure is under consideration and being debated.

I have known of many instances, in the nearly 10 years I have been a Member of this body, where by following the rule of seniority in choosing conferees Senators have been appointed who have voted against the position taken by the Senate upon important questions involved in legislation. I also have seen examples of the exercise of that prerogative in a manner which defeated the position which a majority of this body has taken upon important amendments and important provisions of legislation.

Mr. SMITH. Mr. President, just one word more, and I will have no more to say on the subject.

I think the old rule was a very wholesome one, because I have never known of a case, even where a conferee was against a measure, where he was not absolutely loyal in his vote to the position of the body which he represented. But I think that very often those who are opposed to a measure and who are on a conference can so conduct themselves as to represent the minority opinion, even though they are bound to vote to sustain their own House. I think the representation of the minority very often is wholesome, even though such conferees are bound by morals and decency to support the majority of the body which has voted.

So far as I am concerned, I have served the purpose for which I rose; that is, to find that we have a new order of things.

The VICE PRESIDENT. The Chair will ask the Senate to permit him to make a statement touching the matter just discussed by the Senator from South Carolina [Mr. SMITH] and the Senator from Wisconsin [Mr. LA FOLLETTE].

Up to the present time the Chair has in each instance consulted the chairman of the committee having in charge legislation passed by the Senate, and talked over with him the appointment of conferees. In the case of the public-works bill the present occupant of the chair stated that he could not be put in the attitude of taking the responsibility of appointing conferees and having no discretion in the premises. The result is that so long as the Senate puts that responsi-

bility upon the Presiding Officer the present occupant of the chair is going to exercise some discretion. He intends to follow that rule in the future. The Chair would be very glad if the Senate would select its own conferees. That would relieve him entirely.

The present occupant of the chair has appointed conferees recently in only two cases, so he does not know what caused the Senator from South Carolina to propound the query. The present occupant of the chair appointed conferees on the public-utilities bill. He consulted the chairman of the committee, the Senator from Montana [Mr. WHEELER], who went over the list and agreed on the Members to be appointed.

The present occupant of the chair yesterday appointed conferees on what is known as the "T. V. A. bill", and consulted with the Senator from Nebraska [Mr. NORRIS], appointing the three Senators suggested by the Senator from Nebraska. The Chair might state that he appointed the Senator from Nebraska [Mr. NORRIS] because, from the observation of the Chair of the conduct of the bill on the floor of the Senate, the Senator from Nebraska was more responsible than any other Member of the Senate for the passage of the bill, and the Chair thought it was perfectly proper to appoint the Senator from Nebraska as a conferee.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. FLETCHER. Mr. President, I have several communications I desire to have printed in the RECORD, which I desire to call to the attention of Members of the Senate, particularly for the benefit of the Senator from Tennessee [Mr. MCKELLAR], who is entitled to know the attitude taken by these correspondents.

These communications are from the National Cooperative Council, the Standard Growers Association, the American Farm Bureau Federation, the National Grange, the American Cotton Cooperative Association, the National Livestock Marketing Association, and the National Cooperative Milk Producers Federation.

Mr. President, section 39 of the present bill should be stricken out. It is in fact and effect an amendment to existing agricultural credit laws which are administered by the Governor of the Farm Credit Administration, and has no place in a bill which will be administered by the Secretary of Agriculture. Moreover, I am assured that neither Governor Myers nor Secretary Wallace wants this proposed provision.

I am assured also that the National Cooperative Council, which comprises nearly all the important farmers' cooperatives of the country, is opposed to this section 39. I know also, from the communication I am presenting for the RECORD, that the American Farm Bureau Federation, the National Grange, and other national farm organizations are opposed to this provision. In fact, so far as I can ascertain, the chief support for the provisions comes from private cotton buyers throughout the South.

Earlier in this session of the Congress we passed the Farm Credit Act of 1935. The Committee on Banking and Currency held extensive hearings on the measure. These cotton buyers came before the committee in the name of the American Cotton Shippers Association. They attacked the cotton cooperatives, charging various kinds of inefficiency, and charging unfair relations between the cotton cooperatives and the Government.

The Committee on Banking and Currency made inquiry into those charges, and the record of our hearings will show evidence from the Farm Credit Administration and the cotton cooperative associations to disprove the charges.

If section 39 of the A. A. A. bill were adopted, the American Cotton Cooperative Association would be unable to act as agent for the Secretary of Agriculture in handling the large amount of cotton in the hands of the Government, or else it would be rendered ineligible for loans from the Farm Credit Administration. It is obviously unwise for us to legislate such a hardship upon cooperative marketing associations.

It should be easy for us to vote with the farmers, with the Department of Agriculture, and with the Farm Credit Administration in this matter by striking out the section. I, for one, much prefer to be listed as a friend to the farmer and to the Administration than to be listed as a friend of dealers in cotton.

I ask that the communications to which I have referred be printed in the RECORD.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

NATIONAL COOPERATIVE COUNCIL,
Washington, D. C., July 5, 1935.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

MY DEAR SENATOR FLETCHER: The Senate Committee on Agriculture, in our judgment, has made a tragic mistake in section 39 of the A. A. A. bill (H. R. 8492 as reported by the Senate committee).

"SEC. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government, unless such association handles the product of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than such bona fide members."

We assure you that farm cooperatives and general farm organizations are unanimous in urging that the section be stricken out, for these four reasons:

(1) The A. A. A. bill is not an appropriate place for amendments to the Farm Credit Act.

(2) Section 39 would establish a dangerous precedent. When any change is made in cooperative credit laws, the change should affect all cooperatives alike; cotton cooperatives should not be singled out for special treatment.

(3) Section 39, if enacted, will prohibit the cotton cooperatives from acting as agents for the Secretary of Agriculture in the handling of his large stocks of cotton despite the fact (as officials of the Department can verify) that the cotton cooperatives have rendered an exceedingly economical, efficient, and satisfactory service.

(4) Although section 39 sounds harmless, its effect is to crucify the cotton cooperatives. The American Cotton Cooperative Association is the central cooperative sales and service agency established and owned by 14 State or regional cotton cooperatives. It has no bona fide cotton-producing members, because its members are the 14 State associations. Both under the Capper-Volstead Act and the Farm Credit Act provision is made for federations of cooperatives for joint marketing, but section 39 leaves the American Cotton Cooperative Association completely out of the definition of eligible cooperatives.

Moreover, the American Cotton Cooperative Association last year classed or otherwise handled approximately 950,000 bales for the Department of Agriculture. It marketed approximately 810,000 bales for "bona fide cotton-producing members" of its member associations. Hence it did not handle membership cotton in excess of the amount "dealt in for persons other than such bona fide members."

If the purpose of the committee is to deny American Cotton Cooperative Association the right to borrow from the Farm Credit Administration or to deny the Department of Agriculture the right to employ the association for technical assistance, then section 39 should be drawn in such manner as frankly to express this purpose, in order that the Senate may know what it is asked to vote upon and what the precedent may lead to in the future.

For the reasons above outlined, I am directed by the council to protest against section 39 and to urge that it be stricken from the bill.

Very truly yours,

ROBIN HOOD,
Secretary-Treasurer National Cooperative Council.

SANFORD, FLA., *July 5, 1935.*

Senator DUNCAN U. FLETCHER:

Section 39, inserted in A. A. A. amended bill by Senate Committee on Agriculture, strong threat toward final destruction all farmers' cooperatives. Must urge your support in demanding the complete elimination this vicious, unwarranted threat, ultimately all cooperatives, making them ineligible to borrow from that Farm Credit Administration.

STANDARD GROWERS' ASSOCIATION.

AMERICAN FARM BUREAU FEDERATION,
Washington, D. C., July 6, 1935.

Senator DUNCAN U. FLETCHER,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR FLETCHER: The American Farm Bureau Federation has always supported legislation in behalf of cooperative associations and has likewise supported those associations when they have been under attack.

The Cotton Cooperative Association is now definitely being attacked in section 39 of H. R. 8492 as reported by the Senate Committee on Agriculture and Forestry. To deny any cooperative association the eligibility of borrowing from an agency of the Government unless such association complies with provisions which are not contained in the regularly enacted statutes relating to cooperative associations is indefensible. Section 39 seeks to set up provisions to govern cotton cooperative associations which are not contained in the original Capper-Volstead Act, nor in more recent definitions of cooperative associations in farm-credit statutes.

Accordingly, it is recommended most earnestly that section 39 be entirely deleted from the bill.

Very respectfully,

AMERICAN FARM BUREAU FEDERATION,
CHESTER H. GRAY,
Washington Representative.

THE NATIONAL GRANGE,
Washington, D. C., July 6, 1935.

Hon. DUNCAN U. FLETCHER,
Senate Office Building, Washington, D. C.

DEAR SENATOR FLETCHER: It will be appreciated by the National Grange if you will kindly use your influence to secure the elimination of section 39 of H. R. 8492, containing the proposed amendments to the Agricultural Adjustment Act.

The section in question reads as follows:

"SEC. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government, unless such associations handle the products of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than bona fide members."

In our opinion the enactment of this section would to all practical intent and purposes destroy the American Cotton Cooperative Association, which is a federation or sales agency for 14 States or regional cooperatives.

Sincerely yours,

FRED BRENCKMAN,
Washington Representative.

AMERICAN COTTON COOPERATIVE ASSOCIATION,
New Orleans, July 6, 1935.

Hon. DUNCAN U. FLETCHER,
Chairman Committee on Banking and Currency,
United States Senate, Washington, D. C.

DEAR SENATOR FLETCHER: As is shown by the hearings before your committee on February 5, 1935, when the Farm Credit Act of 1935 was under consideration, section 39 of the A. A. A. bill as reported by the Senate Committee on Agriculture should be eliminated.

The effect of section 39 is to cripple the operations of the cotton cooperatives very seriously. It would prevent the American Cotton Cooperative Association from assisting the Department of Agricultrue in handling the surplus cotton, which is under the control of the Secretary of Agriculture.

It would also render the American Cotton Cooperative Association ineligible for any loans from the Farm Credit Administration or the banks for cooperatives. This organization has no bona fide cotton-producing members, because its members are the 14 State and regional cotton cooperatives.

When your committee held its hearings on the farm-credit bill, representatives of cotton brokers, in the name of the American Cotton Shippers Association, appeared in opposition to a provision, declaring that commodities handled for agencies of the Government should not be considered as either member or nonmember business. After according me an opportunity to be heard on the subject and after hearing from Governor Myers, your committee refused to grant the demand of the American Cotton Shippers Association for elimination of sections 11 and 12 of the Farm Credit Act. Your committee reported the bill out and the bill was enacted into law.

Section 39 of the A. A. A. bill would undo the work of your committee in respect to this matter.

I trust, therefore, that you will exert your influence toward striking out section 39.

Very truly yours,

N. C. WILLIAMSON,
President American Cotton Cooperative Association.

NATIONAL LIVE STOCK MARKETING ASSOCIATION,
Chicago, July 6, 1935.

Hon. DUNCAN U. FLETCHER,
Chairman Committee on Banking and Finance,
United States Senate, Washington, D. C.

DEAR SENATOR FLETCHER: We urge that you use your influence to remove section 39 from the A. A. A. bill. This section is an unfair and unjustifiable restriction upon cotton cooperatives and would establish a precedent of great danger to the entire cooperative movement.

Very truly yours,

P. O. WILSON,
Secretary-Manager National Live Stock Marketing Association.

THE NATIONAL COOPERATIVE MILK PRODUCERS' FEDERATION,
Washington, D. C., July 6, 1935.

Senator DUNCAN U. FLETCHER,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR FLETCHER: The Senate Committee on Agriculture and Forestry has inserted in the proposed amendments to the Agricultural Adjustment Act a new section which will have the effect of putting out of business the American Cotton Cooperative Association, the largest farmer-owned and farmer-controlled cotton cooperative association in the United States.

This section, which is numbered 39 in the amendments now pending in the Senate, should be eliminated entirely. Although the section refers only to cotton cooperatives, we in the cooperative movement feel that it is the first step taken by the enemies of organized agriculture to destroy farmers' cooperative associations, which have been developed under the guidance and encouragement of both State and Federal Governments.

In addition, this matter is one which primarily affects the operations of the Farm Credit Administration. The subject is one which is not germane to the amendments now before the Senate. If any restrictions are to be placed around the operations of farmers' cooperative associations in addition to the existing law, these changes should only be made after adequate notice and opportunity for hearing of interested parties, and then only after a careful study of the problem by that Government agency charged with the duty of encouraging and developing the cooperative movement among farmers, to wit, the Farm Credit Administration.

On behalf of the organized dairy farmers of this country, we earnestly request your support of the elimination of section 39 of the pending amendments to the Agricultural Adjustment Act.

Very truly yours,

CHARLES W. HOLMAN,
Secretary The National Cooperative
Milk Producers' Federation.

RECESS TO MONDAY

Mr. SMITH. I move that the Senate take a recess until Monday next at 12 o'clock noon.

The motion was agreed to; and (at 4 o'clock and 30 minutes p. m.) the Senate took a recess until Monday, July 15, 1935, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

FRIDAY, JULY 12, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father, we thank Thee for the Holy Bible—the book of righteousness, the book of love, the book of life, and the book of God. O Thou of infinite wisdom, Who giveth of the same to all men that asketh of Thee and upbraideth not, write Thy precepts in our hearts. Deliver us from any overwrought self-assurance that our usefulness may not be impaired. Impress us with the foolishness to scratch, scorch, and starve our souls for just the things that finally throw life into confusion. Heavenly Father, stir us by the consciousness of the supreme ideal which is to minister and not to be ministered unto, to serve and not to be served, and to lend a hand. In our relationships inspire us with the spirit of the Master. In His name we pray. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

The message also announced that the Senate had passed, with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 8632. An act to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the

creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933.

The message also announced that the Senate insists upon its amendment to the foregoing bill, requests a conference with the House thereon, and appoints Mr. SMITH, Mr. WHEELER, and Mr. NORRIS to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6323) entitled "An act to provide for the custody of Federal proclamations, orders, regulations, notices, and other documents, and for the prompt and uniform printing and distribution thereof."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 883. An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 70 years.

ADJOURNMENT OVER

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that when the House adjourns today that it adjourn to meet on Monday next.

The SPEAKER. Is there objection?

Mr. BOILEAU. Mr. Speaker, I reserve the right to object, to say to the distinguished gentleman from Colorado that many of us are very much interested in getting sufficient signatures to the Frazier-Lemke bill, and in view of the fact that so many names have been taken off the petition yesterday and today, we find it impossible to get a sufficient number. We are going to need every legislative day that we can get. Therefore, I object.

FEDERAL POWER ACT

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating, or marketing securities, in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes, insist on the House amendments thereto, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Texas asks unanimous consent to take from the Speaker's table the bill S. 2796, insist on the House amendments, and agree to the conference asked by the Senate. Is there objection?

Mr. COOPER of Ohio. Mr. Speaker, I reserve the right to object, though I do not know that I shall. I do this to ask the chairman of the committee a question. How many conferees will there be on the House side?

Mr. RAYBURN. Five have been recommended, as usual, including the two that the gentleman from Ohio suggested.

Mr. COOPER of Ohio. That is all that we will have?

Mr. RAYBURN. That is all that I am asking for.

The SPEAKER. Is there objection?

Mr. RANKIN. Mr. Speaker, reserving the right to object, I am not going to object to the bill going to conference, with the understanding that it be brought back here, and we be given an opportunity to vote on sections 11 and 13. There is a considerable revival of righteousness going on around here on Capitol Hill, as was shown yesterday in the roll-call vote on the T. V. A. bill, and I feel confident when it is brought back we can adopt both of those sections of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas.

Mr. SNELL. Mr. Speaker, I reserve the right to object. I understand then from the statement made by the chairman of the committee that the report carried in the Washington Post this morning about six conferees being appointed, different from the usual number, is not correct?

Mr. RAYBURN. I discussed the matter with the ranking Republican Member, the gentleman from Ohio [Mr. COOPER], and the reason why I did that was this: Our committee—that is, our subcommittees—have been divided 4 to 2 during this session and when I suggested that I send up the names of four Democrats, the gentleman from Ohio [Mr. COOPER] said it was not quite regular and he would rather I would not do it. So I am not going to do it.

Mr. SNELL. So the conferees will be selected in the usual manner?

Mr. RAYBURN. Yes.

The SPEAKER. Is there objection?

There was no objection.

The Chair appointed the following conferees: Mr. RAYBURN, Mr. HUDDLESTON, Mr. LEA of California, Mr. COOPER of Ohio, and Mr. HOLMES.

TERMS OF OFFICE, INTERSTATE COMMERCE COMMISSION

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4751) to amend section 24 of the Interstate Commerce Act, as amended, with respect to the terms of office of members of the Interstate Commerce Commission, with Senate amendments thereto, and agree to the Senate amendments. I might suggest to gentleman on the other side that this matter was considered in committee yesterday morning and the committee is unanimous that we do this.

The SPEAKER. The gentleman from Texas asks unanimous consent to take from the Speaker's table the bill, H. R. 4751, with Senate amendments thereto, and concur in the Senate amendments. The Clerk will report the Senate amendments.

The Clerk read as follows:

Line 3, strike out "section 24 of."
Line 4, after "inserting", insert "at the end of section 11 and."
Line 5, strike out "such section" and insert "section 24."
Line 7, strike out all after "successor" down to and including "day", in line 11, and insert "is appointed and shall have qualified."

Amend the title so as to read: "An act to amend sections 11 and 24 of the Interstate Commerce Act, as amended, with respect to the terms of office of members of the Interstate Commerce Commission."

Mr. RAYBURN. Mr. Speaker, so that the House may understand, the only thing this does is to allow a member of the Interstate Commerce Commission when his term expires to serve until his successor is appointed and has qualified, so that they may always have a full Commission.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

A motion to reconsider the vote by which the Senate amendments were agreed to was laid on the table.

DISPOSITION OF WATERS OF THE RIO GRANDE

Mr. McREYNOLDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 6453) to amend the act of May 13, 1925, entitled "An act providing for a study regarding the equitable use of the waters of the Rio Grande", and so forth, as amended by the public resolution of March 3, 1927, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? [After a pause.] The Chair hears none, and appoints the following conferees: Mr. McREYNOLDS, Mr. BLOOM, and Mr. FISH.

REPORT FROM THE COMMITTEE ON BANKING AND CURRENCY

Mr. STEAGALL. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Currency may have until midnight tonight to file a report on House Joint Resolution 348.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. WOLCOTT. Reserving the right to object, the minority, I expect, will file a minority report.

Mr. STEAGALL. I will say the only purpose of this request is to give time to the minority to incorporate their report and file it along with the other.

Mr. WOLCOTT. I wonder if the gentleman will include in his unanimous-consent request the right of the minority to file minority views?

Mr. STEAGALL. I so intended, if I did not say so. I wish that to be understood.

The SPEAKER. Is there objection to the request of the gentleman from Alabama [Mr. STEAGALL]?

There was no objection.

LINE OF THE NAVY

Mr. VINSON of Georgia. Mr. Speaker, I call up a conference report on the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes, and I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the first amendment of the Senate and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"SEC. 9. The last proviso of the appropriation 'Pay of the Navy', contained in the Naval Appropriation Act for the fiscal year 1897, approved June 10, 1896 (29 Stat., 361), is hereby amended to read as follows: '*And provided further*, That hereafter no payment shall be made from appropriations made by Congress to any officer in the Navy or Marine Corps on the active list while such officer is employed, after June 30, 1897, by any person or company furnishing naval supplies or war materials to the Government, and such employment is hereby made unlawful after said date: *Provided*, That no payment shall be made from appropriations made by Congress to any retired officer in the Navy or Marine Corps who for himself or for others is engaged in the selling of, contracting for the sale of, or negotiating for the sale of, to the Navy or the Navy Department, any naval supplies or war material.'"

And the Senate agree to the same.

That the House recede from its disagreement to the second amendment of the Senate, and agree to the same.

CARL VINSON,
P. H. DREWRY,
Managers on the part of the House.

PARK TRAMMELL,
DAVID I. WALSH,
FREDERICK HALE,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompany conference report as to each of such amendments, namely:

On amendment no. 1: Specifically provides that the subject matter shall be in lieu of the law it was intended to replace. Existing law makes it unlawful for officers of the Navy and Marine Corps, active or retired, to be in the employ of persons or commercial concerns furnishing naval supplies or war material to the Government. The Senate sought to lift the ban on retired officers so long as they would not engage for themselves or others in the selling of, contracting for the sale of, or negotiating for the sale of, to the Navy or the Navy Department, any naval supplies or war material, but neglected to repeal existing law, which would still prevent the employment of retired officers in any capacity with persons or commercial concerns furnishing naval supplies or war material to the Government. As agreed to the Senate proposal by express provision will be in lieu of existing law.

On amendment no. 2: Changes a section number in consequence of amendment no. 1.

CARL VINSON,
P. H. DREWRY,
Managers on the part of the House.

Mr. VINSON of Georgia. Mr. Speaker, I move the adoption of the conference report.

The conference report was agreed to.

A motion to reconsider the vote by which the conference report was agreed to was laid on the table.

TOBACCO INSPECTION SERVICE

Mr. O'CONNOR, from the Committee on Rules, submitted the following privileged report (H. Res. 294, Rept. No. 1511), providing for the consideration of H. R. 8026, to establish and promote the use of standards of classification for tobacco, to provide and maintain an official tobacco inspection service, etc., for printing under the rule:

House Resolution 294

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H. R. 8026, a bill "To establish and promote the use of standards of classification for tobacco, to provide and maintain an official tobacco inspection service, etc." That after general debate, which shall be confined to the bill, and shall continue not to exceed 1 hour, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

THE POWER OF THE SUPREME COURT TO DECLARE ACTS OF CONGRESS VOID

Mr. RAMSAY. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. RAMSAY. Mr. Speaker, it is claimed by those who support the theory of court determination of acts of Congress that those who oppose such application of power are opposed to the Constitution and seek to destroy our courts of justice.

To my mind, this is a gratuitous insult to a great mass of splendid lawyers and students of our jurisprudence, who assert that the Court's duty is to interpret the law, and not seek to form the law by the veto of legislation, because the power to interpret the Constitution is the power to make the Constitution.

Speaking for myself, I not only respect but revere our splendid courts, who have done so much to aid the great cause of liberty and freedom of the American people.

I realize that in a great republic like ours that the confidence of the people in their courts and their laws reposes the sure and certain assurance of the perpetuity of our institutions.

Since the foundation of the great American Republic there have been two lines of thought uppermost in the minds of American statesmen.

Did the fathers of our country have in mind the general welfare of the whole people when writing the Constitution or did they have in mind the restriction of the general welfare whenever this great motive would conflict with the right to own or control property?

The founders of my political party and faith claim that the preamble of the Constitution meant what it said, and that all forms and action of government should be diverted and used to promote the general welfare of the people. Therefore they held that the judiciary should have no part in declaring the kind and character of laws Congress should enact, nor should the courts have any right, power, or privilege to declare any act or acts of Congress void.

Those opposed to this view of Government claim that the preamble of the Constitution meant nothing and could not be looked to in deciding upon the acts of Congress, and unless specifically authorized by the Constitution, Congress has no power to legislate.

If the Supreme Court had been so careful in marking out its powers to so adjudicate, under specific authorization, under the Constitution, this conflict would never have oc-

curred, because the Constitution in none of its provisions authorizes the courts to hold any acts of Congress void and unconstitutional.

Today we are, in the final analysis, governed by a theory of government that was supposed to have died with the Federalist Party, but we now feel the dead and withered hand of Alexander Hamilton, directing through our Supreme Court the policies of every administration, regardless of which political party may be in power.

The decision of the Court in the Marbury case was the first declaration of the right of the Supreme Court to declare acts of Congress void. This decision was the most brazen judicial announcement of a political faith ever made by any body of men in this country. This opinion merely set forth the principles of federalism as announced by Hamilton. It was an obiter dictum opinion, because the Court first announced it did not have jurisdiction, then went on to say what the Court would have decided, if it had jurisdiction, upon this opinion, rendered without authority or citation. The Court has built up its theory of vetoing and outlawing acts of Congress, thereby placing itself in the position of dictating the political policies of this country. Such decisions of our courts are mere political opinions and not judicial decisions, and are wholly unauthorized by the Constitution, laws, and traditions of our form of government.

When we realize that no court in Great Britain has dared declare any act of Parliament unconstitutional in the past 200 years, and that neither France, Belgium, Germany, nor Italy have any court empowered to set aside the laws of their Parliament, we stand aghast at it all, and as we realize that every court in America, even every justice of the peace, can set aside the acts of Congress and declare the political course our political parties must pursue, we shudder and wonder what the outcome will be.

How long will the American people permit the courts of America to defeat the expressed will and intent of the people of this country by avoiding and destroying the laws that people are demanding? By a decision of 5 to 4, will they continue to permit this Court to deny their Legislature the right to correct the evils and abuses of the ownership of property that have for the past 50 years dictated the course of legislation at the expense of human welfare? The courts apparently will not, or cannot, recognize the changing social needs of the United States.

To determine whether or not those of us who deny the power of the Court to nullify acts of Congress are radical and opposed to the Constitution, let us for a moment review the expressions of our great American statesmen of the past.

The Constitutional Convention held in 1787 four times refused to adopt a resolution that would have granted to the Supreme Court the right to declare acts of Congress void or unconstitutional. (See Reports of Federal Convention, by James Madison, pp. 51, 406–407, and 475.) The last statement on this subject in said record, at page 475, written by Madison himself, reads:

> It was generally supposed that the jurisdiction given [Supreme Court] was constructively limited to cases of a judicial nature.

It was further argued by Madison and others that the Constitution did not grant the right to such Court to declare acts of Congress void.

In discussing this question James Madison said:

> I beg to know upon what principle it can be contended that any one department draws from the Constitution greater powers than another in marking out the limits of the powers of the several departments. Nothing has yet been offered to invalidate the doctrines that the meaning of the Constitution may as well be ascertained by the legislative as by the judicial authority.

Thomas Jefferson, in writing to Mrs. Adams on September 11, 1804, wrote:

> The opinion which gives to the judges the right to decide what laws are constitutional and what not, not only for themselves in their own sphere of action but for the legislature and executive also in their spheres, would make the judiciary a despotic branch.

In a letter written by Jefferson to Mr. Johnson on June 12, 1823, discussing this same question, he stated:

> There must be an ultimate arbiter somewhere. True, there must; but does that prove it is either the Congress or the Supreme Court? The ultimate arbiter is the people of the Union, assembled by their deputies in convention at the call of Congress or of two-thirds of the States.

Charles Pinckney, one of the signers of the Constitution, says in discussing this subject:

> On no subject am I more convinced that it is an unsafe and dangerous doctrine in a republic ever to suppose that a judge ought to possess the right of questioning or deciding upon the constitutionality of laws or any act of legislature. It is placing the opinion of an individual, or of two or three, above that of both branches of Congress, a doctrine which is not warranted by the Constitution and will not, I hope, long have any advocates in this country.

President Jackson, in discussing McCulloch against Maryland and of Osborn against United States Bank, in a message to Congress said:

> The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears he will support it as he understands it, and not as it is understood by others.

It is as much the duty of the House of Representatives, or the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage, or approval, as it is of the Supreme Court, when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the executives when acting in their legislative capacities.

Abraham Lincoln, in his first inaugural address as President of the United States, said:

> The candid citizen must confess that if the policy of the Government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court the instant they are made, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.

Justice Clark, of the Supreme Court, in discussing this question in the Ninth American Bar Association Journal—October 1923, page 691—said:

> It is no new suggestion that if the Court would give real and sympathetic effect to this rule by declining to hold a statute unconstitutional whenever several of the Justices conclude that it is valid—by conceding that two or more being of such opinion in any case must necessarily raise a "rational doubt"—an end would be made of 5-to-4 constitutional decisions and great benefit would result to our country and to the Court. To voluntarily impose upon itself such a restraint as this would add greatly to the confidence of the people in the Court and would very certainly increase its power for high service to the country. Anyone at all acquainted with the temper of the people in this grave matter must fear if the rule is not observed in some such manner a greater restraint may be imposed upon the Court by Congress or by the people, probably to the serious detriment of the Nation.

Of course, I am aware that the courts and the legal profession contend that the courts have an inherent right to declare acts of the legislative branch of the Government void as a professional dogma or a matter of faith rather than reason. But may I not observe that while this right in question has long been claimed by the judiciary, no judge has ventured to discuss it, except Chief Justice Marshall in the Marberry case, and if the argument of such a distinguished jurist is found to be inconclusive and inconvincing, it must be attributed to the weakness of his position and not to his ability.

The Constitution is a collection of fundamental laws, not to be departed from in practice, nor altered by judicial decisions. Therefore, if the courts assert this right, instead of resting on the claim that it has been universally assumed by the American courts, they ought to be prepared to maintain it on the principles of the Constitution.

I therefore maintain that in this country the powers of the judiciary are divisible into those that are political and those that are civil.

The political powers of the judiciary are extraordinary and are derived from certain peculiar provisions in the Constitution, from the common fountain of all political power.

On the other hand, its civil powers are its ordinary powers, existing independently of any grant in the Con-

stitution. But where government exists by virtue of a written constitution, the judiciary does not derive from that circumstance any other than its ordinary and appropriate powers.

Our judiciary is constructed upon the principles of the common law. In adopting the common law, we take it with just such powers and capacities incident to it, at the common law, except where there have been express changes made by our Constitution and enacted law. With us, the people, through their Constitution, have seen fit to clothe Congress with sovereignty and power, to pass and enact laws, and denied this right to other branches of the Government.

It must be conceded, then, that the ordinary and essential powers of the judiciary do not extend to the annulling of an act of Congress. Nor does it follow, because the Constitution did not invest this power in any department of our Government, that it belongs to the judiciary, and I take it that this power could not rest in the judiciary without producing a direct authority for it in the Constitution, either in terms or by the strongest implication from the nature of our Government, without which, this power must be considered as reserved for the immediate use of the people.

The Constitution contains no practical rules for the administration of law by the courts, these being furnished by the acts of ordinary legislation enacted by Congress, who are exclusively, with the President, the representatives of the people.

The Constitution and the right of Congress to pass a certain act may be in collision, but is that a legitimate subject for judicial determination? If it is, the judiciary must be a peculiar organ to revise the proceedings of Congress and to correct its mistakes. And where, oh, where, are we to look for this proud prerogative in the Constitution?

Viewing it from the other angle, what would be thought of an act of Congress declaring that the Supreme Court had put the wrong construction on the Constitution in the N. R. A. case, and that the judgment ought to be reversed?

I can hear now the howls of usurpation of judicial power.

The passage of an act of Congress is an act of sovereignty, and sovereignty and legislative power are said by Blackstone to be convertible terms.

It is the business of the judiciary to interpret the laws and not to scan the authority of the lawgiver. If the judiciary has the power to inquire into anything other than the form of enactment, where shall it stop? There certainly must be some limitation to such an inquiry. Those who claim this right for the judiciary, claim the legislative branch have no right of legislation, unless specifically granted by the Constitution. Therefore, if the authority to pass certain legislation is not found in the Constitution, such acts are not the acts of the people—but of the Congressmen themselves. But this is putting the argument on bold ground; to say that a high public representative of the people themselves shall challenge no more respect in the passage of legislation than a private individual must be rejected by every fair mind.

The further argument is made that when the Supreme Court holds an act of Congress void, it must acquiesce, although it may think the construction of the judiciary is wrong. But why must it acquiesce? Only because it is bound to show proper respect to the Supreme Court, which it in turn has a right to exact from the Supreme Court. This is the argument.

But it cannot be contended that the Congress has not, at least, an equal right with the judiciary to place a construction on the Constitution, nor can it be said that either are infallible; nor that either ought to surrender its judgment to the other. Certainly the framers of our Government never intended that the legislative and judiciary branches of our Government should ever clash upon the construction of our Constitution, yet we know this has occurred time and again during the history of our country.

What I am trying to say is that the judiciary, if at all possible, should yield to the acts of Congress the same respect that is claimed for the acts of the judiciary.

The great number of cases that have been decided by the court by a decision of 5 to 4 clearly illustrates that repugnancy to the Constitution is not always self-evident, and that to avoid them requires the act of some tribunal competent, under the Constitution—if any such there be—to pass upon their validity.

The judiciary was not created by the fathers of the Constitution for that purpose. But in theory all the organs of government were to have equal capacity, or if not equal, each was supposed to have superior power only for those things which peculiarly belong to it, and as legislation peculiarly involves the consideration of those limitations which are put on the lawmaking power, and the interpretation of laws, when made, involves only the construction of the laws themselves, it follows that the construction, in this particular belongs to the Congress, which ought, therefore, be taken to have superior capacity to judge the constitutionality of its own acts.

The very definition of "law", which is said to be "A rule of civil conduct prescribed by the supreme power in the State", shows the intrinsic superiority of the Congress.

It will be said the power of Congress also is limited by prescribed rules. It is so. But it is the power of the people, and sovereign as far as it extends.

The foundation of every argument of every advocate of the judiciary to declare acts of Congress void rests upon the oath taken by the judiciary upon entering their office. Neither the oath of such officer nor his official duty contemplates an inquiry into the authority of Congress.

The fallacy of the argument that courts in approving acts of Congress adopts them as their own leads some of us to believe that this alone requires and compels the court to pass upon the constitutionality of acts of Congress, whereas the enactment of a law and the interpretation of it are not concurrent acts, and as the judiciary is not required to concur in the enactment, neither is it in the breach of the Constitution, which is the fault of Congress, and upon it the responsibility rests.

The relief from such legislation rests entirely with the people, and I firmly believe they would see to it that no law would be permitted to stand or remain in our statutes that was a flagrant violation of their Constitution.

ENLISTED MEN IN THE ARMY

Mr. HOEPPEL. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes on the subject of enlisted men in the service.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOEPPEL. Mr. Speaker, this morning my attention was called to an item appearing in the Washington Post to the effect that four enlisted men had committed suicide in the Panama Canal Zone. The article recited in detail the fact that the cause of those suicides was believed to be the commanding officer's harsh and cruel treatment of enlisted men who must work long hours under the tropical sun.

For the information of the Membership of the House I wish to state that I personally took this question up with the War Department a number of months ago at the request of enlisted men in the Panama Canal Zone, who protested the discriminatory, aristocratic attitude of the commanding officer at Fort Clayton. I also was in contact with the editor of the Panama American on this subject but the report which I called to the attention of the War Department was apparently whitewashed. Furthermore, the commanding officer, in his arrogance, threatened to file libel suit against newspapermen who published the report at that time, which report appears to have been correct in the light of the item in today's paper in reference to suicides of enlisted men.

I personally made inquiry of officers as to the character and attitude of the commanding officer at Fort Clayton and was advised that the commanding officer was inclined to be arrogant and tyrannical, and the thought was expressed that he was never considered to be wholly balanced.

I maintain that we are not doing our duty as Representatives when we will permit Army officers to drive young

American men to suicide, once they have them isolated in such a God-forsaken country as the Panama Canal Zone.

Mr. BLANTON. Will the gentleman yield?

Mr. HOEPPEL. I yield briefly.

Mr. BLANTON. This morning's Washington Post said there would be six conferees appointed by the House on the utilities holding company bill, out of the usual procedure. That did not happen. That was incorrect. The gentleman ought to check up the facts he quotes from this newspaper.

Mr. HOEPPEL. As a publisher of a periodical myself, I have the highest regard for the newspaper fraternity and am confident that they would not willfully contort the facts presented to them. In reference to the question I am discussing, I know what I am talking about as I have been in correspondence with the War Department and various individuals in Panama on this subject.

Furthermore, I would like to call the attention of the Membership to the case of an enlisted man who was found dead in bed recently at a post in California. The young man carried an accident policy, and as he was in an accident some time prior to his death, his mother requested a copy of the autopsy which was held to determine the cause of his death. A copy of the autopsy was denied the bereaved mother in a letter dated March 14, 1935, signed by the assistant surgeon, with the statement that "they (the medical department) have no desire to withhold information but the report comprises six typewritten pages and they would appreciate being spared the clerical labor incident to making a copy."

Imagine, if you can, the inhuman thought involved in a letter of this kind addressed to a widow in reference to her son's sudden death in the service.

At the request of the mother, I then personally took up the question with The Adjutant General, and was advised that it was impossible to furnish a copy of the autopsy unless the request came from the Congress, or one of its committees. Think of it! An attitude of this kind when a Representative of the people requests a copy of the autopsy in reference to the sudden death of one of his constituents. The report from the mother further indicates that the post surgeon was derelict in his duty in that he did not order her son to the hospital as he should have, if, as she asserts, he apparently recognized the impaired health of her son.

As a retired enlisted man and as a friend of the Army and Navy personnel, both commissioned and enlisted, I receive communications from many enlisted men and officers, reciting to me instances of injustice and discrimination which I earnestly seek to correct.

My attention was recently brought to a case of an enlisted man in the Philippines who was treated in a discriminatory manner. He was tried before a board and reduced in rank for inefficiency, notwithstanding the fact that he had held the position from which he was reduced for a period of 5 years. His accusers were members of the board which reduced him and the report is that they back-dated an important paper in order to validate the action taken. I made an effort to ascertain the findings of the board and the constitution of the board. As reported to me, the board was illegally constituted. The War Department declined to give me information with respect to this apparent discrimination and injustice directed against an enlisted man who was not permitted to appear personally before the board in his own defense. To deny a Representative in Congress the right to a copy of the board proceedings in such a case is a denial of justice to the enlisted man. Incidentally, the question of race prejudice arises as the enlisted man was the only Negro soldier in the garrison of approximately 2,000.

Mr. BLANTON. Will the gentleman yield again?

Mr. HOEPPEL. I cannot yield further.

In France we had, some years ago, the celebrated Dreyfuss case with which you are all familiar, in which a certain clique of officers railroaded a brother officer to penal servitude. He served 5 years on Devils Island. Enlisted men in the service in some instances are treated with the same lack of consideration by their officers. Thank God that these instances are rare.

I think it is about time the Congress of the United States recognized the arbitrary attitude of the War and Navy Departments and took the necessary action to provide that on the request of a Member of Congress, acting on the petition of the mother of a deceased soldier or of a soldier himself, the record in the case at least will be available to the Member of Congress who makes that request in order to remove the discrimination, if any exists. In time of war, such arbitrary action is excusable, but in time of peace it is absolutely indefensible and is contrary to our democratic precepts of liberty and justice to all.

Mr. BLANTON. Mr. Speaker, will the genial gentleman from California yield for one question?

Mr. HOEPPEL. In a moment.

Mr. BLANTON. The gentleman is incorrect; the relatives of an enlisted man can get a full report any time the enlisted man dies.

Mr. HOEPPEL. I wish I had with me the official letter from the War Department to show the gentleman that his statement is incorrect.

Mr. BLANTON. I will say that the gentleman is incorrect. Relatives can always get full reports in such matters.

Mr. HOEPPEL. Mr. Speaker, I ask unanimous consent to insert in the RECORD a copy of the letter from the War Department to which I have referred.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOEPPEL. Mr. Speaker, under the authority just granted, I insert at this point the letter to which I referred as positive proof of my statement that important information is withheld from Members of Congress. I may state also that I have in my files other letters even more flagrant than this.

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, July 3, 1935.

Hon. J. H. HOEPPEL,
House of Representatives.

MY DEAR MR. HOEPPEL: I have your letter of June 29, in which you request, in behalf of Mrs. Isabelle M. Mundell, a copy of the report of the autopsy made in the case of her son, the late Pvt. Melville F. Mundell, who died February 20, 1935, at Hamilton Field, San Rafael, Calif., stating that it is required by Mrs. Mundell for the purpose of prosecuting a claim for accident benefits.

It is contrary to the well-established policy of the War Department to furnish copies of official records of the character requested by you, except upon a call from Congress or one of its committees, upon call from other recognized Federal agencies charged by law with the adjudication of claims, or upon proper process issued by a court of competent jurisdiction, and only upon certificate of the court that such copies are essential to the ends of justice.

It is also contrary to the policy of the Department to furnish statements from the records to one party alone for use in settlement of claims in which the United States is not in direct interest. However, if the insurance company will join in the request that a statement from the official records of the above-named former soldier is necessary to adjudicate a claim, consideration will be given to furnishing the statement to Mrs. Mundell and to the insurance company.

Very respectfully,

E. T. CONLEY,
Brigadier General,
Acting The Adjutant General.

Is it fair, is it right, that we, the representatives of the people, we who really are responsible for the conduct of the Army and the Navy, should not know what is going on? Is there any reason why we should not be furnished this information upon our official request, with a view to securing the correction of an injustice, if any exists? I believe we are not only entitled to such information but that the conduct of the Army and Navy is our responsibility, and for this reason I am presenting the following resolution:

Resolved, That the Secretary of the Navy and the Secretary of War are hereby directed to furnish to Members of Congress, upon the request of any Member, any information or records called for pertaining to complaints of injustices or discriminations directed against enlisted men of the Army, Navy, or Marine Corps by their superior officers.

Mr. BLANTON. That already is provided for by regulations of the Departments.

Mr. HOEPPEL. It is not the law or the procedure of the Department.

Mr. BLANTON. I get such information right along for people in my district any time I ask for it. I have never yet been turned down on a request for information respecting any enlisted man from my district.

Mr. HOEPPEL. The gentleman will see the War Department letter, to which I have referred, in the RECORD tomorrow. I will make another request of the War Department for this information, and in the event I am again refused I will request the gentleman from Texas to obtain this information for me.

Mr. BLANTON. I have no objection.

Mr. HOEPPEL. Mr. Speaker, I ask unanimous consent for the immediate consideration of this resolution.

The SPEAKER. The gentleman from California asks unanimous consent for the immediate consideration of a resolution, which the Clerk will report.

The Clerk read as follows:

Resolved, That the Secretary of the Navy and the Secretary of War are hereby directed to furnish to Members of Congress, upon the request of any Member, any information or records called for pertaining to complaints of injustices or discriminations directed against enlisted men of the Army, Navy, or Marine Corps by their superior officers.

Mr. VINSON of Georgia. Mr. Speaker, reserving the right to object, I would ask the gentleman from California if this resolution has been referred to a committee.

Mr. HOEPPEL. It has not.

Mr. VINSON of Georgia. Why should it not go to a committee?

Mr. HOEPPEL. Is not the Congress itself competent to pass upon the question of the discrimination I have described, which, it is reported, has caused the suicide of four enlisted men? I hope the gentleman will not object.

Mr. TABER. Mr. Speaker, reserving the right to object, I understand that at the present time the War Department does provide this information for Members, but that the Navy Department has a regulation which permits the information to be given only on the request of the soldier himself. I would question the advisability of our attempting to change this rule of the Navy Department.

Mr. HOEPPEL. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. HOEPPEL. I would like to state for the information of the gentleman from New York, who apparently did not hear my previous statements, that I have in my possession a letter from the War Department stating that this information will not be furnished to me unless it is called for by the Congress or by one of its committees.

That is the official record I hold from the War Department. I hope the gentleman will not object. The enlisted men who bear the brunt of conflict in battle are entitled to fair and just consideration in time of peace. All other citizens have the right to petition Congress for redress. Why should enlisted men be debarred from equal consideration? In justice to the enlisted men Congress should give them a break on this question.

Mr. TABER. There is doubt in my mind whether we ought to direct the War Department to give such information unless the enlisted man consents. In the Navy the rules require that the request must come from the man himself.

Mr. HOEPPEL. That is covered by this resolution. It is self-evident that a Representative can only learn of injustice and discrimination in the Army or Navy through the medium of the enlisted man himself or his family, and his complaint can only be verified by War and Navy Department records.

Mr. TABER. It is not in the resolution.

Mr. HOEPPEL. This resolution merely provides that whenever a Representative calls on the War or Navy Department for pertinent information in order to determine the merit of a complaint, such information shall be furnished. A Member of Congress may use his judgment as to the validity of a complaint.

Mr. TABER. They should, but they do not always do so.

Mr. KELLER. Mr. Speaker, will the gentleman yield for a question?

Mr. TABER. I yield.

Mr. KELLER. Why should not Members of Congress have the right to get such information?

Mr. TABER. The Navy Department feels it is hardly proper to disclose information relative to a sailor unless the sailor requests it.

Mr. KELLER. Would it not be doing the soldier or sailor a good turn? In a case like this why should not a Member be furnished with definite information? Why should not any Congressman be given any information he wants from any department? That is what I would like to know.

Mr. TABER. That is all right, but in these cases involving the Army and the Navy, not without consent of the soldier or the sailor.

Mr. SNELL. I have always gotten all the information I asked for.

Mr. KELLER. And I have got some I did not ask for; but sometimes they want to withhold information.

Mr. TABER. Mr. Speaker, I shall leave it to some Member of the majority to object.

Mr. TAYLOR of Colorado. Mr. Speaker, I object.

Mr. HOEPPEL. Will not the gentleman withhold his objection for a moment?

Mr. TAYLOR of Colorado. Mr. Speaker, I withhold the objection for the time being, but ultimately I shall object.

Mr. HOEPPEL. Then all I can say is that if there are any further suicides in Panama, the gentleman from Colorado cannot escape a share of the responsibility, nor can we, the representatives of the people, excuse our failure to recognize the plight of the enlisted man who dares not bring his complaints directly through official channels if he wishes to remain in the service. In my experience I have found that many worthy enlisted men were virtually "drummed out" of the service as a result of the arbitrary action of a commanding officer. The stigma of desertion has thus in many instances been placed upon worthy enlisted men who would not submit to continued indignities.

This resolution that I have offered will give them a chance to be heard. If objected to, I shall reintroduce the resolution, and I hope the Members, upon reflection, will recognize its merit and support it in the interest of a square deal to the enlisted man.

The regular order was demanded.

The SPEAKER. The regular order is, Is there objection to the request of the gentleman from California?

Mr. TAYLOR of Colorado. Mr. Speaker, I object.

LIMIT OF EXPENDITURE FOR REPAIRS OR CHANGES TO NAVAL VESSELS

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4760) to increase the statutory limit of expenditures for repairs or changes to naval vessels with Senate amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, lines 5 and 6, strike out "$600,000 for any two consecutive fiscal years" and insert "$450,000 for any 18 consecutive months."

Amend the title so as to read "An act limiting expenditures for repairs or changes to naval vessels."

Mr. SNELL. Mr. Speaker, I think the gentleman should tell us something about these amendments.

Mr. VINSON of Georgia. Mr. Speaker, I may say to the gentleman that the bill as it passed the House permitted the annual overhauling repairs to be $600,000 in a period of 18 months. The Senate has amended it, making the sum $450,000 in a period of 18 months instead of $600,000, as in the bill which passed the House.

Mr. SNELL. If there is anything that cuts down appropriations we on this side are for it.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PRIVATE CALENDAR

The SPEAKER. Under the previous order of the House, the Clerk will call the bills on the Private Calendar.

HERMOSA-REDONDO HOSPITAL ET AL.

The Clerk called the first bill on the Private Calendar, H. R. 1702, for the relief of the Hermosa-Redondo Hospital, C. Max Anderson, Julian O. Wilke, Curtis A. Wherry, Hollie B. Murray, Ruth M. Laird, Sigrid I. Olsen, and Stella S. Guy.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Hermosa-Redondo Hospital, Hermosa Beach, Calif., the sum of $875.17; to Dr. C. Max Anderson the sum of $331.50; to Dr. Julian O. Wilke the sum of $125; to Dr. Curtis A. Wherry the sum of $247.50; to Hollie B. Murray the sum of $30; to Ruth M. Laird the sum of $336; to Sigrid I. Olsen the sum of $77; and to Stella S. Guy the sum of $448. Such sums shall be in full settlement of all claims against the United States arising out of services rendered and supplies furnished by such hospital and persons to Knud Heinrick Mattson, seaman, first class, United States Navy, on account of injuries sustained by the said Knud Heinrick Mattson while on leave of absence from the U. S. S. *Nevada*, September 21, 1930.

With the following committee amendments:

On page 1, line 6, strike out "$875.17" and insert in lieu thereof "$865.24."

Line 7, page 1, strike out "$331.50" and insert in lieu thereof "$203."

Line 9, page 1, strike out "$247.50" and insert in lieu thereof "$180."

Page 2, line 2, strike out "$448" and insert in lieu thereof "$441; in all, $2,257.24."

In line 9, after the figures "1930", insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OSWALD ORLANDO

The Clerk called the next bill, H. R. 2319, for the relief of Oswald Orlando.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Oswald Orlando the sum of $1,000 in full satisfaction of the claim of said Oswald Orlando for injuries sustained by him as a result of the collision of a Government owned and operated motor vehicle with his automobile.

With the following committee amendments:

On page 1, line 6, after the word "of", strike out the words "the claim of said Oswald Orlando" and insert in lieu thereof "all claims against the United States," and in line 10, after the word "automobile", insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WEIS-PATTERSON LUMBER CO., INC.

The Clerk called the next bill, H. R. 2432, for the relief of the Weis-Patterson Lumber Co., Inc.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Weis-Patterson Lumber Co., Inc., Pensacola, Fla., the sum of $600, in full satisfaction of its claim against the United States, such sum representing damages sustained when a barge owned by the Weis-Patterson Lumber Co., Inc., and rented to the War Department was, through the negligence of the War Department, blown ashore and totally wrecked during a storm.

With the following committee amendments:

On page 2, line 1, strike out the words "through the negligence of the War Department" and insert in lieu thereof "on August 31, 1932."

Line 3, after the word "storm", insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SARAH SHELTON

The Clerk called the next bill, H. R. 2982, for the relief of Sarah Shelton.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McFARLANE. Mr. Speaker, I object.

There being no further objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, to Sarah Shelton, of Granite City, Ill., the sum of $6,000 for the death of her husband, William Shelton, who was killed by being run down by a launch under the control and charge of the deputy collector of customs, at St. Louis, Mo., while said deputy collector was in the exercise and discharge of his official duties.

With the following committee amendments:

On page 1, line 6, after "$6,000", insert "in full settlement of all claims against the United States."

On page 2, line 1, after the word "duties", insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALLEGHENY FORGING CO.

The Clerk called the next bill, H. R. 3164, for the relief of the Allegheny Forging Co.

Mr. COSTELLO and Mr. McFARLANE objected, and, under the rules, the bill was recommitted to the Committee on Claims.

E. H. JENNINGS

The Clerk called the next bill, H. R. 3759, for the relief of E. H. Jennings.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Postmaster General is authorized and directed to credit the account of E. H. Jennings, postmaster at Charlestown, S. C., in the sum of $100, and to certify such credit to the Comptroller General of the United States. Such sum represents the amount of a counterfeit gold certificate accepted at the Charlestown post office on May 9, 1933.

With the following committee amendments:

On page 1, line 3, strike out the words "Postmaster General" and insert in lieu thereof "Comptroller General of the United States."

Line 6, after "$100", strike out the words "and to certify such credit to the Comptroller General of the United States. Such sum represents" and insert in lieu thereof the word "representing."

The committee amendments were agreed to.

Mr. HANCOCK of New York. Mr. Speaker, I ask unanimous consent that the word "Charlestown" may be corrected to read "Charleston."

The SPEAKER. Without objection, the correction will be made.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

D. E. WOOLDRIDGE

The Clerk called the next bill, H. R. 3943, for the relief of D. E. Wooldridge.

Mr. COSTELLO and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Claims.

M. P. CREATH

The Clerk called the next bill, H. R. 4038, for the relief of M. P. Creath.

Mr. COSTELLO and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Claims.

ANNA CAPORASO

The Clerk called the next bill, H. R. 4256, for the relief of Anna Caporaso.

Mr. McFARLANE and Mr. COSTELLO objected, and, under the rule, the bill was recommitted to the Committee on Claims.

ENLISTED MEN OF THE MARINE CORPS

The Clerk called the next bill, H. R. 4846, to provide for the reimbursement of certain enlisted men and former enlisted men of the Marine Corps for the value of personal effects lost, damaged, or destroyed by fire at the Marine Barracks, Quantico, Va., on October 5, 1930.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, such sum or sums, amounting in the aggregate not to exceed $2,860.04, as may be required by the Secretary of the Navy to reimburse, under such regulations as he may prescribe, enlisted men or former enlisted men of the Marine Corps for the value of personal effects lost as a result of the fire which occurred at the Marine Barracks, Quantico, Va., on October 5, 1930.

With the following committee amendment:

On page 2, line 2, after the figures "1930", insert "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

CLAIMS OF MILITARY PERSONNEL

The Clerk called the next bill, H. R. 4852, to authorize the settlement of individual claims of military personnel for damages to and loss of private property incident to the training, practice, operation, or maintenance of the Army.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the General Accounting Office be, and is hereby, authorized and directed to pay the following claims of military personnel and civilian employees in the amounts shown which have been approved and recommended for payment by the Secretary of War, for damages to and loss of private property of such personnel incident to the training, practice, operation, or maintenance of the Army, and that such payments be made from the present appropriation of the War Department entitled "Claims for Damages to and Loss of Private Property": Maynard R. Ashworth, captain, Infantry Reserves, $33.40; John B. Bowman, first sergeant, $29; Robert J. Benton, corporal, $25; John H. Brimberry, first sergeant, $63.52; Charles F. Bryan, civilian employee, $7.40; John H. Burns, captain, Infantry, $11; Frank L. Blue, Jr., lieutenant, Corps of Engineers, $450; Lionel J. Croteau, sergeant, $99.05; Charles H. Coy, staff sergeant, $9.75; Grovener C. Charles, lieutenant, Infantry, $15; Samuel L. Davidson, warrant officer, $4.90; Daniel Farrer, master sergeant, $23.25; Louis H. Foote, lieutenant, Corps of Engineers, $4.50; Francis S. Gardner, lieutenant, Field Artillery, $14.20; John F. Hartman, sergeant, $59; James P. Hodges, captain, Air Corps, $98.50; Daniel H. Hundley, lieutenant, Infantry, $16; M. E. Jennings, lieutenant, Chemical Warfare Service, $150; A. D. Johnson, captain, Infantry, $95.65; Carl A. Kastle, sergeant, $18; H. Koontz, civilian employee, $41.53; Grover McEntire, warrant officer, $58.78; Shockley D. Mullinix, staff sergeant, $1.10; Richard McCranie, civilian employee, $18.22; Huna Putchkoff, technical sergeant, $30; Henry Pascale, captain, Air Corps, $20.50; J. W. Richards, civilian employee, $8.50; John V. Schultheis, Sr., master sergeant, $18.86; Arnold W. Shutter, captain, Field Artillery, $11.85; Charles D. Schultz, civilian employee, $8; Richard J. Sorensen, private, $219.45; and Roger M. Wicks, lieutenant, Field Artillery, $45.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIE LINSENMEYER

The Clerk called the next bill, H. R. 4999, for the relief of Marie Linsenmeyer.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Marie Linsenmeyer, out of any money in the Treasury not otherwise appropriated, the sum of $112.50 in full settlement of all claims against the Government on account of personal injuries received by the said Marie Linsenmeyer on the 18th day of December 1930, at the post-office building at Burlington, Des Moines County, Iowa.

With the following committee amendment:

Page 1, line 10, after the word "Iowa", insert: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

D. E. SWEINHART

The Clerk called the next bill, H. R. 5127, for the relief of D. E. Sweinhart.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to D. E. Sweinhart, of San Antonio, Tex., the sum of $5,000, as compensation for the death of his son, Edward Sweinhart, a minor, who was killed at San Antonio, Tex., on October 14, 1917, by the negligent driving of a United States Government truck.

With the following committee amendments:

Page 1, line 6, after "$5,000", strike out "as compensation" and insert in lieu thereof "in full settlement of all claims against the United States."

In line 11, after the word "truck", insert: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADJOURNMENT OVER

Mr. BOILEAU. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

Mr. TRUAX. Mr. Speaker, reserving the right to object, I would like to have the gentleman recall that on several occasions requests have been made to address the House during consideration of the Private Calendar. These requests were objected to by the Chairman of the Rules Committee, the gentleman from New York [Mr. O'CONNOR], and I simply want to know whether this is to be regarded as a precedent already established, or are we to waive that precedent and now permit such unanimous-consent requests.

Mr. BOILEAU. I want to make a statement as to the reason why I objected to the request of the gentleman from Colorado to adjourn over until Monday and then withdraw my objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. BOILEAU. Mr. Speaker, the majority leader earlier in the afternoon presented a unanimous-consent request that when the House adjourns today it adjourn to meet on Monday next. I objected to that request for the only reason that tomorrow is the last legislative day that the Members favoring the Frazier-Lemke bill could sign the petition in order to insure a vote on that bill on the next consent day. The petition must be completed and on the table for 7 legislative days before consent day before its consideration is in order.

In view of the withdrawals we lack 10 signatures, and I am satisfied that it will be impossible to get that many signatures by tomorrow, and we will therefore have to bring it up on the second consent day. I have consulted with the gentleman from North Dakota [Mr. LEMKE], and I now withdraw my objection to the unanimous-consent request propounded by the majority leader.

Mr. McFARLANE. Reserving the right to object, how many signatures do you now lack?

Mr. BOILEAU. We now lack 10 signatures.

Mr. TAYLOR of Colorado. Mr. Speaker, I now renew my request that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. TRUAX. Mr. Speaker, reserving the right to object, and I do not intend to object, I would like to ask the gentleman from Wisconsin [Mr. BOILEAU] if he knows why these withdrawals have been made—what is the incentive to these Members to gain their withdrawals?

Mr. BOILEAU. I have my own opinion, but not backed up by sufficient evidence.

Mr. HOEPPEL. I can tell the gentleman. I was requested to withdraw my signature, and I declined. The reason given to me was that if the Democratic Members did not withdraw they would be put on the spot.

The SPEAKER. Is there objection to the request of the gentleman from Colorado that when the House adjourns today it adjourn to meet on Monday next?

There was no objection.

PRIVATE CALENDAR

MARY BROWN RALEY

The Clerk called the bill (H. R. 5750) for the relief of Mary Brown Raley.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mary Brown Raley the sum of $750.50 for injuries sustained in an automobile accident, in collision with an Army truck in Baltimore, Md., October 10, 1932.

With the following committee amendments:

After the figures "$750.50" in line 6, insert "in full settlement of all claims against the United States", and in line 9, after the figures "1932", strike out the period, add a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to; and the bill, as amended, was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

JAMES J. CURRAN

The Clerk called the bill (H. R. 5781) for the relief of the widow and next of kin of James J. Curran.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the administrator appointed in the courts of the State of New York of the estate of James J. Curran, of Manhattan Borough, New York City, the sum of $10,000 as damages sustained by reason of the killing of said James J. Curran, who died in Manhattan Borough, New York City, on October 25, 1919, as a result of injuries received at New York City on October 22, 1919, by being run down by a Government-owned automobile truck operated by an employee of the United States Postal Service under the jurisdiction of the New York post office, such sum of $10,000 to be distributed to said decedent's widow and next of kin as damages in an action for causing death by a wrongful act under the laws of the State of New York.

With the following committee amendments:

Page 1, line 8, after the word "of", strike out "$10,000 as damages sustained by reason of the killing of said" and insert in lieu thereof "$5,000 in full settlement of all claims against the United States for the death of."

Page 2, line 5, strike out "$10,000" and insert "$5,000"; and at the end of line 8, strike out the period, insert a colon and the following:

"*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to; and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

CREDITORS OF J. R. & J. A. WHELAN

The Clerk called the bill (H. R. 5790) for the relief of certain creditors of J. R. & J. A. Whelan, Inc.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to pay to James T. O'Connell, trustee for the creditors of J. R. & J. A. Whelan, Inc., the sum of $10,985; to refund to the creditors the amount of penalty collected by the Government for the failure of J. R. & J. A. Whelan, Inc., to complete a contract, Noy–1076 (specification 6437), within the time specified in the contract.

With the following committee amendments:

Page 1, line 4, after the word "pay", insert "out of any money in the Treasury not otherwise appropriated"; and in line 6, after the word "incorporated", insert "in full settlement of all claims against the United States."

Line 8, strike out "$10,985" and insert "$9,880"; page 2, line 2, strike out the period, insert a colon and the following:

"*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated

in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to; and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

BARLOW-MOORE TOBACCO CO.

The Clerk called the bill (S. 239) for the relief of the Barlow-Moore Tobacco Co.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Barlow-Moore Tobacco Co., of Bowling Green, Ky., the sum of $311.04, representing the value of tobacco stamps purchased by that company as payment of duty on manufactured tobacco reimported and returned to the factory to be reworked: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 7, strike out the word "representing" and insert "in full settlement of all claims against the United States for."

The committee amendment was agreed to; and the bill, as amended, was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

ELMER E. MILLER

The Clerk called the bill (S. 365) conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of Elmer E. Miller.

The SPEAKER. Is there objection?

Mr. TRUAX, Mr. COSTELLO, and Mr. McFARLANE objected, and the bill was recommitted to the Committee on Claims.

KORBER REALTY, INC.

The Clerk called the bill (S. 428) authorizing adjustment of the claim of Korber Realty, Inc.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to adjust and settle the claim of Korber Realty, Inc., under lease numbered VBr-806, dated April 28, 1931, on account of failure to restore to former condition quarters occupied during the period ended June 30, 1932, by the Albuquerque office of the Veterans' Administration, and to allow not to exceed $500 in full and final settlement of said claim. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $500, or so much thereof as may be necessary, for payment of the claim: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

MRS. GEORGE F. FREEMAN

The Clerk called the bill (S. 475) for the relief of Mrs. George F. Freeman.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the requirements of sections 15 to 20, both inclusive, of the act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended, are hereby waived in the case of the late Dr. George F. Freeman, formerly employed by the Department of Agriculture as director of the Agriculture Experiment Station, Mayaguez, P. R., who died on September 16, 1930, and whose death is alleged to have resulted from injuries sustained in the course of such employment, and the United States Employees' Compensation Commission is authorized and directed to consider and act upon any claim which may be filed with such Commission by Mrs. George F. Freeman, widow of such Dr. George F. Freeman, within 1 year from the date of enactment of this act, for compensation under the provisions of such act of September 7, 1916, as amended, for the death of such Dr. George F. Freeman; but compensation, if any, shall be paid from and after the date of enactment of this act. Such payments of compensation shall be made out of funds heretofore or hereafter appropriated for the payment of awards under the provisions of such act, as amended.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

H. KAMINSKI & CO.

The Clerk called the bill (S. 538) for the relief of H. Kaminski & Co., Kaminski Hardware Co., and the Carolina Hardware Co.

Mr. COSTELLO, Mr. TRUAX, and Mr. YOUNG objected, and the bill was recommitted to the Committee on Claims.

JOHN MULHERN

The Clerk called the bill (S. 814) for the relief of John Mulhern.

Mr. COSTELLO and Mr. TRUAX objected, and the bill was recommitted to the Committee on Claims.

LT. COMDR. G. C. MANNING

The Clerk called the next bill, S. 884, for the relief of Lt. Comdr. G. C. Manning.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Lt. Comdr. G. C. Manning the sum of $146 as reimbursement for damages to his furniture by the Navy in shipment from Shanghai, China, to New York.

With the following committee amendments:

Page 1, line 6, after the figures, strike out "as reimbursement" and insert in lieu thereof "in full settlement of all claims against the United States"; page 1, line 9, after the words "New York", insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. GUY A. M'CONOHA

The Clerk called the next bill, S. 951, for the relief of Mrs. Guy A. McConoha.

The SPEAKER. Is there objection?

Mr. COSTELLO and Mr. TRUAX objected, and the bill, under the rule, was recommitted to the Committee on Claims.

ZELMA HALVERSON

The Clerk called the next bill, S. 952, for the relief of Zelma Halverson.

The SPEAKER. Is there objection?

Mr. COSTELLO and Mr. TRUAX objected, and the bill, under the rule, was recommitted to the Committee on Claims.

WHITE BROS. & CO.

The Clerk called the next bill, S. 1054, authorizing adjustment of the claim of White Bros. & Co.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to adjust and settle the claim of the White Bros. & Co., a partnership composed of John W. White, Jr., Will J. White, A. P. White, and Madison

White, for a refund of an advance payment of rent for the property known as the Little Rock Air Depot, Little Rock, Ark., under their War Department lease no. W–766–qm–291, dated May 23, 1930, rent having been paid in advance for the period ending February 22, 1932, and the War Department having exercised its option to terminate the lease effective December 31, 1931, and to allow in full and final settlement of said claim not to exceed the sum of $341.92. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $341.92, or so much thereof as may be necessary to pay said claim: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ETHEL G. REMINGTON

The Clerk called the next bill, S. 1099, for the relief of Ethel G. Remington.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ethel G. Remington, the sum of $200, in full and final settlement of all claims against the Government for injuries sustained resulting from a collision involving United States Army truck no. 429912 on May 27, 1934, near Hayden Lake, Idaho: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SNARE & TRIEST CO., NOW FREDERICK SNARE CORPORATION

The Clerk called the next bill, S. 1328, for the relief of the Snare & Triest Co., now Frederick Snare Corporation.

The SPEAKER. Is there objection?

Mr. COSTELLO and Mr. TRUAX objected, and the bill, under the rule, was recommitted to the Committee on Claims.

ROBERT D. BALDWIN

The Clerk called the next bill, S. 1498, for the relief of Robert D. Baldwin.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to allow credit in the accounts of Robert D. Baldwin, superintendent and special disbursing agent of the Haskell Institute, at Lawrence, Kans., for an expenditure of $1,359.26 made in October 1931 and paid from the appropriation for Indian boarding schools, fiscal year 1932.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT J. ENOCHS

The Clerk called the next bill, S. 1499, for the relief of Robert J. Enochs.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to allow credit in the accounts of Dr. Robert J. Enochs, former superintendent and special disbursing agent of the Choctaw Indian Agency, Philadelphia, Miss., for an expenditure of $80.07 made in January 1932 for shoes, and paid from the appropriation "Support of Indians and administration of Indian property, 1932."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARL C. CHRISTENSEN

The Clerk called the next bill, S. 1566, for the relief of Carl C. Christensen.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Carl C. Christensen, of Spider Lake, Vilas County, Wis., the sum of $3,500, in full satisfaction of all claims of said Carl C. Christensen against the United States for damages resulting from personal injuries sustained by him on April 22, 1934, when shot by one Lester M. Gillis (alias Baby Face Nelson), while assisting two agents of the Department of Justice, Division of Investigation, in their endeavor to apprehend one John Dillinger and his associates: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GUY CLATTERBUCK

The Clerk called the next bill, S. 1872, for the relief of Guy Clatterbuck.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $35 to Guy Clatterbuck, a forest ranger employed on the Flathead National Forest, State of Montana, in payment for a horse which was lost during a forest fire in said national forest: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAPT. ROBERT E. COUGHLIN

The Clerk called the next bill, H. R. 3214, for the relief of Capt. Robert E. Coughlin.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to adjust and settle the claim of Capt. Robert E. Coughlin, Engineer Corps, United States Army, in the sum of $165 on account of stoppage of pay as the result of alleged neglect of duty while stationed at Fort Worden, Wash., during the year 1922, and to certify the same to Congress for an appropriation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DAVID HUGHES

The Clerk called the next bill, H. R. 2394, for the relief of David Hughes.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers David Hughes, late of Battery H, Sixth Regiment United States Artillery, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of that organization on December 12, 1898: *Provided*, That no bounty, back pay, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN P. SMITH, DECEASED

The Clerk called the next bill, H. R. 2393, for the relief of John P. Smith, deceased.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers John P. Smith, deceased, who was a member of Company A, Thirtieth Regiment United States Infantry, and Company I, Thirtieth Regiment United States Infantry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of that organization on the 13th day of November 1902: *Provided*, That no bounty, back pay, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROWESVILLE OIL CO.

The Clerk called the next bill, H. R. 237, for the relief of the Rowesville Oil Co.

The SPEAKER. Is there objection?

Mr. TRUAX, Mr. COSTELLO, and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on War Claims.

FARMERS' STORAGE & FERTILIZER CO.

The Clerk called the next bill, H. R. 254, for the relief of the Farmers' Storage & Fertilizer Co., of Aiken, S. C.

The SPEAKER. Is there objection?

Mr. TRUAX, Mr. COSTELLO, and Mr. YOUNG objected, and, under the rule, the bill was recommitted to the Committee on War Claims.

AUGUST A. CARMINATI

The Clerk called the next bill, H. R. 1437, for the relief of August A. Carminati.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to August A. Carminati, out of any money in the Treasury not otherwise appropriated, the sum of $505.40 in full settlement of all claims against the Government resulting from personal injuries received by him, while in the discharge of his duty, as an employee of the United States Naval Intelligence Bureau, and as a result of being injured in an automobile accident in August 1917.

With the following committee amendment:

Page 1, line 6, strike out "$505.40" and insert in lieu thereof "$263.80."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JAMES H. BELL

The Clerk called the next bill, H. R. 1286, for the relief of James H. Bell (or James Bell).

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers James H. Bell (or James Bell), who was a member of Troop C, First Regiment Tennessee Volunteer Cavalry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of that organization on the 20th day of September 1862; and notwithstanding any provisions to the contrary in the act relating to pensions approved April 26, 1898, as amended by the act approved May 11, 1908: *Provided*, That no bounty, back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FELIX NOWICKI

The Clerk called the next bill, H. R. 1471, for the relief of Felix Nowicki.

The SPEAKER. Is there objection?

Mr. HANCOCK of New York and Mr. HALLECK objected, and, under the rule, the bill was recommitted to the Committee on Military Affairs.

EMANUEL WALLIN

The Clerk called the next bill, H. R. 800, for the relief of Emanuel Wallin.

Mr. SMITH of Washington. Mr. Speaker, I ask unanimous consent to substitute a similar Senate bill, S. 2292, for the House bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the Senate bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Emanuel Wallin, out of the funds in the Treasury belonging to the Chippewa Tribe of Indians in Minnesota, the sum of $101.90, and out of any money in the Treasury not otherwise appropriated, the sum of $9.30, as reimbursement in full of moneys paid the Government in connection with his homestead entry, Crookston, Minn., 010750: *Provided*, That the Secretary of the Interior be, and he is hereby, authorized in his discretion to allow Emanuel Wallin, his heirs or assigns, to select, by legal subdivisions, 160 acres of surveyed vacant, unappropriated public land, unreserved except by Executive Order No. 6910 of November 26, 1934, and Executive Order No. 6964 of February 5, 1935, under the general homestead law, or 320 acres under the enlarged homestead law, or 640 acres under the stock-raising homestead law, free from lawful claim, anywhere in the United States where there are public lands subject to such entry, and receiving United States patent for such lands without payment to the United States of any fees, commissions, or other moneys, and without further compliance with the homestead laws in connection therewith, and the submission of proof thereof, the patent, however, to contain a reservation of mineral to the United States, if necessary, is in other entries under the same law.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H. R. 800) was laid on the table.

LILLIAN G. FROST

The Clerk called the next bill, S. 312, for the relief of Lillian G. Frost.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Lillian G. Frost, mother of Franklin Blaine Frost, late vice consul and third secretary, Department of State, the sum of $3,500, being 1 year's salary of her deceased son, who died while in the Foreign Service; and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, a sufficient sum to carry out the purpose of this act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDWARD SHIPPEN WEST

The Clerk called the next bill, H. R. 4858, for the relief of Edward Shippen West.

The SPEAKER. Is there objection?

Mr. McFARLANE. Mr. Speaker, I object.

There being no further objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to summon Edward Shippen West, late captain of Cavalry in the Regular Army of the United States, before a retiring board for the purpose of hearing his case and to inquire into all facts touching upon the nature of his disabilities, to determine and report the disabilities which in its judgment have produced his incapacity and whether such disabilities were incurred during his active service in the Army and were in line of duty. That if the findings of such board are in the affirmative, the President is further authorized, in his discretion, to nominate and appoint, by and with the advice and consent of the Senate, the said Edward Shippen West as a captain of Cavalry in the Regular Army of the United States and to place him immediately thereafter upon the retired list of the Army with the same privileges and retired pay as are now or may hereafter be provided by law or regulation for the officers of the Regular Army: *Provided*, That the said Edward Shippen West shall not be entitled to any back pay or allowance by the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

ARCHIE J. M'KEE

The Clerk called the next bill, H. R. 7992, for the relief of Archie J. McKee.

The SPEAKER. Is there objection?

Mr. HOPE and Mr. HANCOCK of New York objected, and, under the rule, the bill was recommitted to the Committee on Military Affairs.

PATRICK COLLINS

The Clerk called the next bill, H. R. 7509, for the relief of Patrick Collins.

The SPEAKER. Is there objection?

Mr. TRUAX and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Military Affairs.

ALBERT M. JOHNSON AND WALTER SCOTT

The Clerk called the next bill, H. R. 2476, to grant a patent to Albert M. Johnson and Walter Scott.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That subject to prior valid existing rights the Secretary of the Interior is hereby authorized to issue a patent to Albert M. Johnson and/or Walter Scott (Death Valley Scotty) for the following-described land in the Death Valley National Monument upon payment therefor at the rate of $1.25 per acre or under any applicable public-land law subject, however, to the reservation of such rights-of-way as the said Secretary may determine to be necessary or advisable for use in connection with the administration of said monument, to wit:

Those parts of sections 1, 2, 3, 4, 9, 10, 11, and 12, township 11 south, range 42 east; and those parts of sections 5, 6, and 7, township 11 south, range 43 east, Mount Diablo meridian, Calif., occupied by Albert M. Johnson and/or Walter Scott in the form of Upper and Lower Grapevine Ranches and marked on the ground by concrete fence posts according to the Roger Wilson survey of 1931 and on file in the General Land Office; also the remainder of the southwest quarter northwest quarter section 10, township 11 south, range 42 east; and south half northwest quarter section 6, township 11 south, range 43 east; containing, in all, approximately 1,500 acres.

With the following committee amendments:

Page 2, line 3, strike out the figure "9."

Page 2, line 12, after the word "east", strike out the semicolon and insert a comma.

Page 2, line 12, after the words "northwest quarter", insert the following language: "(lots 11 and 12)".

Page 2, line 14, after the word "acres", change the period to a colon and insert the following:

"*Provided*, That such patent shall contain a reservation to the United States of all the minerals the land may contain, together with the right to prospect for, mine and remove the same; such minerals to be subject to disposal by the United States only as may hereafter be expressly authorized by law.

"*And provided further*, That such land shall not be used for any purpose inconsistent with the rules and regulations governing national monuments: *And provided further*, That in the event of transfer of title to the whole of this property or any estate therein by either one or both patentees, by voluntary conveyance or by operation of law, the Secretary of the Interior shall be authorized to reacquire the land by purchase, condemnation, or otherwise out of such funds as may be made available by Congress for this purpose."

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UTAH GILSONITE CO.

The Clerk called the next bill, S. 377, to grant to the Utah Gilsonite Co. the right to use a water well on certain public lands in Utah.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Utah Gilsonite Co., a Missouri corporation, doing business in the State of Utah, be, and it is hereby, granted the right to use the water well now held by it on the northwest quarter of the northwest quarter of section 20, township 9 south, range 24 east, Salt Lake meridian, in Uintah County, Utah, for the purpose of supplying water for culinary and other beneficial purposes to its camp about 2 miles distant, and so much land around said well, not exceeding 5 acres, as needed for the protection and use thereof, upon condition that the company pay to the United States through the register of the Salt Lake City district land office a yearly rental of $5, the first payment to be made within 60 days after the passage of this act, and annually thereafter on the anniversary date hereof, and the continued use of the well for the purpose of supplying water to its camp: *Provided*, That upon failure to comply with said conditions, or either of them, for a continuous period of 1 year, the Secretary of the Interior may by appropriate proceedings declare said right forfeited and terminate the same.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARLES A. GETTYS

The Clerk called the next bill, H. R. 2165, for the relief of Charles A. Gettys.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That Charles A. Gettys, chief torpedoman, United States Naval Reserve, shall be considered to have had, for pay purposes, at the time of transfer from the United States Navy to the United States Naval Reserve, 16 years' and 1 day's active service in the United States Navy: *Provided*, That no bounty, back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LT. COMDR. G. C. MANNING

The Clerk called the next bill, H. R. 2331, for the relief of Lt. Comdr. G. C. Manning.

The SPEAKER. The Chair is advised that a similar bill, House Calendar 427, was passed a few minutes ago. Without objection, this bill, H. R. 2331, will be laid on the table.

There was no objection.

MISNER JANE HUMPHREY

The Clerk called the next bill, H. R. 2923, for the relief of Misner Jane Humphrey.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers or sailors John D. Humphrey, seaman, shall hereafter be held and considered to have been honorably discharged from the naval service of the United States on the 30th day of June 1865: *Provided*, That no compensation, retirement pay, back pay, pension, or other benefit shall be held to have accrued prior to the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM ROBERT JACKSON

The Clerk called the next bill, H. R. 6341, for the relief of William Robert Jackson.

Mr. TRUAX and Mr. COSTELLO objected, and, under the rule, the bill was recommitted to the Committee on Naval Affairs.

LT. COL. FRANCIS T. EVANS

The Clerk called the next bill, H. R. 6708, to authorize the presentation of a Distinguished Flying Cross to Lt. Col. Francis T. Evans, United States Marine Corps.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc. That the President is hereby authorized to present a Distinguished Flying Cross to Lt. Col. Francis T. Evans, United States Marine Corps, for extraordinary achievement while participating in an aerial flight prior to April 6, 1917: *Provided*, That the President shall ascertain that the achievement was of such character as to justify the award.

The bill was ordered to be engrossed and read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

FREDERICK HARRIS

The Clerk called the next bill, H. R. 3507, for the relief of Frederick Harris.

Mr. COSTELLO and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Naval Affairs.

JAMES ZANETTI

The Clerk called the next bill, H. R. 4047, granting 6 months' pay to James Zanetti.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized and directed to pay, out of the appropriation "Pay of the Navy, 1935", to James Zanetti, father of the late Joseph Zanetti, United States Navy, an amount equal to 6 months' pay at the rate said Joseph Zanetti was receiving at the date of his death.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARLES D. JERONIMUS

The Clerk called the next bill, H. R. 4084, for the relief of Charles D. Jeronimus.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the service rendered by Charles D. Jeronimus as a member of the Naval Militia of Minnesota from April 21, 1920, to June 19, 1920, in fitting out the United States ship *Essex* and in service on a cruise of the Naval Militia shall be considered for all purposes as active service for training in the United States Naval Reserve Force under his enrollment from July 18, 1920, to July 17, 1924, and that the Secretary of the Navy be, and he is hereby, authorized and directed to cause the records of the said Charles D. Jeronimus in the Navy Department to be corrected to conform with this authorization, to the end that the said Charles D. Jeronimus shall be entitled to all pay, benefits, and emoluments conferred by law or regulation by reason of such active service and training; and to refund to the said Charles D. Jeronimus from current appropriations for the Naval Reserve the sum of $99, representing retainer pay which was paid him during the period July 18, 1923, to October 17, 1923, and subsequently deducted upon his reenrollment in the Naval Reserve Force of August 18, 1924: *Provided*, That no other bounty, back pay, pension, or allowance shall be held to have accrued prior to the passage of this act.

With the following committee amendment:

On page 2, line 7, strike out "$99" and insert in lieu thereof "$152.23".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAX DOLE GILFILLAN

The Clerk called the next bill, H. R. 4092, for the relief of Max Dole Gilfillan.

Mr. TRUAX and Mr. COSTELLO objected, and, under the rule, the bill was recommitted to the Committee on Naval Affairs.

ALBERT HENRY GEORGE

The Clerk called the next bill, H. R. 5099, for the relief of Albert Henry George.

Mr. HANCOCK of New York and Mr. HALLECK objected, and, under the rule, the bill was recommitted to the Committee on Naval Affairs.

FRANCIS LEO SHEA

The Clerk called the next bill, H. R. 5620, for the relief of Francis Leo Shea.

Mr. COSTELLO and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Naval Affairs.

DAVID N. AIKEN

The Clerk called the next bill, H. R. 6254, for the relief of David N. Aiken.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers or sailors David N. Aiken, late assigned to the Naval Operating Base of the United States Marine Corps, shall hereafter be held and considered to have been honorably discharged from the naval service of the United States on the 16th day of March 1929: *Provided*, That no compensation, retirement pay, back pay, pension, or other benefit shall be held to have accrued prior to the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BRIG. GEN. ROBERT H. DUNLAP

The Clerk called the next bill, H. R. 7110, to authorize the President to bestow the Congressional Medal of Honor upon Brig. Gen. Robert H. Dunlap, United States Marine Corps, deceased.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States is hereby authorized to bestow the Congressional Medal of Honor upon Brig. Gen. Robert H. Dunlap, United States Marine Corps, for distinguishing himself conspicuously by extraordinary courage on May 19, 1931, at LaFariniere, Cino Mars la Pile, France, where he met his death in a supreme effort to save the life of a French peasant woman, and to deliver said medal to Katherine W. Dunlap, the widow of Brigadier General Dunlap.

With the following committee amendment:

On page 1, line 7, strike out "Cino Mars la Pile" and insert in lieu thereof "Cinq-Mars-la-Pile."

The committee amendment was agreed to.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. HANCOCK of New York: On page 1, line 4, after the word "the", strike out the words "Congressional Medal of Honor" and insert "Navy Cross."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

J. HAROLD ARNOLD

The Clerk called the next resolution, House Joint Resolution 179, authorizing the President to present in the name of Congress a Medal of Honor to J. Harold Arnold.

There being no objection, the Clerk read the joint resolution, as follows:

Resolved, etc., That the President is authorized to present in the name of Congress a Medal of Honor to J. Harold Arnold, who enlisted as A. A. Schovan, and whose name now appears on record as J. Harold Arnold, formerly drummer of the Thirty-first Company, Fourth Regiment United States Marine Corps, who, in action involving actual conflict with the enemy, distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: On page 1, line 3, after the word "present", strike out "in the name of Congress a Medal of Honor" and insert in lieu thereof the words "the Navy Cross."

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OMNIBUS CLAIMS BILL

The Clerk called the next bill, H. R. 8060, for the relief of sundry claimants, and for other purposes.

The SPEAKER. The Chair will state that this bill will be passed over, inasmuch as the order of the House was to consider individual bills and not omnibus bills.

SAMUEL MADISON STRANGE

The Clerk called the next bill, H. R. 830, for the relief of Samuel Madison Strange.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That notwithstanding the provisions and limitations of sections 15 to 20, both inclusive, of the act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended, the United States Employees' Compensation Commission is hereby authorized and directed to receive and consider, when filed, the claim of Samuel Madison Strange for disability alleged to have been incurred by him on or about May 1, 1918, and on or about May 27,

1919, while in the employment of the navy yard, Navy Department, at Norfolk, Va., and to determine said claim upon its merits under the provisions of said act.

With the following committee amendments:

Page 1, line 10, strike out the word "Samuel" and insert in lieu thereof the word "Sanford."

Page 2, line 4, insert a colon and the following: "*Provided*, That no benefits shall accrue prior to the approval of this act."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

The title was amended to read: "A bill for the relief of Sanford Madison Strange."

JOHN R. ALLGOOD

The Clerk called the next bill, H. R. 2421, for the relief of John R. Allgood.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $2,500 to John R. Allgood, of Athens, Ga., for injuries sustained in line of duty as mail messenger in August 1923.

With the following committee amendments:

Page 1, line 6, after the word "Georgia", insert "in full settlement of all claims against the United States."

Page 1, line 8, after "1923", insert the following: ": *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BEN D. SHOWALTER

The Clerk called the next bill, H. R. 2707, for the relief of Ben D. Showalter.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ben D. Showalter, during his natural life, the sum of $100 per month, to date from the passage of this act, as compensation for disability sustained while in the line of his duties as electroplater at the arsenal, Rock Island, Ill., said monthly payments to be paid through the United States Employees' Compensation Commission: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Strike out all after the enacting clause on page 1, line 3, down to and including page 2, line 12, and insert "That the United States Employees' Compensation Commission be, and it is hereby, authorized and directed to extend the benefits provided under the act entitled 'An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', approved September 7, 1916, as amended, to Ben D. Showalter, for total disability suffered by him while in the performance of his duty as the result of disease (eczema) which was proximately caused by his employment during his period of service from April 22, 1912, to June 1, 1920, as an electroplater at the Rock Island Arsenal, Rock Island, Ill.: *Provided*, That no benefits hereunder shall accrue prior to the passage of this act: *Provided further*, That no claim for legal services or for any other services rendered in respect of the claim for compensation of Ben D. Showalter shall be valid unless approved by said Commission; and any person who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity is approved by the said Commission, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment not to exceed 1 year, or both."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOSE MUNDEN

The Clerk called the bill (H. R. 2970) for the relief of Jose Munden.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Jose Munden, formerly a rural letter carrier out of Longview, Tex., remuneration for the loss of 6 months' retirement pay at the rate of $1,200 per annum less 3½ percent which deducted on retirement fund.

With the following committee amendment:

On page 1, line 7, strike out the word "remuneration" and insert "the sum of $583.26 in full settlement of all claims against the United States"; page 1, line 10, after the word "fund", insert "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FRANK W. CHILDRESS

The Clerk called the bill (H. R. 2974) for the relief of Frank W. Childress.

The SPEAKER. Is there objection?

Mr. COSTELLO and Mr. TRUAX objected, and the bill was recommitted to the Committee on Claims.

NINA DRIPS

The Clerk called the bill (H. R. 3282) for the relief of Nina Drips.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Nina Drips the sum of $7,500. Such sum shall be in full settlement of all claims against the United States on account of injuries sustained by the said Nina Drips on or about the 10th day of October 1932 while aboard a boat provided by the Navy Department of the United States plying between the Fifth Street Landing at San Pedro, Calif., and the U. S. S. *Relief*, lying in the harbor of San Pedro at San Pedro, Calif.

With the following committee amendment:

On page 1, line 5, strike out the figures "$7,500" and insert "$1,500."

Mr. McFARLANE. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Instead of the sum of $1,500 in the committee amendment insert "$118."

The SPEAKER. The question is on the amendment offered by the gentleman from Texas to the committee amendment.

The amendment was agreed to.

The committee amendment as amended was agreed to.

The Clerk read the following further committee amendment:

On page 2, line 1, after the word "California", insert "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, with-

hold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARY A. COX

The Clerk called the bill (H. R. 3562) for the relief of Mary A. Cox.

The SPEAKER. Is there objection?

Mr. COSTELLO and Mr. TRUAX objected.

LEWIS E. MAGWOOD

The Clerk called the next bill, H. R. 3762, to confer jurisdiction upon the United States District Court for the Eastern District of South Carolina to determine the claim of Lewis E. Magwood.

The SPEAKER. Is there objection?

Mr. COSTELLO, Mr. TRUAX, and Mr. McFARLANE objected.

ANDREW JOHNSON

The Clerk called the bill (H. R. 4364) for the relief of Andrew Johnson.

Mr. HANCOCK of New York and Mr. HOPE objected, and the bill was recommitted to the Committee on Claims.

ALBERT GONZALES

The Clerk called the bill (H. R. 4373) for the relief of Albert Gonzales.

Mr. TRUAX and Mr. COSTELLO objected, and the bill was recommitted to the Committee on Claims.

RALPH RIESLER

The Clerk called the bill (H. R. 4697) for the relief of Ralph Riesler.

Mr. McFARLANE and Mr. COSTELLO objected, and the bill was recommitted to the Committee on Claims.

WEYMOUTH KIRKLAND AND ROBERT N. GOLDING

The Clerk called the bill (H. R. 4829) for the relief of Weymouth Kirkland and Robert N. Golding.

Mr. TRUAX and Mr. COSTELLO objected, and the bill was recommitted to the Committee on Claims.

CHARLES E. MOLSTER

The Clerk called the bill (H. R. 4848) for the relief of Charles E. Molster, disbursing clerk, Department of Commerce, and Dr. Louis H. Bauer, a former employee.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the General Accounting Office is hereby authorized and directed to credit in the accounts of Charles E. Molster, disbursing clerk, Department of Commerce, the sums of $1.25 paid to Frank L. Montague, Jr. (voucher no. 357593); $21.40 paid to Lt. Henry R. Angell, Air Corps, United States Army (vouchers nos. 27104 and 27105); and $21 paid to Dr. Louis H. Bauer (voucher no. 53755), which payments were later disallowed by the Comptroller General of the United States: *Provided*, That Dr. Louis H. Bauer shall not be required to refund to the Government the sum of $129, representing the amount paid by the Government for travel by Dr. Bauer from Habana, Cuba, to Cristobal, Panama, pursuant to orders of the Secretary of Commerce (voucher no. 62903, transportation request no. 151290).

With the following committee amendment:

Page 1, line 3, strike out "General Accounting Office" and insert "Comptroller General of the United States."

The committee amendment was agreed to; and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

REIMBURSEMENT OF CERTAIN CIVILIAN EMPLOYEES, HAMPTON ROADS

The Clerk called the bill (H. R. 4851) to provide for the reimbursement of certain civilian employees of the naval operating base, Hampton Roads, Va., for the value of tools lost in a fire at Pier No. 7 at the naval operating base on May 4, 1930.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, such sum or sums, amounting in the aggregate not to exceed $245.17, as may be required by the Secretary of the Navy to reimburse, under such regulations as he may prescribe, employees of the naval operating base, Hampton Roads, Va., for the value of tools owned by said employees lost as a result of the fire which destroyed Pier No. 7 at the naval operating base on May 4, 1930.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

MAJ. E. LESLIE MEDFORD

The Clerk called the bill (H. R. 4923) for the relief of Maj. E. Leslie Medford, United States property and disbursing officer for Maryland.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Comptroller General be, and he is hereby, authorized and directed to credit Maj. E. Leslie Medford, United States property and disbursing officer for Maryland, in his accounts with the sum of $1,200, which amount was disallowed by the Comptroller General because of the purchase in July 1932, of 20 flat saddles for the Maryland National Guard, without complying, through inadvertence and oversight, with the provisions of the act of March 8, 1932 (47 Stat. 62), requiring purchase of military articles of American growth, production, and manufacture.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. CHARLES F. EIKENBERG

The Clerk called the bill (H. R. 5078) for the relief of Mrs. Charles F. Eikenberg.

Mr. HANCOCK of New York and Mr. HOPE objected, and the bill was recommitted to the Committee on Claims.

MARY E. LORD

The Clerk called the bill (H. R. 5097) for the relief of Mary E. Lord.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and be is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mary E. Lord, Malden, Mass., the sum of $7,500. Such sum shall be in full settlement of all claims against the United States for damages sustained by the said Mary E. Lord as the result of being struck and seriously injured by a United States mail truck in Everett, Mass., on March 31, 1932.

With the following committee amendment:

Page 1, line 6, strike out "$7,500" and insert "$6,000."

Mr. McFARLANE. Mr. Speaker, I offer the following amendment to the committee amendment.

The Clerk read as follows:

Amendment by Mr. McFARLANE: Amend the committee amendment by striking out "$6,000" and inserting in lieu thereof "$5,000."

The SPEAKER. The question is on agreeing to the amendment to the committee amendment.

The amendment to the committee amendment was agreed to, and the committee amendment as amended was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Line 11, strike out the period, insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to; and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

ALEXANDER E. KOVNER

The Clerk called the next bill, H. R. 5150, for the relief of Alexander E. Kovner.

The SPEAKER. Is there objection?

Mr. HOPE and Mr. HANCOCK of New York objected, and the bill, under the rule, was recommitted to the Committee on Claims.

JOHN BROWN

The Clerk called the next bill, H. R. 5311, for the relief of John Brown.

The SPEAKER. Is there objection?

Mr. TRUAX and Mr. McFARLANE objected, and the bill, under the rule, was recommitted to the Committee on Claims.

ALBERT HENRY GEORGE

Mr. McFARLANE. Mr. Speaker, I ask unanimous consent to return to Private Calendar No. 463, H. R. 5099.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk called the bill (H. R. 5099) for the relief of Albert Henry George.

The SPEAKER. Is there objection?

There being no objection, the Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon persons honorably discharged from the United States Navy Albert Henry George shall be held and considered to have been honorably discharged from the United States Navy on the 5th day of June 1933: *Provided*, That no compensation, retirement pay, back pay, pension, or other benefits shall be held to have accrued prior to the passage of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAYOR AND ALDERMEN OF JERSEY CITY, N. J.

The Clerk called the next bill, H. R. 5635, for the relief of the mayor and aldermen of Jersey City, Hudson County, N. J., a municipal corporation.

The SPEAKER. Is there objection?

Mr. McFARLANE, Mr. TRUAX, and Mr. COSTELLO objected, and the bill, under the rule, was recommitted to the Committee on Claims.

DOROTHY WYHOWSKI

The Clerk called the next bill, H. R. 5827, for the relief of Dorothy Wyhowski.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay to Dorothy Wyhowski, out of any money in the Treasury not otherwise appropriated, the sum of $5,000 in full satisfaction of all claims against the United States on account of injuries sustained on October 26, 1932, when she was struck by a United States mail truck.

With the following committee amendment:

Page 1, line 4, after the word "to", insert "Elizabeth Wyhowski, mother and guardian of."

The committee amendment was agreed to.

The Clerk read the following further committee amendment:

In line 6, strike out "$5,000" and insert in lieu thereof "$3,000."

Mr. COSTELLO. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO to the committee amendment: In line 6, strike out "$3,000" and insert in lieu thereof "$2,000."

The amendment to the committee amendment was agreed to.

The committee amendment was agreed to.

The Clerk read the following further committee amendment:

Page 1, line 9, after the word "truck", insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title was amended to read as follows: "A bill for the relief of Elizabeth Wyhowski, mother and guardian of Dorothy Wyhowski."

MRS. WILLIAM E. SMITH AND CLARA SMITH

The Clerk called the next bill, H. R. 7577, for the relief of Mrs. William E. Smith and Clara Smith.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mrs. William E. Smith and Clara Smith, both of Hampton, Va., the sums of $725.92 and $981.13, respectively, in full settlement of all claims against the United States for damages sustained to furniture, clothing, and other private property, resulting from the operation of Army aircraft at Fox Hill, Hampton, Va., on October 31, 1934: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STANDARD DREDGING CO.

The Clerk called the next bill, S. 780, for the relief of the Standard Dredging Co.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Standard Dredging Co., owner of the dredge *Long Beach* and pipe line thereto attached, out of any money in the Treasury not otherwise appropriated, the sum of $2,531.25, or so much thereof as may be necessary, to fully reimburse said owner of said dredge and pipe line for damages suffered for loss of earnings or fair rental value of its said dredging plant for the period operation of same was stopped as a result of a collision with its pipe line by the United States dredge *Chinook* at Astoria, Oreg., May 1, 1916, under circumstances which were held after due investigation to have been such that the Government was responsible: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

On page 1, line 7, after the word "of", strike out "$2,531.25, or so much thereof as may be necessary, to fully reimburse said owner of said dredge and pipe line", and insert "$2,486.25, in full settlement of all claims against the United States."

The committee amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM W. DANENHOWER

The Clerk called the next bill, S. 925, to carry into effect the findings of the Court of Claims in the case of William W. Danenhower.

The SPEAKER. Is there objection?

Mr. TRUAX and Mr. COSTELLO objected, and the bill, under the rule, was recommitted to the Committee on Claims.

LOUIS FINGER

The Clerk called the next bill, S. 1073, for the relief of Louis Finger.

The SPEAKER. Is there objection?

Mr. HOPE and Mr. COSTELLO objected, and the bill, under the rule, was recommitted to the Committee on Claims.

WALTER MOTOR TRUCK CO., INC.

The Clerk called the next bill, S. 1290, for the relief of Walter Motor Truck Co., Inc.

There being no objection, the Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Walter Motor Truck Co., Inc., the sum of $8,400 in full settlement for two motor trucks delivered to and used for 5 years by the United States Quartermaster Department, Motor Transport Corps, United States Army, Camp Holabird, Md., for which no payment has ever been made: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COLLIER MANUFACTURING CO.

The Clerk called the next bill, S. 1431, for the relief of the Collier Manufacturing Co., of Barnesville, Ga.

The SPEAKER. Is there objection?

Mr. HANCOCK of New York, Mr. HALLECK, and Mr. TRUAX objected, and, under the rule, the bill was recommitted to the Committee on Claims.

SQUAW ISLAND FREIGHT TERMINAL CO., INC.

The Clerk called the next bill, S. 1817, conferring jurisdiction upon the Court of Claims of the United States to hear, consider, and render judgment on the claim of Squaw Island Freight Terminal Co., Inc., of Buffalo, N. Y., against the United States in respect of loss of property occasioned by the breaking of a Government dike on Squaw Island.

The SPEAKER. Is there objection?

Mr. TRUAX, Mr. COSTELLO, and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Claims.

THOMAS F. COONEY

The Clerk called the next bill, S. 2205, for the relief of Thomas F. Cooney.

The SPEAKER. Is there objection?

Mr. COSTELLO, Mr. TRUAX, and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Claims.

WESTERN ELECTRIC CO., INC.

The Clerk called the next bill, S. 2487, for the relief of the Western Electric Co., Inc.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to adjust, settle, and certify for payment, out of any money in the Treasury not otherwise appropriated, the claim of the Western Electric Co., Inc., for supplies delivered to the Navy Mine Depot, Yorktown, Va., under requisition no. 96, Bureau of Ordnance, dated May 24, 1920, the said supplies having been delivered to and accepted by the United States, but payment therefor not having been made because of the absence of a formal written contract, as required by section 3744 of the Revised Statutes, as amended by the act of June 17, 1917 (40 Stat., 198): *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OMNIBUS CLAIMS BILL

The SPEAKER. The next bill, H. R. 8108, is an omnibus bill. Under the previous order of the House this bill will be passed over, and the Clerk will call the next bill on the calendar.

WOODWORTH B. ALLEN

The Clerk called the next bill, H. R. 3786, for the relief of Woodworth B. Allen, captain, United States Army.

The SPEAKER. Is there objection?

Mr. TRUAX and Mr. McFARLANE objected, and, under the rule, the bill was recommitted to the Committee on Military Affairs.

THOMAS A. M'GURK

The Clerk called the next bill, H. R. 2442, for the relief of Thomas A. McGurk.

The SPEAKER. Is there objection?

Mr. McFARLANE and Mr. TRUAX objected, and, under the rule, the bill was recommitted to the Committee on Military Affairs.

JOANNA FORSYTH

The Clerk called the next bill, H. R. 6703, for the relief of Joanna Forsyth.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That Joanna Forsyth, the widow of Thomas Forsyth, shall be entitled to the right of selection and second entry under the provisions of the act entitled "An act for the relief of settlers and entrymen on Baca Float No. 3, in the State of Arizona", approved July 5, 1921 (42 Stat. 107), notwithstanding failure to apply for the benefits of such act within the time limit prescribed by law, if she makes application therefor within 12 months from the date of the enactment of this act and is otherwise eligible under the provisions of the act of July 5, 1921.

With the following committee amendment:

Page 1, line 9, after the word "law", insert the following: "and notwithstanding any withdrawal heretofore or hereafter made by Executive order of public land from settlement, location, sale, or entry."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KNUD O. FLAKNE

The Clerk called the next bill, S. 1446, for the relief of Knud O. Flakne.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the act entitled "An act for the relief of certain riparian owners for losses sustained by them on the drained Mud Lake bottom in Marshall County in the State of Minnesota", approved June 26, 1934 (Private, No. 368, 73d Cong.), is hereby amended by inserting the words "or Knud O. Flakne" after the words "F. H. Wellcome Co."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARY C. MORAN

The Clerk called the next bill, S. 1447, for the relief of Mary C. Moran.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the act entitled "An act for the relief of certain riparian owners for losses sustained by them on the drained Mud Lake bottom in Marshall County in the State of Minnesota", approved June 26, 1934 (Private, No. 368, 73d Cong.), is hereby amended by inserting the words "or Mary C. Moran" after the words "Clarence Larson."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDGAR SAMPSON

The Clerk called the next bill, H. R. 921, for the relief of Edgar Sampson.

The SPEAKER. Is there objection?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That sections 15, 17, and 20 of an act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended (U. S. C., title 5, pars. 765, 767, and 770, on p. 79), are hereby waived in favor of Edgar Sampson, who claims disability as a result of his employment under the Post Office Department in December 1927. The United States Employees' Compensation Commission is hereby authorized to accept formal notice of claim, now informally numbered Lf 17426, and to consider and act upon his claim under the remaining provisions of said act, as amended, in the same manner as if his claim and notice had been filed within 60 days after the said disability was incurred.

With the following committee amendment:

Page 1, line 10, start with the word "claims" and strike out the remainder of the bill, and insert in lieu thereof the following: "is alleged to have sustained disability as the result of his employment in the United States post office, Brooklyn, N. Y., in December 1927: *Provided*, That no benefits shall accrue prior to the approval of this act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LUCY JANE AYER

The Clerk called the next bill, H. R. 1105, for the relief of Lucy Jane Ayer.

Mr. MACFARLANE and Mr. TRUAX objected, and, under the rule, the bill was recommitted to the Committee on Claims.

CHARLES G. JOHNSON

The Clerk called the next bill, H. R. 2479, for the relief of Charles G. Johnson, State treasurer of the State of California.

Mr. MCFARLANE and Mr. TRUAX objected, and, under the rule, the bill was recommitted to the Committee on Claims.

Mr. TAYLOR of Colorado. Mr. Speaker, I understand from the gentlemen on both sides of the House that it will be inconvenient to proceed further with bills on the Private Calendar at this time.

DR. GEORGE W. RITCHEY

Mr. BLOOM. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 1036) authorizing adjustment of the claim of Dr. George W. Ritchey.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to adjust and settle the claim of Dr. George W. Ritchey in the amount of $8,283.39 as loss sustained through the spalling and splitting of the original 40-inch mirror which was intended for installation under contract NOd-297, dated June 5, 1931, in a telescope at the United States Naval Observatory, and to allow not to exceed $8,283.39 in full and final settlement of said claim. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $8,283.39, or so much thereof as may be necessary, for payment of the claim.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

THE PRIVATE CALENDAR RULE

Mr. BLANTON. Mr. Speaker, with the permission of the Chair, I should like to make a point of order with respect to certain bills that will come up next Tuesday, and then let the point of order be pending, so that the Speaker in the meantime may examine the authorities which may be presented by myself or by the Parliamentarian.

The SPEAKER. The Chair will be glad to hear the gentleman.

Mr. BLANTON. Mr. Speaker, on March 27, 1935, there was an attempt in the House by a simple House resolution to amend House Rule XXIV by providing, with respect to private bills that had been objected to, that they be recommitted back to the committee from which they emanated, and inferentially only was authority given that committee to incorporate the bills in an omnibus bill thereafter to be presented to the House.

I want to call attention to certain features of that rule that I should like to have in the RECORD at this time, so that the Speaker may know the points I am raising in connection with my point of order.

I read from the rule:

On the third Tuesday of each month, after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar, preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar.

The Speaker will note this is the first reference made in the rule to an "omnibus bill." I quote further:

Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce the amounts of money stated or to provide limitations.

That is the next reference to omnibus bills. There is no provision made in the rule with reference to how those omnibus bills shall be prepared, drawn, or introduced in the House. The next reference to an "omnibus bill" is as follows:

Upon the passage of any such omnibus bill, said bill shall be resolved into the several bills and resolutions of which it is composed, such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally.

The next reference to an "omnibus bill" is as follows:

In the consideration of any omnibus bills the proceedings as set forth above shall have the same force and effect as if each Senate—

Note this especially, Mr. Speaker—

as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution.

Mr. Speaker, those are excerpts from the new rule which attempts to amend rule XXIV of the House of Representatives. There is no rule of this House which authorizes a Senate bill to be incorporated in a House omnibus bill. There is no rule of the Senate which authorizes Senate bills to be incorporated in a House omnibus bill and then to be reintroduced in the House as a House bill under a House bill number.

I want to get the matter before the Speaker at this time, because I intend to raise this point of order seriously next Tuesday when the first so-called "omnibus bill" comes up. I will then present authorities to the Speaker, and I desire the Speaker and the Parliamentarian to be prepared, because I do not want to raise such a point without due notice.

Mr. SABATH. What is the question which the gentleman desires to raise?

Mr. BLANTON. I am now stating the question clearly and distinctly. Without consent of the Senate the House has no authority through a simple House resolution to pass such a rule, or to operate under it by reintroducing Senate bills under House numbers. Mr. Speaker, there is no provision in any of the rules of the House of Representatives or in any rules of the Senate of the United States, the two bodies constituting the Congress of the United States, for a Senate bill, after being passed by the Senate and messaged to the House, to be put into an omnibus bill of the House, thus losing its identity, Mr. Speaker, and then being reintroduced in the House with a House bill number and coming before the House under a new House bill. As I stated, there is no such provision either in the rules of the House or in the rules of the Senate of the United States. The rules of the Senate of the

United States do not authorize such procedure, and the House cannot thus proceed with the consent of the Senate.

In an attempt to follow this rule, which was passed by a simple resolution of the House, with no action on it whatever by the Senate, H. R. 8524, Calendar No. 622, has been introduced under a House number as an omnibus bill. It attempts to embrace together with other House bills theretofore introduced under different House numbers, Senate bill 929, an act for the relief of the Southern Products Co.

This is a bill that has been passed by the Senate of the United States under their rules and had been messaged to this House for consideration. Under Senate rules it must be considered by the House under the rules of the Congress of the United States. Never has there been any authority given by the Senate for the House to change a Senate bill and reintroduce it in the House under a new House number. This Senate bill does not come from any committee of the House by which it has been considered and reported under the proper Senate number. It now comes to the House as a House bill, placed in the hopper of the House, and given a new House bill number. There is no authority for such action. It has lost its Senate number. It has been reported to this House as H. R. 8524.

I am going to call attention to other omnibus bills embracing Senate bills losing their identity and coming into this House under a House number, H. R. So-and-so. For instance, Private Calendar No. 702 is a House bill (H. R. 8750) introduced in this House on July 2, 1935. This bill embraces Senate bill 753, to carry out the findings of the Court of Claims in the case of the Wales Island Packing Co., and which was passed by the Senate and messaged to the House, the Senate bill now losing its number and identity and coming into the House of Representatives under a House bill number, if the Chair pleases, without any authority of the Congress at all.

Then, too, the Senate has never given its consent, after such an omnibus bill is passed, for all of its provisions "to be resolved back into the original bills and resolutions." That, too, requires consent of the Senate.

I am going to present the Speaker with some authorities next Tuesday, and I am giving the Parliamentarian an opportunity to look this matter up and to examine the rules and precedents. I am raising the point of order, Mr. Speaker, that except by joint resolution, or at least a concurrent resolution, acted upon and approved by the Senate, the House of Representatives has no authority whatever to take a Senate bill, duly passed by the Senate and coming to the House with a Senate number, and put it into a new House bill and introduce it in a new House bill with an H. R. number and then, forsooth, after the House has passed such an omnibus bill, embracing a number of Senate bills and a number of House bills, for the House then to resolve its action back into those original bills and engross original House bills and read for the third time a Senate bill passed under such unauthorized action as this attempted by the House.

The rules of Congress require a Senate bill that has come to the House of Representatives from the Senate to be taken up as a Senate bill, as a separate and distinct piece of legislation, and considered by the House of Representatives as a Senate bill, and as long as it keeps its Senate number it cannot be changed in any way by a House number.

Of course, it is the usual practice when a Senate bill comes before the House and is on the Speaker's table if there is an identical House bill reported by a committee and on the calendar, to ask unanimous consent to consider the Senate bill instead of the House bill, but then it does not take a House number. It is not reintroduced into this House and sent through the House hopper with an H. R. number. It preserves its Senate bill integrity, it preserves its Senate number, and I raise the point of order there is no authority in this House, by a simple resolution not acted upon by the Senate, to so handle a Senate bill in the United States Congress, and this is all I have to say until next Tuesday, when I am going to present some authorities to the Speaker.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. BLANTON. I am sorry, but I do not want to take up any further time.

Mr. O'CONNOR. Mr. Speaker, just briefly, for the moment, in reply to the point of order which we may discuss more fully next Tuesday, as I have heard the gentleman, he has not mentioned anything that was not thoroughly considered by the Rules Committee during the many days we considered this matter. Every point the gentleman has mentioned was gone into, as to Senate bills and omnibus bills. So no part of the rule is inadvertent or adopted without the greatest consideration. If we are wrong, we did not make a mistake inadvertently. Whatever we did, we did deliberately and, we believe, within the rules and the precedents of the House.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. For a question; yes.

Mr. MAY. I think the gentleman from New York will recall that all during last year's vacation he was engaged in writing letters to the various Members of the Congress—I received one myself—asking for any suggestions we had to make with regard to the correction of this rule. I should like to ask the gentleman from New York if the question raised by the gentleman from Texas relates only to an omnibus bill of the House that would contain a Senate bill cr whether an omnibus bill of the House containing no Senate bill would be embraced in the question raised by his point of order?

Mr. BLANTON. Mr. Speaker, I do not believe, if and when it reaches the Supreme Court of the United States—and this question is going to reach there—and it will be remembered that we then called it to the Speaker's attention at the time this rule was passed, that the House has no authority to so change the rules respecting legislation, and Senate bills, by a simple House resolution, that it required a joint or concurrent resolution, even if we could do it in that way, in order that the Senate could act upon the matter and give its consent.

Mr. O'CONNOR. As to Senate bills.

Mr. BLANTON. I am thinking about all bills, but it is so clearly pertinent and true that we cannot so handle Senate bills that I now raise the question in the point of order as to Senate bills.

I do not think any lawyer in this House, after careful consideration, who has studied the rules of Congress and the precedents of Congress, could hold for one minute that the House has the right to take a Senate bill that has been passed by the Senate, carrying a Senate number, and send it to its House committee and have its House committee put it in a scramble of an omnibus bill with a lot of Senate bills and House bills, and reintroduce the Senate bill here in the hopper of the House as an original House bill—H. R. No. So-and-so, and then after so passing it, unscramble it, and put it back into its original Senate form, and give its original Senate number back to it. I do not think you can do this lawfully, and I believe the Supreme Court is going to hold it to be unlawful whenever the question gets to it. The point of order will be pending.

This is all I have to say about it now.

H. B. ARNOLD

Mr. DEEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 3512) for the relief of H. B. Arnold, with a Senate amendment, and agree to the amendment.

The SPEAKER. Is there objection?

Mr. McFARLANE. Will the gentleman explain what it is?

Mr. DEEN. This is a bill on the Private Calendar for the relief of H. B. Arnold. It passed the House on April 6 and was amended in the Senate by striking out the figures "$1,000" and inserting "$500."

The SPEAKER. The Clerk will report the Senate amendment.

The Clerk read as follows:

Page 1, line 7, strike out "$1,000" and insert "$500."

The Senate amendment was agreed to.

AMERICAN LEGION POST DEMANDS CONGRESSIONAL INVESTIGATION OF CONDUCT OF NATIONAL OFFICIALS OF AMERICAN LEGION

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein a resolution passed by the American Legion.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. PATMAN. Mr. Speaker, July 9, 1935, Victory Post, No. 4, American Legion, Department of the District of Columbia, passed a resolution demanding a congressional investigation of the activities of certain leaders and officials of the American Legion. The resolution is self-explanatory, and is as follows:

Whereas it has been charged that Wall Street bankers were desirous of destroying the influence of the "bonus" resolution adopted by the Portland convention of the American Legion in 1932, calling for full and immediate cash payment of the adjusted-service certificates; and

Whereas it is charged that a group of wealthy and influential leaders met at the Bankers' Club in New York City and agreed to advance the money necessary to employ influential legionnaires to contact the key legionnaires in all parts of the country, and to secure, if possible, enough support to pass another resolution at the Chicago convention in 1933 to offset the effect of the Portland resolution; and

Whereas it is charged that these bankers pledged an unlimited amount of money for this purpose, that a huge fund was raised, that certain Legionnaires were paid large sums of money to make the contacts, were given unlimited expense accounts, traveled luxuriously, spent money lavishly, made no accounting therefor, that no report was required nor questions asked; and

Whereas it is charged that at the Chicago convention $74,000 was sent by these bankers with the understanding that more would be forthcoming if necessary. This money, it has been testified under oath, was spent at Chicago to purchase the influence of certain leaders and officials of the American Legion, which resulted in the passage of the desired resolution, the said resolution being cunningly contrived to stifle, hinder, and delay the passage of the adjusted-service bill, and was so used last winter and spring; and

Whereas it is further charged that as a result of the activity of the important legionnaires who received slices of this slush fund, the Chicago convention did not reiterate the Legion's stand for full and immediate cash payment of the so-called "bonus"; and

Whereas it is charged that this information is in the form of printed testimony, presented by witnesses under oath, and discloses, on its face, that some leaders, officials, and former officials of the American Legion have double crossed, deceived, and misled the entire membership of the Legion; and

Whereas at the May meeting of the national executive committee the request of National Commander Belgrano for specific authority to investigate these charges was turned down: Now, therefore, be it

Resolved by Victory Post, No. 4, the American Legion, Department of the District of Columbia, in regular meeting assembled, this 9th day of July 1935, That the St. Louis National Convention of the American Legion (through the annual convention of the Department of the District of Columbia) be requested and urged to adopt a resolution asking that the Congress of the United States make a full and complete investigation of these charges and render an official report thereon at the earliest practicable moment.

This resolution was passed by this post by a unanimous vote. It occurs to me that every legionnaire in this Nation should join in a request for this congressional investigation. The charges are based upon sworn testimony.

WHAT ARE WE DOING FOR PEACE?

Mr. SHANLEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein a radio speech by the gentleman from Connecticut [Mr. KOPPLEMANN].

The SPEAKER. Without objection, it is so ordered.

Mr. SHANLEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address by Congressman HERMAN P. KOPPLEMANN over station WOL and affiliated stations, July 9, 1935:

With the awful catastrophe of another war reverberating throughout Europe and Africa, threatening to plunge the nations once more into a vortex of death and destruction, with the tread of Mars resounding in the clank of cannon and the stir of troops on the march, with the peace of Europe, as one of its foremost statesmen says—hanging on five or six men—the question which has startlingly been raised in the minds of the American people is, what are we doing for peace?

For too many months has the dire prophecy of war been repeated. For too long have there been discussions and conferences to underwrite agreements which will prove more than mere scraps of paper, motivated by one principle alone, settlement of national and international differences without the recourse to war.

Legislation throughout which is woven implications of war, its threat, its promotion, or its elimination has been before this Congress continually. The charge that war has been encouraged by financiers and munitions makers launched an investigation out of which resulted measures to curb profits on the manufacture of arms. Can there be any question that such profits ought to be wiped out? And yet such a bill, inadequate as it is, passed the House only after a battle, and its companion legislation still lingers in the Senate.

The American people want peace—or so it is said. Then where are the American people when measures for peace are before their representatives?

As a Member of Congress I can judge somewhat of the wishes of the people by the letters I receive. Ladies and gentlemen, the interest shown me by the public in measures for peace, while greater than it has been in the past, is woefully meager. What part ought America to play in the world movement for peace? Surely a part in keeping with our economic importance in the assembly of nations. But before we can extend our efforts for amity beyond the limits of our own land we must first have peace among our people. Unless there is peace within our borders America cannot contribute to the peace of the world. Economic difficulties or economic ambitions are at the base of every conflict, whether it be a skirmish, a war between nations, or a war within a nation.

The first threat to America is the economic unrest within the 48 States of our Union. Unemployment is the blackest shadow looming over the peace of our land. Its companion shadows are starvation, idleness leading to crime, fear of security, fear of the future. We have attacked the hostile forces threatening the peace of our people within our territorial limits by heroic means. The war we have been waging against the economic enemies in our land has been difficult. We are fighting that war, constantly gaining the upper hand. The cost, while admittedly high, is less than this Nation would spend if it were confronted by the internal war which threatened us when we entered the conflict against our domestic economic evils in March of 1933.

And still we have not peace among our people, within our Nation. But yet being a Nation among other world nations we must share the problems of world peace. We are confronted, therefore, with a dual peace problem. Neutrality is excellent, so far as neutrality goes.

But war cannot be isolated—for better or for worse it affects us all, whether directly or indirectly. We therefore have a great stake in the cause of peace. Italy is sending her forces to Ethiopia even as I am talking and you are listening. One amusing fact in the Italo-Ethiopia situation rings with sardonic laughter. It is the rainy season in Ethiopia, and from all reports, if it were not, already war would be openly declared between these two Nations. As it is the declaration of hostilities is being deferred until the rainy season closes. Would that it would rain forever!

Japan is closing in on China, her eyes to the vast lands of the Soviet. Germany is breaking agreements with one hand while she signs promises with another. France is suspicious of England. England is openly offering concessions to some nations and at the same time making Heaven alone knows what secret agreements antagonistic to other nations.

With Europe sitting on a volcano ready to explode momentarily what should be America's attitude? There is no indication why we should be drawn into conflict in Europe in the event that such conflict breaks out. Whatever the problems which might precipitate war over there not one is important enough to prompt the devastation of this country.

What more than economic greed and distrust is inciting the war preparations in Europe? Compared to permanent aspects of civilization the considerations which form the present threat of war in Europe are trifling. Then why should these petty difficulties of inferior nations worry us to the extent of appropriating more than a billion dollars this year alone for defense preparations? The only part that America should play in the martial difficulties of other nations is prevention, and yet aside from reiterating a good neighbor policy what have we actually done to prevent war? Our real contribution to peace has been the reciprocal trade agreement legislation. This measure will mean a freer movement of trade between nations, tending to lessen economic unrest and requiring frequent friendly discussions of international problems.

Plans are also being made for a stabilization of the currency, a very international peace move for it, too, calls for friendly international cooperation. We have taken part in international conferences, but that is all.

The biggest peace-time Budget, with the exception of 1931, for implements of war has just been passed. Battleships, bombing planes, poison gas, tanks, and all kinds of munitions are being constructed. Nearly 50,000 more soldiers will be under arms. More young men will be admitted to West Point and Annapolis—which only from an educational standpoint can be justified. The naval training stations at Newport and at Great Lakes, out of operation since July 1, 1933, are being opened for recruit training. Bids have been invited by the Navy Department for the construction of the first of the new ships provided for in the naval appropriations bill. More than one-third of our normal Budget is to be spent for armament. How much better it could be spent to take care of the poor or provide for education and health and the recovery of our people?

Why do not the people who oppose the expenditures of the Government for its poor and its unemployed decry this expenditure for arms?

You have written me demanding that the National Budget be balanced. You have asked for economy in government. But Budget balancing and economy must be gained by taking specific provisions out of the Budget. You have protested money spent for relief and for the construction of useful projects. You have even mentioned the appropriation to rehabilitate and care for the youth of our land, but you do not mention this appalling sum of money, representing 72 cents out of every normal tax dollar which is being spent on account of war. You are taxed for this because you are taxed for gasoline, for cigarettes, for clothing, for almost everything you use to support the Nation's huge war machine. And now we have before us in Congress another income-tax bill.

A feeble handful of us in Congress tried to kill these war preparation measures, but we were overwhelmed. We tried to at least postpone the expenditure of the naval appropriations until after the disarmament conference which is to be held next year, and our hopes to preserve peace were at least given a chance. But instead America is going into that conference committed to disarmament while at the same time we are constructing a larger navy and a larger army on the fallacious plea of defense.

We pride ourselves on being the leader in world affairs, and yet we are slavishly following nations inferior to us in an armament race which can bring good to no one. The other nations point to us and say, "See, America is increasing its arms; we must do the same." And the United States points to them and says, "See, they are spending more for munitions of war; we must do the same."

Are the American people being misled by the jingoists; by certain of the press which denounces attempts of this Nation to cooperate with other nations to find a common ground for peace? Is that the reason for your silence?

Are the American people being misled by the defense cries of our Army and Navy Departments?

There is in Congress a growing group of Senators and Representatives committed to the task of making war less probable, but we do not have strength because you—the people—do not support us.

The World Court, a forward step for world peace which has been awaiting this country for years, was repudiated by the Senate. The implication is strong that a flood of protests from the people who did not understand influenced the votes of many of the Senators. I emphasize that the people who protested did not understand, for if they did, then the people of this country do not want peace.

Peace is not some vague dream of an idealist. It is real. It is imperative.

I am glad that the peace sentiment is growing in this country, that more Representatives are being sent to Congress because they will take up the battle for peace. But I repeat that the voice of the people in peace matters is feeble or unheard, and until you form yourselves into a force which demands peace your Representatives will be misled by your apathy into believing that you are indifferent to the tragedies of war and its aftermath.

THE WORLD'S DEBT TO RELIGION—THE NECESSITY FOR FULLEST DEVELOPMENT

Mr. SHANLEY. I also ask unanimous consent to extend my own remarks in the RECORD on the World Debt to Religion.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. SHANLEY. Mr. Speaker, few subjects have been more perplexing, yet more varied, in their unfolding than the subject of religion. Certainly in the primitive development of our civilization religion was the cornerstone of our efforts. No one can, therefore, pass over that important study without realizing the influence of conscience upon our progress. If we accept as a major premise the overwhelming support of mankind in religious matters, we must realize the necessity for affording to it its fullest scope.

Religion should have the greatest possible outlet for its development. Any attempt to stifle, oppress, or circumvent principles and practices of a religion is nothing more than an endeavor to preclude the chances of that religion meeting the real tests of competition. There is nothing in the world that so arrests a theory's constructive development as unjust opposition. As a matter of fact, it prevents a real test. No religion can ever stand upon its own feet and be subjected to the experience of mankind until it is allowed the utmost freedom. I am convinced that the utmost freedom allowed to all religions will in the end result in the rise or fall of those particular groups. There was a time in the history of man when the pettiness of superstitious reverence, cloaked all within a credo or cult with a sanctity and isolation that completely and utterly damned all outside that fold. We hope modern thought will change for all time.

GENERAL STUDY

With this introduction, I am asking your indulgence in this talk of mine, which will concern religion, its progress and influence on world civilization and its place in international law. I am one of those, also, who believes that religion is a development of a mature civilization and its highest development will be found only in our ripest civilizations. Its progress has been beset by ignorance and superstition, exploited by the lust of conquest and the love of ease, and often enervated by the strong man's craving for power, and the poor man's search for food.

AMONG THE HEBREWS

In spite of all these obstacles its spiritual effect has been pronounced. From its earliest and perhaps its greatest relative advance among the Hebrews, it has been bedrocked on the principle of national tradition and a higher law. The Hebraic patriots were the first to see that its influence surmounted all the weaknesses of established authorities of kings and priests and princes of the people, and that it contained within itself the healing forces that were asleep in the uncorrupted consciences of a strong people.

ABSOLUTISM'S DAY

When we remember that 600 years before Christ absolutism of the most vicious type held unbounded sway, and when we remember that one of the greatest men of that day, a poet of genius and refinement, was so wrapped up on the day's philosophy that he longed to drink the blood of his political adversaries, we will appreciate the thought and the power that attempted to stifle true religion.

PERICLES

To better appreciate the later changes after Solon from religion to its absence, we have only to remember the scenes that were enacted when the national beliefs of Greece were yielding to doubt, and doubt was in no way ready for knowledge. In those days the keen faculty of reasoning of the Greeks was applied to a society which had served its purpose, but was now being corrupted and losing its hold. In that transitional period between the dim fancies of mythology and the fierce light of scientific thought, there was enough left to raise up Pericles, one of the greatest figures in the profane annals of mankind. It was he who brought the people to their senses, and warned them against the predominance of any interest. It was his thought that the preservation of the independence of labor and the security of property, the protection of the rich against envy, and the poor against oppression was the highest ideal that a religious people can effect. No one will ever think of the generation of that golden age without recalling their supremacy in poetry and eloquence, in history, philosophy, and politics, and not realize that the people who had effected these under Pericles were the most religious of all Greek communities.

When their downfall came, history tells us that it resulted from a departure from their early principles. So long as the State was struggling to provide a greater opportunity for its citizens, and so long as religion helped in that goal, there was little difficulty; but just as soon as real progress was halted, the vice of the classic, and especially the Hellenic State was evident.

Then it was seen that church and state were one, and in the coalescence, morality was undistinguished from religion and politics from morals, and in these three great fields of politics, morality, and religion there was a concentration of power that could only result in evil.

The state forgot education, neglected spiritual needs, yet claimed the allegiance and loyalty of everyone. In this great disregard for private interest and for the moral welfare and development of the people, the vital elements of prosperity were destroyed. It was no wonder that communism, utilitarianism, and tyranny moved in. In such a way as this we can analyze the history and progress of every nation, and realize the steps that religion has played.

THE CLASSIC AGE'S WEAKNESS

We must remember this: That there was somthing wanting and absent in the classic period that could only be present in Christianity. When we realize that at the close

of the Greek and Roman periods three of the foundations of modern civilization and progress were absent—representative government, emancipation of slaves, and freedom of conscience. With all their progress—and no one doubts that it was a real advance—these periods were deficient in the very marrow of modern development. It was not until 3 days before his death, on the way to the temple, that the utterance of Christ, "Render to Caesar the things that are Caesar's, and unto God the things that are God's", opened a new road for both civic and religious advance, and gave to each a dignity that neither had possessed.

From that day forward we have a new theory; and despite the early efforts of Constantine, the graph is upward. We know too well that the history of practices of religion from that day is blackened by scandals and deeds that deserve the anathema of every student. We cannot forget that before the Reformation there was a vitiation of political literature because of its subservience to the interest of Pope and King, and even after the Reformation human progress is often discolored by political allegiance to Catholicism or Protestantism. Two instances may illustrate our point. John Knox thundered against the Queen because she went to Mass, and, on the other side, Marianna openly blessed the assassination of Henry III because he was in league with the Huguenots. Even tyrannicide was eulogized among Christians, first taught by John I. Salisbury, and heartily approved by Roger Bacon. With such a background, no one sincerely thought of politics as a law for the just and the unjust, or even attempted to find a set of principles that might be unwavering; and under such circumstances it was no wonder that many people had failed to learn that political science is an affair of conscience and not a matter of expediency or might.

CRISIS AND SOLUTION

When it is remembered at the same time the state was formed by the valor, the policy, or appropriate marriages of the royal family, it will be recalled to what depths sovereignty had descended. We were again falling into the era of the classic state. In one generation a nation had passed from one faith to another four times by royal command. The rack and the scaffold had become the best minister of religious propaganda, but, in spite of it all, there were men whose hard fighting, thinking, and endurance contributed to finally save us from this unity of church and state. The association of many churchmen with the popular cause saved us from the hierarchical bias of foreign divines and from the monarchial bias of continental governments, so that out of it we emerged with the separation of church and state, and a fair measure of self-government, in which the very differences in religion taught us toleration, and the confusion of our common law vividly brought home to us the realization that the best safeguard was the dependence and integrity of our judges.

A CONCLUSION

I believe that the same need of qualities of perseverance, moderation, individuality, and a manly sense of duty in the stern heart of labor has preserved us. This I believe to be the result of religious influence and political thought peculiarly our own. I believe that under these circumstances religion will always prosper.

THE INQUIRY AMONG NATIONS

We must, however, at this time investigate the condition of the sovereign state. As each nation developed and a common basis of international principle became necessary, there emerged from the days of Grotius, Pufendorf, Suarez, Bellarmine, Aquinas, and Vitoria, principles of common consent among nations that have been only the result of long and arduous strife. One principle has, however, been set out as a maxim throughout the development of international law. Each nation protects its right to control its own affairs, and no statement is more frequent in the pages of international studies than that which is predicated upon this right of nations to be exempted from external interference. So, too, a nation enjoys the right to accord such treatment as it may see fit to its own nationals within the places subject to its own control, and in our own history, from the time of Washington to the present, it has been a principle always acknowledged by the United States that every nation possesses a right to govern itself according to its own will, to change institutions at discretion, and to transact its business through whatever agencies it may deem proper to employ.

DEVELOPMENT IN UNITED STATES

Perhaps the words of President Buchanan on January 14, 1859, will best illustrate our American theory:

> I have long been convinced that it is neither the right nor the duty of this Government to exercise a moral censorship over the conduct of other independent governments, and to rebuke them for acts which we may deem arbitrary or unjust toward their own citizens or subjects.

It would be easy to quote from the great writers of international law, Moore, Westlake, Borchard, Stowell, Buell, and a host of others to prove this principle, but it is a principle not without its exceptions. From the time when the Crusades opened up the East to business enterprises and removed the dominance of the landed gentry there has been a growing diversification of international intercourse, and more and more each nation has become interested in the doings of every other nation. The development of the law of nations itself is a standing tribute to the willingness of each nation to combine with others in changing basic principles. Just as it has been said among individuals that when all have liberties no one enjoys them, so in the family of nations, unless there is real restraint there can be no enjoyment of nationality.

EROSION ON RULE

The History of International Law is really the development of exceptions to the general rule. When he was Secretary of State, Mr. Buchanan made the official remark—

> I would to God that the governments of all countries like that of our own happy land might permit knowledge of all kinds to circulate freely among the people. It is our glory that all men of the United States enjoy the inestimable right of worshipping God according to the dictates of their own conscience.

While no one will doubt the right of our Government to intercede for its own nationals, and use its utmost good offices for the furtherances of that national's religious desires, there is basis also for the statement that even the practice of another nation in regard to its own nationals becomes a matter of international concern when the repercussions from those practices affects other nations. Certainly, the persecution of the Jews in many continental lands resulted in an immigration to these shores that permitted the United States to protest. The development is such as to say that even without these repercussions, international society has advanced to the point where every nation might well be interested in the fullest development of religion in every other nation, not as an inherent right, to be sure, but as an expression of hope. Certainly we have no hesitancy in protesting against the treatment of religious groups in so-called "unenlightened countries." We have no hesitancy in expressing ourselves to those backward groups who really have no official status in international law. The growing necessity for some action of an intercessory character is best seen in a statement from Charles Cheney Hyde's International Law, volume I, page 85:

> The extent of the freedom from external control which, according to American opinion, the individual State is believed to possess will be examined with reference to what are commonly described as "domestic affairs" as distinct from those designated as "foreign affairs." In the course of such an examination it needs to be borne in mind that the revolutionary origin of the United States, together with the intolerance of external control characteristic of the race to which the people who overcame the British domination in the eighteenth century belonged, bred a devotion to principles of independence which there has happily been no disposition on the part of the Republic to relinquish. This circumstance accounts for the caution with which American opinion still greets any proposal for the restriction by general convention of rights long acknowledged to be the usual and common incidents of political independence. It is only when the sacrifice demanded in behalf of the international society is deemed to enhance the safety of each member thereof by processes which, having regard for the requirements of justice, appear to be conducive to the preservation of the general peace that any yielding on the part of the United States is to be anticipated.

ADDED MODERN EXAMPLES

Even as late as 1920 we find the following statement in the same book, disclosing a specific example of the general tendency stated supra:

In response to an intimation that the Government of Italy would welcome a statement of the view of that of the United States on the situation presented by the Russian advance into Poland in the summer of 1920, Mr. Colby, Secretary of State, found occasion to make clear the grounds forbidding recognition of the Soviet regime in Russia. These were in brief that the existing rulers of that country were not in power by the will or consent of any considerable portion of the Russian people, but represented a small minority thereof, and by means of savage oppression retained control. Secondly, it was pointed out that the existing regime was "based upon the negation of every principle of honor and good faith, and every usage and convention underlying the whole structure of international law; the negation, in short, of every principle upon which it is possible to base harmonious and trustful relations, whether of nations or individuals."

We seemingly have no limit to the protests of our Secretaries against the rigorous measures adopted against the Hebrew nationals of Russia and Rumania, and there has been no hesitancy at all on the part of our State Department to dissuade a state against such ruthless policies.

BACKWARD-NATION PRINCIPLES

Again the United States has been disposed to contend that in certain countries not accepted as full-fledged members of the family of nations, especially where American missionary enterprises were permitted to operate, native nationals associated therewith by religious professors or authorities should not be subjected to molestation or persecution. According to article XIV of the Treaty between the United States and China of October 8, 1903—

Any person, whether citizen of the United States or Chinese convert, who, according to these tenets, peaceably teaches and practices the principles of Christianity shall in no case be interfered with or molested therefor. No restrictions shall be placed on Chinese joining Christian churches. (Malloy's Treaties, I, 268.)

Another reason for urging a State to refrain from inhumane treatment of its own nationals is to be found in the circumstance that when charged with the denial of justice to resident aliens, the territorial sovereign may endeavor to rely in defense on the fact, if it be one, that such individuals were accorded treatment no more severe than that applied to nationals, and were not, in its judgment, so dealt with as to justify interposition in their behalf. (See, in this connection, Duties of Jurisdiction, infra, par. 266–267.) As a matter of fact, further in the Seventh International Conference of American States we have this statement:

It shall never be deemed an unfriendly act for any State or States to offer good offices or mediation to other States engaged in a controversy threatening or rupturing their peaceful relations, to the end that such differences may be so composed as to avoid recourse to or to end measures of force between the different States. The aforementioned good offices or mediation shall not be applicable when other methods of peaceful solution emanating from treaties or agreements between the parties for the peaceful settlement of international disputes shall have begun to function.

ATTEMPTS TO REMEDY BY TREATIES

In addition to this, for over 330 years we have a plethora of citations where religion has been the subject of treaties. Treaties authorizing a specific interference by one State in the internal affairs of another either by constituting a protectorate of the people of a particular nationality, or holding a particular religious faith, or by giving a guaranty of a particular constitution, or reigning family, or succession to the throne have all been made through the ages. Some of the most striking examples that come to mind now are the provisions for the Dissidents in Poland, and for the Christians in Turkey, and the Jews in Rumania. Poland is the outstanding example in constitutional matters while the pragmatic sanction is best seen in dynasties. As a matter of fact, the Hanoverian Succession in England is as good an example as can be found.

It would be interesting to trace the various clauses in treaties covering these points from the Treaty of Westphalia in 1648 to the present date. We would behold the enormous attention paid to the rights, and these rights caused bloodshed and cut across all national and geographical interests of sovereigns and reigning families. This is especially true of lines resulting in great territorial changes and economic disaster; the period antedating the American Declaration of Independence. It is a curious study to watch the change to State development, then changing to rights of nationalities.

The Treaty of Paris, which recognized the final conquest of Canada by Great Britain from France, had special provisions—article 4—for liberty to "the new Roman Catholic subject" of the King of Great Britain to follow their own religious worship.

In the Treaty of Oliva there were stipulations for the protection of the coreligionists of either power in the territories of the other. Poland stipulated for the protection of Roman Catholics in North Livonia, and Sweden for the protection of those who were afterward known as the "Dissidents" in Poland.

In the Treaty of Moscow in 1686 Poland promised Russia not to molest members of the Orthodox Church of Lutherans and not to try to make them Roman Catholics.

Even the capitulations with Turkey give us examples, as in the capitulations of 1740, which gave to French subjects the right to visit the holy places at Jerusalem. In the Treaties of Carlowitz (1699) between Poland and Turkey and Austria and Turkey, there are stipulations for the freedom of the exercise of the Roman Catholic religion.

In over 200 major treaties there are instances abounding with stipulations and guaranties concerning religious liberty, so that a really effective world-wide opinion has been formed concerning the right of nations to offer the good offices of statesmanship with reference to the internal concerns of other nations, not only by this method of treaties but by actual protests and offer of good services.

OTHER FIELDS

It would be interesting also to set out the many ways in which interference is guaranteed in many other subjects than armaments—of course, are all too familiar with stress on the efforts to maintain a balance of power, the right of succession, fishing rights, spheres of influence, extraterritoriality philosophy by injuries to nationals.

MISSIONARIES

Even in the great overthrow of its previous action in regard to missionaries the following statement has been in the records of the Secretary of State in protest against Japanese practices. It is noted from Mr. Seward's letter to the Right Reverend Horatio Potter, 74 MS Dom. Letter 417—

It is to be feared, however, that any attempt to induce them (the Japanese) to change their policy in respect to our religion would be premature. Still this Department will instruct Mr. Volkenburgh, United States Minister to Japan, to make inquiries, and, if he should find the prospect at all favorable at this time, to cooperate with Her Majesty's representative.

Obviously this is a broad statement and can well be said to help both American nationals as well as those of other countries. A far more indicative letter is that which Mr. Fish, Secretary of State, sent to Mr. Ade at Madrid on December 8, 1776.

Upon the 23d of November Sir Edward Thornton called upon me and stated that he was instructed by Lord Derby to read to me, and if I desire it to leave with me copy of an instruction bearing date October 28, which had been addressed to Mr. Layard, Her Majesty's minister at Madrid, touching religious toleration in Spain, and that Lord Derby expressed the hope that the Government of the United States might instruct its representative at Madrid to make representations in a similar sense to the Government of the King. I transmit, herewith, a copy of this instruction, which was given me by Sir Edward Thornton.

You will perceive its guarded character, and while Lord Derby states that Her Majesty's Government have learned with great regret that the Spanish Government had placed upon the eleventh article of the constitution an interpretation so much at variance with the spirit of toleration now so universal in civilized states, and with the more enlightened policy which has been followed in Spain since the year 1869, without apparent ill consequences, and while Her Majesty's Government would gladly learn that the recent orders have been rescinded or relaxed, he has not thought it advisable to instruct Mr. Layard to make any formal or official application to the Government of Spain in that sense. Lord Derby, however, expresses the hope entertained by Her Majesty's Government with regard to religious freedom may not be followed by others of a still more retrograde character, which Senor Caldern y Callantes, the Minister of State, admits are secured by Protes-

tants by the eleventh article of the constitution, will be scrupulously respected, with its reliance upon the good faith of the Spanish Government to act promptly and energetically in repressing any attempt on the part of local authorities to infringe upon these rights. Mr. Layard is instructed to speak in this sense to the Spanish Minister of Foreign Affairs and to lose no opportunity for impressing upon the Spanish Government the deep interest with which the question of religious liberty in Spain is regarded by Her Majesty's Government and by all classes of Her Majesty's subjects.

The question had been presented to this Government before Sir Edward's interview with me, and I have appreciated the delicacy of making representations to a foreign state concerning religious freedom within its own borders, as Lord Derby appears to have done. While, therefore, it is not deemed advisable to instruct you to make any remonstrances or to prefer any formal or official application concerning the steps that have lately been taken in Spain on the question, you are instructed to act in concert with Mr. Layard, Her Majesty's minister, in the sense in which he is instructed by Lord Derby, and to take occasion to speak in a similar sense to the Minister of State, impressing upon him the deep interest which the question of religious liberty in Spain excites in the United States, and the strong hope that the steps lately taken by the Spanish Government with reference to religious freedom and toleration may not be followed by others of a more retrogade character, and that the rights which the Minister of State admits are secured to Protestants by the eleventh article of the constitution may be entirely respected, and that the United States rely upon the good faith of the Spanish Government to promptly and firmly suppress any attempts from any quarter to infringe upon these rights.

OBSERVATIONS

While from this study it should be obvious that the United States will protect its own nationals in any country within reasonable limits, and that it will also interpose objections or its concern over the plight of foreign nationals when that plight is responsible for repercussions in the United States. In addition, it can be readily seen that there is a growing feeling to extend that to at least an intercessory stage over heinous acts, even in the case of foreign nationals. When we realize the expressions of opinion by nationals of one country over such common concerns as the condition of labor, the position of women in other countries, we see gradually emerging the basis for friendly suggestions on religious matters. If we are to have any standing at all in the family of nations, it may well be our position to ask for a conference of nations on the duty of each nation to allow religion the right of development and the right of physical places of worship.

Added instances of internal suggestive interference right in the Montevideo Conference on rights of women and labor all show the tendency of every nation to come more and more together on common ground. It must be realized that every sovereignty courts the good will of every other sovereignty. When nations fail to heed the warnings of other nations' repercussions, it is only because of their blindness to international good will and progress.

Let us look at two expressions of views on the matter of persecution and intolerance. The first is that of Mr. Blaine:

The Government of the United States does not assume to dictate the internal policies of other nations, or to make suggestions as to what their municipal laws should be, or as to the manner in which they should be administered. Nevertheless, the mutual duties of nations require that each should use its power with a due regard for the results which it exercises and produces on the rest of the world (Foreign Relations, 1891, pp. 737–739).

Another view is that of President Harrison, enunciated on December 9, 1881. The subject again is the Jewish persecution in Russia:

This Government has found occasion to express in a friendly spirit, but with much earnestness, to the Government of the Tzar its serious concern because of the harsh measures now being enforced against the Hebrews in Russia.

Parenthetically we may add that the word "earnestness" has a significant connotation in diplomatic intercourse. It is an outright warning of a serious intention to follow up the representation insofar as the demands of the crisis should allow.

The handling of the entire matter in Russia by our Government was an attempt on the surface to assuage the amour proper of the Russian Government, but the veneer of diplomatic nicety is so thin that its easy penetration discloses the humanitarian purpose behind the efforts of this country.

It is interesting to note that another President saw no occasion to spread over his attitude any veneer in his attempt to cut through the heart of the ordinary diplomatic cheval-de-frise. President Roosevelt, on a similar occasion, gathered together the petitions on the Russian situation and forwarded them to our Ambassador in Petrograd. He accompanied that despatch with a letter which cited the atrocities and set out a bill of particulars of complaints. Our American Ambassador attempted to present that despatch to the Russian Secretary of State, who obviously refused to receive them, but the attendant publicity on a world-wide scale was so effective that Russia stood humiliated by this forthright attempt of the keen-witted "Teddy."

On this entire subject of intervention for humanitarian purposes the phrases used are indeed varied but synonymous. Some text writers use the phrase "on the ground of humanity", others "abhorrent conditions" still others "against immoral acts"; all seem especially directed toward the violation of the principles of decency and humanity. Certainly it may fairly be said that they are attempting to protect the inhabitants of the involved state from treatment which is so arbitrary and persecution so abusive as to exceed the limits of that domestic authority, within which sovereignty is supposed to be exercised with reason and justice.

We cannot escape the conclusion that the people of one nation are directly and sympathetically affected by any attempt of another nation to even abridge the right of that other nation's own nationals. We have seen that wherever the repercussions of these abusive practices spread their effect beyond the boundaries, either by enforced emigration, or other methods, another nation so affected is bound to interfere or interpose its good offices. We have seen also that where the action is so heinous or so inconsistent with the principles of decency that interference is justifiably growing.

Perhaps the best summary is included in the scholarly article of Charles Cheney Hyde in volume 6 of the Illinois Law Review, where he says:

It is insufferable, however, that the tyrannical conduct of a State toward its own subjects might directly affect a numerous class of subjects of another State who were connected by blood with the victims of ill-treatment. If the injury thus sustained was of periodic recurrence and felt by large numbers of the population of the outside State, the latter would doubtless assert the right to intervene. In so doing, it would find justification for its action on grounds closely analagous to those of self-defense.

Thus we see a connection by blood as a basis for action.

CONSTITUTIONAL DISABILITIES IN MEXICO

May we not say that a connection by religion is another basis? May we not say also that when we have absolute proof of a constitution which seeks to abolish religion as is stated in article 3 of the Mexican Constitution, "No religious corporation, nor minister of any religious creed, shall establish or direct schools of primary instruction", that such a statement affects countless millions connected by religion? Further, article 130 of the same constitution, "The State legislatures shall have the exclusive power of determining the maximum number of ministers of religious creeds according to the needs of that locality." Are these not two instances? Physically and practically, are we not interested in the sworn affidavits of countless numbers of American citizens who found themselves in Mexico on legitimate errands and were deprived of all religious opportunities. The plethora of instances are so remarkable that they must have a reverberating sympathy among millions in America. As a matter of fact, our own foreign office makes the statement that they "had piles of letters and petitions from Americans living in Mexico making such similar requests."

In an official communique, the Mexican Ambassador, Señor Francisco Castillo Najera, in discussing the church problem of his country, said:

There is a great deal of agitation going on, but the agitation is outside of Mexico. Mexico is quiet, indifferent.

This reminds us of the family of Jews in Germany who wrote to relatives in the United States as follows:

We have a wonderful life. Not a hair on the head of any Jew has been touched, and Mr. Hitler is bringing us to a better future. Uncle Moritz, who expressed the opposite opinion, is being buried tomorrow.

The unalterable conclusion is that millions of communicants in this country of all denominations, though primarily the Catholic church is involved, feel a tug at their sensitive sympathies over the deplorable state of brutality and Bolshevistic efforts of the Mexican Government to wipe out religion as we understand it.

Now, certainly in a family of nations such an attitude cannot be consistently approved when that nation attempts to hold the control on all other subjects. There is no question but what Mexico wishes to derive the utmost advantage from a most friendly intercourse with this Nation. There is no question but what the very people whose fellow communicants are so brutalized in Mexico must feel bitter toward Mexico. Such an attitude is not good for Mexico, and it is not good for America. It seems fitting and proper that America should speak, and speak of the voices which rise in protest, even if only to acknowledge the condition.

This Congress is fully aware of the apprehension with which millions of communicants of all denominations in America are startled by the religious disabilities in Mexico. The ever-growing tendency of nations to remove the obstacles which cause unfavorable repercussions in other lands warrants us in vouchsafing the hope that there will be even greater opportunity for the teachings and practices of religion in the family of nations. We believe that the common consent of mankind favors the utmost development of religious worship.

In the growth of society it is not too much to expect that the fullest appreciation of this hope will find greater residence not only in Mexico but in every other nation at present outside the world thought on this subject. I believe there is no infringement on the rights of the Executive and the State Department in asking this Congress to go on record and extend its fullest apprehension of alarm and sorrow of millions of American communicants of all denominations in this country over the religious disabilities, not only in Mexico but in other nations. I believe that every congress or parliament of the world has a right to state the facts like these and to express a hope for the elimination of such conditions. I believe also that passage of similar resolutions or expressions of hope throughout the world sooner or later will be the basis for a new development of international law and would in the end result in a new chapter in religious tolerance on a world-wide basis.

It is only necessary to repair to the greatest ecclesiastical critics in history to appreciate what they think about the salutary value of divisions in religion. Fundamentally, we must keep in mind that there has been a division in religion that has forced tolerance in this country and has been the basis for our comparative religious freedom.

It was Francois de Salignac de la Mothe-Fenelon, a French prelate, who said in advising the Pretender, son of James II, of England, to practice religious toleration in case he came to the throne. "No human power," he declared, "can force the intrenchments of the human mind; compulsion never persuades—it only makes hypocrites." And again, to the same prince, "When kings interfere in matters of religion, they enslave instead of protecting it."

It was Voltaire also who said that one religion in the state presents a formidable despotism, while two results in the attempts of each to throttle the other, but if there are 30, there is happiness and peace.

It is perhaps fitting that we should close with the brilliant opening remarks of Viscount Bryce in his immortal chapter on the Churches and the Clergy.

In examining the National Government and the State governments we have never once had occasion to advert to any ecclesiastical body or question, because with such matters government has in the United States absolutely nothing to do. Of all the differences between the Old World and the New this is perhaps the most salient. Half the wars of Europe, half the internal troubles that have vexed European states, from the Monophysite controversies in the Roman Empire of the fifth century down to the Kuiturkampf in the German Empire of the nineteenth, have arisen from theological differences, or from the rival claims of church and state. This whole vast chapter of debate and strife has remained virtually unopened in the United States. There is no established church. All religious bodies are absolutely equal before the law, and unrecognized by the law, except as voluntary associations of private citizens.

The Federal Constitution contains the following prohibitions:

Article VI: No religious test shall ever be required as a qualification to any office or public trust under the United States.

Amendment I: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

No attempt has ever been made to alter or infringe upon these provisions. They affect the National Government only, placing no inhibition on the States, and leaving the whole subject to their controlled discretion, though subject to the general guarantees against oppression.

Every State constitution contains provisions generally similar to the above. Most declare that every man may worship God according to his own conscience, or that the free enjoyment of all religious sentiments and forms of worship shall be held sacred; most also provide that no man shall be compelled to support or attend any church.

The idea that religious liberty is the generating force of civil liberty and that civil liberty is the necessary condition of religious liberty is a heritage of the seventeenth century. That great political ideal sanctifying freedom and consecrating it to God, teaching man to treasure the liberty of others as their own, and to defend them for the love of justice and charity more than as a claim of right, has been the soul of what is great and good in the progress of the last 250 years. The cause of religion, even under the unregenerate influence of worldly passion, has had as much to do as any other motives of policy in making our country the foremost of the free. If it is our eventual destiny to isolate ourselves and to free our thoughts, as well as all intercourse from foreign alliances, may we never hesitate to speak out the thoughts which ruffle the consciences of great masses of our people. It is right that we should present to the world the reaction of minorities, and even majorities. It is a good thing for us, and it is a better thing for them.

WOULD YOU KILL ALL DOGS BECAUSE ONE DOG IS MAD?

Mr. HOEPPEL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein a letter I have written a constituent in reference to utilities bills.

The SPEAKER. Is there objection?

Mr. SABATH. Reserving the right to object, if we start to print letters that we send to our constituents, the RECORD will be overcrowded to such an extent that I do not know what value there will be to it.

Mr. SNELL. It is the gentleman's own remarks?

Mr. HOEPPEL. It is a statement of a principle that I think will be of interest to Members.

The SPEAKER. Is there objection?

There was no objection.

Mr. HOEPPEL. Mr. Speaker, under leave to extend my remarks in the RECORD, I insert at this point a letter written to a constituent who, like myself, is interested in the abolition of holding companies, but who, apparently, was influenced by the administration propaganda in reference to the so-called "death clause" in the utility bill.

This bill is now in conference, and the differences between the Senate and the House measures may be adjusted so that the bill may be acceptable to me. If it is returned to the House in a form which I can conscientiously support, I shall be glad to do so, but I reiterate my opposition to the "death clause", which permits one individual to exercise arbitrary domination over the investments of our citizens.

The letter to my constituent is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., July 12, 1935.

Mr. W. H. WIEDING,
Alhambra, Calif.

DEAR MR. WIEDING: I acknowledge yours of the 5th instant, wherein you and those associated with you express yourselves as disturbed as to my vote on the holding-company bill.

As shown in the press reports, I voted against the "death clause" because I considered it my duty to do so in the interest of the honest, innocent investors in the various operating companies within the holding companies.

Both the Senate and the House bills provide for the dissolution of unnecessary holding companies with this important difference—that the Senate provides for arbitrary action to this end and the House bill seeks to eliminate unnecessary holding companies through an orderly, fair procedure which would, at the same time, protect the thousands of innocent investors. No judge should have the authority to bring an American citizen before him, on his own complaint, and to sentence such an individual to oblivion without a jury trial. In my opinion, there should be no objection to the Security Exchange Commission, appointed by the President, acting as a jury to pass upon the validity of charges brought against holding companies.

Personally, I am opposed to holding companies, but when I find a mad dog on the street, I do not feel inclined to kill every other dog on the street. The American people who have investments in utility companies certainly have the right, as citizens, to be heard on any complaints or charges made against the administration of their investments.

As I stated in a speech which I made on the floor of the House on July 2, 1935, and which you will find on page 10636 of the CONGRESSIONAL RECORD, I am not in favor of destroying wealth. I believe in creating wealth and not in curtailing the production of wealth as we are doing today in the A. A. A. I suggested to the committee that all holding companies and all companies doing an interstate business be incorporated under Federal laws and that regulation through step-rate taxation and other methods should be sufficient to control unfair practices. The holding company evil has developed to its present proportions since the intercorporation tax was repealed following the World War, and with the imposition of a step-rate tax, the liquidation of unnecessary holding companies would be brought about through strictly constitutional means without any of the distress and suffering incident to their arbitrary dissolution.

I am interested in recovery through sensible legislation predicated upon existing law and the constitutional rights of the citizen. To vote arbitrary power to any individual to efface and destroy the investments of our citizens without due process of law or a hearing would, in my opinion, be in violation of my oath as a Representative.

As long as I represent the constituency of the Twelfth Congressional District of California, I shall never swerve from what I consider to be my duty as your representative, regardless of pressure from any source.

With best wishes and kind personal regards, I am,

Sincerely yours,

J. H. HOEPPEL, M. C.,
Twelfth District of California.

EXTENSION OF REMARKS

Mr. ROMJUE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting an address delivered by Hon. C. C. Dickinson, a former Member of this House.

The SPEAKER. Is there objection?

Mr. MARTIN of Massachusetts. Mr. Speaker, on yesterday the Democratic side refused to allow an address by a former Member to be inserted in the RECORD, and I object.

Mr. ROMJUE. Mr. Dickinson was a former Member of the House, and he made this address before the American Legion Post named after his son, Clement Dickinson. His son was killed on the battlefield in the late war.

Mr. MARTIN of Massachusetts. I am sorry, but we cannot be playing favorites. The Democratic side objected to the printing of an address by the former Member of the House, the gentleman from New Jersey, Mr. Fort. That being the rule established by the majority, I must object.

Mr. ROMJUE. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. ROMJUE. Mr. Speaker, I hope the gentleman will not hold me responsible for everything he thinks the Democratic Party does.

Mr. SNELL. No; but we have to protect our own people on this side.

Mr. ROMJUE. Let us not be boys about this matter. I should be very glad if Mr. Fort's address should be inserted in the RECORD. Why punish me or former Congressman Dickinson's friends, because somebody, forsooth, on the Democratic side may have objected to Mr. Fort's address being put into the RECORD? It might be if he were here today, he would withdraw the objection. If we are going to indulge in tactics of that kind when this country is in the condition it is now, if a man on the floor of this House, whether Democrat or Republican, is going to say just because somebody did so-and-so, or somebody's party did so-and-so, he would not do this, that, or the other, I am going to protest such tactics.

Mr. MARTIN of Massachusetts. The only reason for our insisting upon it is that we have found in the past when we let speaking go on unrestricted on the other side, when one of our Members wanted to speak there was objection. This is happening continually, and we have to stand up for our rights. The only chance we have to be protected is to see that our people are taken care of.

Mr. MILLARD. Mr. Speaker, will the gentleman yield?

Mr. ROMJUE. Yes.

Mr. MILLARD. Why not put in Mr. Fort's address also?

Mr. ROMJUE. I should be very glad to do that. I have no objection to it. I suggest that both of them go in, if that is satisfactory.

Mr. MARTIN of Massachusetts. That is all right.

Mr. ROMJUE. Then, Mr. Speaker, I ask unanimous consent that I be permitted to insert former Congressman Dickinson's address to which I have just referred, and also that the address of former Congressman Fort be inserted.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. SABATH. Mr. Speaker, what is the request?

The SPEAKER. The request is that speeches made by former Congressmen Dickinson and Fort be inserted in the RECORD.

Mr. SABATH. Oh, I objected to that yesterday, and I am going to object to all political speeches made by ex-Senators or ex-Members or ex-this or ex-that, because there is no foundation for many of the statements that they make and they do not contain the truth or the facts. I am sick and tired of requests of this kind.

The SPEAKER. The gentleman from Illinois objects.

FOUNDING OF COLONY OF CONNECTICUT

The SPEAKER. The Chair lays before the House the following appointments, which the Clerk will report.

The Clerk read as follows:

Pursuant to the provisions of Public Resolution 18, the Chair appoints as members of the commission for the participation of the United States in the observance of the three hundredth anniversary of the founding of the Colony of Connecticut the following Members of the House of Representatives:

Mr. KOPPLEMANN, Mr. CITRON, Mr. SHANLEY, Mr. SMITH of Connecticut, Mr. MERRITT of Connecticut, Mr. HIGGINS of Connecticut.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. MORITZ, for a few days, to attend to legal matters involving his estate.

EXTENSION OF REMARKS

Mr. ROMJUE. Mr. Speaker, my colleague, Mr. SABATH, did not understand the situation as it was referred to a moment ago, and he assures me that he will now withdraw his objection. Mr. Dickinson's speech was not on a political subject but of patriotic nature.

Mr. SABATH. I understand this is patriotic and not a political speech.

Mr. SNELL. Mr. Speaker, the gentleman from Missouri has connected up his request with a request that Mr. FISH made yesterday, that Mr. Fort's speech should be also extended in the RECORD.

Mr. BLANTON. I understand that the Fort speech is already in the RECORD.

Mr. SNELL. If one goes in, the other does.

Mr. ROMJUE. My request is that they both go in. I ask unanimous consent to extend my remarks and to insert the address made by former Congressman Dickinson and also that the address made by former Congressman Fort may be inserted in the RECORD.

Mr. BLANTON. If the gentleman from Missouri [Mr. ROMJUE] has a request of his own, I have no objection, but he ought not to embrace several others in his own request. Let them all stand on their own bottoms.

Mr. SNELL. Mr. Speaker, I object.

WHY DO THE DEMOCRATIC LEADERS OF THE HOUSE USE THEIR POWERFUL POSITIONS TO PREVENT A CONSIDERATION OF THE FRAZIER-LEMKE FARM REFINANCE BILL?

Mr. BURDICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. BURDICK. Mr. Speaker, in asking Members of Congress to go to the Speaker's desk and sign petition no. 7, I am asking them to make it possible for the farmers of America to bring on the floor for discussion the Frazier-Lemke farm refinance bill. This bill has been reported out by the Committee on Agriculture by a vote of 14 to 5, but still the Rules Committee refuses to grant a rule under which this bill can be discussed.

Regardless of whether you believe in the principles of the bill or do not, it would seem that no Member of Congress would refuse to allow the bill to be discussed. A refusal to allow any important matter to be discussed is the very worst thing that could ever happen to representative government. It would be a blunder for this Congress to refuse to hear the bill.

Politically, in the blunder of refusing to discuss the bill, the Democrats will suffer the most, as the Democratic Party is in control of the House. In asking you to sign the petition I do not have in mind what effect a discussion of the bill will have on either party. It is nonpolitical. The Republicans of this House have been more generous in signing the petition, according to their numerical numbers, than have the Democrats, but none of the Republicans have been asked to sign the petition for any purpose but the sole and only purpose of permitting the farmers of America to have a hearing on a bill that they have supported in such great numbers. I have heard it said that the Republicans are signing the petition to put President Roosevelt in the hole, evidently meaning that the bill will pass the House and Senate and must then be vetoed by the President. No such intent was ever conceived by me in asking you for your support. Personally, I supported the President in a Republican State, and even now it would please me to see the President make good with the American people. I am not now, and have never been, so blinded by partisan politics that I must refuse to support a principle which is right.

Should this Democratic House be responsible for the refusal to allow this bill to be discussed, the result would be to drive supporters of the President away from him. For this reason, therefore, a refusal would have a devastating effect upon the Democratic Party, at least more so than on the Republican Party.

The examination of the record of the Seventy-fourth Congress will clearly demonstrate that the moment any measure comes upon the floor involving a clash between the people on one side and the special interests on the other that the supporters of the special interests spring to their feet in defense of those interests, regardless of party. On such questions as money and banking, the utilities, or any other major issue, I challenge anyone to find the least difference between the mental attitude of the congressional members from New York and the members from Virginia.

This fight will continue until the people win, and, in my judgment, the days of the two-party system are drawing to a close. There may never be more than two major parties, but this much is true: that the Republican Party has been put out of commission by the people and its leaders are not progressive enough to reinstate the party. The Democrats are on the way out now, as its leaders have listened to the call of special interests instead of the people. Further than that, bureaucratic departments, established by the Democratic Party with increased powers, have arrived at a place and time where they defy all parties and all principles. Every vestige of the peculiar rights of States has been trampled under foot, and the Constitution has been regarded by them as a literary composition.

To indicate clearly to you that there is no political action in the minds of Members who refuse to sign the petition, let me say that this refusal, in my opinion, comes mostly from States that are reactionary. When a State is so reactionary that neither Democrats nor Republicans will dare to sign this petition, then I say to you that neither party can long claim leadership with the American people. I refer to such States as New York, Pennsylvania, New Jersey, and Massachusetts. What does the record show as measured by this bill?

New York with 45 Members of Congress: 29 Democrats, 1 Democrat has signed; 16 Republicans, 4 Republicans have signed.

New Jersey, 14 Members: 10 Republicans, 4 Democrats, none have signed.

Massachusetts, 15 Members: 8 Republicans, none have signed; 7 Democrats, 3 have signed.

Illinois, 25 Members: 6 Republicans, 5 have signed; 19 Democrats, 5 have signed.

Pennsylvania, 34 Members: 11 Republicans, 4 have signed; 23 Democrats, 3 have signed.

Connecticut, 6 Members: 4 Democrats, 2 Republicans, none have signed.

Every Republican Congressman west of the Mississippi River has signed this petition.

The following State delegations in this House have signed the petition regardless of political affiliation: Arizona, Delaware, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Vermont, Washington, and Wyoming.

The following States have not contributed a single Member to the petition: Alabama, Connecticut, Kentucky, New Jersey, North Carolina, Rhode Island, and Virginia.

STATES MEMORIALIZING H. R. 2066

The following State legislatures have passed resolutions favoring the bill: Montana, Nevada, Wisconsin, Illinois, Minnesota, North Dakota, California, Nebraska, Oregon, Indiana, Arizona, Idaho, Colorado, Oklahoma, South Dakota, Tennessee, Iowa, South Carolina, Kansas, Michigan, Ohio, Texas, Kentucky, Wyoming, North Carolina, Arkansas, New Mexico, New Jersey, Washington, Missouri, Florida, and Louisiana.

Lower houses: New York, Delaware, Pennsylvania, and Alabama.

Territory: Hawaii.

On the 5th of July the signers on the Frazier-Lemke petition had reached the number of 212, lacking only 6 more signers to constitute a majority of the present House Membership of 431. As soon as the administration leaders discovered the nearing success of the Frazier-Lemke petition, they at once began a campaign of interviewing Members to secure withdrawals from the petition. This movement was successful for the time being, as 12 Democrats withdrew their names. Fearing that the movement thus started by the Democratic leaders was the result of White House interference, a committee of 4 Democrats and 2 Progressive Republicans called at the White House and were there assured that the President knew nothing of this activity, and had neither directly nor indirectly authorized any such move, and the further assurance was given at that time that the President would not interfere himself or permit anyone to use his office in any manner to secure the withdrawal of names from the petition.

The active workers for the petition then gathered new hope and began a new campaign to secure the 216 names necessary to bring the bill on the floor. During the 8th, 9th, and 10th of July no interference with the securing of signatures was evident. On the 11th of July things began to happen again. The petition had come within 4 names of having the required 216 signatures. All at once, without any warning, the House leaders began a sudden campaign to resist the petition.

The Speaker of the House, the Chairman of the Rules Committee, and the Democratic whip began a counter-campaign, telling Democratic Members not to sign the petition or to withdraw their names if they had signed, on the story that the President did not want the bill to come on the floor for discussion. By the time the petition had come within four names of having enough signatures, and while a Demo-

crat was addressing the House in a political speech, the House was suddenly adjourned. I have been advised by old parliamentarians that never before was the House adjourned by the majority party in the midst of a speech by a majority member.

That is the situation, and I, for one, do not understand what forces are behind this move to prevent a discussion of this bill. Surely, it would be political suicide for the President to prevent a discussion of the bill when 32 legislatures have passed resolutions favoring it. Another fact seems well established: that honorable men like the House leaders named would not make this move on their own account.

The backers of the Frazier-Lemke petition merely ask for one simple right—namely, that the bill be permitted to come on the floor for debate. That is all. I presume a great many fair men have signed the petition for that reason and no doubt some will vote against the bill when it is debated. But that is immaterial, the question is: Will this Democratic Congress take the position of saying to 50,000,000 farm voters "You cannot have your farm bill discussed in this Congress, even though 32 States have approved it, and even though 212 Congressmen have approved a discussion of the bill"? If this Democratic Congress is willing to take this responsibility I am sure I am right in my prediction, that the Democratic Party will be relieved of further responsibility on this bill when a new Congress convenes. "Truth crushed to the earth shall rise again."

There is more than the mere Frazier-Lemke bill involved in the present situation. The question of representative government is at stake. Can it be that great questions, backed by millions of citizens, backed by a majority of the State legislatures of the Nation, and involving the security of homes for millions of distressed citizens, cannot have a hearing before a Congress elected by the people of the Nation? To hold this view means the final destruction of the Government itself. Let those who desire this course take the responsibility of it.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1064. An act for the relief of Albert Gonzales; to the Committee on Claims.

ENROLLED BILLS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 2566. An act for the relief of Percy C. Wright;

H. R. 5393. An act for the relief of Moses Israel;

H. R. 5599. An act to regulate the strength and distribution of the line of the Navy, and for other purposes; and

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 883. An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 70 years; and

S. 2779. An act to authorize the conveyance of certain lands in Nome, Alaska.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 4 minutes p. m.) the House, under its order previously made, adjourned until Monday, July 15, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

415. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential energy rates in the State of West Virginia on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

416. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential energy rates in the State of Montana on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

417. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential energy rates in the State of New Jersey on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

418. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential energy rates in the State of Washington on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

419. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential energy rates in the State of Tennessee on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

420. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential energy rates in the State of Alabama on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

421. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of Arizona on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

422. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of South Dakota on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

423. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of Florida on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

424. A letter from the Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the State of Idaho on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. RAYBURN: Committee on Interstate and Foreign Commerce. Senate Joint Resolution 144. Joint resolution to provide for the payment of compensation and expenses of the Railroad Retirement Board as established and operated pursuant to section 9 of the Railroad Retirement Act of June 27, 1934, and to provide for the winding up of its affairs and the disposition of its property and records, and to make an appropriation for such purposes; without amendment (Rept. No. 1504). Referred to the Committee of the Whole House on the state of the Union.

Mr. RAYBURN: Committee on Interstate and Foreign Commerce. House Joint Resolution 314. Joint resolution to provide for a commission to investigate the desirability of further retirement and annuity legislation applicable to interstate carriers by railroad; without amendment (Rept. No. 1505). Referred to the Committee of the Whole House on the state of the Union.

Mr. RAYBURN: Committee on Interstate and Foreign Commerce. S. 1336. An act to amend paragraph (f) of section 4 of the Communications Act of 1934; without amendment (Rept. No. 1506). Referred to the Committee of the Whole House on the state of the Union.

Mr. DOXEY: Committee on Agriculture. S. 1787. An act to add certain lands to the Pisgah National Forest in the State of North Carolina; without amendment (Rept. No. 1507). Referred to the Committee of the Whole House on the state of the Union.

Mr. DOXEY: Committee on Agriculture. S. 1811. An act providing for the publication of statistics relating to spirits of turpentine and rosin; with amendment (Rept. No. 1508). Referred to the Committee of the Whole House on the state of the Union.

Mr. DOXEY: Committee on Agriculture. S. 2649. An act to provide for a recreation area within the Prescott National Forest, Ariz.; without amendment (Rept. No. 1509). Referred to the Committee of the Whole House on the state of the Union.

Mr. HOLMES: Committee on Public Buildings and Grounds. S. 37. An act authorizing the Comptroller General of the United States to settle and adjust the claims of subcontractors and materialmen for material and labor furnished in the construction of a post-office and courthouse building at Rutland, Vt.; without amendment (Rept. No. 1510). Referred to the Committee of the Whole House on the state of the Union.

Mr. O'CONNOR: Committee on Rules. House Resolution 294. Resolution for the consideration of H. R. 8026; without amendment (Rept. No. 1511). Referred to the House Calendar.

Mr. CORNING: Committee on Interstate and Foreign Commerce. S. 1633. An act to amend the Interstate Commerce Act, as amended, and for other purposes; with amendment (Rept. No. 1512). Referred to the House Calendar.

Mr. HUDDLESTON: Committee on Interstate and Foreign Commerce. H. R. 8768. A bill to extend the times for commencing and completing the construction of a railroad bridge and/or a toll bridge across the water between the mainland at or near Cedar Point and Dauphin Island, Ala.; without amendment (Rept. No. 1513). Referred to the House Calendar.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. S. 2510. An act authorizing the Western Bands of the Shoshone Tribe of Indians to sue in the Court of Claims; without amendment (Rept. No. 1514). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. S. 1832. An act to authorize the Secretary of the Interior to provide by agreement with Middle Rio Grande Conservany District, a subdivision of the State of New Mexico, for maintenance and operation on newly reclaimed Pueblo Indian lands in the Rio Grande Valley, N. Mex., reclaimed under previous act of Congress, and authorizing an annual appropriation to pay the cost thereof for a period of not to exceed 5 years; without amendment (Rept. No. 1515). Referred to the Committee of the Whole House on the state of the Union.

Mr. McGROARTY: Committee on Indian Affairs. H. R. 8252. A bill to reimpose and extend the trust period on lands reserved for the Pala Band of Mission Indians, California; without amendment (Rept. No. 1517). Referred to the Committee of the Whole House on the state of the Union.

Mr. STEAGALL: Committee on Banking and Currency. House Joint Resolution 348. Joint resolution authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States, withdrawing the right to sue the United States on its bonds and other similar obligations, limiting the use of certain appropriations, and for other purposes; without amendment (Rept. No. 1519). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 8508. A bill for the relief of Constantin Gilia; without amendment (Rept. No. 1516). Referred to the Committee of the Whole House.

Mr. KNUTE HILL: Committee on Indian Affairs. H. R. 8509. A bill for the relief of C. R. Whitlock; without amendment (Rept. No. 1518). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LEMKE: A bill (H. R. 8829) to impose an excise tax on certain sodium products imported from foreign countries; to the Committee on Ways and Means.

By Mr. LUCAS: A bill (H. R. 8830) authorizing the purchase of a bust of Henry T. Rainey made by Joseph Anthony Atchison; to the Committee on the Library.

By Mr. MILLER: A bill (H. R. 8831) to clarify section 104 of the Revised Statutes (U. S. C., title 2, sec. 194); to the Committee on the Judiciary.

By Mr. MONTET: A bill (H. R. 8832) to impose an excise tax on certain sodium products imported from foreign countries; to the Committee on Ways and Means.

By Mr. WILSON of Louisiana: A bill (H. R. 8833) to amend an act entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes", approved May 15, 1928; to the Committee on Flood Control.

By Mr. McCORMACK: A bill (H. R. 8834) to abolish the oath required of customs and internal-revenue employees prior to the receipt of compensation, and for other purposes; to the Committee on Ways and Means.

Also, a bill (H. R. 8835) providing for the deductibility of charitable and other contributions by corporations for the purposes of income tax; to the Committee on Ways and Means.

By Mr. SCRUGHAM: A bill (H. R. 8836) to impose an excise tax on certain sodium products imported from foreign countries; to the Committee on Ways and Means.

By Mr. THOMASON: A bill (H. R. 8837) to impose an excise tax on certain sodium products imported from foreign countries; to the Committee on Ways and Means.

By Mr. STEAGALL: Joint resolution (H. J. Res. 348) authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States, withdrawing the right to sue the United States on its bonds and other similar obligations, limiting the use of certain appropriations, and for other purposes; to the Committee on Banking and Currency.

By Mr. CELLER: Joint resolution (H. J. Res. 349) granting the consent of Congress to the States of New York, New Jersey, and Connecticut to enter into a compact for the creation of the Interstate Sanitation District and the establishment of the Interstate Sanitation Commission; to the Committee on the Judiciary.

By Mr. McREYNOLDS: Joint resolution (H. J. Res. 350) to authorize the President to extend an invitation to the World Power Conference to hold the Third World Power Conference in the United States; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of California, regarding tariff laws on livestock and meats; to the Committee on Ways and Means.

Also, memorial of the Legislature of the State of New Jersey, requesting Congress to reduce taxes on distilled spirits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FERGUSON: A bill (H. R. 8838) for the relief of Mrs. W. H. Mansfield; to the Committee on Claims.

By Mrs. JENCKES of Indiana: A bill (H. R. 8839) granting an increase of pension to Mary L. Cottrell; to the Committee on Invalid Pensions.

By Mr. POLK: A bill (H. R. 8840) for the relief of William E. Graham; to the Committee on Claims.

By Mr. SMITH of Washington: A bill (H. R. 8841) for the relief of Estelle Mary MacDonald and Marilyn MacDonald; to the Committee on Claims.

By Mr. SNYDER: A bill (H. R. 8842) granting a pension to Flora Turner; to the Committee on Invalid Pensions.

By Mr. WALLGREN: A bill (H. R. 8843) for the relief of Sgt. Ceasor LaForge, United States Army, retired; to the Committee on Military Affairs.

By Mr. WILCOX: A bill (H. R. 8844) for the relief of John K. Jemison; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9140. By Mr. ANDREWS of New York: Petition of the City Council of Niagara Falls, N. Y., regarding tax exemption of municipal securities; to the Committee on Ways and Means.

9141. Also, petition of the American Legion of Erie County, N. Y.; to the Committee on Military Affairs.

9142. By Mr. CROSSER of Ohio: Petition of several hundred citizens of Toledo, Ohio, favoring the adoption and passage of Senate bill 1629; to the Committee on Interstate and Foreign Commerce.

9143. By Mr. DOBBINS: Petition of J. E. McIntire and 15 other citizens of Hammond, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report Senate bill 1629, providing for the regulation of interstate highway transportation; to the Committee on Interstate and Foreign Commerce.

9144. By Mr. KENNEY: Resolution of the Senate and General Assembly of the State of New Jersey, urging the President and Congress of the United States to reduce the present Federal taxes on distilled spirits; to the Committee on Ways and Means.

9145. By Mr. SCOTT: Petition of Ernest V. Peterman, a member of the Utopian Society of America, and 49 other members of the society, requesting that a plan be enacted obligating the Treasurer of the United States to pay every minor person under the age of 18 years a monthly allowance of $50, and every person between the ages of 18 and 25 years a monthly allowance of not less than $100, and every person over the age of 25 years a monthly allowance of not less than $200; these sums to be paid to people for work performed according to their various activities; to the Committee on Appropriations.

SENATE

MONDAY, JULY 15, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, July 12, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Bankhead	Bone	Burke
Ashurst	Barbour	Borah	Byrd
Austin	Barkley	Brown	Byrnes
Bachman	Bilbo	Bulkley	Capper
Bailey	Black	Bulow	Caraway
Carey	Gore	McKellar	Russell
Chavez	Guffey	McNary	Schall
Clark	Hale	Maloney	Schwellenbach
Connally	Harrison	Metcalf	Sheppard
Coolidge	Hastings	Minton	Shipstead
Copeland	Hatch	Moore	Smith
Costigan	Hayden	Murphy	Steiwer
Davis	Holt	Murray	Thomas, Okla.
Dickinson	Johnson	Neely	Townsend
Dieterich	Keyes	Norbeck	Trammell
Donahey	King	Norris	Truman
Duffy	La Follette	Nye	Tydings
Fletcher	Lewis	O'Mahoney	Vandenberg
Frazier	Logan	Overton	Van Nuys
George	Lonergan	Pittman	Wagner
Gerry	McAdoo	Pope	Walsh
Gibson	McCarran	Radcliffe	Wheeler
Glass	McGill	Robinson	White

Mr. LEWIS. I announce that the Senator from Louisiana [Mr. LONG], the Senator from North Carolina [Mr. REYNOLDS], and the Senator from Utah [Mr. THOMAS] are detained from the Senate on important public business.

Mr. VANDENBERG. I wish to repeat the announcement that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent because of illness.

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 312. An act for the relief of Lillian G. Frost;

S. 377. An act to grant to the Utah Gilsonite Co. the right to use a water well on certain public lands in Utah;

S. 428. An act authorizing adjustment of the claim of Korber Realty, Inc.;

S. 475. An act for the relief of Mrs. George F. Freeman;

S. 1036. An act authorizing adjustment of the claim of Dr. George W. Ritchey;

S. 1054. An act authorizing adjustment of the claim of White Bros. & Co.;

S. 1099. An act for the relief of Ethel G. Remington;

S. 1290. An act for the relief of Walter Motor Truck Co., Inc.;

S. 1446. An act for the relief of Knud O. Flakne;

S. 1447. An act for the relief of Mary C. Moran;

S. 1498. An act for the relief of Robert D. Baldwin;

S. 1499. An act for the relief of Robert J. Enochs;

S. 1566. An act for the relief of Carl C. Christensen;

S. 1872. An act for the relief of Guy Clatterbuck;

S. 2292. An act for the relief of Emanuel Wallin; and

S. 2487. An act for the relief of the Western Electric Co., Inc.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 3512) for the relief of H. B. Arnold.

The message further announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 239. An act for the relief of the Barlow-Moore Tobacco Co.; and

S. 780. An act for the relief of the Standard Dredging Co.

The message also announced that the House had passed the bill (S. 884) for the relief of Lt. Comdr. G. C. Manning, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 830. An act for the relief of Sanford Madison Strange;

H. R. 921. An act for the relief of Edgar Sampson;

H. R. 1286. An act for the relief of James H. Bell (or James Bell);

H. R. 1437. An act for the relief of August A. Carminati;

H. R. 1702. An act for the relief of the Hermosa-Redondo Hospital, C. Max Anderson, Julian O. Wilke, Curtis A. Wherry, Hollie B. Murray, Ruth M. Laird, Sigrid I. Olsen, and Stella S. Guy;

H. R. 2165. An act for the relief of Charles A. Gettys;

H. R. 2319. An act for the relief of Oswald Orlando;

H. R. 2393. An act for the relief of John P. Smith, deceased;

H. R. 2394. An act for the relief of David Hughes;

H. R. 2421. An act for the relief of John R. Allgood;

H. R. 2432. An act for the relief of the Weis-Patterson Lumber Co., Inc.;

H. R. 2476. An act to grant a patent to Albert M. Johnson and Walter Scott;

H. R. 2707. An act for the relief of Ben D. Showalter;

H. R. 2923. An act for the relief of Misner Jane Humphrey;

H. R. 2970. An act for the relief of Jose Munden;

H. R. 2982. An act for the relief of Sarah Shelton;

H. R. 3214. An act for the relief of Capt. Robert E. Coughlin;

H. R. 3282. An act for the relief of Nina Drips;

H. R. 3759. An act for the relief of E. H. Jennings;

H. R. 4047. An act granting 6 months' pay to James Zanetti;

H. R. 4084. An act for the relief of Charles D. Jeronimus;

H. R. 4846. An act to provide for the reimbursement of certain enlisted men and former enlisted men of the Marine Corps for the value of personal effects lost, damaged, or destroyed by fire at the Marine Barracks, Quantico, Va., on October 5, 1930;

H. R. 4848. An act for the relief of Charles E. Molster, disbursing clerk, Department of Commerce, and Dr. Louis H. Bauer, a former employee;

H. R. 4851. An act to provide for the reimbursement of certain civilian employees of the naval operating base, Hampton Roads, Va., for the value of tools lost in a fire at Pier No. 7 at the naval operating base on May 4, 1930;

H. R. 4852. An act to authorize the settlement of individual claims of military personnel for damages to and loss of private property incident to the training, practice, operation, or maintenance of the Army;

H. R. 4858. An act for the relief of Edward Shippen West;

H. R. 4923. An act for the relief of Maj. E. Leslie Medford, United States property and disbursing officer for Maryland;

H. R. 4999. An act for the relief of Marie Linsenmeyer;

H. R. 5097. An act for the relief of Mary E. Lord;

H. R. 5099. An act for the relief of Albert Henry George;

H. R. 5127. An act for the relief of D. E. Sweinhart;

H. R. 5750. An act for the relief of Mary Brown Raley;

H. R. 5781. An act for the relief of the widow and next of kin of James J. Curran;

H. R. 5790. An act for the relief of certain creditors of J. R. & J. A. Whelan, Inc.;

H. R. 5827. An act for the relief of Elizabeth Wyhowski, mother and guardian of Dorothy Wyhowski;

H. R. 6254. An act for the relief of David N. Aiken;

H. R. 6703. An act for the relief of Joanna Forsyth;

H. R. 6708. An act to authorize the presentation of a Distinguished Flying Cross to Lt. Col. Francis T. Evans, United States Marine Corps;

H. R. 7110. An act to authorize the President to bestow the Congressional Medal of Honor upon Brig. Gen. Robert H. Dunlap, United States Marine Corps, deceased;

H. R. 7577. An act for the relief of Mrs. William E. Smith and Clara Smith; and

H. J. Res. 179. Joint resolution authorizing the President to present in the name of Congress a Medal of Honor to J. Harold Arnold.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 3512. An act for the relief of H. B. Arnold;

H. R. 4751. An act to amend sections 11 and 24 of the Interstate Commerce Act, as amended, with respect to the terms of office of members of the Interstate Commerce Commission; and

H. R. 4760. An act limiting expenditures for repairs or changes to naval vessels.

UNITED STATES DISTRICT COURTS IN MICHIGAN (S. DOC. NO. 116)

The VICE PRESIDENT laid before the Senate a letter from the Attorney General, submitting a report in response to the resolution (S. Res. 64) requesting the Department of Justice to investigate the advisability of redistricting the State of Michigan with reference to judicial districts, which, with the accompanying report, was referred to the Committee on the Judiciary and ordered to be printed.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a joint resolution of the Legislature of the State of New Jersey, favoring the enactment of legislation to reduce the present Federal taxes on distilled spirits, which was referred to the Committee on Finance.

(See joint resolution printed in full when presented by Mr. BARBOUR on the 12th instant, p. 11502, CONGRESSIONAL RECORD.)

Mr. COPELAND presented a resolution adopted by the Board of Supervisors of Seneca County, N. Y., favoring the securing and use of Federal funds to pay for material and labor to repair damages to roads and bridges caused by a recent cloudburst over central New York, especially in the southern part of Seneca County, which was referred to the Committee on Appropriations.

He also presented a resolution adopted by the New York County (N. Y.) Convention of the American Legion, favoring the prompt enactment of pending legislation to prevent profiteering in war, which was referred to the Committee on Military Affairs.

He also presented a resolution adopted by the convention of the American Legion of Erie County, N. Y., opposing any curtailment of personnel in the armed forces of the United States which would impair their efficiency or the efficiency of the facilities for their training, which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES

Mr. LOGAN, from the Committee on Claims, to which was referred the bill (S. 1042) for the relief of J. R. Collie and Eleanor Y. Collie, reported it with amendments and submitted a report (No. 1077) thereon.

Mr. BILBO, from the Committee on the District of Columbia, to which were referred the following bills, reported them each with amendments and submitted reports thereon:

H. R. 3641. A bill to amend section 559 of the Code of the District of Columbia as to restriction on residence of members of the fire department (Rept. No. 1078); and

H. R. 3642. A bill to amend section 483 of the Code of the District of Columbia as to residence of members of the police department (Rept. No. 1079).

Mr. VAN NUYS, from the Committee on the Judiciary, to which was referred the resolution (S. Res. 170) (submitted by Mr. MCADOO on the 12th instant) authorizing the Special Committee to Investigate the Administration of Bankruptcy and Receivership Proceedings in United States Courts to investigate the administration of justice in such courts, reported it without amendment.

Mr. HASTINGS, from the Committee on the Judiciary, to which was referred the bill (S. 3097) relating to interest and usury affecting parties under the jurisdiction of courts of the United States functioning in countries where the United States exercises extraterritorial jurisdiction, reported it without amendment and submitted a report (No. 1081) thereon.

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (S. 2868) to provide for the reappointment of Harrison S. Markham as a second lieutenant, United States Army, reported it without amendment and submitted a report (No. 1080) thereon.

Mr. NORBECK, from the Committee on Indian Affairs, to which was referred the bill (S. 3020) for the relief of A. E.

Taplin, reported it with amendments and submitted a report (No. 1082) thereon.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 3227) to amend section 3 of the act approved May 10, 1928, entitled "An act to extend the period of restriction in lands of certain members of the Five Civilized Tribes, and for other purposes", as amended February 14, 1931, reported it without amendment and submitted a report (No. 1083) thereon.

He also, from the same committee, to which was referred the bill (S. 2578) authorizing distribution of funds to the credit of the Wyandotte Indians, Oklahoma, reported it with an amendment and submitted a report (No. 1084) thereon.

Mr. ADAMS, from the Committee on Appropriations, to which was referred the bill (H. R. 8554) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1935, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1935, and June 30, 1936, and for other purposes, reported it with amendments and submitted a report (No. 1085) thereon.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 12th instant that committee presented to the President of the United States the following enrolled bills:

S. 883. An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 70 years; and

S. 2779. An act to authorize the conveyance of certain lands in Nome, Alaska.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BLACK:

A bill (S. 3251) for the relief of Lowrenza D. Johnston; to the Committee on Claims.

By Mr. CLARK:

A bill (S. 3252) to provide for recovery of compensation for taking property, and for damage to the same from overflow, water seepage, water percolation, or interference with drainage, and for interference with the sewer, drainage, or flood protection system of any municipality, and to any legally organized drainage or levee district, by the construction, maintenance, or operation of any dam, structure, or other improvement by the United States in or along navigable streams and inland waterways for the improvement of navigation thereon, and to provide for the prosecution of claims against the United States therefor and payment of judgments; to the Committee on Commerce.

By Mr. CAPPER (by request):

A bill (S. 3253) to aid in alleviating the loss caused by sickness; to the Committee on Finance.

By Mr. SCHWELLENBACH:

A bill (S. 3254) to authorize the incorporated town of Cordova, Alaska, to construct, reconstruct, enlarge, extend, improve, renew, and repair certain municipal public structures, utilities, works, and improvements, and for such purposes to issue bonds in any amount not exceeding $50,000, and for other purposes; to the Committee on Territories and Insular Affairs.

By Mr. McADOO:

A bill (S. 3255) granting a pension to James C. Ross; to the Committee on Pensions.

By Mr. BACHMAN:

A bill (S. 3256) for the relief of James H. Robinson; to the Committee on Claims.

By Mr. SHEPPARD:

A bill (S. 3257) to amend the World War Adjusted Compensation Act; to the Committee on Military Affairs.

By Mr. HARRISON:

A bill (S. 3258) to amend section 304 of the Revised Statutes, as amended; to the Committee on Finance.

By Mr. CLARK and Mr. NYE:

A bill (S. 3259) to prohibit officers of the Army, Navy, and Marine Corps from making public statements, or publishing articles relating to international affairs without express authority; to the Committee on Military Affairs.

By Mr. McCARRAN:

A bill (S. 3260) to amend Public Law No. 438, Seventy-third Congress, entitled "An act to authorize the Secretary of the Treasury to purchase silver, issue silver certificates, and for other purposes"; to the Committee on Agriculture and Forestry.

By Mr. WALSH:

A bill (S. 3261) to amend the Communications Act of 1934; to the Committee on Interstate Commerce.

By Mr. SHEPPARD:

A joint resolution (S. J. Res. 160) to create a commission to study and report on the feasibility of establishing a national monument, or monuments, in the territory occupied by the Spanish Colonial Missions and other buildings, in the States of Texas, New Mexico, Arizona, California, Florida, and Louisiana; to the Committee on Public Lands and Surveys.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—AMENDMENTS

Mr. McCARRAN submitted an amendment, and Mr. BAILEY submitted two amendments, intended to be proposed by them, respectively, to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which were severally ordered to lie on the table and to be printed.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated below:

H. R. 830. An act for the relief of Sanford Madison Strange;

H. R. 921. An act for the relief of Edgar Sampson;

H. R. 1437. An act for the relief of August A. Carminati;

H. R. 1702. An act for the relief of the Hermosa-Redondo Hospital, C. Max Anderson, Julian O. Wilke, Curtis A. Wherry, Hollie B. Murray, Ruth M. Laird, Sigrid I. Olsen, and Stella S. Guy;

H. R. 2319. An act for the relief of Oswald Orlando;

H. R. 2421. An act for the relief of John R. Allgood;

H. R. 2432. An act for the relief of the Weis-Patterson Lumber Co., Inc.;

H. R. 2707. An act for the relief of Ben D. Showalter;

H. R. 2970. An act for the relief of Jose Munden;

H. R. 2982. An act for the relief of Sarah Shelton;

H. R. 3282. An act for the relief of Nina Drips;

H. R. 3759. An act for the relief of E. H. Jennings;

H. R. 4846. An act to provide for the reimbursement of certain enlisted men and former enlisted men of the Marine Corps for the value of personal effects lost, damaged, or destroyed by fire at the Marine Barracks, Quantico, Va., on October 5, 1930;

H. R. 4848. An act for the relief of Charles E. Molster, disbursing clerk, Department of Commerce, and Dr. Louis H. Bauer, a former employee;

H. R. 4851. An act to provide for the reimbursement of certain civilian employees of the naval operating base, Hampton Roads, Va., for the value of tools lost in a fire at Pier No. 7, at the naval operating base, on May 4, 1930;

H. R. 4852. An act to authorize the settlement of individual claims of military personnel for damages to and loss of private property incident to the training, practice, operation, or maintenance of the Army;

H. R. 4923. An act for the relief of Maj. E. Leslie Medford, United States property and disbursing officer for Maryland;

H. R. 4999. An act for the relief of Marie Linsenmeyer;

H. R. 5097. An act for the relief of Mary E. Lord;

H. R. 5127. An act for the relief of D. E. Sweinhart;

H. R. 5750. An act for the relief of Mary Brown Raley;

H. R. 5781. An act for the relief of the widow and next of kin of James J. Curran;

H. R. 5790. An act for the relief of certain creditors of J. R. & J. A. Whelan, Inc.;

H. R. 5827. An act for the relief of Elizabeth Wyhowski, mother and guardian of Dorothy Wyhowski; and

H. R. 7577. An act for the relief of Mrs. William E. Smith and Clara Smith; to the Committee on Claims.

H. R. 1286. An act for the relief of James H. Bell (or James Bell);

H. R. 2393. An act for the relief of John P. Smith, deceased;

H. R. 2394. An act for the relief of David Hughes;

H. R. 3214. An act for the relief of Capt. Robert E. Coughlin; and

H. R. 4858. An act for the relief of Edward Shippen West; to the Committee on Military Affairs.

H. R. 2476. An act to grant a patent to Albert M. Johnson and Walter Scott; and

H. R. 6703. An act for the relief of Joanna Forsyth; to the Committee on Public Lands and Surveys.

H. R. 2165. An act for the relief of Charles A. Gettys;

H. R. 2923. An act for the relief of Misner Jane Humphrey;

H. R. 4047. An act granting 6 months' pay to James Zanetti;

H. R. 4084. An act for the relief of Charles D. Jeronimus;

H. R. 5099. An act for the relief of Albert Henry George;

H. R. 6254. An act for the relief of David N. Aiken;

H. R. 6708. An act to authorize the presentation of a Distinguished Flying Cross to Lt. Col. Francis T. Evans, United States Marine Corps;

H. R. 7110. An act to authorize the President to bestow the Congressional Medal of Honor upon Brig. Gen. Robert H. Dunlap, United States Marine Corps, deceased; and

H. J. Res. 179. Joint resolution authorizing the President to present in the name of Congress a Medal of Honor to J. Harold Arnold; to the Committee on Naval Affairs.

SUGAR BEETS AND THE AGRICULTURAL ADJUSTMENT ACT

Mr. COSTIGAN. Mr. President, last Saturday, at Greeley, Colo., Hon. Henry A. Wallace, Secretary of Agriculture, at a meeting of Colorado farm organizations, discussed problems of sugar-beet growers and the Agricultural Adjustment Act. In the course of his remarks, he said, in part:

> One of the arts of Government is to discover that true and just balance between conflicting interests that can best be maintained over a period of years, while the welfare of the whole, along with the welfare of those conflicting parts which make up the whole, is continually increased. The use of governmental machinery to apply this formula to sugar has, in my opinion, been one of the boldest and, I trust, will prove one of the most successful efforts to improve the welfare of both the parts and the whole.

The Secretary added:

> The traditional way of protecting your industry, by a tariff designed to cover the differential in costs over foreign producers, gradually became inadequate, until by the summer of 1932, when the highest duty in 35 years was in effect, the price for raw sugar in the United States reached an all-time low of 2.57 cents duty paid. Despite low prices, stocks continued to pile up, and the lower prices went the more supply increased. In common with farmers everywhere, you felt yourselves imprisoned in a vicious circle.
>
> It was the purpose of the Jones-Costigan amendment, as it was the purpose of the Agricultural Adjustment Act, to break this vicious circle and to help growers obtain a fair return for a balanced production.
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> * * * * * * *
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> At present American granulated sugar is being offered for export at the basis of 1.20 cents net cash in bond. This means the value of 300 pounds of sugar in an average ton of beets is $3.60, processed and ready for market.
>
> Beet growers in the United States, under the protection of the quota provisions of the Jones-Costigan Act, and under production adjustment contracts, will receive, not $3.60 a ton but an average of about $6.75 a ton. This will not mean great wealth to the average producer, but it does mean effective, substantial protection—a genuinely fair return for balanced production.

I ask that the remarks of the Secretary of Agriculture as a whole be printed in the RECORD as part of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The address is as follows:

[Remarks of Hon. Henry A. Wallace, Secretary of Agriculture, at a meeting of Colorado farm organizations, Greeley, Colo., July 13, 1935]

It has been 26 years since I had the pleasure of visiting Greeley. In the summer of 1909, in order to become acquainted with irrigated farming, I made an inspection trip of irrigation projects throughout the West and during that trip naturally visited Greeley. At that time I was greatly impressed with the type of rural civilization which was being built of these irrigation projects. That sort of farming makes necessary continuous cooperation—cooperation to get water and keep it coming, cooperation to market products efficiently and profitably. And where electricity is a by-product of an irrigation project, it becomes possible to build a most attractive farm community.

Of the cash crops grown on irrigation projects, sugar beets is one of the most important. When the principles of the Jones-Costigan Act were first presented I visualized at once the problems of the sugar-beet grower on the irrigated projects of the West and the importance of maintaining the industry to which these people have become accustomed. I did not believe that the people on these projects had the right to use those new governmental powers to expand their production if such expansions would damage farmers elsewhere. I did think, however, that governmental action of the past had given them a right to rely upon a certain share of the domestic sugar market as their market outlet. The question was how to protect that right to market so as to give the producer the maximum benefit, do the minimum of harm to the consumer, and at the same time enable the United States to deal fairly and satisfactorily with her insular possessions and neighbors.

One of the arts of government is to discover that true and just balance between conflicting interests that can best be maintained over a period of years, while the welfare of the whole, along with the welfare of those conflicting parts which make up the whole, is continually increased. The use of governmental machinery to apply this formula to sugar has, in my opinion, been one of the boldest and I trust will prove one of the most successful efforts to improve the welfare of both the parts and the whole.

As sugar prices dropped during the depression you became aware that the problem of sugar could not be solved by the farmers of Colorado alone. You saw the problem extend to the whole beet-growing territory, East and West, to the cane-growing territory in the South, to our insular possessions, to Cuba, and, in fact, to many parts of the world. You were made aware that tariff and foreign trade policy was deeply involved and that the interests of labor and of the consumer had to be considered.

The traditional way of protecting your industry, by a tariff designed to cover the differential in costs over foreign producers, gradually became inadequate, until by the summer of 1932, when the highest duty in 35 years was in effect, the price for raw sugar in the United States reached an all-time low of 2.57 cents duty paid. Despite low prices, stocks continued to pile up, and the lower prices went the more supply increased. In common with farmers everywhere, you felt yourselves imprisoned in a vicious circle.

It was the purpose of the Jones-Costigan amendment, as it was the purpose of the Agricultural Adjustment Act, to break this vicious circle and to help growers obtain a fair return for a balanced production. The purpose was not to help farmers obtain exorbitant return or to protect them from the consequences of headlong expansion and unbalanced production. No enactment which proposed that would be in the public interest, nor, as a matter of fact, in the farmer's interest. I would emphasize, therefore, that phrase, "a fair return for a balanced production." It is the criterion by which to judge the results under the Agricultural Adjustment Act in general and the Jones-Costigan amendment in particular.

Under the old tariff system, returns to beet producers were conditioned upon the world price for sugar plus the amount of the tariff. Under the theory contained in the Jones-Costigan amendment, however, returns to beet producers are largely divorced from the world price. They no longer depend upon the indirect and uncertain tariff benefit trickling down through processors and middlemen. Your market is now protected by the quota system, and your income is supplemented by benefit payments granted in return for a balanced production.

Let us see how the program has worked out. You are aware that our yearly domestic consumption of sugar, cane and beet, was estimated for 1934 to be 6,452,000 tons. The problem Congress and the administration faced was to decide what share of this domestic market sugar-beet producers could and should be given. It was necessary to consider past production of sugar beets, both for a long range of years and for the peak years. The interests of domestic cane producers had to be considered. Because Hawaii, Puerto Rico, and the Philippines are under the American flag, and because they are so largely dependent upon income from sugar, their interests could not be ignored. And if we were to pursue the "good neighbor" policy with respect to Cuba, if we wished to restore some of our valuable export trade with her in the interests of agriculture and industry in many parts of our country, then decency and good sense demanded at least some attention to the Cuban sugar situation.

The upshot of the congressional deliberations, as you know, was the decision that of the total domestic consumption of nearly six and one-half million tons, American sugar-beet producers should provide 1,550,000 tons raw value. If and when there is an increase in domestic consumption, the quota for the continental area is to be increased by 30 percent thereof involving a 25.7-percent increase for beet sugar, a 4.3-percent increase for cane sugar.

This basic quota of 1,550,000 tons for sugar beets is higher than the marketings of any previous year, and higher than the production of any year but one, that one being the record crop of 1933–34. The quota compares with a previous high record of marketings of 1,366,000 tons in 1933, and with a marketing average for the 9 years, 1925–33, of 1,164,667 short tons. Comparing the quota with past production, we find it substantially above

the 9-year average, but 12 percent below the production of the record year 1933, when the crop totaled 1,756,940 short tons, raw value.

So far as marketings of sugar are concerned, therefore, the sugar-beet industry of the United States has made no sacrifice as compared with other years, but has for the time being traded the right to expand marketings—at a loss—in return for a stable, minimum income. This restriction on expansion, of course, does not restrict any expansion which might be indicated by an increase in domestic consumption.

Under the Jones-Costigan Act the limitation is on marketing rather than on production. As you know, however, in order to make the marketing limitation feasible growers have voluntarily accepted acreage allotments, and are receiving benefit payments under these individual contracts. The Jones-Costigan Act did not become law until May 9, 1934, consequently total acreage planted to sugar beets in 1934 was not substantially less than the exceptionally high acreage of 1933, but the harvest acreage was cut down by drought. The acreage allowable under the adjustment program is 975,595 acres, which compares with a harvested acreage of 983,000 acres in the peak year 1933, and with an average of 734,889 acres for the 9-year period.

The quotas assigned our insular possessions and Cuba are of interest at this point. To sugar producers in the Philippines a 1934 quota was assigned at a figure 22.2 percent below the highest year's shipments of sugar from them to us. The Puerto Rican quota for 1934 was 12 percent under the peak year, and the Hawaiian quota 10.5 percent under. The Cuban quota, on the other hand, represents a decline of 51.3 percent from the year of peak shipments, and a decline of 35.2 percent from the 9-year average.

From these facts it is clear that American sugar-beet producers have been asked to make relatively slight adjustments by comparison with the adjustments necessary with their off-shore competitors, and by comparison with the adjustments required, for instance, of cotton, tobacco, wheat, and corn-hog producers. And it so happens that because of weather conditions in 1934 and because of the increase in the value of crops competitive with beets, American producers have not been able to produce the amount of sugar beets called for in their quota.

A detailed statement of the results of the sugar-adjustment program to date would include considerable emphasis upon the 69,943 contracts signed, and the 77,581 checks issued thus far, and the payment of over nine and one-half million dollars in benefit payments, with the prospect that this sum will rise to about $17,000,000 when payment is completed on the 1934 crop now being marketed. The most significant item, however, is the comparison of world sugar prices with prices, plus benefit payments, received by domestic producers. At present American granulated sugar is being offered for export at the basis of 1.20 cents net cash in bond. This means the value of 300 pounds of sugar in an average ton of beets is $3.60, processed and ready for market.

Beet growers in the United States, under the protection of the quota provisions of the Jones-Costigan Act, and under production adjustment contracts, will receive not $3.60 a ton but an average of about $6.75 a ton. This will not mean great wealth to the average producer, but it does mean effective, substantial protection—a genuinely fair return for balanced production.

You may be interested in the precise figures for Colorado. Despite the drought, Colorado harvested 176,000 acres of beets in 1934, which compares with 209,000 acres in 1933 and 156,000 in 1932. Contracts were submitted by 11,159 growers, and checks totaling $2,410,517 have been sent out. On the estimated 1934 production of 1,569,000 tons of sugar beets, Colorado growers will receive about $5 a ton from the factories and approximately $1.75 a ton as benefit payments, or a total of $6.75 a ton. Thus Colorado's income from sugar-beet production for the crop of 1934 will approximate $10,570,000. While this is about one and one-half million dollars under the gross income on the 1933 crop of 2,628,000 tons of beets, it is about a fourth higher than the income from the 1932 crop.

I find that sugar-beet income in Colorado has made a better recovery than grain income for the United States as a whole. Comparing 1934 income with the average income for the years 1922–31, Colorado growers last year had a sugar-beet income that was about 60 percent of the 10-year average, whereas grain producers the country over had an income last year of roughly 50 percent, even including benefit payments, of the 10-year average.

Comparable results can be listed for other beet-growing areas. Fortunately, these results have been obtained without any impairment of our relationships to our insular possessions or to Cuba. In fact, by virtue of the provisions of the Jones-Costigan Act, and by virtue of a trade agreement now in effect, our trade with Cuba has shown a gratifying increase.

Agriculture in particular has reason to be interested in some of the results of this trade agreement. The trade agreement went into effect in the fall of 1934. Comparing the 9 months, September–May 1934–35, with the same period a year before, we find our exports of wheat flour up, hams and shoulders up by nearly a million pounds, and lard up nearly 25,000,000 pounds, as compared with 11,000,000 pounds the year before. Industrial exports of automobiles, machinery, and other items have increased proportionately. Though Colorado may not produce either lard or automobiles for export, Colorado's sugar-beet growers have a genuine, if indirect, interest in such exports, for any improvement in our foreign-trade situation is reflected in higher consumer purchasing power in this country for such products as sugar.

So far as the consumer is concerned, it must be frankly admitted that he pays the cost of the protection now possessed by the domestic sugar industry, just as he pays the cost of the protection possessed by any other tariff-protected industry. In the case of sugar, however, the consumer has not had to pay any more under the adjustment program than he paid in the past. The Agricultural Adjustment Act contains a consumer-protection clause which puts a ceiling on price increases through control of production or marketing, the ceiling being the proportion of his dollar the consumer spends for food now as compared with the pre-war years, 1909–14. It would be interesting to see such a ceiling in all tariff schedules.

The responsibilities of sugar-beet growers toward labor, in consideration of benefits obtained under the Jones-Costigan Act, have warranted and received both study and action. The act became law so late in the spring of 1934 that it was not possible to affect labor relations last year. Determination of wage rates, therefore, was left to the usual bargaining between individual producers and laborers. But in order to guard against nonpayment of wages, much complained of by laborers, the adjustment contract provided that the second installment of the benefit payment to producers on the 1934 crop should be conditional on settlement of all bona fide wage claims. Some 2,000 complaints were subsequently acted upon by control committees, and 200 of these are awaiting settlement by the sugar section of the A. A. A. Many other complaints were settled informally.

This year, for the 1935 crop, it has been possible to take further steps to insure satisfactory relationships between producer and laborer. Producers' associations in southern Colorado and in Montana, and numerous associations of laborers, requested a determination of minimum wage rates for the season. Growers' organizations in northern Colorado, Nebraska, and Wyoming reported failure to agree on such rates. Accordingly hearings were held in Colorado, Nebraska, and Montana, and minimum-wage rates were subsequently determined.

The rates have been based on three considerations: The past relationship of wages to income from beets, past relationship of wages to prices of beets, and the past relationship of labor costs to total costs. The rates set are roughly 40 percent higher than those paid in 1933. Though lower than the rates demanded by the laborers, they are in line with purchasing power criteria of the years 1924–26, chosen as the base period for this determination.

In addition to this rate determination, the administration and the growers have taken preliminary steps to eliminate child labor from the beet fields. The adjustment contract specifies that no children under 14 years of age, other than members of the producer's immediate family, may be employed in the beet fields, and that for those between 14 and 16 years of age the working day shall not be longer than 8 hours.

In sugar-beet areas there is likely to be much talk of the value of high tariffs in general and of sugar-beet tariffs in particular. I have already dealt with the way in which a tariff on Cuban sugar amounting to more than 100 percent ad valorem built up insular competition behind the tariff wall to bring the domestic sugar-beet producer to ruin, and how we have used a smaller tariff and a processing tax-benefit payment program to restore a modest prosperity. I wish now to discuss tariffs in general as they affect agriculture in general. There has been much talk along this line because 1934 was the worst drought year in the Nation's history. Drought cut grain production by 2,000,000,000 bushels. It is not surprising, therefore, that there have been imports of feed grains into the United States. For the 11 months ending May 31, 1935, however, they have amounted to less than 3 percent of the drought-created vacuum.

This coming year we shall harvest probably 40,000,000 acres more crops than last year. In spite of very unfavorable weather for corn in May and June, it now appears from July 1 reports that we may harvest in 1935, roughly, one and one-half billion more bushels of grain than last year. This means that with many crops we shall again be faced with a very interesting export problem. This is especially true of wheat and rye. Agriculture as a whole is on an export basis normally to the tune of 50,000,000 acres. As long as this is the case, Colorado cannot build a wall around herself. Neither can the United States. High tariffs by destroying the market for the product of 50,000,000 acres and by increasing the costs of products which Colorado farmers buy have done the Colorado farmer infinitely greater damage than he will ever know. But it happens the tariff is such a sacred thing and has built up so many vested interests that nothing can be done about it suddenly or without careful consideration. Therefore the farmer must have his processing tax and benefit payment as his offset to the havoc wrought by the tariff. In this way we have helped the cotton, wheat, corn, tobacco, and sugar farmers to meet an otherwise impossible situation. With ordinary weather in 1936 we will hear nothing about imports of farm products except from politically minded demagogues. There may still be small imports of a few products as a result of a hangover of the drought, but the economic effect will be so slight as to be insignificant. I hope and believe that 1936 will see the last attempt of designing politicians to fool farmers with promises about paper tariffs which never have and never can do him any good.

TRIBUTE TO THE STATE OF CONNECTICUT

Mr. LONERGAN. Mr. President, I ask unanimous consent to have inserted in the RECORD an editorial published in the

New York Sun of Saturday last touching briefly on some aspects of the history of the State of Connecticut.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Sun of July 13, 1935]

LITTLE, BUT OH MY!

Connecticut, as many have observed, is a small State. Its area is less than 5,000 square miles. In extent it ranks forty-sixth among the States; in population, twenty-ninth. Its inhabitants number not so many more than there are residents in the Bronx; just about as many as there are in Detroit. But, like many persons who are under the average height and weight, Connecticut has always had plenty of energy—plenty of initiative, get-up-and-go. It has always been good at starting things.

Connecticut can claim to have written the first democratic constitution, to have founded the first school of law, the first school with really systematic instruction in music, and the American system of agricultural experiment stations. It was among the first to offer higher education to women. There are some who believe that Eli Whitney began modern manufacturing methods that led to mass production in his factory at Whitneyville, Conn., much more than a hundred years ago. True or not, no one can deny that the Connecticut Yankee has had great inventive genius; that modern industry, as well as representative government and education, has found Connecticut's relatively few acres a very fertile soil.

A professor of political economy at Princeton—not a native son of Connecticut—called the Connecticut Constitution "the first conscious and deliberate effort on this continent to establish the democratic principle in control of government * * * the first written and democratic constitution on record." In the course of a quarter of a century Connecticut's first law school, founded at Litchfield in 1784, educated in the law 16 United States Senators, 50 other Members of Congress, 2 Justices of the United States Supreme Court, 10 Governors, 5 Cabinet members, and uncounted judges. Aaron Burr and John C. Calhoun were two of the many brilliant legal minds polished here in the early days of the Republic.

In literature and journalism Hartford takes title to two priorities: the Hartford Wits, said to be the first literary school in the United States, and the Hartford Courant, the oldest newspaper in the country published in the same town with the continuous use of the same name and the unbroken continuity of its publishing corporation.

Connecticut, then, to recapitulate, has very notably started things in politics, education, industry, literature, and journalism, and at her three hundredth birthday party, at its height this summer, deserves a great big hand from her next-door neighbor, New York. It may be said of her again at this time, "She is little * * * but, oh, my!"

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. POPE. I offer an amendment to the committee amendment.

The VICE PRESIDENT. The Senator from Idaho offers an amendment to the committee amendment, which will be stated.

Mr. McNARY. Mr. President, I inquire was there an amendment pending at the conclusion of the session on Friday?

The VICE PRESIDENT. As the Chair understands, there was pending at that time the committee amendment, as amended, on page 11, line 6, including soybeans, and so forth, in the bill.

Mr. McNARY. I ask that the clerk state the amendment then pending.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 11, line 6, after the word "canning", it is proposed to insert the words "soybeans, package bees and queen bees, poultry."

Mr. McNARY. Mr. President, I thought, in order to serve the best interests of desirable parliamentary procedure, that, by unanimous consent, we were to take up, separately and not as a group, each one of the commodities mentioned in the amendment. I am sure such an order was made. At the time I propounded to the then occupant of the chair, the Senator from Nevada [Mr. PITTMAN], that question.

The VICE PRESIDENT. The parliamentary clerk suggests to the Chair that the same object can be accomplished by moving to strike out. The Chair does not know exactly what the agreement was.

Mr. McNARY. I think I can tell the Chair in a moment. The occupant of the chair at that time was the Senator from Nevada [Mr. PITTMAN]. Effort was made to consider all these commodities in a group as one amendment. I made the objection and suggestion that we treat them as separate amendments so that we could take up soy beans, package bees and queen bees, and poultry, each separately, for the particular reason that I knew there would be some objection to poultry remaining in the bill; and if no one else is prepared to do so, I think the Senator from Rhode Island [Mr. METCALF] has an amendment to strike poultry from the bill.

The VICE PRESIDENT. Let the Chair state to the Senator from Oregon that he has recognized the Senator from Idaho [Mr. POPE], who has sent to the desk an amendment proposing to strike the word "poultry" from the committee amendment.

Mr. McNARY. Very well.

The VICE PRESIDENT. The amendment offered by the Senator from Idaho to the amendment reported by the committee will be stated.

The CHIEF CLERK. In the committee amendment, on page 11, line 7, after the words "queen bees", it is proposed to strike out the word "poultry."

Mr. POPE. Mr. President, I offered this amendment in the committee. I offered it because of the request of the poultry growers of my State. I received a telegram from the Idaho State Hatcherymen's Association, signed by the president and secretary, requesting that I support such amendment. I should like to offer this telegram for the RECORD as a part of my remarks to show that fact. It reads:

CALDWELL, IDAHO, *June 12, 1935.*

Hon. JAMES POPE:

We urge your support that poultry and poultry products be included in marketing agreement section of triple-A amendments.

IDAHO STATE HATCHERYMEN'S ASSOCIATION,
OSCAR DUNLAP, *President.*
GEORGE LYNCH, *Secretary.*

I also have the report of the American Farm Bureau which made the statement that the poultrymen throughout the country were in favor of that amendment.

However, I find that many of the poultrymen of my State are now opposed to it, and on July 13 I received a telegram reading as follows:

CALDWELL, IDAHO, *July 13, 1935.*

Hon. J. P. POPE,
Senate Office Building, Washington, D. C.:

Idaho hatcherymen agreed that poultry and eggs be eliminated from A. A. A. Would like to have baby chicks included.

IDAHO STATE HATCHERYMEN'S ASSOCIATION,
OSCAR DUNLAP, *President.*

I also find that the American Farm Bureau now makes the statement that they are not further interested in the amendment. Therefore, I am moving to amend the committee amendment by striking out the word "poultry."

Mr. BORAH. Mr. President, I desire to concur in the request of my colleague. In support of it, I ask to have inserted in the RECORD a number of telegrams on the subject.

The VICE PRESIDENT. Without objection, the telegrams will be printed in the RECORD.

The telegrams referred to are as follows:

CALDWELL, IDAHO, *July 11, 1935.*

Hon. WILLIAM E. BORAH,
Senate Office Building, Washington, D. C.:

Understand Senate bill A. A. A. amendments on floor including poultry eggs. Absolutely opposed including poultry eggs under this amendment giving Secretary of Agriculture virtual dictatorship over poultry egg industry. Appreciate your support. Have poultry eggs taken out of this bill.

L. A. MCBRIDE.

TWIN FALLS, IDAHO, *July 4, 1935.*

Senator WILLIAM E. BORAH,
Senate Building, Washington, D. C.:

Notice Senate Committee on Agriculture and Forestry have included poultry and eggs, their redraft House bill 8492. Feel this injustice. Our Idaho farmers also should demand there be hearing on bill if poultry and eggs be added. Wiring Senator POPE effort secure hearing. Anything be done this end advise.

H. J. BONIE.

NAMPA, IDAHO, *July 11, 1935.*

Senator WILLIAM BORAH,
Senator Chamber, Washington, D. C.:

We object to the inclusion of poultry and poultry products and the products of milk in the amendment to the agricultural act,

or H. R. 8492, as being detrimental to both the poultry and dairy industries, and especially in this district which is so far from the large markets, and urge that you vote against same.

JENSMA CREAMERY CO.

NAMPA, IDAHO, *July 10, 1935.*

HON. WILLIAM E. BORAH,
Senate Office Building, Washington, D. C.:

We are not in favor of Senate bill corresponding to H. R. 8492, of the three-A amendment, with reference to poultry and eggs.

NAMPA CREAMERY CO.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Idaho [Mr. POPE] to the amendment reported by the committee, as amended.

The amendment to the amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on agreeing to the committee amendment, as amended.

Mr. SMITH. Mr. President, as the committee amendment now stands, hops and poultry have been eliminated. The question is now upon agreeing to the committee amendment, as amended.

The VICE PRESIDENT. That is correct.

Mr. BORAH. Mr. President, did I understand the Chair to say that the question is on the adoption of the amendment, as amended?

The VICE PRESIDENT. That is correct.

Mr. BORAH. May we have the amendment, as amended, stated so we may know what we are to vote on?

The VICE PRESIDENT. The clerk will state the amendment, as amended.

The CHIEF CLERK. The amendment, as amended, is on page 11, lines 6 and 7, and now reads as follows:

Soybeans, package bees, and queen bees.

Mr. KING. Mr. President, in view of the statement made by the Senator from Virginia [Mr. GLASS] a few days ago with respect to queen bees and their progeny, I assumed he was going to move to strike out "package bees and queen bees." If not, I shall move to strike out those words.

Mr. GLASS. Mr. President, I hope the Senator will do so. I shall vote with him.

The VICE PRESIDENT. The Senator from Utah offers an amendment, which will be stated.

The CHIEF CLERK. In the committee amendment, on page 11, lines 6 and 7, it is proposed to strike out the words "package bees and queen bees."

Mr. SMITH. Mr. President, before action is taken on that question, as chairman of the committee I wish to make a statement. Different members of the committee saw fit to move to amend the text as it came to us from the House. This particular item has been the object of more or less facetious remarks here on the floor of the Senate. I do not remember who was the proponent of the amendment.

I think at this point it is very well for me to state in reference to the action of the Senate the other day on a roll call refusing to strike out the words "and not including fruits for canning" that every member of the committee heard the discussion, and every member of the committee, as I recall—and a majority were present—voted for the action of the committee in reference to that phraseology.

I was disappointed that the members of the committee who were most responsible for the discussion and inclusion of this phraseology did not come to the defense of it at all on the floor of the Senate. I now submit that the market for canned fruits is the major market in some instances for producers of fruits. By the action of the Senate we have divided the market, one portion, perhaps the major portion of the farmer's product, being unregulated and at the mercy of the canner, while the other portion, embracing fresh fruits, is wholly regulated.

I desire to reemphasize what I have said. Members of the committee heard this matter discussed in detail. All the elements which entered into it were fully discussed before the committee. The members of the committee unanimously voted to incorporate the amendment, and yet when it came here for discussion not a member of the committee, with the exception of the Senator from Nebraska [Mr. NORRIS], rose to express his opinion. Of course, the Senate has a right to do as it pleases, but it seems to me the members of the committee should have expressed the fact that, after full discussion, they had consented to the insertion of the language.

As to the question of package bees and queen bees, I do not know anything. I would not handle the things by regulation or otherwise. Someone brought the items before the committee, thinking it would be advisable to regulate them along with other farm products, and I now invite whoever did so to defend the proposal or let the items be stricken from the bill.

Mr. BANKHEAD. Mr. President, I offered the amendment in the committee, as I stated on the floor a few days ago. There is quite a bee industry in some six or eight States, mostly in the South. They are at present operating under marketing agreements. I received telegrams from the representatives of the bee shippers in some six or seven States, pointing out that they are now operating under such agreements, and asking that the bee-shipping industry be included so they might continue under their present program. On the basis of the requests from the chairman of the organization of the bee shippers, a very high-class man who lives in my State, I offered the amendment.

If the people engaged in the business in quite a number of States have requested that they be permitted to remain under the marketing agreement program, I cannot see why Members of the Senate, because of facetious remarks or because they have no direct contact with the bee-shipping industry, should object to granting their request and letting them be included.

In view of their desire to remain under the provisions of the bill purely upon the basis of marketing agreements provided for by the bill, I hope the motion of the Senator from Utah will not prevail.

Mr. GLASS. Mr. President, I again protest that the remarks made by me were not altogether of a facetious nature. They may have assumed that tenor because of the ridiculous proposal to make queen bees a primary agricultural commodity, the production of which is to be controlled by the Secretary of Agriculture.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER (Mr. MALONEY in the chair). Does the Senator from Virginia yield to the Senator from Alabama?

Mr. GLASS. I yield.

Mr. BANKHEAD. The Senator misconceives the object of the amendment. It does not make bees of any sort a basic agricultural commodity. It does not in any manner seek to control production. It only relates to the shipment of bees in interstate commerce.

Mr. GLASS. It makes the produce of queen bees an agricultural commodity.

Mr. BANKHEAD. No; I beg the Senator's pardon. It merely authorizes the bee shippers to remain under a marketing agreement, not a production agreement, but a sales agreement.

Mr. GLASS. Incidentally and inevitably there will be an effort to control the production of queen bees. A few days ago I received a letter from an intelligent and most estimable lady in Wisconsin, as I recall, telling me how the production of bees might better be controlled; that is, telling me what would be a more feasible plan for birth control of bees than is provided in the pending provision of this particular bill. [Laughter.] I do not precisely recall what her method was. I simply thanked her for the information, and told her that on general principles I thought my queen bees were as much entitled as were any other species of animal to enjoy the "more abundant life" that Professor Tugwell is providing for human beings.

With all due respect to the distinguished Senator from Alabama, I think it makes the bill ridiculous to undertake to let the Secretary of Agriculture control the bee industry of the country.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Utah [Mr. KING] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. VANDENBERG subsequently said: Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. VANDENBERG. What happened to the amendment in line 6, page 11, involving soybeans? Was that adopted by the Senate? I do not think the Senate ever voted on the committee amendment as amended.

The PRESIDING OFFICER. The Chair is advised that the Senate has not as yet voted on that question.

Mr. VANDENBERG. Is that being passed over?

Mr. SMITH. Mr. President, let us have this matter clearly understood. The Senator from Oregon [Mr. MCNARY] asked that each item included in the Senate committee amendment should be voted upon; and, pursuant to that suggestion, the Senator from Idaho [Mr. POPE] moved to eliminate poultry. That was acted upon. I ask unanimous consent that the articles enumerated in the amendment may be now voted on separately, so that there will be no confusion. We have eliminated hops. We have eliminated poultry.

Mr. VANDENBERG. There is only one left. We can very easily vote on that separately. [Laughter.]

Mr. SMITH. The Senator is correct.

The PRESIDING OFFICER. The request of the Senator from Oregon was made before the present occupant of the chair assumed the chair.

Mr. VANDENBERG. Are we going to return to soybeans for a vote? That is all I wish to know.

The PRESIDING OFFICER. It would seem to the present occupant of the chair that it would be in order now to take action on the committee amendment as amended inserting soybeans.

Mr. POPE. Mr. President, will the Senator from Michigan yield for a moment?

Mr. VANDENBERG. Yes; if I have the floor.

Mr. POPE. A few moments ago my motion to strike out the word "poultry", in line 7, page 11, was adopted. My attention has been called to the fact that the words "poultry and its products" appear in line 13, page 16. I now move to strike out the words "poultry and its products", in line 13, page 16, in order to make the bill conform to my amendment.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Idaho is agreed to.

Mr. VANDENBERG. Now, Mr. President, is the pending question soybeans?

The PRESIDING OFFICER. It is.

Mr. VANDENBERG. I should like to ask the chairman of the committee something about the soybean amendment. I should like to know where it comes from and who asked for it.

Mr. SMITH. We simply transferred what was already in the House bill. If the Senator will look on lines 9 and 10, page 11, he will see the words:

As used in this section, the term "vegetables" includes soybeans.

The committee thought that was rather an indirect way of doing a thing, so we struck out that language and inserted the word "soybeans" where it properly belongs. It seems that the insertion of the word was discussed in the House, and it was inserted. I do not remember, in the committee, any proposal to include this oil-producing industry.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. HATCH. As a matter of fact, in the committee, no person suggested the inclusion of soybeans. It was merely a correction of the House bill.

Mr. SMITH. The word "soybeans" was in the House text, and we merely clarified the House text by putting soybeans in the category in which it was intended to go.

Mr. VANDENBERG. How can we deal with one oil-producing bean and not deal with them all?

Mr. SMITH. All the others are more or less being dealt with, I presume.

Mr. VANDENBERG. I do not follow the Senator. He says "all the others are more or less being dealt with, he presumes." [Laughter.]

Mr. SMITH. Yes; I presume they are.

Mr. VANDENBERG. That is conclusive.

Mr. KING. Mr. President, I am not satisfied with the importance and the necessity of including soybeans. I should like to find out who asked for it—what industry demanded it.

Mr. HATCH. It is in the House bill.

Mr. KING. I know it is in the House bill, but it seems to me we should reject the House provision.

Mr. SMITH. The House committee held extended hearings and considered all these products. They included soybeans in the manner I have indicated; and the Senate committee merely simplified the language by putting soybeans in the proper category. I myself think that if we are going to include the commodities already included—pecans, walnuts, and so forth—the House provision, ratified by the Senate committee, should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

Mr. KING. Mr. President, a moment ago I offered an amendment to strike out, in lines 6 and 7, page 11, the words "package bees and queen bees." The same provision is found in the committee amendment in line 12, page 16, in the following words:

Package bees and their products and queen bees and their products.

In order to be consistent, I move to amend the amendment by striking out the words I have just read, so as to harmonize with the first amendment.

The PRESIDING OFFICER. Without objection, the amendment to the amendment is agreed to.

The clerk will state the next amendment passed over.

The CHIEF CLERK. On page 11, line 7, after the word "as", it is proposed to strike out "defined" and insert "included."

The amendment was agreed to.

The CHIEF CLERK. On page 11, line 8, after the word "act", it is proposed to insert "and standards established thereunder (including refined or partially refined oleoresin)."

Mr. KING. Mr. President, I rise merely to obtain information, because I am not clear as to what is meant by the words "and standards established thereunder (including refined or partially refined oleoresin)." I should like some information as to that clause.

Mr. SMITH. This amendment refers to the regulations made under the act defining the standards. The Department already has under general legislation standards as to quality, and so forth.

Mr. KING. This amendment does not amend or modify the regulations or standards which heretofore have prevailed?

Mr. SMITH. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHIEF CLERK. On page 11, lines 9 and 10, the committee proposes to strike out:

As used in this section, the term "vegetables" includes soybeans.

Mr. KING. Mr. President, in view of the fact that we have soybeans in the bill heretofore without defining it as a vegetable or food or anything else, it seems to me there is no necessity for this amendment.

Mr. HATCH. We are striking out the language.

Mr. KING. Very well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. JOHNSON. Mr. President, I think that concludes the particular paragraph which has been under discussion. So that there may be no mistake about the parliamentary

situation, I desire information, if the Chair will be kind enough to give it to me, and to state what it is my intention to do subsequently.

We have been acting upon committee amendments which were passed over. We are supposed, I assume, to go through the bill in that regard. I intend to offer certain amendments including certain particular products in this section, numbered "(2)", entitled "Commodities to Which Applicable"; but I assume that those are specific amendments which must be taken up after we shall have concluded the bill in the aspect of taking care of those amendments of the committee which have been passed over. Is that accurate?

Mr. SMITH. That is the understanding of the chairman of the committee. I do not know just what the parliamentary situation is.

Mr. JOHNSON. I wished to make it plain, so that I should not be cut off hereafter in offering amendments to this particular section.

The PRESIDING OFFICER. The Chair is advised that any individual amendments to the House text will be in order after the consideration of committee amendments shall have been concluded.

Mr. McNARY. Mr. President, the statement made by the Senator from California conforms to the rule and the understanding.

Mr. KING. May I inquire of the Senator from California whether the amendments which he expects to offer, as just indicated, deal with the same subjects, considering milk or wool or mohair as a subject, as those which have been dealt with?

Mr. JOHNSON. No; I intend, for instance, to offer an amendment to the language in line 4, page 11, which was adopted by the House, stricken out by the committee, and reinserted by the Senate, so as to read "fruits for canning other than olives." To that there will be no objection, I know, because the canners do not object to it, so I assume it will be adopted without difficulty.

Then there are a couple of other products as well which I intend to endeavor to include, and I speak of the matter now merely that there may be no mistake about the parliamentary situation, and that I may not be precluded hereafter.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The CHIEF CLERK. On page 12, line 7, after the word "which", it is proposed to strike out the words "it is ultimately used or consumed" and to insert in lieu thereof the words "or the purpose for which it is used", so as to read:

"TERMS—MILK AND ITS PRODUCTS

"(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

"(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

Mr. KING. Mr. President, I think there will be some amendments, either to this section or to another dealing with milk and its products, and I was wondering whether the amendment just read might not be passed over to be considered when the "milk and its products" amendments are brought up.

Mr. McNARY. Mr. President, is it the desire of the Senator from Utah that we pass over the whole subject matter treating with milk?

Mr. KING. Yes; it seemed to me, in view of the fact that it is spread through various sections, that it might be well to deal with the entire question of milk and its products at one time. I have no objection to dividing it up.

Mr. McNARY. The subject starts on page 12 and continues for several pages consecutively. I wish to know whether it is the desire to pass over the whole matter or only a portion of it.

Mr. SMITH. Mr. President, I think the language here merely clarifies the intent. It has nothing to do with the principle of milk control. I think we ought to make progress by accepting or rejecting the committee amendments. This amendment has been passed over, and it is now the province of the Senate to do what it desires to do with the milk provision.

Mr. ROBINSON. Mr. President, in support of what the Senator from South Carolina has said, let me state that we are laboring under an agreement first to consider committee amendments. We passed over several committee amendments once; now we are reaching them in order, and it is suggested that we pass over certain amendments again. I do not think that is good legislative procedure. Let us take them up and dispose of them. Let us make progress in the disposition of the controverted questions in the bill.

We have before us now, according to the agreement under which the Senate is laboring, the committee amendments. Having passed them over once, I do not see the justification for passing them over again, and if we do so, then when we reach them again someone may suggest that we pass them over a third time, and so on, indefinitely.

Mr. KING and Mr. LEWIS arose.

The PRESIDING OFFICER. Does the Senator from Arkansas yield; and if so, to whom?

Mr. ROBINSON. I yield first to the Senator from Utah.

Mr. KING. No amendment, as I understand, can as yet be offered; for instance, to strike out the words "milk and its products", because they are in the House text; and it seemed to me, in view of the fact that this subject would not be reached until after we dealt with the committee amendments, that we would have to defer until we reach the amendments which deal with milk and its products, and if an amendment prevailed, then we would have to go through the bill again to readjust the amendments which had been offered, and the subject would then be dealt with.

Mr. ROBINSON. Almost the universal practice here is first to consider committee amendments. When committee amendments are reached in the Senate they are subject to amendment, and the proper procedure is, if these amendments in their present form are not acceptable, to consider amendments to them now. I cannot see any advantage to be gained by passing them over every time we reach them.

Mr. KING. Mr. President, may I interrupt the Senator again?

Mr. ROBINSON. I yield again to the Senator from Utah; then I will yield to the Senator from Illinois.

Mr. KING. I again invite the attention of the Senator to the fact that if we should agree to insert the words "or the purpose for which it is used", referring to milk, which is quite likely, and later, when we had concluded all the committee amendments, a motion was made to strike out the words "milk and its products", then the amendment which was just being considered would have to be dealt with.

Mr. ROBINSON. The motion would be to strike out the paragraph, which, of course, would be effective if it were agreed to. The pending amendment is simply a perfecting amendment. It uses different language from that which was used in the House text to accomplish substantially the same purpose. If a motion should be made to strike out the words "milk and its products", it would carry practically the whole section. So that I still insist that the correct procedure is to go ahead and dispose of the committee amendments perfecting the text.

I yield to the Senator from Illinois.

Mr. LEWIS. Mr. President, I desire merely to point out that those for whom I speak seem to be very much interested in the milk feature of the bill. I ask the Senator from Arkansas, the able leader on this side, what is the reason, if any is advanced, why we cannot vote on this provision, now that

we have reached it? What is the objection to voting on it now?

Mr. ROBINSON. That is exactly what I am suggesting and advocating, that we vote on it now. The Senator and I are in entire accord on that proposition. Let us vote on it.

Mr. LEWIS. I heartily agree.

Mr. WAGNER. Mr. President, before a vote is taken I should like to have read at the desk a telegram which I received this morning on the subject of milk from the chairman of the Governors' Committee.

The PRESIDING OFFICER. Without objection, the clerk will read.

The Chief Clerk read as follows:

NEW YORK, N. Y., *July 13, 1935.*

Senator ROBERT WAGNER,
United States Senate:

The committee appointed by the Governors of the States of New York, New Jersey, Pennsylvania, Vermont, Massachusetts, Connecticut, and Maryland meeting in New York City today instructs me to advise you the committee is firmly convinced producer sentiment in the Northeastern States favors regulation of interstate commerce in milk and urges your favorable action.

PETER TEN EYCK,
Chairman Governors' Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment on page 12, line 7.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The next amendment passed over was, on page 13, line 20, after the word "milk" to strike out "sold" and insert "purchased"; so as to read:

"(B) Providing:

"(i) For the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

"(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

The amendment was agreed to.

The next amendment passed over was, on page 14, after line 15, to strike out:

"(D) In order to accomplish the purposes set forth in paragraph (A) of this subsection (5), providing that all handlers shall pay the price specified in such order for milk utilized for manufacturing purposes for all milk delivered to them by producers who were not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, for the period of 90 days from and after the commencement of deliveries by such producers, respectively.

"(E) Providing for the verification of weights, sampling, and testing of, and security for the payment for, milk purchased.

And to insert:

"(D) Providing that, in the case of all milk purchased by handlers from any producer who was not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing for 3 full calendar months from the first day of the next succeeding month, shall be made at the price for the lowest use classification specified in such order.

"(E) Providing for market information to and the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), and assurance of, and security for the payment by handlers for, milk purchased.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

Mr. McNARY. Mr. President, while we have agreed to the amendment on page 14, relating to subsections (D) and (E), I think there should be some explanation of that language.

Mr. SMITH. Mr. President, if the Senator will read the provisions carefully he will find that they are really a redraft of the House text. I do not know that they change the intent or purpose at all. However, members of the committee who come from the region which would be more vitally affected by the amendment than would my section, I think should give the Senate the benefit of just what is intended by this milk provision. I know that it gave the committee more concern than any other amendment, but both those who have to administer the law and the committee hearing them give an explanation thought the language which the Senate committee included was more apropos to the subject than the House text. It does not change the principle.

Mr. McNARY. Perhaps the Senator from Iowa can give us an explanation.

Mr. MURPHY. Mr. President, does the Senator have reference to subdivision (D)?

Mr. SMITH. The Senator from Oregon asked what was the difference between the language inserted by the Senate committee and that found in the text of the House. There is no material difference.

Mr. MURPHY. Mr. President, having reference to paragraph (D), the purpose sought in the amendment is to create areas governing the marketing of milk, and the handlers purchasing milk in those particular areas are obligated to pay uniform prices for milk.

It has been the custom in some of the eastern markets, where there is heavy consumption, to draw milk from nearby States, and break down the price the local producer is paid. The desire is to give some protection to the price fixed in the local marketing areas. The protection given is in the requirement that the handler buying milk from the persons shipping it from outside the State shall pay the lowest classification-use price for the milk for a period of 90 days, in order to determine whether or not he is a regular producer.

There are regular producers in a given area. Outsiders shipping in irregularly break down the price. To protect the regular producers against a price breakdown, it is provided that the outsider shipping in, if he is a regular shipper, may have access to the market at the same price as the producer in that market. If, however, he is an irregular shipper, taking advantage of the market occasionally, it is sought to subject him to the low classification-use price.

Milk itself, for consumption as such in the home, takes the high-classification price. There is a second classification price comprising cream for use in the manufacture of butter and ice cream. There is a third classification price for evaporated or dried milk. The purpose of paragraph (D) is to determine the good faith of the producer from another State selling his product in a marketing area other than that of his residence, the effect of which is to break down the local price.

If that explanation be adequate, I shall let it stand; if it be not adequate, I shall be glad to give the Senator any further information he may desire.

Mr. COPELAND. Mr. President, may I ask a question of the Senator from Iowa?

Mr. MURPHY. I yield.

Mr. COPELAND. The up-State distributors of milk in my State feel that the safety of the industry in New York State depends upon the continuation of the fixing of resale prices by any governmental agency controlling the milk industry within the State, and unless the resale prices are fixed there will be a reversion to wholesale price cutting and chiseling. Does this amendment, in the opinion of the Senator from Iowa, guard against that sort of thing?

Mr. MURPHY. No, Mr. President; this amendment does not give the Secretary of Agriculture any power whatsoever to fix a resale price. He has not attempted to do that. My information is that the New York State law fixes the

resale price as well as the price to the producer. To make such attempt here would take this bill into a field where the question of consumer protection might be raised. This is a bill primarily for the producer of milk, and the Secretary of Agriculture feels that, for the present at any rate, it should concern itself wholly with the price the producer shall receive. If the Senator from New York wants to advocate a plan whereby the resale price shall be fixed, he is free to do that. It would open up a new field of discussion and debate.

Mr. COPELAND. Mr. President, I am glad to have the Senator's opinion. I am very much interested in the general subject. The amendment which is before us, however, is not one which I have studied, but there are some other matters which at the appropriate time I wish to present for the consideration of the Senate. I presume the Senator from Iowa has studied this amendment and has accepted it.

Mr. LA FOLLETTE. Mr. President, will the Senator from Iowa yield?

Mr. MURPHY. I yield.

Mr. LA FOLLETTE. I was called from the Chamber when the Senator from Iowa was discussing this provision insofar as it affects milk and its products. I should like to ask the Senator if his understanding of the provisions of this section is the same as mine, if he will indulge me for that purpose. As I understand, the agreements can be made to apply only to whole milk, and there is nothing in these provisions which would enable marketing agreements to be applied to the products of milk, such as cheese and cream and butter, insofar as they are being shipped from one State into the markets of another. Is that the Senator's understanding?

Mr. MURPHY. That is my understanding.

Mr. LA FOLLETTE. And, insofar as whole milk is concerned, it is my understanding that the agreements could apply, so far as the shippers of whole milk are concerned, only to those who have not, at the time the orders are issued, been shipping regularly into the given market.

Mr. MURPHY. Precisely.

Mr. LA FOLLETTE. In such a case, as to those who have not been accustomed to ship into such market, the terms would apply which apply to everyone else within the marketing area. In case an order is issued, however, and a particular shipper of whole milk, who had not been previously shipping into the marketing area, desires then to enter the marketing area, he would for a 3 months' period have to take the lowest price classification for his product, after which time he would obtain the same prices as provided for others who had been regularly shipping in or who were producing within the area. Is that the Senator's understanding?

Mr. MURPHY. The Senator has stated my understanding of the matter.

Mr. LA FOLLETTE. I thank the Senator.

Mr. TYDINGS. Mr. President, will the Senator from Iowa yield?

Mr. MURPHY. I yield.

Mr. TYDINGS. Is it the understanding of both the Senator from Iowa and the Senator from Wisconsin that the agreements and the orders issued by the Federal Government apply only to milk which is in interstate commerce, and do not under any circumstances apply to milk in intrastate commerce?

Mr. LA FOLLETTE. My understanding is that the phraseology in the bill—I am not sure that I can turn to it at once—insofar as it defines interstate and intrastate——

Mr. SMITH. It appears on page 10 of the bill.

Mr. LA FOLLETTE. As I have read it in each particular case, if a legal controversy arose, there would have to be an adjudication by the courts to ascertain into which classification the particular shipment in controversy fell. In other words, the court would have to find the fact as to whether or not it actually flowed in interstate commerce or tended to obstruct interstate commerce.

Mr. TYDINGS. In order to bring the example before the Senate in a concrete way, let us suppose milk is produced in a State and sold within that State.

Mr. LA FOLLETTE. My interpretation would be that that would not fall in the classification of moving in interstate commerce, or flowing in interestate commerce, or directly burdening or obstructing interstate commerce.

Mr. TYDINGS. There are cases where farmers, through their cooperatives, have already created and fixed a price which is satisfactory to them. If that arrangement were set aside, where the transaction is intrastate, it would disorganize all the farm cooperatives dealing in milk, whereas, on the other hand, if it applied only to interstate commerce no harm would be done. In California and in Maryland and in many other States I might mention there are farmers' milk cooperatives. They produce milk in the State and sell it in the State.

Mr. BORAH. This bill could not possibly interfere with them.

Mr. TYDINGS. I should not think so.

Mr. BORAH. If it did, the bill, so far as that is concerned, would have no effect. It is here attempted by language to confine it to interstate commerce, but even if the bill did not so confine it the Court would.

Mr. TYDINGS. That is what I think; but my main reason for raising this point again is that, if I interpret correctly the argument on the floor of the Senate in reference to this bill, Senators are assuming that the Federal Government might come into a State and issue an order as to the price a farmer shall receive for his milk, assuming that he produces it and sells it all within the State, and I do not think that argument is sound.

Mr. LA FOLLETTE. I will say to the Senator from Maryland that I do not understand that there is any attempt here to control the intrastate shipment of milk. Where there is a controversy, where a case might approach the border line, then it will be for the Court to determine what are the facts; and, according to the definition found on page 10, the Court will determine whether the particular handling or shipment is within intrastate or interstate commerce. I will say to the Senator that that is my understanding of the situation.

Mr. TYDINGS. That is also my understanding. My reason for wishing to bring out this point is that I hope no attempt will be made by those charged with the administration of this bill to exceed the authority intended to be placed in the administrative officers, because, if there should be such an attempt, it would disorganize the whole price structure, insofar as the milk producer—the farmer—is concerned. It will bring on a disorganization of such producers who through cooperation have agreed upon a price which is satisfactory to them, and I want it distinctly shown in the debate that no Senator on this floor conceives that the milk provisions of the bill give any Federal officer the right to have anything to do with milk which originates in the same State where it is sold.

Mr. SHIPSTEAD. Will the Senator yield?

Mr. MURPHY. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. It seems to me that it must be plain that this language is inserted here to affect the price of milk in intrastate commerce if and when it becomes directly burdensome or obstructs or affects the price of milk in interstate commerce.

Mr. TYDINGS. In my judgment, however, Mr. President, if milk originates in the same State where it is sold, it is intrastate commerce, and the Federal Government has nothing to do with that particuar shipment of milk. The Senator from South Carolina [Mr. SMITH] and the Senator from Nebraska [Mr. NORRIS] and the Senator from Idaho [Mr. BORAH], as well as I, all agreed the other day that this was an interstate provision only, and I do not think that construction can be too greatly accentuated in this discussion, so that the Federal agency charged with administering this provision will not attempt to regulate intrastate shipments, when such shipments are not within the purview of the law.

Mr. BORAH. Mr. President, the language on page 10 "as directly burdens, obstructs, or affects interstate or foreign commerce", is purely surplusage. It does not add anything whatever to the power of control by the Congress. It may be, that language having been used, that someone may assume it gives an additional control over intrastate commerce; but the court would have to determine for itself in each particular case whether intrastate commerce did directly affect or directly burden interstate commerce. In other words, the language here, in my opinion, adds nothing whatever to the power of Congress.

Mr. TYDINGS. Mr. President, will the Senator from Iowa permit one concluding observation?

Mr. MURPHY. I yield.

Mr. TYDINGS. I agree completely to what the Senator from Idaho has said. My only reason for restating the proposition is that if the Federal agency charged with the administration of this provision were to serve notice upon a producer of milk that the Federal Government had jurisdiction, the producer might be frightened into the belief that if he did not carry out the Government's order he might be fined or put in jail, or that something else might be done to him; and I want it known by this debate, iterated over and over again, that if the Congress passes this proposed act it is presumed that those who are charged with its administration will not, in the case of an intrastate shipment of milk, attempt to issue Federal orders and thereby cause producers to be put to the expense of hiring lawyers to prove that the Federal Government has no right to do the thing which it is attempted to do.

Mr. DICKINSON. Mr. President, will the Senator from Iowa yield in order that I may ask a question of the Senator from Maryland?

Mr. MURPHY. I yield to the senior Senator from Iowa.

Mr. DICKINSON. I want to make a suggestion to the Senator from Maryland. Intrastate and interstate milk are so intermingled by many of the marketing associations that a time may come when in a given locality there is a surplus which may burden the market. Therefore if we are going to permit the interpretation to be placed in the proposed act that this provision shall operate only so far as interstate commerce is concerned, the product will be so intermingled under the trade and marketing associations that it will not be known which is which. So it is through this entire bill. It deals with an association which has to do only with a local concern which supplies extra milk through interstate commerce coming in from outside that State. When we read this bill through, I say that no one knows where the authority begins and where it ends.

Mr. BORAH. That is due to a physical fact.

Mr. TYDINGS. Mr. President, will the Senator from Iowa yield? If so, I will promise not to interrupt him again.

Mr. MURPHY. Very well.

Mr. TYDINGS. I may say to the Senator from Iowa that even if intrastate milk did become commingled with interstate milk, insofar as the man who produced and sold in the same State is concerned, that would not affect his situation. But here is the point: As we all know, the twilight zone, which the Senator from Wisconsin just described, offers an opportunity for the Federal administrators to issue orders to State shippers and producers of milk where the whole transaction is within a State, which will force them to go to law in order not to be bound in cases by the Federal decree. I want it distinctly understood that it is the sense of the Senate that those in charge of the administration of this provision will have no right to issue orders which will take over the government or control or the price-fixing or any other phase of the milk situation where the milk is produced and where it is sold always within the same State.

Mr. DICKINSON. The very purpose of the "weasel" words to which the Senator from Idaho has just referred is to do the very thing the Senator from Maryland has said should not be done.

Mr. TYDINGS. I quite agee with the Senator, but I wanted it made clear that the Senate does not interpret the provision in that way. Insofar as I know, no Senator upon this floor claims that the Federal Government has anything to do with milk which is produced and which is sold in the same State; and that ought to be the way in which the proposed act will be enforced.

Mr. BORAH. Mr. President, I was going to say that it was my intention at some time or other to offer the following amendment:

Provided, That nothing in this act, or the law to which the act is amendatory, shall be construed to include wholly intrastate trade or commerce.

That would make it as plain as the Congress could make it; and if an administrator thereafter did something we fear he may do, it would be something he could not legally do.

Mr. KING. Mr. President, as one of the conferees upon the social-securities bill I will be compelled to leave the Chamber within a few minutes, and therefore ask the Senator from Iowa to yield to me for a short time.

Mr. MURPHY. I yield.

Mr. KING. Under the terms of section 8 (c) (1), page 10 of the bill before us, the Secretary of Agriculture is not only authorized but is required to issue orders and "from time to time amend the same", which orders are applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2). Among the products referred to are milk, fruits, various kinds of nuts, tobacco, vegetables, and so forth.

The orders referred to are, to all intents and purposes, licenses, and possess the qualities, limitations, and authority of licenses; and the bill provides that then the orders so issued shall contain various terms and conditions which limit or provide methods for the limitation of the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, and also allot or provide methods for allotting the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, and so forth. Further terms and provisions are also prescribed, among them provisions—

Fixing or providing methods for fixing minimum prices at which any such commodity or product, or any grade, size, or quality thereof, shall be purchased by handlers subject to such order.

There is also a further provision to the effect that the handlers as a group shall purchase or otherwise acquire not less than 50 percent of the total quantity of the commodity or product covered by such order directly from producers or associations of producers.

The amendment which is found in paragraph (G), page 18 of the bill, provides that the orders issued by the Secretary shall contain terms and conditions—

Fixing or providing methods for fixing minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof—

And so forth. In other words, in subdivision (F), as well as subdivision (G), the orders or licenses shall contain provisions for price-fixing, and also shall fix the grade, size, or quality of the commodities referred to.

Mr. President, it was a common practice in ancient times and during the feudal ages, and wherever tyranny and oppressive government existed, for those who were clothed with authority, whether by usurpation or otherwise, to control the economic as well as the political life of the people. The prices of labor and commodities were fixed by autocratic rules and regulations, and the masses of the people were largely hewers of wood and drawers of water.

It took centuries and sanguinary struggles for the people to throw off the yoke of bondage and tyranny and to set up forms of government in which civil, economic, and political liberty were enjoyed. Civilization has advanced in proportion as oppressive rules and regulations imposed by governmental authority have been withdrawn.

The progress of this Republic is in marked contrast to those countries in which the inhabitants were subjected to autocratic rules and to regulations at variance with economic

laws and the assertion of individual rights. The Federal Government has set its seal of disapproval upon price-fixing, and enacted antitrust laws to prevent monopoly. The Federal Trade Commission was created for the purpose of protecting the people against all forms of price-fixing and monopolistic control. I believe that every State has enacted laws prohibiting monopolies and restraint of trade and every practice which resulted in price-fixing. The people have recognized the evils growing out of monopolies and trusts and practices in restraint of freedom of trade; and as stated, they have enacted laws to keep open the channels of trade, to prevent unfair practices or fixing of prices, and every form of monopolistic control of industry. Yet, we are confronted with a proposition not only permitting but requiring price fixing and the enforcement of provisions limiting production and providing for innumerable obstacles to legitimate trade in commerce, not only among the States, but in the States themselves.

Mr. President, it seems evident to me that there are movements in some of the executive departments which have as their objective the absolute and unlimited control by the Federal Government of all trade and commerce, and of every transaction, even if confined to the limits of a single State. These movements, which are receiving no little support, contemplate the breaking down of State lines and the control by the Federal Government of substantially all of the activities of the American people.

Undoubtedly these movements have received additional impetus since the decision in the Schechter case, and we may look for a Nation-wide propaganda to increase the power of the Federal Government and to further impinge upon the rights not only of sovereign States but of individuals themselves. The lessons of history are to be ignored. Local self-government is to be regarded as antiquated. The statement is not infrequently made that the American people have been following a laissez faire policy and that they must now abandon the ideas and ideals of the fathers, and the policies which have made this the richest and most powerful Nation in the world, and rush headlong into every form of social experimentation, even though it results in the conferrence of dictatorial powers upon executive agencies and building up of a more powerful bureaucratic system.

For myself, I prefer democratic institutions and the philosophy of Jefferson; and I desire rather to follow in the paths of freedom and liberty than in the highways and byways hedged about and controlled by a powerful federal government and an oppressive and hateful bureaucracy.

The efforts to introduce a price-fixing system into our economic life, to be controlled and directed by the Federal Government, are all too evident; and if they succeed and our economic and industrial life is controlled by a multitude of Federal agencies, the results will hamper our industrial progress, interfere with individual liberty and individual success, and provoke controversies and sectional disturbances.

Mr. President, it is claimed, as I understand, that the authority herein sought to be conferred will be wisely exercised, and that there will be no stretching of the powers of authority herein conferred; that any discretion conferred upon the executive agencies will not be abused. Mr. President, whenever power is sought by governments, or agencies of governments, the claim is made that it will not be abused, that the authority conferred will not be transcended, and that only the welfare of the people will be sought. History is replete with examples of abuse of authority and the gradual encroachment, where discretion was allowed, upon the rights of individuals, as well as of local communities.

Rules and policies which might possess some merit when applied in a small country with a limited population, homogeneous in character, will be ineffective, and, indeed, may work irreparable injury when applied to a country as large as the United States, which possesses so many diversities, geographically, ethnologically, and industrially.

To attempt to apply uniform rules and regulations to the industrial, commercial, and agricultural life and practices of the American people would end in confusion and produce serious maladjustments and injurious consequences. There have been many complaints growing out of the enforcement of the present Agricultural Adjustment Administration law, and I predict that if the bill before us shall be enacted into law there will be a larger volume of complaints and increasing resentment against the Federal Government. As illustrative of the extent to which Federal agencies will assert authority, I called attention a few days ago to the provisions of what I denominated the "code" promulgated by the Department of Agriculture with respect to the milk sales area of Los Angeles, Calif. This code contains from 24 to 26 pages.

Mr. SMITH. Mr. President, will the Senator give me the date of that document?

Mr. KING. It was issued by the Secretary of Agriculture February 27, 1935, and was amended upon several occasions since then. This code declares that under section 8 of the Agricultural Adjustment Act as amended the Secretary shall have power—

(3) To issue licenses permitting processors, associations of producers, and others, to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions not in conflict with existing acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof.

This document further declares that:

Whereas R. G. Tugwell, Acting Secretary of Agriculture, acting under the provisions of said act, for the purposes and within the limitations therein contained, and pursuant to the regulations issued thereunder, has, on the 31st day of May 1934 issued a license for milk—Los Angeles area—which license was subsequently amended on August 21, September 29, and on December 15, 1934.

As I understand, the contention is made by the supporters of this bill that it is now so drawn as to cover interstate dealings, but not intrastate transactions. Mr. President, it is my opinion that in the administration of the A. A. A. Act and the present bill, if it shall be enacted into law, State boundaries will suffer obliteration. I am fortified in that view by the following provision of this remarkable code promulgated by Secretary Wallace and Acting Secretary R. G. Tugwell. Its provisions are as follows:

Whereas the undersigned finds that the marketing, distribution, and handling of milk and the products thereof, covered by this license, are in the current of interstate and/or foreign commerce since the portion thereof which occurs within the bounds of a single State affects and actually and potentially competes with the marketing, distribution, and handling of commodities and products which occur between or among several States, and since the commodity, and the products thereof, covered by this license, cannot be separated into interstate and intrastate portions, the supply and the marketing, distribution, and handling thereof being inextricably commingled, so that it is impossible to regulate the interstate marketing, distribution, and handling without also regulating the intrastate marketing and handling, and the failure to regulate the latter will defeat and obstruct the purposes of the act with respect to the former. * * *

If time permitted I should like to read further from this remarkable document. I invite attention briefly to two or three provisions, one of which declares that "it is necessary to fix prices which distributors will pay", and "it is necessary to classify the prices which distributors shall pay for milk in accordance with the form in which it is ultimately consumed"; "it is also necessary to provide for the equitable distribution among all producers supplying milk to the area referred to."

It further declares that "the licenses which are issued are necessary to establish and maintain prices for milk specified in the licenses." It provides the quantity of milk allotted to each producer and generally governs and controls the production and distribution of the milk within the area and fixes certain prices to be paid for the milk.

There are pages of rules and regulations relating to the duties of the Government agencies and the rights of the Market Administrator, the classification of milk sales and uses, the prices to distributors and conditions of sales, payments to purchasers, the duties of the Advisory Committee;

provisions in regard to the books and records and reports, provisions for the deduction of one-half cent per pound butter fat for market administration, such payments to be retained by the Market Administrator to meet his cost of operation, and provisions for deduction of 1 cent per pound butter fat for marketing services.

Later in the discussion I may ask to insert the provisions of this code in the RECORD.

Mr. BORAH. Mr. President, I do not hold any brief for the Agricultural Department, but in view of the language which the Congress itself used in the Agricultural Adjustment Act when it was passed in the first instance, it is not surprising that the Department should undertake to assume to do many things which they are under censure for doing. I think, though, if the Agricultural Department were dealing with an interstate commodity which was so intermingled with intrastate commerce that it could not be separated, and they could not formulate a line of demarcation, that they would be justified in dealing with the intrastate portion of the commodity just as the Supreme Court held in the railroad case that where the interstate business and the intrastate business were so intermingled and the intrastate portion of it was so much a part of the interstate business that the two could not be separated, the Congress would have a right to that extent to control intrastate business.

Mr. MURPHY. At that point, will the Senator apply the principle just voiced to the condition of the Boston milk market, where 25 percent of the production is intrastate and 75 percent, necessary for the use of the people of Boston, is brought in from outside the State, in interstate commerce? Would he not think under such a condition, the intrastate and the interstate commodities being so completely commingled, that on the ground of the intrastate portion burdening interstate commerce, an order would be justified?

Mr. BORAH. The rule, as I understand, is that the Congress has the right fully and completely to regulate interstate commerce, and if, in exercising that right fully and completely to regulate interstate commerce, it becomes necessary by reason of the intermingling of interstate and intrastate commerce to affect intrastate commerce, it may do so.

As to the physical fact of which the Senator speaks, I am not able to pass upon it; but there is not any doubt that we ought not—even those of us who are very meticulous about protecting State rights—to undertake to curtail the right of the National Government practically to control interstate commerce fully and effectively and to remove all obstacles which interfere with such effective control of interstate commerce. Therefore, if milk is so intermingled and so confused, as it were, one part being such a part of the other that it is impossible to control interstate commerce without affecting intrastate commerce, I think the Congress may act accordingly.

Mr. KING. I do not quite agree with the observation just made by the able Senator from Idaho, but conceding as a legal and technical proposition the conclusions stated by the Senator, we may concede that there may be authority in the Federal Government to do certain things, and yet the exercise of such authority might be very unwise. I concede that the Federal Government has the power to regulate interstate commerce. It may not destroy under the guise of regulation. I think the decisions of the courts have gone too far, but, conceding that the Federal Government has power to deal with interstate commerce, I affirm it as my conviction that in many matters the exercise of that power would be highly disadvantageous to individuals, to communities, to the States, and ultimately to the Nation.

Mr. BORAH. That might be true.

Mr. KING. Therefore, I am always reluctant to confer power upon the Federal Government even where under the Constitution it may in a technical sense possess the right to exercise that power.

In my opinion Congress should examine with the utmost care every measure which limits the power of the States or local communities or individuals. Whenever measures are under consideration to augment the authority of the Federal Government or increase the jurisdiction and power of executive agencies, Congress should require convincing evidence that such legislation is necessary and that in its enactment the rights of sovereign States are not abridged and the freedom of individuals is not impaired. There is a never-ending struggle between the forces upholding democracy, local self-government, individual rights, and those powerful elements whose objective is a centralized government possessing autocratic, if not unlimited powers.

Mr. BORAH. Mr. President, a short time ago we adopted an amendment relating to soybeans. I desire to give notice of my intention to move a reconsideration of the vote on that amendment. I shall merely permit the notice to stand for the present. I do not know whether or not I shall ultimately urge it.

In connection with that notice I ask to have inserted in the RECORD a telegram.

There being no objection, the telegram was ordered to be inserted in the RECORD as follows:

TWIN FALLS, IDAHO, *June 26, 1935.*

Senator WILLIAM E. BORAH,
Washington, D. C.:

Marketing-agreement hearing held here last year showed bean growers overwhelmingly opposed to marketing agreements. For this reason bean dealers, southern Idaho, ask that you do all possible kill pending A. A. A. amendments.

WESTERN BEAN DEALERS ASSOCIATION,
JOHN P. KINNEY, *President.*

Mr. COPELAND. Mr. President, I should like to ask the Senator from Iowa a question. I have a memorandum here and I feel it my duty to present it to the Senate because apparently there are milk producers and distributors in my State who are concerned over these amendments. The bill, according to the memorandum I have, attempts to qualify intrastate commerce so as to subject it to Federal control and seeks to obtain a similar effect cooperatively with the States. The milk sold in upper New York State is purely intrastate in nature. It is believed that under the provisions of the bill the Secretary of Agriculture could well assume that that business directly affects interstate commerce, and that any change in the price of milk in that territory would directly affect evaporated milk which is moved in interstate commerce. Does the Senator from Iowa share this anxiety?

Mr. MURPHY. I do not share the anxiety any more than the anxiety is shared by the conference of Governors being held in New York today. A telegram was submitted a little while ago which was read at the desk. I do not know whether or not the Senator from New York heard it read.

Mr. COPELAND. Yes; I heard it read.

Mr. MURPHY. I repeat, I do not have any anxiety on that score.

Mr. COPELAND. In up-State New York a great many of the milk handlers are producers and distributors. According to the amendments as they are set up, if I am correctly advised, every one of those who may directly burden, obstruct, or affect interstate commerce would be subject to all the orders promulgated by the Secretary of Agriculture. These producers and distributors would be required to make adjustments in payments by being compelled to contribute to the maintenance of an adjustment or equalization fund and to pay their pro rata share of the expenses of the authority or agency which administers the order. Therefore the distributors who have an additional investment in not only producing their own milk but also pasteurizing the milk, which is absolutely necessary under the law, would have to share their position in the market with other producers. Is that correct?

Mr. MURPHY. Yes; that is correct.

Mr. COPELAND. In up-State New York very few of the smaller distributors maintain adequate records. It would be impossible for them to know the quantity of milk for which they should pay the various class prices. Already under New York State control it has proven very difficult, because of this fact, to enforce State regulations. For these reasons my friends believe it would be practically impossible in up-State New York to enforce any provisions of the A. A. A. amendments as they are set up at the present time. What does the Senator say about that?

Mr. MURPHY. In my view, it is possible to enforce them. There are a great many marketing agreements now in effect. The only place where marketing agreements as to milk are not now in effect are in those markets where the handlers of milk, the processors and distributors of milk, decline to concur in the marketing agreements.

Possibly the producers of no other State have suffered more than have the producers of New York from low prices received by them for milk. Possibly the producers of no other State have made more vigorous efforts than have those of New York State to obtain remunerative prices.

As the Senator well knows, the milk-control board was empowered to and did fix the price of milk to the producer. It also fixed the price of milk to the consumer. As the Senator also knows, decisions of the Federal courts made it impossible to protect New York producers against the surplus milk from other States.

With reference to the records which the Senator says these producers are lacking, it may always be said as to any new program that such a statement is quite true as to every basic commodity covered by the Agricultural Adjustment Act. It was necessary to establish records. It required a great deal of work. There were many heartaches attendant and a great deal of inaccuracy involved. For instance, in the corn-hog program it was necessary to go back and determine what the production of the farmer was in acreage of corn and what was the number of hogs he produced. He had kept no records as such in a very great many instances. Still it was possible to arrive at his past production.

The position of the committee in respect to these amendments is that intrastate commerce may burden or affect interstate commerce and that consequently this is a constitutional enactment under the decision of the Court in the Shreveport case.

Mr. HATCH. Mr. President, will the Senator from Iowa yield?

Mr. MURPHY. Certainly.

Mr. HATCH. In the case of wheat, we took the 5-year average. A lack of records would seem to preclude an absolutely accurate average, but is it not true that in the case of all the basic commodities the approximations arrived at by the Department of Agriculture have proved to be very fair and very just in consideration of the whole program?

Mr. MURPHY. The approximations were arrived at through local committees. There is democratic control, I will say to the Senator from New York, in all these programs; that control is exercised locally in the smallest political unit, and it has been possible to arrive at what represents a reasonable determination of past production.

Mr. COPELAND. I confess that I am distressed over this matter, because, as I go further into the statement made to me, I find it pointed out that during the month of August 1933—2 years ago—the State of New York, as referred to by the Senator from Iowa, made an investigation of the milk industry; and the result of that investigation indicated that the average milk distributor in up-State New York who did keep proper accounts was making a profit of only one-seventh of a cent per quart on all milk handled. Since that time, due to increased cost of production, labor, and materials, certainly the net profit has not increased, but rather has tended to decrease.

Under these amendments my constituents fear that the cost of the authority or the agency which administers the order, being prorated among the various handlers of milk in the market, will still further increase the expense. In the majority of markets where there is at the present time a Federal license the average cost of administration is between 2 and 3 cents per hundred pounds, and is for the benefit of the producers, not the handlers. In up-State New York this additional cost would, for the most part, wipe out the profit of the handlers, and, as they fear, would violate the due-process clause of the fifth amendment.

The amendment which we have before us provides that a cooperative association shall not sell its milk or products to any handlers at prices less than those fixed. In New York State there are a great many cooperatives that sell their milk directly to consumers. There is nothing in the proposed amendments which provides that the cooperative that sells milk and milk products directly to the consumer shall charge itself with the prices fixed. If this condition shall be allowed to exist, it will be a short time only before the entire fluid market in every city will be taken away from the regular handlers of milk who are purchasing their supply directly from the producers, as they will be required to pay the prices set by the order. It is further contended that the cooperatives, in the absence of a set resale price, and with the exemption I have mentioned, would be able to sell milk at a lower figure, and return to their members the net proceeds of their sales, regardless of what they may be.

A conference was held in Syracuse in February 1934, as I remember. The producers did not agree "upon acceptance of the proposed program or upon any other plan of production adjustment" which included a processing tax.

Mr. MURPHY. Mr. President, if the Senator will pardon me, there is no processing tax in this provision. Furthermore, in the case of the particular producers to whom the Senator refers, there is not any obligation upon them to come in under this provision at all. They are free to stay out. If they do not wish to come in and have their condition bettered, and a proper price paid them for their milk, this is a matter of their election. It will not be imposed upon them.

I will make this reservation to that statement. The Senator from Virginia [Mr. BYRD] the other day offered an amendment with which I am in sympathy practically in its entirety. He pointed out that the powers here given the Secretary of Agriculture authorize him to issue an order on the petition of 50 percent of the handlers. The Senator from Virginia contended, and rightly, that that shut the producers out of a voice in the agreement. I will say now that I am prepared to accept, and I think the chairman of the committee is prepared to accept, an amendment which will require producer consent as to that. The percentage fixed is two-thirds.

Mr. COPELAND. Would the Senator also be willing to accept an amendment on page 13 striking out the language from lines 10 to 14, inclusive?

Mr. MURPHY. That provides for the pooling of milk.

Mr. COPELAND. Yes.

Mr. MURPHY. No; I should not want to deprive the Secretary of Agriculture of the alternatives erected in the bill. He has three conditions to deal with, and his desire is to seek to deal fairly with the producers without discrimination in favor of one to the prejudice of another. Since we are seeking to promote the welfare of the farmer, the welfare of the producer, I do not see why we should manacle the Secretary and keep him from having any alternatives in the means to be employed to attain the objective. This is one means which is offered, and it is a vital means. Another means is offered, and it is a necessary option to include here. I do not see why we should strike out the provision enabling the producers to pool their milk, if that is their election, and to take prices for the milk which represent the use classifications to which it is put.

Mr. COPELAND. What has the Senator to say to the suggestion that in a number of communities in up-State New York there is not a sufficient supply of milk surrounding the market to take care of the demand; therefore, milk must be brought into the market from more distant points? The provisions of the equalization which we are now discussing provide that a producer who is producing his milk on farms near to cities would receive the same price for his product as a farmer who produces his milk, say, 40 or 50 miles away from the same community.

Mr. MURPHY. If they were embraced in the same marketing area, that would be true. Let us keep in mind what the situation is. There is a deficiency of consumer demand. There is a surplus of milk. The price is greatly depressed, and has been for 5 years. The only way in which one can determine how each one of the producers included in the plan provided here shall bear his share of the cost of

effecting a higher price is to divide the milk by classification uses.

Mr BYRD. Mr. President, a little while ago the Senator stated that the producer could exercise his own choice as to going into these marketing agreements or staying out of them. I doubt whether that statement is quite correct, because if a producer handles his own milk he becomes a handler, and therefore is subject to all the rules and regulations affecting handlers.

Mr. MURPHY. The point that the producer and the handler cannot be regulated at the same time is well taken. But the producer who is also a handler is not denied a voice. He can vote as a producer.

Mr. BYRD. He can vote; but once the marketing agreements are established, he is subject to the marketing agreements as a seller of milk.

Mr. MURPHY. Precisely.

Mr. BYRD. Therefore, as a producer, he is being regulated possibly without his consent.

Mr. MURPHY. Well, he has voted on the question. We provide for a two-thirds majority rule. How much more majority do Senators want? Suppose 66⅔ percent of the producers are in favor of this plan, and one-third are not in favor of it; who should be our guide?

Mr. BYRD. The Senator is assuming that the amendment I have offered will be adopted. Under the bill as it stands at the present time, 50 percent of the handlers may impose licenses on the producers.

Mr. MURPHY. I have already indicated to the Senator from Virginia my agreement with his amendment, and I will give him whatever assurance I can that his amendment will be incorporated in the bill to that extent—not, however, the final extent of the amendment.

Mr. COPELAND. Mr. President, I should like to say a little more about this matter.

Mr. MURPHY. May I proceed a little further in respect to this subject?

Mr. COPELAND. Certainly.

Mr. MURPHY. Obviously, it would present a great many administrative difficulties.

Mr. COPELAND. I do not think the Senator has quite stated all the conditions. He does not take into consideration the difference in the cost of production. Taxes and values of property near the city are very much higher than in the case of property farther away from the city. The transportation differential does not compensate for the difference in cost, as I see it.

Mr. MURPHY. If the Senator will refer to page 12, line 13, he will see that there is this qualification:

> Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order—

They adopt the present practice of business—

> (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

Mr. COPELAND. If the Senator will bear with me just a moment more, and then I will desist. In up-State New York there is a situation which is vastly different than the one in New York City proper. There is a certain association of upward of 800 milk dealers. These distributors, in the main, purchase their supply from individual farmers. To form a pool for the whole of New York State, to say nothing of a part of New Jersey and perhaps part of Vermont and part of Pennsylvania, would be to have a pool in which the accounts of several thousand distributors would be involved. In my State alone there would be 3,300. There would be upward of 100,000 producers involved. It would mean that to carry out this proposal there would have to be enforced collections from the many distributors scattered throughout a very large territory. Payment would have to be passed to the producers through the same area and to other thousands of scattered producers. If any appreciable number of the dealers in this large area failed to make their payments, it would throw the whole plan into disorder.

Then certainly the up-State distributors would have an unwieldy, unworkable plan. With the great territory involved, it would be bound to be so, as I view it. I fear that the bill will not tend to improve the milk industry in up-State New York, but, on the other hand, will tend to hamper it and place it in a state of chaos, a state of chaos greater even than that which existed before the formation of the State Milk Control Board. That is the reason why the people of my State are eager to have these amendments defeated.

Mr. MURPHY. The Senator's constituents, in the circumstances recited, may market individually. I have no thought that the Secretary of Agriculture would declare the entire State of New York in one region, subject to one order. Very likely the conditions being as the Senator has stated, he would establish another region in up-State New York, if the producers desired it. They can come under the first provision, in line 20.

Mr. COPELAND. The trouble is, the Senator from Iowa is not administering the law.

Mr. MURPHY. The Secretary of Agriculture, like myself, is from Iowa, and, so, whatever virtue is resident in the State, he has also.

Mr. COPELAND. The people of my State who are interested in the subject are asking that lines 10 to 14 on page 13 be stricken out, and that the language from line 19, near the bottom of the page, to the end of line 5, on the next page, be stricken from the bill, and an addition made on page 19, line 18. Provision is made here for the appointment or selection by the Secretary of Agriculture, or a method for the appointment or selection of an agency or agencies. The people of New York are not anxious to have some one cooperative out of many selected for that agency. Would the Senator be willing to insert after the word "agencies", in line 18, in parenthesis the words "which in the case of milk shall be a market administrator"?

Mr. MURPHY. I am perfectly willing to accept an amendment to insert the word "administrator." Would that cover it? I have had the same thought in mind.

Mr. COPELAND. Does the Senator think that one word would be sufficient?

Mr. MURPHY. If it should not be, I would be very glad to consider the Senator's amendment.

Mr. COPELAND. It has been suggested to me that this language be added after the word "agencies" in line 18, in parentheses, "which in the case of milk shall be a market administrator." Of course, I am not particular as to the language, but the idea should be inserted in some way in order to make clear exactly what is meant.

Mr. MURPHY. The Department will have no objection to any language the Senator may see fit to move to insert there to give him assurance that independent producers in New York not associated with cooperatives shall not have the door shut against the possibility of an administrator who is not a member of a cooperative, or shall have an administrator who will seek to serve only the cooperatives, and close his ears to others.

Mr. COPELAND. Will the Senator make a note in his bill so that when we come to that point that will be added? It is on page 19, line 18, after the word "agencies", to add the words in parentheses "which in the case of milk shall be a market administrator." Has the Senator made a note of that?

Mr. MURPHY. Yes; I have.

Mr. COPELAND. Now I wish to refer to another matter. A moment ago the Senator referred to two-thirds of the producers making certain agreements, having reference to page 22. Would the Senator be willing to change that to three-fourths?

Mr. MURPHY. When two-thirds of the producers are required to an agreement, why seem to impose a limitation of 75 percent?

Mr. COPELAND. The Senator has used the proportion of three-fourths in the bill.

Mr. MURPHY. I think it is practically unanimous when it is two-thirds.

Mr. COPELAND. The Senator has used three-fourths somewhere else.

Mr. MURPHY. I do not at the moment recall where we have used it. The Senator from Virginia [Mr. BYRD] used two-thirds in his amendment, I believe.

Mr. BYRD. No; my amendment provided for three-fourths.

Mr. MURPHY. I submit to the Senator from Virginia that on line 7 his amendment reads "by at least two-thirds of the producers."

Mr. BYRD. I have several amendments. On page 22 there is an amendment which provides for 75 percent.

Mr. MURPHY. This is with reference to page 21, line 2.

Mr. COPELAND. Let me call the attention of the Senator to page 13, line 5, where reference is made to "three-fourths of the volume of such milk." He has used that proportion. Why not make it uniform, and make it three-fourths on page 22, line 14 and line 25? The Senator is in a yielding and agreeable mood this afternoon. Will he make that change?

Mr. MURPHY. That is in the pool provision. Three-fourths is required in that instance.

Mr. COPELAND. Let us have it uniform. The Senator says there is no difference between two-thirds and three-fourths, so let us have it three-fourths. Does the Senator agree to that?

Mr. MURPHY. Inasmuch as three-fourths is elsewhere used, I will agree to an amendment to that effect.

Mr. COPELAND. Very well. That is three-fourths, on line 14 and line 25, page 22.

What does the Senator say about an amendment on page 13, to strike out lines 10 to 14, inclusive? Have I made sufficient argument to the Senator to justify such an amendment?

Mr. MURPHY. No; the Senator from Iowa will not assent to the elimination of that provision from the bill, because we might just as well tear up the whole milk provision in the bill as to assent to the elimination of that paragraph.

Mr. COPELAND. Does the Senator feel the same way about the language in line 19, beginning with subdivision (d)?

Mr. POPE. On what page?

Mr. COPELAND. Page 13, line 19, to strike out subdivision (d).

Mr. MURPHY. The Senator seeks to nullify the provision itself, failing to eliminate paragraph (ii). Striking out subsection (d) would hamper and impair paragraph (ii).

Mr. COPELAND. Then I take it the Senator has yielded all he can yield to me?

Mr. MURPHY. I feel that I have.

Mr. COPELAND. I am very much obliged to the Senator.

Mr. GORE. Mr. President, I should like to have the attention of the Senator from New York while other Senators are in a yielding mood.

I have an amendment proposing to strike out all the provisions in the bill with reference to price fixing, so far as related to milk and its products. Is the Senator from Iowa obliging enough to yield to that?

Mr. MURPHY. I regret that I cannot yield to the Senator from Oklahoma.

Mr. GORE. I will hand the Senator a copy of the amendment, which I shall call up at the proper parliamentary stage. It is requested by the dairy industry committee of my State.

Mr. MURPHY. I am frank to say to the Senator from Oklahoma that if the price fixing were coupled with adjustment of production, I should be sympathetic with his proposal; but it is not. There is no repression of the production of milk whatsoever.

Mr. GORE. Mr. President, there may not be a direct repression of the production, as the Senator suggests, but there certainly is indirect repression and control, because, as I recall, the Secretary is given the power to limit the area and the quantity of which producers can dispose.

Mr. MURPHY. No; if the Senator will permit me, I do not know that any such authority is given the Secretary of Agriculture.

Mr. GORE. That is the way I interpret it in the bill.

Mr. MURPHY. Not in the case of milk. What the Senator says is true as to other commodities, but as to milk it is not true, as I understand.

Mr. GORE. I am glad to know that milk escapes that provision. I recall now that there is an exception in respect to milk, section G, page 16.

Mr. MURPHY. Yes; the cow may give just as much milk as she formerly gave, and there will be no protest.

Mr. GORE. I will bring the matter up at a later stage.

The PRESIDING OFFICER. The clerk will state the next committee amendment passed over.

The CHIEF CLERK. On page 16, line 11, after the word "products", it is proposed to insert the words "soybeans and their products" and a comma, so as to read:

"TERMS—OTHER COMMODITIES

"(6) In the case of fruits (including pecans and walnuts but not including apples) and their products, tobacco and its products, vegetables (not including vegetables for canning) and their products, soybeans and their products—

And so forth.

Mr. SMITH. Mr. President, I understood that the word "soybeans", where it appears on page 11, line 6, was stricken out.

The PRESIDING OFFICER. The Chair will state that the word "soybeans" was not stricken out.

Mr. BORAH. Mr. President, I feel that "soybeans" should have been stricken out. As I am going to move to reconsider the action upon soybeans taken this morning, I ask that the amendment which has just been stated go over, because the two provisions are directly connected.

The PRESIDING OFFICER. Does the Senator now make the motion to reconsider?

Mr. BORAH. No; I have entered a motion to reconsider, and whatever action may be taken on the motion should include soybeans on page 16, line 11. I ask that the particular amendment now pending be passed over until we come to a consideration of my motion.

The PRESIDING OFFICER. Without objection, it will be so ordered.

Mr. SMITH. The Senator refers to soybeans?

Mr. BORAH. Yes; just to soybeans.

The PRESIDING OFFICER. The clerk will state the next committee amendment passed over.

The next amendment passed over was, on page 16, line 14, after the word "as", to strike out "defined" and insert "included"; and in the same line, after the word "Act", to insert "and standards established thereunder (including refined or partially refined oleoresin)."

The amendment was agreed to.

The next amendment passed over was, on page 18, line 16, after the word "the", to strike out "first", and in line 17, after the word "such", to strike out "first", so as to read:

"(F) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product, or any grade, size, or quality thereof, shall be purchased by the handlers subject to such order: *Provided*, That such handlers, as a group, purchase or otherwise acquire not less than 50 percent of the total quantity of the commodity or product covered by such order directly from producers or associations of producers.

The amendment was agreed to.

The next amendment passed over was, on page 18, after line 20, to insert:

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. BYRD. Mr. President, I should like the chairman to explain that provision.

It was evidently the intent of the committee to fix prices on perishable foods and vegetables. Under paragraph (F) prices can be fixed as to the purchase by the handlers from the producers; and then under paragraph (G) the price would be fixed at which the handlers may resell the product. I regard the provisions as conflicting, as not workable, and as bringing about confusion.

Mr. SMITH. Mr. President, that provision was discussed by the committee, and it was inserted in the bill in order to take care of the resale price where certain producers fixed the price at which they sold. The language is:

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. BYRD. Does the Senator from South Carolina think any dealer would purchase a particular commodity and then later have the producer fix the price at which he could sell that commodity?

Mr. SMITH. The purpose of this provision is to fix the price at which the producer is willing to enter into an agreement with the first handler, so as to make the price uniform.

Mr. BYRD. Mr. President, paragraph (G) provides for fixing the price at which the particular commodity shall be sold by the first handler.

Mr. SMITH. Yes; that is the point.

Mr. BYRD. I ask the Senator from South Carolina, as a matter of common sense and practical business—and I know he is efficient in such matters—whether any dealer would be willing to buy a certain commodity and then have the producer tell him at what price he could resell that commodity?

Mr. SMITH. The provision has for its object the protection of the resale price through the producer himself, who becomes a salesman.

Mr. BYRD. It does not so provide.

Mr. SMITH. That is the object of it. That is what the provision is for.

Mr. BYRD. I shall have to oppose that committee amendment. Price fixing is something which, though tried time and time again, never has been successful. England tried to fix the price on rubber. Brazil tried to fix the price on coffee. It has been tried in a number of other instances. The price of a perishable food, which varies in value from day to day, because of its perishable nature, as those who have shipped such products know, is determined by its condition.

Take peaches, for example. One can ship some hard peaches which may be small, but they will bring a good price on the market. Then one can ship some large peaches which are soft, and they will not sell for the freight charges on them. The attempt to write into these marketing agreements the price at which the article can be first purchased, and then, further, the attempt to fix the price at which it can be resold, seems to me to be an absurdity; and if it is done, it will be absolutely unworkable.

Mr. SMITH. If the Senator will allow me, no one should know better than the Senator from Virginia himself that the object of this amendment is to keep the handler from doing as he has done from time immemorial, especially with respect to perishable products, namely, getting any price he sees fit, at any time, anywhere, and under any conditions, regardless of the interest of the producer. The Senator knows that unless there is some kind of an agreement among the producers, aided by the Government, to arrange some kind of a price by which they can protect themselves, the producers will, because of the perishable nature of the product, be unable to dispose of the product at a profit.

Mr. BYRD. I should like to ask the Senator a question. Suppose a certain price were fixed on beans, and the consuming public would not pay that price; then what would be done with the beans?

Mr. SMITH. I take it for granted that the producers, now being organized and having an agency of the Government to aid them, would find at what price the beans could be sold; and if it became evident that the public did not want them at a price which would remunerate the grower, it would be a question of ceasing to produce beans.

Mr. BYRD. Does not the Senator understand, though, that the condition of perishable foods changes from day to day?

Mr. SMITH. Yes.

Mr. BYRD. By the time one came back to Washington and went through all the different processes whereby he would find out who was going to fix the price, the beans would have been thrown into the garbage can.

Mr. SMITH. No; the Senator misunderstands the whole process. There will be an understanding before there is any shipment to market.

Mr. BYRD. I understand that; but suppose the price is fixed before shipment to market and the market will not pay that price; it will be a week or 2 weeks before the price can be changed by the method which has been fixed in the bill.

Mr. SMITH. I take it for granted that the price fixed would represent nothing more nor less than a reasonable return to the producer.

Mr. BYRD. The Senator is assuming, in the Department of Agriculture, an ability which has never been possessed by any person or organization in the history of the world, if he assumes that the Department of Agriculture can determine at what price perishable products shall be sold.

Mr. SMITH. It has been possessed from time immemorial by the purchasers.

Mr. BYRD. The Senator is mistaken. The purchasers frequently make purchases of perishable foods on which they have great losses.

Mr. SMITH. That is only an exception. I have proof in my possession that a carload of watermelons was shipped to New York, and the growers not only did not get enough for them to pay the freight charges, but they had to pay the purchasers a bonus to take them. I also know of an instance concerning artichokes right at my own door, where there had been a contract prior to the production of the artichokes to buy them at $5 a barrel, and the expenses to the grower were $4.90.

Mr. BYRD. Why does not the distinguished Chairman of the Committee on Agriculture and Forestry, who is giving such attention to this matter, advocate price-fixing for the nonperishables? Why not fix the price for wheat? Why not fix the price for corn? It would work much better, if it would work at all, than to fix the prices for perishable foods.

Mr. SMITH. Mr. President, I do not know that the time will not come—it ought to come—when the producer will fix his minimum price. Why should he not do so? Who fixes the prices of the shoes we buy? Who fixes the prices of the clothes we wear? Who fixes the uniform price of the shirt I have on? In spite of the absurd fluctuations in cotton from day to day, the price of the shirt remains stable throughout a year.

Mr. BYRD. Has it remained stable?

Mr. SMITH. It has remained approximately stable, as the Senator knows. I have to pay $2.50 for 5 ounces of material to go on my back. The shirtmaker gets about $9 a pound in the form of shirts to wear, and 9 cents a pound goes to the man who produces the cotton. The manufacturer of shoes gets $12 for a pound and a half of cow-skin to go on a man's foot in the form of shoes, and it takes about 48 hours to make a shoe.

Mr. BYRD. Will the Senator from South Carolina cite one instance in the history of the world where price fixing has succeeded?

Mr. SMITH. Not when it comes to the farmer; no. That is simply because he was unorganized, and nobody in good faith ever stood by him. He has fed and clothed and shod the world from time immemorial, and he is the most notoriously poor individual in all our organized society.

Mr. BYRD. If the Senator thinks the problem of the farmer can be solved by price fixing, I suggest to him that he do so by fixing the prices of all farm products.

Mr. SMITH. Let us start with the products we are now discussing.

Mr. BYRD. Let the Senator provide for fixing prices of all farm products instead of picking out perishable foods, which are the least possible to control by price fixing.

Mr. SMITH. I think they are the ones which should be regulated, because they quickly pass out of existence by perishing.

Mr. BYRD. They perish; but who pays the freight on them? The Senator just mentioned the case of the freight on a carload of watermelons.

Mr. SMITH. Yes; but if I can get a provision in the bill by which a majority of those who produce the products can indicate that a certain price is agreeable to them, I think they ought to have that right, and they should have the support of every loyal American citizen who knows the condition of the farmer.

Mr. BYRD. This amendment actually proposes to fix the price at which the first handler can resell a commodity he has purchased; and presumably it will be fixed after he has made the sale. I ask the Senator, what purchaser of an agricultural product of any kind would buy it and then later on have the producer tell him at what price he could resell it?

Mr. SMITH. If he is foolish enough to sell the thing before he buys it——

Mr. BYRD. I am not speaking about selling it before he buys it, but this provision says that the price can be fixed, not necessarily before he makes the purchase.

Mr. SMITH. How could he make the purchase unless the price was fixed?

Mr. BYRD. I am speaking of the price at which the handler resells what he has bought from the producer. That is what this provision affects.

Mr. SMITH. It is to take care of the producer who himself becomes the salesman.

Mr. BYRD. It does not take care of the producer who himself becomes the salesman. It applies to any handler in any field included in the title of the bill, and it provides that if a handler buys vegetables or fruit, then the producers can say at what price they will be resold to the public. I submit that that is simply an absurd condition; that is absolutely unworkable and will bring discredit and confusion upon this bill, if it be included in it.

Mr. SMITH. I do not think, Mr. President, that that necessarily will work any hardship, because, whatever the resale price may be, there must be taken into consideration the price at which the commodity was purchased. The object of this whole section is to protect the producer himself in getting a reasonable return for the commodity which he sells. If we do not control the resale price, someone, in order to break down the whole market, may lower the price to a point where he would suffer a loss in order to create demoralization.

Mr. BYRD. The Senator has overlooked the most fundamental condition that exists in the country, namely, the law of supply and demand. He thinks that we can legislate here on what the price of beans, for instance, will be next year.

Mr. SMITH. No, Mr. President.

Mr. BYRD. The fact is that those who buy beans and other perishable foods, where there is competition between them, will unquestionably fix the price before their purchase.

Mr. SMITH. Yes; but the Senator overlooks another natural law, which is as irrevocable as is the law of supply and demand, namely, the law of least resistance. The man who has suffered from that law from time immemorial is the producer, the farmer. We may talk about the law of supply and demand as much as we please, but the law of the line of least resistance is as powerful as is the law of supply and demand, and the farmer is the man who can offer no resistance. Whenever there is sales resistance as to any article, the man who is attempting to sell it recoups by deducting from the price paid the producer. That is as ancient as farming itself. The Senator from Virginia knows, as I know, that even the processors of meat, whenever there is sales resistance because of the price of their product, do not curtail dividends and do not reduce salaries, but simply reduce the price of the cattle and hogs which they purchase, until they have reduced that price to a point where the farmers are under mortgage.

Mr. BYRD. Why does not the Senator attempt to fix the price of meat in this bill?

Mr. SMITH. Because we are now dealing with vegetables; but I state unhesitatingly that wherever the processor has a right to fix the sales price, including all overhead and all expenses, and then fixes the price to the public accordingly, the man who furnishes the raw material ought to have an organization and a resource to fix the price of the commodity which he sells. The shoe manufacturer fixes his price and governs his product accordingly; the manufacturer of cloth fixes his price, he takes into account all the overhead necessary for its production; but when it comes to the farmer, who ever heard of a farmer fixing his price on anything? When did the Senator from Virginia ever hear of it? When did he ever hear of a farmer in America fixing the price of any of the commodities he produces and sells, except sometimes locally on a dozen eggs or perhaps a rabbit? [Laughter in the galleries.]

The PRESIDING OFFICER. The Chair admonishes the occupants of the galleries that they are here as guests of the Senate and any demonstrations of approval or disapproval or amusement are strictly prohibited by the rules.

Mr. SMITH. The Senator from Virginia knows that never, in the history of organized commerce, has a farmer ever fixed the price for any commodity. He has an inferiority complex, and will say, "What will you give me for this?" And whatever is offered, that ends it; and yet he will turn right around and ask the purchaser of his products "What will you take for what you have to sell?"

The Senator knows that in this day of education and transportation and communication it is time for us, as legislators, to do all in our power that is fair and legitimate to secure a reasonable return for the man who clothes and feeds and shoes us.

I am surprised that the Senator from Virginia should make such a point of this provision. There is enough room in this bill otherwise for real difference of opinion; but, my God, when we come to the question of trying to fix a reasonable price for the poor devil out in the field, let us—well, I do not want to get started along that line. We have voted $5,000,000,000 with which to do what? Nobody knows. I stood in this Chamber and asked for $100,000,000 to enable the distressed and mortgage-ridden farmers of America to borrow sufficient to enable them to remain on the farm and make a crop—just a hundred million dollars; not to give it to them but to lend it to them and take a mortgage on their crops. Senators stood here and chiseled and argued until the amount was cut down to $60,000,000 for all the farmers in America, while we poured out billions in the form of relief to the rag-tag and bobtail and the ne'er-do-well, who, God knows, are never going to pay a nickel back. And those farmers to whom we loaned the money have paid back 90 percent, in spite of the low prices and the disastrous conditions under which they have had to produce. Now, we have before us a bill which says to them "All of you get together and discuss it, and whatever 50 or 60 or 75 percent of you agree on we will undertake to carry out, so far as interstate commerce is concerned; and if you can get your State to agree, we will dovetail the Federal activities with those of your State and see if we cannot put up a little resistance."

The line of least resistance! What has the law of supply and demand got to do with a disorganized crop? It does not make any difference whether the farmer produces little or whether he produces much so long as the other fellow fixes the price; the law of supply and demand has nothing to do with it, but the law of least resistance has much to do with it. If the farmer makes a big crop he obtains a low price, and if he makes a small crop he secures little return. So far as the farmer is concerned, it is like what has been

said about the doctrine of predestination. "I can and I can't; I will and I won't; I will be damned if I do and I will be damned if I don't." [Laughter.]

Mr. BYRD. Mr. President, I have listened with a great deal of attention to the distinguished Senator from South Carolina. He says the law of supply and demand has nothing to do with the price of food products, but the line of least resistance has much to do with it. That is a new theory.

Mr. SMITH. Mr. President, I do not wish to be too radical in my statements. I think the law of supply and demand has a little to do with it, but I know, from bitter experience as a farmer, that the line of least resistance has all to do with it; and the Senator also knows it.

Mr. BYRD. Mr. President, I think it is absolutely unworkable and impracticable to try to fix the prices of perishable foods or of any foods. I do not yield to any man in this Chamber in my desire to help the farmer. I think I may claim to be a farmer; I have been in the farming business for 30 years; I know something about shipping perishable foods; and I say there is nothing more sensitive to the law of supply and demand than are perishable foods. Let me tell the Senator from South Carolina something about that phase of the question. One can ship a hundred carloads of peaches to New York City in 1 day and secure a small price for the peaches; he can ship 50 carloads the next day and obtain a large price. That is the law of supply and demand.

Mr. SMITH. Mr. President——

Mr. BYRD. Wait a moment until I finish. The condition of those peaches determines their value. The grade of the peach—and I use peaches as an illustration because I happen to be familiar with the peaches which are a perishable product—does not determine its value; it is the condition of the peach, whether it is hard or whether it is soft, which determines the value. This provision proposes to fix prices at which the handlers will resell the products they have purchased from the producer, and the handlers under another provision of the bill are to be fined $500 a day if they violate any provisions of these marketing agreements. Suppose, for example, a producer shipped a carload of peaches to New York, and due to the condition of those peaches, according to the kind and variety—grade and condition are very different things, as the Senator knows—suppose they became soft because of abnormally hot weather, then, under this bill, the handler would have to pay a fine if he sold such peaches for a price less than that fixed.

Mr. SMITH. I hope the Senator will read line 23, where it says "grade, size, or quality." Of course, nobody is going to be simple enough to say that if a carload of spoiled peaches were sold for less than the price of sound peaches the handler would be subject to the law.

Mr. BYRD. The peaches may not be entirely spoiled, but only slightly soft.

Mr. SMITH. Even if the quality did not justify the price fixed under the law, I presume those administering the law would exercise common sense?

Mr. BYRD. Have the departments of this Government always exercised common sense, in the judgment of the Senator?

Mr. SMITH. I do not like the Senator to ask me any leading questions.

Mr. BYRD. I have heard the Senator himself time and again denounce the officials of the Department in Washington.

Mr. SMITH. Well, the Senator from South Carolina has not changed his mind up to the present time.

Mr. BYRD. Then why does the Senator state that they will exercise common sense?

Mr. SMITH. Because we are exercising it in the law and putting the burden on them to do so.

Mr. BYRD. We shall not be exercising it if we try to fix the price on perishable foods.

Mr. SMITH. That would be a very common-sense thing in connection with the farmer.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. HATCH. Has it occurred to the Senator from Virginia that paragraph (G) may have been inserted in the bill for the benefit of the handlers? Paragraph (F) of the bill to which the Senator has referred provides that the purchase price of the handler shall be fixed. Paragraph (G) provides that the sale price may be fixed.

Mr. BYRD. The reason why I am discussing paragraph (G) is because it is the only section in order at this time for amendment. It is the committee amendment, while paragraph (F) is a part of the House bill and not now subject to amendment. My intention is to move now to strike out paragraph (G) and later, when it shall be in order, to move to strike out paragraph (F). I do not believe in any price-fixing at all.

Mr. HATCH. If paragraph (G) should be stricken out, it would leave the bill in bad shape, would it not? In other words, if we should have paragraph (G) we should also have paragraph (F).

Mr. BYRD. I agree with the Senator.

Mr. HATCH. They both go together.

Mr. BYRD. I should like to ask unanimous consent to consider them together in order that I may move to strike them both out at the same time.

Mr. McGILL. Mr. President, will the Senator yield?

The PRESIDING OFFICE (Mr. MOORE in the chair). Does the Senator from Virginia yield to the Senator from Kansas?

Mr. BYRD. I yield.

Mr. McGILL. Paragraph (G) to which the Senator refers covers the point which he has been discussing but refers only to resale by handlers. I desire to call his attention to the proviso in paragraph (G), which reads:

> That no such minimum price shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or association of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

So that the paragraph, it seems to me, clearly applies only where producers are handlers to the extent of at least 50 percent of the commodity.

Mr. BYRD. But it says "or otherwise for the account of producers." That means if a certain commodity should be consigned to commission merchants——

Mr. McGILL. Where the producers are actually the handlers.

Mr. BYRD. I fully understand it. It provides for any commodity when not less than 50 percent of the volume of such commodity is sold by an association or association of producers "or otherwise for the account of producers or by producers who are handlers." Many of these commodities are consigned to commission merchants and sold for their account in this country and abroad. That would probably apply to a great many fruits and vegetables which are included in the bill.

Mr. HATCH. Mr. President, it occurs to me the Senator from Virginia has raised a very serious question. As suggested a moment ago, if paragraph (G) should be eliminated the bill would be in bad shape if then paragraph (F) should be left in the bill. I understand the Senator to ask unanimous consent that both sections be considered together. I am of the opinion that such consent should be granted and that they should be considered together rather than to have arise a situation similar to that which arose the other day with relation to canned fruits.

Mr. SMITH. Mr. President, I think we had better either reject or adopt the Senate committee amendment and then when we have finished them any Senator can move to strike out paragraph (F) or he can move still further to amend the bill as he desires. I think we would make better progress to take the action first on the committee amendments and then take up in order any amendments from the floor. I shall insist that we have a vote on the amendments which have been passed over and then any Senator may make such other efforts to amend as he may see fit.

Mr. BYRD. The two provisions are closely related. I should want paragraph (G) to remain in the bill in the event paragraph (F) remains in the bill, because paragraph (G) gives some voice to the producers. I hope the Senator from South Carolina will not insist upon his opposition to my request.

Mr. SMITH. I think if the Senate adopts paragraph (G) and later on a motion is made to strike out paragraphs (F) and (G) it would be within the right of any Senator so to move.

Mr. BYRD. As I understand the parliamentary situation it is that the question now before the Senate is the committee amendment. If it is now adopted by the Senate, then it would be necessary later to reconsider the vote by which it was adopted.

Mr. SMITH. That does not preclude the Senator from moving to strike it out later on. He would still have the right to move to strike it out even if the Senate should adopt it now.

The PRESIDING OFFICER. For the information of Senators the Chair will state than an amendment agreed to must be reconsidered by unanimous consent of the Senate before a motion to strike it out could be considered.

Mr. BYRD. Mr. President, I am very sorry the Senator from South Carolina has taken that attitude, but in view of the fact that he has done so, I shall have to move to strike out paragraph (G) which provides for the fixing or providing of methods for fixing minimum prices, and so forth.

The PRESIDING OFFICER. The committee amendment has not yet been adopted.

Mr. BYRD. I hope the Senate will reject the committee amendment.

The PRESIDING OFFICER. The question is on the adoption of the committee amendment.

Mr. BANKHEAD. Mr. President, before the vote is taken, let me say that I think it is perfectly apparent that if paragraph (F) is retained, paragraph (G) should also be retained. Paragraph (G) ought to be retained, as I understand the attitude of the chairman of the committee, and I am in accord with that view, if paragraph (F) is retained. If paragraph (F) should later be stricken from the bill, I think the committee would not resist reconsideration of the vote by which paragraph (G) was adopted, and let paragraph (G) go out, because paragraph (G) has no place in the bill without paragraph (F). I think it would be well to adopt the committee amendment, and then later the committee would not resist reconsideration of that vote, and paragraph (G) could be stricken out if in the meantime paragraph (F) had been stricken out.

Mr. BAILEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from North Carolina?

Mr. BAILEY. I thought the Senator from Virginia had concluded his remarks.

Mr. BYRD. No; I have not.

Mr. BAILEY. At the conclusion of the remarks of the Senator from Virginia I desire to address an inquiry to the Chairman of the Committee on Agriculture and Forestry.

Mr. BYRD. If it is the purpose of the Senator from South Carolina to refuse me unanimous consent to consider the related matters together, then I suggest the absence of a quorum, and we shall discuss the matter further.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bulkley	Costigan	Guffey
Ashurst	Bulow	Davis	Hale
Austin	Burke	Dickinson	Harrison
Bachman	Byrd	Dieterich	Hastings
Bailey	Byrnes	Donahey	Hatch
Bankhead	Capper	Duffy	Hayden
Barbour	Caraway	Fletcher	Holt
Barkley	Carey	Frazier	Johnson
Bilbo	Chavez	George	Keyes
Black	Clark	Gerry	King
Bone	Connally	Gibson	Lewis
Borah	Coolidge	Glass	Logan
Brown	Copeland	Gore	Lonergan
McAdoo	Murray	Robinson	Trammell
McCarran	Neely	Russell	Truman
McGill	Norbeck	Schall	Tydings
McKellar	Norris	Schwellenbach	Vandenberg
McNary	Nye	Sheppard	Van Nuys
Maloney	O'Mahoney	Shipstead	Wagner
Metcalf	Overton	Smith	Walsh
Minton	Pittman	Steiwer	Wheeler
Moore	Pope	Thomas, Okla.	White
Murphy	Radcliffe	Townsend	

Mr. McNARY. I desire to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is absent, attending a conference on the social-security bill.

The VICE PRESIDENT. Ninety-one Senators having answered to their names, a quorum is present.

BARLOW-MOORE TOBACCO CO.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 239) for the relief of the Barlow-Moore Tobacco Co., which was, on page 1, line 7, to strike out "representing" and insert "in full settlement of all claims against the United States for."

Mr. LOGAN. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

STANDARD DREDGING CO.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 780) for the relief of the Standard Dredging Co., which was, on page 1, line 7, to strike out all after the word "of" down to and including the word "line", in line 9, and insert "$2,486.25, in full settlement of all claims against the United States."

Mr. COPELAND. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. BYRD. Mr. President, the pending question is on the adoption of the committee amendment appearing at the bottom of page 18. I sincerely hope the Senate will reject that amendment. It provides that the orders issued pursuant to section (6) shall contain terms and conditions—

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

I am asking for the rejection of the committee amendment because, as a producer of food, I am firmly convinced that much more harm than good will result from the attempt to fix prices, those prices to be paid by the consumer; and especially is it entirely unworkable, to attempt to fix prices for perishable foods, fruits, and vegetables, because the value of those perishable foods is determined by their condition, which varies from day to day. A certain vegetable may be in good condition one day, and, due to the hot weather, may deteriorate and be in bad condition another day. So it is absolutely unworkable to attempt to fix a minimum price for which these particular commodities can be sold. I should like to call the attention of the Senate to the fact that never in the history of the world have minimum prices of food products, or, in fact, any other products, been successfully fixed.

We all know that England, for example, tried unsuccessfully to fix the minimum prices for rubber. We all know that Brazil, which has a virtual monopoly of the production of coffee, endeavored unsuccessfully to fix the price at which coffee was to be sold. We all know that Cuba—and I happened to be in Cuba at the time—which produces a large part of the supply of sugar for this country, attempted to fix a minimum price for sugar, and was unsuccessful in doing so. We must remember that in the final analysis the law of sup-

ply and demand will control the price of those products which are offered to the consumer.

There is no Member of the Senate who is more anxious than am I to advance, in an effective and sound manner, the interests of the farmers, because, if I may say so, I have been in the farming business for 30 years. I have shipped products to every corner of the globe; and I think I can claim for myself some experience in the operation of farming and in the marketing of farm products, because I have given my life to it.

I am opposing this committee amendment because I believe that the attempt on the part of the Department of Agriculture to establish minimum prices at which, first, the product can be purchased by the handler; and, secondly, the handler must resell that product, is an absurdity to the *n*th degree.

I cannot conceive of anything more unworkable, or anything that would bring greater confusion to the industry as a whole, than the effort made to fix two prices on a given product, as this bill provides, because section (F) provides that under certain conditions the price at which the handlers buy the product may be fixed, while section (G) provides that the price at the resale by the handlers may be fixed; and by the time all this red tape is unwound here from Washington these perishable foods and vegetables will be consigned to the garbage can. We all know how slowly the great bureaucracies in Washington operate, sometimes two or three thousand miles away from where the product is either produced or sold.

How are these licenses first to be imposed upon the producer? We have been told by the chairman of the committee, and Mr. Chester Davis in the hearings has repeatedly said, that nothing is to be done under this proposed legislation without the approval and consent of the producers; yet the bill provides that these rules and regulations, these marketing agreements, may first be imposed by 50 percent of the handlers. In other words, 50 percent of the dealers in a given commodity can license and tell the growers what they can do, and, as a part of the licensing agreement, at what price they may sell their own products.

I have an amendment which provides that no such action may be taken without the consent of 75 percent of the growers; but the fact remains that this measure, as now presented to us, gives to 50 percent of the handlers the power to license the producers; and no one can deny that, because it is plainly and clearly written in the bill.

Mr. President, for a moment now let us see what these licenses may provide. I call them "licenses" because they are licenses. In order to circumvent, by legalistic language—and that is all it is—the decision of the Supreme Court in the N. R. A. case, the proponents of the bill have changed the name from "licenses" to "orders." So far as I am concerned, I should just as soon be "licensed" from Washington as to be "ordered" from Washington to do a given thing, and so far as I can see the effect is just the same.

Let me read section (A) to show what it is proposed to do under the licenses which are to be imposed, not by the producers, but by 50 percent of the handlers of a given product. The bill provides that the orders issued pursuant to the section shall contain terms and conditions—

> Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets during any specified period or periods by all handlers thereof.

In other words, although the decision of the Supreme Court clearly defines the power of the Government to control only interstate shipments, by the language found in paragraph (A), at the bottom of page 17, it is proposed to control any product that may be "marketed in or transported to any or all markets during any specified period or periods by all handlers thereof"—a clear effort to circumvent the decision of the Supreme Court.

In paragraph (B) it is provided that these orders shall contain terms and conditions—

> Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.

In other words, it is proposed to go to a commission merchant in one of the cities and tell that commission merchant how much of a given grade of a given product he may handle throughout the year, which is another absurdity.

Then in paragraph (C) the bill provides that these orders shall contain terms and conditions—

> Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

First, we tell the grower how much he may produce, and then how much to market in any and all markets—clearly, as I say, in defiance of the Supreme Court decision.

Second, we propose to allot to dealers how much they may handle of a given commodity.

Third, we propose to say how much of a given product may be shipped to a given market—to say how many beans may be shipped to New York, how many beans may be shipped to Baltimore, how many beans may be shipped to the city of Washington. Mr. President, how can anybody ascertain the consuming power of the different markets of the country with respect to the different products?

Then the bill provides for the determination of the surplus of a product. That is something which those engaged in the agricultural business have been attempting to do from time immemorial—to attempt to ascertain, when a product is harvested, how much of that product will remain after it has been first consumed; in other words, how much of it may be stored.

Then the bill provides for the establishment of reserve pools to sell the surplus of a commodity, which, as I understand, permits the Government to go into business, and to sell the products in these pools, and then distribute the proceeds to the producers of the particular commodities.

Mr. President, marketing agreements have been tried from time to time. They were tried in the case of the citrus fruits in Florida. If there is a single fruit produced in this country which is better subject to governmental control than any other, it is the citrus fruits, because they are produced in a very limited area. A resolution has been sent me by the citrus growers of Florida with respect to the experience they have had with their marketing agreements, which resolution I desire to read to the Senate. It is as follows:

> Whereas the Congress of the United States is considering the passage of the Agricultural Adjustment Act amendments, H. R. 8052, modified further by revisions recommended to the House Agricultural Committee by A. A. A. officials;
>
> Whereas these amendments and revisions propose giving the Secretary of Agriculture absolute authority which is far greater than any heretofore granted and contrary to settled American principles in that he is empowered to act both as judge and jury, since his decision is not reviewable by court, providing a license or order issued by the Secretary is deemed in accordance with law;
>
> Whereas paragraph 3 of section 4 gives the Secretary of Agriculture arbitrary right to impose licenses and orders even if the majority of those to be licensed or to be affected by his orders are opposed to a marketing agreement;
>
> Whereas it is proposed that the Secretary be empowered to tax agriculture, which function belongs exclusively to the Congress;
>
> Whereas these amendments propose giving the Secretary unlimited authority, "for providing methods for the limitation of the total quantity of any such commodity or product, or any grade, size, or quality thereof, produced during any specified period which may be marketed in or transported to any markets by all handlers thereof";
>
> Whereas under great pressure, vegetables have been excluded, under the proposed amendments, nevertheless A. A. A. officials have insisted upon including fruits under its proposed expanded

power and provisions, thereby unfairly discriminating against our industry;

Whereas otherwise the bill further contemplates making the Secretary supreme dictator contrary to fundamental American principles: Therefore this body at its annual meeting, officially representing 1,459 grower members and 105 shipper members (such membership representing over 50 percent of the total citrus fruit shipped from Florida) does hereby

Resolve, That unless these amendments are changed to apply only to basic commodities, and unless it can be arranged where our Florida citrus industry will be excluded from the destructive features of regimentation permitted in proposed amendments, does emphatically protest the passage of these amendments and earnestly requests that our representatives at Washington do everything possible to defeat this bill and particularly urges that citrus fruits be exempted from any further authority that the proposed amendments or revisions may contemplate extending to the Secretary of Agriculture.

That resolution was adopted by the Associated Citrus Growers and Shippers of Florida, signed by A. M. Pratt, secretary and manager, and it was sent to me on June 19.

What I particularly wish to discuss with the Members of the Senate is the unwisdom of beginning price-fixing programs for perishable products. In my judgment, a price-fixing policy whereby the consumer is compelled to pay a given price is unworkable as to any agricultural product.

We must remember that different kinds of foods can be substituted for others. If wheat becomes too high, consumers can use something in the place of wheat. If meats become too high, they can use something in the place of meats. If one certain vegetable becomes too high in price, then the consuming public can purchase another vegetable. The same thing applies to fruits, if apples sell too high, the people can eat cherries, they can eat pears, they can eat other fruits.

What I say is that if Congress desires to go on record as establishing a price-fixing policy, then it ought to include all agricultural products; it ought to include wheat; it ought to include corn; it ought to include meats, because there is competition between the different food products whereby a consumer may substitute one product for another and receive just as much sustenance as if he ate the product he perhaps most desired.

I myself think it would be disastrous to have any price fixing, and I should like to ask the proponents of this legislation if any such plan has ever succeeded in the history of the world.

We severely criticized the Hoover administration because by a method of purchasing wheat they attempted to fix the price of wheat; and that is the only way, in the final analysis, by which the Government can fix the price. If there is a surplus of a product in the market, the only way to maintain the price is to have someone purchase the surplus. Yet the Democratic Party in its platform, and every speaker on the Democratic side, in addressing the public, severely abused the Republican administration and criticized Mr. Hoover because he attempted to fix the price of wheat by purchasing the surplus wheat offered on the market. But now, in defiance of what I regard to be the platform of the party, there is an attempt to fix the prices of perishable foods, and my objection is that it will bring chaos and confusion to that industry. I speak, as I have said, with some knowledge of it, because of the long experience I have had. It will bring much more harm than any good that could result.

Of all the proposals that have been presented to this body, conceived in the agile and fertile minds of the "brain trust", I know of nothing more ridiculous and absurd than the attempt to fix the prices of perishable foods, to fix them, first, at the prices at which the handler can purchase them, and then attempt to say at what prices he shall resell them for consumption by the people. It will simply mean that those who attempt such a thing will bring such confusion relating to the industry affected that the losses will be beyond our comprehension.

Then we must consider that under these marketing agreements any dealer who does not carry out a marketing agreement, who does not charge the price he is supposed to charge according to the marketing agreement, is fined $500 a day so long as he violates any part of the marketing agreement; and the facts are not reviewable by the courts. The Secretary of Agriculture determines the facts, and all a court can do is to say whether or not the man concerned has violated a marketing agreement, and then it may fine him $500 a day. He may have good reason for his inability to charge a particular price. The food he has may have deteriorated in value, and therefore he may not have been able to get the price for it that he should get under the marketing agreement; but the courts, under these agreements, cannot go into the facts, and can simply determine a case upon the statement of the Secretary of Agriculture.

Mr. President, as I have said, I do not yield to the Senator from South Carolina, for whom I have the highest respect, or to any other Member of the Senate, in my desire to help the farmers of this country. I know their problem, I know the difficulties they have had, and throughout my public career, as Governor of Virginia and in the Senate, I have done my utmost to promote their interests. But I am not going to stand on the floor of the Senate and advocate something which I think is impractical and absurd, and which will bring disaster instead of benefit to those it is intended to benefit.

I do not question the good intentions of the Department of Agriculture, I do not question the good intentions of those able young men who are advising the Department in connection with this proposed legislation, but I say that it is not based upon practical experience, that they are attempting to do something which cannot be done, and which, I submit to the Senate, has never been done, by attempting to fix the price of an agricultural product or any other product.

Mr. President, I have no defense of the manufacturers of the country. The Senator from South Carolina says that a manufacturer can arbitrarily fix the price of that which he sells. We know that that is not the case, because in the recent depression we know of the low prices at which many manufactured products were sold to the public, and, after all, we must recognize that the law of supply and demand regulates the price at which a given product is sold. Furthermore, many of our products are exported. Take the case of citrus fruit. There is quite an exportable surplus of citrus fruits.

If we attempt to fix prices in this country, and those prices are not in line with the foreign markets, we simply cannot sell the given product in the market, wherever it may be. For instance, if we attempted to fix the price of any product that is exported from this country, let us assume that the price fixed here is higher than the price in the European market, or any other market, wherever it may be sold; then we would simply be excluded from shipping that particular product to that market.

I hope that the Senate will eliminate section (G), which provides for price fixing; and should that section be eliminated, I will later make a motion to eliminate section (F), because under the bill there are two price fixings which are contemplated. In other words, there is the fixing of the price at which the dealer is supposed to purchase the commodity, and then there is the fixing of the price at which the dealer is supposed to resell the commodity. When we consider the perishable nature of the foods which are dealt with in the bill, fruits and vegetables, I think that any man with common, ordinary sense can see that such a proposal is entirely unworkable.

Mr. McGILL. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. McGILL. Does the Senator agree that the amendment with regard to subsections (F) and (G), on page 18, should be voted on at the same time?

Mr. BYRD. I do, and I have asked that, but there has been objection.

Mr. McGILL. Can we not have unanimous consent that if the amendment in subsection (G) be agreed to, the two subsections may be included in the motion to strike out, if the Senator from Virginia desires to make such a motion?

Mr. BYRD. I asked for such unanimous consent, but the Senator from South Carolina refused to agree.

Mr. SMITH. Mr. President, it is obvious that if we are to make any progress at all with the bill we will have to go through the usual procedure of determining whether the Senate will accept or reject the committee amendments.

I suggested to the Senator from Virginia, and it was also suggested to the Senator from Alabama [Mr. BANKHEAD], that action be taken on this committee amendment; and then, when we shall have concluded our consideration of the committee amendments, if the Senate should vote to reject paragraph (F), and if paragraph (G) should be agreed to, I, as chairman, would not resist, and I think the Senate would agree to reconsider that vote, because the two would go together.

However, if we are to begin to amend the text without regard to completing the committee amendment, we shall get into all sorts of confusion. I do not wish to estop the Senator from Virginia, and I could not do so if I wanted to, from making the motion to strike out both paragraphs. At the proper time he will have that privilege and I shall not resist a request for reconsideration of the vote if paragraph (F) shall be voted out of the bill.

Mr. McGILL. Mr. President, if the Senator from Virginia will yield further, I will say that my object in rising was to have an agreement now that in the event paragraph (G), the committee amendment should be adopted, then when the Senator from Virginia moves to strike out paragraph (F) he may also include in that motion a motion to strike out garapraph (G).

Mr. SMITH. That situation will take care of itself when we take up the bill and return to amendments to the text.

Mr. BYRD. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BYRD. I notice that in paragraph (F), on page 18, line 16, there is a committee amendment; and that being the case, would it not be in order to consider the elimination of paragraph (F) as well as paragraph (G)?

The VICE PRESIDENT. The Chair will state to the Senator from Virginia that there is a unanimous-consent agreement to consider the committee amendments prior to offering any other amendments to the bill. The Chair understands that the pending committee amendment begins on page 18, line 21, and goes to line 4 on page 19. The Senate has the right to agree to it or reject it.

Mr. BYRD. The point I am making is that there is also a committee amendment on page 18, lines 16 and 17 of paragraph (F); and that being the case, would not that section likewise be subject to a motion to eliminate or strike out?

The VICE PRESIDENT. The Chair finds that on page 18, lines 16 and 17, there are committee amendments to strike out the word "first." Those are committee amendments. The Chair understands they have already been adopted.

Mr. SMITH. They have been adopted.

Mr. BYRD. Mr. President, would it be in order to move that paragraph (F) be eliminated, in view of the fact that it has in it two committee amendments?

The VICE PRESIDENT. In paragraph (F), on page 18, there are two committee amendments, in lines 16 and 17, to strike out the word "first." The Chair understands that those two amendments have been agreed to.

Mr. BYRD. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BYRD. I wish to ask, if the vote whereby these particular amendments in paragraph (F) were agreed to should be reconsidered, would it then be in order for me to move to eliminate paragraph (F)?

The VICE PRESIDENT. The Senator from Virginia makes a parliamentary inquiry, which, as the Chair understands it, is, if the Senate should reconsider the vote by which it adopted the amendments on page 18, in lines 16 and 17, striking out the word "first", whether it would be in order, after reconsideration of the vote by which that action was taken, to move to strike out paragraph (F). The Chair understands it would not be in order at the present time. Later on, before the Senate shall have completed its action on the bill, it will be in order to go back and move to strike out that paragraph.

Mr. BAILEY. Mr. President, I desire to address an inquiry to the distinguished Senator from South Carolina, the chairman of the committee in charge of the bill, with respect to paragraph (G), which has been read a number of times, for the purpose of ascertaining just what its objective is.

As I read the paragraph, it is an inducement to bring about what has heretofore been known as "cooperative marketing." Is that correct?

Mr. SMITH. That is correct.

Mr. BAILEY. And it relates, according to the paragraph numbered "(6)", on page 16, to fruits, tobacco, and its products, vegetables, soybeans, poultry, and other commodities, but certainly to tobacco and its products. Is that correct?

Mr. SMITH. That is correct.

Mr. BAILEY. I wish to remove any misapprehension as to the fact that tobacco and its products are included in paragraph (G), and that it is in contemplation that paragraph (G) offers an inducement to bring about cooperative marketing of tobacco and tobacco products.

Mr. President, I desire to call the attention of the senior Senator from South Carolina and also of the Senate to the exceedingly disastrous experience which the tobacco farmers in the flue-cured belt—Georgia, South Carolina, North Carolina, and Virginia—had in the matter of cooperative marketing about 6 or 7 years ago, the consequence of which experiment may be stated in general terms as being the loss of the crop for one entire year.

I am perfectly satisfied that the tobacco farmers of North Carolina are immensely delighted with the A. A. A. and its consequences in 1933 and 1934; but I am equally satisfied that the producers of bright tobacco in North Carolina would view with the utmost alarm any inducement by law or any movement from any source tending to alter the present system of marketing, and that they would be ready almost to fight a battle rather than to go into the cooperative marketing proposal.

No one in the Senate is better informed on that subject, and there is no one whose heart is more interested in that subject, than my friend, the senior Senator from South Carolina. He has stated very frankly what are the facts. I am not going to ask him to corroborate what I have said about the attitude of the farmers in the flue-cured belt toward cooperative marketing. I do not think that will need any corroboration from any source in the section directly involved. I should be bound from any point of view to oppose this paragraph on the ground that on its face it undertakes to offer a reward by way of minimum prices to induce, in my State, a return to a system which practically ruined the farmers for the period of 3 or 4 years.

That is all I wish to say to the Senator. I believe that upon reconsideration he will agree with me that this paragraph ought to be stricken out; and if striking out the paragraph necessitates the striking out of paragraph (F), then when we come to that again, I take it, we can all agree to strike it out.

The VICE PRESIDENT. The question is on agreeing to the committee amendment, paragraph (G), on pages 18 and 19.

Mr. BAILEY. I ask for a division.

Mr. GERRY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Brown	Coolidge	Gibson
Ashurst	Bulkley	Copeland	Glass
Austin	Bulow	Costigan	Gore
Bachman	Burke	Davis	Guffey
Bailey	Byrd	Dickinson	Hale
Bankhead	Byrnes	Dieterich	Harrison
Barbour	Capper	Donahey	Hastings
Barkley	Caraway	Duffy	Hatch
Bilbo	Carey	Fletcher	Hayden
Black	Chavez	Frazier	Holt
Bone	Clark	George	Johnson
Borah	Connally	Gerry	Keyes

King	Metcalf	Pittman	Thomas, Okla.
La Follette	Minton	Pope	Townsend
Lewis	Moore	Radcliffe	Trammell
Logan	Murphy	Robinson	Truman
Lonergan	Murray	Russell	Tydings
McAdoo	Neely	Schall	Vandenberg
McCarran	Norbeck	Schwellenbach	Van Nuys
McGill	Norris	Sheppard	Wagner
McKellar	Nye	Shipstead	Walsh
McNary	O'Mahoney	Smith	Wheeler
Maloney	Overton	Steiwer	White

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present.

Mr. BANKHEAD. Mr. President, before the vote shall be taken on the adoption of the committee amendment covered by section (G), I wish to address the Senate briefly on that subject.

The argument of the junior Senator from Virginia [Mr. BYRD] goes to the authority contained in paragraph (F). Paragraph (F) was adopted by the other House and has not, so far, been under consideration in the Senate. Paragraph (G) was adopted by the Senate committee as a supplement to paragraph (F).

I think it is generally recognized, and possibly by the Senator from Virginia, though I am not authorized to speak for him, that if paragraph (F) should be retained in the bill paragraph (G) should also be retained.

While I did not hear the entire statement of the Senator from North Carolina [Mr. BAILEY], I feel sure, from what I heard and from information which has come to me, that he has a wrong impression about the construction and purpose of paragraph (G).

Mr. BAILEY. Mr. President, may I interrupt the Senator?

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from North Carolina?

Mr. BANKHEAD. I yield.

Mr. BAILEY. I inquired of the chairman of the committee in charge of the bill——

Mr. BANKHEAD. I so understood.

Mr. BAILEY. If the objective of paragraph (G) was to bring about a system of cooperative marketing. He said it was. Then I asked him if it included tobacco and its products. He said, "Yes", which appears on the face of the bill, of course. Then I was simply content to make the point that the tobacco farmers of North Carolina, having had a most disastrous experience in cooperative marketing—I will not undertake to describe it; I will merely say it was a most disastrous experience, one of the consequences of which was that they lost the value of their entire crop—I was sure they would not desire that I should support or that the Senate should adopt this amendment.

Mr. BANKHEAD. I am not taking issue with the conclusions drawn by the Senator from North Carolina, nor am I, in fact, taking issue with him at all. As I understand and construe paragraph (G)—and I am anxious to clarify the situation in controversy and to have an understanding of the real purpose and effect of this subsection on the part of the Senator from North Carolina and others—that paragraph, instead of being prepared for the purpose of promoting cooperatives, really does not have that effect, and is not intended for that purpose, as the Senator will realize if he will examine it carefully. On the other hand, it is a limitation and restriction upon the sale by cooperatives when such action would come in conflict with the limitations placed upon the handlers of the farm commodities involved.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I do.

Mr. TYDINGS. I should like to ask the Senator from Alabama whether or not the "fixing, or providing methods for fixing, minimum prices" would apply to any commodities not moving in interstate commerce?

Mr. BANKHEAD. This entire bill applies to interstate commerce and to that alone.

Mr. TYDINGS. Mr. President——

Mr. BANKHEAD. First, let me proceed with the point raised by the Senator from North Carolina. We are coming back to the merits of subsection (F).

Mr. TYDINGS. I will not interrupt the Senator further at this time.

Mr. BANKHEAD. I will be glad to yield at the appropriate time, but I wish to point out to the Senator from North Carolina the real purpose of the subsection. I understand the reasons which actuate him; I probably would entertain the same idea with the same facts before me, if the purpose of the subsection were as he understands. I know that he had such information as he has indicated, but doubtless the chairman of the committee misunderstood what was involved.

Mr. BAILEY. Mr. President, let me add that the chairman of the committee now happens to be out of the Chamber, but I do not think he misapprehended the question.

Mr. BANKHEAD. I am not only going upon my own construction of the language but upon the object stated before the committee when this section was adopted by the committee. It provides:

> (G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

We will assume, for the purpose of the discussion of this subsection, that a price agreement has been established and an order covering it has been issued. That price must be paid, of course, by the handlers who buy from the producers, and thus the first step in the price progress of moving the commodities to market is established.

This paragraph is intended for the protection of the handlers who are under orders and under a marketing agreement fixing the price, so that the cooperatives, associations of producers or the producers themselves, cannot then go into a market and make sales at a less price than that which governs the handlers who are under orders. It is intended to create a uniform price situation, and is one of the provisions of the bill which are intended purely to protect those who are under the orders of the Government and governed by the price which is fixed against competition in prices even though it may come direct from the producers themselves.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. BYRD. I wish to make it clear to the Senate that in the event my motion shall prevail I will also move to strike out paragraph (F). I agree with the Senator from Alabama that if paragraph (F) remains in the bill paragraph (G) should also remain, but the chairman of the committee denied me unanimous consent to have a vote taken on both at the same time.

Mr. BANKHEAD. I understood from the Senator's argument that that was the conclusion he had reached.

Mr. TYDINGS. Mr. President, now may I ask the Senator some questions if he has finished with the point he had in mind?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. As I understand, the Senator from Alabama contends these provisions deal only with commodities which pass in interstate commerce. If that be true of the provisions dealing with the fixing of minimum prices, it occurs to me that the minimum price in interstate commerce and the actual minimum price in intrastate commerce may be at variance; in one case the intrastate minimum price may be higher and in another it may be lower. Does the Senator feel that minimum price fixing will be sound under a provision where only the interstate feature is covered and where the intrastate features are beyond the scope of the law?

Mr. BANKHEAD. I will say to the Senator that is purely an administrative matter as to whether or not, where a State is not cooperating the interstate price for that territory shall be fixed. I think I have authority to say that it will not be fixed. The whole purpose of this program is to give power to the administration in connection with products moving in interstate commerce to cooperate with and work

with State authorities. We well know, as was so well pointed out on the floor the other day by the Senator from Nebraska, that where the intrastate program is liable to be or is being broken down by shipments across State lines, the State is helpless, and the local authorities have no power. On the other hand, if we deal only with interstate shipments, then, of course, we have confusion and conflict and accomplish nothing for the producers or for the stability of the market without State action also. So let me say to the Senator that it is the avowed and declared purpose of the administrators of this program to secure authority for the sole purpose of exercising the same power over a commodity in interstate commerce that is agreed to be exercised in intrastate commerce in cooperation between the State and the Federal Government.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. The Senator has stated that, in his opinion, the paragraph in question, insofar as the Federal Government is concerned, deals only with those commodities which are moving in interstate commerce?

Mr. BANKHEAD. The bill specifically so declares.

Mr. TYDINGS. What authority, if any, has the Federal administration to fix prices for articles in interstate commerce?

Mr. BANKHEAD. Mr. President, that, of course, brings up a fundamental question.

Mr. TYDINGS. I ask the question in good faith.

Mr. BANKHEAD. I know the Senator does. I expected that probably that question would arise. It is a natural question, a legitimate inquiry, and one which the Senate must consider.

Mr. TYDINGS. I should like to say to the Senator from Alabama that I am not only interested in that feature of the case, namely, whether we have the authority to fix prices, aside from whether it would be helpful or harmful to do it, but I am likewise interested in knowing why this rather exceptional language was chosen on page 10, which, of course, was taken from the Supreme Court decision, but from a reading of which there appears to be a desire for an open door where the Federal Government may go into the intrastate feature as well as the interstate feature.

Mr. BANKHEAD. I can only answer one question at a time, and I shall do my best.

The question presented by the Senator from Maryland involves a fundamental question relating to the power of Congress under the commerce clause of the Constitution. It may not be necessary to remind some Members of the Senate, and it may be necessary to remind others, that 2 years ago, when the passage of the original Agricultural Adjustment Act was pending before this body, the Senator from Nebraska [Mr. NORRIS] presented an amendment to the bill which proposed to fix the price of the basic farm commodities at the cost of production with some reasonable additional charges. I mention it only to indicate that the question of the power of Congress to fix prices in matters controlled under the interstate commerce clause of the Constitution has previously been before this body on a similar occasion. It was debated for at least a day or two, and the varying viewpoints of lawyers in the Senate, and also of those who had varying and differing viewpoints upon the economics involved, were threshed out.

At the conclusion of the debate a majority of the Senate voted that Congress had that power because it adopted the amendment to the Agricultural Adjustment Act based upon fixing the price upon cost of production as the fundamental element in the equation.

The bill went to conference and the amendment was rejected. It came back to the Senate for a second vote in the Senate and, probably with the acquiescence of the Senator from Nebraska to avoid tying up the program, the Senate yielded and the amendment went out of the bill.

I mention that circumstance merely to disclose to those who have not followed the history of the subject that price fixing being within the power of Congress in matters regulated and controlled under the interstate-commerce clause is not a new and not a novel one for consideration by this body.

Mr. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. CLARK in the chair). Does the Senator from Alabama yield to the Senator from Virginia?

Mr. BANKHEAD. I yield.

Mr. BYRD. I should like to ask the Senator if he knows of any bill heretofore presented to the Congress and passed by the Congress which fixed prices?

Mr. BANKHEAD. I am not familiar with the history of any bill where that principle has been adopted. I think it is in large part because this body has for so long a time been controlled by a majority who believed in the doctrine of laissez faire and who are unwilling under any circumstances to move forward in the evolution of social and economic progress in this country.

Mr. BYRD. If this is such a wise thing to do, why is it that never in the history of the world has such a plan been suggested and adopted?

Mr. BANKHEAD. I cannot cover the world, and I doubt if the Senator can.

Mr. BYRD. Why is it that the Senator himself has not proposed price fixing sooner? He has been interested in such legislation for a long time.

Mr. BANKHEAD. I cannot cover all fields, but I cover some, and I think I have covered them pretty well.

Mr. TYDINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Maryland?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. My particular interest in directing my interrogatories to the Senator from Alabama was not to ascertain whether or not Congress had embraced this doctrine and whether it was wise or unwise, but rather whether or not, as a matter of law, the Senator could point out any decision of the courts or any provision of the Constitution or any precedent where it had been upheld in whole or in part, so we might have that as a guide by which we could measure the merit of the proposal from a legal standpoint alone and not as a matter of philosophy at all.

Mr. BANKHEAD. I hope the Senator will be patient and listen as I proceed with the discussion. So far as I know, there is no direct precedent based upon an act passed by Congress, because none has been passed. Therefore, we must look to elementary fundamental principles and to analogy in other fields of legislation and judicial decision, and to construction by implication and analogy of the powers given to Congress and taken from the States under the interstate commerce clause of our Constitution.

Mr. President, there have been declarations even of our highest judicial tribunal which point the way to a judicial determination of this question. Since the Supreme Court decision recently rendered in the New York milk case, we all recognize that within their police power, within their authority to protect the public welfare, within their power to protect the producer and thereby retain a reliable supply of products upon the market, the States possess the power to fix prices upon any commodity as to which the public good may require it. If there is any question about the extent to which that decision went it may be well for me now to read a few of the headnotes from that case as it appears in Two Hundred and Ninety-first United States Reports, page 502.

Mr. TYDINGS. Mr. President, will the Senator yield further?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. I think that the States having created the Government and being the sovereign of all power and retaining all for their own internal commerce except that which they have yielded to the Federal Government, there might be a considerable number of Senators who would not question that the States had the right to fix prices for certain particular reasons.

My particular question was addressed not to the power of the States, but to whether or not the Federal Government,

which had only such power as the States themselves granted to it, would have the power to fix prices in interstate commerce when only the authority to regulate was given.

Mr. BANKHEAD. I think, in view of the concession of the Senator from Maryland, it may not be advisable to take the time of the Senate to bring to its attention the extent to which the Supreme Court of the United States went in the New York milk case in fully sustaining the constitutional power to fix prices.

Mr. TYDINGS. By the States?

Mr. BANKHEAD. Yes; by the States.

Mr. KING. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Utah?

Mr. BANKHEAD. I yield.

Mr. KING. Does not the Senator agree that nearly all the States in the Union, guarding as they have the rights of the people and the public welfare, have enacted statutes against monopolies and conduct in restraint of trade, and that such statutes were in effect a denunciation of price fixing and prohibited price fixing?

Mr. BANKHEAD. What has that to do with the power involved in the question we are here discussing? That would be purely a matter of policy if it were involved at all. It certainly throws no light upon the question of whether the Congress under the Constitution may exercise the same power in matters of interstate commerce that the States are authorized to exercise, whether they exercise it or not, under their own local domination and control.

Mr. KING. Perhaps I have misconceived the attitude of the Senator from Alabama. I thought he was contending that it was for the benefit and welfare of the people to have price-fixing organizations set up in the United States. I wanted him to understand, or, at least, I hoped he would remember, that nearly every State has statutes against price fixing and against monopoly and against any policy involving restraint of trade.

Mr. BANKHEAD. In answer to the Senator from Utah I will say that the Supreme Court laid down this rule:

> The legislature is primarily the judge of the necessity of such an enactment; every possible presumption is in favor of its validity, and though the court may think the enactment unwise—

As, of course, the Senator from Utah usually thinks—

> it may not be annulled unless palpably in excess of legislative power.

So the doctrine stands without question. The State possesses the power to fix prices when the legislature of the State deems such action best in the interest of the common welfare and the public good.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. Yes; though I should like to follow up this matter.

Mr. TYDINGS. I can well understand that on a matter such as this one may change his views from day to day; and I do not wish to confound the Senator by something he said earlier in the consideration of this matter. On April 12, 1933, however——

Mr. BANKHEAD. I know what the Senator has in mind. Just wait a minute. I want the Senator to look further. I know what he is talking about.

Mr. TYDINGS. Let me read this to the Senator.

Mr. BANKHEAD. All right; go on and read it, and read my remarks about the amendment made to that bill applying it to matters in interstate commerce. Read it all, if the Senator wishes to put it in.

Mr. TYDINGS. I shall try to do so.

Mr. BANKHEAD. I have not read the statement since it was made.

Mr. TYDINGS. The Senator said on April 12, 1933—page 1554, CONGRESSIONAL RECORD:

> I prefer merely to make it a matter of record that it does seem to me that there is no grant to Congress to fix prices of commodities, whether we consider the question from the standpoint of those moving in interstate commerce or those which are confined solely within the respective States.

Let me say to the Senator that even if he thought that then and now thinks differently, I do not say he is to be criticized for it.

Mr. BANKHEAD. Then why does the Senator develop it, if he wishes to be frank about it?

Mr. TYDINGS. I am simply showing that necessity sometimes can help to mold a man's opinion. I know the Senator believes in the philosophy of this bill, which was not before the Senate in this form on April 12, 1933; but I submit the proposition that there is no decision of the Supreme Court or of any United States district court or circuit court, and there is no act of Congress heretofore, which approves or upholds the policy of fixing prices on commodities passing in interstate commerce.

Mr. BANKHEAD. I will say to the Senator that I did not vote for the Norris amendment because I did not feel that the basis of the cost of production was a proper basis, and so stated on the floor of the Senate. I will say further that when the Senator offered an amendment confining the program to interstate commerce, I made the comment that I thought it was more nearly in line with the Constitution. The Senator will find that in the RECORD. I will say to him further, if my personal views are of concern, that I had grave doubt about the power of a State to fix prices until the recent decision of the Supreme Court in the Nebbia case. That decision, however, has given me, following it as the law of the land, an entirely different viewpoint as to the power of Congress to follow along similar lines.

Mr. TYDINGS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama further yield to the Senator from Maryland?

Mr. BANKHEAD. I do.

Mr. TYDINGS. Whether or not we agree with the Senator from Alabama, I think all of us concede that there is no man on this floor who is more anxious than is the Senator from Alabama to better the lot of the farmer. I am not questioning his intent or his purpose at all, but I am going to make, for whatever it is worth, the observation that, in my humble judgment, not only will the price-fixing provision of this bill——

Mr. BANKHEAD. I hope the Senator will not take me away from the legal question into the philosophy of the bill.

Mr. TYDINGS. I am not going to do that. I am coming right to the legal question. Not only the price-fixing provision of this bill but its rather obscure interstate character, the confusion of intrastate and interstate provisions, are going to involve so many law suits all over the country that it will be known as "the law-suit bill" rather than the "A. A. A. bill"; and thousands of cases will be filed as the result of the manner in which the measure is drawn.

It may be a good piece of legislation. It may be that if nobody would file law suits testing its constitutionality it would work. I am only saying that as a practical proposition the courts of the land are going to be swamped with injunction proceedings against the Federal Administrator, in which proceedings it will be set forth that the Congress has exceeded its authority, and that the Federal Administrator, acting in pursuance of the law, has likewise exceeded his authority; so that there will be a total break-down pending the final outcome of the litigation because even the Congress has not a single decision to which it can point to uphold the philosophy of this bill.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Oklahoma?

Mr. BANKHEAD. If the Senator will wait, I have just submitted to an interruption to which I wish to give some consideration.

Mr. GORE. What I wish to say refers to what has been said by the Senator from Maryland.

Mr. BANKHEAD. Very well; I yield.

Mr. GORE. I merely desire to remind both the Senator from Maryland and the Senator from Alabama that the Supreme Court, in discussing the rights of property, declared that the right of an owner of property to part with it for

whatever price he saw fit was one of the inherent rights of property.

Mr. BANKHEAD. The Senator seems to have forgotten the Nebbia case, to which I called attention a short time ago, in which the Supreme Court said that price fixing did not violate either the fourteenth or the fifth amendments to the Federal Constitution.

Mr. President, referring to the suggestions of the Senator from Maryland, I submit that I cannot take into consideration mere suggestions and anticipations of obstructions to the passage of a law as affecting its constitutionality. Of course, how great resistance will develop among the people, how they will clog the courts with suits, may be a legitimate argument as to the policy of passing a law here; but it certainly can have no weight with a legal mind in considering what power Congress has of this subject under the Federal Constitution. I must say that, however in former years I may have been deterred by the thoughts presented by the Senator from Maryland, here is something new, something Congress never has done before; and, therefore, the fact that there has been no direct adjudication on the subject by the Supreme Court is no reason why we should not now dare to venture into new legislative fields. That is the doctrine of those whose thoughts and minds are riveted to the days which existed prior to the great world-wide depression; but, Mr. President, I cannot remain with them.

I cannot stand still upon the Senate floor, in my representative capacity, and accept the doctrine that what was brought upon us by the laws and by inaction prior to the great depression stand out as a monumental and perfect test of the order of things that should continue to exist merely because they formerly existed.

Mr. TYDINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Alabama further yield to the Senator from Maryland?

Mr. BANKHEAD. I do.

Mr. TYDINGS. Of course, I did not mean to reflect on the Senator, or to say that he is not actuated by the highest motives, or even to say that he may not be right. What I did mean to say is that, as I see it, instead of moving forward, his bill is taking us backward at a very rapid rate.

Mr. BANKHEAD. I do not know to what the Senator refers, and it is a matter of total indifference in the discussion of this issue.

Mr. TYDINGS. If the Senator will yield further, as an underlying philosophy, it is my claim that all mass taxes are a burden on commerce; that all mass taxes are a burden on industry; that the less taxes there are on the farmers or the consumers of the country, the greater ability they have to produce and to consume; and the "blessings" which come under the guise of taxes which ultimately are passed on to the consumer as a matter of actual observation quite often do more harm than good to those whom all of us desire to serve.

May I illustrate?

Mr. BANKHEAD. Mr. President——

Mr. TYDINGS. May I illustrate just a moment?

Mr. BANKHEAD. No, Mr. President; I decline to yield for a speech, and I do not think the Senator ought to insist on it.

Mr. TYDINGS. I am not making a speech.

Mr. BANKHEAD. If the Senator does not call his statement a speech, what does he call it?

Mr. TYDINGS. I wish to ask the Senator if he is familiar with this situation——

Mr. BANKHEAD. I would rather the Senator would not interrupt me further. The Senator from Maryland provoked me into a discussion of the legal and constitutional aspects of this subject; and when I am bearing down on him, and creating an impression upon the judgment of impartial minds, the Senator from Maryland wishes to digress and move out upon the economic and philosophical questions involved in this program. Later, I may be willing to enter that field with him; but I certainly hope he will let me, while dealing with the legal question, proceed to the conclusion which I, at least, have reached, and to submit it to the legal minds of the Senate.

Mr. TYDINGS. Mr. President, will the Senator yield for a legal question?

The PRESIDING OFFICER. Does the Senator from Alabama further yield to the Senator from Maryland?

Mr. BANKHEAD. I yield if it relates to the question the Senator asked me in the beginning.

Mr. TYDINGS. I desire to ask the Senator whether, from a legal standpoint, the underlying philosophy of this bill does not run counter to the underlying philosophy enunciated by the Supreme Court in the N. R. A. decision.

Mr. BANKHEAD. I do not think the N. R. A. decision has a thing on earth to do with the philosophy of this measure. There was no philosophy in the N. R. A. decision. [Laughter.] It was a declaration of law.

Mr. TYDINGS. If the Senator will bear with me, he will recall that the court questioned the authority of Congress to fix hours of work and rates of pay in the respective States. Now the Senator is arguing the legality of a bill which, in my judgment, attempts to fix prices in the States.

Mr. BANKHEAD. The N. R. A. decision, as the Senator from Maryland knows, dealt with only two legal questions. It dealt with no economic philosophy, it dealt with no question of policy; it dealt simply with the constitutional authority to delegate power, and then with the question of what, under particular facts, constituted interstate as distinguished from intrastate commerce. So, of course, that decision has nothing to do with the legality of the authority of Congress to fix prices upon commodities moving in interstate commerce.

Having established that the States have the power, as recently so thoroughly confirmed by the Supreme Court, let us see what has become of that power over commodities over which the States have no power left by reason of granting certain power to the Federal Government. In other words, here are commodities, the prices of which, if they are moving in interstate commerce, the States have no power to regulate. If they are then put into the flow of interstate commerce, does the power everywhere, under the State or the Nation, vanish and disappear? When it was surrendered by the States to the Federal Government, I ask the judgment and reason of Senators, did not the power which the State possessed while the articles remained within the confines of the State move with the delegation of power into the Federal Government?

The Supreme Court, in the case of *Addyston Pipe & Steel Co.* (175 U. S. 211), at page 213, laid down this proposition:

> If neither Congress nor the State legislature have such power then we are brought to the somewhat extraordinary position that there is no authority, State or National, which can legislate upon the subject of or prohibit such contracts. This cannot be the case.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. Let me ask the Senator if this thought is not worthy of consideration in connection with the legal argument he is now making? The States themselves, of course, have only such power as the people have given them in their various constitutions. The Federal Government had only such power as the States have conferred upon it. Therefore the people are the natural reservoir wherein resides all the power not delegated to either one of the two agencies. It may be that the people do not wish either the National Government or the State governments to have the power to fix prices. It may be that there are many fields of governmental activity where the people, the sovereigns, do not care to have unlimited delegation of power given to either agency, National or State. I rather think that that is the philosophy which has prevailed heretofore, and that the National Government has no more power to fix prices than the States have to regulate interstate commerce.

Mr. BANKHEAD. I think, on the other hand, that the power of Congress is exactly the same as that of the States, one with intrastate, the other with interstate.

Let me read a declaration by John Marshall in the case of Crutcher against Commonwealth of Kentucky:

The power to regulate commerce, like all others vested in Congress, is complete in itself, and may be exercised to the utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

The power to fix prices is not prescribed, as the Supreme Court held in the milk case, by any section of the Constitution. I read further from the Crutcher case:

If, as has always been understood, the sovereignty, the Congress, though limited to specific objects, is plenary—

Listen, lawyers—

is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of power as are found in the Constitution of the United States.

In short, Mr. President, when the States delegated to Congress the power to regulate interstate commerce, that power was without restriction, without limitation; the power is plenary, and is as extensive as if all the States were one government, one State, under that specific grant of power to Congress.

Let me read another extract or two. In the case of Gibbons against Ogden the Court laid down the rule that—

The power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government—

The same principle—

having in its constitution the same restrictions on the exercise of power as are found in the Constitution of the United States.

In the *Northern Securities case* (193 U. S. 342) the Court said:

Subject to the limitations imposed by the Constitution the power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce.

Can any lawyer in the Senate who is dealing with this question as a lawyer, not as one with fixed views from an economic or policy standpoint, insist that, after that specific declaration by the Supreme Court of the United States, Congress is without the power sought to be exercised here? The Court says " is as full and complete as is the power of any State over its domestic commerce." We recently have had the statement of the Supreme Court that the State has this specific power over its domestic commerce.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. Let me point out to the Senator that I do not think there is a man on the floor of the Senate, regardless of his thought on the pending bill, who will say that the power of the Federal Government to regulate interstate commerce has any restrictions put upon it insofar as the word " regulation " is concerned. However, I think that the Supreme Court is not unlikely to hold that things cannot be done under the guise of regulation which have not regulation for their purpose, and one of those is price fixing.

I might say that that legal philosophy is carried out very well in the child-labor case, where the Court said that the power given Congress to do one thing could not be used to do another thing whose manifest object was not the carrying out of a power which Congress would have a perfect right to exercise.

No one here is contending, may I say to the Senator from Alabama, that there is any restriction on the word " regulation ", but regulation itself is restricted within the terms of the meaning of the word " regulation " and new meanings cannot be read into it. The dictionary will not show that regulation can be defined as price fixing.

Mr. BANKHEAD. Mr. President, I call the attention of the Senator to the oft-repeated declaration of our Supreme Court that the fourteenth amendment as applied to the States and the fifth amendment as applied to Congress are the same in their restrictions and limitations upon the exercise of the respective powers. In the Nebbia case the Supreme Court held not only that the fourteenth amendment did not prohibit the State of New York from price fixing under the conditions specified there, but held also that it did not violate the fifth amendment to the Federal Constitution.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. Let me suggest to the Senator that it seems to me the bill before us is not one of abstract principles. It relates to the applicability of the Federal power and the State power to transactions with which we are dealing. The Senator has very clearly demonstrated that within the field of interstate commerce the Federal Government is supreme; but the Supreme Court decisions have also laid down the principle that within the State its power over intrastate matters is supreme.

Let us suppose that a State undertook, in the exercise of its power, to fix prices, and that the Federal Government undertook to fix prices also. We would probably run into a very difficult situation. Is not the difficulty, however, the necessity of determining just where a transaction of that kind becomes an interstate transaction?

The Senator will recall that in the N. R. A. case about the chickens the Court denounced the code provision with respect to the resale of chickens, and said the purchaser had the right to select the one particular chicken he wanted instead of selecting the " mill run " of the chickens, if that is a proper term. The Court further held that while the chicken had been in interstate commerce since it originated over in New Jersey somewhere, and until the end of its journey was reached, what happened to it from there on was not in interstate commerce but in intrastate commerce.

Mr. BANKHEAD. I recognize that situation.

Mr. CONNALLY. It is the question of the applicability to the facts in each case which determines whether it is the Federal power we are asserting or the State power.

Mr. BANKHEAD. I agree entirely with the Senator from Texas, and I made a statement about it before the Senator came on the floor.

Mr. CONNALLY. I beg the Senator's pardon.

Mr. BANKHEAD. I made a statement to the effect that it is fully recognized by the sponsors of this bill that it does not go to the extent, and could not under the N. R. A. decision go to the extent, of controlling intrastate commerce in any way. I made the further statement, which I think should be given consideration by the friends of this agricultural program, that the administrators of this program had stated from time to time, before our committee and elsewhere, that it was not their purpose to invoke the power under this bill with respect to the specialty crops included in it, except on the request and application of State authorities to cooperate with them. In other words, where the State of Maryland, as was pointed out by the Senator from Nebraska [Mr. NORRIS] in the Baltimore case, was unable to control a milk situation by virtue of milk being shipped across the State line—a case with which the Senator from Maryland [Mr. TYDINGS] is familiar—they needed and requested the cooperation of the Federal Government in adjusting interstate shipments and sales upon the same basis as they had been handled in the State of Maryland. It is in such situations that the administration would go to the relief of the States and help them protect their local situations by exercising the power given it in interstate commerce.

So, of course, the legality of the program is not affected. I recognize, as the Senator from Texas—he is a practical man—well says, that there are cases, and illustrations may be pointed out, where there would be a conflict and a destructive conflict in this program between the State and the Federal Government, if there did not exist a spirit and purpose and determination upon the part of the administrators of the Federal program to do nothing except in cooperation with the authorities of the various States.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. Does not the Senator think our difference in looking at the legal side of this question arises pri-

marily out of the fact that he presents the argument that all power resides either in the State or in the Nation with regard to commerce, whereas I am contending that all power resides either in the State or in the Nation or in the people? There are some powers which the people have never given to either the State or the Federal Government.

In conclusion, I invite the Senator's attention to the fact that under the N. R. A. decision, to which the Senator from Texas [Mr. CONNALLY] has referred, where it was an intrastate occurrence upon which the Court passed in its ruling, the State of New York did have the power to do many of the things which were criticized as being done by the Federal Government, but the State of New York had not cared to exercise them; and the fact that it had not cared to exercise them did not give the power to the Federal Government, because the people were the ultimate repository of all power which the Federal Government did not have up to that time. So, in my humble judgment, it is not a sound premise to say that all power which the State governments do not have must reside in the Federal Government, because the people still retain powers that they have never reposed in either government, and, in my judgment, they have wisely retained such powers.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. BARKLEY. How are the powers which are supposed to have been reserved to the people—by which is meant that they are neither in any State constitution or in the Constitution of the United States, and have not been exercised—to be placed in the Constitution? What is the process by which it can be done?

Mr. TYDINGS. By means of a constitutional amendment, either by the State governments or the Federal Government, in just the way it has always been done. If the governments, State or National, desire powers which the people never have conferred upon them, the proper way to obtain such powers is by constitutional amendment; and, in the absence of constitutional amendment, all the laws in the world will not confer them on either State governments or the Federal Government.

Mr. BARKLEY. But the States cannot amend the Constitution unless Congress submits such an amendment to them.

Mr. TYDINGS. Yes; they can.

Mr. BARKLEY. How?

Mr. TYDINGS. They can do it by the action of the States under the provision set up in the Constitution, if a sufficient number of people wish it to be done.

Mr. BARKLEY. They cannot do it except through the initiative of the Congress.

Mr. TYDINGS. Who elects the legislators? Who elects the Senators and the Representatives?

Mr. BARKLEY. The people elect them.

Mr. TYDINGS. Why cannot they take the initiative?

Mr. BARKLEY. They have not done it.

Mr. TYDINGS. If they have not done it, how would the Senator have it done? Would he have it done without any reference at all to them?

Mr. ADAMS. Mr. President, will the Senator yield for an inquiry?

Mr. BANKHEAD. I yield.

Mr. ADAMS. My understanding of the Senator's argument on the question of price fixing is that the Constitution gives to the Federal Government full, unrestricted power to regulate interstate commerce; that in the decision quoted from Mr. Chief Justice Marshall it was stated that the power of the States to regulate intrastate commerce was equal to the power of the Federal Government to regulate interstate commerce; and then that the United States Supreme Court having held that the State of New York had the right to fix milk prices, he reaches the conclusion that the Federal Government has the same right. I was going to ask, if that is a correct statement of the argument—I ought to know, but I do not know—whether or not the Supreme Court, in the New York milk case, specifically based its decision upon the exercise of the powers over commerce by the State?

Mr. BANKHEAD. No; it did not.

Mr. ADAMS. Or did it base it upon inherent powers?

Mr. BANKHEAD. It based it upon inherent powers to protect the public welfare and the public interest.

Mr. ADAMS. Then it was not based on the internal commerce power of the State?

Mr. BANKHEAD. It applied solely to intrastate commerce; and my position is that the Federal Government has the identical power as to interstate commerce that the State has as to intrastate commerce in any particular commodity.

Mr. ADAMS. The Senator's contention is that the Federal Government has, in addition to the powers granted to it, police powers such as are conceded to the States?

Mr. BANKHEAD. That is correct.

Mr. ADAMS. That is a point upon which I am not clear.

Mr. BANKHEAD. It has the same police powers as have the States upon subjects not specifically and exclusively turned over to them.

Mr. TYDINGS. Mr. President, will the Senator from Alabama yield to me to close the argument on my case? Then I shall not interrupt him again.

Mr. BANKHEAD. The Senator has closed his argument several times, but I will yield to him.

Mr. TYDINGS. In answer to the Senator from Kentucky [Mr. BARKLEY] and other Senators who argue that either the Federal Government or the State governments have all powers, and the people none, I read amendment X of the Constitution:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respecively, or to the people.

There it is in black and white.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. BLACK. Of course it is clear that there are certain powers which are given to the Government and certain powers which are reserved to the people. That is true with reference to the State and the Federal Government. As I understand the argument of my colleague, however, it amounts to this: The Supreme Court has held in the New York case that under the police power of the State, the State has a right to fix prices.

Mr. BANKHEAD. That is correct.

Mr. BLACK. And my colleague says further that the Congress alone has the power to regulate interstate commerce.

Mr. BANKHEAD. That is correct.

Mr. BLACK. And, therefore, that the Congress has the right to fix prices in interstate commerce. I call his attention to the fact that in line with that argument, the Supreme Court of the United States has expressly held that the Congress does have the right to exercise the police power with reference to transactions in interstate commerce.

It was held in the white-slave case, and it was also held in two other cases, that since the Congress had the complete power to regulate interstate commerce it carried with it the right to exercise a police power with reference to the regulation of interstate commerce.

That has been held in three separate cases by the Supreme Court of the United States. So it is not an argument, as has been insisted, and which has been made, as I understand, that a power which is left with the people can be taken away from the people without a constitutional amendment; but the Constitution itself gave to Congress the right to regulate interstate commerce, which carries with it the right to exercise police power to regulate interstate commerce, as is done with reference to liquor, as is done with reference to the white-slave traffic. It follows necessarily that if the States, in the regulation of commerce, can fix prices under the police power, the United States Government can in the same way fix prices under the police power, under the constitutional provision as to the regulation of commerce.

Mr. BANKHEAD. I think my colleague has very clearly stated the proposition.

I had just announced the doctrine, in answer to a question by the Senator from Oklahoma [Mr. GORE], that Congress has the police power, just as the States have it, on those subjects specifically and exclusively granted under the Constitution to Congress. I did not have time to obtain the decisions at the moment; but I know, as my colleague has pointed out, that the Supreme Court has expressly stated that on certain subjects Congress has the police power.

Mr. TYDINGS. Will the Senator give us a brief definition of some of the police powers of Congress? The power to regulate commerce is not a police power, as every Member of this body knows. It is a delegated power. The police powers in any given instrument are necessary powers to enforce the granted powers. The power to regulate commerce is no more a police power than I am a policeman.

Mr. BANKHEAD. I shall answer the Senator's question by reading a definition from Twenty-fifth Encyclopedia, page 863, which I formerly used in a legal argument from the floor of the Senate. It reads:

> Police power is the name given to that inherent sovereignty which is the right and duty of the government or its agents to exercise whenever public policy in a broad sense demands, for the benefit of society at large, regulations to guard its morals, safety, health, order, or to insure in any respect—

Listen now—

> or to insure in any respect such economic conditions as an advancing civilization of a highly complex character requires.

There is the definition of police power, such police power as the State of New York exercises, such police power as the Congress has the right to exercise where the power of the States has been specifically transferred to Congress in all its aspects, not only, as the Senator doubtless knows, to regulate, but to prohibit. In every way where the complex moving economic conditions of the people require action, then Congress has the power under the police power.

Mr. TYDINGS. Is the Senator contending that Congress derives its power to fix prices under the police power of the Constitution or the interstate commerce clause of the Constitution, or both?

Mr. BANKHEAD. Both. I have specifically stated that the police power followed the grant of the interstate commerce power and went with it as an incident, as a necessary attribute included in it. Of course, the Federal Government would not have that power except for the interstate-commerce clause granting the power.

Mr. President, I have submitted my views upon the subject. I recognize that they are but my views. However, I hope the authorities and suggestions submitted may be helpful.

As the chairman of the committee on numerous occasions has tried to impress upon the Senate, this is a program intended for the benefit of the agricultural producers of the country. Let me say to Senators who are not entirely sympathetic that this program is not needed by the cotton growers and it is not needed by the wheat and hog and corn producers except from the standpoint that the bill straightens out and conforms the law from a legalistic standpoint to the decision of the Supreme Court in the N. R. A. case. It is necessary from that standpoint absolutely because here we have disposed of the question of the delegation of power.

This bill ratifies and confirms the act of the agent of Congress, whether that act has been wrong, whether it has been purposely and from a legalistic standpoint properly delegated or not. It was an act under color of law by an agent of the Congress of the United States. No one doubts the power of a principal to ratify and confirm the acts of an agent. I have never had much doubt about the necessity for doing it.

I have believed from the beginning that the delegation of power in the original act providing the difference between the cost of production and the present price, the parity price, was a sufficient standard, certainly as definite as, if not more definite than, the power given to the President under the flexible tariff law. There the only standard was the cost of production abroad and in this country. It was a subject of investigation, a matter of fact finding, but a standard fixed, and when fixed it authorized the President to levy the tax. The Supreme Court has sustained that power, as we know.

But now we have lawsuits by grasping and greedy producers and handlers in different sections of the country, some of whom came before the Committee on Agriculture and Forestry and told the committee that they had taken the processing tax on hogs out of the producer. Still we find these handlers, who have insisted the power was directly in the interest of the producers, organizing through the courts a raid upon the taxpayers.

Why take any chances about the program? From the standpoint of the basic commodities it is important. From the standpoint of the Government it is valuable. From the standpoint of the taxpayers it is helpful. From the standpoint of the removing of uncertainties in the situation, as reflected in the flour trade, the textile trade, the meat trade, it is well for Congress by specific declaration now to ratify what it authorized and thought it was legally authorizing its agent, the Secretary of Agriculture, to do.

Except from the standpoint of clarifying and strengthening, if necessary, the authority under the act from a legal standpoint, the producers of the basic agricultural commodities have no vital concern. However, there are 2,000,000 farmers who are not engaged in the production of basic agricultural commodities, but who produce fruits and vegetables of all kinds. They, together with the dairymen and others, have been appealing for help. They have pointed out that this program has rescued agriculture from bankruptcy in the great basic commodity areas. They have been appealing to the Department of Agriculture to give them some benefit from marketing agreements.

I am standing here today pleading with Senators, as did our chairman, to look favorably upon this program for the 2,000,000 unorganized and scattered farmers producing special crops all over America, not to put anything upon them that they do not want, but to give them the opportunity, if they want these marketing agreements, to help adjust supply to demand, to help them market their crops in orderly fashion, and to feed into the markets, in appropriate ways and under proper circumstances, the fruits of their year's labor in a manner that will give them something at least approaching parity prices.

No exorbitant prices are expected. No unreasonable or unfair requests were made by the representatives of the farmers, either through their cooperative organizations or through their Representatives in the Congress of the United States. Men who stand upon the floors of these two Houses when a protective tariff bill is up appeal with eloquence and persuasion for a tax which will enable industry to pay a good wage to the industrial workers, which will enable the producers of manufactured articles to charge the consumers a higher price. They plead for those things. As a rule, they have been in the majority. I do not mention that subject now to start a tariff debate. I mention it simply to ask Senators from the Eastern States, who are generally, though not uniformly, opposed to every program in the interest of the agricultural producers which has come to Congress, to bear in mind that the industries of their States cannot operate, cannot maintain their profits, cannot pay their industrial laborers what they ought to have, if the Senators and Representatives from those States continue a program of holding back the farmer, of holding down his returns, of almost destroying the market for industrial commodities among 30,000,000 consumers upon the farms of the country.

I have not stood here, nor have other Senators from the agricultural States, and fought any program which tended to increase the wages of industrial workers.

We recognize that there is a relation of interdependence between these two great groups of workers. So here is a program designed to bring up to a little better level, to give a little fairer proportion of the national income to 2,000,000 farmers engaged in the production of specialty crops. There they are, unorganized, not vocal. For more

than a year they have urged the Department of Agriculture to bring them under the provisions of the Agricultural Adjustment Act. Some who were under it were taken out by actions in the courts brought by processors and handlers and shippers. They do not want this program.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I am glad to yield.

Mr. CONNALLY. I desire to suggest to the Senator that the difficulty which confronts me is not so much the legal aspects as the economic aspects of the matter, the wisdom of fixing price below which a commodity may not be sold. Purchasers might not wish to pay the minimum price, and as a result of that the market might become glutted; and in the case of perishable fruits and vegetables, for instance, they might deteriorate, and the result would be a loss rather than a gain.

Mr. BANKHEAD. I will say to the Senator from Texas, as I have said to the Senator from Virginia [Mr. BYRD] since he spoke, that it is not the purpose of the Department to administer this bill as to perishable vegetables or fruits.

Mr. CONNALLY. There is no exception in the bill.

Mr. BANKHEAD. If the Senator will draw an amendment along proper lines, distinguishing between perishable and nonperishable fruits and vegetables, so far as I am concerned I shall be glad to accept the amendment, because Mr. Davis has reconfirmed that statement since the Senator from Virginia spoke. It is not their purpose to administer the bill in any harmful way. Of course injurious circumstances may be visualized, may be conjured up, for which neither the Senator from Texas nor I would stand for a moment. Here, however, is a department working with the producers, not forcing prices upon the producers, not forcing any program upon the producers, but yielding to the request of the producers themselves in regard to these programs; and if any abuse should arise within 3 days, the measures taken under the bill could be changed to fit changing conditions.

Mr. CONNALLY. Mr. President, will the Senator yield further?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. I desire to suggest to the Senator that giving a power which we concede ought not to be exercised is the very thing to which the Senator from Texas is opposed; and yet we are giving some bureau chief, or somebody in a department of the Government, authority to exercise a power which we say should not be exercised, and salving our consciences with the statement that "Well, he has told us privately and in the committee that he is not going to do it." If he is not going to do it, why should we give him the power to do it?

Much of the reaction which is taking place over the country as to acts of Congress arises from the fact that the people are complaining that the Congress seemingly has divested itself of its own judgment and its own discretion and its own legislative wisdom, if it has any, and is placing these transcendent powers in some little bureau chief who is appointed by somebody else, and who has no responsibility directly to the people, and to whom, when we give him the power, we have to go, I will not say on our bended knees, but on some other portion of our anatomy, and sit in the outer door for a day or two in order to approach the throne of this two-thousand-dollar or three-thousand-dollar autocrat, and beseech and beg and plead with him for a day or two to get him not to do something which we did not intend to have him do when we passed the law.

Mr. BANKHEAD. My difficulty has been in getting him to do something. I have had no trouble about getting him not to do things. I think the whole trouble in this particular department has been failure to move far enough under the Agricultural Adjustment Act.

Mr. CONNALLY. If it is hard to move them forward, it is just as hard to move them backward. It ought to be more so, because their nature is to go forward rather than backward.

I am willing to go as far as the Senator will go to advance the interests of agriculture. I come from a great agricultural State, and I am in sympathy with the agricultural program; but I think that when we write an act of Congress we ought to say what we mean, and not give a great power to somebody to exercise at his will.

The Senator illustrates the wisdom of that view. He says he cannot get the authorities to do certain things. It is just as bad if they will not do what they should do as if they do something they should not do. So I hope the Senator will amend this measure in such a fashion as to remove that particular thing from the bill.

Mr. BANKHEAD. Mr. President, the Senator from Texas states that he is a friend of this measure, and I believe him; I am sure of that. All his actions here show that his disposition is to aid the farmer in every possible way; but, as a friend of measures of this sort, I wish to submit calmly to the Senator's judgment that with a program involving 2,000,000 people, scattered from Maine to California and from Canada to the Rio Grande, with all sorts of crops, with all sorts of differing marginal conditions, it is almost humanly impossible to write into the letter of the law every authority which should be granted, and every limitation on authority which somebody may imagine might be improperly exercised. It is a very difficult thing to do.

The House committee worked for several weeks on this bill. All of its members are friends of the farmer. When the bill came over here, the Senate Committee on Agriculture and Forestry worked on it for days and days, and did as faithful and conscientious work as any committee upon which I have ever served.

I wish to say before I conclude that the suggestion made by the junior Senator from Virginia [Mr. BYRD] about "brain trusters"—one which I have heard come from many sources—is entirely inappropriate when applied to this program.

Our committee took no advice from any "brain truster." The truth is, I regard the term "brain truster" as a compliment, because I believe it means they have a trust on the brains of this country.

The committee took the bill as it passed the House and tried to correct whatever defects in it we thought needed correction. We had Mr. Chester Davis before us, but he gave no advice. The Senator from South Carolina [Mr. SMITH] stated that on the floor of the Senate the other day. There was an attorney present, purely from a legalistic standpoint, to help straighten out the provisions of the bill, and to give his advice and to furnish us authorities, which I will say to the Senator I consulted with an open mind, and other lawyers on the committee acted with open minds.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BANKHEAD. When I finish this statement I will yield. We made changes as a result of our own legal investigations. When we sought information, we got the information, the best that Mr. Davis and his department could give us.

They propose no program and urge nothing upon us. Mr. Davis frequently stated, with that fine frankness and manhood which characterize him, that they wanted no added authority. In my judgment, every Member of the Congress who has come in personal contact with Mr. Davis has respect for him and confidence in him. He stated there time and again, as members of the committee know, "We are simply here ready and willing to carry out any program Congress may order us to carry out. We are not seeking new responsibilities and new work. We are simply here to serve the committee." And in that spirit, I will say to the friends of this measure, such amendments as were made were worked out by that sort of united effort.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I promised first to yield to the Senator from New Mexico.

Mr. HATCH. I merely wanted to say, in reply to what the Senator from Texas stated a moment ago, that while I perhaps shall vote with the Senator from Virginia on some of his amendments from a purely legal standpoint, if the proposition were as stated by the Senator from Texas, I should not vote for any portion or part of the bill. But in fact the bill does not confer upon the Department of Agriculture or

upon any official such powers as were described by the Senator from Texas. The only way the powers which this bill confers can be brought into play, if the amendment which will be proposed by the Senator from Virginia shall be adopted, is by the action of the producers themselves through their marketing agreements and by their votes. With that amendment in the law, no arbitrary power will be conferred upon the Secretary of Agriculture by the proposed statute at all, and it will leave almost entirely with the producers themselves the power to outline and carry on the program which they believe to be best suited to their particular needs in their own particular localities and areas.

Mr. CONNALLY. Mr. President, will the Senator from Alabama yield to me?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. Allow me to say to the Senator from New Mexico that what the Senator from Texas expressed was provoked by the Senator from Alabama saying that the Department did not intend to exercise these powers.

Mr. BANKHEAD. Not all of them; I said as to perishable fruits.

Mr. HATCH. They cannot exercise the power until the producers ask them to.

Mr. CONNALLY. If the Senator from Texas has erred, it has been through the information he received from the able and charming Senator from Alabama.

Mr. BANKHEAD. Mr. President, what I stated was in answer to the argument the Senator from Virginia had made before I took the floor.

Mr. CONNALLY. I wish to say one other thing, and this is also provoked by the Senator from Alabama.

Mr. BANKHEAD. The Senator from Texas seems to be in a state of mind easily provoked.

Mr. CONNALLY. I use the word in no offensive sense. What the Senator from Texas said was not said as any reflection on the Committee on Agriculture.

Mr. BANKHEAD. I recognize that. If the Senator will permit me, I was answering the Senator from Virginia, as he understood.

Mr. CONNALLY. I regard the Committee on Agriculture as having performed a very laborious piece of work in considering the pending bill. It is a bill which is so complicated, if I may use the term, so diverse in its provisions, that I know it entailed much study and a great deal of thought on the part of the committee, and I congratulate the committee. But after all, the Senate has to confirm what the committee does, and while we are all disposed to follow the recommendations of the committee that does not mean that the Senate is blindly to follow just what the committee did.

Mr. BANKHEAD. I have never asked that.

Mr. CONNALLY. If that were to be the rule, there would be no occasion for the Senate meeting. We could just pass our bills and resolutions in the committees. The Senator knows that frequently the Senate reverses a committee. What I had particularly in mind was the case of perishable fruits and vegetables upon which someone might fix a minimum price, and thereby harm, rather than benefit, might be brought about to the producer because if he could not sell them except at a minimum price he might not be able to sell them at all. That is what I had in mind in bringing to the attention of the Senator from Alabama the particular point in which I was interested.

Mr. BANKHEAD. I assure the Senator that nothing he said left an impression on my mind that he was criticising the committee, and my statements on that subject were in answer to statements of the junior Senator from Virginia [Mr. BYRD] earlier in the afternoon, about the "brain trusters" promoting the program.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. BANKHEAD. I yield.

Mr. BYRD. The Senator from Alabama has conveyed to the Senator from Virginia the information that the Department does not intend to control perishable fruits and vegetables. In view of that statement, I think it would be well if we could adjourn this afternon and see if suitable amendments could not be framed to prevent them doing what he says they are not going to do, but what the bill gives them the power to do.

Mr. BANKHEAD. I stated to the Senator that I thought we could agree on an amendment. The only difficulty is in getting an amendment which will clearly differentiate between perishable and nonperishable products.

Mr. BYRD. I will say to the Senator that every fruit is perishable and every vegetable is perishable.

Mr. BANKHEAD. Certainly, in the course of years.

Mr. BYRD. No; not in the course of years. In the course of a very short time fruits and vegetables are perishable.

Mr. BANKHEAD. Of course, if the Senator has in mind an amendment tending to destroy the bill, we cannot reach an agreement. I thought the Senator was trying to protect some very perishable products.

Mr. BYRD. The Senator from Alabama volunteered the information to me that he was willing to agree to such an amendment, and in accordance with that suggestion I am asking him to pass over the pending amendment and see if we cannot agree on an amendment. I am not asking the Senator to agree to it. I am willing to leave it to a vote of the Senate.

With respect to the "brain trusters", what I said was that nothing more absurd had ever originated in the fertile mind of any member of the so-called "brain trust" than the idea of fixing minimum prices for perishable fruits and vegetables.

Mr. BLACK. Mr. President, will my colleague yield?

Mr. BANKHEAD. I yield.

Mr. BLACK. I think it would be proper, before the Senator completes his remarks, to insert in the RECORD a quotation from the Supreme Court of the United States in the case of Champion against Ames. The Senator has very ably presented the legal aspects of this matter, and has asserted that Congress has the right to exercise police power in relation to interstate commerce. In the case of *Champion* v. *Ames* (188 U. S., p. 321) the Supreme Court said what I shall read in a short extract from their opinion:

> Congress, in exercising its constitutional power over interstate commerce, may adopt police regulation, as well as the States, and it has power to adopt not only means necessary but convenient to its exercise.

Mr. BANKHEAD. I thank the Senator.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. GEORGE. Is it the Senator's view that the Congress has general police powers, or mere power to protect the commerce itself?

Mr. BLACK. I can state that better by reading from another Supreme Court opinion.

Mr. GEORGE. I should like to know the Senator's view.

Mr. BLACK. I am going to give the Senator my view by reading from Mr. Justice Harlan as to just what power they have in that regard:

> That the power to regulate commerce is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States; that such power is plenary, complete in itself, and may be exerted by Congress to its utmost extent, subject only to such limitations as the Constitution imposes upon the exercise of the powers granted by it; and that in determining the character of the regulations to be adopted Congress has a large discretion which is not to be controlled by the courts simply because, in their opinion, such regulations may not be the best or most effective that could be employed.

It is my view, in line with those two opinions, that the Congress has the same right to regulate interstate commerce that the State has to regulate intrastate commerce, and that within the field necessary to exercise that power the Congress has the right to exercise a police power exactly as the State has the right to exercise a police power on commerce purely within the State.

Mr. GEORGE. I take it the Senator means that the Congress has general police power?

Mr. BLACK. No; I do not mean that.

Mr. GEORGE. That is what I thought.

Mr. BLACK. I mean that it has general police power with reference to the exercise of its constitutional power to regulate commerce between the States.

Mr. GEORGE. I take it the Senator means that the interstate-commerce clause, as we refer to it, gives to the Congress general police powers over interstate commerce.

Mr. BLACK. Over regulating interstate commerce among the States.

Mr. GEORGE. Mr. President, I merely wished to ascertain the Senator's view; and I take it that his colleague from Alabama takes the same general, broad position. I do not think there can be any question of doubt that the grant of a specific power gives to the Congress a special police power with respect to that thing, or a police power, if one wishes to put it in general terms.

Take the case of milk: If the commerce clause, applied to milk, carries with it generally the police power that we find in the States, or in an absolute sovereignty, then the power necessarily resides in Congress to make a criminal offense certain methods of feeding the cow or caring for the cow which produces the milk which goes into interstate commerce. That is not my idea at all. That is a general police power which resides in the State—there is no doubt of that—but that is not my idea at all of any true or proper interpretation of the police power which necessarily goes with the grant of the power to control and to prohibit interstate commerce.

The full power, whether we call it police power or not—it is rather an implied power—the full power goes with the grant to the Congress to protect interstate commerce. It may arrest people and strike down people in order to control it, but in no direct or definite or material way can it be said, in my judgment, that the price at which the article is sold really has anything to do with interstate commerce within the meaning of the implied power or the police power to regulate interstate commerce.

If, however, it be the theory of those who have drawn this proposed legislation that the grant of power—for instance, the power of Congress to regulate interstate commerce—carries with it the grant of police power in an unrestrained sense, then we can enter the backyard of every farmer in the United States who ships a pound of butter or a quart of milk, and we can say what he shall feed to his cow, because that can be done under the State law; we can say what care he shall give to the cow, for that can be done under the State law; we can regulate every miserable step up to the time the article goes into commerce, and until finally somebody consumes it in the State into which it has been sent.

I do not subscribe to that doctrine; but, if I did subscribe to it, I should rather go out of that door feet first than to vest the exercise of such power in any bureau or any division of Government in Washington.

Mr. BANKHEAD. Mr. President, I do not care to discuss the personal feelings of the Senator from Georgia. I ask unanimous consent to have published, in connection with my remarks at this point, the headnotes in the case of *Nebbia* v. *New York* (291 U. S.), at page 502.

The PRESIDING OFFICER (Mr. MCGILL in the chair). Without objection, it is so ordered.

The headnotes are as follows:

SYLLABUS

[*Nebbia* v. *New York* (291 U. S. 502). Appeal from the county court of Monroe County, N. Y. No. 531. Argued Dec. 4, 5, 1933. Decided Mar. 5, 1934]

1. As a basis for attacking a discriminatory regulation of prices, under the equal-protection clause of the fourteenth amendment the party complaining must show that he himself is adversely affected by it (p. 520).

2. A regulation fixing the price at which storekeepers may buy milk from milk dealers, at a higher figure than that allowed dealers in buying from producers, and allowing dealers a higher price than it allows storekeepers in sales to consumers, held consistent with the equal-protection clause of the fourteenth amendment because of the distinctions between the two classes of merchants (p. 521).

3. As part of a plan to remedy evils in the milk industry which reduced the income of the producer below cost of production and threatened to deprive the community of an assured supply of milk, a New York statute sought to prevent destructive price cutting by stores which, under the peculiar circumstances, were able to buy at much lower prices than the larger distributors and to sell without incurring delivery costs; and to that end an order of a State board acting under the statute fixed a minimum price of 10 cents per quart for sales by distributors to consumers and of 9 cents per quart for sales by stores to consumers. Held that, as applied to a storekeeper, the regulation could not be adjudged in conflict with the due-process clause of the fourteenth amendment, since, in view of the facts set forth in the opinion, it appeared not to be unreasonable or arbitrary or without relation to the purpose of the legislation (pp. 530 et seq.).

4. The use of private property and the making of private contracts are, as a general rule, free from governmental interference; but they are subject to public regulation when the public need requires (p. 523).

5. The due-process clause of the fourteenth amendment conditions the exertion of regulatory power by requiring that the end shall be accomplished by methods consistent with due process; that the regulation shall not be unreasonable, arbitrary, or capricious; and that the means selected shall have a real and substantial relation to the object sought to be attained (p. 525).

6. It results that a regulation valid for one sort of business, or in given circumstances, may be invalid for another sort, or for the same business under other circumstances, because the reasonableness of each regulation depends upon the relevant facts (p. 525).

7. The power of a State to regulate business in the public interest extends to the control and regulation of prices for which commodities may be sold, where price regulation is a reasonable and appropriate means of rectifying the evil calling for the regulation (pp. 531 et seq.).

8. There is no principle limiting price regulation to businesses which are public utilities, or which have a monopoly or enjoy a public grant or franchise (*Munn* v. *Illinois*, 94 U. S. 113; p. 531).

9. To say that property is "clothed with a public interest", or an industry is "affected with a public interest", means that the property or the industry, for adequate reason, is subject to control for the public good (pp. 531–536).

10. There is no closed class or category of businesses affected with a public interest; and the function of courts in the application of the fifth and fourteenth amendments is to determine in each case whether circumstances vindicate the challenged regulation as a reasonable exertion of governmental authority or condemn it as arbitrary or discriminatory (p. 536).

11. Decisions denying the power to control prices in businesses found not to be "affected with a public interest" or "clothed with a public use" must rest finally upon the basis that the requirements of due process were not met because the laws were found arbitrary in their operation and effect (p. 536).

12. So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a State is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose. The courts are without authority either to declare such policy or when it is declared by the legislature to override it. If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court functus officio (p. 537).

13. The legislature is primarily the judge of the necessity of such an enactment; every possible presumption is in favor of its validity, and though the court may think the enactment unwise, it may not be annulled unless palpably in excess of legislative power (p. 537).

14. If the law-making body within its sphere of government concludes that the conditions or practices in an industry make unrestricted competition an inadequate safeguard of the consumer's interests, produce waste harmful to the public, threaten ultimately to cut off the supply of a commodity needed by the public, or portend the destruction of the industry itself, appropriate statutes passed in an honest effort to correct the threatened consequences may not be set aside because the regulation adopted fixes prices—reasonably deemed by the legislature to be fair to those engaged in the industry and to the consuming public (p. 538).

15. This is especially clear where the economic maladjustment is one of price, which threatens harm to the producer at one end of the series and the consumer at the other (p. 538).

16. The Constitution does not secure to anyone liberty to conduct his business in such fashion as to inflict injury upon the public at large or upon any substantial group of people (p. 539).

17. Price control, like any other form of regulation, is unconstitutional only if arbitrary, discriminatory, or demonstrably irrelevant to the policy the legislature is free to adopt, and hence an unnecessary and unwarranted interference with individual liberty (p. 539; 262 N. Y. 259; 186 N. E. 694, affirmed).

Mr. MCCARRAN. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the proposed amendment will be received, printed, and lie on the table.

Mr. BLACK. Mr. President, it was not my intention to enter this discussion at all, except to read an extract from a Supreme Court decision.

I do not gather that the Senator from Georgia [Mr. GEORGE] has attacked the Supreme Court opinion. I see no reason for the emphatic and enthusiastic argument on matters which I did not at all suggest. I simply read a statement from the Supreme Court of the United States, which is the law of America. I recognize it as the law, and I think the Senate will recognize it as the law—a direct, unequivocal statement from a Supreme Court opinion. That opinion simply says, in substance, that there are certain powers given to the United States Congress. One of those powers is the power to regulate interstate commerce.

The States have the power to regulate intrastate commerce. Where that line is to be drawn, I am convinced largely depends upon the decision in each separate Supreme Court case. It is practically a question of fact. At least, one who studies the opinions of the Supreme Court on this highly controversial subject must reach that conclusion.

I do not withdraw my opinion that the Supreme Court of the United States was right when it said, in the case from which I read and in five other opinions rendered by that Court, that the Congress of the United States, in exercising its power under the interstate commerce clause, has the right in that connection to exercise a police power. I do not state exactly every transaction that is interstate and intrastate. I have my own ideas about what the Constitution meant when it gave to the Congress the right to regulate interstate commerce. I believe it meant what the early opinions said—that the Congress of the United States had the right to regulate interstate commerce as fully and completely as though it were one Nation and there were no State lines. I am not now referring to intrastate commerce, but to interstate commerce; and certainly no one can state that that would mean that the Congress had a right to go into the back door of every farmer in America and determine exactly when the farmer's wife should milk her cow and when she should churn her butter.

It is my opinion that the Supreme Court will eventually return to the early opinions written by the courts of the country and hold that with reference to the regulation of interstate commerce—not intrastate, not butter that is churned and sold to the next-door neighbor, but with reference to interstate commerce—Congress has the right, just as was said in the case to which I referred, in carrying out its authority under the commerce clause, to regulate that commerce the same as though it were one nation, as it is. If not, who has the right to regulate it?

No power within the boundaries of this Government except the Congress of the United States has the right to regulate a single thing that moves in interstate commerce. If it be not true that the Congress has that unrestricted right to regulate interstate commerce, then it is true that the power is left suspended in mid-air and nobody has the right to exercise it. It was intended to give that full and complete power.

I simply read the opinion because my colleague had made what I conceived to be a very logical argument. I did not argue the policy of the situation for which my colleague has spoken. I did not even intimate I was for or against the policy. I did say, as he had argued, that the Supreme Court of the United States has held that in the regulation of intrastate commerce the State had a police power which authorized it to fix prices.

Who has the power to regulate interstate commerce? The Congress. Who has the power to carry out the police power under that constitutional provision? The Congress. If the State has a right under the police power to fix the prices within the State on purely intrastate transactions, and if the Congress has the same right to exercise the police power with reference to interstate commerce that the State has with reference to intrastate commerce, there is no one who has logic enough or force enough or power enough to convince me that the Congress has not the right to enact price-fixing legislation under the constitutional provision. Whether that is a good policy or not, I make no statement at all.

Mr. SMITH. Mr. President, I want to make a statement with reference to the two paragraphs which have consumed the afternoon in the way of legal argument which I hope will be or has been settled to the satisfaction of all Senators. I think we all now understand just exactly what we understood before the argument began.

These two paragraphs have reference more to the cooperatives than to anything else. The Senator from North Carolina [Mr. BAILEY] asked me if these paragraphs do not pertain to the fostering of cooperative marketing. They do, but with this distinction: Heretofore every attempt at cooperative marketing has been a failure because the quantity handled by the cooperatives was so small and insignificant that they were bound to fail.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. SMITH. Not until I get through with this explanation.

It is proposed in both paragraphs with reference to the handling that when the producers handle 50 percent with the assistance of the Government, then they may fix a minimum price in favor of the producer. That is all both sections mean.

Mr. BAILEY. The second section provides for organization of cooperatives of the producers.

Mr. SMITH. Yes; if the organization or association, or whatever is set up, has 50 percent or more of any given product.

Mr. BYRD. Mr. President, will the Senator yield now?

Mr. SMITH. I yield.

Mr. BYRD. The first section has nothing whatever to do with cooperatives. It does not mention cooperatives. It refers to where purchases are made by handlers to the extent of 50 percent. It is only the second section that refers to cooperatives.

Mr. SMITH. But the first section has to do with the handlers of 50 percent of any given commodity—that is, those who will distribute it.

Mr. BAILEY. The handlers as a group.

Mr. SMITH. Exactly. That means the handlers of 50 percent of the commodity may fix a minimum price, but not otherwise. That is to guarantee success. They must have 50 percent because otherwise, without doubt, all efforts would prove a failure, as they have in the past.

As to all the discussion this afternoon as to constitutionality, and so forth, the two paragraphs are predicated upon a voluntary agreement among the producers——

Mr. BYRD. After my amendment shall have been adopted. The bill provides at present that 50 percent of the handlers may impose licenses upon the producers.

Mr. SMITH. Oh, no; not at all. If it will relieve the Senator's mind, I think his amendment is a pretty good one, because I thought the paragraph was drawn in a rather slovenly way, but still I thought the context was sufficient to care for it. The words "and a certain percent of the producers" have nothing to do with the object of the two paragraph, and especially paragraph (G), which recognizes that all cooperation heretofore has failed because there was not at least a majority of the products in the control of the producers.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BAILEY. Am I perfectly safe in assuming that the benefits of the minimum price-fixing for producers will not be available except upon the sale of 50 percent of the volume of the commodity—in this case tobacco?

Mr. SMITH. Yes.

Mr. BAILEY. "By an association or associations of producers"? That is the language of the bill.

Mr. SMITH. Yes; and that is its object.

Mr. BAILEY. "Or otherwise for the account of producers"?

Mr. SMITH. Yes.

Mr. BAILEY. I confess I do not quite understand that phrase "or otherwise for the account of producers."

Mr. SMITH. I take it that it means that wherever the producers select even a commission merchant, he may act in lieu of the cooperative.

Mr. BAILEY. That would mean they would get together in a group to sell 50 percent?

Mr. SMITH. The Senator is right.

Mr. BAILEY. Or all producers who are also handlers could get together and become handlers to do it, but it would have to be 50 percent?

Mr. SMITH. Yes; and all of it to the benefit of the producer, recognizing that the small amount handled heretofore has been the cause of the disaster to which the Senator from North Carolina referred and of which perhaps he was a victim, as I was personally, but I was doing the best I could to try to get enough of them together to control a majority of the products for the benefit of the producers.

We have a proposition here that, if a majority do come in, they may mutually agree and fix a minimum price with the Government's aid. That is all there is to it. The discussion this afternoon has been very enlightening, but very annoying to the chairman of the committee.

Mr. FLETCHER. Mr. President, may I ask the Senator a question at that point?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Florida?

Mr. SMITH. I do.

Mr. FLETCHER. I should like to ask the Senator just how this provision would operate; just what would be the procedure? If a minimum price should be fixed, how would it be enforced? How would it affect the producer to tell him that the minimum price for his product is so-and-so?

Mr. SMITH. They would get together, and a majority of those handling more than 50 percent of any given product would determine that in the movement of interstate commerce a certain price was the price upon which they had agreed. Then an order would be issued that not less than that should be paid the producer.

Mr. FLETCHER. Suppose there should not be any buyers at that figure?

Mr. SMITH. Well, suppose we had not anything to sell. We can suppose anything.

Mr. FLETCHER. But that is a very practical question. Suppose the price of grapefruit, say, were fixed at such and such a figure, and suppose nobody should be willing to pay that price.

Mr. SMITH. Let me ask the Senator, Who now fixes the price of the grapefruit of Florida?

Mr. FLETCHER. It is fixed by competition in the markets.

Mr. SMITH. Yes. Well, we have seen the results of competition in the markets. Do the Florida growers have anything to say about it? Does the Senator state before the Senate that the growers in Florida personally have any voice in fixing the price of their grapefruit?

Mr. FLETCHER. I am afraid they do not. It is a question of demand.

Mr. SMITH. Exactly; but if one of us goes downtown in Washington and undertakes to buy some grapefruit, certainly there is a fixed price there. Why not give the producers an opportunity to come in and at least fix a price which will insure a reasonable return for their fruit in the first hand, and have the Government cooperate with them in obtaining it?

Mr. FLETCHER. What I am trying to ascertain is, in case a minimum price should be fixed, and the product would not bring that price on the market, would the Government pay for it?

Mr. BANKHEAD. Mr. President, let me say to the Senator that those fixing the price doubtless would not fix a price at which the product would not move; but, if they should do so, they could change it in 3 days.

Mr. SMITH. Let me ask the Senator from Florida a question. If a majority of the producers of the citrus fruit of Florida, which the public needs—and, God knows, they pay the price for it when it reaches here!—if 50 percent or more, by the consent of the growers, could get together and agree under the terms of this bill, on a price, and if then the Government would undertake, in the movement in interstate commerce, to say to the handlers in the course of interstate commerce, "You must give not less than that", does not the Senator believe that would be beneficial to his growers?

Mr. FLETCHER. I think very likely it would be; but does that involve the Government's controlling the amount of fruit that each shipper may ship?

Mr. SMITH. That will be done only by consent of the growers. If the Senator will read the bill he will find that the endeavor is to make all these provisions, wherever practicable, subject to the consent of the majority of the growers. The Government is trying to stand in lieu of organizations for the benefit of the growers.

Mr. FLETCHER. I realize the difficulties with which a grower now has to contend. I happen to be a small grower of grapefruit, and I sold my crop for 14 cents a box on the tree.

Mr. SMITH. And I give 5 and 10 cents a grapefruit here.

Mr. FLETCHER. Otherwise, if I should ship it, I should have to pay the cost of picking, the cost of packing, the cost of hauling, the cost of freight, the selling agent's charges, and then take what was left. In other words, the grower is working for everybody but himself.

Mr. SMITH. Exactly.

Mr. FLETCHER. I should like to see that situation changed, if possible.

Mr. SMITH. Let me ask the Senator a question. Suppose a majority of the grapefruit growers should get together and agree that a certain minimum price would give them a reasonable return for growing, and the Federal Government should say, "As far as we have the constitutional power to enforce that agreement in the channels of interstate commerce, we will do it." Would not the growers agree to it?

Mr. FLETCHER. I should think that would be very fair, very reasonable.

Mr. SMITH. That is all this bill does.

Mr. FLETCHER. But I am still puzzled about how the Government is going to enforce such a minimum price. If the demand is not there, the Government is not going to make good the minimum price; and in order to create the demand the supply must be regulated in some way. The Government would have to say how much fruit the market would take.

Mr. SMITH. Either the Government or the growers. I think the growers would be the ones to do it, and under the terms of the bill they might do it.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 239. An act for the relief of the Barlow-Moore Tobacco Co.;

S. 312. An act for the relief of Lillian G. Frost;

S. 377. An act to grant to the Utah Gilsonite Co. the right to use a water well on certain public lands in Utah;

S. 428. An act authorizing adjustment of the claim of Korber Realty, Inc.;

S. 475. An act for the relief of Mrs. George F. Freeman;

S. 780. An act for the relief of the Standard Dredging Co.;

S. 1036. An act authorizing adjustment of the claim of Dr. George W. Ritchey;

S. 1054. An act authorizing adjustment of the claim of White Bros. & Co.;

S. 1099. An act for the relief of Ethel G. Remington;

S. 1290. An act for the relief of Walter Motor Truck Co., Inc.;

S. 1446. An act for the relief of Knud O. Flakne;

S. 1447. An act for the relief of Mary C. Moran;

S. 1498. An act for the relief of Robert D. Baldwin;

S. 1499. An act for the relief of Robert J. Enochs;

S. 1566. An act for the relief of Carl C. Christensen;
S. 1872. An act for the relief of Guy Clatterbuck;
S. 2292. An act for the relief of Emanuel Wallin; and
S. 2487. An act for the relief of the Western Electric Co., Inc.

NATIONAL PULP AND PAPER REQUIREMENTS IN RELATION TO FOREST CONSERVATION (S. DOC. NO. 115)

The PRESIDING OFFICER (Mr. McGILL in the chair) laid before the Senate a letter from the Secretary of Agriculture, submitting a report on the national pulp and paper requirements in relation to forest conservation, in response to Senate Resolution 205, Seventy-third Congress (submitted by Mr. HALE), which was referred to the Committee on Agriculture and Forestry and ordered to be printed, with illustrations.

LT. COMDR. G. C. MANNING

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 884) for the relief of Lt. Comdr. G. C. Manning, which were on page 1, line 6, to strike out "as reimbursement" and insert "in full settlement of all claims against the United States"; and on page 1, line 8, after "New York" to insert ": *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

Mr. WALSH. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. McGILL in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations (and also withdrawing the nominations of two postmasters), which were referred to the appropriate committees.

(For nominations this day received and nominations withdrawn, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. KING, from the Committee on the Judiciary, reported favorably the following nominations:

Nathan Cayton, of the District of Columbia, to be a judge of the municipal court, District of Columbia (reappointment);

George C. Aukam, of the District of Columbia, to be a judge of the municipal court, District of Columbia (reappointment);

Walter J. Casey, of the District of Columbia, to be a judge of the police court, District of Columbia, to succeed Ralph Given, term expired; and

Ellen K. Raedy, of the District of Columbia, to be a judge of the municipal court, District of Columbia, to succeed Mary O'Toole, term expired.

Mr. McCARRAN, from the Committee on the Judiciary, reported favorably the nomination of John W. Preston, of Oakland, Calif., to be special counsel to prosecute certain proceedings (vice William C. Morrow, deceased), employed under the provisions of Public Resolution No. 6, approved February 21, 1924.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

He also, from the Committee on Appropriations, reported favorably the nominations of the following persons for appointment as State administrators in the Works Progress Administration:

Thad Holt, for Alabama.
W. R. Dyess, for Arkansas.
Frank Y. McLaughlin, for California.
Matthew J. Daly, for Connecticut.
J. L. Hood, for Idaho.
Wayne Coy, for Indiana.
Evan Griffith, for Kansas.
George H. Goodman, for Kentucky.
John H. Mackall, for Maryland.
Harry Lynn Pierson, for Michigan.
Wayne Alliston, for Mississippi.
Victor Christgau, for Minnesota.
Matthew S. Murray, for Missouri.
D. F. Felton, for Nebraska.
William H. J. Ely, for New Jersey.
Lea Rowland, for New Mexico.
Lester Herzog, for New York.
G. W. Coan, Jr., for North Carolina.
Thomas H. Moodie, for North Dakota.
E. J. Griffith, for Oregon.
Edward N. Jones, for Pennsylvania.
Lawrence Pinckney, for South Carolina.
M. A. Kennedy, for South Dakota.
Harry S. Berry, for Tennessee.
H. P. Drought, for Texas.
William A. Smith, for Virginia.
George H. Gannon, for Washington.
J. Burleigh Cheney, for Rhode Island.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the calendar is in order.

THE JUDICIARY

The legislative clerk read the nomination of John Dickinson, of Pennsylvania, to be an Assistant Attorney General.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk read the nomination of Andrew J. Roper to be postmaster at Saltillo, Miss.

The PRESIDING OFFICER. This nomination is reported adversely.

Mr. McKELLAR. I ask that it be rejected.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination? [Putting the question.] The noes have it, and the nomination is rejected.

Mr. McKELLAR. I ask that the remaining nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the remaining nominations of postmasters are confirmed en bloc.

IN THE ARMY

The legislative clerk proceeded to read sundry nominations in the Army.

Mr. SHEPPARD. I ask that the Army nominations be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the Army nominations are confirmed en bloc.

IN THE MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the Marine Corps.

Mr. ROBINSON. I make the same request with respect to the nominations in the Marine Corps.

The PRESIDING OFFICER. Without objection, the nominations in the Marine Corps are confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock p. m.) the Senate, in legislative session, took a recess until tomorrow, Tuesday, July 16, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 15 (legislative day of May 13), 1935

AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY

Hoffman Philip, of New York, now Envoy Extraordinary and Minister Plenipotentiary to Norway, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Anthony J. Drexel Biddle, Jr., of Pennsylvania, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Norway.

CONSUL GENERAL

Cornelius Van H. Engert, of California, now a Foreign Service officer of class 3 and a secretary in the Diplomatic Service, to be also a consul general of the United States of America.

UNITED STATES ATTORNEY

Cleon A. Summers, of Oklahoma, to be United States attorney, eastern district of Oklahoma, vice W. F. Rampendahl, resigned.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

TO ADJUTANT GENERAL'S DEPARTMENT

Maj. Lathrop Boyd Clapham, Infantry (detailed in Adjutant General's Department), with rank from July 1, 1920.

TO FIELD ARTILLERY

Second Lt. James Rhoden Pritchard, Infantry, with rank from June 13, 1933.

TO INFANTRY

Lt. Col. Robert Ross Welshmer, Coast Artillery Corps, with rank from October 1, 1933.

TO AIR CORPS

First Lt. Clayton Earl Hughes, Field Artillery (detailed in Air Corps), with rank from October 1, 1934.

Second Lt. John Bevier Ackerman, Coast Artillery Corps (detailed in Air Corps), with rank from June 10, 1932.

Second Lt. Edward Joseph Hale, Field Artillery (detailed in Air Corps), with rank from June 13, 1933.

PROMOTION IN THE REGULAR ARMY

DENTAL CORPS

To be captain

First Lt. John Kenneth Sitzman, Dental Corps, from July 8, 1935.

PROMOTIONS IN THE NAVY

MARINE CORPS

Maj. Clifton B. Cates to be a lieutenant colonel in the Marine Corps from the 1st day of July 1935.

First Lt. Clarence J. Chappell, Jr., to be a captain in the Marine Corps from the 30th day of June 1935.

Second Lt. Frederick B. Winfree to be a first lieutenant in the Marine Corps from the 9th day of March, 1935.

Second Lt. Ernest R. West to be a first lieutenant in the Marine Corps from the 29th day of March 1935.

The following-named second lieutenants to be first lieutenants in the Marine Corps from the 2d day of June 1935:

Robert R. Porter	Harvey C. Tschirgi
Marvin T. Starr	Paul J. Shovestul
Julian G. Humiston	Cleo R. Keen
William K. Enright	

CONFIRMATIONS

Executive nominations confirmed by the Senate July 15 (legislative day of May 13), 1935

ASSISTANT ATTORNEY GENERAL

John Dickinson to be an Assistant Attorney General.

APPOINTMENTS IN THE REGULAR ARMY

Oscar John Ogren to be first lieutenant, Dental Corps.

Marion Lawerance Mills to be first lieutenant, Dental Corps.

APPOINTMENT BY TRANSFER IN THE REGULAR ARMY

First Lt. William Peyton Campbell to Finance Department.

Second Lt. Thomas de Nyse Flynn to Coast Artillery Corps.

Second Lt. Charner Weaver Powell to Coast Artillery Corps.

PROMOTIONS IN THE REGULAR ARMY

Robert Charlwood Richardson, Jr., to be colonel, Cavalry.

Francis Webster Honeycutt to be colonel, Field Artillery.

Jay Leland Benedict to be colonel, Infantry.

Julian Sommerville Hatcher to be lieutenant colonel, Ordnance Department.

Benjamin Lafayette Carroll to be lieutenant colonel, Field Artillery.

Bernard Robertson Peyton to be lieutenant colonel, Field Artillery.

Chambord Henry St. Germain to be major, Infantry.

Hardy Pate Browning to be major, Signal Corps.

John Webster Llufrio to be major, Quartermaster Corps.

Joseph Vincil Phelps to be captain, Field Artillery.

Charles Norton McFarland to be captain, Field Artillery.

Charles Alvin Pyle to be captain, Field Artillery.

John Ray Hardin to be captain, Corps of Engineers.

Maurice Place Chadwick to be captain, Field Artillery.

William Alexander Schulgen to be first lieutenant, Air Corps.

Daniel Beckett White to be first lieutenant, Air Corps.

Donald Harvey Baxter to be first lieutenant, Air Corps.

Samuel Oswald Redetzke to be first lieutenant, Air Corps.

Roy Thomas Wright to be first lieutenant, Air Corps.

Frank Anthony Minas to be captain, Medical Corps.

Henry Schuldt Murphey to be captain, Medical Corps.

Carl Robert Darnall to be captain, Medical Corps.

George Merle Powell to be captain, Medical Corps.

Charles Henry Morhouse to be captain, Medical Corps.

John Lemoin Crawford to be captain, Medical Corps.

PROMOTIONS IN THE NAVY

MARINE CORPS

To be colonels

Paul A. Capron	Edward A. Ostermann
John Potts	John Marston

To be lieutenant colonels

David L. S. Brewster	Thomas E. Bourke
Harold S. Fassett	LeRoy P. Hunt
James T. Moore	

To be majors

David R. Nimmer	Harold D. Shannon
Gus L. Gloeckner	Prentice S. Geer

To be captains

Reginald H. Ridgely, Jr.	John D. Muncie
Caleb T. Bailey	William E. Burke

POSTMASTERS

ARIZONA

Wilcie G. Hoel, Peoria.

John Murray, Snowflake.

Burt Fox, Wickenburg.

ARKANSAS

Isaac Franklin Jennings, Leslie.

CALIFORNIA

Albert H. Spengel, North Hollywood.

DELAWARE

Harry K. Heite, Dover.

ILLINOIS

Floyd Wells, Barry.
Everett Sherman Howell, Bluford.
Frank M. Bradley, Geneseo.
Charles Clark Angle, Hillview.
Robert E. Gamble, Kirkwood.
William D. Newcomer, Leaf River.
James Carson, Mahomet.
William D. Milnes, Maroa.
Ellis J. O'Daniel, New Lenox.
Joseph L. Lynch, Oak Park.
Jacob A. Hirsbrunner, Olivet.
Florence Myrtle Allison, Onarga.
Raymond L. Modro, Varna.
Audrey U. Banks, Willow Springs.
Anthony V. Wallace, Windsor.

INDIANA

Joseph A. McCormick, Ambia.
Liza A. Leonard, Birdseye.
Neola S. True, Demotte.
Norma L. A. Koerner, Huntingburg.
William S. Courtney, Jamestown.
Alton Byrd, Ladoga.
Stella Cisco, Madison.

KANSAS

Ralph A. Ward, Alden.
Elmer E. Howerton, Blue Mound.
Ralph Russell, Hutchinson.
Joseph Earl Begley, La Cygne.
Moses P. Davis, Madison.
William R. Jones, Reading.
Wendel J. Schulte, Westphalia.

KENTUCKY

Charles W. Hardin, Crestwood.
Mildred Fiechter, Cumberland.
Robert E. Wallace, Greenville.
Oscar D. Smith, Jamestown.
Verna A. Applegate, West Point.

MASSACHUSETTS

Francis H. Nolan, Avon.
Matthew M. Daley, Brookfield.
William F. Whitty, Canton.
Patrick H. McIntyre, Clinton.
James D. Sullivan, Danvers.
J. Francis Currie, East Bridgewater.
Stephen E. Malone, East Long Meadow.
Edmund C. Tyler, Great Barrington.
George L. Magner, Hingham.
P. Victor Casavant, Natick.
David J. Templeton, North Cohassett.
William F. Goodwin, Plymouth.
William F. Ring, Sharon.
Myrtice S. King, Upton.
Mary M. Hill, West Groton.
Thaddeus B. Fenno, Westminster.
Myra G. Jordan, West Upton.

MICHIGAN

Verne R. Moran, Carney.

MISSISSIPPI

Samuel N. Shelton, Alcorn.
Christopher R. Berry, Benton.
Sarah R. Lee, Carrollton.
Anice N. Graves, Houlka.
Boyd D. McMillin, Louisville.
Billie B. Boyd, McCool.
Ethel Young, Nettleton.
Mary G. Flowers, Roxie.
Conon D. Hawkins, Vardaman.
Francis C. Hayden, Vaughan.
Oliver W. Catchings, Woodville.

NEW JERSEY

Jacob Howard Crane, Clayton.
John Schuemann, Jr., Hoboken.
Thomas L. Kelley, Paterson.

NEW YORK

William R. Kraft, Kingston.
Glenn C. Edick, Lacona.
Wesley Terry Howland, Leonardsville.
John V. Collard, North Collins.
Margaret A. Dowd, Salamanca.
James Arthur Egan, Sherrill.

NORTH CAROLINA

John R. Teague, Henderson.
Eugene J. Johnson, Wallace.

OREGON

Mark A. Hill, Bay City.
Reginald C. Cooke, Oswego.
Blanche A. Wood, Rockaway.

TENNESSEE

Hugh E. Davenport, Crossville.
Clarence V. Wallace, Jamestown.
Maude E. Pemberton, Lancing.
Sidney Earl Prosser, Lewisburg.

TEXAS

William G. Bryan, Avery.
John Gilliland, Baird.
Harvey L. Pettit, Bloomburg.
Louise H. Clark, Blossom.
Alpha R. Garton, Booker.
Albert H. Loyless, Burleson.
Nettie Duncan, Celeste.
Luther H. McCrea, Cisco.
Wordsworth T. Grogan, Coolidge.
Rilious L. Scott, De Leon.
Frank A. Jones, Eastland.
Marvin B. Smith, Farmersville.
Emmett W. Pack, Garrison.
Spencer Boyd Street, Graham.
Henry W. Haynie, Kemp.
Jennie R. Goodman, Laredo.
Stephen E. Fitzgerald, Miami.
William E. McClintock, Mount Pleasant.
James L. Noel, Pilot Point.
Edmund Herder, Shiner.
Bluford Warren Dodson, Snyder.
Thelma H. Bowen, Sweetwater.
Grady W. Hodges, Whitesboro.
Oscar W. Stone, Wolfe City.

VIRGINIA

Forrest L. Harmon, Melfa.
Grover T. Huffman, Newcastle.
Garnett A. Kellam, Onley.

WISCONSIN

Floyd A. Pollard, Kendall.

REJECTION

Executive nomination rejected by the Senate July 15 (legislative day of May 13), 1935

POSTMASTER

MISSISSIPPI

Andrew J. Roper, Saltillo.

WITHDRAWALS

Executive nominations withdrawn from the Senate July 15 (legislative day of May 13), 1935

POSTMASTERS

DELAWARE

Fred E. Gebhart to be postmaster at Hockessin, in the State of Delaware.

NEW YORK

Hazel Markle to be postmaster at Minnewaska, in the State of New York.

HOUSE OF REPRESENTATIVES

MONDAY, JULY 15, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou whose hand hath fashioned the world, and whose infinite breath quickens it, we praise Thee for the grounds of divine sovereignty. We would renew our strength, and even have the adverse things work for our good. Heavenly Father, day by day let us drink from the fountain eternal, daily feed on the heavenly manna, and may we neglect no means that shall instruct and help us. Let this be our prayer and spirit: "Thou shalt guide me with Thy counsel and afterward receive me into glory." Blessed Lord God, may we not lose the full direction nor miss the providential way. After a while shepherd us into Zion; bring us to the "city of habitation" and to everlasting glory. In the name of our Savior. Amen.

The Journal of the proceedings of Friday, July 12, 1935, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate insists upon its amendments to the bill (H. R. 6453) entitled "An act to amend the act of May 13, 1924, entitled 'An act providing for a study regarding the equitable use of the waters of the Rio Grande', etc., as amended by public resolution of March 3, 1927", disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PITTMAN, Mr. CONNALLY, and Mr. JOHNSON to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 239. An act for the relief of the Barlow-Moore Tobacco Co.; and

S. 780. An act for the relief of the Standard Dredging Co.

SMUGGLING OF ALIENS INTO THE UNITED STATES

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes, and at the conclusion I should like to offer a resolution for consideration.

The SPEAKER. The gentleman from New York asks unanimous consent to address the House for 5 minutes. Is there objection?

Mr. TRUAX. Reserving the right to object, I did not understand the request.

The SPEAKER. The gentleman from New York [Mr. DICKSTEIN] asks unanimous consent to address the House for 5 minutes. Is there objection?

There was no objection.

Mr. DICKSTEIN. Mr. Speaker, at the conclusion of my remarks I propose to offer a resolution, House Resolution 271, which in substance will permit the Committee on Immigration and Naturalization, seven members of which committee are to be appointed by the Speaker, to make an investigation of the smuggling of aliens along the borders.

Mr. BLANTON. Will the gentleman yield?

Mr. DICKSTEIN. Yes; I yield.

Mr. BLANTON. We granted unanimous consent to the gentleman to speak for 5 minutes. There was no consent granted the gentleman to offer any resolution, so his resolution would not be in order.

Mr. DICKSTEIN. In the last 2 or 3 years a number of witnesses have come before our committee and given us some information of an alleged international smuggling ring over the Mexican border and over the Canadian border. The border patrol was created by this Congress in 1924. From information and figures, unofficial, we find there has been quite an international smuggling ring across the border.

Mr. RANKIN. Will the gentleman yield?

Mr. DICKSTEIN. I yield.

Mr. RANKIN. The gentleman says they have found a great deal of smuggling across the Mexican border. What were they smuggling? Were they smuggling Mexicans or other people; and if so, who were they?

Mr. DICKSTEIN. Smuggling Mexicans, and at the same time throwing over our border a number of Chinese who were smuggled into Mexico. They threw them over onto our side of the border.

Mr. RANKIN. That is what I thought.

Mr. BLANTON. We have known that for 50 years. Every month for 50 years we have known that.

Mr. DIES. Will the gentleman yield?

Mr. DICKSTEIN. I yield.

Mr. DIES. Is the gentleman aware of the fact that on June 11 the Bureau of Immigration and Naturalization applied to the P. W. A. for $5,000,000 for the purpose, among other things, of increasing the patrol force along the border, and in the application the Bureau of Immigration stated they only had 800 people to patrol the entire borders, and that there was practically no protection against anyone coming across the border who saw fit?

Mr. DICKSTEIN. I am aware of that, but we need more than that. We want to come back to this Congress prepared to recommend legislation that will properly protect the border. Money will not do it. We must have either a reorganization of the border patrol or we must devise some means by which we can safely say that we have a border patrol. In the last number of years 24 of our men were killed in cold blood on that border. In the last few years every restrictionist who came before the committee stated that there was a group of smugglers along that border. I believe the committee in charge of this legislation should be given an opportunity to get first-hand information and find out what is wrong with our border.

Mr. BLANTON. All on God's earth the gentleman needs to do is to go back and call his committee together and vote out some of the bills that are before his committee which stops this foreign immigrant business. It takes legislation but not money.

Mr. DICKSTEIN. I wish the gentleman from Texas would get this into his head——

Mr. BLANTON. I have got more in my head than the gentleman will ever have in his.

Mr. DICKSTEIN. The gentleman can get something more into his head. I do not know what he has in his head, but we can pass all the laws we want to, we can pass all the restrictions we want to, and we are not going to stop certain people doing wrong things.

Mr. BLANTON. I do not have any sympathy in my head for any foreigners who are crossing our borders. I want to stop them.

Mr. DICKSTEIN. I thought the gentleman would support me.

Mr. MILLARD. Mr. Speaker, a point of order.

Mr. DICKSTEIN. I thought the gentleman would support me.

Mr. MILLARD. The gentleman from Texas [Mr. BLANTON] knows the parliamentary rules of this House, and he is constantly breaking them.

The SPEAKER. The House will please be in order.

Mr. DICKSTEIN. On the northern boundary of continental United States we have 3,987 miles. On the southern border we have 2,014 miles. There are only 650 men to protect that border.

The SPEAKER. The time of the gentleman from New York has expired.

EXTENSION OF REMARKS

Mr. COLDEN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a petition to the President by the Utopian Society of America.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. TABER. Reserving the right to object, I did not understand the request.

Mr. COLDEN. I asked permission to include in my extension a petition of the Utopian Society of America. This is my request.

Mr. TABER. Mr. Speaker, I object.

JACK PAGE

Mr. HUDDLESTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 298) for the relief of Jack Page, with a Senate amendment, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read as follows:

Line 9, strike out all after "1898" down to and including "1898", in line 12.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

LAKE B. MORRISON

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 617) for the relief of Lake B. Morrison, with a Senate amendment, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read as follows:

Amend the title so as to read "An act for the relief of Lake B. Morrison."

The Senate amendment was concurred in.

The motion to reconsider was laid on the table.

ORDER OF BUSINESS

Mr. WARREN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WARREN. Is the Chair in a position to state what suspensions will be called today, and at what hour they will be taken up?

The SPEAKER. Not exactly, but not before 3:30. The Chair is not in a position to tell the gentleman what bills will be called up under suspension.

PERMISSION TO ADDRESS THE HOUSE

Mr. BLANTON. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

Mr. RICH. Mr. Speaker, reserving the right to object, I was just wondering in my own mind what the suspensions are going to be or what the "must" legislation is going to be for the week.

The SPEAKER. The Chair does not have any information whatsoever regarding any "must" legislation. [Applause.] The Chair just stated to the gentleman from North Carolina that the Chair was not in a position to advise what bills will be called up under suspension of the rules.

Mr. TAYLOR of Colorado. Mr. Speaker, reserving the right to object, I should like to say to the House that some 6 or 8 gentlemen want to speak this morning for periods ranging from 5 to 35 minutes. I should like to inquire of the House whether the House wants to consider the Consent Calendar or hear speeches?

Mr. BLANTON. I have asked for only 2 minutes, a very little time.

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Colorado. I yield.

Mr. SNELL. Members on this side are ready to proceed with the Consent Calendar. If we are going to consider it, we had better get started on it pretty soon.

Mr. TAYLOR of Colorado. Mr. Speaker, I shall not object to a Member speaking for so short a time as 2 minutes or even 5 minutes, but anything longer than that I think we ought not to permit, because Members on both sides are ready to take up the Consent Calendar; and I understand that later certain bills will be called up under suspension of the rules. I do not like to assume the responsibility of objecting to speeches; nevertheless, it seems to me some work ought to be done.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Colorado. I yield.

Mr. MICHENER. Why can we not proceed with the consideration of the Consent Calendar and wind up the day hearing these speeches? Those Members who want to hear speeches can stay after we complete the Consent Calendar and the suspensions.

Mr. JENKINS of Ohio. Mr. Speaker, reserving the right to object, inasmuch as the gentleman from Texas so rarely talks, I am not going to object to his request, but I shall object to other requests.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BLANTON. Mr. Speaker, it is absolute foolishness for the gentleman from New York [Mr. DICKSTEIN] to talk about appropriating money to investigate communism or to investigate aliens. We have had enough of that. We do not need to waste more dollars investigating.

If he really wants to stop immigration, all on earth the gentleman from New York need do, if he is as much concerned about the subject as I am, is to call his committee together and report out some of the pertinent and necessary bills that are now pending before his committee. He has plenty of such bills before his committee. If he would report some of those bills out he could have them enacted into law very quickly. This is the way to stop it.

Why, we have known about these Mexicans coming across the Rio Grande for 50 years; we have known about Chinamen coming across there; we have known about Japs coming across there; we have known for many years about foreigners from every country in the world coming across the Rio Grande. I have been trying to get Chairman DICKSTEIN to stop it. I have been trying my best to get the gentleman from New York to report out these needed bills ever since he has been chairman of this committee, but without avail; it has been futile.

I repeat, it is absolutely foolish for him to talk about wasting money on any more investigations. Let us get busy and do something to stop these immigrants, I say to my friend from New York.

Money appropriated for another investigation would be nothing in the world but another wasteful, fruitless junket. Not one new fact would be brought to light. Not one thing would be learned that we do not already know. We know all about the subject. We are thoroughly posted on it.

The time has come for us to stop these immigrants from coming here from foreign countries and taking the jobs away from our American citizens. The time has come for us to require aliens to register, and to deport them when they refuse to become good citizens. The time has come for us to deport all Communists. All it takes is a bill to be reported and passed. As chairman of the committee, the gentleman from New York [Mr. DICKSTEIN] can report such a bill out of his committee immediately, if he wants to do so. Then why does not he do so? We cannot stop it until he does report a bill. We could spend all of the money in the Treasury investigating and yet not stop one immigrant and not deport one Communist until we pass a bill that will accomplish it.

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that on tomorrow morning, after the reading of the Journal and disposition of business on the Speaker's table, I may be allowed to address the House for 20 minutes.

Mr. FISH. Mr. Speaker, reserving the right to object, may I inquire upon what subject the gentleman from Texas desires to speak for 20 minutes?

Mr. PATMAN. I wanted to talk about the gentleman's petition to discharge the Committee on Appropriations from further consideration of his resolution.

Mr. FISH. I should like to join in that request for 20 minutes, following the gentleman from Texas.

The SPEAKER. The gentleman from New York cannot interpose a request on the request made by the gentleman from Texas. He will have to make his request separately.

Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, I shall have to object unless I can secure 20 minutes.

Mr. PATMAN. I will not object to the gentleman from New York proceeding, but I cannot grant him that time.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FISH. Mr. Speaker, after the reading of the Journal and the disposition of business on the Speaker's table, and at the conclusion of the speech of the gentleman from Texas tomorrow morning, I ask unanimous consent to address the House for 20 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PUBLIC UTILITY ACT OF 1935—ALSO CALLED "HOLDING-COMPANY BILL"

Mr. EAGLE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein copy of a letter which I have written to a constituent upon a very important matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. EAGLE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following copy of letter written by me to Mr. A. E. Magill, of Houston, Tex., on the subject of the utilities holding-company bill:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., July 12, 1935.

Mr. A. E. MAGILL,
Kress Building, Houston, Tex.

DEAR SIR: Your welcome letter of July 8 received.

(1) I note you are disappointed at my vote on the utilities holding-company bill. I send you herewith my reasons and explanation for that vote. I think I voted absolutely right. I will not swear to uphold and defend the Constitution and then deliberately vote for a thing that I think breaks the Constitution. Again, the President and the Senate and the Democrats in the House were each and all elected on a platform that promised the American people to regulate utilities, without saying one word about wrecking them.

(2) I never had one share of stock in any utility company or any holding company in my life. I was never attorney for any utility company or holding company in my life. And I never had the support of any utility or any holding company in my life. No human being spoke to me about this bill. If there was any lobby here I certainly did not see it or even hear of it. My own opinion is that that is a mere newspaper sensation. I had no reason for my vote except the very reasons stated in this little speech enclosed to you with this that I made on July 2, 1935.

(3) I have as consistently as any man in the House supported the leadership of President Roosevelt. I am doing so yesterday, today, and tomorrow. Without him our party is lost, our country is lost and turned over again to the thieving forces. However, when I ran for Congressman I stated my own platform—those things I was for, and those things I was against. I had done my own thinking at home all my life and was willing to go down to defeat by telling the public what I was for and what I was against. They elected me on that basis. You and the rest of the 400,000 citizens cannot be here to do your own thinking and voting, so you select one of yourselves to come, and a thousand things come up here that were not anticipated at an election. A man has to follow blindly somebody else—or has to do his own thinking. I did not propose and do not propose to mind any one person on this earth if I think that person, no matter how good and no matter how wise, is in error about a position on which I must vote. In other words, I am the representative of my people and I am going to do my best sincerely to represent their highest interests. Besides, our good and great President never gives orders.

(4) In the votes we cast on this utilities holding-company bill, we did not cast any vote on utilities. It was concerning holding companies only. There is a vast difference—and yet many people are disposed to confuse the two, and because they have paid too much power bill are disposed to wreck several billions of dollars of investments in holding-company stocks by 5,000,000 people. Well, for my part, I am not going to do any such thing.

(5) I have cast hundreds and hundreds of votes here exactly as the President desired—and I have cast three votes in opposition to his views. That is a pretty good batting average, is it not? If a Congressman or a Senator must merely find out what somebody else thinks and then vote the same way every time, then his constituents would just as well elect one person as another for Congressman. In that event intellect and character and education and manhood and courage and sincerity cut no figure.

Every vote I cast results in letters praising and letters blaming. You people yourselves are cut into many factions. That is proper and fair. But it is not possible with any kind of a vote I cast to please everybody. Those who approve are not much disposed to write and say so—but those who do not approve often write me. For instance, being my political friend, and I always feel kindly toward you, you have not seen fit a single time to sit down and send me a line to tell me how fine it was that I voted with the President each time in two years and a half except on three occasions. That is your right and is all right with me—but it does illustrate human nature.

(6) I did not vote with the President on the economy bill that cut old Spanish veterans from $50 to $15, and that cut off 300,000 World War veterans, and that cut 15 percent off of the salary or wages of everybody who worked for the Government. I wanted to make big business pay that sum—and not take it out of the poor and the hungry. Don't you think I voted right in that matter? And yet that is one case where if I had followed the President you would likely have told me I should represent my people and not follow anybody else.

Again, I voted to pay the three and one-half million World War veterans their bonus. The President looked at it the other way. He is high-minded, able, and sincere. But, if the bonus law had been passed, it would have put out more than $2,000,000,000 of new money, would have paid a debt already existing, would have blessed the lives of millions of veterans and their families, would have put purchasing power in every community, and the currency would have been backed dollar for dollar with gold. Why should that not have been done? I voted to do that. Our good President, with whom I am in entire fellowship, could not see it that way. Do you not approve that vote of mine? If I had voted with the President on that matter I would have had no self respect, and would have been a vile, cringing creature in the circumstance, because I had made my campaign for Congress with the main issue paying the bonus.

(7) In the last paragraph of your letter you say these words: "The idea of (Congressmen) not wanting to record your votes is very un-American at least. I have always been taught to believe that we ought to be proud of our vote on any subject and let the world know about it."

From that it is perfectly clear to me that the newspaper report sent out by a chain of newspapers—whose object was to poison the country against Congress, so that readers would say what a great paper it is—has influenced you to believe a thing that is not true at all. Ever since this Government was established the rules of the House have provided that when a bill is taken up the House resolves itself into the Committee of the Whole House under certain rules. Then the bill is taken up and read, section by section, and amendments are offered and debated and voted on. Perhaps as many as 50 votes may be taken on that bill. Most of the votes are voice votes—that is, those who favor say "aye" and those who oppose say "no"—and the majority wins that point. But day after day, for over 100 years, when Congress is in Committee of the Whole House, if somebody is not satisfied with that result as announced by the Chairman, he calls for a division, and in that case those who want such amendment go through the line first and the number is tabulated and stated to the Chairman, and the number who do not want such amendment then next go through that line, are counted and tabulated, and announced to the Chairman; and after that is all done the Chairman then announces so many have voted aye and so many have voted no. The reason it is done that way is because it is the only possible way in a large legislative body to get the work done. It takes about 40 minutes to call a roll of the names of 435 people and set it down and announce it. The business can be done in the way the rules provide for in a few hours or days at most on even a long and complicated bill, whereas if it were done by calling the roll on each such vote it would take a month or so to finish any long and controversial bill. We would be in session 12 months each year and never get the work done even then.

In the case of this utilities holding-company bill, the exact procedure was followed as in each and every other bill, according to usual procedure. There were perhaps 75 reporters in the gallery, and each seat was filled, the doors wide open, and the whole world seeing how each man voted if they were interested in it.

Then, in addition, when we went out of the Committee of the Whole into the House itself, we did take, as usual, a record vote of those who favored the more moderate House bill over the Senate bill that contained the "death clause", and after that we took another record vote on whether to pass the bill at all.

This takes a long time to write in this busy day, but I don't want you to fall for that newspaper bunk that said the Congress tried to hide its vote—because it is not true.

Yours truly,

JOE H. EAGLE.

EXCISE TAX ON COCONUT OIL

Mr. STACK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. STACK. Mr. Speaker, under permission to revise and extend my remarks in the RECORD, I want to say that on March 10, 1935, House bill 8000 was introduced by Congressman DOCKWEILER and referred to the Committee on Ways and Means, where, I understand, it is now before the

subcommittee, of which Congressman SAMUEL B. HILL is chairman.

I am reliably informed that if and when this bill becomes a law several additional employees will go to work in the soap industry, and, after all, this is what we want—to put people to work, and particularly without Federal funds.

More than 3,000,000 Americans are employed in industries which export extensively to the Philippines, and are, therefore, vitally concerned in the maintenance of Filipino purchasing power and favorable conditions for the easy flow of commerce between those islands and our country.

Anything that tends to constrict that market and give other nations an advantage over our exporters strikes at the well-being of the millions here engaged in the manufacture of textile products, flour, machinery, condensed and evaporated milk, and other goods which we sell to the Philippines in large quantities.

By the same token it strikes at those who supply the raw materials for our important exports to the Philippines, such as our cotton growers, dairymen, meat packers, wheat and fruit growers.

That is only a partial measure of the critical importance of the Guffey-Dockweiler bill, now pending before Congress, which would remove the burdensome tax of 3 cents a pound from coconut oil brought into the United States for industrial uses only.

That tax, deeply resented by the Philippines, imposed despite the danger signals raised by our own Government and constituting a cynical violation of economic pledges made by Congress in conferring conditional self-government on the islands, is undermining the livelihood of some 4,000,000 Filipinos producing copra and coconut oil. It is impoverishing our best foreign customer for cotton textiles, and our ninth best customer for all types of exports combined. More than that, as a palpable injustice to the Philippines, the onerous tax on an export from the islands endangers the favored position for American imports there which is so essential to use in competing with cheap goods from other countries.

Though thinly disguised as a processing tax, the impost is in effect a customs duty of more than 100 percent—this despite specific guarantees in the Tydings-McDuffie Independence Act that coconut oil and copra would be admitted duty free.

It has not the slightest revenue function, as the amounts collected go to the Philippine government, which is most anxious to eliminate the left-handed gift involved in this tax.

Neither has it any genuine protective function, since there is no adequate domestic substitute for coconut oil denatured for industrial usage. Coconut oil is needed in soap making and other processes on account of its lauric-acid content that is not found in domestic fats or oils.

The simple fact is that less than 10 percent of the domestic production of oils and fats which might in any way be related to coconut oil is used for industrial purposes. Whatever direct competition coconut oil may present to domestic goods is therefore wholly in the field of edible manufactures. Taking this factor into consideration, the Guffey-Dockweiler proposal retains the excise tax on coconut oil for edible usage, but removes it from the same import for industrial use, which absorbs about two-thirds of the total brought into the country.

The commendable anxiety of Congress to aid the American farmer has been exploited again and again by self-seeking interests in no way connected with the agricultural population. By raising the cry of "help the farmers" various special interests have succeeded in stampeding Congress into adopting legislation not even remotely to the farmer's benefit and sometimes even contrary to his interests.

The excise tax on Philippine copra and coconut oil for industrial uses is a case in point. A false impression has been created that this tax in some mysterious fashion helps the farmer. As a matter of fact, the 10 percent of domestic fats and oils in anywise affected by coconut-oil imports for industrial purposes is not only negligible in the total but consists almost entirely of inedible tallow, made by fat melters from restaurant and butcher-shop scraps. The real value of this so-called "protection" to American agriculture is nil. The disastrous effects of the tax in bringing distress and political disorders to the Philippines and in penalizing American workmen dependent on Philippine-American trade are a fantastic price to pay for such microscopic benefits.

On the other side of the scale, cotton growers, fruit growers, and dairymen have a distinct and sizable interest in keeping American exports to the Philippines at a maximum level. Dairymen on the Pacific coast have an additional interest in maintaining a normal supply of copra cake and meal, one of the most valuable feedstuffs in that region, and a byproduct of the copra-crushing industry there.

Those seeking to prevent the enactment of the Guffey-Dockweiler measure are trying to crawl under the banner of the American farmer, but they have no rightful place there. The interests of American agriculture, no less than of American industry and commerce, will be best served by removing a tax that helps nobody and works havoc for so many basic American industries.

It is well to recall the warning issued by the Department of Agriculture in March of last year against the imposition of this tax.

An important aspect of this tax proposal—

It declared in a memorandum that Secretary of State Hull transmitted to the Senate Finance Committee—

is the burden which it would entail for our exporting industries, including some of the most important branches of American agriculture.

The memorandum then added:

It is especially noteworthy that agricultural products constitute an important part of our exports to the Philippines, amounting in 1932 to nearly $7,000,000 or, in other words, to 15.4 percent of the aggregate value of our exports to all countries of tobacco and dairy products, wheat flour, fruits, and vegetables. Inclusion of other agricultural products and consideration of the importance to our farming industry of such items as cotton manufactures, leather, and other commodities composed of agricultural raw materials, still further enhances the importance of the Philippine trade for American agriculture. For cotton manufactures and for condensed and evaporated milk, the Philippines are, indeed, our leading market.

Beyond these tangible losses for industry and agriculture at the exporting end, there are the effects of higher coconut-oil prices on American factories which must use this ingredient in processes for which there is no domestic equivalent. Already many smaller soap-making plants have been forced to shut down because the lauric acid supplied by coconut oil costs them more than they could shoulder. Already foreign soaps are making inroads in our domestic market on a price basis because of the additional costs of the coconut oil, and American soap manufacturers are placed at a serious disadvantage in competing with other nations in the world market.

The Guffey-Dockweiler bill thus serves no special interest but answers the needs of every group in our population. At the same time it rights a wrong imposed upon 14,000,000 Filipinos still under our flag.

Every dictate of wise political policy and far-reaching economic self-interest points to the importance of removing the excise tax on coconut oil and copra imports denatured for industrial use. I heartily endorse the bill and urge its passage.

PERMISSION TO ADDRESS THE HOUSE

Mr. TRUAX. Mr. Speaker, I ask unanimous consent that on tomorrow, following the reading of the Journal and disposition of business on the Speaker's desk, and at the conclusion of the speech of the gentleman from New York [Mr. FISH], I be permitted to address the House for 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. RICH. Mr. Speaker, reserving the right to object, I wonder if the majority leader is going to have a continuation of debate here on a particular subject tomorrow, or proceed to do the business that is at hand?

Mr. BLANTON. We can meet at 11 o'clock tomorrow morning and get all of these speeches out of the way.

Mr. RANKIN. No. We are not going to meet at 11 o'clock to listen to speeches.

Mr. MILLARD. Upon what subject does the gentleman desire to speak tomorrow?

Mr. TRUAX. I will talk about the same subject that will be discussed by the gentleman from Texas and the gentleman from New York.

Mr. MILLARD. Mr. Speaker, I object. I think 40 minutes of that will be enough.

Mr. TRUAX. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The Chair will count. [After counting.] One hundred and eighty-five Members present; not a quorum.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 125]

Andrew, Mass.	Corning	Kimball	Ransley
Andrews, N. Y.	Darden	Knutson	Robertson
Bacon	Dear	Kopplemann	Romjue
Bankhead	Dorsey	Lamneck	Ryan
Berlin	Doutrich	Larrabee	Sanders, La.
Binderup	Drewry	Lewis, Md.	Sandlin
Bland	Dunn, Miss.	Lloyd	Schuetz
Bolton	Eckert	Lucas	Schulte
Brennan	Eicher	McGehee	Scott
Brooks	Ellenbogen	McGrath	Scrugham
Brown, Mich.	Fernandez	McLean	Sears
Buckley, N. Y.	Gifford	McLeod	Shannon
Bulwinkle	Gildea	Maas	Short
Burnham	Gillette	Maloney	Sirovich
Cannon, Wis.	Gingery	Meeks	Starnes
Carter	Goldsborough	Montague	Stewart
Casey	Granfield	Montet	Sumners, Tex.
Chapman	Hancock, N. C.	Norton	Sutphin
Claiborne	Hartley	O'Connell	Tobey
Clark, Idaho	Healey	Oliver	Underwood
Clark, N. C.	Hennings	O'Malley	Utterback
Cochran	Higgins, Conn.	O'Neal	Wigglesworth
Cole, N. Y.	Hollister	Perkins	Wilson, La.
Collins	Kennedy, Md.	Peyser	

The SPEAKER. Three hundred and thirty-four Members have answered to their names. A quorum is present.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

THE BLESSINGS OF STABILITY

Mr. WADSWORTH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a speech delivered by myself at the Institute of Political Affairs, University of Virginia, on July 12.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WADSWORTH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech which I delivered at the Institute of Political Affairs, University of Virginia, on July 12, 1935:

When we glance over the world of today we cannot escape the conclusion that the political institution generally denominated democracy is facing a crisis. Prior to the World War most of the nations of Europe were devoted to the democratic ideal and there seemed to be little doubt that, step by step, the nations, with few exceptions, were gaining ground toward the objective, government by the people. For years prior to 1914 autocratic governments, governments in control of privileged classes, despotic governments, encountered emphatic challenges in ever increasing number—challenges uttered by those who, devoted to a true liberalism, insisted upon the American theory that governments should derive their just powers from the consent of the governed. As the years passed the challengers made headway and the general tendency was in the direction of a more effective democracy. The movement even spread to the ancient peoples of Asia. Here and there were exceptions, in that in certain countries the challengers, though persistent, accomplished little. But these exceptions proved the rule. With the Great War the movement was halted, for during that crisis internal political differences were largely forgotten and in most nations, by common consent, all efforts were concentrated upon the objectives of the war itself.

For a comparatively short period following the cessation of hostilities a great wave of democratic feeling seemed to spread over the world and justify the hope that government by the people would shortly go forward with tremendous strides. In fact, this hope had been voiced in the slogan, "Make the world safe for democracy." For that short period the tendency was all in the direction of democracy, and the hopes of millions of people who prior to that time had lived under autocratic government were raised as never before. Shortly, however, those hopes were shattered, and in large measure they lie shattered today. For example, in Russia, where the Romanoffs had ruled for generations with scarce any approach toward government by the people, the imperial dynasty was overthrown, and for a brief moment a government was set up parliamentary in form, to the great joy of the liberals. It lived but a day and was succeeded by a regime which achieved power by the exercise of force and has kept that great nation to this very hour subject to a dictatorship no less complete and intolerable than that of the Czars. In Italy, where the parliamentary form had existed for years, a national political crisis resulted in its overthrow and the establishment in its place of a virtual dictatorship under the leadership of the impelling Mussolini. Scarce any of the elements of democracy survive in that nation. In Germany the imperial government perished with the departure of the Hohenzollerns and a republic was set up to take its place. It lasted but a few years, and now that great people have given themselves up to a dictatorship established and maintained by the picturesque Hitler.

In Austria, in Hungary, and in other European countries the attempts to reach the more democratic form since the war have been virtual failures, and we find in most of them dictatorships more or less complete. Apparently the world is today less safe for democracy than it has been for a long, long time. For the time being at least the true liberal must drink of a bitter cup when he contemplates what has been going on over the world in these last few years. This wide-spread reversal of the trend which we were all counting upon so confidently only a few years ago should give pause to all thoughtful people. Even we Americans would better do some thinking for ourselves, for there are among us many who contend that our Government in its present form has outlived its usefulness and should be changed in most substantial fashion. If we are to give serious consideration to such proposals (and I assume we should, for they are being pressed upon us with great energy) we would better first take into account an extraordinary fact—one which I have endeavored to emphasize upon several occasions in the past. That fact is that the Government of the United States is today, with certain very minor exceptions, the oldest Government upon the face of the earth. By that I mean that it has been in existence, without substantial change in its form or in the principles underlying it, longer than the present-day government of any other important nation. Such a statement may come as a surprise to those who are accustomed to regard us as a very youthful nation. True, we are a young nation, but compared to others our Government is very, very old.

Let us look into it for a moment. Washington was our first President. He took office in 1789. In that year the new Government of the United States started to function in accordance with the provisions of the Constitution which had been ratified by the requisite number of States a short time before. That Government, under the Constitution, has been functioning ever since without substantial change in form or in underlying principle. It functions today, despite some attacks upon it—attacks, happily, unsuccessful. Compare that record with that of other governments. Since 1789 France had seen a succession of monarchial, terroristic, imperial, republican, monarchial, and imperial again, and, finally, republican governments. Since 1789 Spain has seen at least 2 republics, 2 monarchies, and 1 practical dictatorship. The principalities and petty kingdoms of the Italian Peninsula were not welded together until the 1850's under the leadership of Cavour. Our Government was more than 60 years old at the time. It was not until 1870 that the German kingdoms and states were merged under one imperial government by Bismarck. Now, the Hohenzollerns are gone and we have seen two distinct governments since they departed. I have already mentioned Russia. In that great nation the Romanoffs are gone and we have Stalin. The Austro-Hungarian Empire has been scattered to the winds, the Hapsburgs are gone, and its constituent states have been set up under separate governments as lately as 1919. In several of them dictatorship has already displaced the parliamentary form. Follow the story down into the Balkan Peninsula and we find nothing but change and disruption.

Approaching the Bosporus, we no longer find a Sultan wielding despotic power and hailed as defender of the faithful. Mustapha Kemel and his followers established a Republic across the straits in Asia Minor only a few years ago. Turning our attention to more ancient peoples, we find that only about a generation ago the Manchus were expelled from the imperial throne of China and desperate efforts inaugurated to establish a republic—efforts characterized by a welter of banditry and blood. Prior to 1850 the Shogunate wielded its despotic power in Japan. It was not until an American naval officer, Commodore Perry, dropped in at a Japanese port in the middle of the nineteenth century that the Japanese people consented to have dealings with the rest of the world. That consent was followed shortly by the establishment of that parliamentary form of government which today rules over Nippon. Even in Great Britain, whose people have contributed so tremendously to the cause of liberty, whose government for generations has been stable far, far above the average, we find a substantial change taking place only a few years before the World War. In 1911, I think it was, pressure against a small remnant of class rule in Great Britain became so great as to result in taking away from the House of Lords that equal legislative power which it had enjoyed along with the House of Commons and giving to the latter practically exclusive control over all money bills—a change as substantial as if we were to exclude the Senate of the United States from all con-

sideration of taxes, revenues, and appropriations and concentrate their consideration in the House of Representatives.

I have not time to trace the story of all the governments, but I think I have followed it far enough to prove the substantial correctness of my assertion that of all great governments, the Government of the United States is the oldest. Dynasties have toppled from their thrones. Democracies in one form or another have been set up and have tumbled down. Revolutions have come and gone. Power has been transferred from one extreme to the other, from the democratic to the dictatorial. Nearly all the world has been in a state of flux and instability, and yet through it all, ever since 1789, our Government has stood like a rock. This is not a mere accident. There must be some reason for it. Ours is an intelligent people, but I do not think our intelligence so superlative as to make us proof against error. We are humans, and under ordinary circumstances we would probably make as many mistakes as other people. There must be something in the circumstances themselves, something out of the ordinary, which has kept us comparatively free of destructive error. In fact, there must be something in the form of our Government and in its philosophy which accounts for this extraordinary record. To identify it and understand it we must go to the Constitution, the fundamental law upon which our Government is founded. Its authors dreaded the tyranny which comes from a concentration of power in the hands of one man or group in the Government, and they knew that parliaments, swayed by ruthless majorities, could be just as tyrannical as kings. Hence the checks and balances which prevent either the Congress or the Chief Executive acquiring complete predominance. Should one subdue the other, we would have despotism in short order. We came perilously near it with the impeachment of Andrew Johnson.

The pendulum of prestige may swing a little from the legislative toward the executive and back again, but year in and year out the balance is pretty well preserved and no true liberal can assent to its destruction. I like to think of the continued maintenance of this balance as the carrying out of a pledge made by our forefathers, binding upon themselves and upon their posterity—a pledge that liberty shall live. Occasionally the Congress or the Executive steps over the line, whereupon any citizen, feeling himself injured, may appeal for a judicial determination of his rights. The judicial power is vested in a Supreme Court, and the final determination of the citizen's rights, guaranteed to him by the covenant which binds us all, is reached by that independent body. Those who complain against the power of the Court to declare an act of the Congress or of the Executive unconstitutional, and thus null and void, must, if they are consistent, assent to the proposition that the citizen may not appeal to the Court for relief against oppression at the hands of his Government. With that privilege gone, liberty as we know it would soon be an ephemeral thing. The function of the Supreme Court in this respect is unique. Scarcely any other government includes such an institution. Far from being an engine of oppression or obstruction, the Court helps us to preserve our liberty—that liberty which we insist upon in our Constitution. It helps us to remain faithful to a great ideal—an ideal which in our sober moments we would never abandon. It is the great stabilizer. In very large measure it is responsible for ours being the oldest of governments. Can any thoughtful person ignore the blessings which flow from that stability? Take a look around the world. With what nation would we change places?

I have already stated that a demand for a change has been heard in this country. It reached considerable proportions with the advent of the present administration. A number of measures, some of them affecting agriculture, some industry, and some the monetary system, have been passed, which, viewed collectively, present a new conception of government and which, if thoroughly established and maintained, will transform it into something very, very different from the government we have become accustomed to. These measures are intended to inaugurate and carry on a "planned economy", to use the phrase coined by the President. They involve a very wide extension of the Federal power over agriculture, industry, the management of the price level, and the control of credit. That the advocates of this conception of the proper function of government, from the President down, are perfectly sincere cannot be questioned, else these measures would not have been urged so emphatically nor would we find each one of them fitting in so perfectly with all the others as to become a part of a general scheme. It is contended that the time has come for the central government to help plan and to control to an important degree the ways and means by which the citizen seeks to earn his living. The plans must be approved by the Government and in certain cases may be actually promulgated by the Government. The scheme generally includes machinery for ascertaining the wishes of a majority of the persons engaged in a given business. If the wish of the majority is satisfactory to the Government, then it is to be translated into a set of regulations which are to have the force of law. The protesting minority is to be bound by the regulations just as securely as the assenting majority. The prosecuting machinery found in the Federal courts is to be employed by the Government in punishing those who disobey. Thus the element of force enters into the situation. Indeed, it is essential that force be employed if we are to have a planned economy.

Aside from its purely constitutional aspects we encounter in this scheme a new principle, to wit, that a majority, backed by the power of the Government, may determine how the minority shall earn its living. With the support of Government 100 men engaged in a certain business can impose a rule of conduct upon 75 men engaged in the same business. This reaches deep down into the roots of our existence and implies an appalling change in the American conception of liberty. It deprives the individual of his freedom of choice as to the means by which he shall pursue happiness, and thus runs directly contrary to the ideal expressed in the Declaration of Independence. It might be interesting to discuss whether or not any government is so endowed with wisdom as to enable it effectively to plan the economy of all its citizens. We may very well doubt it, but that element of the problem is comparatively unimportant. The all important and fundamental element can be expressed in the questions: "What is to become of liberty as we have known it since 1789?" "Is it to be supplanted by regimentation?" "Is the citizen to be the master or the subject?" These are questions that are actually facing us today. They have been brought out into the light of the recent Supreme Court decision. In passing the National Industrial Recovery Act the Congress sought to extend its power under the interstate commerce clause in the Constitution to the regulation of a business carried on within a State on the theory, it is to be presumed, that all business, great and small, in some way or other finally affects interstate commerce. This theory, if accepted and carried to its logical conclusion, would mean there is no limit whatsoever to the powers of the Federal Government.

The Court, in its unanimous opinion, pointed out that the particular business involved in the suit affected interstate commerce only remotely, that it was essentially intrastate in character and thus outside the scope of Federal power. The decision served as a sharp and enlightening reminder that our Federal Government may exercise only those powers which are delegated to it and that the powers not delegated are reserved to the States and to the people as provided in the tenth amendment. The tenth amendment, so often overlooked, must now become the subject of Nation-wide discussion and understanding. Its vast importance is now apparent. To get a better understanding of it, let us go back to 1788 when the new Constitution, written by the Philadelphia Convention of 1787, was before the Thirteen States for ratification. The people of that day were very jealous, were very fearful and suspicious of concentrated power. They agreed that we must have some central government, but they feared that the Government would take more and more power to itself as the years went by and finally become oppressive over the people in their communities and in their local affairs. They demanded that certain specific limitations or prohibitions directed against the new Government should be included in the fundamental law, else they would oppose ratification. What might be a gentlemen's agreement was finally reached, to the effect that immediately upon the establishment of the new Government the Congress should submit to the States a series of amendments designed to protect the individual in the enjoyment of certain rights and privileges deemed essential to the preservation of his liberty. So the First Congress submitted 12 amendments. Ten of them had to do with the preservation of liberty as against encroachment by the Government. The remaining two related to other subjects and have never been ratified.

Those first 10 amendments have been known ever since as the "Bill of Rights", and have been regarded generally as a part of the original instrument. Paraphrasing them, they are the voice of the people saying to their Government, "Thou shalt not deprive us of freedom of speech or of a free press. Thou shalt not seek to control the manner in which we worship God. Thou shalt accord to every one of us the right of trial by jury. Thou shalt not unreasonably search our houses or seize our private papers. Thou shalt not quarter troops upon us in time of peace. Thou shalt not take our property except by due process of law and with just compensation." Thus the people voiced commands to be obeyed by their Government. Then, as if to make assurance doubly sure, they said to their Government, "We have delegated certain powers to you. Go ahead and exercise them. And remember that we reserve for the States and for ourselves, the people, all powers not delegated. Keep your hands off until you get our permission in the manner prescribed." There is your tenth amendment. In a very real sense it is the keystone in the arch of the Federal Union of States. Blast it away and you transform our whole Government from that of a Federal Union to one imperial in character.

However that may be, let's return to that decision for a moment and consider its implications a little further. The Court made it very clear that the Federal power does not extend over the business of manufacturing or the business of farming conducted within a State; that the conduct of those businesses was not interstate in character but intrastate. This being the case, the power to regulate farming and industry is reserved to the States and to the people. The famous N. R. A. with its codes has simply ceased to exist. Practically all manufacturing and all merchandising carried on within a State are out of the picture of Federal control. You will find the administration and its supporters in the Congress struggling to give the Agricultural Adjustment Act some color of constitutionality by a change of verbiage here and there—a desperate attempt to save it. But it is doomed as an effective compelling Federal agency, for if the Federal Government cannot regulate a manufacturing plant it cannot regulate a farm. The same may be said of the Labor Disputes Act recently signed. Its provisions regulating the relations to be maintained between employer and employee are doomed just as surely as was the effort of the Federal Government to regulate the chicken picker in the Schechter plant in Brooklyn under an N. R. A. code. Indeed, it would seem that the whole program for a planned economy under the forceful supervision of the Federal Government has fallen to the ground, for the simple reason that the people have

delegated no such power to the Central Government but rather have reserved these powers to themselves and to the States.

It is not surprising, therefore, that the President should greet the decision of the Supreme Court with certain evidences of dismay. In his carefully planned statement to the press correspondents, delivered 4 or 5 days after the decision was handed down, Mr. Roosevelt made plain his disappointment. Incidentaly he made it exceedingly plain that he has abandoned the strong views he entertained only 4 or 5 years ago when he was Governor of New York regarding the grave menace of Federal encroachment into those fields of power reserved to the States and to the people. He has a perfect right to change his mind. But in changing it he has made the issue exceeding clear. For that we should be grateful to him. In effect he contends that the Government of the United States should possess all these powers for the regulation of factories, stores, repair shops, farms, ranches, and every other business or avocation pursued by men; that it is a great pity that the Supreme Court has found that the Government does not possess such power; that the people themselves must decide this thing, not this year, perhaps, but within 4 or 5 years. Obviously the central Government cannot be put into possession of these powers except by an amendment to the Constitution itself specifically delegating them to it. So when the President says that the people must decide he must mean that they must make the decision through the ratification or the rejection of an appropriate amendment submitted and passed upon in accordance with the amendatory article of the Constitution.

While the President refrained from urging the adoption of an amendment, the plain fact is the vast program of planned economy under the new deal cannot be put into effect without an amendment. That's all there is to it and we might just as well face it. If this administration is to be consistent it must press for such an amendment. Failure to do so would mean abandonment of the new-deal program by its own champions. I am well aware that it is rash to prophesy concerning political developments in the future, but I venture to state as my belief that the questions involved in the preservation or abandonment of the tenth amendment, that keystone of the arch, will be pressed upon the attention of the American electorate in 1936. It is very doubtful that it can be settled in one election. The subject is too big. It may take several years. Unless I am very much mistaken a fundamental question is arising in this country of vastly greater importance than anything which we have faced in generations.

The issue involved in the eighteenth amendment was indeed fundamental, but its potentiality, its ramifications, its effect upon the life of the Nation will seem of dwarf-like insignificance when compared to the immensity of the decision which must be rendered finally by the people with respect to the tenth amendment and the preservation of a Federal union of States. Shall we join the procession in which we see so many European nations marching, abandon the form of government which we have maintained since 1789, and concentrate at a central point power sufficient to compel, day by day, the honest citizen to pursue his honest happiness as those in authority shall prescribe? If so, what of liberty, that aspiration which lives deeper in the human soul than any other, that intangible yet precious thing for which men have struggled for centuries, that blessing which, never conferred, must always be earned? It must be the devout prayer of liberals the world over that Americans shall guard well this liberty that Americans have earned, not only for their own sake but for the sake of mankind. Let there be at least one light shining steadily in a darkened world.

PERMISSION TO ADDRESS THE HOUSE

Mr. McGROARTY. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. JENKINS of Ohio. Mr. Speaker, reserving the right to object, I wonder if the gentleman could not put that off until after we have had a couple of hours on this Consent Calendar. I appreciate the gentleman hardly ever asks for time, and I appreciate also the respect which everybody has for him and I shall withdraw my objection if it is inconvenient for him to come back.

Mr. McGROARTY. Mr. Speaker, I should like to speak for 5 minutes at this time.

Mr. JENKINS of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FRAZIER-LEMKE BILL

Mr. McGROARTY. Mr. Speaker, for 5 minutes or less I want to speak about something pleasant, something that will sooth your jagged nerves and make you forget the heat and be willing to stay here until the next session convenes if necessary. What I want to speak about today is the petition filed by our distinguished colleague, the gentleman from North Dakota [Mr. LEMKE], known as "petition no. 7", to have the Frazier-Lemke bill brought to the floor of the House for scanning, discussion, and analysis. It is only fair that this should be done.

Mr. Speaker, there are almost a sufficient number of signatures on the petition. All that is necessary is a few more; perhaps a half dozen. There are reasons why some men should sign this petition who have not done so up to the present time. I have been around among the Members of the House, and I find that the objection made by some of them is that the administration is opposed to this bill. I am reliably informed that the administration is not opposed to it; so there you have a fine example of fair-mindedness on the part of the administration. Then, besides that, I have signed the petition. So there are two great examples for you to follow. [Applause.]

The reason I am eager personally to see this petition signed is because when I go home to California, my constituents and neighbors are going to come to me and say: "You were a fine bunch there in Congress. You gagged yourselves. You allowed yourselves to be gagged." I want to be able to say to them: "How come we were gagged?"

"Well, you had a gag rule." I want to be able to say, "Gag rule, your grandmother, no such thing; if we wanted a bill brought out on the floor all we had to do was to sign a petition and get 218 Members to sign it. Look at petition no. 7 for considering the Lemke bill. We got the signers for that and nobody gagged us, nobody tried to gag us, nobody wanted to gag us; we are a free body, the greatest deliberative body in the world and would not permit anybody to gag us." [Laughter and applause.]

Now, I want you all to be good sports. The distinguished gentleman from North Dakota [Mr. LEMKE] is a very useful Member of this House. The purpose of this bill is to help people, but in signing the petition you are not committing yourself to the bill at all. All we want is to have it brought out on the floor of the House and let us take it apart and look at it.

So I trust there will be a sufficient number sign this petition right away, today. I should like to see the Members of the House stampede right now up to the Clerk's desk and sign this petition.

Mr. LUNDEEN. How many names are on the petition now?

Mr. McGROARTY. There are over 200 names on the petition now. We are so near the necessary number it will just take a little shove to put it over. [Applause.]

[Here the gavel fell.]

CENTRAL STATISTICAL COMMITTEE AND CENTRAL STATISTICAL BOARD

Mr. GASQUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7590) to create a Central Statistical Committee and a Central Statistical Board, and for other purposes, with Senate amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 1, after the word "of", insert "the Secretary of the Treasury."

Page 2, line 5, after the word "President", insert "with the advice and consent of the Senate."

Page 5, line 10, after the word "Committee", insert "and to the President for transmittal to Congress."

Page 5, line 18, strike out the word "competitive."

Mr. TABER. Mr. Speaker, reserving the right to object, I am one of those who thought this was a bad bill when it was up for consideration. I think we ought to have an explanation of the bill and the effect of the Senate amendment before we agree to the request. Will the gentleman tell us what the amendments do?

Mr. GASQUE. The amendments add the Secretary of the Treasury to the general Cabinet set-up with respect to the Central Statistical Board, and another amendment provides that the chairman of the acting Board shall be confirmed by the Senate when appointed by the President. Another amendment strikes out the words "competitive examina-

tion" for the persons who compose this bill and leaves them subject to noncompetitive examinations.

Mr. TABER. Mr. Speaker, I think under the circumstances I shall object.

The SPEAKER. Objection is heard.

NATIONAL DEFENSE

Mr. O'CONNOR, from the Committee on Rules, submitted the following resolution, which was referred to the House Calendar and ordered to be printed.

House Resolution 295

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of S. 1404, an act to promote the efficiency of the national defense. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the Committee on Military Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

VETERANS' ADMINISTRATION FACILITY, ALEXANDRIA, LA.

Mr. LANHAM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3038) to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration facility, Alexandria, La., and consider the same.

The Clerk read the title of the bill.

Mr. SNELL. Mr. Speaker, reserving the right to object, as I understand, this bill simply provides for the transfer of some land in order to get a road through the Veterans' Administration facility?

Mr. LANHAM. Yes; and they are very anxious to have this done. The bill involves no appropriation and no expense whatever.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Administrator of Veterans' Affairs be, and he is hereby, authorized and directed to transfer to the State of Louisiana, without expense to the Government of the United States, all the right, title, and interest of the United States in and to a certain strip of land crossing the Veterans' Administration facility at Alexandria, La., along the Alexandria-Shreveport Highway, State route no. 1, and State route no. 615, in sections 1 and 2, township 4 north, range 1 west, Rapides Parish, La., upon condition that it shall always be used and maintained as a public highway, said strip of land being described as follows:

Beginning at a point in the located center line of the Alexandria-Colfax Highway at Engineer's station 152 plus 05.3, which point is in the south line of the northwest quarter of the southwest quarter of section 1, township 4 north, range 1 west, and north 89°54′ east, a distance of 325.5 feet from the southwest corner of the said northwest quarter of the southwest quarter of section 1, township 4 north, range 1 west; thence north 89°54′ east, along the said south line of the northwest quarter of the southwest quarter of section 1, a distance of 51.37 feet to a point in the easterly right-of-way line of the Alexandria-Colfax Highway, said point being 50 feet easterly and at right angles to the aforementioned center line; thence along the easterly right-of-way line of said highway, the following two courses: Northwesterly along a curve to the left having a radius of 3,204.03 feet, a distance of 283.92 feet to the point of tangency of said curve to the left; thence north 17°6′ west, a distance of 1,637.37 feet to a point in the mesh-wire fence enclosing residence lot, said point being 50 feet easterly and at right angles to the aforementioned center line; thence south 68°1′ west, along said fence line, a distance of 20.07 feet to a point, said point being 30 feet easterly and at right angles to the aforementioned center line; thence along the easterly right-of-way line of the aforementioned highway, the following courses: North 17°6′ west, a distance of 121.3 feet to the point of the beginning of a curve to the right; thence northwesterly along a curve to the right having a radius of 5,699.65 feet, a distance of 310.04 feet to the point of tangency of said curve to the right; thence north 13°59′ west, a distance of 306.6 feet to the point of beginning of a curve to the left; thence northwesterly along a curve to the left having a radius of 746.78 feet, a distance of 224.4 feet to the point of tangency of said curve to the left; thence north 31°12′ west, a distance of 626 feet to the point of beginning of a curve to the left; thence northwesterly along a curve to the left having a radius of 508.34 feet, a distance of 261.43 feet to the point of tangency of said curve to the left; thence north 60°40′ west, a distance of 338.9 feet to a point, said point being 30 feet northeasterly and at right angles to the aforementioned center line, same point also being 30 feet northeasterly and at right angles to the center line of the existing concrete highway from Alexandria toward Shreveport; thence north 29°20′ east, a distance of 10 feet to a point, said point being 40 feet northeasterly and at right angles to the aforementioned center lines; thence along the easterly right-of-way of the road from Alexandria toward Shreveport, the following two courses: North 60°40′ west, a distance of 113.15 feet to the point of beginning of a curve to the right; thence northwesterly along a curve to the right having a radius of 429.64 feet, a distance of 363.79 feet, more or less, to a point in the north line of section 2, township 4 north, range 1 west, same being in the north boundary line of the Veterans' Administration property, said point also being 40 feet easterly and at right angles to the aforementioned center line; thence along the said north line of section 2 and the north boundary line of the Veterans' Administration property and crossing the aforementioned highway, the following two courses: West a distance of 40.84 feet to the center line of the existing concrete highway at Engineer's station 197 plus 93.8; thence west a distance of 40.7 feet to a point in a curve to the left in the westerly right-of-way line of the existing concrete highway from Alexandria toward Shreveport, said point being 40 feet westerly and at right angles to the aforementioned center line; thence southeasterly along said curve to the left having a radius of 509.64 feet, a distance of 198.9 feet to a point, said point being 40 feet westerly and at right angles to the aforementioned center line and said point also being 30 feet northeasterly and at right angles to the highway leading to Regollet; thence along the northeasterly right-of-way of said highway leading to Regolett, the following two courses: North 60°40′ west, a distance of 75.24 feet to the point of beginning of a curve to the left; thence northwesterly along a curve to the left having a radius of 1,303.57 feet, a distance of 397.58 feet, more or less, to a point in the north line of section 2, township 4 north, range 1 west, same being in the north boundary line of the Veterans' Administration property, said point also being 30 feet northerly and at right angles to the aforementioned center line; thence along the said north line of section 2 and the north boundary line of the Veterans' Administration property and crossing the aforementioned highway, the following two courses: West a distance of 185.26 feet to the center line of the highway leading to Regollet; thence west a distance of 198.33 feet to a point in the westerly right-of-way line of the highway leading to Regollet; thence along the westerly right-of-way of the aforementioned highways, the following courses: South 81°18′ east, a distance of 307.35 feet to the point of beginning of a curve to the right, said point being 30 feet southwesterly and at right angles to the aforementioned center line; thence along a curve to the right having a radius of 1,243.57 feet, a distance of 447.83 feet to the point of tangency of said curve to the right; thence south 60°40′ east, a distance of 767.2 feet to the point of beginning of a curve to the right; thence southeasterly along a curve to the right having a radius of 448.34 feet, a distance of 230.58 feet to the point of tangency of said curve to the right; thence south 31°12′ east, a distance of 626 feet to the point of beginning of a curve to the right; thence along a curve to the right having a radius of 686.78 feet, a distance of 206.37 feet to the point of tangency of said curve to the right; thence south 13°59′ east, a distance of 306.6 feet to the point of beginning of a curve to the left; thence along a curve to the left having a radius of 5,759.65 feet, a distance of 313.3 feet to the point of tangency of said curve to the left; thence south 17°6′ east, a distance of 131,58 feet to the corner of a mesh wire fence, said point being 30 feet westerly and at right angles to the center line of the Alexandria-Colfax Highway; thence south 51°36′ west, along said mesh wire fence, a distance of 21.47 feet to a point, said point being 50 feet westerly and at right angles to the aforementioned center line; thence south 17°6′ east, a distance of 1,617.88 feet to the point of beginning of a curve to the right; thence along a curve to the right having a radius of 3,104.03 feet, a distance of 251.92 feet, more or less, to the south line of the northwest quarter of the southwest quarter of section 1, township 4 north, range 1 west, same being in the southerly boundary line of the Veterans' Administration property, said point also being 50 feet westerly and at right angles to the aforementioned center line; thence along the said south line of the northwest quarter of the southwest quarter of section 1 and the south boundary line of the Veterans' Administration property, north 89°54′ east, a distance of 51.21 feet to the point of beginning; containing in all 9.188 acres, more or less, and being shown in detail on a map showing the right-of-way required by the Louisiana Highway Commission through lands of the Veterans' Administration facility in sections 1 and 2, township 4 north, range 1 west, Rapides Parish, La., and dated April 24, 1935.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H. R. 8653) was laid on the table.

THE FIRST SESSION OF THE SEVENTY-FOURTH CONGRESS

Mr. DEEN. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes.

Mr. TAYLOR of Colorado. Mr. Speaker, reserving the right to object, I am not going to object, but I am giving notice that this is the last request that I shall not object to.

Mr. SNELL. The gentleman gave that notice a little while ago, and he ought to now live up to it.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEEN. Mr. Speaker, there are many reasons why the House and Senate should quickly adjourn this session of the Seventy-fourth Congress. [Applause.]

It is impossible to state all of these reasons in 2 minutes. Chief among the reasons is the fact that more than 20 of our colleagues—to be exact, 26—are now either in hospitals or at their homes suffering from heart trouble or a nervous break-down. This Congress has worked long, and faithfully, and well, and, personally, I insist that the Senate bring its business quickly to an end so that we may agree on the matters that must be agreed upon between the House and the Senate, and that all future hearings on House bills, many of which I am for, be extended until a session in the fall or the next session beginning in January. [Applause.]

Mr. Speaker, I appeal to the Membership of the House, as a matter of justice to our colleagues who are now ill and some of our colleagues who are not physically able to stay here from day to day, that we also impress upon the President the importance of bringing this Congress to an immediate close. In my opinion, it will be welcomed by the great majority of the people in the whole country.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. DEEN. I cannot yield.

This share-the-wealth, soak-the-rich, and save-the-poor legislation, some of which I am in favor of, can wait 6 months longer, because the rich will not get too rich in a few more months, and the wealth can then be shared and the poor are being taken care of now, and I am personally appealing to the Membership of the House to let us adjourn this session immediately. [Applause.]

THE CONSENT CALENDAR

The SPEAKER. The Clerk will call the Consent Calendar.

The Clerk called the first bill on the Consent Calendar, H. R. 5731, to amend in certain particulars the act approved February 28, 1925, entitled "An act to provide for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corps Reserve", as amended, and for other purposes.

The SPEAKER. Is there objection?

Mr. ZIONCHECK. Mr. Speaker, by request of the Chairman of the Naval Affairs Committee, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

GRAZING RESERVE FOR INDIANS, FORT M'DERMITT, NEV.

The Clerk called the next bill on the Consent Calendar, H. R. 4126, to reserve certain public-domain lands in Nevada and Oregon as a grazing reserve for Indians of Fort McDermitt, Nev.

The SPEAKER. Is there objection?

Mr. PIERCE. I object.

SHOALWATER INDIAN RESERVATION, WASH.

The Clerk called the next bill on the Consent Calendar, H. R. 6236, to authorize the creation of an Indian village within the Shoalwater Indian Reservation, Wash., and for other purposes.

The SPEAKER. Is there objection?

Mr. CHRISTIANSON. Reserving the right to object, what is the need of this legislation?

Mr. ROGERS of Oklahoma. This land is necessary for a town site or Indian village to be created.

Mr. CHRISTIANSON. Is this a part of the program to set up little soviet Indian villages throughout the country?

Mr. ROGERS of Oklahoma. Well, I cannot answer that question.

Mr. CHRISTIANSON, Mr. ANDRESEN, and Mr. TABER objected.

RICE LAKE—CHIPPEWA INDIANS OF MINNESOTA

The Clerk called the next bill on the Consent Calendar, H. R. 6963, to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes.

The SPEAKER. Is there objection?

Mr. BOILEAU. Reserving the right to object, I should like to say that I have consulted the Commissioner of Indian Affairs, and he is satisfied to have a bill passed if it excludes the Pigeon Reservation. Will the gentleman agree to an amendment to that effect?

Mr. ROGERS of Oklahoma. I have no objection.

The SPEAKER. Without objection, a similar Senate bill on the Speaker's table will be substituted for the House bill.

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2532

Be it enacted, etc., That the act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926 (44 Stat. L. 763), be, and the same is hereby, amended to read as follows:

"That there be, and is hereby, created within the county of Clearwater, State of Minnesota, a permanent reserve to be known as 'Wild Rice Lake Indian Reserve', which reserve shall include Rice Lake and the following-described contiguous lands: Beginning at the northwest corner of the northeast quarter southeast quarter section 8, township 145 north, range 38 west, and running due east to the northeast corner of southeast quarter section 9; thence south to northeast corner of northeast quarter section 16; thence due east to northeast corner of northeast quarter section 14, township 145 north, range 38 west; thence due south to southeast corner of northeast quarter section 2, township 144 north, range 38 west; thence due west to southwest corner of northwest quarter section 3 of said township and range; thence due north to southwest corner of northwest quarter section 15, township 145 north, range 38 west; thence due west to southwest corner of northwest quarter section 16; thence due north to northwest corner of northwest quarter said section 16; thence west to southwest corner of southeast quarter southeast quarter section 8; thence north to point of beginning, which, excluding the lake bed, contains approximately 4,500 acres.

"SEC. 2. All unallotted and undisposed-of public or Indian lands held in trust by the United States within the area described in section 1 hereof are hereby permanently withdrawn from sale or other disposition and are made a part of said reserve; and the Secretary of the Interior is authorized to (a) accept in the name of the United States voluntary conditional grants, conditioned only upon the continued permanent use of said lands for the purpose hereinafter stated, and none other, of any lands within said reserved area now held in public, private, State, or Indian ownership; (b) acquire by purchase any of said lands not so conditionally granted at such price as he may deem fair and equitable; or (c) acquire by condemnation any of said lands not acquired by conditional grants or by purchase, so as to vest in the United States for the purposes of this act good title to all land included in any such reserve.

"SEC. 3. The Secretary of the Interior is authorized, in his discretion, to establish not to exceed three additional wild-rice reserves in the State of Minnesota, which shall include wild-rice-bearing lakes situated convenient to Chippewa Indian communities or settlements, including all lands which, in the judgment of said Secretary, are necessary to the proper establishment and maintenance of said reserves and the control of the water levels of the lakes. The Secretary is authorized to withdraw and acquire, on the same terms provided in section 2 hereof, all lands which, in his judgment, may be necessary for the proper establishment, control, maintenance, and operation of any reserve established under this section.

"SEC. 4. Any reserves established under this act, including the water levels therein, shall be maintained and operated under the supervision and control of the Secretary of the Interior, in conformity with such rules and regulations as he may prescribe, for the primary purpose of conserving wild-rice beds for the exclusive use and benefit of the Chippewa Indians of Minnesota. The said Secretary, upon such terms and conditions as he may deem proper, may enter into an agreement in writing with the State of Minnesota, through its department of conservation, or other proper State agency, for the administration of any reserve created under this act, and for its use for other or different purposes, conditioned only that such other and different uses shall not impair the primary purpose for which said reserve was created and its administration in strict conformity with said rules and regulations prescribed by said Secretary.

"SEC. 5. All costs of establishing the reserves herein authorized, including the acquisition of the lands and the construction of dams or other structures to regulate the water levels, are hereby au-

thorized to be paid by the Secretary of the Interior out of the trust funds of the Chippewa Indians of Minnesota in the Treasury of the United States."

Mr. BOILEAU. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 3, line 19, after the word "lakes", strike out the period, insert a semicolon and the following: "*Provided, however,* That there shall be, and hereby is, excluded from said reserves any and all areas, whether of land or water, necessary or useful for the development to the maximum of waterpower or the improvement of navigation in the Pigeon River, an international boundary stream, and tributary lakes and streams."

Mr. ROGERS of Oklahoma. Mr. Speaker, the Commissioner of Indian Affairs approved of that amendment.

The amendment was agreed to.

The bill as amended was ordered to be read a third time, and was read the third time and passed, and a motion to reconsider was laid on the table.

A House bill (H. R. 6963) was laid on the table.

CONFERRING JURISDICTION ON UNITED STATES COURTS OVER OSAGE INDIAN DRUG AND LIQUOR ADDICTS

The Clerk called the bill (H. R. 6625) conferring jurisdiction on United States district courts over Osage Indian drug and liquor addicts.

The SPEAKER. Is there objection?

Mr. ZIONCHECK. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

Mr. ROGERS of Oklahoma. Mr. Speaker, this bill has been passed over twice. I shall have to object to that request.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. ZIONCHECK. Mr. Speaker, I object.

UNIFORM SYSTEM OF BANKRUPTCY

The Clerk called the bill (H. R. 5452) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto.

The SPEAKER. This bill requires three objections. Is there objection?

Mr. ZIONCHECK, Mr. WILSON of Pennsylvania, Mr. MILLARD, Mr. HANCOCK of New York, and Mr. HESS objected.

LONGEVITY PAY, 1933, 1934, AND 1935

The Clerk called the bill (H. R. 6512) to authorize the crediting of service rendered by personnel (active or retired) subsequent to June 30, 1932, in the computation of their active or retired pay after June 30, 1935.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That notwithstanding the suspension during the fiscal years 1933, 1934, and 1935 of the longevity increases provided for in the tenth paragraph of section 1 of the Pay Adjustment Act of 1922, the personnel (active or retired) so affected shall be credited with service rendered subsequently to June 30, 1932, in computing their active or retired pay accruing subsequently to June 30, 1935: *Provided,* That this section shall not be construed as authorizing the payment of back longevity pay for the fiscal years 1933, 1934, and 1935 which would have been paid during such years but for the suspension aforesaid.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

RELIEF OF PERTH AMBOY, N. J.

The Clerk called the bill (H. R. 5789) for the relief of the city of Perth Amboy, N. J.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. Without objection, a similar Senate bill, S. 156, will be substituted for the House bill.

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment upon the claim of the city of Perth Amboy, N. J., for the recovery of money expended in 1918 by the city of Perth Amboy pursuant to an alleged agreement with the United States to extend the city's water system for the purpose of supplying water to the Raritan Arsenal and Colonial Base Hospital, No. 2, less the present estimated value of the equipment installed under such agreement.

SEC. 2. Suit upon such claim may be instituted at any time within 1 year after the enactment of this act, notwithstanding the lapse of time or any statute of limitations, except that said city shall be required to give sufficient assurance to the United States that it will preserve the facilities for furnishing water on account of which this claim is made and will not destroy or render them unfit for use except with the consent of the Secretary of War. Proceedings for the determination of such claim, and appeals from any payment of any judgment thereon, shall be in the same manner as in the case of claims over which such court has jurisdiction under section 145 of the Judicial Code, as amended.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

A House bill (H. R. 5789) was laid on the table.

AID IN PROVIDING PARK FACILITIES, ETC.

The Clerk called the bill (H. R. 6594) to aid in providing the people of the United States with adequate facilities for park, parkway, and recreational-area purposes, and to provide for the transfer of certain lands chiefly valuable for such purposes to States and political subdivisions thereof.

The SPEAKER. Is there objection?

Mr. MILLARD, Mr. PLUMLEY, Mr. TRUAX, and Mr. McFARLANE objected.

RELIEF OF PUERTO RICO

The Clerk called House Joint Resolution 129, to amend the joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, to permit an adjudication with respect to liens of the United States arising by virtue of loans under such joint resolution.

The SPEAKER. Is there objection?

Mr. O'BRIEN. Mr. Speaker, I object.

MEMORIAL TO SURVIVORS OF DIRIGIBLE "SHENANDOAH"

The Clerk called the bill (H. R. 6321) authorizing the erection of a memorial to the survivors of the dirigible *Shenandoah.*

The SPEAKER. Is there objection?

Mr. YOUNG. Mr. Speaker, I reserve the right to object.

Mr. WOLCOTT. Mr. Speaker, I reserve the right to object.

Mr. YOUNG. Mr. Speaker, this bill calls for an appropriation to provide a memorial, not to those who lost their lives in this disaster, but to those who survived the disaster. I object.

Mr. KELLER. Mr. Speaker, will the gentleman permit me——

Mr. YOUNG. I shall permit the gentleman, but I shall insist upon my objection.

Mr. KELLER. Mr. Speaker, will the gentleman ask that the bill be passed over without prejudice, because we want to amend the bill?

Mr. YOUNG. Mr. Speaker, I object.

Mr. TABER. Mr. Speaker, I suggest to the gentleman from Illinois that he ask unanimous consent that the bill be referred back to the Committee on the Library.

Mr. KELLER. Mr. Speaker, I make that request.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be recommitted to the Committee on the Library. Is there objection?

Mr. WOLCOTT. Mr. Speaker, I reserve the right to object.

Mr. McFARLANE. Will the gentleman write a report on it if we put the bill back there?

Mr. KELLER. I think I can.

The SPEAKER. Is there objection to the request of the gentleman from Illinois that the bill be recommitted to the Committee on the Library?

There was no objection.

FREDERIC A. DELANO

The Clerk called House Joint Resolution 195, to provide for the reappointment of Frederic A. Delano as a member of the Board of Regents of the Smithsonian Institution.

The SPEAKER. Is there objection?

Mr. WOLCOTT. Mr. Speaker, I reserve the right to object, to ask the Chairman of the Library Committee if a report has been filed on this bill?

Mr. KELLER. It has been filed.

Mr. WOLCOTT. In addition to the report that we objected to the last time the bill was under consideration?

Mr. KELLER. Surely, a 10-page report. I wrote it for the special benefit of the gentleman.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. WOLCOTT. Yes.

Mr. FISH. I hope the gentleman from Michigan will not object to this bill. Mr. Frederic Delano is a constituent of mine, a very distinguished gentleman. He is known throughout the country as a man who seeks to help the President in his efforts to beautify Washington. He has been a member of the Board of Regents of the Smithsonian Institution for years. I hope the gentleman will not object.

Mr. WOLCOTT. Mr. Speaker, I have no objection to the merits. My only objection was to the fact that no report had been given us about the merits of it. I have a perfecting amendment to offer which I know the gentleman will agree to.

Mr. MILLARD. Reserving the right to object——

Mr. TRUAX. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore (Mr. FULLER). Is there objection to the request of the gentleman from Ohio?

Mr. KELLER. Mr. Speaker, I will object to that, because I have written a report at the request of the gentleman on my left and at the request of the gentleman on my right. It is a 10-page report. It has been prepared with very great care, and I commend the attention of the House to that report, because it gives in short a history of the Smithsonian Institution as well as a history of the man who has already served there 12 years on the Board of Regents, Mr. Frederic A. Delano. There is no report that has been brought to this House that is more fully or completely or better done than that very report which I have here in my hand and which has been available to the gentleman for a full week. If the gentleman is going to object to the confirmation of Mr. Delano, let him do it now.

Mr. TRUAX. Mr. Speaker, I for one knew nothing about the existence of this report until just now. How does the gentleman from Illinois expect anyone to read and digest that report of 10 pages so that he can act intelligently upon this bill? I therefore renew my request, Mr. Speaker, that this bill be passed over without prejudice until we all have an opportunity to read this thorough and exhaustive report.

Mr. KELLER. Mr. Speaker, this report has been available for a full week. I do not believe it is the duty of the chairman of this committee to bring it to the individual attention of the Members when they have had a week to see it. I guaranteed to write it, and I have written it. I said at the time the gentleman from Ohio demanded a full report that he would not read it if I did write it. And he has not. He interjects an objection, for what reason I cannot understand.

The SPEAKER pro tempore. Is there objection?

Mr. KENNEY. Mr. Speaker, I object.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. TRUAX. Mr. Speaker, I object.

FILING AND INDEXING SERVICE FOR GOVERNMENT PUBLICATIONS

The Clerk called the next bill, H. R. 4015, authorizing the establishment of a filing and indexing service for useful Government publications.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McFARLANE, Mr. COSTELLO, and Mr. TRUAX objected.

ALLOCATION OF NET REVENUES OF THE SHOSHONE POWER PLANT

The Clerk called the next bill, H. R. 6875, providing for the allocation of net revenues of the Shoshone power plant of the Shoshone reclamation project in Wyoming.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. ZIONCHECK. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice and that I have the right to file a letter from Commissioner Mead with reference to this particular project in the RECORD at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. GREEVER. Mr. Speaker, I object to that.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. ZIONCHECK. Mr. Speaker, I object. I renew my unanimous-consent request to print in the RECORD at this point this letter from Commissioner Mead.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. CULKIN. Will the gentleman withhold his objection for a moment?

Mr. ZIONCHECK. I will; yes.

Mr. CULKIN. Mr. Speaker, I have examined the papers in this case. The entire situation was submitted to me by our colleague, Mr. GREEVER. It would seem to me that it is entirely proper that this legislation be passed. The people are on the land and they are having withheld from this particular project moneys that actually belong to them; and they are in dire distress.

Mr. ZIONCHECK. The letter that I am asking to put in gives the commissioner's explicit reasons for opposing the passage of this legislation at this time. That is the reason I wanted to put it in the RECORD.

Mr. CULKIN. The gentleman knows my attitude with reference to these matters.

Mr. ZIONCHECK. I have already objected to the bill.

Mr. GREEVER. Will the gentleman withhold his objection?

Mr. ZIONCHECK. I have already objected to the bill. I am asking unanimous consent to put this letter in the RECORD.

Mr. JENKINS of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. JENKINS of Ohio. I understand the gentleman is about to object to this bill.

Mr. ZIONCHECK. I have already objected to the bill.

Mr. JENKINS of Ohio. And I understand the gentleman is coupling a unanimous-consent request with his objection.

Mr. ZIONCHECK. It is a separate request.

Mr. JENKINS of Ohio. I raise the point of order as to whether that request can be made in conjunction with an objection.

The SPEAKER pro tempore. It cannot and it is not. The gentleman has already objected to the bill.

Mr. CULKIN. I object to the request of the gentleman from Washington [Mr. ZIONCHECK].

PRESERVATION OF AMERICAN SITES, BUILDINGS, OBJECTS, ETC.

The Clerk called the next bill, H. R. 6670, to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. COSTELLO. Mr. Speaker, I object.

BUST OF FORMER SPEAKER JOSEPH G. CANNON

The Clerk called the next business, House Resolution 117, to provide for placing a suitable inscription on the pedestal of the bust of former Speaker Joseph G. Cannon.

The SPEAKER pro tempore. Is there objection?

Mr. TRUAX. Mr. Speaker, I object.

Mr. RANKIN. I hope the gentleman will not object. This simply inscribes a statue that has already been erected, as I understand it.

Mr. TRUAX. I will withhold my objection temporarily.

Mr. RANKIN. Mr. Speaker, as I understand it, this is simply to put an inscription on a bust of former Speaker Joseph G. Cannon, whom we all knew as "Uncle Joe"

when he was in the House. The bust is already prepared and is already in the House Office Building.

Mr. TRUAX. I will withdraw my reservation of objection, Mr. Speaker.

There being no objection the Clerk read as follows:

Resolved, That the Committee on the Library is authorized and directed to provide for placing a suitable inscription on the pedestal of the bust of former Speaker Joseph G. Cannon, now located on the second floor of the Old House Office Building, containing the name of such former Speaker, his home residence, the congressional district represented by him, the number of years of service as a Member of Congress, and the number of years of service as Speaker of the House of Representatives. The expenses of providing such inscription shall be paid out of the contingent fund of the House.

The resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STATUE OF GEN. ROBERT E. LEE

The Clerk called the next resolution (H. J. Res. 232) authorizing the erection of an equestrian statue of Gen. Robert E. Lee in the Arlington National Cemetery.

Mr. WOLCOTT. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. WOLCOTT. I yield.

Mr. FISH. Mr. Speaker, this bill has already been passed over once. If it is passed over again, it probably will never be reached. I hope the gentleman will not object to consideration of the bill. Otherwise I think I shall have to object to passing it over so we can reach it at the next call of the Consent Calendar when it will take three objections to displace it. The gentleman has not any serious objection to it, I feel sure.

Mr. WOLCOTT. Mr. Speaker, I may say that this is a very unusual bill. To begin with, it authorizes an appropriation of $50,000, and I am frank to say this does not appeal to me. For this reason I was constrained to object, but I have more or less of an open mind in the matter and am willing to give it consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. FULMER. Mr. Speaker, I object.

Mr. WOLCOTT. Mr. Speaker, a point of order. Mr. Speaker, I do not understand that there was any valid objection to my request that the bill go over without prejudice.

The SPEAKER pro tempore. There was objection.

Mr. FULMER. Mr. Speaker, will the gentleman yield?

Mr. WOLCOTT. Certainly.

Mr. FULMER. I understand that if objection was made to the gentleman's request that it would take three objections to displace the bill at the next call of the calendar.

The SPEAKER pro tempore. It will take three objections to displace the bill at the next call of the calendar.

Mr. FULMER. Mr. Speaker, I withdraw my objection.

Mr. McFARLANE. Mr. Speaker, we might as well cross this bridge right now. I object.

Mr. RANKIN. Does the gentleman object to consideration of the bill?

Mr. McFARLANE. No; I am just objecting to the bill being passed over without prejudice. Let us cross the bridge right now.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. RICH. Mr. Speaker, I object.

DEVELOPMENT OF MINERAL RESOURCES

The Clerk called the next bill, H. R. 7958, to relieve unemployment in mining districts, increase the monetary gold and silver reserve of the United States, and to develop strategic, deficiency, and noncompetitive mineral resources of the Nation, and for other purposes.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. WOLCOTT, Mr. JENKINS of Ohio, Mr. TRUAX, and Mr. McFARLANE objected.

DEVELOPMENT OF INDIAN ARTS AND CRAFTS

The Clerk called the next bill, H. R. 6468, to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. McFARLANE, Mr. COSTELLO, Mr. TABER, and Mr. MILLARD objected.

FILLED MILK

The Clerk called the next bill, H. R. 6361, to amend the Filled Milk Act.

Mr. TRUAX. Mr. Speaker, reserving the right to object, I objected to this bill at the last call of the Consent Calendar. Since that time I have received certain information from cooperative milk organizations in Ohio explaining the bill at length, which explanation has convinced me that it is a meritorious bill and should be enacted into law. I withdraw my reservation of objection, therefore, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the act of March 4, 1923, entitled "An act to prohibit the shipment of filled milk in interstate or foreign commerce" (U. S. C., title 21, ch. 3) be, and the same is hereby amended by adding at the end thereof the following section:

"SEC. 4. The Secretary of Agriculture is hereby authorized and directed to make and enforce such regulations as may in his judgment be necessary to carry out the purposes of this act, and there is authorized to be appropriated the sum of $10,000 annually for the purpose of carrying out the provisions of this act."

Mr. McFARLANE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McFARLANE: Strike out all after the word "act", in line 10, page 1.

Mr. McFARLANE. Mr. Speaker, I do not care to make any extended argument on this bill. As I understand it, sufficient money is available in the Department of Agriculture with which to carry out this work. My amendment strikes out the authorization of $10,000. I hope the amendment will be adopted.

Mr. TRUAX. Mr. Speaker, will the gentleman yield?

Mr. McFARLANE. I yield.

Mr. TRUAX. Does the gentleman know what is to be done with this $10,000 appropriated in the bill?

Mr. McFARLANE. No; the bill does not specify, neither does the report.

Mr. TRUAX. They certainly could not expect to cover the entire United States with enforcers for $10,000.

Mr. McFARLANE. Insufficient money is appropriated if the intention is to carry out enforcement of the act with this sum alone.

Mr. TRUAX. That is true.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PAYMENT OF NON-INDIAN CLAIMANTS

The Clerk called the next bill, H. R. 7741, to authorize an appropriation to pay non-Indian claimants whose claims have been extinguished under the act of June 7, 1924, but who have been found entitled to awards under said act as supplemented by the act of May 31, 1933.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. JENKINS of Ohio, Mr. TABER, and Mr. WOLCOTT objected.

Mr. ROGERS of Oklahoma. Mr. Speaker, will the gentleman withhold his objection?

Mr. JENKINS of Ohio. Mr. Speaker, I withhold my objection for the time being to permit the gentleman to make an explanation.

Mr. ROGERS of Oklahoma. Mr. Speaker, I suppose the gentleman objects because the bill carries an authorization for the appropriation of $45,000.

Mr. JENKINS of Ohio. Yes.

Mr. ROGERS of Oklahoma. Mr. Speaker, if the gentleman will examine the report he will find set forth in detail the facts regarding these claims.

This is not a question of just raiding the Treasury to the extent of $45,000.

Mr. JENKINS of Ohio. That is what appeals to me. It refers to non-Indian claims, and the money is to come out of Federal funds. This involves nearly $50,000. Why should not the gentleman bring this up under a suspension and give us a chance to talk on the matter?

Mr. ROGERS of Oklahoma. Of course, if you force me to do that, I will have to do it.

Mr. JENKINS of Ohio. I would rather the gentleman bring it up under suspension.

The SPEAKER pro tempore. Is there objection?

Mr. TABER, Mr. MILLARD, and Mr. JENKINS of Ohio objected.

ENROLLMENT OF CERTAIN PERSONS WITH THE OMAHA TRIBE OF INDIANS

The Clerk called the next bill, H. R. 7202, to investigate the claims of and to enroll certain persons, if entitled, with the Omaha Tribe of Indians.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. JENKINS of Ohio. Mr. Speaker, reserving the right to object, may I ask the gentleman from Oklahoma [Mr. ROGERS] a question? If this bill is passed, enrolling these men, it means they will be entitled to participate in the tribal funds?

Mr. ROGERS of Oklahoma. Yes.

Mr. JENKINS of Ohio. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. McFARLANE and Mr. COSTELLO objected.

Mr. ROGERS of Oklahoma. Mr. Speaker, this bill has been before the Congress a good many years. It has passed the House and Senate in previous Congresses. It has been reported three or four times out of our committee.

Mr. McFARLANE. We have this from the majority leader's office. It says:

It would probably set a bad precedent to pass this bill, as there are thousands of people in the United States who claim to possess Indian blood, and if this precedent were established, the Treasury of the United States would be unable to pay the distributive shares of each claimant. It has been about 135 years since the marriage of "Laughing Buffalo" to the gay count, and it would be rather difficult to find all the heirs.

Mr. ROGERS of Oklahoma. Who said that?

Mr. McFARLANE. It comes out the majority room.

Mr. ROGERS of Oklahoma. Does that come from the Department? I would like to say in that connection that if the gentleman is going to object to this bill because it has a statement in there detrimental to the bill that I wish in the future the gentleman would observe the recommendations of the Indian Department and not object to bills which have the endorsement of that Department.

Mr. McFARLANE. May I say in answer to the gentleman that we reserve our own rights on whether the Department is right or whether we think we are right. We do not always follow the departments.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. McFARLANE and Mr. COSTELLO objected.

EASTERN AND WESTERN CHEROKEES

The Clerk called the next resolution, House Resolution 125, pertaining to the settlement with the Eastern and Western Cherokees under Public, No. 105, Seventy-second Congress.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. TRUAX, Mr. COSTELLO, Mr. McFARLANE, and Mr. JENKINS of Ohio objected.

MEDITERRANEAN FRUIT FLY

The Clerk called the next bill, H. R. 1419, to provide for an investigation and report of losses resulting from the campaign for the eradication of the Mediterranean fruit fly by the Department of Agriculture.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. JENKINS of Ohio. Mr. Speaker, reserving the right to object, I think this is the old Mediterranean fly bill?

Mr. PETERSON of Florida. Yes.

Mr. JENKINS of Ohio. Mr. Speaker, this is a bill that has been before us for a long time. I have objected to it for years. The gentleman from Florida has been very persistent, and the Committee on Agriculture has recommended the bill. The Department of Agriculture has had sufficient time to interpose any objections if it wished to do so. This Department was largely responsible for this Mediterranean fly fiasco, and if it is not concerned with this, I feel that I have about discharged my duty. I have been the watchdog of the Treasury so far as this one particular bill is concerned, but now, as I am assured that no objection has come from the Department of Agriculture and the gentleman from Florida has been magnanimous enough to agree with me to a reduction to $5,000, so I am constrained to go along. This amount will not break the Government up and it will enable the small farmer who has a small claim to file his claim. He might have been unable to do so otherwise, for the strong grower can protect himself but the little fellow might be left out.

Mr. PETERSON of Florida. Yes.

Mr. JENKINS of Ohio. With that understanding, I withdraw by reservation of objection and will expect the gentleman from Florida to offer an amendment reducing the amendment from $10,000 to $5,000.

Mr. TABER. Mr. Speaker, reserving the right to object, this is a case where the Florida folks have come here and asked the Congress to spend a lot of money to go down there to make an investigation. The money was spent at their request. I do not see why we should have this kind of an investigation at this time; therefore I object.

Mr. MILLARD and Mr. RICH also objected.

Mr. PETERSON of Florida. May I say that if the gentlemen who objected understood the situation clearly they would withdraw their objection? There was an informal committee that gathered considerable data in times past. Some of that data is of a large amount. However, the little fellows did not have their data adequately prepared.

Now, if this matter comes up in future years the grower himself and the Federal Government both would be at a disadvantage. I feel that when the matter is reasonably fresh in our minds—and as a matter of fact it has gone too far already—it would be to the advantage of the Federal Government to ascertain the different types of claimants and the different classifications involved. I could go into considerable detail with reference to the facts. The gentleman made the statement it was at the request of the State, but the original fly larva was discovered upon the ground of the Federal Department of Agriculture. That matter was gone into very carefully by the Agricultural Committee.

Mr. RICH. Mr. Speaker, as I understand it, the people of Florida asked the Government to go down there and spend some money on this particular fly. The people of Florida made that request of the Government to do this particular work. As I understand it, the gentleman is interested in trying to get the Federal Government to make an estimate of what damage has been sustained, with the idea that they will come back to the Federal Government, asking the Government to pay the damages which the fruit incurred at that time. I think the gentleman is absolutely wrong.

Mr. PETERSON of Florida. I may say to the gentleman from Pennsylvania that the State itself did not first ask for this. The pest was found in the laboratory grounds of the Federal Department of Agriculture by Federal agents and the House Committee on Agriculture has gone into this phase of the matter very thoroughly. I may say further that the man I have the greatest sympathy for is the small

grower, because the Federal Government said that this fly was a plant pest and their crops hosts and that they must destroy them and consequently there was a great amount of damage suffered by these people.

I hope the gentleman will withdraw his objection.

Mr. YOUNG. Mr. Speaker, I demand the regular order.

Mr. TABER. If the regular order is demanded, I object, Mr. Speaker.

Mr. GREEN. Mr. Speaker, I ask unanimous consent to proceed for 3 minutes.

Mr. TABER. Mr. Speaker, in view of the fact that the regular order was demanded, I shall have to object.

THE SPANISH WAR MEMORIAL PARK, TAMPA, FLA.

The Clerk called the next bill, H. R. 7085, to provide for the creation of a memorial park at Tampa, in the State of Florida, to be known as "The Spanish War Memorial Park", and for other purposes.

Mr. COSTELLO. Mr. Speaker, I reserve the right to object.

Mr. PETERSON of Florida. Mr. Speaker, is the gentleman familiar with the House amendment which provides that there shall be no appropriation?

Mr. COSTELLO. That is not in the Senate bill.

Mr. PETERSON of Florida. I have an amendment which I shall offer if the Senate bill is substituted.

Mr. COSTELLO. What expense is this going to be to the Federal Government ultimately?

Mr. PETERSON of Florida. The bill does not authorize an appropriation. We are hopeful we will get P. W. A. funds, and there will be donations made by the State and some by the city.

I may say further that this measure has been approved by the National Park Service, the Director of the Budget, and by the Spanish War Veterans at three national conventions and the gentlemen who have sponsored this measure for a number of years have finally got together the land, and one of them is now very ill, and I am hopeful that we may pass this bill at the present time. I hope the gentleman will withdraw his objection.

Mr. COSTELLO. The principal argument in favor of this bill seems to be the fact that at the present time there is not a Spanish War memorial anywhere in the United States. However, during the present session of the Congress we have approved a private bill appropriating the sum of $75,000 for a memorial here in Washington, and I think this should be adequate as a memorial for the Spanish War veterans.

Mr. PETERSON of Florida. This is at the port of embarkation, and the exact site was selected by the Spanish War Veterans at three national conventions.

Mr. COSTELLO. The other bill provides for the taking of one of the ships used in the Spanish-American War and anchor it in the Potomac and make it a national monument. To my mind this should be a sufficient appropriation out of this Congress for such a memorial.

Mr. GREEN. Mr. Speaker, I hope the gentleman will not object, because the Spanish War veterans all over the United States are deeply interested in this measure. They have centered on Tampa as the appropriate place to locate this memorial. I think this would be a proper expenditure of money. We have monuments all over Washington and all over the United States, and the veterans want this particular site commemorated.

Mr. COSTELLO. Having made one appropriation for a Spanish War memorial, I think that should be sufficient for this Congress.

I object, Mr. Speaker.

BRIDGE ACROSS DELAWARE RIVER NEAR EASTON, PA., AND PHILLIPSBURG, N. J.

The Clerk called the next bill, H. R. 7346, authorizing the Delaware River Joint Toll Bridge Commission of the State of Pennsylvania and the State of New Jersey to construct, maintain, and operate a toll bridge across the Delaware River at a point between Easton, Pa., and Phillipsburg, N. J.

Mr. TRUAX. Mr. Speaker, reserving the right to object, I should like to have the gentleman from Pennsylvania [Mr. WALTER] make a brief statement on this bill. I have objected to it heretofore and then asked that it be passed over without prejudice, which was agreed to.

Mr. ZIONCHECK. Is not this bridge actually under construction now?

Mr. WALTER. An application for a loan and grant was made to the Public Works Administration. The authority to construct the bridge was given under H. R. 6794, at the Seventy-third Congress. This authority, however, was given to the States of New Jersey and Pennsylvania. Subsequently, the two States entered into a compact setting up a commission which has control of all the bridges along the Delaware River. There has been some question raised by attorneys as to the legality of the authority given to the two States in view of the fact a commission was set up for the purpose of controlling all of the bridges along the Delaware River.

Mr. TRUAX. Let me ask the gentleman this question. The bill provides that tolls may be collected for a period of 40 years. I am unalterably opposed to any such provision in any toll-bridge bill. I wonder if the gentleman would be willing to accept an amendment which would reduce that period of time from 40 years to 20 years.

Mr. WALTER. I may say in that connection that the moment the cost of the bridge is amortized, it will become a free bridge automatically under the language of the bill.

Mr. TRUAX. The point is if we give them 40 years they will take it all and will be charging tolls for 40 years.

Mr. WALTER. Under the law, the moment that the tolls have paid for the cost of the bridge, the bridge automatically becomes a free bridge. The only reason the time was fixed at 40 years was to give the local people the benefit of not being compelled to pay large tolls. The engineers feel that the toll should be 5 cents for a pleasure vehicle and 50 cents for a larger vehicle.

Mr. TRUAX. Five cents regardless of the number of passengers?

Mr. WALTER. Yes.

Mr. TRUAX. Is the gentleman willing to accept an amendment to that effect?

Mr. WALTER. Yes; but I do not think that ought to be put into the bill.

Mr. TRUAX. At the last session on the Consent Calendar I vehemently objected to the erection of toll bridges by this method. I have received a number of letters supporting my contention. If you fix the time at 40 years, they will take 40 years. If you reduce it to 20 years, it will assure the next generation that they will not be compelled to pay tolls; and if you fix the maximum so that they will not be obliged to pay more than 5 cents for a passenger vehicle, you have gone a long way. They have been charging 50 cents on a bridge over on Lake Erie. That is robbery and piracy.

Mr. WALTER. The gentleman is under the misapprehension that this is being built by a private corporation. It is not. That is not the fact. It is a commission of the two States. There will be no profit made by anyone.

Mr. TRUAX. We have bills here today that are effective in the State of Pennsylvania, the gentleman's own State. An agreement has been made that the duration of time shall not exceed 20 years. I personally will not subscribe or approve of a bill that does not follow that agreement.

Mr. WALTER. The engineers estimate that this can be paid for in 17 years.

Mr. TRUAX. I shall have to object unless the gentleman will accept my amendment.

Mr. WALTER. I am willing to agree to 30 years on my own responsibility.

Mr. TRUAX. I shall have to object.

Mr. WALTER. Very well, if the gentleman wants to hold up the entire program.

Mr. TRUAX. Well, we are going to be here a long time.

The SPEAKER pro tempore. Objection is heard.

WHEELER-RAYBURN BILL

Mr. CROWTHER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CROWTHER. Mr. Speaker, the people of this country want and need an ample supply of electric power at a reasonable cost. Coupled with that desire is the demand for sane regulation of the producers of power and a safeguarding of such investments to the stockholders. The so-called "death sentence" in this bill has raised a storm of protest that has become national in its scope. The American people are for constructive regulation but they will fight to the last ditch against destruction of our utility corporations in the name of reform.

Recovery seems to have been sidetracked, while the main line is crowded with the hysterical propaganda of reform. That there have been glaring abuses no one will deny, but why burn down the house to get rid of a few rats?

This is no time for frenzied attacks on big business. This is a time for clear thinking and sound analysis. This is a $12,000,000,000 industry and it places $2,000,000,000 annually in pay envelops of its million employees. There are several million small investors who are vitally interested in seeing that fair play is extended to these corporations.

I shall vote for such amendments as will tend to improve the bill, but on final passage I feel it my duty to vote against it.

CONSENT CALENDAR

BRIDGE ACROSS POTOMAC RIVER, OLD TOWN, MD.

The Clerk called the bill (H. R. 7395) authorizing M. R. Carpenter, his heirs, legal representatives, or assigns, to construct, maintain, and operate a bridge across the Potomac River between Old Town, Md., and Green Spring, W. Va.

Mr. ZIONCHECK, Mr. McFARLANE, and Mr. TRUAX objected to the consideration of the bill.

BRIDGE ACROSS MONONGAHELA RIVER, MONESSEN, PA.

The Clerk called the bill (H. R. 7591) granting the consent of Congress to the cities of Donora and Monessen, Pa., municipal corporations, to construct, maintain, and operate a bridge across the Monongahela River between the two cities.

The SPEAKER. Is there objection?

Mr. TRUAX. Mr. Speaker, I reserve the right to object. I have an amendment to offer to which the author of the bill has agreed. Therefore, I ask that the bill be read.

The SPEAKER pro tempore. Is there objection?

Mr. JENKINS of Ohio. Mr. Speaker, I reserve the right to object. I have been here a long time trying to follow and protect these Consent Calendars. The question of the consent of the Congress to build bridges is a very important matter. It should not be fixed in a careless way. There should be uniformity in all bridge legislation. It is a matter that comes out of the Committee on Interstate and Foreign Commerce. Heretofore we have had a policy, and it has not been a personal policy, it has not been the wishes or whims of any one individual; we have sought to follow according to some rules and regulations in conformity with the wishes of the Committee on Interstate and Foreign Commerce. This is one of the major committees of the House, and when a Member assumes to perfect the work of such an important committee he should consult something besides his prejudices. The chairman of the subcommittee of that committee [Mr. CHAPMAN], a distinguished Member from Kentucky, is here, and I think somebody ought to assert the rights of that committee, because if that is not done we will have all kinds of bridge bills and we will have no uniformity, and uniformity is a very important matter. I rise to ask Mr. CHAPMAN how the request of the gentleman from Ohio [Mr. TRUAX] comports with the rules and wishes and the regulations of the Committee on Interstate and Foreign Commerce?

Mr. CHAPMAN. Mr. Speaker, the Committee on Interstate and Foreign Commerce, through the Subcommittee on Bridges, has very scrupulously followed an established and approved set of forms of bridge bills, which have been worked out through long years of experience. We have stuck to those forms entirely clear through. This bill in form is according to those approved regulations and has the approval of both the Department of War and the Department of Agriculture.

Mr. JENKINS of Ohio. What effect does the request of the gentleman from Ohio have on that? I understand he asks unanimous consent to put some kind of an amendment seeking to fix the toll charge on this bill, and I am opposed to that.

Mr. CHAPMAN. I do not understand the gentleman from Ohio does that. I understand that he wanted to offer an amendment.

Mr. JENKINS of Ohio. I should like to know what the gentleman from Ohio proposes.

Mr. TRUAX. And is that one of your usual customs, to know in advance of an amendment what it is, before you permit them to be offered? I do not propose to subscribe to such a policy, even though it has been followed for years.

Mr. JENKINS of Ohio. The gentleman from Ohio is an unusual individual, of course.

Mr. TRUAX. And so is the gentleman from the Tenth District.

Mr. JENKINS of Ohio. And, of course, he requires unusual consideration.

Mr. TRUAX. And the gentleman from the Tenth District does not dominate me.

Mr. JENKINS of Ohio. I know that, and I should hate to take the responsibility for doing that.

The SPEAKER pro tempore. Is there objection?

Mr. CHAPMAN. Oh, the gentleman from the Tenth District [Mr. JENKINS of Ohio] has always displayed marked courtesy to all of his colleagues, so far as I know.

Mr. JENKINS of Ohio. What I want to know is what does the gentleman propose to do or what is the parliamentary situation at the present time?

The SPEAKER pro tempore. The only question before the House now is whether there is objection to the consideration of the bill. The gentleman tells us he is not going to object, but he is going to offer an amendment.

Mr. JENKINS of Ohio. And I withdraw my reservation of objection?

Mr. TRUAX. With the statement that the gentleman from Pennsylvania [Mr. FADDIS], the author of the bill, has agreed to accept the amendment which I propose to offer.

The SPEAKER pro tempore. That is a matter between the gentleman from Ohio and the gentleman from Pennsylvania, and the Chair cannot be governed by that. Is there objection?

Mr. DONDERO. Mr. Speaker, I reserve the right to object. Is this a toll bridge?

Mr. CHAPMAN. Yes; and it will become a free bridge as soon as it is amortized, and the limit upon it is 20 years. Both departments approve of it.

Mr. DONDERO. I have no objection.

The SPEAKER pro tempore. Is there objection?

There was no objection?

The Clerk read the bill as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the cities of Donora and Monessen, municipal corporations of Pennsylvania, to construct, maintain, and operate a bridge and approaches thereto across the Monongahela River, at a point suitable to the interests of navigation, between the two cities in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters", approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. If tolls are charged for the use of such bridge, the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management and to provide a sinking fund sufficient to amortize the cost of the bridge and its approaches, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed 20 years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An

accurate record of the costs of the bridge and its approaches; the expenditures for maintaining, repairing, and operating the same; and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

With the following committee amendment:

Page 1, line 4, after the word "Monessen", strike out "municipal corporations of", and in line 7 correct the spelling of the word "cities."

The committee amendments were agreed to.

Mr. TRUAX. I offer an amendment, Mr. Speaker.

The Clerk read as follows:

Amendment offered by Mr. TRUAX: Page 2, line 15, after the word "tolls", insert a period and strike out all the remainder of line 15, all of lines 16, 17, 18, and 19, to the period in line 19, and insert in lieu thereof the following: "No toll of over 15 cents per passenger car shall be charged, and all passengers therein shall be allowed to pass over said bridge free."

Mr. TRUAX. Mr. Speaker, my colleague the gentleman from the Tenth Ohio District [Mr. JENKINS] called attention to the fact that these bridge bills had been drawn and written by a committee so delegated to do that work. I have no criticism to offer of the committee's work, and I have no criticism to offer of any committee at this time. I feel they have done their duty and they have done it well, as they saw it. It all depends upon the viewpoint. These toll bridges have been foisted upon the people for many years. We are still paying tolls upon bridges that were built 40 and 50 years ago. We can just as well justify a toll bridge as we can justify a toll road. There is just as much justification for the one as for the other. Forty or fifty years ago there were no taxes collected with which to build roads. Those were the "horse and buggy" days. That went back to the "oxcart" days. Today the Federal Government and the States are collecting millions of dollars in gasoline taxes. The Federal Government collected $200,000,000 last year. From whom? From the motorists; from the poor man, the man of moderate means, and the man of riches. They all paid gasoline taxes. Where does the money go? It is an imposition upon those motorists, upon those travelers and users of the roads. Those roads are paid for and built with the taxpayers' money. It is an imposition and an outrage to then come before this Congress and ask from them an authorization so that companies, corporations, and even municipalities can proceed to build another toll structure to collect toll for at least 40 years. Every time a motorist crosses a toll bridge he must dig down in his pocket and pay that extortion and that toll. The purpose of my amendment is to establish a principle, establish a precedent, and cut these tolls down to not more than 15 cents per passenger car. They ought to be abolished forever.

As I said a moment ago, we have many toll bridges on the Ohio River, where the usual charge is 25 cents. We have toll bridges in some parts of Ohio where the charge is 50 cents. When they cross and come back it is a dollar. I ask you to adopt this amendment.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. TRUAX] has expired.

Mr. JENKINS of Ohio. Mr. Speaker, I rise in opposition to the amendment offered by the distinguished gentleman from Ohio [Mr. TRUAX].

We all appreciate he is strongly against toll bridges. He never misses an opportunity to expostulate loud and long as to his favoring free bridges, but it would not be wise to take that definite position as being against every toll bridge. That would be an absolutely silly position for anybody to take. There are thousands of toll bridges in the country that are a great benefit to the people. They do not complain at paying reasonable tolls. If private capital has been employed to construct a much needed bridge the people will be glad to pay a reasonable toll. Bridges are much preferred by the people to ferries. I have stood up here for years and long before Mr. TRUAX was ever heard of in Congress and objected to the Congress granting bridge franchises to people who desired them only to peddle them around to the highest bidder. I am in favor of freeing every bridge to public travel, but I am not a demagogue about freeing bridges without reimbursing those who have spent their money for the public good. If the gentleman from Ohio [Mr. TRUAX] desires to continue his position of being against all toll bridges, that is up to him, but this great Congress of the United States is not going to take that position, I am sure, when it understands the situation.

Now, this is what the gentleman seeks to do by his amendment. He seeks to write into a bill what the toll shall be. Think of the consequences of this Congress, under unanimous consent, assuming to lay down the precedent that we will fix tolls on every bridge in America, under unanimous consent. This is preposterous to contemplate.

In the first place, it is not the function of Congress to control the charges which owners make for the use of their property. Congress has no authority to control the bridges, only those which cross navigable waters, and then only as the bridges might obstruct navigation. Navigation is a privilege for the benefit of the people generally, and it is the right of sovereignty to control it. Congress has no right to say what kind of a bridge should be constructed except that it must not obstruct navigation. Congress has never assumed that authority. And further, it would be a most unusual procedure for Congress to assume to fix the toll charges. The charges on one bridge might not be reasonable charges on another. If we were to attempt to fix the charges on every bridge, when the bill for its authorization came up for passage we surely would have a mess of it. And especially to do that under the call of the Unanimous Consent Calendar, which is just what it imports. This amendment is, I think, made for the purpose of furnishing its author an excuse for him to proclaim in stentorian terms that he is the friend of the common people and that it is always his purpose to see to it that the poor people are cared for. Every Member would be glad to see all bridges free. They would be glad to see all poverty wiped out; also all sickness and unhappiness, but no sensible man can justify a course of taking property without just compensation. This motion of Mr. TRUAX will be beaten overwhelmingly. If he should submit it to a roll-call vote, it will be beaten 15 to 1. I ask you to vote down the demagogic amendment and follow the members of the committee who are attempting to do the right thing and protect the dignity of the House, and to do things in an orderly way.

Mr. GREEN. Mr. Speaker, I move to strike out the last word.

I rise at this time, Mr. Speaker, to explain, if I may, in part, the purpose of the bill which was objected to recently, providing for a survey of loss sustained during the eradication of the fruit fly in the State of Florida. H. R. 1419 provides for the investigation of the losses only, and is almost identical with a bill which I introduced some 4 years ago while the Republican Party was in power. My Republican colleagues probably will be interested in knowing that this bill was drawn as a result of a conference between Secretary of Agriculture Hyde, Chief of the Bureau of Entomology Dr. Lee Strong, and myself. We three agreed upon the language of the bill—I caused it to be drawn and introduced it. Later, it appears that Dr. Hyde retracted and failed to finally give his written approval. This bill was a little later introduced in the Senate by Florida's junior Senator, and has passed that body two or more times. One change has been made, beginning in line 12, page 2, as follows:

Provided, That such report shall serve as information only and shall not be construed as imposing any legal or moral obligation upon the Government of the United States.

Now, I cannot understand how that any Member of the House of either political party could possibly object to the passage of the resolution carrying this language.

We have, in Florida, a growers committee which has made a survey of losses sustained and are in a position to now promptly make to the Secretary of Agriculture a rather accurate report of damages and losses sustained by Florida fruit and vegetable growers.

Mr. Speaker, some of my colleagues seem to have altogether the wrong impression as to the responsibility of the Govern-

ment in this matter. The fact is, the State of Florida acquiesced in the wishes of the Federal officials, not primarily in the interest of Florida and Florida growers, but primarily in the greater interest of fruit and vegetable growers in other States in the Nation. Practically all fruit and vegetable growing States were gravely alarmed at this fruit-fly pest which appeared to be a grave threat to the fruit industry in every State in the Union, particularly California and Texas.

I repeat that the eradication was carried on by the Federal Government and in the interest of the public welfare. This cause stands precisely on the same footing as the foot-and-mouth disease eradication claims and the pink bollworm claims. In each of these instances the Federal Government paid half of the damages sustained and the affected States paid the other half. Those who lost their property in the eradication of these pests were reimbursed in this manner. I am sure that any fair-thinking Member of the House would desire to see the same plan of equitable settlement carried to Florida as has been accorded in other similar cases.

Police power in Florida was indirectly turned over to the Federal Government. In actual practice, if not in theory, the Federal Government assumed the responsibility, carried on the eradication program, and is now responsibile for damages; however, this resolution does not commit the Government to the payment of damages. All that it does is to spend not more than $10,000 to make a survey by Federal and State officials in order to ascertain damages. The gentleman from Ohio, I believe, has indicated his intent to offer an amendment reducing the appropriation from $10,000 to $5,000. We accept this amendment because we fully believe that, with the unofficial survey which has already been made, the Federal officials can utilize it in making their own survey and complete the task for even less than $5,000. Florida citizens have been patient now for several years and are undoubtedly entitled to this relief.

We are expending billions of dollars primarily for the relief of the needy and the unemployed. Thousands of growers in Florida are now needy and unemployed. It is far better to expend funds in retiring a Federal obligation and at the same time relieve the needy, than it is to expend funds with nothing in view except unemployment relief.

I hope that the gentlemen on the Republican side, who are so seriously objecting today, will not object to this resolution when it is brought up on the next Consent Calendar day.

I assure you it is full of merit and, in fact, is one of the most worthy pieces of legislation now before the Congress.

Mr. WOLCOTT. Mr. Speaker——

Mr. GREEN. Now, I hope the gentleman will not call for the regular order.

Mr. WOLCOTT. Mr. Speaker, we are deciding a very important question as to whether we shall establish tolls on these toll bridges. For that reason I must insist that the gentleman from Florida [Mr. GREEN] speak in order.

The SPEAKER pro tempore (Mr. FULLER). The gentleman from Florida will confine himself to the matter before the House.

Mr. GREEN. I trust the gentleman on the Republican side will not insist on the regular order. The matter of investigation of fruit-fly eradication damage in Florida is a most worthy subject.

The SPEAKER pro tempore. The gentleman must proceed in order, or not at all.

Mr. GREEN. I shall be glad to speak in perfect order when some other bills are presented, and am sure I will be understood.

Mr. FADDIS. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, in analyzing the attitude of various Members of the House toward toll bridges I fail to see why there should be any objection to a toll bridge. There is hardly a toll bridge proposed on this floor that does not replace a toll ferry. That toll ferry is much more dangerous and much more expensive than a toll bridge can possibly be. When it comes to a toll bridge, the people who use the bridge pay for the bridge and not the people who live a hundred miles away, or people who live back in the country somewhere and perhaps never use the bridge. I fail to see where there can be any fairer method devised for constructing a bridge than a toll bridge. The fact of the matter is that throughout the various States and municipalities they cannot today borrow the money to construct these bridges. In the past the municipalities have gone down into their own pockets to construct the bridges. It is only natural that they should be reimbursed by tolls. The bonded indebtedness of many counties and municipalities is so heavy that they are unable to raise money to build bridges any other way.

Mr. KENNEY. Mr. Speaker, will the gentleman yield?

Mr. FADDIS. I yield.

Mr. KENNEY. When the gentleman refers to "use" does the gentleman mean use by pedestrians or by those who ride across it?

Mr. FADDIS. By those who ride and by foot passengers as well.

Mr. TRUAX. Mr. Speaker, will the gentleman yield?

Mr. FADDIS. I yield.

Mr. TRUAX. The gentleman says there is no opposition to the bill.

Mr. FADDIS. The gentleman misunderstood me. I did not say there was no opposition.

Mr. TRUAX. There is opposition among the poor people who have to dig down in their pockets for a quarter or 50 cents to cross somebody's bridge. Such a condition should not be; the bridges should be free, the same as the roads are free.

Mr. HOLMES. Mr. Speaker, I move to strike out the last two words.

Mr. Speaker, I have made this motion that I may voice my opposition to the amendment. I sincerely ask this House to reject the amendment submitted by the gentleman from Ohio which would limit tolls not to exceed 15 cents per car. I do not believe a member of the subcommittee on bridges can tell what the bridge is going to cost. We are being placed in the position of fixing an arbitrary toll without relationship whatsoever to the cost of construction. What position do we find ourselves in? The subcommittee on bridges acting for the Interstate Commerce Committee has reported out a bill granting authority to two cities on the Monongahela River in Pennsylvania to construct this bridge. Two separate and distinct municipalities are concerned. If it were a private corporation, I do not know but what I might agree with my colleague from Ohio. In this instance, however, two separate and distinct municipalities on the Monongahela River have asked Congress to authorize the building of this bridge. It has been approved by the War Department and by the Department of Agriculture. The War Department usually governs and regulates the tolls to be charged on such bridges. What do we provide in the bill? Section 2 provides as follows:

SEC. 2. If tolls are charged for the use of such bridge, the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the cost of the bridge and its approaches, including reasonable interest and financing cost.

That is what the bill provides. How can any man, without even knowing what the cost of the bridge or its approaches will be, advocate on the floor of the House an arbitrary limit of 15 cents per vehicle as proper toll?

Mr. CRAWFORD. Mr. Speaker, will the gentleman yield?

Mr. HOLMES. Certainly.

Mr. CRAWFORD. Is it planned to build this bridge through a bond issue?

Mr. HOLMES. Yes; that is the only way these municipalities can raise money these days.

Mr. CRAWFORD. Is this a bond issue without stock?

Mr. HOLMES. The municipalities will issue bonds.

Mr. CRAWFORD. In the event there should be a default in the bond interest, or if they are serial bonds and there should be a default in the payment of principal——

Mr. HOLMES. I want to say to the gentleman, in the first place, that no municipality could ever sell bonds with an amendment limiting the toll to 15 cents.

[Here the gavel fell.]

Mr. CHAPMAN. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I know that all of us through the months have enjoyed being informed, elevated, and even inspired by the eloquent speeches of the gentleman from Ohio [Mr. TRUAX] on the subject of toll bridges. I think all of us are aware by this time that the distinguished gentleman is unalterably opposed to toll bridges.

I wonder if the gentleman knows that in his own State, as well as in my State and most of the other States, there are many places where there can be no bridge constructed at all except by municipalities, counties, States, or public authorities set up to build them, with tolls to be charged until the cost of construction is paid for, when the bridges will become free and be dedicated to the public use and benefit. There are hundreds of places where bridges could not be constructed under any other circumstance and paid for and made free in any other way. All of us hope to see the day when every bridge as well as every road will be free. That is why the committee, after serious and careful deliberation, reports such bills as this, drafted according to the rules and precedents and in the form developed and approved by the committee as the result of years of experience in handling bridge legislation.

The building of bridges relieves congested traffic conditions at river crossings where at present no facilities exist but ferryboats. When toll bridges are built under such limitations as are carried in the pending bill, they become free after they have been paid for. The tolls are regulated by the War Department. After they become free the gentleman can ride over them to his heart's content as can all the rest of his fellow citizens.

My fellow Members of the House, I hope you will unanimously vote down this amendment of the gentleman from Ohio, who, in the consideration of bills by unanimous consent, would write into a bridge bill an amendment fixing the exact amount of toll that should be charged, which practice would produce unending confusion and difficulty.

Mr. DOCKWEILER. Mr. Speaker, will the gentleman yield?

Mr. CHAPMAN. I yield.

Mr. DOCKWEILER. I think the most important point that has been stressed in opposition is that brought out by the gentleman from Pennsylvania a few moments ago when he said that toll bridges take the place of present facilities of crossing rivers, which is ferrying. Ferrying is dangerous to life, and if ferries can be supplanted by toll bridges under such safeguards as are contained in the pending bill, the building of such bridges should be encouraged.

Mr. CHAPMAN. I thank the gentleman from California. I think—in fact, I know—that I voice the sentiment of every member of the committee working on these problems when I declare that it is our endeavor to bring about a condition when all the bridges in the country will be free. I trust you will vote against the amendment offered by the gentleman from Ohio.

Mr. KENNEY. Mr. Speaker, I move to strike out the last three words.

Mr. Speaker, I am opposed to this amendment. I believe if we are going to have bridges, that in the large majority of cases we must have toll bridges. These bridges are built for the use of people in the immediate vicinity for the most part, and, of course, those people ought to pay in some measure for the services rendered where the municipalities are not in position to raise the funds to have a public bridge.

The time has come, however, in erecting toll bridges when we ought to give consideration to the proposition that pedestrians should be permitted to use these bridges at a minimum rate, if not entirely without cost. We ought to throw open to our people the right to cross a bridge between cities or between States without charge. [Applause.] For instance, we have a situation existing with the George Washington Bridge across the great Hudson River affecting my district where the Port of New York Authority, the Authority which built the bridge, undertook to, and did levy the tolls. The Port Authority decided to and did charge just as much for a pedestrian to cross that bridge as was charged those who rode across in busses. There was agitation against that unreasonable action, in which I took part, and after a considerable time the Port of New York Authority reduced the rate for pedestrians to 5 cents. As a matter of fact, there should be no charge to cross the bridge between New York and New Jersey on foot. The amount collected from pedestrians is negligible and from the time of the completion of the great engineering feat of the bridge the total annual revenue derived from persons crossing that bridge on foot has been decreasing and decreasing and should be dispensed with altogether as it is a source of little yield and only serves to prevent the use of the bridge by those of meager means.

Mr. EKWALL. Will the gentleman yield?

Mr. KENNEY. I yield to the gentleman from Oregon for a question.

Mr. EKWALL. What has that got to do with the national lottery?

Mr. KENNEY. It has nothing to do with it, but I appreciate the gentleman's interest, and the gentleman will hear enough from me on that other point later.

Mr. Speaker, I come from the place where the Palisades begin, and the George Washington Bridge joins New York to the main land, and the Port of New York Authority must throw the great bridge open to the public to use without charge when afoot. When the man to whom a charge of 10 cents or 5 cents means much has to cross the bridge to and from the city of New York and New Jersey, he has to pay, for him, a heavy toll which, in the aggregate, is insignificant in the annual returns from the bridge. No good reason remains for continuing a pedestrian toll, and it should be eliminated. Furthermore, if we are to grant permission to build toll bridges in the future, the revenue to meet the obligations arising from their building should be based on income from sources other than the pedestrian who should have the right to cross and recross without charge.

The SPEAKER. The question is on the amendment offered by the gentleman from Ohio [Mr. TRUAX].

The question was taken; and on a division (demanded by Mr. JENKINS of Ohio) there were—ayes 5, noes 81.

Mr. TRUAX. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 27, nays 260, not voting 142, as follows:

[Roll No. 126]

YEAS—27

Amlie	Ford, Calif.	Kramer	Smith, Wash.
Burdick	Gehrmann	Lundeen	Sweeney
Colden	Gray, Ind.	McFarlane	Truax
Costello	Hildebrandt	Moritz	White
DeRouen	Hill, Knute	Pierce	Young
Dunn, Pa.	Hull	Schneider	Zioncheck
Fletcher	Kniffin	Secrest	

NAYS—260

Adair	Bolleau	Cannon, Mo.	Claiborne
Allen	Boland	Carlson	Cole, Md.
Andresen	Brennan	Carmichael	Colmer
Arends	Brewster	Carpenter	Connery
Arnold	Brooks	Cartwright	Cooper, Ohio
Ayers	Brown, Ga.	Castellow	Cooper, Tenn.
Bacharach	Buchanan	Celler	Cox
Biermann	Buck	Chandler	Cravens
Blackney	Buckbee	Chapman	Crawford
Bland	Buckler, Minn.	Christianson	Crosby
Blanton	Burch	Church	Crosser, Ohio
Boehne	Caldwell	Citron	Crowther

Culkin	Higgins, Mass.	Meeks	Seger
Cummings	Hobbs	Merritt, Conn.	Shanley
Daly	Hoeppel	Michener	Short
Darrow	Hoffman	Millard	Sisson
Deen	Holmes	Miller	Smith, Conn.
Delaney	Hook	Mitchell, Ill.	Smith, Va.
Dempsey	Hope	Mitchell, Tenn.	Smith, W. Va.
Dickstein	Houston	Monaghan	Snell
Dies	Huddleston	Montague	Snyder
Dietrich	Imhoff	Mott	South
Disney	Jacobsen	Murdock	Spence
Ditter	Jenkins, Ohio	Nelson	Stack
Dockweiler	Johnson, Okla.	O'Brien	Stefan
Dondero	Johnson, Tex.	O'Connor	Stubbs
Doxey	Johnson, W. Va.	O'Day	Sumners, Tex.
Driscoll	Jones	Owen	Taber
Duffey, Ohio	Kahn	Palmisano	Tarver
Duffy, N. Y.	Kee	Parsons	Taylor, Colo.
Duncan	Kenney	Patman	Taylor, S. C.
Eaton	Kerr	Patterson	Taylor, Tenn.
Edmiston	Kinzer	Patton	Terry
Ekwall	Kleberg	Pearson	Thom
Engel	Kloeb	Perkins	Thomas
Englebright	Lambertson	Peterson, Fla.	Thomason
Faddis	Lambeth	Peterson, Ga.	Thompson
Farley	Larrabee	Pettengill	Thurston
Fenerty	Lee, Okla.	Pittenger	Tinkham
Ferguson	Lehlbach	Plumley	Tolan
Fiesinger	Lemke	Polk	Tonry
Fish	Lewis, Colo.	Powers	Turner
Fitzpatrick	Lewis, Md.	Quinn	Turpin
Focht	Lloyd	Rabaut	Umstead
Ford, Miss.	Luckey	Ramsay	Vinson, Ga.
Fuller	Ludlow	Ramspeck	Vinson, Ky.
Fulmer	McClellan	Rankin	Wadsworth
Gambrill	McCormack	Rayburn	Wallgren
Gasque	McGroarty	Reece	Walter
Gearhart	McKeough	Reed, Ill.	Warren
Gilchrist	McLaughlin	Reed, N. Y.	Weaver
Goodwin	McMillan	Reilly	Welch
Green	McReynolds	Rich	Werner
Greenway	Mahon	Richards	West
Greenwood	Mansfield	Richardson	Whelchel
Greever	Mapes	Robinson, Utah	Whittington
Gregory	Marcantonio	Robsion, Ky.	Wilcox
Griswold	Marshall	Rogers, Mass.	Williams
Guyer	Martin, Colo.	Rogers, N. H.	Wilson, La.
Gwynne	Martin, Mass.	Rogers, Okla.	Wilson, Pa.
Halleck	Mason	Romjue	Wolcott
Hancock, N. Y.	Massingale	Russell	Wolverton
Harlan	Maverick	Sadowski	Woodruff
Hart	May	Sanders, Tex.	Woodrum
Hess	Mead	Schaefer	Zimmerman

NOT VOTING—142

Andrew, Mass.	Dear	Hill, Samuel B.	Parks
Andrews, N. Y.	Dingell	Hollister	Peyser
Ashbrook	Dirksen	Jenckes, Ind.	Pfeifer
Bacon	Dobbins	Keller	Randolph
Bankhead	Dorsey	Kelly	Ransley
Barden	Doughton	Kennedy, Md.	Robertson
Beam	Doutrich	Kennedy, N. Y.	Rudd
Beiter	Drewry	Kimball	Ryan
Bell	Driver	Knutson	Sabath
Berlin	Dunn, Miss.	Kocialkowski	Sanders, La.
Binderup	Eagle	Kopplemann	Sandlin
Bloom	Eckert	Kvale	Sauthoff
Bolton	Eicher	Lamneck	Schuetz
Boylan	Ellenbogen	Lanham	Schulte
Brown, Mich.	Evans	Lea, Calif.	Scott
Brunner	Fernandez	Lesinski	Scrugham
Buckley, N. Y.	Flannagan	Lord	Sears
Bulwinkle	Frey	Lucas	Shannon
Burnham	Gassaway	McAndrews	Sirovich
Cannon, Wis.	Gavagan	McGehee	Somers, N. Y.
Carter	Gifford	McGrath	Starnes
Cary	Gildea	McLean	Steagall
Casey	Gillette	McLeod	Stewart
Cavicchia	Gingery	McSwain	Sullivan
Clark, Idaho	Goldsborough	Maas	Sutphin
Clark, N. C.	Granfield	Maloney	Tobey
Cochran	Gray, Pa.	Merritt, N. Y.	Treadway
Coffee	Haines	Montet	Underwood
Cole, N. Y.	Hamlin	Moran	Utterback
Collins	Hancock, N. C.	Nichols	Wearin
Cooley	Harter	Norton	Wigglesworth
Corning	Hartley	O'Connell	Withrow
Cross, Tex.	Healey	O'Leary	Wolfenden
Crowe	Hennings	Oliver	Wood
Cullen	Higgins, Conn.	O'Malley	
Darden	Hill, Ala.	O'Neal	

So the amendment was rejected.

The Clerk announced the following pairs:

General pairs:

Mr. Scrugham with Mr. Burnham.
Mr. Sears with Mr. Maas.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. McGrath with Mr. Bacon.
Mr. Scott with Mr. Doutrich.
Mr. Cochran with Mr. Andrew of Massachusetts.
Mr. Bankhead with Mr. Carter.
Mr. Lea of California with Mr. Gifford.
Mr. Bloom with Mr. Andrews of New York.
Mr. Bulwinkle with Mr. Collins.
Mr. McSwain with Mr. Kimball.
Mr. Oliver with Mr. Tobey.
Mr. Clark of North Carolina with Mr. Ransley.
Mr. Parks with Mr. Lord.
Mr. Driver with Mr. Hollister.
Mr. Cullen with Mr. Cole of New York.
Mr. Eagle with Mr. Bolton.
Mr. Drewry with Mr. Cavicchia.
Mr. Robertson with Mr. Dirksen.
Mr. Sandlin with Mr. Hartley.
Mr. Granfield with Mr. Knutson.
Mr. Lanham with Mr. McLean.
Mr. Doughton with Mr. Treadway.
Mr. Hancock of North Carolina with Mr. McLeod.
Mr. Hill of Alabama with Mr. Wolfenden.
Mr. Samuel B. Hill with Mr. Kvale.
Mr. Kelly with Mr. Withrow.
Mr. Haines with Mr. Sauthoff.
Mr. Ashbrook with Mr. Kocialkowski.
Mr. Beam with Mr. Kopplemann.
Mr. Cannon of Wisconsin with Mr. McGehee.
Mr. Lucas with Mr. Brunner.
Mr. Montet with Mr. Cooley.
Mrs. Norton with Mr. Rudd.
Mr. Cross of Texas with Mr. Dingell.
Mr. Flannagan with Mr. Evans.
Mr. Sirovich with Mr. Ryan.
Mr. Sullivan with Mr. Gildea.
Mr. Starnes with Mr. Harter.
Mr. Utterback with Mr. Keller.
Mr. Wood with Mr. Kennedy of Maryland.
Mr. Wearin with Mr. Hennings.
Mr. Kennedy of New York with Mrs. Jenckes of Indiana.
Mr. Gavagan with Mr. Underwood.
Mr. Healey with Mr. Somers of New York.
Mr. Goldsborough with Mr. Hamlin.
Mr. Schuetz with Mr. Gingery.
Mr. Dear with Mr. Pfeifer.
Mr. Gillette with Mr. Sanders of Louisiana.
Mr. Sabath with Mr. Frey.
Mr. Gassaway with Mr. Schulte.
Mr. Fernandez with Mr. Eicher.
Mr. Randolph with Mr. Dunn of Mississippi.
Mr. Dorsey with Mr. Eckert.
Mr. Cary with Mr. O'Neill.
Mr. Lesinski with Mr. Bell.
Mr. Darden with Mr. Merritt of New York.
Mr. Crowe with Mr. Dobbins.
Mr. O'Connell with Mr. Clark of Idaho.
Mr. O'Leary with Mr. Moran.
Mr. Corning with Mr. Nichols.
Mr. Lamneck with Mr. Binderup.
Mr. Beiter with Mr. Maloney.
Mr. McAndrews with Mr. Berlin.
Mr. O'Malley with Mr. Coffee.
Mr. Boylan with Mr. Casey.
Mr. Brown of Michigan with Mr. Buckley of New York.
Mr. Caldwell with Mr. Ellenbogen.
Mr. Steagall with Mr. Peyser.

The doors were opened.

The result of the vote was announced as above recorded.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title was amended to read as follows: "A bill granting the consent of Congress to the cities of Donora and Monessen, Pa., to construct, maintain, and operate a bridge across the Monongahela River between the two cities."

CONSTRUCTION OF A BRIDGE ACROSS THE OHIO RIVER AT OR NEAR WELLSBURG, W. VA.

The Clerk called the next bill, H. R. 7807, authorizing the Brookewell Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near Wellsburg, W. Va.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ZIONCHECK. Mr. Speaker, I object.

BRIDGE ACROSS BLACK RIVER IN THE TOWN OF POPLAR BLUFF, MO.

The Clerk called the next bill, H. R. 7575, to legalize a bridge across Black River on United States Highway No. 60 in the town of Poplar Bluff, Butler County, Mo.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. TRUAX. Mr. Speaker, reserving the right to object, may I ask the author of the bill whether this will be a free bridge or a toll bridge?

Mr. ZIMMERMAN. I may say to the gentleman that this will be a free bridge.

Mr. TRUAX. There will be no tolls charged?

Mr. ZIMMERMAN. No; there never will be.

Mr. TRUAX. Mr. Speaker, I withdraw my reservation of objection.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the State Highway Commission of Missouri to maintain and operate a free highway bridge and approaches thereto already constructed across Black River on United States Highway No. 60 in the town of Poplar Bluff, Butler County, Mo., as a lawful structure and subject to the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters", approved March 23, 1906.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

A motion to reconsider was laid on the table.

BRIDGE ACROSS THE OHIO RIVER AT SISTERSVILLE, W. VA.

The Clerk called the next bill, H. R. 7592, to extend the time for commencing and completing the construction of a bridge across the Ohio River at Sistersville, W. Va.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. TRUAX. Mr. Speaker, reserving the right to object, may I ask the author of this bill as to whether or not this will be a toll bridge, owned by a private corporation, or a free bridge to be constructed by the State?

Mr. JOHNSON of West Virginia. In answer to the gentleman's question, I may say that this will be a toll bridge to be self-liquidating, at the end of which time the State will take it over.

Mr. TRUAX. At the end of what time?

Mr. JOHNSON of West Virginia. When it is liquidated.

Mr. TRUAX. Is there not a stipulation as to the period during which tolls shall be collected?

Mr. JOHNSON of West Virginia. We cannot tell how much will be collected in the way of tolls, or over what period of time they will be collected.

Mr. TRUAX. We have passed bills which have had such provisos in them.

Mr. JOHNSON of West Virginia. I may say that this is an extension of the time for building this bridge. The bill providing for the original bridge was passed at the last session of Congress.

Mr. TRUAX. Would the gentleman object to a request to pass the bill over without objection?

Mr. JOHNSON of West Virginia. No.

Mr. TRUAX. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

BRIDGE ACROSS THE MISSISSIPPI RIVER AT ST. LOUIS, MO.

The Clerk called the next bill, H. R. 7620, to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill.

Mr. TRUAX. Mr. Speaker, reserving the right to object, I would like to ask the author of the bill if it is not a fact that the present toll in operation and the one that has been in operation for a long time is 10 cents per passenger car?

Mr. SCHAEFER. Yes.

Mr. TRUAX. That is the limitation?

Mr. SCHAEFER. Yes.

Mr. TRUAX. That is exactly what I sought to accomplish by my amendment, only I made it even higher because I provided for a maximum of 15 cents, and I may say this is not a privately owned bridge.

Mr. SCHAEFER. This is a bridge to be owned by the city of East St. Louis, and is eventually to be a free bridge. The charge of 10 cents is to pay the interest and the money that is lent by the Government.

Mr. TRUAX. This is a reasonable charge and I have no objection to the bill, Mr. Speaker.

Mr. VINSON of Kentucky. Mr. Speaker, reserving the right to object, is there anything in this bill that looks toward the fixing of the tolls?

Mr. SCHAEFER. No; it is in open competition with the St. Louis municipal bridge which has always charged 10 cents, and, of course, the P. W. A. insisted that a 10-cent charge be incorporated in this bill, or, at least, that is their intention.

Mr. VINSON of Kentucky. The toll rate is not contained in the bill?

Mr. SCHAEFER. No.

Mr. VINSON of Kentucky. That is left, under general law, to the War Department.

Mr. SCHAEFER. Yes.

Mr. JENKINS of Ohio. Mr. Speaker, I reserve the right to object in order to ask the gentleman a question. Do I understand that the gentleman is agreeing to an amendment along the line of the one just voted down?

Mr. SCHAEFER. No; there is no amendment proposed at all.

Mr. JENKINS of Ohio. Then, what is the purport of the colloquy between the gentleman and the gentleman from Ohio [Mr. TRUAX] with reference to a charge of 10 cents?

Mr. SCHAEFER. I am simply stating that it is the intention of the city of East St. Louis to charge 10 cents.

Mr. JENKINS of Ohio. But there is nothing in the law about that?

Mr. SCHAEFER. No.

There being no objection, the clerk read the bill as follows:

Be it enacted, etc., That the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill., authorized to be built by an act of Congress approved May 3, 1934, are hereby extended 1 and 3 years, respectively, from May 3, 1935.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

With the following committee amendments:

In line 4, after the word "River", insert a comma.

The committee amendment was agreed to.

Mr. TRUAX. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I wish to read a short letter, which is proof conclusive that the sentiment for toll bridges in the territories affected is not as unanimous as it seems to be in this body. This letter is from McKeesport, Pa., from Mr. Edward L. Renner, chairman of the Tolls Protest Committee, under date of July 7:

This club is very much interested in your fight against the inclusion of tolls in the P. W. A. program. If your colleagues knew what the erection of a toll bridge in this already debt-loaded community would do to the community we would have very little difficulty in winning the fight which we have been waging for almost a year. We have two bridges at the present time, but the P. W. A. grant specifies that these be torn down and replaced by a toll bridge. If you can find anything sensible in a program of that kind, we would be pleased to have someone point it out to us. We are glad to know that America still has a few real men left who know the problems of the people, who are willing to stand up for a principle.

[Applause.]

I am sorry to be compelled to read this, Mr. Speaker; but in view of the overwhelming vote against my amendment, I feel it is justified:

Our only regret is that you are not from Pennsylvania, so that we could substantially show our appreciation at the polls. We certainly hope that you will be successful in your fight to lick the toll end of the program.

Here, Mr. Speaker, I hold in my hand a dozen newspaper clippings received from Pennsylvania. I assume they emanate from and are published in some of the districts of gentlemen who have sponsored toll-bridge programs. Here is one from a Pittsburgh motorist, who tells me:

The motorist already is very heavily taxed for the privilege of using his car by both the Federal and State governments for gaso-

line, oil, tires, accessories, license tags, drivers' licenses, and inspection fees, and now the proposed toll charges. For the benefit of the motorist, I would suggest that they take time some afternoon and make a trip from Aspinwall through the country and return to Aspinwall. The following route may prove interesting. Start in Aspinwall and cross the proposed Aspinwall Bridge (toll); then go through East Liberty to the Homestead Bridge (toll); then to McKeesport and the Jerome Street Bridge (toll); then to the airport, returning to the city through the Liberty Tubes (toll); then down the Mount Washington Roadway to Carson Street to the Glenwood Bridge (toll); through Schenley Park to East Liberty and the Aspinwall Bridge (toll); and by this time I feel sure the motorist will not want to see the toll system revived again in this county.

Unless the motorists are willing to accept this toll system, they should begin to organize a movement to protest against the obnoxious evil and keep our highways free from any further taxation.

Now, Mr. Speaker, here are some cartoons, and I would like to have each one of you gentlemen who seemingly ridicule my efforts, come up and look at this cartoon and see whether or not it is a cartoon you will be proud to carry back home when Congress finally adjourns. I wonder if you will want to show this to your constituents and boast about it and say that it is a good bill; that you represent the toll-bridge interests; that you sponsor toll bridges, when your people back home are absolutely, unalterably opposed to them. They are tired of being taxed for tolls. They are tired of being taxed to fill the coffers of some investors in toll bridges.

Mr. Speaker, I have here some more clippings.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. TRUAX. Not just now.

[Here the gavel fell.]

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BRIDGE ACROSS THE MISSISSIPPI AT NEW BOSTON, ILL.

The Clerk read the next bill on the Consent Calendar, H. R. 7809, to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near New Boston, Ill.

The SPEAKER. Is there objection?

Mr. ZIONCHECK, Mr. McFARLANE, and Mr. COSTELLO objected.

BRIDGES ACROSS THE RED RIVER FROM MOORHEAD, MINN., TO FARGO, N. DAK.

The Clerk read the next bill on the Consent Calendar, H. R. 7809, to extend the time for commencing and completing the construction of certain bridges across the Red River between Moorhead, Minn., and Fargo, N. Dak.

The SPEAKER. Is there objection?

Mr. TRUAX. Reserving the right to object, I would like to ask if this is a toll bridge or a free bridge?

Mr. LEMKE. This is a free bridge.

Mr. CHAPMAN. A free bridge.

Mr. TRUAX. I congratulate the gentleman from Kentucky, and I hope in the future the gentleman will recommend nothing but free bridges.

The Clerk read the bill, as follows:

Be it enacted, etc., That the times for commencing and completing the construction of certain bridges across the Red River, between Moorhead, Minn., and Fargo, N. Dak., authorized to be built by the State Highway Departments of the States of Minnesota and North Dakota by an act of Congress approved June 4, 1934, are hereby extended 1 and 3 years, respectively, from June 4, 1935.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

With the following committee amendment:

Page 1, line 4, after the word "certain", insert "two free highways."

The committee amendment was agreed to.

The bill, as amended, was ordered to be read a third time, was read the third time, and passed.

The title was amended.

A motion to reconsider was laid on the table.

Amend the title so as to read "A bill to extend the times for commencing and completing the construction of certain free highway bridges across the Red River, from Moorhead, Minn., to Fargo, N. Dak."

BRIDGE ACROSS THE MISSOURI RIVER AT RULO, NEBR.

The Clerk read the next bill on the Consent Calendar, S. 1988, to extend the time for the construction of a bridge across the Missouri River at or near Rulo, Nebr.

The SPEAKER. Is there objection?

Mr. ZIONCHECK. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

There was no objection.

ADJUSTMENT OF THE SALARIES OF RURAL LETTER CARRIERS

The Clerk called the next bill on the Consent Calendar, H. R. 7936, to adjust the salaries of rural letter carriers, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the first paragraph of section 8 of the act entitled "An act reclassifying the salaries of postmasters and employees of the Postal Service, readjusting their salaries and compensation on an equitable basis, increasing postal rates to provide for such readjustment, and for other purposes", approved February 28, 1925, as amended, is amended by inserting after the first sentence thereof the following new sentence: "In case of carriers serving on routes 30 miles or less in length, rendering service to an average of 12 or more boxes per mile, the base mileage pay shall be $70 per mile per annum."

SEC. 2. Effective as of July 1, 1934, subsection (d) of the first section of the act entitled "An act to adjust the salaries of rural letter carriers, and for other purposes", approved June 25, 1934, is amended by adding at the end thereof a new sentence as follows: "Should any such carrier be transferred to another route or other routes, the salary which he was receiving on June 30, 1934, shall be protected to the same extent as such salary would, under the preceding sentence, have been protected had such carrier continued to serve the route or routes from which he was transferred and had the length of such route or routes been changed to correspond to that of such other route or routes."

SEC. 3. When a vacancy on a route (whether now existing or hereafter established) of greater length than 60 miles occurs by reason of resignation, death, retirement, or dismissal on charges, of carriers in the Rural Mail Delivery Service, the route shall be by readjustment reduced to 60 miles or less and the excess mileage shall be distributed between routes of less than 60 miles. Box delivery shall not be denied those now receiving such service prior to such readjustment of routes.

SEC. 4. This act shall take effect on the first day of the calendar month next following the month in which this act is enacted.

With the following committee amendment:

Page 1, line 10, after the word "sentence", strike out the rest of line 10, and lines 1, 2, and 3, on page 2 and insert "The Postmaster General may in his discretion allow and pay additional compensation to rural letter carriers serving heavily patronized routes not exceeding 38 miles in length, such additional compensation not to exceed the sum of $10 per annum for each mile served."

Page 2, line 21, strike out all of section 3.

The committee amendments were agreed to.

Mr. COSTELLO. I offer the following amendment.

The Clerk read as follows:

Page 2, line 14, after the words "June 30", strike out "1934" and insert "1935."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BRIDGES ACROSS THE MONONGAHELA, ALLEGHENY, AND YOUGHIOGHENY RIVERS

The Clerk called the next bill on the Consent Calendar, H. R. 7438, to amend the act entitled "An act to authorize the construction and operation of certain bridges across the Monongahela, Allegheny, and Youghiogheny Rivers in the county of Allegheny, Pa.", approved June 4, 1934.

The SPEAKER. Is there objection?

Mr. MORITZ. I object.

Mr. BROOKS. Mr. Speaker, will the gentleman reserve his objection for a moment?

Mr. MORITZ. Yes.

Mr. BROOKS. Mr. Speaker, this is an important project that we have there. This bill was passed last year, and the only reason it was not carried out was the delay in getting started. We are all in favor of free bridges all around that community. The gentleman from Ohio [Mr. TRUAX] has just read from a paper which covers the facts on these bridges,

and as quickly as we can get the authorization they will be free, but we are prevented now from having them free because we cannot get enough money to make them free. That is on account of the limitation on the amount the county can borrow. As soon as we can meet this obligation they will become free bridges.

Mr. MORITZ. Mr. Speaker, there are old projects here that are free which they are attempting to make toll bridges. For that reason I am forced to object.

SALE OF MUNICIPAL BONDS, PUERTO RICO

The Clerk called the bill (H. R. 7446) to authorize the issuance and sale to the United States of certain bonds of municipal governments in Puerto Rico, and for other purposes.

The SPEAKER. Is there objection?

Mr. McFARLANE. Mr. Speaker, I object.

REFUNDING BONDS, PUERTO RICO

The Clerk called the bill (H. R. 8209) temporarily to exempt refunding bonds of the government of Puerto Rico from the limitation of public indebtedness under the organic act.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That any bonds or other obligations of Puerto Rico hereafter issued for the purpose of retiring previously outstanding bonds or obligations shall not be included in computing the public indebtedness of Puerto Rico under section 3 of the organic act approved March 2, 1917, as amended, until 6 months after their issue.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

RELIEF OF PUERTO RICO

The Clerk called the resolution (H. J. Res. 257) to amend a joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, as amended by the Second Deficiency Act, fiscal year 1929, approved March 4, 1929.

There being no objection, the Clerk read the joint resolution, as follows:

Resolved, etc., That in carrying out the provisions of the joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, as amended by the Second Deficiency Act, fiscal year 1929, approved March 4, 1929, the Puerto Rican Hurricane Relief Commission or its successor is authorized, when in the judgment of the Commission or its successor it is consistent with the best interests of the United States, to make, in the name of the United States or in its own name for and on behalf of the United States, compositions and adjustments in any loans heretofore made by it upon the security of land or other property, real or personal, in the island of Puerto Rico, either by reduction in the rate of interest or in the indebtedness or by extension or other adjustment of the time for any payments of principal or interest or other indebtedness, or otherwise: *Provided*, That it shall be unlawful for any person to charge a fee for the purpose of preparing or assisting in the preparation of any papers of an applicant for the composition or adjustment of a loan under the provisions of this act, and any person receiving or agreeing to receive a fee for any such purpose in violation of this proviso shall be guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine not exceeding $1,000 or by imprisonment not exceeding 6 months, or both.

SEC. 2. That the Commission or its successor is further authorized to acquire title, either by voluntary conveyance as the result of a composition or an agreement with a debtor or in satisfaction of judgments or decrees of foreclosure of mortgages or at sales under such judgments or decrees, to parcels of land or other property, real or personal, in the name of the United States or in its own name for and on behalf of the United States and also to take possession and occupy and hold and administer and to lease, sell, or otherwise dispose of as in the judgment of the Commission or its successor is consistent with the best interests of the United States any land or other property, real or personal, so acquired by it; and in the exercise of these powers may execute deeds or other necessary or appropriate instruments in the name of the United States or in its own name for and on behalf of the United States.

SEC. 3. The Commission or its successor is further authorized, in any case when in the judgment of the Commission or its successor it is consistent with the best interests of the United States, to subordinate the lien securing any loan heretofore made by the Commission to the lien securing any loan or loans hereafter made by the Federal Land Bank of Baltimore, or by the Land Bank Commissioner on behalf of the Federal Farm Mortgage Corporation.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

CHALMETTE NATIONAL MONUMENT, LA.

The Clerk called the bill (H. R. 5368) to provide for the addition of certain lands to the Chalmette National Monument in the State of Louisiana, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to acquire, by purchase or by condemnation, out of any funds allotted and made available for this project by proper authority, and/or accept by donation, in behalf of the United States, lands, easements, and buildings within 10 miles of the boundaries of the Chalmette National Monument as shall be designated by the Secretary of the Interior as necessary or desirable for the extension of said monument, and/or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That the State of Louisiana shall cede and transfer its jurisdiction to the property on which said monument is to be completed in accordance with the provisions of Act No. 41 of the legislature of that State, approved July 19, 1902.

SEC. 2. That the areas now within the Chalmette National Monument and the Chalmette National Cemetery, together with such additions as may hereafter be made thereto, shall be known as the "Chalmette National Historical Park", under which name the aforesaid national park shall be entitled to receive and to accept all moneys heretofore or hereafter appropriated for the Chalmette National Monument and the Chalmette National Cemetery.

SEC. 3. The administration, protection, and development of the aforesaid national historical park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the act of August 25, 1916, entitled "An act to establish a National Park Service, and for other purposes", as amended.

SEC. 4. All acts or parts of acts inconsistent with the provisions of this act are repealed to the extent of such inconsistency.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 1, lines 5 and 6, after the words "of any", strike out "funds allotted and made available for this project by property authority" and insert in lieu thereof the words "donated funds."

The amendment was agreed to, and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

IRRIGATION CHANNEL, CLEAR LAKE AND LOST RIVER, CALIF.

The Clerk called the bill (H. R. 6773) to deepen the irrigation channel between Clear Lake and Lost River, in the State of California, and for other purposes.

The SPEAKER. Is there objection?

Mr. McFARLANE. Mr. Speaker, I reserve the right to object in order to hear an explanation.

Mr. PIERCE. Mr. Speaker, high on the dividing line between California and Oregon is Langell Valley irrigation district. Some years ago the Government undertook an irrigation project there in connection with the Klamath irrigation district. The ditch was not dug deep enough between Clear Lake and Lost River to carry the irrigation water to Langell Valley. There is good land in the valley, and perhaps 400 people are living there. This bill simply authorizes the Reclamation Service to use $12,000 to deepen that ditch to carry out what should have been done long ago. It also authorizes $5,000 to investigate and see how far small reservoirs that have headed off the water from Clear Lake have cut down their source of supply. The authorization is all reimbursable to the reclamation fund.

Mr. McFARLANE. There is a statement that this is drawing water out of California and putting it into Oregon.

Mr. PIERCE. It is on the line between the two States. It is Oregon water, but part of it flows through California. I ask that the bill be passed in justice to that little community, that they may not be forced on the relief rolls.

Mr. COSTELLO. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

Mr. PIERCE. Why can we not pass it today?

Mr. COSTELLO. The gentleman from California [Mr. ENGLEBRIGHT] has asked me to have it passed over without prejudice, and I make that request.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CLAIMS OF CROW INDIANS OF MONTANA AGAINST THE UNITED STATES

The Clerk called the next business, Senate Joint Resolution 96, to carry out the intention of Congress with reference to the claims of the Crow Tribe of Indians, of Montana, and any band thereof against the United States.

The SPEAKER. Is there objection to the present consideration of the Senate joint resolution?

Mr. TABER. Reserving the right to object, Mr. Speaker, I should like to have this bill explained.

Mr. AYERS. Mr. Speaker, the explanation of this resolution is that in July 1926 a jurisdictional act was passed by this Congress, authorizing the Crow Tribe of Indians in Montana or any band thereof, to file suits in the Court of Claims, with the right of appeal to the Supreme Court of the United States. In the meantime the Supreme Court of the United States rendered a decision to the effect that notwithstanding such provision, there is no right of appeal, in view of the judicial code as amended, unless the jurisdictional act itself specifically provides that an appeal may be had and a review by the Supreme Court. It only amends that act to the extent that either side may appeal.

Mr. TABER. Is this a situation where the Court of Claims turn down the claimants, and now they want to appeal to the Supreme Court?

Mr. AYERS. No. The situation is that there was no right of the claimants to have an appeal, unless the jurisdictional act gave them that right, and this is to extend the original jurisdictional provision of the act.

Mr. ROGERS of Oklahoma. Will the gentleman yield?

Mr. TABER. I yield.

Mr. ROGERS of Oklahoma. After this act was passed Congress intended that they have the right of appeal and then the Supreme Court interpreted it that they did not have the right of appeal without a jurisdictional act. That is all this is. It is simply to give them that right.

Mr. TABER. In other words, there was an appeal by claimants against a decision of the Court of Claims?

Mr. ROGERS of Oklahoma. No; not at all.

Mr. TABER. How would the court get jurisdiction to decide that?

Mr. ROGERS of Oklahoma. It was that they have the right of appeal if the Court of Claims should turn their claim down. When the law was passed, the intention of Congress was that they should have that right, but after that the Supreme Court held it would be a violation of the Judicial Code unless there was a jurisdictional act, of this nature, specifically giving them that right.

Mr. TABER. Would the gentleman agree to accept an amendment providing that the gratuities paid by the United States Government should be offset against any claims that were allowed under that act?

Mr. ROGERS of Oklahoma. I do not believe that would be necessary in view of the operation of the second deficiency appropriation act.

Mr. TABER. It would not if that becomes the law, but the Senate committee, I understand, has under consideration an amendment wiping that out, and therefore it is very important to protect the Treasury along those lines.

Mr. ROGERS of Oklahoma. Of course, this is a Senate resolution and we hesitate to agree to such an amendment.

Mr. TABER. Then I shall have to object.

Mr. ROGERS of Oklahoma. But if the gentleman wants to submit such an amendment he may do so.

Mr. TABER. Unless it were agreed that that amendment would be acceptable, I would have to object to the consideration of the resolution.

Mr. ROGERS of Oklahoma. As chairman of the committee, I shall be glad to agree to it. Of course, the committee itself has not considered the matter.

Mr. TABER. Unless the author of the bill and everybody concerned would agree to it, I should have to object.

Mr. ROGERS of Oklahoma. This is a Senate bill.

Mr. TABER. It does not make any difference whether it is a Senate bill or a House bill.

Mr. WOLCOTT. Will the gentleman yield?

Mr. TABER. I yield.

Mr. WOLCOTT. May I ask the gentleman whether he can take the case of a claimant in the Court of Claims to the United States Supreme Court according to the Judicial Code in any other manner than by certiorari?

Mr. ROGERS of Oklahoma. It would be impossible to have an appeal unless we have such a jurisdictional act as this.

Mr. WOLCOTT. In other words, you and I, not Indians, can take our case from the Court of Claims to the United States Supreme Court only by writ of certiorari?

Mr. ROGERS of Oklahoma. That is correct.

Mr. WOLCOTT. And this bill provides that the Indians may take their Indian claims from the Court of Claims to the United States Supreme Court by appeal?

Mr. ROGERS of Oklahoma. By appeal.

Mr. WOLCOTT. So that the United States Supreme Court can hear both questions of fact and questions of law?

Mr. ROGERS of Oklahoma. Yes.

Mr. WOLCOTT. Why should we differentiate as against all of the other people in the United States in favor of these Indian claimants? Why should we set up a special procedure for Indian claimants that is denied the rest of the people of the United States? We have given them the right to go to the Court of Claims on an equal footing.

Mr. ROGERS of Oklahoma. The gentleman will notice in the preamble of the Jurisdictional Act of July 3, 1926, which the Congress passed, that it was intended that these Indian claimants should have that right. I cannot answer the gentleman as to why we should distinguish, if we should do so, but I am simply contending that this act is carrying out the intentions of the act of Congress of 1926.

Mr. WOLCOTT. The purpose of providing that these cases go from the Court of Claims to the Supreme Court by certiorari was necessitated by the fact that if we did otherwise we would encumber the United States Supreme Court calendar with a mass of claims and questions of fact that they were not particularly interested in and did not want to rule upon. We protected the United States Supreme Court against that by providing that cases should be reviewed on certiorari only—questions of law. Why should we send these Indian claimants to the Supreme Court on questions of fact when the gentleman and I and every other citizen of the United States having a claim against the United States must bring it to the Supreme Court on certiorari or we are estopped in the Court of Claims? I cannot see the consistency of setting up a special procedure for one particular class of people, whether they be Indians or not.

Mr. BURDICK. Will the gentleman yield?

Mr. WOLCOTT. I yield.

Mr. BURDICK. The Supreme Court has held in the matter of bringing these cases before it on certiorari that there must be established as a matter of law, fraud in the case, which is absolutely impossible in most Indian cases. There has been no intent on the part of Congress to defraud the Indians. As a result of the action of Congress we find that the Indians' rights have been disregarded; and I think in view of this decision of the Supreme Court the pending bill is necessary for the proper protection of the Indians' rights.

Mr. WOLCOTT. Mr. Speaker, I ask unanimous consent that the bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ARAPAHOE AND CHEYENNE INDIANS

The Clerk called the next bill, S. 1504, authorizing the Arapahoe and Cheyenne Indians to submit claims to the Court of Claims, and for other purposes.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. McFARLANE and Mr. COSTELLO objected.

CONFEDERATED BANDS OF UTE INDIANS

The Clerk called the next bill, S. 381, for the relief of the Confederated Bands of Ute Indians located in Utah, Colorado, and New Mexico.

Mr. TABER. Mr. Speaker, reserving the right to object, is not this another bill for the payment of Indian claims?

Mr. MURDOCK. Yes. Will the gentleman yield that I may explain the bill?

Mr. TABER. Yes.

Mr. MURDOCK. Back in 1880 these bands of Indians ceded 12,000,000 acres of their reservation to the Government with the express proviso that it should be paid for at rates fixed by the Government of $1.25 for grazing land and $2.50 for lands that contained oil or oil shale. The pending bill authorizes the payment of $161,400 for 64,000 acres of these ceded lands which tract was set aside as a naval oil reserve. The price of this land has been fixed by law at $2.50 per acre. The bill has been passed by the Senate, was unanimously reported by the House and Senate Committees on Indian Affairs, and has the approval of the Bureau of the Budget.

I would call the gentleman's attention to the fact that this claim does not arise through the fault of these Indians. They had to cede this land, and they did it under a valid agreement with this Government. They would be very glad indeed to take these lands back, but they will not have that opportunity, and there is no way to compensate them except to pay them the price fixed by law for the acreage taken away from them.

Mr. TABER. I thought I understood the gentleman to say there was a valid agreement by which they were to be paid $1.25 per acre. The bill authorizes payment at the rate of $2.50 per acre.

Mr. MURDOCK. No; I said that $1.25 was the price fixed for land that was useful only for grazing. This land has been set aside as a naval oil reserve by reason of the fact that it contains valuable oil shale, and the price for such land was fixed at $2.50 per acre by legislation of the Congress. The Indians have had no say in the matter. These lands were taken away from them. They should be paid the $2.50 an acre provided by law. The pending bill merely carries out the intent of Congress, which fixed the value of these lands.

Mr. TABER. Does the bill provide that there shall be offset against the sum therein authorized any gratuities that may have been paid to these tribes?

Mr. MURDOCK. If there are any offsets, the Government has a right to claim they will, of course, be deducted.

Mr. TABER. Does the bill so provide?

Mr. MURDOCK. No; I do not think it does.

Mr. TABER. Will the gentleman accept such an amendment to the bill?

Mr. MURDOCK. An amendment to the effect that any gratuities heretofore paid these bands shall be set off against this amount?

Mr. TABER. That the Government shall have the right to offset any gratuities that have been paid to these Indians against the amount authorized in settlement of this particular claim. We do not want to pay them twice.

Mr. MURDOCK. They are not being paid at all; that is the trouble.

Mr. TABER. Maybe they have been paid already, as we have found in a great many cases.

Mr. MURDOCK. They gave up 12,000,000 acres of land in Colorado.

Mr. TABER. We have found instances where Indian claims have been paid three or four times. We do not want to get into a situation of that kind.

Mr. Speaker, unless the gentleman will accept such an amendment, I shall be forced to object to the bill.

Mr. MURDOCK. What is the gentleman's amendment?

Mr. TABER. My amendment would be to add a new section providing in substance that there shall be offset against any payment that shall be made by the Government, any gratuities which have been paid to these Indians by the Government.

Mr. ROGERS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. ROGERS of Oklahoma. Will the wording of the amendment conform to like amendments offered to similar bills heretofore?

Mr. MURDOCK. The amendment must be in proper form if it is to be offered.

Mr. TABER. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. MURDOCK. Mr. Speaker, reserving the right to object, if the gentleman has a valid amendment, why not submit it now? The trouble with these Indian bills is that they are passed over from one Congress to another until those entitled to compensation never get it, and when the claim is finally settled it goes to those who probably have no right to it.

Mr. TABER. The point is that gratuities that have been paid these Indians should be offset against this claim.

Mr. Speaker, I think I shall have to ask that this bill be passed over without prejudice at this time.

Mr. MURDOCK. Mr. Speaker, reserving the right to object, if the gentleman can prepare the amendment and submit it later in the day, could we not return to this bill?

Mr. TABER. I would just as soon have the bill returned to and will not object to that procedure being followed.

Mr. MURDOCK. All right.

Mr. ROGERS of Oklahoma. Mr. Speaker, we shall ask unanimous consent to return to the consideration of this bill later. The gentleman stated that we could ask unanimous consent to return to this bill later today, and he would be willing to prepare his amendment in the meantime and have it ready; therefore he will not insist on passing the bill over without prejudice.

Mr. TABER. I think it ought to be passed over without prejudice. Mr. Speaker, I submit my unanimous-consent request.

The SPEAKER. Is there objection to the request of the gentleman from New York that the bill be passed over without prejudice?

There was no objection.

INCREASED COMPENSATION OF LETTER CARRIERS IN VILLAGE DELIVERY SERVICE

The Clerk called the next bill, H. R. 8002, to increase the compensation of letter carriers in the village delivery service.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 10 of the act entitled "An act reclassifying the salaries of postmasters and employees of the Postal Service, readjusting their salaries and compensation on an equitable basis, increasing postal rates to provide for such readjustment, and for other purposes", approved February 28, 1925 (U. S. C., title 39, sec. 106), is amended to read as follows:

"SEC. 10. Carriers in the village delivery service shall be graded with salaries for each grade, as follows: First grade, $1,400; second grade, $1,500; third grade, $1,600. That in the readjustment of salaries of letter carriers in the village delivery service to conform to the grades herein provided, village carriers who have served as such for 2 years or more shall be placed in grade 3; village carriers who have served for 1 but less than 2 years shall be placed in grade 2; and village carriers when they receive their regular appointments shall be placed in grade 1. In determining the aggregate period of service upon which promotions are to be based, all time served as a letter carrier in the village delivery service is to be included: *Provided*, That hereafter substitute carriers in the village delivery service when appointed regular carriers in the village delivery service shall have credit for actual time served on a basis of 1 year for each 265 days of 8 hours served as a substitute, and appointed to the grade to which such carrier would have progressed had his original appointment as substitute been to grade 1. Any fractional part of a year's service shall be included within his service as a regular employee in determining eligibility for promotion to the next higher grade following appointment to a regular position: *Provided further*, That letter carriers in the village delivery service shall be promoted successively after 1 year's satisfactory service in each grade to the next higher grade until they reach the third grade. All promotions shall be made at the beginning of the quarter following 1 year's satisfactory service in the grade. The pay of sub-

stitute letter carriers in the village delivery service shall be at the rate of 55 cents per hour."

SEC. 2. This act shall take effect on July 1, 1935.

With the following committee amendment:

On page 2, line 3, strike out after the word "grade", all of the rest of line 3 and insert in lieu thereof "$1,300; second grade, $1,400; third grade $1,500."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CERTAIN TRIBES OF INDIANS IN THE STATE OF OREGON

The Clerk called the next bill, H. R. 7779, conferring jurisdiction upon the Court of Claims to hear and determine claims of certain bands or tribes of Indians residing in the State of Oregon.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. TRUAX, Mr. McFARLANE, and Mr. COSTELLO objected.

Mr. MOTT. Mr. Speaker, I should like to make a statement. If the gentlemen will tell me what their objection is, perhaps I can reach it quicker.

Mr. TRUAX. Mr. Speaker, I objected, and I will tell the gentleman. This is entirely too large an amount of money to be considered in this manner. This bill involves $6,000,000 and we propose to pass here such a bill without investigation, without consideration, and without deliberation. I think such a system is all wrong. When we spend $6,000,000 or more to reimburse the Indians for land or for other claims, it ought to be gone into in a thorough manner. I do not believe that such a bill ought to be passed by this method, that is, by unanimous consent.

Mr. MOTT. Mr. Speaker, in the first place, taking up the gentleman's first objection, the amount involved is not $6,000,000. The entire amount of the claims in case they should be allowed when the cases are brought, and this bill simply confers jurisdiction upon the Court of Claims to hear and determine these claims, is about $1,500,000.

Mr. TRUAX. May I inform the gentleman that the total amount claimed in the suit against the United States is $6,177,587.

Mr. MOTT. If the gentleman will permit me to answer the two questions which he asked I will do so. It is true that the gross amount of the claims total about $6,000,000, but there are offsets which amount to between $4,000,000 and $5,000,000. The estimated net amount which the Indians would receive, therefore, in case the suits brought in the Court of Claims are decided favorably to the Indians, would not exceed $1,500,000.

As to the statement that the subject matter of this bill was not investigated, may I say that it has been investigated very thoroughly by the Indian Affairs Committee of both the House and Senate. The testimony was heard by those committees from Indians and others who testified before committees of the House and Senate and both committees reported the bill unanimously. It is not unusual for a bill of this kind to be put upon the Consent Calendar. If that objection is all the gentleman has in mind, I think in all reasonableness and in good conscience he ought to withdraw it.

Mr. TRUAX. May I ask the gentleman from Oregon a question. The gentleman understands that the Government faces a huge national debt?

Mr. MOTT. That is quite true.

Mr. TRUAX. That debt is piling up every day, and necessarily so, because there are 22,000,000 people that must be fed, clothed, and sheltered.

There has been recently proposed a new tax program. There are many who favor that program and there are many who oppose the program. I believe the opponents of such a tax program are conscientious in their belief and views, but the fact remains that this tremendous debt piles up every day. Now, is the gentleman in favor of adding to that public debt to the extent of $6,000,000, with no provision made for the securing of the funds needed to pay those claims?

I think it is poor business. I think it is a poor governmental policy.

Mr. MOTT. May I say that the gentleman from Oregon is not in favor of piling up the national debt, but I call the gentleman's attention to the fact that this is not an increase of debt at all. This bill simply gives to the Court of Claims jurisdiction to hear these suits, and to try and determine them.

Mr. TRUAX. And they must be paid.

Mr. MOTT. If the Indians prevail, of course, the claims must be paid.

Let me tell the gentleman how the claims originated. Back in 1855 the Government undertook by an unratified treaty to move these Indians from western Oregon over to eastern Oregon. The Government took their lands away from them without paying anything for the lands, intending to put these Indians on reservations in eastern Oregon. They moved whole tribes of Indians over into eastern Oregon among a strange people. The Indians of eastern Oregon would not allow the western Indians to stay; therefore, they had to come back to western Oregon. When the Indians returned to western Oregon they found that their land had been sold and disposed of by the Federal Government. To date they have not received anything on account of those lands.

All that this bill provides is that the Court of Claims shall have jurisdiction to hear and determine this long standing controversy; that is all. It does not obligate the Government of the United States to pay anything.

Mr. TRUAX. Mr. Speaker, I understand that perfectly, but I should like to point out that if any President of the United States is ever going to balance the Federal Government it cannot be done by such work as is done in Congress. What I mean is if you were conducting your own business, running your own business, you would not entertain for a second the payment of a large claim unless you had made provision to raise the money with which to pay the claim.

Mr. MOTT. We do not know whether the claims are going to be allowed by the court, even if the court is given jurisdiction to try them.

Mr. TRUAX. That is what we are doing here every day. We are incurring more debt. We are not consulting the Director of the Budget, we are not consulting the President, and we are not consulting the Comptroller General.

In my judgment, we should stop right now on these bills involving millions of dollars. We should take an inventory, and then you and I can go out and talk intelligently about balancing the Budget.

Mr. MOTT. The question of balancing the Budget is not involved in a bill of this nature, the sole purpose of which is to give jurisdiction to a court to try a lawsuit. It is getting to be absolutely futile in this body, Mr. Speaker, for anyone to bring up a meritorious bill on the Consent Calendar if it involves more than 75 cents, without running into objection by the gentleman from Ohio.

Mr. TRUAX. This is a most unmeritorious bill, in my judgment.

Mr. COSTELLO, Mr. McFARLANE, and Mr. TRUAX objected.

STENOGRAPHIC GRADE IN THE RAILWAY MAIL SERVICE

The Clerk called the next bill, H. R. 7506, to provide for a stenographic grade in the offices of Chief Clerk and Superintendent in the Railway Mail Service.

Mr. COSTELLO. Mr. Speaker, I object.

Mr. SWEENEY. Mr. Speaker, will the gentleman reserve his objection?

Mr. COSTELLO. I reserve the objection, Mr. Speaker.

Mr. SWEENEY. Mr. Speaker, the author of the bill is not on the floor, but I wish to explain to the gentleman that the bill affects about 100 stenographers in the Railway Mail Division. It provides for two classifications and it allows the men who enter the Railway Mail Service and who have to carry out these scheme examinations and

stand tests ever so often to be promoted to grade 5, and I do not think the gentleman is quite fair in his objection.

Mr. COSTELLO. The Post Office Department is opposed to the bill.

Mr. SWEENEY. The Post Office Department favors the bill with the amendment.

Mr. MEAD. The Department approves of the creation of the stenographic grade, but does not approve of the promotion of railway postal clerks to grade 5. Under the recommendation of the Department he would be promoted to grade 4, but I think the gentleman will see the fairness of the legislation if he will consider two stenographers in the Railway Mail Service, one transferring over from the Department of Agriculture, not in any way subject to the schemes or the tests of the Service, one who could not be transferred to terminal work or work on the railroads, and then the other stenographer who took his examination as a railway mail clerk, who has been subject to the scheme examinations, who may be transferred to terminal or road work, and surely the gentleman will see that in the creation of a stenographic grade, the one who has the superior responsibility should be allowed to advance one grade further.

Mr. SWEENEY. I may say there are about 100 employees affected.

Mr. MEAD. I think this is a very fair bill. It is of minor importance and the Department favors it in principle.

Mr. McFARLANE. The Department states, "Their duties, being largely the routing and less responsible work to be found in large organizations, do not justify the promotion." Therefore, the Post Office Department opposes the passage of the bill in its present form.

Mr. SWEENEY. The letter of the Department also states, "A proposed bill prepared to show a stenographic grade is submitted herewith, and we recommend that it be substituted for H. R. 7506."

Mr. McFARLANE. Has the gentleman such an amendment prepared?

Mr. SWEENEY. Yes.

Mr. McFARLANE. If you will offer that amendment, I shall not object.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the thirteenth paragraph of section 7 of the act entitled "An act reclassifying the salaries of postmasters and employees of the Postal Service, readjusting their salaries and compensation on an equitable basis, increasing postal rates to provide for such readjustment, and for other purposes", approved February 28, 1925 (U. S. C., title 39, sec. 621), is amended to read as follows:

"Clerks assigned to the office of division superintendent or chief clerk shall be promoted successively to grade 5, and in the office of division superintendent 8 clerks may be promoted to grade 6, and in the office of chief clerk two clerks to grade 6: *Provided*, That clerks assigned to the position of stenographer who have not entered the Railway Mail Service from the eligible list for appointment to the Railway Mail Service shall be promoted successively to grade 4."

With the following committee amendment:

Page 2, line 8, after the word "Service", strike out the words "shall be promoted successively to grade 4" and insert "shall not be promoted above grade 4."

The committee amendment was agreed to.

Mr. SWEENEY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SWEENEY: At the end of the bill insert:

"Clerks assigned to the office of division superintendent or chief clerk shall be promoted successively to grade 5, and in the office of division superintendent 8 clerks may be promoted to grade 6, and in the office of chief clerk 2 clerks to grade 6: *Provided*, That clerks assigned to the position of stenographer who have not entered the Railway Mail Service from the eligible list for appointment to the Railway Mail Service shall not be promoted above grade 4."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. GREEN. Mr. Speaker, I ask unanimous consent to proceed for 3 minutes.

Mr. SNELL. Reserving the right to object, if there is no other business to come before the House, I am willing for the gentleman to make a speech, but if there is going to be other business, if there is going to be suspensions, I think they should come first. I am not going to allow any speeches at this time.

Mr. GREEN. I do not want to make a speech, I want to explain the bill and then ask unanimous consent to return to it.

Mr. SNELL. I object.

CHIPPEWA INDIANS OF WISCONSIN

The Clerk called the next bill on the Consent Calendar, H. R. 6869, authorizing the Chippewa Indians, of Wisconsin, to submit claims to the Court of Claims.

The SPEAKER. Is there objection?

Mr. GREEN. For the time being, Mr. Speaker, I object.

AUTHORIZING A CAPITAL FUND FOR THE CHIPPEWA INDIAN COOPERATIVE MARKETING ASSOCIATION

The Clerk called the next bill on the Consent Calendar, H. R. 6228, authorizing a capital fund for the Chippewa Indian Cooperative Marketing Association.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States the sum of $150,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Chippewa Indians in Minnesota, and to loan such sum to the Chippewa Indian Cooperative Marketing Association. The amount so loaned to said association shall be available for all purposes, including compensation and expenses of attorneys, purchase of land and erection of suitable buildings, necessary to the businesslike operation of a cooperative marketing system to be conducted in accordance with articles of incorporation and bylaws approved by the Secretary of the Interior. All funds loaned the association under this authorization shall bear interest at 4 percent per annum and shall be repaid to the Chippewa tribal fund within a period of 10 years from date of such loans.

SEC. 2. The use of funds hereby authorized shall not disbar the association from receiving loans from any amounts appropriated pursuant to section 10 of the act of June 18, 1934 (48 Stat. 986), authorizing the creation of an Indian credit revolving fund.

SEC. 3. The Secretary of the Interior shall formulate rules and regulations for carrying out the purposes of this act.

With the following committee amendment:

Page 1, line 5, strike out the figures "$150,000" and insert "$100,000."

Page 1, line 10, after the word "and", insert the word "reasonable."

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ACT TO PROVIDE FOR THE CONSTRUCTION OF CERTAIN PUBLIC BUILDINGS

The Clerk called the next bill on the Consent Calendar, H. R. 6645, to amend the act entitled "An act to provide for the construction of certain public buildings, and for other purposes", approved May 25, 1926.

The SPEAKER. Is there objection?

Mr. GREEN. I object.

REGULATION OF TOLLS ON CERTAIN BRIDGES OVER NAVIGABLE WATERS

Mr. SPENCE. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 7659) to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes, as amended by the committee, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That hereafter tolls for passage or transit over any bridge over any of the navigable waters of the United States, if such bridge is used for purposes of travel or transportation in interstate or foreign commerce, shall be just and reasonable; but the provisions of this act shall not apply to any bridge subject to the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters", approved March 23, 1906, as amended, nor to any bridge built under the authority of the legislature of the State across rivers or other waterways the navigable portions of which lie wholly within the limits of a single State.

SEC. 2. The Secretary of War is authorized, either upon complaint or upon his own initiative, to conduct an inquiry at any time for the purpose of determining whether any toll charged

for passage or transit over any bridge to which this act applies is in violation of the provisions of section 1, and if he finds, after full opportunity for hearing, that such toll is in violation of such provisions he is authorized and empowered to determine and by order to prescribe what will be the just and reasonable toll to be thereafter charged, and after such order takes effect it shall be unlawful to collect a toll for such passage or transit in excess of that so prescribed. Any such order shall take effect upon the expiration of 30 days after its issuance.

SEC. 3. Any order issued under section 2 may be reviewed by the Court of Appeals of the District of Columbia or the circuit court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within 3 months after the date such order was issued. The judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 240 of the Judicial Code, as amended. The review by such courts shall be limited to questions of law, and the findings of fact by the Secretary of War, if supported by substantial evidence, shall be conclusive. Upon such review, such courts shall have power to affirm or, if the order is not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing, as justice may require.

SEC. 4. In the execution of his functions under this act the Secretary of War, or any officer or employee designated by him, is authorized to hold hearings, examine witnesses, and receive evidence at any place designated by him, and to administer oaths and affirmations, and require by subpena the attendance and testimony of witnesses and the production of books, papers, and documents from any place in the United States. In any case of disobedience to any such subpena the Secretary of War may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. No person shall be excused from attending and testifying or from producing books, papers, and documents in any inquiry under this act, or in obedience to any such subpena, or in any cause or proceeding, criminal or otherwise, based upon or arising under this act, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to a subpena or lawful requirement under this act, shall, upon conviction thereof, be punished by a fine of not to exceed $1,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

SEC. 5. In any case where there is in effect a toll prescribed by an order issued under section 2, for passage or transit over any bridge to which this act applies, any person who demands or collects a toll for such passage or transit in excess of that so prescribed shall, upon conviction thereof, be punished by a fine of not to exceed $1,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

The SPEAKER. Is a second demanded? [After a pause.] If not, the question is on the motion of the gentleman from Kentucky to suspend the rules and pass the bill.

Mr. TRUAX. Mr. Speaker, is it in order to ask the gentleman to yield for a question?

The SPEAKER. Does the gentleman from Kentucky yield?

Mr. SPENCE. I yield.

Mr. TRUAX. As I understand this bill, it is designed to correct some of the abuses that we have heard debated today. In other words, the bill will place a certain correctional charge over the toll bridges in the War Department, and the purpose of the bill is to seek a reduction of some now existing rates rather than to authorize an increase in tolls. Is that true?

Mr. SPENCE. Under the bridge law of 1906 the Secretary of War was given power to regulate tolls on all bridges that were constructed subsequent to that time, and to see that those tolls were just and reasonable. Bridges that were constructed before that time in some instances are unregulated. This bill simply gives the War Department power to see that tolls on bridges constructed before 1906 are just and reasonable and puts them in the same category with the bridges constructed since that time.

Mr. TRUAX. Does not that prove the contentions that I have been making, namely, that we have in existence today toll bridges that have been collecting tolls for 40 years and more.

Mr. SPENCE. At least the public is entitled to know whether tolls are just and reasonable. If they are not, they should receive relief; and if they are just and reasonable, they should be advised of that fact.

Mr. CHAPMAN. And is it not a fact that the War Department reported that there are only six bridges in the United States that this will affect?

Mr. SPENCE. Only 6 bridges, and 4 of those bridges are from Cincinnati to Covington and Newport, in the district I represent in Kentucky. There is one other bridge at Dubuque, Iowa, and one at Louisville affected by this bill, according to the War Department.

Mr. CHAPMAN. And is it true that they are the only bridges, so far as the War Department knows, that are regulated by no power whatever?

Mr. SPENCE. Yes. It is obviously just that there should be some regulation.

Mr. KENNEY. What is there in the bill to compel the Secretary of War to act when the complaint is made that a charge is unjust and unreasonable?

Mr. SPENCE. The bill provides that he shall act either on his own initiative or on complaint.

Mr. KENNEY. Does that mean that he shall have to act on complaint or will he do just as he does now—act or not, as he desires?

Mr. SPENCE. We have written that he must act into the law, and that is all that we can do. The language is mandatory.

The SPEAKER. The question is, Shall the rules be suspended and the bill passed?

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

INTERSTATE TRANSPORTATION OF PRISON-MADE PRODUCTS

Mr. CONNERY. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2904) to prohibit the interstate transportation of prison-made products in certain cases, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That it shall be unlawful for any person knowingly to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institution, from one State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, where said goods, wares, and merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise in violation of any law of such State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof. Nothing herein shall apply to commodities manufactured in Federal penal and correctional institutions for use by the Federal Government.

SEC. 2. All packages containing any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

SEC. 3. Any person violating any provision of this act shall for each offense, upon conviction thereof, be punished by a fine of not more than $1,000, and such goods, wares, and merchandise shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law.

SEC. 4. Any violation of this act shall be prosecuted in any court having jurisdiction of crime within the district in which said violation was committed, or from, or into which any such goods, wares, or merchandise may have been carried or transported, or in any Territory, Puerto Rico, Virgin Islands, or the District of Columbia, contrary to the provisions of this act.

The SPEAKER. Is a second demanded?

Mr. SNELL. Mr. Speaker, I desire to ask the gentleman from Massachusetts a question or two. I want to have him make a statement and explain the bill. I do not care to demand a second, as I have no desire to control time.

The SPEAKER. Without objection, the gentleman from Massachusetts is recognized.

Mr. CONNERY. Mr. Speaker, the Hawes-Cooper Act is a very short act and reads as follows:

Be it enacted, etc., That all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal and/or reformatory institutions, except commodities manufactured in Federal penal and correctional institutions for use by the Federal Government, transported into any State or Territory of the United States and remaining therein for use, consumption, sale, or storage, shall upon arrival and delivery in such State or Territory be subject to the operation and effect of the laws of such State or Territory to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

SEC. 2. This act shall take effect 5 years after the date of its approval.

Now what Congress did there was to divest itself of its interstate commerce character on goods, wares, and merchandise produced by prison labor. So that if it was desired to send prison made goods into the State of Ohio and the State of Ohio had a law forbidding the sale of prison made goods in that State, this provided that they could not be sent into the State of Ohio. Now in this bill before us it is provided that they shall be punished by $1,000 fine if they send prison made goods into the State of Ohio.

Mr. SNELL. This gives them the right to send them in, but they must comply with the State law?

Mr. CONNERY. No. They cannot send them in if the State does not want them in. If the State of Ohio says, "We do not allow the sale of prison made goods", this law provides a penalty for sending them into the State of Ohio.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. CONNERY. Certainly.

Mr. JOHNSON of Texas. Did not the original act provide a penalty?

Mr. CONNERY. No. That is just what this law does. This provides a penalty to enforce the Hawes-Cooper Act.

Mr. RICH. Will the gentleman yield?

Mr. CONNERY. I will, certainly.

Mr. RICH. If a manufacturer would send them into a State where they are prohibited, is the fine imposed on the first offense or are they notified first?

Mr. CONNERY. The bill provides that—

Any person violating the provisions of this act shall, for each offense, upon conviction thereof, be punished by a fine of not more than $1,000, and such goods, wares, and merchandise shall be forfeited to the United States.

I would say on the first offense they would be punished.

Mr. RICH. It might be a wise thing if they were notified, and then if they violated the law they would be punished.

Mr. CONNERY. I will say to the gentleman from Pennsylvania that this is one bill which came out of the Committee on Labor on which we have received no opposition from manufacturers, but plenty of telegrams in favor of it.

Mr. RICH. I am in sympathy with it, except that sometimes an individual does something not knowingly, and to give him a $1,000 fine is a pretty severe punishment.

Mr. CONNERY. He is put on notice by the laws of his State and the Federal law of the Nation at the same time, a double notice, and therefore I do not believe that he should be excused for a first offense, because all offenders would claim that they did not know the law.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts [Mr. CONNERY] to suspend the rules and pass the bill.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed, and a motion to reconsider was laid on the table.

A similar House bill was laid on the table.

GEORGE ROGERS CLARK SESQUICENTENNIAL COMMISSION

Mr. GREENWOOD. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2865) to amend the joint resolution establishing the George Rogers Clark Sesquicentennial Commission, approved May 23, 1928.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 8 of the joint resolution establishing the George Rogers Clark Sesquicentennial Commission, approved May 23, 1928, as amended, is hereby amended to read as follows:

"SEC. 8. The Commission shall cease and terminate June 30, 1937."

SEC. 2. There is hereby authorized to be appropriated, in addition to the sums heretofore appropriated for carrying out the purposes of such joint resolution, as amended, a sum not to exceed $50,000 for carrying out such purposes.

SEC. 3. The unexpended balances of the appropriations heretofore made for carrying out the purposes of such joint resolution, as amended, shall be available until expended.

The SPEAKER. Is a second demanded?

Mr. TABER. Mr. Speaker, I demand a second.

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. GREENWOOD. Mr. Speaker, this is a bill that I called up by unanimous consent on last Thursday. At that time, time did not permit to fully explain the bill, although we made some headway with it.

The Senate has passed this bill, and the House committee has reported it out without any minority report, and, as I understand, it is a unanimous report.

This is an emergency measure. The George Rogers Clark Sesquicentennial Commission expired by operation of law on July 1 of this year. This bill proposes to extend the time for 2 years. It is asking for an authorization of $50,000.

The minority leader questioned me about the matter the other day, and I told him the reason for this authorization. At the time the original appropriation was made it was thought that would be sufficient to carry this project through to completion. Since then the project has been practically completed. The memorial is built. The original 23 acres that were purchased by the State of Indiana have been improved with walks and drives, and the proper landscape gardening has been applied, but at the rear of this memorial there are some three and a half or four acres of ground that carry a gas reservoir tank, which is very unsightly and which stands there in the background. I have here some photographs of it, and I have shown these to several Members and I will be glad to show them to others. The Commission believes that to complete this memorial as it should be, with the proper background and surroundings, this particular tract of ground should be purchased and embellished.

To the side of the ground there is a railroad switch, which the Baltimore & Ohio Railroad has agreed to take out without cost; but that leaves this entire fill to be made by the Commission, in order to make the ground uniform in its grade, and that operation has to be taken care of, and a river wall must be built to complete the grounds as they should be. Those items will be covered by this additional authorization.

The Commission has gone into this matter rather fully before both the House and the Senate committees. Mr. KELLER and Mr. TREADWAY have both stated that in order to complete this memorial as it should be, as you and I and every Member of Congress would like to see it completed, this authorization should be made. After all, this amount of $50,000 is a small item, if we take into consideration the fact that the State of Indiana has invested between $900,000 and $1,000,000 and the Federal Government has invested $1,775,000. This is one of the most handsome memorials to be found anywhere in the world. In fact, many who have visited it say it is the equal of the Lincoln Memorial. Of course, it memorializes a great event in the Northwest, the capture of old Fort Sackville at Vincennes, which brought into the Union the first territory that was acquired by the Thirteen Original States. This territory is composed of Ohio,

Indiana, Illinois, Michigan, and Wisconsin. It was really the acquisition of territory that opened the gateway to the West for the Lewis and Clark Expedition to the Pacific, which made us an imperial nation. Because of its national character, because of its artistic beauty, the Commission believes that this authorization should be made.

I should be glad to yield to anyone for any further explanation.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. Certainly.

Mr. RICH. In reference to the expenditure of $50,000 for 4½ acres of ground, the gentleman states that this is a small item. It seems to me that $50,000 is a pretty big item. We in the House of Representatives in the last year or so have become so used to talking in terms of billions that we do not know anything about that when it comes down to talking about $50,000, which many Members of the House might know something about, we do not recognize it. I am not going to object to this bill, but I do object to the statement that $50,000 is a small item. I think it is quite a big item.

Mr. GREENWOOD. Certainly it is a large sum of money to you, to me, or to anyone; but had the gentleman been here as long as some of us, he would realize that in the construction of memorials it is impossible in advance to foresee every item. Items are bound to arise which could not be contemplated. What I say is that, compared with the amount of money the Federal Government and the State of Indiana already have invested in this memorial, the item asked in this bill is small. It is small by comparison, but I do not mean to convey the idea that it is a trivial matter at all.

Mr. MILLARD. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. MILLARD. Was this gas plant there at the time the site was purchased?

Mr. GREENWOOD. Yes; and it was then in operation. At that time they wanted $150,000. Since then natural gas has been piped into Vincennes, and this particular gas tank and property is no longer in use. It can be purchased for a very small price compared to what they were asking at the time the site was acquired. I think it can be bought now for something in the neighborhood of $12,000 or $15,000. The removal of this structure and the landscaping of this area will be an embellishment to this memorial and complete its artistic features. This land will have to be put in shape after it is acquired. These 3½ or 4 acres are not landscaped. After the railroad switch is removed the site will have to be filled in, and there are other things that will have to be done to it.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. MICHENER. Can the gentleman assure us that this is the end?

Mr. GREENWOOD. I can assure the gentleman that this is the end. It is the end because that is the statement made before the committee. No other item or sums will be asked; and so far as I am concerned, I can make the statement that it will be the last appropriation for this purpose necessary by Congress.

Mr. MICHENER. I hope the gentleman stays in Congres, if for no other reason that that we will have somebody who is responsible. I remember when the original appropriation was made. It was just like all similar propositions; we were assured that the appropriation provided would be sufficient, that all details were provided for, that there was no question but what they could complete this splendid memorial and within the time provided. Now we are asked for an additional $50,000, and are asked to extend the life of the commission 2 years. What guarantee have we that within 2 years they may not determine that some other structure a mile or 2 away spoils the esthetic view of the memorial, that to study and determine this question the life of the commission should be extended another 2 years, and a decision reached that an appropriation is necessary to tear down some more buildings?

If the gentleman assures us, first, that he will stay in Congress—because we all hope he will—secondly, that when such time comes he will be on the floor to defend the country against a further appropriation I do not think we ought to object.

Mr. GREENWOOD. I thank the gentleman for wishing that I stay in Congress. I cannot answer that; but so far as the balance of his statement is concerned, I give him the same guarantee that was given the committee, that this will be the last time an appropriation will be asked for this purpose. This bill has been made necessary by reason of the emergency that has arisen. I showed the gentleman these pictures, but I show them to him again. He can see for himself how that gas tank stands out there and how it mars the beauty of the memorial.

Mr. MILLARD. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. MILLARD. Did the original act provide that funds for the memorial should be contributed 50 percent by the Federal Government and 50 percent by the State of Indiana?

Mr. GREENWOOD. No; that was not the situation. The State of Indiana agreed to purchase the land for the memorial, the Federal Government to build the memorial and beautify the grounds.

The original request for this memorial was $1,750,000. The gentleman from Massachusetts [Mr. LUCE] was then Chairman of the Committee on the Library. He told us he would support a bill appropriating $1,000,000, but before the bill reached the stage of consideration on the floor he was converted to it and himself recommended the full amount of $1,750,000.

The pending bill provides for an item that has arisen since then.

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. SNELL. Has the Commission any money at the present time?

Mr. GREENWOOD. It has some $10,000 or $12,000, as I understand; but I understand further that this money is committed and will be needed to complete existing contracts.

Mr. SNELL. It seems to me $12,000 might be a reasonable amount to complete this project.

Mr. GREENWOOD. No; it would not. I took that up with the gentleman from New York. Other things must be done besides acquiring this gas company property. The railroad switch must be removed and the site filled, the river wall must be built, and then there is the embellishment of the three and a half acres after they are acquired, the building of certain drives, sidewalks, and other structures.

Mr. THURSTON. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. THURSTON. Compared to the amount that has been expended for the erection of this memorial the authorization carried in the pending bill is a very small matter.

Mr. GREENWOOD. I have expressed myself on that.

Mr. STEFAN. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. STEFAN. Just exactly how much money is being asked?

Mr. GREENWOOD. Fifty thousand dollars.

Mr. STEFAN. Is that in addition to what they have already received?

Mr. GREENWOOD. That is in addition to the original authorization.

Mr. STEFAN. What was the total amount received for this particular project?

Mr. GREENWOOD. One million seven hundred and fifty thousand dollars.

Mr. STEFAN. How much did the organizations in Indiana pay?

Mr. GREENWOOD. The State of Indiana raised between $900,000 and $1,000,000 by a special tax levy and by bond issues of the city of Vincennes and the county, until they exhausted their credit and went above the 2 percent limitation.

Mr. STEFAN. Is an additional $50,000 needed to the $12,000 now on hand?

Mr. GREENWOOD. Yes.

Mr. STEFAN. In other words, $62,000 is needed?

Mr. GREENWOOD. That is the amount we need, including the balance on hand.

Mr. MICHENER. Will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from Michigan.

Mr. MICHENER. May I ask whether or not the gentleman, when he introduced his bill, expected to get the $50,000 or did he make it $50,000 like Texas did when they asked for $3,000,000 for their celebration, with the expectation that it would be cut in two?

Mr. GREENWOOD. May I say to the gentleman from Michigan that I did not introduce this bill? It was introduced and passed in the Senate. It is not my bill. The memorial is in my district, however. The Federal Government has been wonderful and liberal in regard to the amount allowed. We have no complaint. All the understandings have been carried out between the Federal Government and the State. The State has committed itself to take care of the memorial throughout the years, and the memorial will be added to our State conservation system. The State, of course, as I stated, has assumed the obligation to carry out the expense of maintenance of this memorial through the years.

Mr. TABER. Mr. Speaker, it appears that adjoining the George Rogers Clark memorial at Vincennes, Ind., there was a great big gas tank. I have no objection to those people out there having a memorial, but back in 1928 the Congress authorized the memorial. It was built. The first part of the situation was that we authorized an original appropriation of $1,000,000. Then they came back, and despite the protests of some of us, they got $750,000 more. We all understood when the thing came up here at first that it would be one bite and that the cut in the appropriation that was made at that time meant something and that we were not to have another bite. But they came back a year or two later and got $750,000 more. They have built this magnificent memorial. Now, with reference to the gas tank which was standing there, just as it stands now, at the time the original plans were contemplated. This gas tank was not included in the original set-up. It turns out that it has become unprofitable and its owners have abandoned it. It is going to be a nice thing now to sell to Uncle Sam or to the State of Indiana as a part of this memorial. So the State of Indiana is asked to buy this thing and the Congress is asked to put up $50,000 to enlarge the project to cover 23 additional acres.

Mr. Speaker, I have no objection to a memorial coming to the till once. When it comes to the till twice, as this one did, it is bad enough, but when it comes to the till three times it seems to me it is almost enough to make folks stop and think.

Mr. ARNOLD. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Illinois.

Mr. ARNOLD. The State of Indiana has raised the money and bought the additional land. Does the gentleman think a memorial of this kind should be left in an unfinished condition? All on earth there is to be done with this money is to build a river wall along there, put in some walks, do some landscaping, and things of that kind, which is absolutely necessary to make this a completed project. I think if the gentleman understood the situation as I do, and I am thoroughly familiar with it because I have been there a number of times, he would raise no objection to the bill.

Mr. TABER. Mr. Speaker, this is the way I feel about the matter. I hate to get up here on the floor and object, because so many of my friends live in that neighborhood and are interested in this memorial. But I am tremendously impressed by the fact that when we go ahead and lay out plans to build a memorial, we ought at that time to have the project properly under consideration and we ought to have a plan, go through with it and complete it and have it over with. Unless we do that these things will never end.

In this particular case the appropriation was cut down once, but the cutting down did not mean anything. A new project, which was not even thought of at the time the original proposition was under consideration, is now brought up and the Congress is asked to appropriate another $50,000. For my own part I cannot see why we should spend $50,000 on an additional project that was not in contemplation at the time the original layout was made, and I want to be as liberal as possible with these people. I want to do something for my friends in that territory, but in all charity I think this proposition should be turned down at this time.

Mr. GREENWOOD. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Indiana.

Mr. GREENWOOD. In my statement I called the attention of the gentleman and Members of the House to the fact that when this tank was in use it could not have been bought for less than $150,000. Since that time things have changed and this land with these structures, lying in the heart of Vincennes, can be bought for one-tenth of the original amount, which we considered in the beginning too prohibitive to even consider. I want to correct the gentleman's idea that somebody will unload something on to this commission, because the commission is composed of reasonable businessmen, and unless this gas tank and property can be bought at a reasonable figure they will go into court and condemn it. There is no agreement now to sell it at any fixed price.

Mr. MICHENER and Mr. RICH rose.

Mr. TABER. I yield to the gentleman from Michigan.

Mr. MICHENER. The gentleman from Indiana has suggested in his remarks that this is an emergency matter. As a matter of fact, the Ways and Means Committee of the House is wrestling with an emergency matter now which is a question of taxation in an effort to balance the Budget. We all realize that we must become tax conscious.

Mr. KENNEY. Mr. Speaker, will the gentleman permit an interruption there?

Mr. MICHENER. Not now. We all realize that the time has arrived when we must begin to think about all this spending. It seems to me, if we have erected a splendid and beautiful memorial out there and off in the distance there stands an unsightly gas tank, perchance, we can better perform our duty by saving this $50,000 and begin today rather than to further beautify these grounds at the taxpayers' expense. We all want to do these things, and we have been continuing to do them throughout the months until the time has arrived when we must do something to save money, and if the gentleman will permit, I wish to observe that our Committee on the Library has become memorial and monument minded of late. They need someone to remind them that these things are beautiful and are timely when we can afford them, but with taxes mounting the time must come when we must stop this kind of thing, and I do not know a better time than right now.

Mr. TABER. I now yield to the gentleman from Pennsylvania.

Mr. RICH. We are discussing a matter of taxation and we are trying to find funds now to finish this memorial, and if it is a memorial that the gentleman from Indiana and the Committee on the Library thinks should be finished, why can they not get the money from the $4,880,000,000 that has been appropriated, so that the Ways and Means Committee will not be called upon to raise this $50,000 to take care of this project? Would it not be a good thing if they would take this $50,000 from the $4,880,000,000 appropriation?

Mr. KENNEY. Mr. Speaker, will the gentleman yield?

Mr. TABER. I am going to answer that question myself before I yield to anyone else.

In my humble opinion, and it is humble, we should not load things on to the $4,000,000,000 proposition. That $4,000,000,000 was appropriated for certain purposes. Instead of wasting a great deal of it, only so much of it as is absolutely necessary to take care of needed relief should be spent, and the rest of the money should be kept in the Treasury so that we do not tremendously unbalance the Budget, and instead of increasing the tremendous deficit of almost $4,000,000,000 a year, we should also stop the expenditure of public moneys whenever it is not absolutely necessary. This is the time for us to begin if we are ever going to stop. You can never stop, unless you stop, and we seem

to be running absolutely wild in this Congress in appropriating money for everything that anybody wants.

I now yield to the gentleman from New Jersey, if he wants to ask a question. Does the gentleman want to ask about a lottery?

Mr. KENNEY. I simply want to say that the gentleman would not have to worry so much about a debt of $4,800,000,000 if the gentleman would get behind the Ways and Means Committee and point out the way that the money could be raised in the practical, sensible manner that other countries use by establishing a national lottery. [Laughter and applause.]

Mr. TABER. I do not want to put the Government of the United States into the gambling business.

Mr. GREENWOOD. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. GREENWOOD. This Commission has not undertaken to raise this money by a lottery and has not undertaken to go to the Public Works Administration as some others have. We have simply come back to the Congress which made the original authorization, on the theory that the Congress of the United States always wants to do things right and therefore wants to do this job right. The bill was passed in the Senate and we are simply attempting to complete this job as it was originally contemplated, in the same manner and in no other.

Mr. RICH. Does the gentleman know where we can get the $50,000?

Mr. GREENWOOD. I think there is no doubt but what it will be coming along. After all, it will be spent almost entirely for labor because there must be the razing of these buildings and then there is the work on the ground in leveling and laying out walks and therefore practically all of the money will be spent in the employment of labor.

Mr. TABER. Mr. Speaker, the meat of this situation seems to be that we have embarked on this enterprise and just like every other enterprise, if the Congress fails to meet its responsibility, they want to branch out. Of course, it is nice to have all these things that money can buy, but where are we going to get the money to pay for them? The only way we can get it is through inflation or by forcing the banks to call their loans against business people and then force them to buy Government bonds. I think it is time for the Congress of the United States to stop appropriating money that it does not have to appropriate and to set its face against any expenditures that are not absolutely needed.

I hope, with this situation in mind, the House will vote against this bill. I do not want to vote against my friends who live in this territory any more than the rest of you do, but I do feel a sense of responsibility to the people and the taxpayers not to load them up any heavier.

I hope that this bill will be beaten at this time.

Mr. KENNEY. Will the gentleman yield?

Mr. TABER. I will yield.

Mr. KENNEY. I should like to make this statement and point out to the gentleman that it is strange that he will not admit that Congress could raise the money by a national lottery. I want to say further that when Congress years ago authorized a lottery in this country to build buildings in Washington it was approved by the President of the United States, and it was not considered gambling.

Mr. TABER. But we have developed and improved since that time. That bill preceded the great panic of 1837. I do not want to encourage any operation that will get us into that position at this time. I do not believe that we ought to embark on raising money by lotteries. We ought to stop this situation where we have been taxing the children for years and years and years, and I hope that Congress will meet its responsibility at this time.

Mr. RICH. Will the gentleman yield?

Mr. TABER. I yield.

Mr. RICH. If we continue in the way we have been going for the last 4 years expending money, how are our children and children's children going to exist?

Mr. TABER. I cannot answer the gentleman, but I hope that Congress will meet its responsibility.

Mr. GREENWOOD. Mr. Speaker, I yield 5 minutes to my colleague the gentleman from Massachusetts [Mr. TREADWAY], a member of the Committee on the Library.

Mr. TREADWAY. Mr. Speaker, I think there is a moral obligation existing in this small appropriation. I almost always agree with my good friend from New York [Mr. TABER] in his anxiety and desire to reduce expenditures, but here is a very meager sum in comparison with most of those which he and I have voted upon in the past. I have never seen the time when the Federal Treasury was so hard up that it could not meet a small obligation like the expenditure of $50,000.

I say there is a moral obligation to complete the construction of this memorial. It has been stated on the floor, and it was stated to the Library Committee when the first million dollars was appropriated by Congress, that it was recognized that the amount would not complete the undertaking. Then there was added to that $750,000, and that was expected to build the undertaking and, so far as I know, has; but I do not think there is a Member of this House that, if there was a hideous commercial obstruction standing in front of the Lincoln Memorial or the Washington Monument or any other great monument in this city, but that he would be in favor of making a modest appropriation to remove such an unsightly affair.

That is the situation here now. The pictures the gentleman from Indiana [Mr. GREENWOOD] is showing indicate exactly the situation. Nearly $2,000,000 have been spent there. Why not permit at least the landscaping being done to clean up that situation? That is the only question involved. There is a hideous gas tank that does not belong there, which obstructs the attractiveness of the surroundings. I have not much of an artistic eye myself, but anybody looking at the picture the gentleman from Indiana has in his hand can see it is a disfigurement to the attractive surroundings of the neighborhood and ought not to be permitted to destroy the beauty of the landscape. We should make a decent surrounding for this handsome memorial. No more money will be spent by the Federal Government. The State of Indiana and the city of Vincennes have taken over this proposition. I think it is parsimonious on our part to prevent the cleaning up of that landscape situation. We ought to clean it up. It is just as though we had built a house in disagreeable surroundings, and when we got the house constructed realized what was there obstructing the view and we went around and bought up the land. It is no more than any woman or man in this membership would do in her or his own case. You cannot picture the whole thing when you start out. You have to take a little time to realize the surroundings in which any memorial is placed.

Mr. STEFAN. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. STEFAN. The gentleman is making an eloquent plea for Indiana. I agree with him in many respects, especially that we should eliminate these obstructions before a wonderful memorial. I call attention to the fact that here in Washington, about which the gentleman spoke a little while ago, there are obstructions before memorials. I think we should have the obstruction removed before the monument to William Jennings Bryan.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute more to the gentleman from Massachusetts.

Mr. TREADWAY. Mr. Speaker, I am familiar with the neighborhood of which the gentleman speaks. The fact that Mr. Bryan's statue is down there is no reason against making a most attractive approach along that river front. That whole river front, whether the Bryan statue is there or not, should be beautified. You are welcome to the statue of Bryan if you want it; I do not care anything about that. I think the Congress should not fight this small sum of money when you compare it with the large appropriations we are making for other purposes, and I trust that the rules will be suspended and the measure passed.

Mr. TABER. I yield the remainder of my time to the gentleman from Michigan [Mr. HOFFMAN].

Mr. HOFFMAN. Mr. Speaker, the gentleman from Massachusetts says that there is a moral obligation in connection with this. What does he mean by that?

Mr. TREADWAY. When this matter was first brought up it was expected that other appropriations would follow the first million-dollar appropriation.

Mr. HOFFMAN. For what purpose?

Mr. TREADWAY. Because it was known that the memorial which was under construction could not be built for the original appropriation. This is simply carrying out that agreement.

Mr. HOFFMAN. You say it was expected that more money would be appropriated to finish the memorial?

Mr. TREADWAY. It is all finished.

Mr. HOFFMAN. Then they have their money and where is the moral obligation? Was not this gas tank there when they put the memorial down in front of it?

Mr. TREADWAY. Yes.

Mr. HOFFMAN. Then whose fault was it? Should not the city remove it? If you want to spend money, and you are bound to spend it, apparently, there are other ways to be found in which to spend it. The other day I drove down through the country near Spotsylvania, the Wilderness, and Chancellorsville, viewing those battlefields and some of the cemeteries. If there is any moral obligation in respect to cemeteries, I don't suppose it rests on the Federal Government, but certainly it should make us all ashamed of ourselves to notice the condition of those cemeteries. They are Confederate cemeteries, it is true, but the grass and weeds have grown up so that you can hardly see the markers.

Why should we not, if money is to be spent merely for the purpose of creating work, take care of those cemeteries; at least destroy the weeds and put them into sod? True, those men fought to destroy the Government, but they honestly believed they were fighting for a just cause. The very least that we can do would be to, by our acts in caring for their graves, pay our tribute to their sincerity, their self-sacrifice, their loyalty, even though the event demonstrated they were in error.

In these days, when men are again seeking to wreck our Government, to destroy our liberties, and this without disadvantage to themselves—yes; when many times their efforts naturally result to their own political advantage—this Congress might well pause in its precipitate course of public spending, and far worse—that is, the throwing away of the safeguards which protect our people and our Government—and do this small honor to those who lie so neglected and forgotten so near the Nation's Capital.

Cannot the city where this monument for which you are seeking this appropriation, or the State of Indiana, get rid of the gas tank you consider so unsightly? Certainly they knew when they put that monument in there about the gas tank.

Mr. ARNOLD. Mr. Speaker, will the gentleman yield?

Mr. HOFFMAN. Yes.

Mr. ARNOLD. I suggest to the gentleman this monument is built upon the site of old Fort Sackville, the old historic fort, and it became necessary, if there was to be a monument commemorating the event, to place it at that point. Of course, the gas tank came in there long years after that.

Mr. HOFFMAN. Why, surely, I suppose it did come in after the event you are commemorating, but did it come in there after you started to build the monument? No.

Mr. ARNOLD. The monument was built on the site of old Fort Sackville, the appropriate place for such memorial.

Mr. HOFFMAN. Well, why did you not figure on that when you were appropriating the money? When they were erecting the monument the cost of preparing the surrounding territory so that the monument might have a sightly location was properly a part of the original project, and succeeding Congresses should not, after the monument is completed, be from time to time required to appropriate additional sums. Congress, when asked for an appropriation for any purpose should be informed as to the ultimate cost of the project.

The SPEAKER. The time of the gentleman from Michigan [Mr. HOFFMAN] has expired.

All time has expired.

The question is on the motion to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. TABER) there were ayes 68 and noes 22.

Mr. TABER. Mr. Speaker, I object to the vote on the ground that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. MCGEHEE, for 6 days, on acount of important public business.

ENROLLED BILLS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 3512. An act for the relief of H. B. Arnold;

H. R. 4751. An act to amend sections 11 and 24 of the Interstate Commerce Act, as amended, with respect to the terms of office of members of the Interstate Commerce Commission; and

H. R. 4760. An act limiting expenditures for repairs or changes to naval vessels.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 239. An act for the relief of the Barlow-Moore Tobacco Co.;

S. 312. An act for the relief of Lillian G. Frost;

S. 377. An act to grant to the Utah Gilsonite Co. the right to use a water well on certain public lands in Utah;

S. 428. An act authorizing adjustment of the claim of Korber Realty, Inc.;

S. 475. An act for the relief of Mrs. George F. Freeman;

S. 780. An act for the relief of the Standard Dredging Co.;

S. 1036. An act authorizing adjustment of the claim of Dr. George W. Ritchey;

S. 1054. An act authorizing adjustment of the claim of White Bros. & Co.;

S. 1099. An act for the relief of Ethel G. Remington;

S. 1290. An act for the relief of Walter Motor Truck Co., Inc.;

S. 1446. An act for the relief of Knud O. Flakne;

S. 1447. An act for the relief of Mary C. Moran;

S. 1498. An act for the relief of Robert D. Baldwin;

S. 1499. An act for the relief of Robert J. Enochs;

S. 1566. An act for the relief of Carl C. Christensen;

S. 1872. An act for the relief of Guy Clatterbuck;

S. 2292. An act for the relief of Emanuel Wallin; and

S. 2487. An act for the relief of the Western Electric Co., Inc.

BILLS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On July 12, 1935:

H. J. Res. 201. Joint resolution giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in the month of September 1936, and for other purposes incident to said encampment.

On July 13, 1935:

H. R. 2566. An act for the relief of Percy C. Wright;

H. R. 5393. An act for the relief of Moses Israel;

H. R. 5599. An act to regulate the strength and distribution of the line of the Navy, and for other purposes; and

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

On July 15, 1935:

H. R. 3512. An act for the relief of H. B. Arnold;

H. R. 4760. An act limiting expenditures for repairs or changes to naval vessels; and

H. R. 4751. An act to amend sections 11 and 24 of the Interstate Commerce Act, as amended, with respect to the terms of office of members of the Interstate Commerce Commission.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 43 minutes p. m.) the House adjourned until tomorrow, Tuesday, July 16, 1935, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 5167. A bill to amend an act entitled "An act authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California", approved May 18, 1928 (45 Stat. L. 602), by amending certain portions of sections 3 and 6 thereof; with amendment (Rept. No. 1520). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 8600. A bill to authorize and direct the Secretary of the Interior to make a lease for the Agua Caliente or Palm Springs Band of Mission Indians of California; with amendment (Rept. No. 1521). Referred to the Committee of the Whole House on the state of the Union.

Mr. JONES: Committee on Agriculture. H. R. 7898. A bill to authorize the President to attach certain possessions of the United States to internal revenue collection districts for the purpose of collecting processing taxes; with amendment (Rept. No. 1522). Referred to the Committee of the Whole House on the state of the Union.

Mr. LANHAM: Committee on Public Buildings and Grounds. S. 2647. An act authorizing the Comptroller General of the United States to settle and adjust the claims of subcontractors, materialmen, and laborers for material and labor furnished in the construction of a post-office building at Hempstead, N. Y.; without amendment (Rept. No. 1523). Referred to the Committee of the Whole House on the state of the Union.

Mr. O'CONNOR: Committee on Rules. House Resolution 295. Resolution providing for the consideration of S. 1404; without amendment (Rept. No. 1524). Referred to the House Calendar.

Mr. COOLEY: Committee on Agriculture. H. R. 8677. A bill to amend the act entitled "An act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, and for other purposes", approved June 28, 1934; without amendment (Rept. No. 1525). Referred to the Committee of the Whole House on the state of the Union.

Mr. LEA of California: Committee on Interstate and Foreign Commerce. S. 1994. An act to amend the Inland Waterways Corporation Act, approved June 3, 1924, as amended; with amendment (Rept. No. 1526). Referred to the Committee of the Whole House on the state of the Union.

Mr. PALMISANO: Committee on the District of Columbia. S. 405. An act for the suppression of prostitution in the District of Columbia; with amendment (Rept. No. 1527). Referred to the Committee of the Whole House on the state of the Union.

Mrs. JENCKES of Indiana: Committee on the District of Columbia. S. 2034. An act to prevent the fouling of the atmosphere in the District of Columbia by smoke and other foreign substances, and for other purposes; without amendment (Rept. No. 1528). Referred to the Committee of the Whole House on the state of the Union.

Mr. BEITER: Committee on War Claims. Senate Joint Resolution 72. Joint resolution authorizing and directing the Comptroller General of the United States to certify for payment certain claims of grain elevators and grain firms to cover insurance and interest on wheat during the years 1919 and 1920 as per a certain contract authorized by the President; without amendment (Rept. No. 1529). Referred to the Committee of the Whole House on the state of the Union.

Mr. HILL of Alabama: Committee on Military Affairs. H. R. 8024. A bill to authorize the Secretary of War to dispose of material no longer needed by the Army; with amendment (Rept. No. 1530). Referred to the Committee of the Whole House on the state of the Union.

Mr. McREYNOLDS: Committee on Foreign Affairs. House Joint Resolution 350. Joint resolution to authorize the President to extend an invitation to the World Power Conference to hold the Third World Power Conference in the United States; without amendment (Rept. No. 1531). Referred to the House Calendar.

Mr. CARPENTER: Committee on the District of Columbia. S. 2259. An act to amend sections 966 and 971 of chapter 22 of the act of Congress entitled "An act to establish a Code of Law for the District of Columbia", approved March 3, 1901, as amended, and for other purposes; with amendment (Rept. No. 1532). Referred to the House Calendar.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 8635) granting an increase of pension to Miriam E. Hogue, and the same was referred to the Committee on Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DIMOND: A bill (H. R. 8845) to authorize the incorporated town of Cordova, Alaska, to construct, reconstruct, enlarge, extend, improve, renew, and repair certain municipal public structures, utilities, works, and improvements, and for such purposes to issue bonds in any amount not exceeding $50,000, and for other purposes; to the Committee on the Territories.

By Mr. McCORMACK: A bill (H. R. 8846) to amend certain sections of title IV of the Revenue Act of 1932, as amended; to the Committee on Ways and Means.

Also, a bill (H. R. 8847) extending the time within which applications for benefits under the World War Adjusted Compensation Act, as amended, may be filed; to the Committee on Ways and Means.

By Mr. CALDWELL: A bill (H. R. 8848) to provide for the establishment in the Department of Agriculture of an experiment station for the development of tung trees; to the Committee on Agriculture.

By Mr. DIMOND: A bill (H. R. 8849) authorizing the Secretary of the Interior to locate, establish, construct, equip, and operate a hospital for the insane of Alaska, and for other purposes; to the Committee on the Territories.

By Mrs. GREENWAY: A bill (H. R. 8850) to impose an excise tax on certain sodium products imported from foreign countries; to the Committee on Ways and Means.

By Mr. JONES: A bill (H. R. 8851) to amend the Packers and Stockyards Act, 1921; to the Committee on Agriculture.

By Mr. McKEOUGH: A bill (H. R. 8852) to amend the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mrs. NORTON (by request): A bill (H. R. 8853) to reincorporate the Columbia Polytechnic Institute for the Blind of the District of Columbia; to the Committee on the District of Columbia.

Also (by request), a bill (H. R. 8854) to amend the act providing for the removal of snow and ice from the paved sidewalks of the District of Columbia, approved September 16, 1922; to the Committee on the District of Columbia.

By Mrs. ROGERS of Massachusetts: A bill (H. R. 8855) to authorize the Secretary of Agriculture to investigate and report on traffic conditions, with recommendations for corrective legislation; to the Committee on Roads.

By Mr. SAUTHOFF: A bill (H. R. 8856) to provide for payment of hospital care in lieu of hospitalization or domiciliary care in certain cases, and to limit the reduction of compensation in such blind cases; to the Committee on World War Veterans' Legislation.

By Mr. SNELL: A bill (H. R. 8857) authorizing the States of New York and Vermont to construct, maintain, and operate a toll bridge across Lake Champlain between Rouses Point, N. Y., and Alburg, Vt.; to the Committee on Interstate and Foreign Commerce.

By Mr. RAMSAY: A bill (H. R. 8858) authorizing the purchase of United States Supreme Court Decisions and Digest; to the Committee on Accounts.

By Mr. CANNON of Missouri: A bill (H. R. 8859) to provide for recovery of compensation for taking property, and for damage to the same from overflow, water seepage, water percolation, or interference with drainage, and for interference with the sewer, drainage, or flood-protection system of any municipality, and to any legally organized drainage or levee district, by the construction, maintenance, or operation of any dam, structure, or other improvement by the United States in or along navigable streams and inland waterways for the improvement of navigation thereon, and to provide for the prosecution of claims against the United States therefor and payment of judgments; to the Committee on Rivers and Harbors.

By Mr. BRUNNER (by request): A bill (H. R. 8869) to amend sections 181 and 186 of the Criminal Code; to the Committee on the Post Office and Post Roads.

By Mr. DINGELL: Resolution (H. Res. 296) requesting the President to furnish the House with certain information pertaining to the depositing of raw untreated sewage into navigable or nonnavigable waters of the United States; to the Committee on Rivers and Harbors.

By Mrs. NORTON (by request): Joint resolution (H. J. Res. 351) authorizing the use of public parks, reservations, and other public spaces in the District of Columbia; and the use of tents, cots, hospital appliances, flags, and other decorations, property of the United States, by Washington (D. C.) 1935 Improved, Benevolent, and Protective Order of Elks of the World, and for other purposes; to the Committee on the District of Columbia.

By Mr. STEAGALL: Concurrent resolution (H. Con. Res. 30) authorizing the Committee on Banking and Currency of the House of Representatives to have printed for its use additional copies of the hearings on the Banking Act of 1935; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CROWE: A bill (H. R. 8860) for the relief of Leonard A. Evans; to the Committee on Claims.

By Mr. DOCKWEILER: A bill (H. R. 8861) authorizing the President to present, in the name of Congress, a Medal of Honor to A. W. Lindberg; to the Committee on Military Affairs.

By Mr. FULMER: A bill (H. R. 8862) granting an increase of pension to David Traxler Kirby; to the Committee on Pensions.

By Mr. HANCOCK of New York: A bill (H. R. 8863) granting an increase of pension to Harriet E. Miller; to the Committee on Invalid Pensions.

By Mr. HARTLEY: A bill (H. R. 8864) authorizing the Secretary of War to bestow a gold medal of honor, of such design as he may approve, upon Nicholas Casale; to the Committee on Military Affairs.

By Mr. ROGERS of Oklahoma: A bill (H. R. 8865) to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the heirs of James Taylor, deceased Cherokee Indian, for the value of certain lands now held by the United States, and for other purposes; to the Committee on Indian Affairs.

By Mr. ROBSION of Kentucky: A bill (H. R. 8866) granting a pension to Cleston E. Slusher; to the Committee on Pensions.

By Mr. SUMNERS of Texas: A bill (H. R. 8867) for the relief of Nettie McGlothlin; to the Committee on Claims.

By Mr. WEAVER: A bill (H. R. 8868) for the relief of Jarvis M. Brown; to the Committee on Naval Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9146. By Mr. CONNERY: Letter from the Polish-American Citizens Club of Essex County, Mass., expressing its disapproval of the bill presented to the House of Representatives by Representative DIES, of Texas, providing for the deportation of aliens without regard to moral turpitude or violation of our laws on the ground that this bill, and any other bill of similar nature, are un-American and unfair; to the Committee on Immigration and Naturalization.

9147. By Mr. CULKIN: Petition of the United Home Owners of Illinois, urging passage of the Frazier-Lemke bills (H. R. 8743 and S. 3049), to amend section 74 of the Bankruptcy Act; to the Committee on the Judiciary.

9148. By Mr. COLDEN: Petition of the National Inventors Congress, by Albert G. Burns, president, containing 40 names, and asking that legislation be passed establishing an inventors' loan fund; to the Committee on Appropriations.

9149. By Mr. DOBBINS: Petition of J. R. Hefner and 44 other citizens of Monticello, Forrest, Bement, Decatur, Ivesdale, and Sadorus, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report House bill 8652, providing for levy of an excise tax upon carriers and an income tax upon their employees, and for other purposes; to the Committee on Interstate and Foreign Commerce.

9150. Also, petition of A. L. Joly and 120 other citizens of Decatur, Ill., urging the House Committee on Interstate and Foreign Commerce to approve and report House bill 8652, providing for levy on an excise tax upon carriers and an income tax upon their employees, and for other purposes; to the Committee on Interstate and Foreign Commerce.

9151. By Mr. HALLECK: Petition of citizens of Tippecanoe County, Ind., favoring enactment of legislation for regulation of motor vehicles in interstate commerce; to the Committee on Interstate and Foreign Commerce.

9152. By Mr. HOEPPEL: Petition of the Senate of the State of California, expressing opposition to any change or modification in the present tariff laws relating to quarantines on livestock and meats, and to any plan whereby countries, such as Argentina, will be zoned to permit the shipment of livestock or meat to the United States; to the Committee on Ways and Means.

9153. By Mr. MEAD: Petition of the Social Gospel Radio Forum, of Buffalo, N. Y.; to the Committee on Military Affairs.

9154. Also, petition of the Erie County Farm and Home Bureau Association; to the Committee on Foreign Affairs.

9155. Also, petition of the Erie County (N. Y.) American Legion; to the Committee on Military Affairs.

SENATE

TUESDAY, JULY 16, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, July 15, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Keyes	Pittman
Ashurst	Coolidge	King	Pope
Austin	Copeland	La Follette	Radcliffe
Bachman	Costigan	Lewis	Reynolds
Bailey	Davis	Logan	Robinson
Bankhead	Dickinson	Lonergan	Russell
Barbour	Dieterich	McAdoo	Schall
Barkley	Donahey	McCarran	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	Frazier	McNary	Smith
Borah	George	Maloney	Steiwer
Brown	Gerry	Metcalf	Thomas, Okla.
Bulkley	Gibson	Minton	Townsend
Bulow	Glass	Moore	Trammell
Burke	Gore	Murphy	Truman
Byrd	Guffey	Murray	Tydings
Byrnes	Hale	Neely	Vandenberg
Capper	Harrison	Norbeck	Van Nuys
Caraway	Hatch	Norris	Wagner
Carey	Hayden	Nye	Walsh
Chavez	Holt	O'Mahoney	Wheeler
Clark	Johnson	Overton	White

Mr. VANDENBERG. I repeat the announcement as to the absence on account of illness of my colleague the senior Senator from Michigan [Mr. COUZENS].

Mr. LEWIS. I announce that the Senator from Utah [Mr. THOMAS] and the Senator from Louisiana [Mr. LONG] are absent on important business.

Mr. AUSTIN. I announce that the Senator from Delaware [Mr. HASTINGS] is necessarily absent from the Senate.

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present.

ELECTRIC-RATE SURVEYS

The VICE PRESIDENT laid before the Senate letters from the Vice Chairman of the Federal Power Commission, transmitting, pursuant to law, compilations completed through the electric-rate survey of the domestic and residential rates in effect on January 1, 1935, in the States of Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Montana, New Jersey, North Carolina, South Dakota, Tennessee, Virginia, and Wisconsin, which, with the accompanying papers, were referred to the Committee on Interstate Commerce.

REPORT OF BOARD OF VISITORS TO UNITED STATES MILITARY ACADEMY

Mr. SHEPPARD. Mr. President, I present for publication in the RECORD the report of the Board of Visitors to the United States Military Academy at West Point. It begins:

The undersigned members of the Senate Board of Visitors—

And so forth. I ask that the entire report be inserted in the RECORD at this point.

The VICE PRESIDENT. Without objection, it is so ordered; and the report will lie on the table.

The report is as follows:

Hon. MORRIS SHEPPARD,
Chairman Committee on Military Affairs,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: The undersigned members of the Senate Board of Visitors to the United States Military Academy visited that institution on May 27 and 28, 1935.

We arrived at the Military Academy at 11 a. m. May 27, and were met by the Superintendent, Maj. Gen. William D. Connor. We then proceeded to headquarters, where the official salute was fired. We there met the members of the administration staff and inspected the headquarters offices and had an orientation discussion with the Superintendent. The schedule for the rest of our visit was as follows:

MONDAY, MAY 27

12 m. Observe cadets march to dinner.
12:30 p. m. Luncheon officers' mess with Superintendent and some members of the academic board.
1:45 p. m. Recitations in academic work.
3 p. m. Field artillery and cavalry barracks and stables; cadets at cavalry drill.
3:45 p. m. Cadet drill on plain and intramural sports.
4:30 p. m. Inspect cadet mess.
4:45 p. m. Visit bachelor officers' mess.
5:15 p. m. Review of the corps of cadets.
7:30 p. m. Dinner at Superintendent's quarters with members of academic board and officers of the Superintendent's staff.

TUESDAY, MAY 28

9:15 a. m. Arrive at post headquarters by automobile.
9:30 a. m. Visit chemical, electrical, and mechanical laboratories.
10 a. m. Surveying instruction in the field.
10:30 a. m. Visit cadet rooms.
10:35 a. m. Visit cadet store and tailoring shops.
10:45 a. m. Visit ordnance laboratory.
11:20 a. m. Organ recital at cadet chapel.
12:10 p. m. Dinner with cadets in cadet mess hall.
12:45 p. m. Tour of the post and inspection of new construction.
3 p. m. Departure for New York City.
4:50 p. m. Arrive New York City.

THE MISSION OF THE INSTITUTION

The educational objective of the United States Military Academy is to give the graduate a broad foundation upon which to build his future military career and to base his further technical studies in the Army service schools. The attention of the Board has been called to the fact that from time to time there has been some criticism of the curriculum and the pedagogic methods at the Military Academy. In considering these criticisms, one must always bear in mind the objective of the institution. West Point was founded for the sole purpose of producing officers for the Army. It has contributed in no small measure to other important activities affecting the welfare of the Nation, but these contributions of the Military Academy have been incidental to its prime function. The curriculum of the academy has developed throughout 133 years along lines which experience has proven tend best to promote the mission of the academy. For this reason the course is a technical one, very closely paralleling, we are informed, the scientific course at Princeton University. As in all other technical institutions, there are certain cultural studies which in a very important manner supplement the technical subjects essential to a scientific course. The result is that between 35 and 40 percent of the studies at the Military Academy may be termed "cultural", a larger percentage than will be found in many technical courses.

THE INDIVIDUAL CADET

No matter how often one visits the academy, each time one is struck anew by the simplicity and democracy that mark the lives of the cadets, as well as by the fact that neither the former status of the cadet in civil life nor that of his parents has any bearing upon his position as a cadet. The position he attains in the corps depends entirely upon himself and his personal characteristics.

The generous appropriations of Congress which have gone into the educational plant and service buildings, with certain exceptions to be mentioned later, are very adequate and complete for the number of cadets heretofore authorized by law. It is always a source of surprise to a visitor making his first inspection of West Point to realize how exceedingly simple and plain are the living conditions furnished to the cadets within this grand exterior. Two and sometimes three cadets live in a single room about 14 by 23 feet in size. These rooms are entirely without ornamentation and are characterized by neatness, cleanliness, and austere simplicity that is very striking. The cadets sweep out their own rooms, make up their own beds, dust the woodwork, and arrange their belongings for the daily inspections. The rooms are painfully bare and scrupulously clean and, when arranged for their daily inspection, are models of orderliness.

The Board was particularly interested in the living conditions of the cadets in view of the bill increasing the strength of the corps, which has now become law. This bill increases the maximum authorized number of cadets from 1,374 to 1,955. The maximum number that will probably ever be in the academy at one time will be about 1,825. The superintendent explained to us how he planned to care for the increment, and there is no doubt that the maximum number that will probably ever be in the academy can physically be cared for with the existing plant, without detriment to the health or welfare of the cadets. However, while your Board of Visitors is convinced that any young man is very fortunate indeed to secure the education and training which the Government furnishes him at the United States Military Academy at the price of some personal discomfort in living conditions, and believes that such conditions would not be detrimental to his health or welfare, the Board feels that the success of the Military Academy has been based upon certain practices and methods which have been tried out through many years and found good, and believes that all things considered,

the Government's interests will be best served by increasing the capacity of the present plant so as to carry on the instruction and administration of the enlarged corps along lines practically identical with those found successful in the past and which have remained in force so many years only because experience has proved their wisdom. In our opinion, the Federal Government will be well repaid by the expenditure of such a sum as may be necessary to house the cadets in a less crowded way and provide certain other facilities now lacking which are commonly considered essential in a modern educational institution. These improvements are, briefly, the provision of barrack space so that no cadets shall have to live more than two in a room, a sufficient increase in classrooms and laboratories to meet modern requirements; and a sufficient increase in living quarters for the instructional staff, so that living conditions and instructional methods adopted as the result of more than a century of experience, and heretofore followed in the Military Academy, may be continued without deterioration.

In addition to these increases in facilities, there are certain other improvements which we shall enumerate later, the need for which has long been recognized by the academic board, but for which appropriations have never been made.

CADET MESS

On March 27 we inspected the cadet mess and on March 28 we had dinner with the cadets in their mess and the cadets were entirely unhampered in their comments. We found no complaint about the food, which we considered excellent considering its cost, quite satisfactory in quality, and ample in quantity for growing young men. The dining hall is sufficiently large to accommodate the proposed increase in the corps without undue crowding. The table service was simple in the extreme, but dishes and equipment were all marked by cleanliness and neatness. The food, while plain, was manifestly palatable and wholesome. There is one condition which the Board wishes to point out. The ration allowance is 75 cents, and if all amount were available, as at the United States Naval Academy, there could be no complaint in regard to the mess unless the price of living continues to increase. The value of the cadet ration is fixed by that of the midshipmen at the United States Naval Academy. Certain civilian mess employees are necessarily fed at the cadet mess and the cost of their food comes out of the cadet allowance, reducing that allowance by about 6 cents per cadet per day, making only approximately 69 cents available for feeding the cadet instead of the 75 cents which is available at the Naval Academy where the food of the mess attendants is elsewhere provided for. The additional amount necessary to pay for the food of these mess attendants ought to be provided in future appropriations for the support of the academy. The former allowance of 80 cents per day will be necessary in the near future if food prices continue to advance.

DRILL AND PHYSICAL TRAINING

All cadets receive the same training, which is progressive from the time that the fourth classman reports as a new cadet until he graduates. The plan is that he shall perform practically every kind of duty from that of a private up to that of company officer, including a certain amount of company administration.

The physical training of a cadet consists of two parts; drill being classed as one and athletics the other. One-half of the corps goes to military drill or instruction of some kind and at the same time the other half attends intramural athletics. The halves alternate from day to day between drill and athletics and rotate in the various games that they play.

This system of compulsory athletics was inaugurated about 1920 and has been in effect ever since. The theory upon which this practice is based is that the athletics not only furnish better physical training than do the ordinary military drills, but also that practically every young lieutenant must be a leader in the sports of his company and be able to act as an instructor in several sports and as an official in company contests.

The superintendent reports that the effect upon the physique of the cadets has been very favorable.

The authorities of West Point are watching with interest the experiment now being made at the United States Naval Academy, wherein practically all members of the first class are made company officers for short periods during their first class year, the permanent company officers not being chosen until the last part of the year. This experiment has been in effect less than 1 year, and the results achieved therefrom are being awaited with interest.

THE CADET STORE

The cadet store is a cooperative concern, operated by the authorities in the interest of the cadets. All articles are sold to the cadets at cost plus 5 percent, and whatever profit may accrue at the end of the year is repaid to the cadets in proportion to the amount that each has expended in the store during that period.

Our attention was drawn to the fact that there is no law requiring any deposit to be made by a new cadet entering the Military Academy, and that some new cadets make practically no deposit to cover the cost of their original equipment, nor does Congress make any provision for this original expense, which amounts to about $300. If a cadet who has made no deposit decides to resign or is found deficient during his first year, he will be in debt from a few dollars to nearly $300, depending on how long he has been at the academy. Such indebtedness is practically never liquidated. Congress now makes no provision for paying the cost of such initial equipment. The loss, therefore, falls upon those cadets who remain in the service and particularly upon those who have deposited a sufficient amount to pay for their original equipment upon their entrance to the academy. This is a hardship which the Board does not believe ought to be imposed upon the small pay of the cadets. The maximum loss that has fallen upon the corps due to such losses was about $2,500 in 1 year, a small amount for the Government but considerably larger proportionately to a young man receiving only $65 a month. We believe that future annual appropriations for the pay of cadets should carry a proviso approximately as follows: "*Provided*, That not to exceed $3,750 of this amount shall be available to liquidate the indebtedness of any cadets, separated from the service for any reason, who at the time of their separation are in debt to the cadet store."

ACADEMIC WORK

The academic work of the United States Military Academy is carried on in 13 departments, each headed by a professor. Nine of the professors are permanent and four are detailed for periods of 4 or 5 years. Ten of the professors are graduates of the Military Academy and three are graduates of civilian institutions. Each professor is assisted by an associate professor or an assistant professor, or both, and a number of instructors, all of whom are detailed from the officers of the Army, with the exception of 3 civilians in the department of modern languages—2 Frenchmen and 1 Spaniard.

Occasionally the teaching staff at the Military Academy has been criticized as to its origin and as to its qualifications as instructors. A study of the personnel now on duty at the academy does not bear out these criticisms. Of the three nongraduate professors, all of them hold one or more degrees from other universities and one of them holds degrees from four different institutions. Of the 10 other professors, all are graduates of West Point and three of them hold degrees from the Massachusetts Institute of Technology and five of them are graduates of the Army War College. There are 155 instructors on duty at the academy, of whom 13 are nongraduates. Of these 13, 8 hold two degrees from civil institutions and 5 hold one degree. Of the 142 instructors who are graduates of the Military Academy, 109 of them have attended other colleges or universities, and 47 of them hold degrees from other colleges or universities. Of the 21 instructors in modern languages, 18 have studied the languages that they teach, either in France or Spain; and of the remaining 3, 1 has a master's degree in language from Harvard University and 1 a master's degree in language from Princeton University. An analysis of the foregoing qualifications will disprove any statement alleging that the instructors are not well equipped.

The time of the Board's visit to the academy coincided with that assigned to written tests in review of the academic work of the preceding 5 months, and, except in modern languages, there were no actual recitations in progress which the Board could attend. Our visits to classrooms were, therefore, limited to those in French and Spanish. The thoroughness of instruction was very gratifying, and we are confident that the methods in use will teach the students to speak the language as well as to read it, an end not always attained in teaching foreign languages. If the spirit which we observed in the recitations in modern languages obtains equally in other classes, and if the methods used in other classes are comparable to those that we observed, we feel assured that the Federal Government is fortunate in the teaching staff at its National Military Academy and that the cadets are being well and thoroughly instructed.

We met the head of each department of the academic board and were very favorably impressed by the enthusiasm and interest displayed by these professors in the subjects assigned to their departments. The Superintendent states that these characteristics are quite fully equaled by the ability of each in the specialty of his own department, and that he is quite satisfied with their work.

METHODS OF INSTRUCTION

There have been no recent changes in the methods of instruction which were described in detail in our report of last year. We are convinced that the instruction is thorough and that within the limits of the curriculum prescribed by the War Department the cadets are being well educated. The Superintendent and the heads of all departments apparently are alive to the fact that improvements are constantly being made in texts and in methods of instruction and that periodical changes will be required to keep abreast of the times. We are satisfied that such changes will be made whenever necessary. Most of the instructors at the academy are between the ages of 26 and 36. Given the required aptitude in the subject that they are to teach, their youth is a very considerable asset in that they bring to the teaching staff an enthusiasm and a knowledge of the youthful mind which does not always exist in an old instructor worn out with years of teaching. They also bring with them a knowledge of the service requirements of a young officer and are able to teach their subjects in the light of the requirements in the service of the young subaltern. Notwithstanding their youth, their carriage in their classrooms was marked by a dignity and seriousness of purpose which, added to their enthusiasm and earnestness, appealed to the Board very favorably. The War Department has continued its policy of giving a very high choice to the selection of officers for duty as instructors at the Military Academy, realizing that these instructors are highly instrumental in producing the class of young men desired as officers in the Army. Few officers do more than one tour of duty, and only a very occasional one does more than two tours of duty at the Military Acad-

emy. For this reason the problem of dealing with aged instructors which is admitted to be a serious one in civil institutions, is not one that exists at the Military Academy. Furthermore, if an officer is not satisfactory as an instructor, he need not be kept for a full 4 years, but can be gotten rid of as an instructor without prejudice to his career as a soldier.

During the past year the Military Academy was inspected by the committee on classification of universities and colleges of the Association of American Universities. This inspection apparently was quite satisfactory to the committee, and resulted in the following letter from its chairman to the Superintendent, which speaks for itself:

"MY DEAR GENERAL CONNOR: This is to inform you that the committee on classification of universities and colleges of the Association of American Universities, at its recent meeting in Chicago, found things at your institution in every way satisfactory.

"President Walters, who made the inspection for our committee, gave a very favorable report indeed. He found, perhaps somewhat to our surprise, a very liberal spirit, and that you were alive to the need of change from time to time. It is indeed gratifying to our committee to find everything so satisfactory.

"Very truly yours,

"(Signed) FERNANDUS PAYNE,
"Chairman."

APPEARANCE OF THE CORPS

The Board observed the cadets out of ranks, in the mess hall, in the classrooms, and at drills. The young men bore themselves in the same soldierly way that has always marked their bearing. The excellent physique of the cadets was most noticeable. This condition is largely due, in all probability, to the compulsory sports known as "intramural athletics." We noticed several cadets wearing glasses, and were pleased to learn that recently the standards for eyesight had been raised so as hereafter to require normal eyesight for admission. At the time of our inspection certain companies were going through a competitive drill, and their movements were marked by the accuracy and precision to be expected under the circumstances. A review of the entire corps was tendered to the Board and the ceremony was in keeping with the high reputation of the Corps of Cadets for such ceremonies.

HOSPITAL FACILITIES

The station hospital was visited by the chairman of the Board and apparently the same high standards that we noted at our visit last year are still maintained. Provision is made for hospital and out-patient medical, surgical, and dental treatment for all persons at the post, including cadets, officers, soldiers, and their families. The Superintendent reports that the hospital and allied medical activities have been very satisfactorily maintained and that they have been administered during the past year to his satisfaction. An additional wing, which was under construction when the Board visited West Point in 1934, has now been completed, and the present normal capacity of the hospital is 158, while it is susceptible of emergency enlargement to 200 beds. The hospital is splendidly equipped, and the staff, composed of selected officers of the Medical Department, is well organized and the members are devoted to their work. The character of service rendered conforms to the highest standards of civilian institutions. By far the great majority of persons entitled to hospitalization are healthy young men, either as cadets, officers, or enlisted men, and therefore the percentage of sick at any one time is usually very low, practically never running over 3 percent, and this number occurring only when there is an epidemic of colds.

BUILDINGS AND GROUNDS

The buildings of the academy are well adapted for the purposes for which they were constructed and both buildings and grounds are maintained at a high standard at a reasonable cost of maintenance. The funds appropriated for maintenance at the Military Academy apparently are being expended with judgment and care. At the time of our inspection in 1934, a very considerable program of construction was under way. Nearly all of that construction has now been finished and that which still remains unfinished is within a small percentage of completion. The following table shows the items under construction last year and their present state as regards completion:

Barracks for military police, 100 percent completed.
Barracks for auxiliary detachments, 100 percent completed.
Grammar school, 100 percent completed.
Nurses' quarters, 100 percent completed.
Veterinary hospital, 100 percent completed.
Incinerator, 100 percent completed.
Sea-wall ramp in front of hangars, 100 percent completed.
Insulating and fireproofing hangars, 100 percent completed.
Junior officers' quarters, 92 percent completed.
Quartermaster storerooms, shops, etc., 83 percent completed.
Gymnasium, 63 percent completed.

All buildings at the academy can be divided into two classes, those for service purposes, and those for instructional purposes. The Board feels that the service facilities for West Point are now fairly well provided for. Last year the deficiency in suitable barracks for enlisted men was apparent. We are pleased to note this year that the enlisted men garrisoned at West Point and vital to the instruction of cadets are now well housed and cared for, and that rapid strides are being made in providing suitable warehousing and shop facilities. In all these respects conditions are materially improved over a year ago, and only a few improvements to be mentioned later, do we consider necessary.

As long ago as 1921 certain buildings for the proper instruction of cadets were pointed out by the then superintendent, Gen. Douglas MacArthur, as of urgent necessity. The Board confirms the necessity of certain facilities and urges that no more time be lost in supplying these deficiencies. They are needed today even more than they were 15 years ago, and with the contemplated increase in the strength of the Corps of Cadets their necessity will be materially increased.

The present gymnasium was built for a corps half the size of the present corps. An extension is now under construction but this extension will not fully provide all the space needed today. Physical instruction justly holds a prominent place in the course at West Point, since physical fitness is more essential in military life than it is in civil life. Therefore, facilities for physical instruction superior to those ordinarily found in civil colleges, might reasonably be expected at West Point. Today, however, instead of being superior to the gymnasiums of our leading colleges and universities, the gymnasium at the Military Academy suffers by comparison.

Academic building facilities are not adequate. We visited the various laboratories and while we were very favorably impressed at the ingenuity and resourcefulness that have been displayed in improvising mechanical and electrical laboratory space out of basements never intended for that purpose, and laboratory equipment out of material purchased and designed for an entirely different object, we feel that the existing facilities are not worthy of the institution. Certainly those in charge are to be commended for their energy in overcoming obstacles, but they have been badly handicapped by lack of space and modern equipment. The Board feels that with modern trends and advances, these laboratory facilities at West Point should be greatly improved.

What has been said above concerning mechanical and electrical laboratories applies with even more force to the ordnance and engineering laboratories and shops. The present building used for these purposes is over 100 years old and altogether inadequate. The need for this specific shop and mechanical instruction is greater today than ever before. The future Army officer is going to have more and more contact with mechanical equipment and must be trained to that end. It is worthy of note that instruction at West Point is being continually adjusted to meet the transition from animal traction to mechanical traction.

The Military Academy never has had an armory. The Board was perturbed to see dark basements, without natural light or ventilation, used for technical and tactical instruction purposes for the simple reason that winter instruction must be given and no other or better space has ever been provided. We were told that space for this purpose is being provided in the gymnasium extension now under construction. This is all well and good, but takes from the gymnasium space that cannot afford to be lost since even with the completion of the gymnasium annex now being built, full requirements for physical training will not be available. The construction of a suitable armory is of vital urgency.

The construction across the reservation of the New York State road called the "Storm King Highway", together with the increased power of rifle ammunition, have made the old target range unsafe and have caused its abandonment. This leaves the Military Academy of a Nation that has always prided itself upon its skill in shooting, in the anomalous position of being without a rifle range. Means should be provided without delay for the construction of a safe and suitable range.

It was stated above that with a few exceptions the service facilities at West Point have been reasonably well provided. It was explained to us, and the Board concurs, that certain extensions and replacements in the water-distribution system should be provided. The same applies to the heating and power plant. This done, and a suitable truck garage and freight yard provided, the service facilities at West Point should be in excellent condition to handle the needs of the academy for many years to come.

A few of the oldest officers quarters are rapidly reaching a point when their maintenance costs will be greater than carrying charges on new houses. Steps should be taken, therefore, to replace these old quarters and to supply the additional sets required to house all the personnel of the post which we consider desirable for the contemplated increase in the size of the corps of cadets. This will result in an ultimate saving of public funds and is in the interest of economy. It is estimated that about 60 sets of junior officers quarters will meet the above needs.

Mention was made in an earlier paragraph of the problem of housing the enlarged Corps of Cadets. The Board holds such strong sentiments in this matter that it feels the point should be emphasized by reiteration in this section covering buildings and grounds. As stated before, the Superintendent assured the Board that the recent increase in the strength of the corps of cadets voted by Congress can be handled without further construction for that specific purpose. This will result in a certain amount of crowding, and while such crowding can be justified as an emergency measure, the Board feels strongly that present standards should be maintained. Certainly no one can say that cadets at the Military Academy live in anything but the most spartan simplicity and we do not feel that the Nation should require a lowering of standards through permanent cramping and crowding. The Board wishes to place itself on record as urging the construction of additional cadet barracks so that the traditional standard of two cadets to a room can be maintained.

The adverse comments which the Board made last year on the substitution of unsightly brick work in the gymnasium and in the

south barracks for the native granite in general use elsewhere at the academy are felt to be of special interest at this time when the Board is recommending certain additional construction at the Military Academy. The Board urges that all buildings which may be erected in the future be of granite, in keeping with the general tone of the predominating buildings and recommends further that no building program be undertaken that is not checked and passed upon by highly competent consultants from civil life.

THE THAYER-WEST POINT INN

A hotel of that name, owned by a private corporation, is operated under a revocable license on the grounds of the Military Academy. Unfortunately for the hotel, the families of cadets and officers who constitute most of the patrons of this hotel are not heavy spenders, and the quiet atmosphere of a military post does not encourage the patronage of individuals or organizations that do spend heavily. In addition to the foregoing, the cold winter climate of West Point does not encourage people to come to a country hotel in the winter time, and consequently the hotel is practically empty the first 3 months of the year, and is reported as barely paying its operating expenses. The hotel fills a great need for relatives of cadets and it is difficult to conceive how they would be accommodated if the present hotel were closed. However, it is a private corporation and the Board is not prepared to make any recommendation in regard to it under existing circumstances.

TABLES

There are appended hereto certain data in tabular form which are of interest.

Respectfully submitted.

MARCUS A. COOLIDGE,
Chairman.
ROBERT R. REYNOLDS,
Member.
F. RYAN DUFFY,
Member.

TABLE I.—*Program of instruction and course of studies at the United States Military Academy*

Program of the course of instruction:

First term, Sept. 1 to Dec. 23; 95 periods with Saturday recitations and 80 periods without Saturday recitations.

Second term, Jan. 2 to June 4; 130 periods with Saturday recitations and 109 periods without Saturday recitations.

Semiannual examination, Dec. 26 to 31.

Annual examination, June 5 to 12.

Academic day, 7:55 a. m. to 11:55 a. m. and 1 p. m. to 3 p. m.

Military exercises, all classes, from 3:15 p. m. to 4:15 p. m.

Supervised athletics, from 3:15 p. m. to 4:25 p. m.

Voluntary study hour and additional instruction 5:10 to 6:10 p. m.

Class	Subject	Attendance	Part	Hours
Fourth (first year)	Mathematics	Whole class daily	Half	7:55 to 9:25, Sept. 1 to Jan. 31.
Do	do	do	do	9:25 to 10:55, Sept. 1 to Jan. 31.
Do	do	do	do	7:55 to 9:15, Feb. 1 to June 4.
Do	do	do	do	10:35 to 11:55, Feb. 1 to June 4.
Do	Gymnasium	do	do	9:25 to 10:10, Sept. 1 to Jan. 31.
Do	do	do	do	10:55 to 11:40, Sept. 1 to Jan. 31.
Do	do	Half class daily alternating in attendance with drawing Feb. 1 to June 4.	Fourth	8:30 to 9:15, Feb. 1 to June 4.
Do	do	do	do	9:15 to 10, Feb. 1 to June 4.
Do	Drawing	Half class daily alternating in attendance with gymnasium Feb. 1 to June 4.	do	7:55 to 9:15, Feb. 1 to June 4.
Do	do	do	do	9:55 to 11:15, Feb. 1 to June 4.
Do	Laboratory	When ordered, half class daily alternating in attendance with gymnasium Feb. 1 to June 4.	do	7:55 to 9:55, Feb. 1 to June 4.
Do	do	do	do	9:55 to 11:55, Feb. 1 to June 4.
Do	French	Half class daily except Saturday alternating in attendance with English.	do	1 to 2.
Do	do	do	do	2 to 3.
Do	English	Half class daily except Saturday alternating in attendance with French.	do	1 to 2.
Do	do	do	do	2 to 3.
Third (second year)	Mathematics	Half class daily alternating in attendance with physics	do	7:55 to 9:15.
Do	do	do	do	10:35 to 11:55.
Do	Physics	Half class daily alternating in attendance with mathematics	do	7:55 to 9:15.
Do	do	do	do	10:35 to 11:55.
Do	Laboratory	When ordered, half class daily alternating in attendance with mathematics.	do	7:55 to 9:55.
Do	do	do	do	9:55 to 11:55.
Do	History	Half class daily alternating in attendance with French	do	7:55 to 9:05.
Do	do	do	do	10:45 to 11:55.
Do	French	Half class daily alternating in attendance with history	do	7:55 to 9:05.
Do	do	do	do	10:45 to 11:55.
Do	English	Half class daily except Saturday alternating in attendance with drawing.	do	1 to 2.
Do	do	do	do	2 to 3.
Do	Drawing	Half class daily except Saturday alternating in attendance with English.	Half	1 to 3.
Second (third year)	Philosophy	Whole class daily	do	7:55 to 9:15.
Do	do	do	do	10:35 to 11:55.
Do	Laboratory	As ordered	As ordered	7:55 to 9:50.
Do	do	do	do	10 to 11:55.
Do	Chemistry and electricity.	Whole class daily	Half	7:55 to 9:15.
Do	do	do	do	10:35 to 11:55.
Do	Laboratory	As ordered	As ordered	7:55 to 9:50.
Do	do	do	do	10 to 11:55.
Do	Spanish	Half class daily except Saturday alternating in attendance with drawing Sept. 1 to Jan. 31, and with tactics Feb. 1 to June 4.	Fourth	1 to 2.
Do	do	do	do	2 to 3.
Second (third year)	Drawing	Half class daily except Saturday till Jan. 31, alternating with Spanish.	Half	1 to 3.
Do	Tactics	Half class daily except Saturday, Feb. 1 to June 4, alternating with Spanish.	Fourth	1 to 2.
Do	do	do	do	2 to 3.
First (fourth year)	Engineering	Whole class daily	Half	7:55 to 9:15.
Do	do	do	do	10:35 to 11:55.
Do	Ordnance and gunnery.	Half class daily alternating with economics and government	Fourth	7:55 to 9:05.
Do	do	do	do	10:45 to 11:55.
Do	Laboratory	As ordered	As ordered	7:55 to 9:50.
Do	do	do	do	10 to 11:55.
Do	Economics and government.	Half class daily except last 28 days of spring term (see Hygiene)	Fourth	7:55 to 9:05.
Do	do	do	do	10:45 to 11:55.
First (fourth year)	Hygiene	Replaces economics and government for last 28 days of spring term.	Fourth	7:55 to 9:05.
Do	do	do	do	10:45 to 11:55.
Do	Law	Half class daily except Saturday alternating in attendance with tactics and riding.	do	1 to 2.
Do	do	do	do	2 to 3.
Do	Tactics and riding [1]	Half class daily except Saturday alternating in attendance with law.	do	1 to 2.
Do	do	do	do	2 to 3.

[1] Riding periods are 50 minutes each. For lectures and practical exercises in the afternoon periods, replacing the assigned recitation periods, law has half class from 1:45 to 3. For applicatory instruction in section room without study preparation the class attends in halves in law or tactics from 1 to 3.

TABLE II.—*Schedule of calls in barracks Sept. 1 to June 1*

(5 minutes between first call and assembly, except at reveille, which has 10 minutes)

Reveille roll call, week days, assembly	6:00 a. m.
Sundays and holidays, assembly	7:45 a. m.
Police call, week days	6:20 a. m.
Sundays and holidays	8:05 a. m.
Breakfast roll call, week days, assembly	6:30 a. m.
Sundays and holidays, assembly	8:15 a. m.
Sick call, immediately after breakfast at Washington Hall.	
Call to quarters, daily, except Sundays and holidays	7:15 a. m.
Week days, except Saturdays	1:00 p. m.
Daily	7:15 p. m.
Dinner roll call, daily except Sundays and holidays, assembly	12:10 p. m.
Sundays and holidays, assembly	12:30 p. m.
Review and inspection, Saturdays, inspection only in inclement weather, assembly	1:10 p. m.
Formal guard mounting when review is held, assembly 10 minutes after dismissal of last company from inspection (informal when no review).	
Release from quarters daily, except Saturdays, Sundays, and holidays	3:00 p. m.
Drill, daily, except Wednesdays, Saturdays, Sundays, and holidays, assembly	3:15 p. m.
Recall from drill	4:15 p. m.
Parade, except Wednesdays, Saturdays, Sundays, and holidays	4:35 p. m.
Parade, Sundays only, assembly	5:30 p. m.
Retreat, when no parade	5:30 p. m.
Supper, daily	6:20 p. m.
Tattoo, daily	9:30 p. m.
Taps, first	10:00 p. m.
Taps, second	10:30 p. m.
On occasions of general entertainment, first taps will be sounded 20 minutes after the close of the event; and second taps, 30 minutes after first taps.	
Church on Sundays:	
Catholic chapel, assembly	8:15 a. m.
Cadet chapel Sunday school teachers, assembly	9:15 a. m.
Choir	9:25 a. m.
Cadet chapel, assembly	10:45 a. m.

TABLE III.—*Enrollment of the Corps of Cadets, U. S. Military Academy*

Sources of appointments	Authorized strength	Strength on May 28, 1935	Vacancies in the corps
Senators (96)	192	172	20
Congressmen (435)	870	763	107
President	60	59	1
Vice President	2	1	1
Regular Army	[1] 90	92	[1] 5
National Guard	90	83	
District of Columbia	4	4	0
Territories (2)	4	3	1
Puerto Rico	2	2	0
Honor schools	20	16	4
Sons of Army officers died in war	20	12	8
Sons of enlisted men died in war	20	5	15
Philippine Islands	4	4	0
Total	1,378	1,216	[2] 162
Foreign cadets (Siam, 1; China, 1)		2	
Total		1,218	

First class	280
Second class	281
Third class	317
Fourth class	340
Total	1,218

[1] The Regular Army and National Guard, combined, are authorized a total strength of 180, "in numbers as nearly equal as possible."

[2] The total strength of 1,218 on May 28, 1935, and the total of 162 vacancies as of that date, have been determined by not including in the strength 17 ex-cadets discharged in January 1935 for deficiency in studies, but who have qualified upon reexamination in March last and are to be readmitted on August 28, 1935, to fill their own vacancies. That is, the total present-and-absent strength of 1,218 as of May 28 is actual and exclusive of the 17 ex-cadets who will rejoin later.

TABLE IV.—*Total military personnel, U. S. Military Academy morning report May 27, 1935*

Organizations (enlisted)	Today	Authorized detached enlisted men's list	Authorized staff	Authorized line
Medical and veterinary	81		80	
Twenty-ninth Ordnance Company	83		40	
Quartermaster Corps Detachment	43		39	
Sixty-ninth Motor Transport Company (Quartermaster Corps)	39		36	
Ninety-fourth Motor Repair Section (Quartermaster Corps)	14		14	
Staff, noncommissioned officers	7	7		
Band	67	68		
Field music	24	29		
Engineers	95	96		
Service	212	228		
Field Artillery	199	190		
Coast Artillery	31	30		
Military police	66	66		
Signal Detachment	32	31		
Second Squadron, Tenth Cavalry	196			208
Air Corps Detachment	6			7
Total	1,150	745	209	215

Authorized strength, Staff Corps	209
Authorized strength, detached enlisted men's list	745
Authorized strength, line organizations	215
Authorized enlisted strength, total	1,169
Authorized strength, Cadet Corps	1,374

SUMMARY

Officers	[1] 228
Cadets	1,218
Nurses	13
Warrant officers	2
Civilian instructors	6
Civilian chaplain	1
Teacher of music	1
Enlisted men	1,150
Attached	3
Aggregate	2,622

PUBLIC ANIMALS

Cavalry horses	189
Field Artillery horses	106
Quartermaster Corps:	
Horses	21
Mules	2
	318

[1] Includes 3 officers on construction, 3 language students abroad, 1 retired officer on active duty as librarian.

REVISION OF COPYRIGHT ACT

Mr. BORAH. I ask to have inserted in the RECORD a telegram with reference to a pending bill.

There being no objection, the telegram was ordered to lie on the table and to be printed in the RECORD, as follows:

NEW YORK, N. Y., *July 15, 1935.*

Hon. WILLIAM E. BORAH,
United States Senate, Washington, D. C.

DEAR SENATOR: Every author, composer, playwright, dramatist, and writer in Nation is opposed to United States Senate bill S. 3047. This bill revises entire Copyright Act, to detriment of American creative workers, and for benefit of users, such as broadcasters and other allied industries. It gives to foreign composers and playwrights rights denied American creative workers. Authors' League of America, American Society of Composers, Authors, and Publishers, Dramatists' Guild, Song Writers' Protective Association, and all other societies and organizations of creative workers of America are unanimously opposed to this legislation.

GENE BUCK.

GREAT NECK, N. Y.

PROTECTION OF AMERICAN TEXTILES IN PHILIPPINE MARKETS

Mr. WALSH. Mr. President, I present letters and other papers received from the Secretary of War, the Governor General of the Philippine Islands, and the Chief of Insular Affairs of the War Department with reference to Senate Resolution 163, submitted by me, which requests the Philippine Legislature to take action for the protection of American textiles in the Philippine markets. I request that the letters and papers be printed in the RECORD and appropriately referred.

There being no objection, the letters and papers were referred to the Committee on Territories and Insular Affairs and ordered to be printed in the RECORD, as follows:

WAR DEPARTMENT,
Washington, July 8, 1935.

Hon. MILLARD E. TYDINGS,
Chairman Committee on Territories and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR TYDINGS: In response to your letter of July 1, 1935, addressed to the Chief of the Bureau of Insular Affairs of this

Department, requesting a departmental report on Senate Resolution No. 163, Seventy-fourth Congress, first session, I am enclosing herewith a memorandum submitted to me by the Chief of the Bureau of Insular Affairs on this subject.

In view of the continuing responsibilities of this Government for the welfare of the Filipino people and of the fact that the Commonwealth government under the independence act is expected to be inaugurated in the very near future, I am of the opinion that the enactment of Senate Resolution No. 163 would be inappropriate at this time. It is recommended that the views set forth in the enclosed memorandum be given careful consideration by your committee.

Sincerely yours,

GEO. H. DERN,
Secretary of War.

WAR DEPARTMENT,
BUREAU OF INSULAR AFFAIRS,
Washington, July 8, 1935.

Memorandum for the Secretary of War:

Subject: Senate Resolution 163, Seventy-fourth Congress, first session.

I am in receipt of a letter from the Chairman of the Senate Committee on Territories and Insular Affairs, dated July 1, 1935, requesting a departmental report on Senate Resolution No. 163. The resolution provides:

"That the President of the United States be respectfully requested to advise the Governor General of the Philippine Islands to convey to the president of the Philippine Senate and the speaker of the Philippine House of Representatives a request that the legislature, before adjourning its present session, take such action as will protect effectively American textiles in the Philippine market."

It is regrettable that the important cotton textile trade of the United States is losing ground in competition with foreign textiles in the Philippine Islands, and it is hoped that remedies may be found in the near future that will alleviate this situation. However, it is believed the proposed legislation would be undesirable for the reason that, if enacted, it would be an invitation to the Philippine Legislature to modify in the most important particular their tariff without weighing its effect on their own people. Of all imports into the islands, cotton textiles is the most important to the Filipino people.

During the calendar year 1934 United States products entering the Philippine Islands comprised about 65 percent of Philippine imports, a level previously attained only once, namely, in 1932. This in spite of the fact that the United States' share in the cotton textiles entering the islands during 1934 was greatly reduced.

There were several causes contributory to this shrinkage in the United States cotton textile trade:

(a) The boycott of Japanese goods by Chinese merchants in the Philippine Islands in 1932 which resulted in a greatly increased development of the Japanese retail merchants organization in the islands.

(b) Shrinkage in the exchange value of the yen which favored Japanese exports in foreign markets.

(c) The rise in cost of production in the United States.

In spite of these factors, however, United States cotton cloth was about the only United States commodity which occupied a weak and unhealthy position in the Philippine market. It is believed this is true of United States cotton textiles in all other external markets.

It is noted that the volume of Japanese cotton textiles entering the continental United States in 1934 was nearly seven times as great as the volume entering in 1933, and represented an increase in value of more than 362 percent. Another example that may be cited is the Republic of Santo Domingo, where, according to the report of the general receiver of Dominican customs for the calendar year 1934, the volume of Japanese cotton textiles imported into that Republic increased 1,297 percent in 1934 over 1933. United States exports of cotton textiles to Santo Domingo decreased 38 percent, although the total amount of American goods entering that Republic during 1934 was about the same as in 1933, due to increase in other lines. These facts indicate what appears to be the general unhealthy condition of the United States cotton textile export trade. This condition is in striking contrast to the generally satisfactory increases in the exports of nearly all other United States commodities to the Philippine Islands, as well as to foreign markets, during 1934.

Although cotton cloth is the most important item of import to the Filipino people, I am informed that the amount of United States cotton textiles entering the world export market, including the Philippine Islands, represents an average of not over 5 percent of the United States annual production of cotton textiles.

The situation in the Philippine Islands with reference to cotton cloth is analogous to coffee in the continental United States. The continental United States produces no coffee. The Philippines produce practically no cotton cloth. Coffee is imported into the continental United States free of duty. Cotton cloth, an article used by every Filipino, bears a duty averaging from 25 to 30 percent ad valorem if imported from foreign countries. On some articles, for example, cotton blankets and unbleached cloths, the duty averages from 40 to 50 percent ad valorem. This differential represents the advantage that American cotton textiles now enjoy in the Philippine trade over similar goods from foreign countries.

The Philippine Legislature has indicated its willingness to meet the general situation as regards American goods by two relatively recent acts of the legislature. The first, an act approved December 17, 1932, which was an attempt to reestablish parity conditions, due to depreciated currencies, in the liquidation of customs duties; and, the second, an amendment to the Tariff Act of 1909, approved February 24, 1933, which consisted of an extensive revision of duties upward on a number of items.

The tariff laws of the Philippine Islands are contained in the Tariff Act of 1909, enacted by the Congress of the United States, as amended by subsequent acts of Congress and by acts of the Philippine Legislature.

Acts of the Philippine Legislature amending the tariff laws of the islands have been enacted pursuant to the grant of legislative powers in the Organic Act of the Philippine Islands approved August 29, 1916, the pertinent part of which reads as follows:

"SEC. 10. That while this act provides that the Philippine government shall have the authority to enact a tariff law the trade relations between the islands and the United States shall continue to be governed exclusively by laws of the Congress of the United States: *Provided*, That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States, * * *."

Similar legislative powers under the Commonwealth government are continued in the Independence Act approved March 24, 1934. However, Congress has reserved the ultimate power to change or nullify any laws enacted by the Philippine Legislature, and it is obvious that legislative suggestions by Congress of the nature noted above would necessarily have a very powerful influence in connection with the enactment of legislation by the Philippine Legislature.

The provisions of the proposed resolution that Congress exercise its influence to secure local insular legislation the effect of which would probably be detrimental to the interests of the great mass of the Filipino people, would not be in line with the traditional altruistic policy of this Government toward dependent peoples under our flag.

CREED F. COX,
Chief of Bureau.

Hon. MILLARD E. TYDINGS,
Chairman Committee on Territories and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR TYDINGS: With reference to my letter of July 8, 1935, enclosing a memorandum of the Chief of the Bureau of Insular Affairs relative to Senate Resolution No. 163, Seventy-fourth Congress, I am enclosing herewith for your information a copy of a radiogram received in this Department from the Governor General of the Philippine Islands.

It will be noted that the Governor General has initiated steps with a view to improving the situation as regards the United States cotton-textile trade in the islands.

Sincerely yours,

(Signed) GEO. H. DERN,
Secretary of War.

SECWAR, WASH.,
COX, 9th. 308.

For the information of the President: Apropos House Resolution No. 280 of June 28 following message is today being transmitted to each House of Philippine Legislature:

"The adjustment of trade relations between the United States and the Philippine Islands on a basis satisfactory to both countries is a problem of major importance. While in its larger phases this problem will be a subject of future joint study and negotiation, in pursuance of plans recently formulated, the present situation and trend in some segments of this trade are desiring of the immediate attention of the legislature.

"It is a matter of common knowledge and of serious import to the interest affected, that in certain categories the growing competition of foreign goods entering the Philippines under existing tariff duties is causing a progressive loss of trade to the United States. In the field of textiles alone there has been a decline on a quantity basis from 72 percent of the total imports in 1932, to 67 percent in 1933, and 40 percent in 1934. During the first 6 months of the current year the United States' share was 38 percent of the total. This decline has been so marked as to attract wide attention in the United States, where the condition of the textile trade has assumed a position of exceptional prominence in public discussion and popular interest.

"It is believed that a satisfactory adjustment of our trade relations with the United States would be materially aided and facilitated by an effective adjustment of import duties on textiles and other products that would afford prompt relief to American and Philippine interests, without subjecting other countries to unfair treatment or imposing unreasonable and excessive burdens on the consuming public.

"It has been suggested that it would be a fair solution of the textile problem, considering all interests concerned, if the products of the United States textile industry were restored approximately to the average position held by them in the Philippine market in the years immediately prior to 1934.

"While the condition of the textile trade appears to merit special attention, increases in other schedules may be found justified and warranted as a means of increasing Government revenue, providing protection and security for the development of local industries, and bringing about the desired degree of reciprocity in trade with the United States.

"The subject is brought to your attention for such action as you may deem expedient, and in the belief that early and favorable action in the manner indicated would be in the interest of the Philippine public."

MURPHY.

REPORTS OF COMMITTEES

Mr. McCARRAN, from the Committee on the Judiciary, to which was referred the bill (S. 3049) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto, reported it with amendments and submitted a report (No. 1086) thereon.

Mr. LOGAN, from the Committee on the Judiciary, to which was recommitted the joint resolution (S. J. Res. 59) providing for the celebration on September 17, 1937, of the one hundred and fiftieth anniversary of the adoption of the Constitution of the United States of America by the Constitutional Convention; establishing a Commission to be known as the "Sesquicentennial Constitution Commission", reported it with amendments and submitted a report (No. 1087) thereon.

Mr. DIETERICH, from the Committee on the Judiciary, to which was referred the bill (S. 2137) to provide for the appointment of one additional district judge for the eastern, northern, and western districts of Oklahoma, reported it without amendment and submitted a report (No. 1088) thereon.

Mr. WALSH, from the Committee on Finance, to which was referred the bill (S. 3072) to amend the Tariff Act of 1930, as amended, reported it with an amendment and submitted a report (No. 1089) thereon.

Mr. LA FOLLETTE, from the Committee on Indian Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 3210. A bill to refer the claim of the Menominee Tribe of Indians to the Court of Claims with the absolute right of appeal to the Supreme Court of the United States (Rept. No. 1092);

H. R. 5229. A bill directing the Secretary of the Interior to investigate, hear, and determine claims of the individual members of the Stockbridge and Munsee Tribe of Indians of the State of Wisconsin (Rept. No. 1090); and

H. R. 5230. A bill to confer jurisdiction upon the Court of Claims to hear claims of the Stockbridge and Munsee Tribe of Indians (Rept. No. 1091).

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 15th instant that committee presented to the President of the United States the following enrolled bills:

S. 239. An act for the relief of the Barlow-Moore Tobacco Co.;

S. 312. An act for the relief of Lillian G. Frost;

S. 377. An act to grant to the Utah Gilsonite Co. the right to use a water well on certain public lands in Utah;

S. 428. An act authorizing adjustment of the claim of Korber Realty, Inc.;

S. 475. An act for the relief of Mrs. George F. Freeman;

S. 780. An act for the relief of the Standard Dredging Co.;

S. 1036. An act authorizing adjustment of the claim of Dr. George W. Ritchey;

S. 1054. An act authorizing adjustment of the claim of White Bros. & Co.;

S. 1099. An act for the relief of Ethel G. Remington;

S. 1290. An act for the relief of Walter Motor Truck Co., Inc.;

S. 1446. An act for the relief of Knud O. Flakne;

S. 1447. An act for the relief of Mary C. Moran;

S. 1498. An act for the relief of Robert D. Baldwin;

S. 1499. An act for the relief of Robert J. Enochs;

S. 1566. An act for the relief of Carl C. Christensen;

S. 1872. An act for the relief of Guy Clatterbuck;

S. 2292. An act for the relief of Emanuel Wallin; and

S. 2487. An act for the relief of the Western Electric Co., Inc.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BULKLEY:

A bill (S. 3262) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto; to the Committee on the Judiciary.

By Mr. COPELAND:

A bill (S. 3263) for the relief of Max Schwartz; to the Committee on Military Affairs.

By Mr. NORBECK:

A bill (S. 3264) for the relief of A. E. Bostrom (with accompanying papers); to the Committee on Claims.

By Mr. BORAH:

A bill (S. 3265) granting a pension to Alice Shelton (with accompanying papers); to the Committee on Pensions.

By Mr. THOMAS of Oklahoma:

A bill (S. 3266) granting an increase of pension to Blaine E. Davis; to the Committee on Pensions.

By Mr. TYDINGS:

A bill (S. 3267) for the relief of the Fidelity Trust Co. of Baltimore, Md., and others; to the Committee on Claims.

By Mr. JOHNSON:

A bill (S. 3268) to authorize and direct the Secretary of the Interior to make a lease for the Agua Caliente or Palm Springs Band of Mission Indians of California; to the Committee on Indian Affairs.

(Mr. WAGNER introduced Senate bill 3269, which was referred to the Committee on Banking and Currency, and appears under a separate heading.)

By Mr. KING:

A bill (S. 3270) to permit construction, maintenance, and use of certain pipe lines for petroleum and petroleum products in the District of Columbia; to the Committee on the District of Columbia.

By Mr. THOMAS of Oklahoma:

A joint resolution (S. J. Res. 161) validating certain conveyances by Kickapoo Indians of Oklahoma made prior to February 17, 1933; providing for actions in partition in certain cases; and for other purposes; to the Committee on Indian Affairs.

RELIEF OF NEW YORK FLOOD VICTIMS

Mr. WAGNER. Mr. President, the recent and unexpected flood disaster in upper New York State, with its destruction of life and property, evokes a call for sober and sympathetic assistance, which must not be denied.

The great Commonwealth of New York, always in the forefront of those springing to the relief of other afflicted areas, is not neglecting its own people in their hour of need; but the Federal Government, in keeping with the growing recognition of national responsibility, must also do its part.

The worthy tradition of Federal aid was confirmed by the act of April 1934, authorizing the Reconstruction Finance Corporation to extend loans up to $5,000,000 to nonprofit corporations for the repair of damages caused by floods and other catastrophes. Responsive to the tragedies of 1933 and early 1934, that act was designed to remedy only the evils occurring before March of last year.

I now propose an amendment in the form of a bill to that law extending its protective coverage over the years 1934, 1935, and 1936. The consequent release of $3,200,000 in loans which have been authorized, but as yet unused, will be of tremendous material assistance to victims in the flood section of New York, as well as to others in all sections of the country, who have been or who may be similarly stricken. Furthermore, this action by Congress should have great intangible value as an additional token of Nation-wide good will.

Mr. NORRIS. Mr. President, is the bill in general terms? Does it apply to any other section than New York?

Mr. WAGNER. It is in general terms.

Mr. NORRIS. Similar conditions in other sections would come under the same bill?

Mr. WAGNER. Yes. I do not mean that the proposed legislation shall be confined to any particular stricken area. It is universal in its application.

I ask consent to introduce the bill and that it be printed in the RECORD.

The VICE PRESIDENT. Without objection, the bill will be received, printed in the RECORD, and appropriately referred.

The bill (S. 3269) to amend the act entitled "An act authorizing the Reconstruction Finance Corporation to make loans to nonprofit corporations for the repair of damages caused by floods or other catastrophes, and for other purposes", approved April 13, 1934, was read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That the first paragraph of the act entitled "An act authorizing the Reconstruction Finance Corporation to make loans to nonprofit corporations for the repair of damages caused by floods or other catastrophes, and for other purposes", approved April 13, 1934 (48 Stat. 589), is hereby amended by striking out the words "year 1933, and in the months of January and February 1934" and inserting in lieu thereof the words "years 1933, 1934, 1935, and 1936."

AGRICULTURAL ADJUSTMENT ADMINISTRATION—AMENDMENT

Mr. BYRNES submitted an amendment intended to be proposed by him to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which was ordered to lie on the table and to be printed.

A NATIONAL AND INTERNATIONAL LABOR PROGRAM

Mr. COSTIGAN. Mr. President, at the Institute of Public Affairs of the University of Virginia on July 10, 1935, President John L. Lewis, of the United Mine Workers of America, delivered an address on the significance to labor of American membership in the international labor organization. The address is of unusual interest as the carefully considered expression of a noted leader and spokesman of organized workers of America. I ask unanimous consent to have it printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE SIGNIFICANCE TO LABOR OF AMERICAN MEMBERSHIP IN THE INTERNATIONAL LABOR ORGANIZATION

The entrance of the United States last year into the International Labor Organization is of the most far-reaching import to the labor movement in America and throughout the world. The real significance of this action can be understood only in the light of the extraordinary conditions which prevailed in the world in 1934 when the United States accepted membership. These conditions after the lapse of a year have assumed an even more critical and portentous aspect.

It is a truism to state to this meeting that a social and economic revolution, in the best sense of the word, is now under way in the United States. Fundamentally it consists of a fight to overthrow the financial and industrial autocracy, or dictatorship, which is responsible for the present deplorable condition of wage earners, farmers, and all other groups of the people who work by hand or brain. It is recognized that unless this economic autocracy is subordinated to the public interest the future of our country will hold forth no real hope for labor or humanity.

The revolution which is now in progress in America is also the hope of labor movements in other countries. They do not want fascism or communism. Neither will the organized-labor movement in this country longer accept domination and exploitation by a financial dictatorship.

The time is here when we must again provide, as we did in 1776, for a Declaration of Independence for the whole world. In other words, it has fallen to us that, in our day and generation, America must give to the world a declaration of economic freedom—a declaration that Jefferson's immortal declaration for political democracy must be now supplemented by sound measures of industrial democracy. If Jefferson—the greatest Democrat and humanitarian the world has ever had—could be here today at this university, which he conceived as an aid to political democracy, and could envisage the complex economic mechanism which has supplanted the simple, agricultural, pioneer life of his own day, he would be at the forefront of the present day movement for economic freedom and democracy.

This is the significance to organized labor of America's entrance into the International Labor Organization. The workers of other nations need us. We also need their cooperation.

This conviction has been borne in upon us by post-war developments in America and abroad. To explain the significance to labor of the entrance of our country into the International Labor Organization, it is, therefore, necessary briefly to review the fundamental tendencies in industry and finance with which organized labor has had to contend since the World War at home and abroad.

THE WORLD WAR AND DEMOCRACY

It will be recalled that President Wilson's "14 points" or objectives for winning the war brought a new vision and enthusiasm to America and the Allies. Their underlying purpose was epitomized in the slogan that we were fighting "to make the world safe for democracy." This was interpreted by the labor movement, the churches, and the intellectuals as meaning that not only political autocracy but also economic autocracy in all its forms were to be eliminated by victory.

It was in the light of these understandings that the International Labor Organization was created in 1919 by a special commission of the peace conference, presided over by the late Samuel Gompers, president of the American Federation of Labor. It was for these reasons that they laid down in its constitution the "guiding principle" already enunciated in the Clayton Act of 1915 in the United States "that labor should not be regarded merely as a commodity or article of commerce", and to this fundamental added the further guarantee of industrial freedom and citizenship, that labor should have the right to organize and bargain collectively with employers through chosen representatives.

THE POST-WAR DECADE IN AMERICA

The American labor movement was not destined, however, as much as it desired to do so, because of the adverse public decision in 1919 as to the League of Nations, to assist in the development of this movement for world peace and betterment which it had thus taken the leading part in inspiring and organizing.

Post-war conditions in America also turned out to be the opposite of what had been anticipated. Organized labor immediately after the war sought to increase its strength. But instead of meeting with a spirit of cooperation in accordance with war-time promises of a better economic world after the cessation of hostilities, a most bitter and relentless opposition was encountered, resulting in local and national strikes. Moreover not only did reactionary groups in industry attempt "to deflate unionism and democracy" after the war but they also sought to substitute for legitimate unionism a system of company-dominated employee organizations which they deceitfully described as "the American plan" for industrial democracy.

Such deplorable conditions prevailed until after the industrial break-down of 1920–22. With the upturn of business conditions in 1923 the so-called "new era" was inaugurated by the then Secretary of Commerce, Herbert Hoover, representatives of the United States Chamber of Commerce, and outstanding industrialists. The leaders of this new order advocated the increased use of labor-saving machines and processes to expand mass-production methods and to reduce unit costs of production. As a result of this new program, it was claimed that wages and salary rates might be indeterminately increased, greater purchasing power and higher standards of living developed, and, simultaneously, prices to consumers reduced and generous margins of profits maintained.

Unfortunately, however, the policies and practices of American industry could not be made to conform to these new and widely proclaimed principles. The short-sighted demands for immediate profits constantly made upon industrial management by investment bankers, financiers, and speculators during the period 1923–29 destroyed the hopes and plans for a better economic order. The entire system of industrial policy and management which our so-called "investment" and "private" bankers developed during the period 1923–29, by acting as fiscal agents of industrial and financial corporations, and by their concentrated control of the Nation's money and credit facilities, including even the New York Reserve Bank and the credit policies of the Federal Reserve Board itself, culminated in the worst debacle in the history of our country, and brought our traditional capitalistic system into permanent disrepute.

Its fundamental evils were also visited upon all the leading industrial and commercial nations of the world. This was due to the fact that when our so-called "new era" or "new industrial revolution" in America had gotten under full swing the leading nations of Europe, marveling at our unprecedented mass-production methods and performance, sent delegations to America to learn the secret of our success. Our bankers extended generous loans to enable them to mechanize their industries. American plants were also established abroad. Both foreign and American establishments followed the same American methods, were influenced in their policies by the same sources of credit and finance, and came to the same fate as our own establishments.

To epitomize briefly, therefore, the experience of the organized-labor movement in the United States during the post-war period, 1919–29 led to the following inescapable conclusions:

First. Those in financial control of American industry constantly sought to maintain an industrial autocracy, and to deny by every means possible liberty and democracy to American workers. They repudiated all war-time promises for post-war measures of industrial democracy and economic reform. Unceasingly they fought unionization, or the right of labor to organize and to bargain collectively or to cooperate with management to industrial accomplishment.

Second. Those in financial control of industry also demonstrated their complete unfitness to direct industrial operations in the public interest. They sacrificed the fundamental interests of workers, whether by hand or brain, as well as those of credulous purchasers of securities, for immediate speculative profits. Instead of giving to workers a reasonable participation in the form of adequate wages and more leisure, or making possible the free-

ing of children from mills and factories, they capitalized and appropriated to their own use, the extraordinary productive gains of industry arising from increased mechanization and improvements in technological methods.

Third. That there is no ground for hope for the democratic aspirations of America, unless the methods of industrial control and procedure which existed during this period are eradicated.

THE DEPRESSION AND THE NEW DEAL, 1930–35

This fundamental attitude of organized labor in the United States has also been further strengthened by the events of the 6 years which have elapsed since the break-down of our economic system in 1929.

Our financial autocracy, after the slowing up of production and the collapse in the security markets in the autumn of 1929, which they brought about by their misguided, antisocial policies, added another tragic error to their already unpardonable record. At this time inflated security and real-estate values should undoubtedly have been deflated. On the other hand, for two vital reasons, wages and prices should not have been deflated: (1) Because they had not inflated, and (2) because the maintenance of stability in wages and prices was the essential condition to continued production and to liquidation of speculative losses.

But those in control of our industrial, financial, and credit resources in 1930 misguidedly decreed, as a condition to revival, reductions in wages, salaries, and prices with the result that the demand for goods was further decreased, unemployment and property losses grew by leaps and bounds, and the most critical situation in the history of our country was precipitated.

Three tragic years of human suffering elapsed before light first appeared in the seemingly impenetrable darkness which enshrouded the country. Within 3 months after March 4, 1933, the new deal, however, by means of the National Recovery Administration, placed a minimum or bottom wage under the destructive, deflationary movement which was then rampant. Price and production schedules in manufacturing and mining were stabilized. Simultaneously the Agricultural Adjustment Administration performed the same service for agriculture. As a consequence, economic tendencies were reversed and an upward movement established. Reflation supplanted deflation.

Whatever the new deal may or may not have done in the past, and however great its services may be in the future, it will have the imperishable achievement to its credit of having arrested permanently the devastating avalanche of deflation, which, during the 3 years prior to March 1933 had engulfed and threatened to destroy all values—human, social, and economic—in its path.

Furthermore, for the first time in the history of our country, Congress, under the recommendation of President Roosevelt, also conferred upon labor the guaranty of industrial citizenship, or the right to organize and bargain collectively with employers through representatives of labor's own choosing.

INDUSTRY THWARTED RECOVERY UNDER THE N. R. A.

But the blighting influence of our financial dictatorship soon reasserted itself. After the initial accomplishment of the N. R. A. in stopping deflation, industry under its direction was rapidly codified, and production and employment expanded enormously. By March 1934 very encouraging results had been registered. Pay rolls had advanced more rapidly than employment. Rates of pay and earning of employees had increased, and hours of labor had declined. Basic and secondary industries also passed for the first time in several years from deficits to more or less satisfactory profits. So encouraging were the results that President Roosevelt decided to inaugurate a more forward-looking program designed to accelerate further the growth of reemployment and mass purchasing power. At a meeting of code authorities which was convened in Washington for conference on future policies on March 5, 1934, he urged that profits should be kept at a minimum, hours of work further shortened to stimulate reemployment and wages and salaries advanced so as to make possible the consumption of an increased output of mines, mills, and factories.

The opposition of those in control of industry to this appeal left no doubt in men's minds as to the inability of industry to govern itself in an enlightened way or in the public interest. It was disclosed that industry and finance were a unit in the decisions to hold to what profits had already accrued and desired only the opportunity to carry on the further pursuit of profits without regard to economic recovery or reform. Because of this reactionary position of our financial dictatorship no attempt was made by the N. R. A. to enforce the President's ideas as to an acceleration of the recovery program. From this time forward its influence as a positive or guiding force in industrial expansion, or toward gains in economic accomplishment, was negligible.

During the extensive hearings prior to the adverse Supreme Court decision, held by the Senate Finance Committee on proposals for reviving the N. R. A., this attitude of the supreme command of industry in "freezing production" and practically holding up reemployment and the recovery program for temporary profits were disclosed by witnesses from labor and consumer organizations and officials of the Government itself. It was clearly shown that no progress over the old capitalistic conditions could be hoped for unless price, production, and profit controls over industry were directly established through Government agencies.

SO-CALLED "INDUSTRIAL SELF-GOVERNMENT" IMPOSSIBLE

This is also the position today of organized labor. It holds that industrial self-government has been discredited for all time. It believes that if we are to have economic recovery, and industrial conditions hereafter, which will be characterized by steady operation and employment, and a fair distribution of industrial output among all groups of industrial workers, industrial planning, and the regulation of production, prices, and profits must inevitably be placed under Government control.

GOVERNMENT CONTROL IMPENDING

To this conclusion it may also be added that it is the further conviction of organized labor that unless our financial and industrial interests find themselves able to adjust their programs and policies speedily to the public interest, Government control over their operations must be quickly exercised. At least 10,000,000 are still unemployed in America and double that number are still subsisting on public relief or improvised public employment. They cannot be kept in this situation permanently. If industry is unable voluntarily because of a sinister financial control to expand its operations to take on these men, it will have to be done through a direct exercise of public power. It will become obligatory on the Government, in other words, to develop an economic plan for industrial expansion, which on the basis of industry and plant quotas, and of shorter hours and higher rates of pay, will absorb the unemployed. Reemployment can be quickly attained on this basis should the Government place its own credit and supervision back of the plan to insure its fulfillment.

THE FIGHT AGAINST FINANCIAL AND INDUSTRIAL AUTOCRACY

In concluding the analysis, therefore, of the post-war experience of organized labor in America, it may be fundamentally stated that organized labor has discovered during the post-war period, whether in times of activity or depression, that an industrial and financial autocracy in America has constantly exercised control and thwarted all progress toward social and economic progress and reform.

Unlike the movement in Europe, however, this American economic dictatorship has been socially and politically unsanctioned, working out its objectives without open official recognition. Its control has rested in the hands of a small inner group of New York bankers and financiers symbolized and dominated by the New York banking house of J. P. Morgan & Co. Its power, which overshadows that of our National Government, is derived from its concentrated national control of money, credit, and wealth.

In its earlier manifestations, prior to the World War, it was named by those who vainly shattered their strongest lances against it—Congressman Lindbergh, the elder Senator La Follette, Justice Brandeis, Woodrow Wilson, and a score of other crusaders for democracy and humanity—as the "Money Trust."

War-time profiteering tremendously augmented its resources and power. Its corporate and political control was also greatly extended by the speculative excesses of the so-called "new era." The Banking and Currency Committee of the United States Senate, after several years of careful investigation, reported during the summer of 1934 that during the post-war decade this financial oligarchy usurped "the wealth stream of the Nation to its very capillaries."

Control of wealth and credit has thus become more highly concentrated. Our self-governing institutions, together with the destinies of all classes of our people, have now come to be dominated by an immeasurably strengthened and more highly developed banking and financial oligarchy. Ruthless individualism and profits have been its gods. Unionism has been constantly opposed. Workers, and all groups of our people, have been denied a fair participation in the output of industry. Inordinate industrial profits have been capitalized and made the basis of speculation. Industry was permitted to collapse in 1929 because this small inner group, which dictated industrial policies, would not concede to wage earners, salaried workers, and farmers a sufficiently large participation in national output to enable them to purchase the goods produced by mines, mills, farmers, and factories.

THE DEVELOPMENT OF A SOCIAL AND ECONOMIC REVOLUTION IN AMERICA

Thus, since the World War, organized labor has been confronted with the fact that a social and economic revolution has been developing in the United States as a logical and inevitable outgrowth of conditions and policies imposed by a dictatorship in control of industry and finance. This revolution has not been of labor's own conceiving, but it has not been one which labor has hesitated to support, and which it still proposes to support in a constructive way through further organization, especially by industrial unionism.

No revolution in the history of the world has been successful unless it was supported from above. Today we usually think of revolution in terms of labor unrest and strikes, and of agricultural discontent and violent protests. These are, indeed, outward and ominous factors. But it should be borne in mind that behind these activities today in America is to be found the constant support of liberal groups of the churches, colleges, and universities.

Constructively speaking, academic revolutionaries warn us of impending changes in our economic and social institutions. Liberty hereafter, they hold, must, as a rule, be conditioned by what is socially desirable and not by what is individually profitable. Statisticians and engineers from the universities prove that modern industry can afford, if its output is equitably distributed, an abundant life for all.

The churches, on the other hand, urge their enlightened ethics as a substitute for the pagan ethics of the old capitalistic system. They concede that capitalism can produce enough for all, but they assert, because of the profit system, it cannot distribute its output equitably among the masses of the people; also that capitalism has always carried the seeds of its own destruction by the claim that

the capitalist is entitled to the excess of what labor produces over what is paid to labor. They hope for the development in America of a democratic, cooperative industrial regime as a world substitute for a materialistic, irreligious communism. Catholics and Protestants, Jew and Gentile—all denominations and races—are as one in their efforts to revolutionize our old economic order and bring about the democratization of industry.

In the practical arena of social and political agitation and controversy the active reform movements, as thus sanctioned and supported by the academic and the church groups, center in this country, as is well known, around the farms, mines, mills, and factories.

SIGNIFICANT IMPLICATIONS OF THE MOVEMENT TODAY

The practical implications of this movement today are most significant.

The United Mine Workers of America, by way of illustration, and a majority of the operators in the bituminous mining industry have united in support of the Guffey bill for placing the industry upon a public-utility basis under Federal control. All the other natural-resource industries—anthracite coal, oil, gas, lumber, copper, and electric power—must soon follow this precedent. If experience under a public-utility status should be ineffective, or should the Supreme Court declare the Guffey bill unconstitutional, recourse must at once be had to a constitutional amendment or to Government ownership and operation.

The railroad labor executives, whose policies have always been based on sound, conservative judgment, as a unit have recently declared for Government ownership and operation of the railroads. They state that they have been forced to this decision by a bitter experience of many years, which has conclusively shown that the same financial autocracy which dominates other basic industries cannot longer be endured by railway employees. They have concluded that the only effective method for its eradication is through Government ownership and control.

Present-day tendencies in labor organization also places main emphasis upon industrial unionism. This has been found necessary in order to develop sufficient economic and political power to bargain collectively on a basis of equality with those in financial control of industry and to secure the proper degree of political control over this financial dictatorship.

It is also particularly significant that all groups interested in real, constructive reform in America no longer limit the labor movement to a narrow, technical scope and definition. Labor no longer signifies the man with the hoe but is the voice of the peoples of the world. The range of its influence extends from the unskilled industrial and agricultural workers throughout the so-called "white collar" groups, including industrial technicians, school teachers, newspaper employees, and even those special writers and commentators who stand out as preeminent in the newspaper field. The liberal and constructive groups in the churches, colleges, and universities, as has already been stated, have also practically made themselves a part of the labor movement.

THE SITUATION ABROAD

As to the situation abroad, the stage has already been set for the effective cooperation of the labor movements in other leading industrial nations with American labor. In the year 1931, due to world-wide depression, the international labor organization departed from its established procedure of considering only protective labor standards by making an appeal for an international economic congress to consider uniform methods and policies for meeting prevailing conditions and for promoting economic recovery in all nations. Because of the favorable reaction of its members it also authorized constructive research and investigation along these lines. Conditions are, therefore, most favorable for cooperative action between organized labor in Europe and America.

In this connection it should also be recalled that during the post-war period the old forms of political and industrial democracy have to a great extent been modified or temporarily obliterated in Europe. In the year 1917, before the close of the World War, due to the peculiar conditions prevailing in Russia, an attempted constitutional form of government was violently overturned by a so-called "dictatorship of the proletariat." Early in the post-war period unsettled economic conditions and the threat of radicalism in Italy also finally led to the establishment of a Fascist dictatorship. Like tendencies later resulted in similar dictatorships in Austria, Hungary, Poland, Spain, Germany, and in southern and eastern European countries.

This condition of affairs constitutes a challenge to action to the American labor movement if political and industrial democracy are to be preserved.

When we look backward it will be recalled that the reasons for, and the principles of, our Revolution against Great Britain of the years 1775–83—as embodied in our Declaration of Independence of 1776 and our Constitution of 1787—set the world on fire for political democracy. During the ensuing century and a half the principles of political democracy, as proclaimed by the founders of self-governing Republic, were gradually accepted and practically applied by all the peoples of the civilized world. Self-government superseded the absolute rule or limited powers of princes, kings, emperors, kaisers, and czars.

The American organized-labor movement will never accept fascism or communism. There is no reason, however, why European dictatorships of the present day should not fall before the ideals of industrial democracy which the American labor movement represents. It is the belief of organized labor that America will again give to the world a system of industrial democracy which will supersede existing dictatorships and constitute an acceptable supplement to our proclamation of political democracy in 1776. The forces in our country today which are behind such a movement, are fundamental and inexorable.

CONCLUSION

The real significance of our entrance into the International Labor Organization may, therefore, be said to be, that the American labor movement has taken up again the torch of international labor leadership which was temporarily wrenched from the hands of Samuel Gompers by extraordinary and unexpected political developments in America in 1920; that a political and social revolution is now in progress in America, sponsored by the churches, colleges, and universities, which finds its practical leadership in the organized-labor movement; that its ultimate success depends upon world cooperation and that in the International Labor Organization the organized-labor movement of America finds its opportunity for establishing world cooperation.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the amendment of the committee, on page 18, beginning in line 21, to insert paragraph (G).

Mr. BORAH. Mr. President, I wish to withdraw the notice which I gave yesterday for reconsideration of the vote by which the word "soybeans" was inserted in the bill. I have no objection to the inclusion of soybeans.

Mr. FLETCHER. Mr. President, I send to the desk and ask to have printed in the RECORD a letter from John H. Swisher & Son, Inc., cigar manufacturers of Jacksonville, Fla., relative to the effect of the pending bill on the cigar-manufacturing industry.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JACKSONVILLE, FLA., *July 10, 1935.*

The Honorable DUNCAN U. FLETCHER,
Senate Office Building, Washington, D. C.

DEAR SIR: We have your favor of July 6 relative to H. R. 8492, and note your comments in that the committee has taken the position that as representatives of no other industry had been heard it would not be fair to hear representatives of the cigar industry.

When it comes to any legislation as regards tobacco, we believe the industry as a whole should have an opportunity to be heard and especially on as vital a legislation as H. R. 8492 which is apparently the most drastic legislation that has been proposed. If this bill is passed in its original form there is no doubt whatsoever but what it would prove ruinous to the cigar-manufacturing industry.

Without referring to any statistics, we feel that you know that this industry has been decreasing from year to year, and just at the present time farmers are all receiving parity prices, and all surpluses have been absorbed and a definite shortage is ahead and now with this legislation whereby benefits are going to be continued to be paid long after parity prices have been reached, then absolutely the industry cannot exist and the farmers will again be faced with a surplus of tobacco which they will not be able to dispose of.

Furthermore, as part of this A. A. A. amendment, it provides that the Government should not reimburse any taxpayer for the reason that this tax, or as we may term it, so-called "tax", has been passed on to the consumer.

This reason as given we challenge, for absolutely this processing tax has not been passed on to the consumer in one single instance, and may we suggest that an amendment be offered to this portion of the bill whereby this provision shall not apply to any single corporation, firm, or individual who has not passed this processing tax on to the consumer.

We still remain of the firm opinion that this bill should be referred back to the Senate subcommittee for a fair discussion at public hearing, and we know of no legitimate excuse that can be offered for denying this request.

Yours very truly,

JNO. H. SWISHER & SON., INC.,
H. B. COULTER, *Secretary.*

Mr. SCHALL. Mr. President, I ask unanimous consent to have published in the RECORD a speech made by Editor Stephen Bolles, at Janesville, Wis., at a pioneer gathering, and an editorial from a Dallas, Tex., newspaper. I also ask permission to use the eyes of the clerk to make some observations on the pending bill.

The VICE PRESIDENT. Will the Senator permit the Chair to submit the first request, so that the two may be taken separately?

The Senator from Minnesota asks unanimous consent to insert in the RECORD a speech made by someone in Wisconsin

and an editorial from a Dallas newspaper. Is there objection?

Mr. ROBINSON. Mr. President, I object for the present.

The VICE PRESIDENT. The request is to insert in the RECORD a speech made by someone else and an editorial. The Senator has made a further request to have read a speech of his own.

Mr. ROBINSON. For the present, I object.

The VICE PRESIDENT. The Senator from Arkansas objects.

Mr. MCNARY. I inquire if the objection goes to the printing of proper matter in the RECORD or to the speech of the Senator from Minnesota which he asks the clerk to read?

The VICE PRESIDENT. The request was made that a speech delivered by someone in Wisconsin be printed in the RECORD. Will the Senator from Minnesota state again just who it was from Wisconsin who made the speech?

Mr. SCHALL. Stephen Bolles, who is the editor of a Janesville, Wis., newspaper, and his speech was delivered at a pioneer celebration.

The VICE PRESIDENT. The Senator from Minnesota also requested that there be printed in the RECORD an editorial from a Dallas, Tex., newspaper.

Mr. SCHALL. I also make the request that I be permitted to use the sight of the clerk to make some observations on the pending bill.

Mr. ROBINSON. For the present I object.

I should like to state that from time to time the Senator from Minnesota has had the unanimous consent of the Senate to insert articles in the RECORD and also to have articles read from the desk, and on numerous occasions, under such unanimous consent, he has inserted matter in the RECORD which I think should not be properly admitted to the RECORD by the Senate. I call the attention of the Senator from Minnesota to this fact. I should like to see the editorial and the article before they shall be inserted in the RECORD.

The VICE PRESIDENT. Objection is made.

Mr. MCNARY. Mr. President, just a moment. The inquiry I made has been answered by the objection going to the editorial which the Senator from Minnesota seeks to put in the RECORD. He coupled that request with the further request that the clerk be permitted to read a speech or statement on the pending motion to strike out paragraph (G). Is there objection to that request?

Mr. ROBINSON. I shall not object to a speech by the Senator being read, provided I may reserve the right to object if it shall appear that in the speech there is matter which should not, in my opinion, go into the RECORD.

Mr. SCHALL. The Senator has that right at any time, as I understand.

The VICE PRESIDENT. The Senator from Minnesota asks unanimous consent to insert in the RECORD a speech made by an editor and an editorial from a Dallas newspaper, and further that remarks of his may be read by the clerk.

Mr. ROBINSON. Mr. President, this is a wholesale request for putting matter into the RECORD. I shall object to putting into the RECORD the editorial and the article until an opportunity shall have been afforded to ascertain that they do not contain matter which, in my opinion, is obnoxious to the rule. I do not object to the reading of the speech of the Senator from Minnesota, but reserve the right to object.

Mr. MCNARY. That is the understanding I have of the matter. The Senator from Minnesota informed me, in view of the discussion a few days ago, that he desired, of course, to conform to the strict rule of the Senate with respect to making references to Members of the Senate and House. Under the understanding, the request is that the clerk may read and if anything should appear in the speech that is obnoxious to the rule of the Senate, of course, objection could then be made.

The VICE PRESIDENT. Is there objection to the reading of the speech? The Chair hears none. The clerk will read.

Mr. SCHALL. Mr. President, I understand that the Senator from Wisconsin [Mr. DUFFY] had the article from the Janesville newspaper inserted in the RECORD, so I withdraw the request for the insertion of that article.

Before the clerk reads I desire to state that if I had my sight I no doubt could stand here and read the speech, and I should not be subject to the censorship of the Senator from Arkansas unless I said something to which he might object. It seems to me the rule of the Senate ought to be changed so that no one person could ride censorship on what another Senator has to say, even though it may of necessity have to come through the eyes of the clerk.

Mr. ROBINSON. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Arkansas?

Mr. SCHALL. I yield.

Mr. ROBINSON. I have explained many times, and I think the Senator from Minnesota must understand, that there is no objection from anyone to his incorporation in the RECORD of any matter which does not infringe the rule of the Senate. But on numerous occasions the Senator from Minnesota has taken advantage of the fact that he cannot read his own articles and his own speeches, speeches which he was proposing to make, to incorporate in the RECORD matter which was objectionable under the rule. Therefore, while I do not object to the reading of his speech, I reserve the right to object. With that understanding, which I think the Senator from Oregon [Mr. MCNARY] fully apprehends, and which I think the Senator from Minnesota should apprehend, I make no objection to the reading of his speech, but I reserve the right to object.

Mr. SCHALL. Mr. President, I have made no statement that I have not a right to make under the rules. If I did so, it was unintentional. I have only done what I thought the position of a Senator representing a State entitled him to do, that which he had the privilege and the right to do in the Senate, of stating his thoughts and putting his construction upon the present administration and its policies. I know it hurts, but it still is my right to say what I have to say, even if it must be through the eyes of the clerk.

I resent the fact that the Senator from Arkansas rises on the floor of the Senate and constantly says I am breaking the rules of the Senate. If he will point out wherein I have broken the rules, I certainly shall not do it again. As my speeches are read, they are subject to objection. If they are wrong, let the Senator move to strike them out.

Mr. ROBINSON. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Arkansas?

Mr. SCHALL. I yield gladly.

Mr. ROBINSON. On the last occasion when the Senator from Minnesota addressed the Senate, under unanimous consent, he obtained an order to incorporate in the RECORD a statement declaring a very high officer of this Government a maniac.

Mr. SCHALL. No; a megalomaniac, which means a million times an egotist. "Mega" is Greek for a million.

Mr. ROBINSON. A megalomaniac.

Mr. SCHALL. Yes; a million times an egotist.

Mr. ROBINSON. The Senator from Minnesota has the audacity to rise on the floor of the Senate and assert that he conforms to the rule of the Senate. In the case of one whose moral obliquities are such as the Senator has repeatedly demonstrated here, it becomes the duty of someone to see that the rules are observed in connection with the CONGRESSIONAL RECORD. If the Senator from Minnesota insists upon the right to have his speeches read without regard to the rules of the Senate, he cannot shield himself behind an unfortunate affliction to make statements here which are offensive to the President of the United States and which are offensive to Members of the Senate. If he were rightly constituted he would not insist upon such procedure. He has done it repeatedly.

He has violated the rules of the Senate repeatedly, and every Senator who has listened to his remarks knows my statement to be true. Now he states that he resents the action of the Senator from Arkansas in insisting upon his right to object to the speech of the Senator from Minnesota

if he feels it violates the rule. I do not care how much he resents. I myself have some resentment. The Senate ought to be a body of decency. It ought to conduct its debate in conformity with parliamentary rules, and no Senator has a right to insist upon any other course.

Mr. President, I object to the reading of the editorial referred to and I object to the reading of the articles referred to. I reserve the right to object to the remarks of the Senator from Minnesota if, in my opinion, they transgress the rule.

The VICE PRESIDENT. The clerk will read, as requested.

The legislative clerk read as follows:

ARE WE A "COHEN-IZED" CONGRESS?

Mr. SCHALL. Mr. President, the United States district court of three judges assembled in Minneapolis, my home city, July 11, for the hearings of 16 milling companies which had asked injunctions against collection of processing taxes by the A. A. A. Administration for the months of May and June.

The court denied the Government's motion for dismissal of the injunction suit, and granted a temporary injunction to hold until the decision upon a permanent injunction in September term.

Without passing upon the constitutionality of the A. A. A., the court declared:

> We do not determine at this time that any provisions of the act in question are unconstitutional. A reading of the cases offered by counsel, however, amply supports the view that the constitutionality of the act is subject to serious doubt. It is sufficient to justify relief by temporary injunction.

These 16 cases before the United States district court at Minneapolis are samples of hundreds of like appeals from industry against the constitutionality of the A. A. A. processing taxes in substantially all the district courts of the United States. Many hundreds of these cases are now headed for the final decision of the United States Supreme Court. Many cases have resulted in permanent restraining orders.

Even were this amended A. A. A. bill—the "Cohen-ized" and aggravated extension of autocratic powers—to pass Congress at this session, there is every fair indication that it will never become the law of the land.

All that we here vote to do is, in effect, this: To register our individual votes for or against this proposition—"Yes" or "No" on the question, "Is this a Cohen-ized Congress?"

The substantial question on the constitutionality of the processing taxes of the A. A. A. was decided in the recent N. R. A. case of May 27. That case was decided on two points: (1) the unconstitutional delegation of the legislative power of Congress to the President and his bureaus; (2) an invasion by the Federal Government upon the intrastate powers of the respective States.

The processing taxes of the A. A. A. violate article I, which grants all powers of taxation to Congress. The levy and collection of these taxes by the A. A. A. Administration is an unconstitutional delegation or usurpation of the legislative power to tax, as decided by the Supreme Court in the N. R. A. case, as in hundreds of cases from the time of John Marshall.

These processing taxes and the dictatorship of the A. A. A., second, invade the intrastate business of the State, and violate the rights of the States and the guaranties of articles 5 and 10 of the Bill of Rights, also set forth by the Supreme Court in the N. R. A. case of May 27.

So the final decision of the Court when these hundreds of A. A. A. cases finally reach the court of last resort is already forecast in the decision on N. R. A. We are voting for another "sick chicken" if we vote for this expansion of the A. A. A. We are voting, moreover, for a diseased hen afflicted by new malignant ills. We are voting for an extension of the temporary acute attack into a chronic and permanent disease, an epidemic of legislative ills affecting the major bills now before this session; namely, the seven must bills drafted by Cohen, who assumes the legislative function usurped by the Executive.

This bill in itself is an admission of unconstitutionality when it seeks to invade the judicial power of government by denying the rights of citizens to appeal to the courts against the unconstitutional tax levies of the A. A. A. We are, therefore, voting on one question: "Is Congress Cohen-ized? Shall we vote to change the spelling of the word 'C-o-n-g-r-e-s-s' and make it read 'C-o-h-e-n-g-r-e-s-s?'"

The Constitution, beginning with the preamble, "We, the people of the United States", starts with the provision of article I:

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

That provision has been effective in this country for 146 years up to March 4, 1933.

Under the new-deal version, beginning its Fabian progress under the emergency powers of 1933 and now consummated by this White House order of must bills in July 1935, article I of the Constitution is, in effect, amended to read thus:

> All legislative powers herein granted shall be vested in the Executive by the medium of Cohengress of the new deal, and the Senate and House of Representatives are permitted to affix their rubber stamps to the acts of our Cohengress.

Shall we abdicate and be a "go-and-get-it" group for this new-deal Cohengress?

Mr. President, in my remarks of July 11 I quoted section 21 of this bill as originally printed and obtained from the Senate document room.

I note that section 21 of the bill now before us has a new wording of the provision quoted, and now reads as follows (see p. 58), which I here desire to have read into my amended remarks:

> SEC. 21. (a) No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recovery, recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed—

And so forth. This revised version brings out even more specifically the purpose of the executive branch of government to invade the judicial powers of government, both Federal and State.

Note this sinister language:

> No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue * * * (nor shall any * * * judgment or decree be entered by any such court) (1) for the recoupment, set-off, recovery, refund * * * of any tax * * * (2) for damages—

And so forth. In other words, the king can do no wrong when he is engaged in collecting unconstitutional processing taxes under the usurped legislative powers of the A. A. A.

Neither Hitler nor Mussolini has assumed greater autocratic powers than this in submerging both the legislative and judicial branches of government. Both Mussolini and Hitler frankly and brutally abolished the constitutions and bills of rights of their countries before they took over all the powers of government. What they did by force of arms their imitator here is attempting to do by force of subsidy and a $5,000,000,000 war club. That is a mere detail of method. The deal is the same in the final catastrophe to government by and for the people.

NEW DEAL GAME OF POKER

Mr. President, I have just had read to me an editorial leader of the Saturday Evening Post of the current issue of July 13, entitled "Poker Politics", and it has stimulated me to make some remarks upon the new-deal version of that subject.

It appears that the editor of the Saturday Evening Post, Mr. George Horace Lorimer, is likewise deeply versed in that

game made famous by the Vice President of the United States on the plains of Texas. Lorimer may not be the equal of our distinguished Presiding Officer (known to fame as "Texas Jack") in the gentle game of riding steers and branding mavericks, but he knows his poker, as witness this editorial observation relative to the American game of the days when the Government paid its bills and balanced its Budget, and the dollar was worth a dollar in gold and not 59 cents in hullabaloo.

Lorimer says of "that sterling old American game, draw poker":

> It was played under hard and fast rules according to Hoyle.

That was before Rexford Guy Tugwell succeeded Hoyle. That is to say, that was the way the game was played in the days when the Constitution was in force, before Congress became Cohenized, and before Cohen sat in this Chamber to direct the majority what to say and how to vote, and before Comrade Tugwell had come back from Moscow.

In those days, "experience and skill usually determined whether a man finally won or lost." That was when the deal was a square deal, not a new "three-card-monte affair—heads I win, tails you lose", with Cohen as dealer and Corcoran croupier for the White House syndicate.

"In time," quoth Lorimer, "impatient souls wanted more action and quicker results." That was when the new-deal game came in with a bold experiment or planned emergency on every odd-numbered weekday, and two emergencies following a fishing trip on Astor's yacht *Nourmahal*.

Under the new deal, or misdeal innovations, there were introduced "deuces wild", whereby a two-spot was the equal of any card in the deck, from ace to trey. Though Lorimer did not say so, he doubtless had in mind as "deuces wild" such gazaboes as Hugh Johnson, Rexford Guy Tugwell, Corn Wallace, and Harold Ickes. He also may have had up his mental sleeve those Cabinet members—Ickes, Wallace, and Morgenthau—and those bureau chiefs—Hopkins, Morgan, and Kohn—who went "deuces wild" 2 years ago, and crossed the Delaware with royal charters from the President to extend indefinitely their 2-year emergency powers under articles of incorporation, reading:

> This Corporation shall have perpetual existence.

As Lorimer says:

> Naturally, this caused great confusion, leading to wild and blind betting on the part of the players. Experience and skill no longer counted. Orderly procedure at the card table went into the discard with them.

That is to say, with the "brainstorm trust" camped around the White House.

Another new-deal innovation in the American game of poker, so Editor George Horace Lorimer finds, is the "one-eyed jack wild." That might apply to Wallace, of the A. A. A., plowing up growing crops and converting pigs into fertilizer for the comic or tragic promotion of agriculture. It might apply to Morgenthau proposing to balance a Federal Budget with a four-billion deficit by issuing a doubtful tax levy amounting to 10 percent of the deficit. It would apply to Tugwell, who proposes "government by men", as in Moscow, as a substitute for "government by laws" under a Constitution. It might apply to Roper, who signed a contract to scuttle the *Leviathan* in the interest of Vincent Astor and his British shipping companies. It might apply to Hugh Johnson, who rode the Blue Eagle from egg to earth till it died the death of a sick chicken, and it might apply to the wild-eyed Richberg, who had "ants in his pants." It might apply to Farley, who uses 57 bureaus for propaganda and 30 emergency funds for campaign "sinews."

Still another new-deal innovation of the American game of poker is described by Lorimer as the "seven-card peek." This might apply to the star-chamber tariff acts of the State Department, where only foreign emissaries are allowed to "peek." It certainly applies to the Cohen-Corcoran bills sent over to Congress from the White House, in which, for every five sections of the bill laid before the Senate committee there are two "peek" sections stuck into the bill en route to the Senate Chamber, making in all a "seven-card peek" through the Cohen-Corcoran speak-easy. And nobody not in the confidence of the White House has a "peek" as to what kind of a bill we are going to be permitted to pass under gag rule and in violation of the Constitution.

All bills submitted by Senate and House to a packed, White House controlled conference committee are "seven-card peek" bills which neither Senate nor House ever saw, drafted by Cohen or dropped from the sleeve of Corcoran, and dealt by some White House croupier as "an act of Congress."

"Dealer's option" is the name of another new-deal innovation listed by Lorimer in the game of poker politics. He did not need to tell us, for we already know, that the "dealer's option" is possessed by the President for listing the must bills. The President deals the cards and Congress is not allowed even to cut the pack. These must bills of the "dealer's option" must be passed before the President will permit us to adjourn, and any recalcitrant Senator who ducks can have none of that $5,000,000,000 "allocation" pie in the next election, or patronage pork at any time.

Seven must bills of the "dealer's option" are now spread before us as our end-of-the-session stunt. There is a tax bill aimed to steal the share-the-wealth ace from the hand of the Senator from Louisiana [Mr. LONG] and put him in the political hole, but better calculated to put the whole country in the hole. There is the unconstitutional coal bill, which is designed to catch the coal-mine vote of Pennsylvania and West Virginia before the Supreme Court knocks it out. There is the electrocution utility bill, which gives the distinguished orator from West Virginia [Mr. HOLT] a chance to stump speech for Mr. Farley's postmaster vote several months before the Court gets a chance to knock it out to save 12,000,000 small investors. There is the pending A. A. A. extension and expansion, brought over by Comrade Tugwell from Moscow, to afford the courts plenty of knockout practice. There is the expanded T. V. A. made according to the Lenin formula, that "socialism plus electrification spells communism." There is the waterway bill, which places waterways under railroad domination. There is the bill to create the central United States Government bank, which Andrew Jackson thought he had put out of Washington 100 years ago.

Of course, Editor Lorimer, of the Post, does not go into the concrete detail of the poker games as I have here liberally interpreted it. He sets the type and pattern for us to fit the goods. He might not care to say, for example, that the "dealer's option" means the option of Franklin Roosevelt. Moreover, the editor might not care to say in so many words that the "dealer's option", or the White House must bills, are governed by the following outstanding specifications, with which we as Senators are now familiar, to wit:

First. These seven must bills are not drafted pursuant to the mandate of the Chicago Democratic platform or any 100-percent preelection pledge of the President.

Second. They are drafted pursuant to the mandates of the Socialist platform of 1932 and/or the Communist platform.

Third. They do not accord with the principles of Washington and Jefferson or Jackson and Lincoln or Grover Cleveland and Theodore Roosevelt. But they do accord with the ideas of Hitler and Mussolini, of Karl Marx, and Joseph Stalin in major intents and purposes.

Fourth. So far as possible, they are drafted to violate the principles of the United States Constitution and the American Bill of Rights, and are aimed to put the United States Supreme Court on the "spot" for following the time-honored highways of the "horse and buggy" days.

Finally, the editor of the Saturday Evening Post informs us of that most famous new-deal innovation of all, namely, where the players agree upon the privilege known as "spit in the ocean."

One of the most outstanding plays under this innovation was made by the President in his last annual message, where he called for a "spit in the ocean" amounting to $5,000,000,000 in "one sum subject to the allocation of the Execu-

tive" for his 1936 emergency—a sum nearly one billion greater than the total annual revenues of the Government, a sum equal to $125 per voter for each of the 40,000,000 registered voters of the United States.

Whereupon, after that January message, nearly everybody in the majority wings of the Senate and House joined in the "spit", because obviously they feared not to "spit." They threw votes into the jackpot in the apparent hope that some of the expectoration might come their way in the shuffle of November 1936.

In 2½ new-deal years an obedient Congress has spit in the ocean so often and with such expectoral abundance for one planned emergency after another, that the Treasury daily statement today reveals a tidal wave of combined emergency funds amounting to a "spit in the ocean" total of $18,000,000,000, or the equivalent of 5 years of Government revenue collections.

There have been already expended from this new-deal expectoration approximately $10,000,000,000, with $8,000,000,000 to be expended for emergencies due to arrive in 1936.

The $10,000,000,000 of "spit in the ocean" already expended have produced thus far or aided the production of a Federal patronage army of 7,000,000, an unemployed army of over 11,500,000, and 22,000,000 public charges subsisting on public doles instead of upon productive industry.

If the $8,000,000,000 authorized to be "spit in the ocean" in 1936 accomplishes an achievement parallel to the $10,000,000,000 already spit to the four points of the compass, our dealer and his croupier, James Aloysius Farley, may be able to point with pride at the next national convention to the fact that they have created from their total "spit in the ocean" of $18,000,000,000 of combined emergency the following world-championship feats:

First. More new bureaus and useless jobs than all previous administrations in American history and more than all the governments of Europe during the past 2 years.

Second. An army of unemployed that exceeds the European total for 22 principal industrial countries.

Third. That they have destroyed more crops and pigs and cows than all the drouths and floods, weevils, and grasshoppers in the Northern Hemisphere.

Fourth. That they have closed more mills and mines and produced more strikes than all other countries combined.

Fifth. That their present production of 22,000,000 public charges is greater than the total for the rest of the civilized world.

And their final summation might read: "Thirteen planned emergencies; 23 cases of economic chaos; 57 new bureaus; an ocean of $10,000,000,000 of new public debt and $12,000,000,000 of accrued deficits; and $9,000,000,000 of demonetized and useless gold, bought at 50 percent more than its value and returned to the hills of Kentucky to keep it away from the new-deal thieves and reserved for the coming empire."

All of the Presidents of the United States combined up to the time of the Wilson administration and the World War, the Treasury reports reveal, expended for Government, including five wars, a grand total of less than $25,000,000,000. This administration, in two and a half years, has expended or authorized, for political emergency alone, $18,000,000,000, and for the regular expenses of Government approximately $10,000,000,000 more, making a new-deal total thus far authorized of $28,000,000,000.

During the coming 1936 session we are already notified there will be a further "spit in the ocean" of $5,000,000,000 for scientific emergency, besides $4,000,000,000 for cost of Government to January 1, 1937. This $9,000,000,000 forthcoming for 1936 will make the grand-total 4-year cost of the new deal $37,000,000,000, or a billion dollars over one-half more than the cost of the 35 administrations from Washington down to Wilson's second administration.

In 1936 there will take place in the respective voting booths of the country, if we are allowed a "dealer's option" in election of President, the general free-for-all contest to decide United States championship honors in a final "spit in the ocean."

The main hope of America in saving the republican form of government guaranteed to the States in article 4, section 4, of the Constitution is this: That the new deal, like Mark Twain's famous jumping frog, will be so loaded down with bureaus and barnacles, "sick chickens", and 59-cent hullabaloo dollars, Frankfurters, and Cohens, and Corcorans that it will not be able to jump off the ground, and will just sit there and strain and grunt and have to do its own spitting without the help of Congress.

Mr. President, I ask leave to print the editorial entitled "Poker Politics" and also another editorial, "The Overworked Emergency", which speaks for itself, appearing in the Saturday Evening Post for July 13. I am sure they will make instructive and entertaining reading.

The PRESIDING OFFICER (Mr. DIETERICH in the chair). Is there objection?

Mr. ROBINSON. I shall object until I can see the editorial.

The PRESIDING OFFICER. Objection is heard.

Mr. BLACK. Mr. President, on July 8 the Senator from Minnesota [Mr. SCHALL] had one of his usual speeches read to the Senate by the clerk. A great many people have been a little interested to know why, if it is possible for one to dictate a speech to a stenographer, it would be impossible for the same man to make the same speech in the Senate. Some have even expressed a question as to who wrote the speeches, which have been distributed over the country by the hundreds of thousands.

It is my understanding that in a period of a little over a year more than 500,000 of these so-called "speeches", which have been placed in the RECORD, have been distributed throughout the Nation. That, of course, is expensive, both to the Government and to someone else.

In the speech of July 8 an editorial was included in the RECORD.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. Would the Senator mind my stating that my speeches have not been distributed, because Postmaster General Farley throws them into the furnace, where evidently the Senator from Alabama would like to see them placed?

Mr. BLACK. I would say that some of them might burn well. I would not insist that they be burned, even though, in my judgment, each one of them violated the rule of the Senate, not only in one regard, but in many.

Mr. CONNALLY. Mr. President, will the Senator from Alabama yield to me?

Mr. BLACK. I yield.

Mr. CONNALLY. The Senator from Minnesota said that the Postmaster General threw the speeches into the furnace. It is barely possible, from the character of some of them, that there might have been spontaneous combustion.

Mr. BLACK. Each one of these speeches contained a title, which was not read into the RECORD, according to my information, at the time the speeches were read by unanimous consent. I have here some of those title. Here they are:

Just a dog.
The joker in the new deal.
Evils of dictatorship.
The slipping deal.
Censorship.
Just a dog, again—

It seems there was a greater demand for these—

Moscow liberals.
The Federal corporate conspiracy.

The point to which I now desire to call attention is that in the speech of July 8, or in that which was read as a speech——

Mr. SCHALL. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. SCHALL. Did the Senator examine that "Federal Conspiracy" to find out anything about the six corporations

which were organized in Delaware and marked "Secret; do not publish", explaining a good deal of the censorship which now seems to have reached the Senate?

I tried here on the floor for days to find out what was behind these corporations, which evidently were organized to take over the manufacture of everything in this country from the button on your cap to the sole of your shoes, and I have yet been unable to find out.

There is something mighty rotten in Denmark, and I have done what little I could to find out what it was, as a blind man, though I have had to have assistance, but I have nowhere near the assistance the Senator from Alabama has in writing his remarks. I do accept whatever assistance I can get, and am glad to get it, and glad to get the news before the country.

If the people of the United States could know what is behind this administration, they would not stand for it a minute, and every effort is made from the top to the bottom, from the President down to the Senator now standing upon his feet, to censorize everything that does tend to get the information to the people.

Nobody wrote that for me.

Mr. BLACK. Mr. President, I am delighted that the Senator from Minnesota has demonstrated the fact that if he wants to make a speech he can make a speech. It is an illustration, to my mind, that the speeches which have heretofore been read into the RECORD have been written by somebody else.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BLACK. I yield to the Senator from Arkansas.

Mr. ROBINSON. The statement just made by the Senator from Minnesota is another illustration of the strange, unaccountable mentality of the man. He has just said that everybody in this administration, from the President down, has done everything possible to censorize the press. He has made that statement heretofore. In my judgment, there is no foundation in fact for the statement. The President has not attempted to censorize the press. He has been regarded, I believe, by representatives of the press as the most approachable man who has sat in the White House. But for some reason this misrepresentative from Minnesota [laughter in the galleries] insists upon assaulting the President in some way every time he takes the floor, and his last assault is a very questionable procedure. The President has no opportunity of replying to him. People naturally think when they read a statement by a United States Senator that there must be some truth in it. People who do not know the Senator from Minnesota sometimes accept his statements as accurate. But the Senator from Minnesota, every time he gets somebody to write a speech for him, and every time he takes the floor here comes dangerously near transgressing the rules of the Senate.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER (Mr. HATCH in the chair). Does the Senator from Arkansas yield to the Senator from Minnesota?

Mr. ROBINSON. No, Mr. President; I do not yield to the Senator from Minnesota.

Mr. SCHALL. Mr. President, I do not want to let stand that statement, "every time the Senator gets somebody to write his speech for him."

The PRESIDING OFFICER. The Senator from Arkansas declines to yield.

Mr. ROBINSON. Mr. President, I doubt if the Senator from Minnesota has dictated a single one of the speeches which he has had read here almost daily. I express my personal opinion that he has someone employed for that express purpose, and always the effort is to reflect upon some Member of Congress or upon some officer of the Government. It is small business, and only indulged in by individuals of small mentality.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I will yield to the Senator again. Does the Senator wish to say what he desires to say, or have it read?

Mr. SCHALL. No; I think I can say what I want to say.

Mr. BLACK. I yield for a moment. I have an engagement at 1:30, and I am going to place into the RECORD—and I think it will be very interesting—another part of the newspaper of which the Senator from Minnesota placed a part in the RECORD on July 8. I should like to do that, and then the Senator from Minnesota will have ample time to take the floor.

Mr. SCHALL. Does the Senator from Alabama expect me to object?

Mr. BLACK. That is immaterial to me.

Mr. SCHALL. Will the Senator give me an opportunity to read it first before he places it in the RECORD, as the Senator from Alabama demands of me?

Mr. BLACK. It is immaterial to me. I expect to read it so the Senator can hear it.

Mr. SCHALL. If I proposed to have something placed in the RECORD and the Senator from Alabama objected, then I could not have it read. I just want to get that point of fairness over to the Senator from Alabama. If I had my eyes, I could read probably as well as the Senator from Alabama.

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I shall be glad to yield after I have placed in the RECORD that which I wish to read myself.

The PRESIDING OFFICER. At this time the Senator from Alabama declines to yield.

Mr. SCHALL. The Senator ought to offer the matter to be printed in the RECORD and let me object.

Mr. BLACK. I am going to read it so the Senator can object, as the rules provide.

The PRESIDING OFFICER. The Senator from Alabama declines to yield.

Mr. BLACK. On July 8 the Senator from Minnesota placed in the RECORD an editorial from a paper called the Tonganoxie (Kans.) Mirror of June 27, 1935. This was placed in the RECORD on July 8. It was a very bitter editorial attacking the administration in the usual style indulged in by the Senator from Minnesota, or those who prepare his addresses.

Mr. SCHALL. Mr. President, I resent this "prepared" stuff. I resent it vehemently.

Mr. BLACK. So do we resent this prepared stuff.

Mr. SCHALL. And I want to say to the Senator from Alabama that I put no more stuff in the RECORD, which is attributed to me, than he does, or than the Senator from Arkansas does.

Mr. BLACK. So do we resent it, Mr. President.

Mr. SCHALL. The Senator from Alabama will not stand here before the Senate and say that he has not put stuff in the RECORD sent to him from the President of the United States.

Mr. BLACK. Yes; I say that.

Mr. SCHALL. Well, the Senator from Arkansas [Mr. ROBINSON] will not say it, and the Senator from Alabama will not say that he has not put anything in the RECORD which he has not written himself, either.

Mr. BLACK. I will say that I have never put anything in the RECORD as a speech, claiming it was my own.

Mr. SCHALL. I never have, either.

Mr. BLACK. Well, perhaps the Senator has not.

Mr. SCHALL. The Senator has not, and the Senator from Minnesota is in a better position to know than the accusing Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama has declined to yield.

Mr. BLACK. Mr. President, I have before me the speech of the Senator from Minnesota made on July 8. That is the speech which was read. The editorial which was read in connection with the Senator's speech is a very bitter attack. Some of us were talking here, including the Senator from Washington and myself, after we saw this editorial from a weekly newspaper, the name of which we had never heard before, and we said it might be interesting to send out and get a copy of that weekly newspaper. We decided to do that, because we knew that sometimes the editorial views might be

a part of the general publicity of an institution. In that connection 2 or 3 days ago there came out before the Special Committee Investigating Lobbying a pamphlet which was obtained at the lobby of the executives of the power companies in the Mayflower Hotel. The parentage of this pamphlet has not as yet been admitted by anyone, but its presence in their papers is undisputed, because it was brought up to the committee, and it contained a series of editorials against the holding-company bill. At the beginning it said:

There have been a great many editorials heretofore, and—

I am giving the Senate the substance of it.

There has been a great deal of advertising, but if there would be more advertising there would be more editorials.

Of course, that may have been altogether a mistake. However, we sent for the Tonganoxie (Kans.) Mirror, and I have before me the copy of the Tonganoxie (Kans.) Mirror from which was taken the editorial which was inserted in the RECORD. I also have a large number of other copies of the Tonganoxie Mirror, of Tonganoxie, Kans. Perhaps the Senator from Minnesota is a subscriber to the Tonganoxie Mirror, and that is the reason why he happened to have that particular editorial as early as it was written.

Mr. SCHALL. No, Mr. President; I am not a subscriber. I subscribe only to my own home newspapers in Minnesota.

Mr. BLACK. I did not understand the Senator.

Mr. SCHALL. No; I say I subscribe only to my own home newspapers in Minnesota, if that will help the Senator any.

Mr. BLACK. This was a Kansas newspaper, and evidently someone had given the Senator this editorial which he placed in the RECORD.

Mr. SCHALL. Yes; I get many editorials, as the Senator from Alabama does constantly.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. WHEELER. It was probably sent to the Senator by the very close friend of Mr. Daugherty, Mr. Blair Coan, that notorious character of whom we heard so much a few years ago in connection with Mr. Daugherty and Mr. Burns.

Mr. SCHALL. No; the Senator is mistaken in his unfounded suspicions. The only Cohen I know who has had anything to do with legislation is the Cohen who sat at the Senator's elbow during the discussion of the holding companies' electrocution bill, which I mentioned in the speech which has been referred to.

Mr. BLACK. In this issue of June 27 appears on the editorial page the editorial which was inserted in the CONGRESSIONAL RECORD. Here is another page on which appears an advertisement which probably all Senators will recognize. These advertisements have been sent all over the United States. We are going to try to find out how much it cost. The advertisement is headed:

Utility bill un-American. Will injure millions of citizens. Protest now. No good whatever will come—

They say—

from the passage of this bill.

And then this language has appeared in hundreds of other papers:

Who will the bill injure? What will it do? Who appears for the bill? Who opposes it?

That advertisement is signed by the Union Public Service Co., a Cities Service Co.

I have numerous other copies of that newspaper here. I will just pick out any of them. There is no difficulty about it at all. Here is one for another week. This is an advertisement by the Kansas Electric Power Co.

There are a few others from the—I may mispronounce the name, and if so I beg pardon of the Senator from Minnesota—the Tonganoxie, Kansas, Mirror. Here is another one [exhibiting]. This one is under date of June 13. This advertisement is by the Union Public Service Co. Both advertisements are the same. Here is another one by the Union Public Service Co. back in April. If the Senator from Minnesota should desire to place these advertisements in the RECORD I would be glad to make them available to him to use in the next address or essay which appears in the RECORD over his name.

Mr. SCHALL. Mr. President, will the Senator yield?

Mr. BLACK. I yield to the Senator from Minnesota.

Mr. SCHALL. I ask right now that they be inserted in the RECORD, if the Senator will not object, so as to let everybody know what the Senator is talking about. I have not seen them. I do not know about them. I remember the name, and I remember some article that I asked to have inserted in the RECORD which I thought fitted the foot. I have no objection to their being placed in the RECORD. In fact, I ask that they be now placed in the RECORD.

Mr. BLACK. That was on a par with many of the others which the Senator asked to have placed in the RECORD.

The PRESIDING OFFICER. The Senator from Minnesota asks that the matter referred to be placed in the RECORD.

Mr. SCHALL. Yes; I ask that it be placed in the RECORD.

Mr. MCKELLAR. I object.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield further to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. They seemed to be of such importance to the Senator from Alabama and his stated desire to put them in the RECORD that I asked to have them placed in the RECORD where the public could have the privilege of seeing them, and I suggest that they be placed in the RECORD.

The PRESIDING OFFICER. Objection has been made. The Senator from Alabama has the floor.

Mr. BLACK. Mr. President, I have referred to these matters in order to show something about the background of the editorials. The Senator was driven to go all the way to the Tonganoxie Mirror in order to find anything that he thought was down near the level of the addresses which he has placed in the RECORD, and it did somewhat closely approach the slime of the same kind of charges which have been made from day to day and week to week at the expense of thousands and thousands of dollars to the people of this Nation. In addition to the RECORD itself, over 500,000 copies were paid for by somebody and sent all over this Nation; paid for in part but not as a whole, because, even at that, it cost the United States Government thousands and thousands of dollars to distribute these so-called "speeches" to 500,000 people.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I yield to the Senator.

Mr. SCHALL. The Senator refers to the item of cost. Does he think the cost he has just mentioned compares with the cost of the employment of the 300 newspapermen at Government expense and against the law today, hired to prepare and send out over this country expensive false propaganda, under Government frank in many instances, not more than 1 percent of which is truth and 99 percent not truth?

Mr. BLACK. I am glad to find that the Senator concedes there is 1 percent truth in that which is put out by the administration, because I have read practically all the other matter, and, frankly, I have not been able to find one-tenth of 1 percent of truth in any one of the statements which have been distributed by the hundreds of thousands.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield further to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. If the Senator refers to my speeches being sent out by the hundreds of thousands, he is entirely mistaken. I have to pay for the printing of my speeches, but the printing of this propaganda that is sent out is paid for by the Government. Would the Senator permit me to give one illustration of how propaganda was sent out to the farmers by the Agriculture Department at Government expense, containing not even 1 percent of truth?

Mr. BLACK. Perhaps it might be better for the Senator to go out and have it written up and have it read.

Mr. SCHALL. Oh, no. That is not necessary. I think I can remember the figures closely enough to give the Senator the illustration if he so desires, though they may not be minutely exact.

Mr. BLACK. The Senator has heretofore found great difficulty, seemingly, and complains about anybody who objects to anything that is put in the RECORD on the ground that he is blind. While he is blind, of course, he has a tongue and a voice; he is able to speak; he is able to stand; and if he is able to dictate to a stenographer, he should be able to speak on the floor.

Mr. SCHALL. Mr. President, I do not object because I am blind. I object because I want the information to go to the country, and I think they are entitled to have it.

The Senator knows that his remarks are entirely unfair. Figures and statistics I cannot carry in my head. The Senator can see and read them. I know the Senator does not want to be unfair.

Mr. BLACK. No; but I have seen very few figures in any of the speeches made by the Senator. The Senator from Oklahoma [Mr. GORE] speaks upon this floor, and speaks well.

Mr. SCHALL. Yes; he does. And while I do not want to speak for the Senator from Oklahoma, I am sure he would be glad to have the privilege of using the sight of the clerk to read for him. I do not have any doubt that he would. It would only place him on an equality with the Senator from Alabama, who has his sight.

Mr. BLACK. I have not even objected, except once, when I wanted to see what it was which was sought to be placed in the RECORD, because I had seen some statements which I thought were wholly unfair and unbecoming any Senator to express on the floor. I have not been raising objection. I think, however, that there comes a time when it is necessary to call the attention of the Senate to the fact that its privilege is being abused; and it has been repeatedly abused. I think that it is of importance to the people of this Nation at the present time, when an editorial such as the one inserted in the RECORD by the Senator from Minnesota is placed in the RECORD, to know something of what has been published in those newspapers from week to week in order to ascertain who it is that is supplying the money and the venom and the malice behind these editorials. I think that is clearly demonstrated by the list of newspapers which I have before me at the present time, which shows clearly and conclusively whence comes most of the money of the Tonganoxie Mirror, which appears from week to week.

So, Mr. President, I thought it proper at this time to make these few remarks to call attention to the facts in order that in some way—it seems impossible to do it by ordinary methods—it may be impressed upon the Senator from Minnesota that there are certain rules, certain customs, which it is proper for Senators to observe in connection with their remarks upon this floor.

For instance, this morning, during the absence of the Senator from West Virginia [Mr. HOLT] a remark was made in the essay which was read before the Senate with reference to the Senator from West Virginia. While it was not a direct insult, it was plainly an insinuation, such as always appear in the speeches of the Senator from Minnesota, and an intimation in some way intended to reflect not only upon the Senator from West Virginia but with reference to numerous others. It appears to me that at sometime an occasion arises when it becomes necessary and proper to endeavor to bring to a halt any such unfair, unjust, and repeated insinuations as appear in these remarks.

I do not desire to be placed in the attitude of objecting, if the Senator insists he must do it, to his having his remarks read. If they are written by him and not written by any propaganda artist; if they are written by him with the bona fide purpose of having them read; if they are in harmony with the canons of decency and the rules of the Senate, and are not intended constantly to irritate other Senators and to hurl violent insinuations and to charge individuals with insanity, but come within the rules which all gentlemen are accustomed to observe, then I have no objection.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. The Senator intimated that I charged somebody with insanity. I did not mean to do that. My charge was of egotism—a million times an egotist. Many people are egotists; we see them and hear them every day, whether they are a million times so or not.

Mr. BLACK. I judge from the fact that the Senator, when it was called to his attention by the Senator from Arkansas, did not know what the word was.

Mr. SCHALL. Oh, yes; I looked it up very carefully.

Mr. BLACK. The Senator did not state what the word was, but stated a different word, showing evidently that if the Senator had written the speech it had slipped his memory in a very short time.

Mr. SCHALL. No, indeed; that is not true.

Mr. BLACK. Anyway, the word was there, and, whatever it was, I can see no reason why the Senate should be used as a sounding board for vile insinuations, which, in my judgment, are not in keeping with the regular code of ethics which all gentlemen should observe, both in the Senate and elsewhere.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Virginia to strike from the bill paragraph (G), on page 18.

Mr. BONE. Mr. President, I had not intended to participate in this discussion.

Mr. SCHALL. Mr. President——

The PRESIDING OFFICER. The Senator from Washington has the floor. Does he yield to the Senator from Minnesota?

Mr. BONE. I yield.

Mr. SCHALL. Mr. President, a remark was made by the Senator from Alabama [Mr. BLACK] which insinuated that I had made some slighting remarks about the Senator from West Virginia [Mr. HOLT]. I do not think the transcript will bear out such a statement. I had no intention of doing anything of the sort. I voted to seat the Senator from West Virginia. I campaigned against him in his State, but he was elected by the people and came here, and I voted to seat him. I thought it was due to the oath I took under the Constitution so to vote. But when I find people in charge of the Government who are not, as it seems to me, though I may be mistaken——

Mr. BONE. Mr. President, I did not yield the floor so that the Senator might make a speech. If he wants to make a speech, however, I will sit down and give him the floor.

The PRESIDING OFFICER. Does the Senator from Washington decline to yield further?

Mr. BONE. I shall be glad to yield the floor to the Senator if he wants to make a speech. Otherwise, I wish to proceed.

Mr. SCHALL. I merely wish to have my position clearly before the Senate. I have said what I have, not because I liked to do it, but because I have felt away down deep in my heart that somebody somewhere should call these things to the attention of the country. If I stepped on anybody's toes in doing it, all I have to say is that I have felt that it is my duty to do as much as I could to call the attention of the country to what was going on behind the scenes, behind censorship and false propaganda. I have not gotten very far in calling the attention of the country to the situation. The CONGRESSIONAL RECORD does not reach very far. But, Mr. President, so long as I remain here, I intend to do what I can to call attention to what seems to me to be the breaking of the oath of the President. I think, from the outset, right from the beginning, that there has been a conniving to get around the Constitution. The bill which is before us today is an effort to get around the Constitution, to blot it out, and to mislead the people. The entire tenor of this administration from the beginning has been to circumvent the Constitution and betray the oath that he took to uphold and defend the Constitution. I thank the Senator from Washington.

Mr. BONE. Mr. President, the Senator from Alabama [Mr. BLACK] has referred to a little weekly newspaper called

the "Tonganoxie Mirror", which has been quoted, I believe, in some remarks made by the Senator from Minnesota [Mr. SCHALL]. When it was quoted the other day I suggested to the Senator from Alabama that he obtain a copy of this weekly newspaper, because I would be willing to enter into a bet, despite the fact that I am not a sporting person, that along with this newspaper's flailing attack on the administration, and particularly on the power bill which is pending, we would find either a half- or a quarter-page advertisement of the Power Trust in the sheet. So, at my suggestion, a number of these newspapers were procured. Running true to form, numerous weekly newspapers in the United States pursue, as I find, the same course which many weekly newspapers in my State have pursued in times past. So at this point I am going to tell a little story which will illustrate the methods of certain newspapers in this power fight, and which, in my judgment, will generally explain why certain newspapers take the editorial position they do.

In 1924, in the State of Washington, we had a big power fight. It arose around a very simple thing. Things of the character I describe explain why power companies are building more and more public enmity against themselves. In my State of Washington two cities own great municipal power plants—magnificent, finely equipped hydraulic plants. For a great many years the people around and outside those cities have wanted to enjoy the privilege of using electric energy from these municipal plants. Under the laws of the State of Washington these cities were not permitted to sell any of their electrical energy, surplus or otherwise, outside their corporate limits, and therefore the people living in the surrounding territory had to pay the prices exacted by the Power Trust, which at that time was the Puget Sound Power & Light Co., a Stone & Webster affiliate.

To get around that condition it was suggested that we pass a very simple law permitting cities owning power plants to sell power outside of their corporate limits. There were only two cities capable of doing any great amount of harm to the Power Trust—Tacoma and Seattle—but when that suggestion was made one would have imagined, from the howl and uproar that went up from certain flabby little Power Trust newspapers of the State, whose columns were generously filled with Power Trust advertisements, that we were proposing to make common property of all the women and that the country was going soviet or bolshevistic, as has been delicately suggested and intimated here from time to time in the discussion of public-ownership proposals.

The campaign was fought in that State around that issue of the right of Tacoma and Seattle to sell a little of their output of electric power to farmers outside of the corporate limits, who were spending their good money with the merchants of those two big cities. Power-company spokesmen even resorted to the dirty and filthy charge that this effort on the part of those cities to sell a little cheap power outside to the farmers was in itself an effort to overthrow the Government of the United States, and that that sort of proposal was backed by Russian money.

One can understand why men whose sires stood on the flame-crested hills of Gettysburg, men whose forebears were with "Old Rough and Ready" at Buena Vista, and who believed those cities had a right to sell power, deeply and bitterly resented that suggestion coming from spokesmen for an outfit like Stone & Webster, whose infamous lobbyists fooling around with our Legislature in the State of Washington had become a stench in the nostrils of decency. These manipulations were highly suggestive of the lobbying which went on around the Capitol here in Washington when the holding-company bill was pending. The Power Trust of Washington in that 1924 fight made a fight in the newspapers, and one phase of that fight is the story I want to tell my colleagues here, because I think, perhaps, I have had a better close-range opportunity to study these propaganda activities than most of the Members of this body.

The propaganda editorial mill of the power crowd would send out to a weekly newspaper an editorial written in the Seattle offices of the Puget Sound Power & Light Co., the western wing of Stone & Webster, of Boston.

A clever propaganda writer would write one of these nasty editorials for the editor of a weekly paper. From an advertising agency's office in Seattle, and accompanying this "canned editorial", would go a full-page "ad", damning the municipal power people, calling down upon them the mildew of God Almighty's wrath, and asking that it descend on everybody who believed in public ownership in that State.

There would be a vicious cartoon accompanying the ad and editorial, attacking the municipal power proposal as being bolshevistic and red radicalism. Some of the arguments in these canned editorials for tired editors were on a par with some of the loose arguments against the pending utility bill. I wonder how men can formulate arguments that proclaim it a form of disloyalty to urge people to retain ownership of their own rivers and lakes. The Power Trust would say to these little editors: "If you will bunk the people of your community by running this editorial as your own, then you can run this full-page Power Trust "ad" at fat rates, but you must also run the cartoon." As a result, week after week in 1924 in the State of Washington we saw this rather ridiculous spectacle, a spectacle that casts no credit on the great independent American press which was once proclaimed as the "Archimedian lever that moves the world; the sentinel on the watch tower of liberty; the dynamics of progress."

These editors of certain weekly newspapers repeatedly ran these Power Trust "editorials" in their editorial columns, knowing at the time who prepared them. Mr. President, upon one occasion I clipped 27 of these editorials from 27 weekly newspapers in my State. Each editorial read exactly like the other one. I went around the State frequently showing those editorials to the people living in the community where the paper was published. I said, "When this little editor of your local paper published that editorial and you read it, you thought he had written it, that it had sprung full panoplied from his brain, like Minerva sprang from the brow of Olympian Jove. You thought this brilliant editorial attack came from the brain of your local editor, but he carries the humiliating thought that he had rented his editorial column to the Power Trust."

Mr. President, when a man sells his conscience down the river, he is in a bad way. No man can sell his soul and conscience, and perhaps his honest convictions, to the Power Trust and retain his self-respect. Such a shameless barter and sale of editorial opinion as we have frequently witnessed is a reproach to a noble profession. The people of my State were confronted with hundreds of such editorials written by the Power Trust which had the brazen gall to come down here and talk about lobbying—lobbying on the part of the administration! One outfit down in Oregon, Hofer by name, regularly supplied these Power Trust "canned editorials" to editors with brainfag and a great yearning for full-page Power Trust "ads."

The power concerns to which the Senator from Alabama [Mr. BLACK] referred are not going to even try to be decent. They intend to stage a political battle the like of which this country has never witnessed. The Senator from Montana [Mr. WHEELER] in his very able address on the floor of the Senate in discussing the utility bill, read a 1933 editorial from the Electrical World, one of the official organs of the Power Trust of the country. It was called "Light Up With Politics", in which editorial the organized power companies of the country and the utility holding companies brazenly boast that they are going into politics, to destroy men who dare oppose them. They frankly say that they are not going to merely finance men but they are going to put their own selected candidates in the field and send them down to the United States Senate and to the House of Representatives.

I wonder what sort of government we are going to have when that insolent outfit succeeds in its bold plan to take over the Government of the United States. In this holding-company fight we have seen a stark, horrible fear planted in the hearts of Members of Congress; fear of political death at the hands of the Power Trust, with its unlimited political slush funds. I have seen men here actually cringe, and I have had some colleagues tell me—my own colleagues in this

body, if you please!—that they feared for their political welfare in the future by reason of their votes for this utility holding-company bill. The future for the average citizen is gloomy, indeed, if this power gang can come down here and lay the lash about the shoulders of United States Senators and Representatives and make any man in this body feel a real fear.

How can we go on, how can we hope to go ahead with decent legislation, how can we continue to expect legislation free from taint and bias, when a dreadful fear is planted in the hearts of men here by an outfit that we shall surely have to meet head-on sooner or later. In God's own Providence may it come soon.

We are facing exactly what Roscoe Pound pointed out in a brilliant speech he made a few years ago before the Kentucky Bar Association. The title of that speech was "The New Feudalism." In that speech Pound pointed out that so rapid had been the increase in economic control and power through vast companies, like the holding companies, that there is nothing left for the ordinary citizen but to own a little stock in one of those companies. He can in no wise find a place for himself in our economic life; but to him, a citizen, with what amount of money he may have, all that is left is to buy some stock and thus find his place in the scheme of things.

Dean Pound said:

Today the typical man (for the city dweller, not the farmer, is the type for his time) finds his greatness not in himself and in what he does, but in the corporation he serves. If he is great, he is published to the world not as having done this or that, but as director in this company and that. If he is small, yet he shines in the reflected glory of the corporation from which he draws a salary.

In other words, there has been and there is being deliberately created in this country a new economic feudalism, if you please, Mr. President, in which the individual is being ruthlessly submerged; and I cannot for the life of me understand why men stand on the floor of this body and find even in their hearts a defense of that sinister thing.

There is one other matter to which I wish to call attention. This is a typical illustration of what power companies do in moulding public sentiment, and no wonder they can get a lot of people to write in here and demand the death of this bill.

There was a power company operating in my State, owning a distribution system in the city of Aberdeen, Wash. An investigation of that company was had with respect to expenditures of the company for political purposes and otherwise. It was known as the Grays Harbor Railway & Light Co., and what I am reading is from the report of the public service commission of my State, now the department of public works:

The report showed that the company had contributed generally to practically every community enterprise in the form of cash donations and memberships, which it charged against operation expenses and, by so doing, against the ratepayers.

Here was a company in this community boasting of its generosity, and saying, "Why, if you have public ownership of power in this city, that is not only bolshevism and communism"—such as has been indicated by some of our Members here—"and against the American form of government, but you are going to take out of this community a very generous patron of the arts, a generous contributor to charities and the like", but when the records were finally disclosed to the public it became evident that the company was merely charging these contributions against the ratepayers.

These contributions, made to some 40 community organizations, were not permissible expense items, according to the State board.

The contributions, donations, subscriptions, and gifts were made to chambers of commerce—

Now we can begin to understand why the chambers of commerce are so much interested in power bills. In my own city the power companies had several memberships in the chamber of commerce, and in every city in this country the chamber of commerce is partly underwritten in its activities by the money of the Power Trust.

Federated Industries—

That is the association of employers fighting organized labor.

Swimming pools—

They could not clean the people thoroughly enough in light rates, so they had to give them swimming pools.

Boy Scouts, American Legion—

And if there had been any old-maid scouts, they would have greased them, too. [Laughter.]

Salvation Army, Volunteers of America—

They were trying to get as close to the Deity as possible by taking care of the Salvation Army—

Several sorts of homes, school track teams—

How generous they were! "School track teams!"—

Good-will industries, fraternal organizations, and lodges—

They had to grease the Masons and the Elks and the Moose and the Knights of Columbus; and if there had been a Mohammedan lodge down there, they would have greased it, too.

While I was in that city making a speech, I noticed a man and woman sitting down in front of me, and they invited me to their home. I went into that home, and it was a very poorly furnished home. No carpets were on the floor; just little bits of linoleum with holes worn in them. When I had known that man years before, he had been a man of some means—at least, he had been able to live well. When I came into that home they turned on one light, perhaps a little 25- or 40-watt lamp, and the woman said, "You know, we do not have much light now. My husband has been out of work a long time, and we cannot turn on many lights, because the lights cost a lot of money here in Aberdeen." I looked around that home—a home smitten with poverty—and I thought of that home as I read this report, Mr. President; this report which indicates that the Power Trust, this power combine that was skinning the people of Aberdeen, was contributing to—

Practically every church of all denominations in the community, hospitals, conventions, sportsmen organizations—

They did not miss a thing—

Grays Harbor Golf Club, and the like.

Now, it was perfectly ducky and darling for them to give a contribution to the Grays Harbor Golf Club. Power Trust ethics made it perfectly right for this outfit to exact an ungodly rate for light from that little poverty-stricken home so that it could turn over a part of the loot to the Grays Harbor Golf Club, so that the bankers and the swanky boys down there might go out on the beautiful putting greens and knock their little white pills around, all at the expense of the poverty-stricken homes of Aberdeen. That is a sample of the kind of brazen gall and effrontery of a business that presumed to come down here and tell Congress—may I use the bald vernacular?—where to "head in"!

If my associates have not reached the point now where they are going to cleanse this "Augean stable", there is not much hope for the boys and girls of this country. I have a little fellow coming on. What chance is there in life for my little fellow when a gang can come down here and tell the Congress of the United States what laws it may or may not pass? The feudal system is coming back with a vengeance.

I say this in all candor and honesty to the Members who sit about me. I have talked to men in Congress, who told me that they were literally frightened to death by these power companies. Imagine men whose fathers were at Gettysburg and Antietam and Spotsylvania Court House being frightened by a business organization!

Mr. President, we boast of our traditions; we make speeches about Bunker Hill and Gettysburg and Valley Forge, but the fine fire of manly independence that surged in the breasts of our iron-blooded sires has burned out, if we cringe like whipped spaniels when the Power Trust wields its political lash and threatens independent Americans as though they were Chinese coolies.

The man who, perhaps, a few days before had spoken in grandiloquent terms of what our rugged sires have done, sits in this chair with the fear of God in his heart, afraid to vote his own honest convictions. That is being done to the Congress of the United States by the Power Trust of this country, which has the gall and the effrontery to suggest that we are Communists if we do not like their fantastic financial nightmares.

For one, I desire to say that I deeply resent that kind of business. Back of me are four generations of soldiers, and I do not want the Electric Bond & Share Co. and the Stone & Webster holding company, or any other outfit to suggest or intimate to me that because I want the people of my State to own their own rivers and lakes I am a Bolshevist.

I would build a fire of resentment in the heart of every Member of the Senate against that sort of truculent infamy. It is that kind of business that will ultimately pull the house down around the ears of the Power Trust if it persist in its efforts to control every man in public life. Men who believe in public ownership of power are quite as loyal to this Republic as a crowd that has not hesitated to corrupt public thinking, emasculate school textbooks, and aspire to complete political control of the United States.

Members of the Senate heard me read the other day the story of how the power companies had fixed the geographies in my State to twist the thinking of little children. They actually went in there and messed up the geographies of my State. Dirty? They have plumbed the depths of dubious activities in their efforts to propagandize the public.

The Senator from Minnesota [Mr. SCHALL] talks about propaganda. Great God! If this administration went on a thousand years, and employed every artifice and every strategem that it could devise, it could not come within a million miles of the Power Trust of this country in political trickery and in sheer ability to misrepresent facts.

I have seen Power Trust inspired editorials and news stories accusing men of things that never were done, and the poor devils had to take it, because they had no way to answer. The paper that was low enough to run that kind of stuff closed its columns to an answer; but, thank God, there are a lot of men in America who cannot be made to desist in answering that sort of thing.

I am sorry the Senator from Minnesota has seen fit to say some of the things he has said, but I did not rise to answer him. I say, however, that he has picked out a mighty frail reed to lean on when he picks out one of these little strumpet Power Trust sheets, full of Power Trust ads, to quote here in defense of the principle that he espouses.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 156. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the city of Perth Amboy, N. J.;

S. 2904. An act to prohibit the interstate transportation of prison-made products in certain cases; and

S. 3038. An act to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration Facility, Alexandria, La.

The message also announced that the House had agreed to the amendment of the Senate to each of the following bills of the House:

H. R. 298. An act for the relief of Jack Page; and

H. R. 617. An act for the relief of Lake B. Morrison.

The message further announced that the House had passed the bill (S. 2532) to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 5368. An act to provide for the addition of certain lands to the Chalmette National Monument in the State of Louisiana, and for other purposes;

H. R. 6228. An act authorizing a capital fund for the Chippewa Indian Cooperative Marketing Association;

H. R. 6361. An act to amend the Filled Milk Act;

H. R. 6512. An act to authorize the crediting of service rendered by personnel (active or retired) subsequent to June 30, 1932, in the computation of their active or retired pay after June 30, 1935;

H. R. 7575. An act to legalize a bridge across Black River on United States Highway No. 60 in the town of Poplar Bluff, Butler County, Mo.;

H. R. 7591. An act granting the consent of Congress to the cities of Donora and Monessen, Pa., to construct, maintain, and operate a bridge across the Monongahela River between the two cities;

H. R. 7620. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill.;

H. R. 7659. An act to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes;

H. R. 7809. An act to extend the times for commencing and completing the construction of certain free highway bridges across the Red River from Moorhead, Minn., to Fargo, N. Dak.;

H. R. 7936. An act to adjust the salaries of rural letter carriers, and for other purposes;

H. R. 8002. An act to increase the compensation of letter carriers in the village delivery service;

H. R. 8209. An act temporarily to exempt refunding bonds of the government of Puerto Rico from the limitation of public indebtedness under the Organic Act; and

H. J. Res. 257. Joint resolution to amend a joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, as amended by the Second Deficiency Act, fiscal year 1929, approved March 4, 1929.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated below:

H. R. 5368. An act to provide for the addition of certain lands to the Chalmette National Monument in the State of Louisiana, and for other purposes; to the Committee on Public Lands and Surveys.

H. R. 6228. An act authorizing a capital fund for the Chippewa Indian Cooperative Marketing Association; to the Committee on Indian Affairs.

H. R. 6361. An act to amend the Filled Milk Act; to the Committee on Agriculture and Forestry.

H. R. 7575. An act to legalize a bridge across Black River on United States Highway No. 60, in the town of Poplar Bluff, Butler County, Mo.;

H. R. 7591. An act granting the consent of Congress to the cities of Donora and Monessen, Pa., to construct, maintain, and operate a bridge across the Monongahela River between the two cities;

H. R. 7620. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill.;

H. R. 7659. An act to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes; and

H. R. 7809. An act to extend the times for commencing and completing the construction of certain free highway bridges across the Red River, from Moorhead, Minn., to Fargo, N. Dak.; to the Committee on Commerce.

H. R. 7936. An act to adjust the salaries of rural letter carriers, and for other purposes; and

H. R. 8002. An act to increase the compensation of letter carriers in the village delivery service; to the Committee on Post Offices and Post Roads.

H. R. 8209. An act temporarily to exempt refunding bonds of the Government of Puerto Rico from the limitation of public indebtedness under the Organic Act; and

H. J. Res. 257. Joint resolution to amend a joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, as amended by the Second Deficiency Act, fiscal year 1929, approved March 4, 1929; to the Committee on Territories and Insular Affairs.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. TYDINGS obtained the floor.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. McKELLAR. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. POPE in the chair). The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Keyes	Pittman
Ashurst	Coolidge	King	Pope
Austin	Copeland	La Follette	Radcliffe
Bachman	Costigan	Lewis	Reynolds
Bailey	Davis	Logan	Robinson
Bankhead	Dickinson	Lonergan	Russell
Barbour	Dieterich	McAdoo	Schall
Barkley	Donahey	McCarran	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	Frazier	McNary	Smith
Borah	George	Maloney	Steiwer
Brown	Gerry	Metcalf	Thomas, Okla.
Bulkley	Gibson	Minton	Townsend
Bulow	Glass	Moore	Trammell
Burke	Gore	Murphy	Truman
Byrd	Guffey	Murray	Tydings
Byrnes	Hale	Neely	Vandenberg
Capper	Harrison	Norbeck	Van Nuys
Caraway	Hatch	Norris	Wagner
Carey	Hayden	Nye	Walsh
Chavez	Holt	O'Mahoney	Wheeler
Clark	Johnson	Overton	White

The PRESIDING OFFICER. Ninety-two Senators having answered to their names, a quorum is present.

Mr. TYDINGS. Mr. President, yesterday a colloquy took place between the Senator from Alabama [Mr. BANKHEAD] and me in which some of the phases of the A. A. A. bill were discussed. To that purpose I wish to address myself this afternoon.

Before doing so, may I take the time to say that I have no general quarrel with those who are favoring these amendments—particularly Mr. Chester Davis, with whom I have a very slight acquaintance—for the reason that confronted, on the one hand, as they are, by high tariffs in our own country and high tariffs in other countries, which to some extent do not take care of the entire agricultural situation, the protagonists of this bill have been hard put to it in order, perhaps, to raise agriculture to a higher standard than that which it enjoys under the present economic set-up.

I do not wish to criticize their general objectives. In my judgment, however, tariff reform would be a better way to accomplish what appears to be the end they desire to accomplish, though that would not be an easy matter because recently all the nations of the world have passed high tariff acts. Furthermore, while the establishment of any kind of a market for agricultural products is very easy from a theoretical standpoint, it is very difficult from a practical one. So these gentlemen, being confronted with those facts, have probably attempted to do the best they could for agriculture.

Let us come to the measure now before the Senate.

Mr. KING. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. KING. Does not the Senator believe that the policy of high tariffs, and then the attempt to meet the evils resulting from high tariffs by stimulating prices of commodities, regimentation by limiting production, imposing all sorts of impediments to free transportation, free sale, and exchange of commodities, will ultimately result in greater disadvantage to the farmers and to everybody else than if we attempted to rationalize things in conformity with the rules which prevailed when conditions were more normal?

Mr. TYDINGS. I agree with the observations of the Senator from Utah; but I did not want to be intolerant in my comment about those who represent the other side. I can see the reason for their support of this measure and other measures; I made the brief observation at the beginning of my remarks so that in what I have to say it would not be thought there was anything of a personal attack upon the measure.

Yesterday the Senator from Alabama, in arguing the "constitutionality", so called, of the price-fixing and other provisions of the bill, stated that the States had the authority to regulate intrastate commerce and that the Federal Government had the authority to regulate interstate commerce. When we came to the price-fixing provision, and I asked the Senator from Alabama under what decisions of the courts or provisions of the Constitution the price-fixing provision was upheld or permitted, he was frank in stating that there was no decision of the courts and no provision of the Constitution, unless it be the provision empowering Congress to regulate interstate and foreign commerce, under which the power to fix prices could be exercised by the Congress. In developing that argument, he said that since the States do not have the power to fix prices, obviously, the power must rest somewhere, and therefore it must rest with the Federal Government.

At the conclusion of the Senator's argument I read from the Constitution, and today I shall read several other provisions of the Constitution. The first is amendment number 9 to the Federal Constitution, which reads as follows:

> The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained—

By whom? By the States? No; "retained by the people." Amendment no. 10 reads as follows:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

There is a great body of power which the people have never surrendered, either to the National, the State, the municipal, or the county governments. The people would be foolish to surrender all the power to one governing agency or another governing agency. The people have granted only limited powers to each, the States and the National Government. Therefore it is not sound, in my judgment, to say, from the standpoint of law, first, that because a power does not reside in the States it must, forsooth, reside in the National Government, or because it does not reside in the National Government it must, forsooth, reside in the State government, because there are many powers, which I will not take the time now to detail, but with which all are familiar, which have never been surrendered either to the National or the State Governments.

State governments and the National Government are governments of limited authority. They can exercise no authority except that expressly granted in the covenant or the constitution of the respective political unit, except the inherent police powers, which give to these agencies the authority to carry out the express powers set forth in the constitution of the State or the Constitution of the National Government. So much for that.

Mr. President, there is no provision in the Federal Constitution which allows Congress to fix prices. On the contrary, there are a number of provisions, such as that a man shall not be deprived of his property without due process of law, and many others I might mention, designed to protect the individual in the possession of what is rightfully his.

In the pending bill the particular amendment on page 18, line 21, paragraph (G) the first lines, into which I will interpolate a few words, read:

> The Federal Government, or an agency of the Federal Government, shall have the power of fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof shall be sold.

I should like to ask those who maintain that the Federal Government can fix minimum prices if, by the exercise of the same power, it can fix maximum prices? I am going to assume that the answer is "yes"; that the power to fix prices gives the Federal Government, according to their philosophy and interpretation, the right to fix maximum prices as well as minimum prices. For the moment I want to digress and show those who represent agricultural communities, or communities in which raw materials are produced, what would be the effect if Congress should ever exercise such power.

Let us suppose that the large cities of the Nation obtained control of the House of Representatives; in other words, that the majority of the Members of the House of Representatives came from urban communities. According to the philosophy of those who say that Congress can fix minimum prices, and assuming that they likewise maintain that Congress can fix maximum prices, Congress could fix the price paid to every farmer in this country for his eggs, his milk, his meat, and his grain.

Mr. WHEELER. Mr. President——

Mr. TYDINGS. Mr. President, I will yield to the Senator in a moment. In other words, if Congress had the authority to fix maximum prices, as it is claimed it has the authority to fix minimum prices, Congress would become the arbiter of the maximum price for which every farmer in America could sell his products. Congress could say that the farmer should get only 40 cents a bushel for wheat, 10 cents a dozen for eggs, or 3 cents a pound for hog meat.

If Senators write this law they may think they are writing it only for a year or 2 years or for their own generation. Let me call to their attention the fact that the acts of Congress form an unbroken line of precedents. That is what they really are. Senators are carrying out a philosophy which, carried to its ultimate conclusion, may do us infinite harm and defeat the very purpose which they have in mind.

I now yield to the Senator from Montana.

Mr. WHEELER. I desire to call the attention of the Senator from Maryland to the fact that during the war we fixed the price of wheat. We fixed a maximum price of wheat for the wheat farmers, and we fixed a maximum price for many other products. I am not at all sure that it is sound philosophy to do such a thing, but I think if we should do it we would have to do it with the limitation placed upon the Congress to fix a reasonable price, and it would have to be determined whether or not it was confiscatory. The Congress of the United States has delegated to the Interstate Commerce Commission the right to fix rates in certain industries engaged in interstate commerce, but those rates must not be confiscatory. I am sure that under the Constitution we could not fix arbitrary prices which might destroy the value of any class of property, whether that of farmers, or anyone else. There is, however, some question in my mind as to whether Congress does not have power to delegate to somebody the authority to fix reasonable prices upon various commodities which are being transported in interstate commerce.

Mr. TYDINGS. I am coming to that Mr. President.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. TYDINGS. I will yield in a minute.

Mr. BANKHEAD. I wanted to give some information which would confirm the viewpoint expressed by the Senator from Montana [Mr. WHEELER]. I read a headnote from the Nebbia case, which I quoted yesterday, on the point the Senator has just stated:

> If the law-making body within its sphere of government concludes that the conditions or practices in an industry make unrestricted competition an inadequate safeguard of the consumer's interests, produce waste harmful to the public, threaten ultimately to cut off the supply of a commodity needed by the public, or portend the destruction of the industry itself, appropriate statutes passed in an honest effort to correct the threatened consequences may not be set aside because the regulation adopted fixes prices—reasonably deemed by the legislature to be fair to those engaged in the industry and to the consuming public.

Mr. TYDINGS. I thank the Senator from Alabama.

Mr. GORE. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. GORE. The Senator from Montana [Mr. WHEELER] made reference to the fixing of the price of wheat during the World War, and inadvertently said that Congress fixed the maximum price. Congress thought it was fixing the minimum price. It turned out, however, in effect to be the price.

I should like to say a word further in confirmation of what the Senator from Maryland [Mr. TYDINGS] has said. The Food Control Act passed Congress, I believe, on the 10th of August 1917. As I recall, wheat on that day was selling in Minneapolis at $3.08. A committee was appointed to fix the price of wheat, and when it made its announcement the first of September 1917, it fixed the price at $2.20, and the farmers in Oklahoma and Kansas were obliged to take from $1.75 to $1.95 for their wheat on the farm. By that action the price fixed was nearly $1 less than the market price, and thus the wheat farmers of this country were robbed of more than a billion dollars.

Mr. President, it is a sword with two edges, and it may cut both ways.

Mr. TYDINGS. I thank the Senator from Oklahoma, and he has illustrated my general observation by exact example.

Mr. ASHURST. Mr. President, will the Senator yield?

Mr. TYDINGS. Mr. President, I desire to conclude what I was saying, and then I shall be glad to yield to the Senator from Arizona. I have been here in Congress now for nearly 13 years, and I have heard many men stand on the floor of this body and also on the floor of the body at the other end of the Capitol, and describe the effect of price-fixing on the wheat farmer. I have heard my friend from the Northwest time and time again point out how the munition makers made millions upon millions of dollars while the farmer was not permitted to get more than a certain amount for the things he produced. Are Senators complaining against that policy, and then, in times of peace, putting it to their bosom in fond caress and giving it the sanction of their best judgment, after they have held forth all these years upon the inequities and the injustices which have been heaped upon their agricultural constituents by the very policy contained in this bill—the policy of price fixing?

I now yield to the Senator from Arizona.

Mr. ASHURST. I thank the able Senator, but I do not now wish to interrupt him.

Mr. TYDINGS. I cannot conceive of a governmental policy, even though it may be a boon and a benefit temporarily to agriculture, which, carried down the corridor of time, will heap more suffering upon the backs of those who toil than will the opening wedge of price fixing by legislative fiat as it is contained in this bill.

Mr. NORBECK. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. NORBECK. I doubt that the Senator understands the farmer's viewpoint. The farmer's viewpoint is that his prices are not now necessarily fixed by competition. There is much control of commodity prices by selfish interests. I should rather trust Uncle Sam than the Steel Trust; I should rather trust Uncle Sam than the Chicago Grain Exchange. The farmer is helpless. He is looking to the Government to do something in his behalf in order that he may obtain a decent return for his labor. He regards the conditions now as oppressive to him, and wishes we could go back 50 or 60 years when we had competition and everybody could in some measure get his fair share. But the farmer has been bound by the economic conditions of the present time, and he is thinking that the Government can do something for him; and, Mr. President, I think the Government has done something for him in the last 2 years. The Government has not done as much as it started out to do, but it has done something for him. The work of the A. A. A. has been measurably offset by manipulation, and by the N. R. A. decision to some extent, but nevertheless there has been some improvement of conditions for the farmer. The law is defective. Many mistakes have been made. The measure now before us is simply an effort to improve the present law, which has improved conditions for the farmers to some extent, and by means of the measure now proposed more can be done for the farmer.

Mr. TYDINGS. Mr. President, I think the Senator from North Dakota has contradicted himself. Let me show him in a few words where he has done it. The Senator has risen time and again to show how the Government, which he said he is willing to trust, during the days of the war, compelled the farmer to take less than the competitive price for his product, and has proposed legislation here to cure that condition. Now he rises and says, "Notwithstanding the fact that we tried that experiment and it cost the farmers hundreds of millions of dollars, I want to put my head into that noose again so the Government can pull it the second time." He complains, on the one hand, that the Government did not treat him right, and now he rises to say that the farmers do not mind trusting the very Government against whose actions they have so lately complained.

Mr. NORBECK. Let the Senator be fair in this matter. I have never said that anybody treated the farmers exactly right; but I said the farmers are more willing to trust the Government than they are to trust the grain exchange, the Steel Trust, or other organizations to fix their prices. That is all I said.

I know that the Democratic Party proclaims its great desire "to take profit out of war." They did not, however, take the profits out of the munitions industry; they did not take the profits out of manufactured goods; but they took the products out of the wheat farmer, the poorest-paid man in the United States. We are wont to forget that now, but I think it is time to right conditions. Let us go along; let us not stop.

Mr. TYDINGS. Mr. President, by the enactment of this bill, assuming that the courts will hold it to be constitutional, which I do not believe they will, we will be committing the Government to a policy of price fixing for agricultural commodities. I put this question to those who represent large agricultural States: Are you willing to abide by the prices fixed by the Government if we should be engaged in another war? What agriculturist on this floor is ready to rise now and say, "Yes; I am willing to have this policy as to agricultural products put into operation if we become embroiled in another war?"

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. TYDINGS. Just a moment. Before yielding for a question, I wish to know if there is any Senator in this body who will rise and answer that question in the affirmative?

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. TYDINGS. Did the Senator rise for that purpose?

Mr. WHEELER. Yes.

Mr. TYDINGS. Very well; I will yield.

Mr. WHEELER. I will say to the Senator that the farmers of the Northwest are perfectly willing, in the event of another war, to let the Government of the United States fix the price of farm commodities, providing likewise——

Mr. TYDINGS. Ah!

Mr. WHEELER. Providing likewise that the Government fixes the price that is going to be paid to the munition makers and the profits that are going to be made by them and by others. The difficulty and the complaint previously were that the Government only fixed the price of farm commodities and that it let the other industries make unlimited profits.

Mr. TYDINGS. Before answering the Senator from Montana, I should like to ask are there any other Senators from agricultural States who take the position that during the next war they are ready, representing agricultural States and speaking for their people, to have the Government fix the price of agricultural commodities? Are there any other such Senators?

Mr. MURPHY. Mr. President——

Mr. TYDINGS. I yield to the Senator from Iowa.

Mr. MURPHY. I join in the sentiment expressed by the Senator from Montana [Mr. WHEELER]. The farmers are perfectly willing to have the Government, in which they trust, fix the price of their commodities, conditioned upon the Government fixing the prices charged ordinarily by the industries supplying the things related to the progress of the war.

Mr. TYDINGS. Now, out of all the Senators who make up the body, we have two who accept the proposition, and then only on condition and qualification. I am very glad to have the two Senators make their contributions, and I should be happy to have others do likewise, for I want to know what Senators in this body are going to undertake to fix the price of the following articles in the next war: Thimbles, thread, cloth of various kinds, and textures; all kinds of leather, neckties, underwear, tin cans, solders, railroad cars, trucks, rails, crossties, coal, oil, locomotives? Where is the agency that is going to fix prices for such commodities? Does the Congress think it will be able to write a bill of such magnitude on the floor of this body?

Mr. McADOO. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from California?

Mr. TYDINGS. I will yield in just a moment. If we should assume to fix the price of all commodities used in the next war by legislative fiat, we would be here until judgment day, and then we would only be half way through the list.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield first to the Senator from California, and then I will yield to the Senator from Iowa.

Mr. McADOO. Mr. President, I should like to correct what appears to be an erroneous impression on the part of some Senators as to price fixing during the World War. As will be recalled, the minimum price of wheat was fixed at $2.20 a bushel; and I may say that through the War Industries Board an attempt was made—and successfully, too—to limit the prices of many of the war munitions, not only those which were furnished to our Government but to the governments associated with us in the war. These were, however, strictly war measures.

I venture to say, Mr. President, that never in the history of this Nation, or of any other nation, was such a determined effort made to distribute equitably the burdens of carrying on war as was made during the World War, when those who were making most of the money out of the war were made to bear the highest taxes.

Mr. TYDINGS. Let me interject at that point to say to the Senator from California that I am satisfied that no Senator in discussing this proposition meant to reflect particularly on the general conduct of the war; least of all was that in our thoughts. We were simply trying to show by precedent what had been the effect on a particular commodity that stood out in any way, and we were not reflecting upon the general conduct of the war as a whole.

Mr. McADOO. I did not draw any such inference from the Senator's remarks.

Mr. TYDINGS. I do not think other Senators meant such an inference to be drawn.

Mr. McADOO. Nor do I think so. I only meant to say that I think they were in error in assuming that no effort of the kind I have described was made. We not only imposed excess-profits taxes, but taxation in almost every form and to the limit on those who could pay. I wish merely to make the matter clear, in order that discussion may be based upon the facts.

Mr. MURPHY. Mr. President——

Mr. TYDINGS. Will not my good friend from Iowa let me push on for a little while? I want to yield, and I certainly intend to yield to the Senator from Iowa, but unless I can make a little headway I will not be saying anything, because all my time will be taken up by observations by other Senators.

Mr. MURPHY. Will not the Senator yield to me for a moment?

Mr. TYDINGS. I yield to the Senator from Iowa.

Mr. MURPHY. I should like to say that there is, perhaps, a collateral circumstance in connection with the collapse of the price fixed by the Government on wheat which has not been developed. What suggests that to my mind is that in 1920, when food prices were still high, the Federal Reserve Board deliberately set about to deflate those high prices, and accomplished it by calling loans. There was no fixing

of prices, but there was a collapse of values as the result of the adoption of that policy by the Federal Reserve Board. There may have been that collateral effect also on the wheat situation.

Mr. BANKHEAD. Mr. President——

Mr. TYDINGS. I yield to the Senator from Alabama.

Mr. BANKHEAD. I do not care to engage at this time in a colloquy with the Senator; in fact, I hope he will conclude as quickly as he can. However, I think his statement a few minutes ago leaves an improper impression in the RECORD. He wanted to know what Senators here were willing, as I recall it, that the Government should fix farm prices during a war period. That led to some discussion. Then the Senator from Maryland assumed that only those who engaged in the colloquy were responsive to his proposition. I think that is entirely an unfair inference, because there may be many others here who do not care to get into this colloquy and did not respond to his invitation. In fact, the conclusion the Senator draws reminds me of the preacher who asked everybody present who wanted to go to heaven to stand up, and then he assumed that those who did not participate in the performance did not want to go to heaven.

Mr. TYDINGS. Mr. President, one of the reasons why this bill comes before the Senate is that the agriculturists feel that under the policy of tariffs which this country has adopted prices have been fixed for industrial products but have not been fixed for agricultural products. Yet, as is the case in most instances, when men complain about a condition or policy, if they find they can get some benefit from that against which they are complaining, it suddenly takes on an atmosphere of righteousness, no matter how bad it might be when they are excluded from the fruits of the particular policy.

If this bill shall give the Agricultural Administration the right to fix minimum prices, it must, forsooth, give them the right to fix maximum prices; and I venture to say that there is not one farmer on the floor who will rise and say that he is in favor of the Government of the United States fixing maximum prices for the products of the soil. There is no agricultural representative here who will advocate that agricultural products should have a maximum price. Ah, no; he is embracing this particular sophism upon the theory that always the price is going to be the minimum price; and if it shall be carried out, and the courts shall hold it to be constitutional, which I have no doubt they will not, he will live to see the day when the price fixing will not be the kind of price fixing which he thinks is going to apply in this time of depression.

Senators, you are not adopting this policy for a depression; you are not passing this law for a year; you are committing this Government to a policy which has got to affect agriculture through all the years to come.

That is one of our troubles in the national legislative body. We all look at legislation from the immediate angle rather than the ultimate angle; and thereby often we find ourselves in great difficulty. We assume that if a thing is good for 6 months or a year it will be good for a thousand years, and we justify this, that, and the other as emergency measures. There are very few measures which are good in emergencies which are not good as permanent legislation, and very few measures which are not good as permanent legislation will prove to be good if tried in an emergency. We are passing upon this bill as if it were emergency legislation. If we enter upon the field of price fixing, and the courts shall hold the action to be constitutional, aside from any legal arguments that may now be made against it, its very philosophy will come home to damn us a thousand times over in the course of 5, 10, or 15 years. Once the Government enters upon fixing the prices of everything its people produce, we shall have all the labor troubles and all the trade troubles and all the class troubles laid right here on the doorstep of the Congress.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. TYDINGS. Yes.

Mr. MURPHY. There is something which is now damning this country. The producers are being damned and have been for a number of years.

In 1929 the national income was $82,000,000,000. Of that income, the farmers, constituting one-fourth of the population, received only 10 percent. Thirty million of our people received only 10 percent of the national wealth produced!

There is something damning the country, and this bill is an effort to correct that condition. Where shall we begin the correction? I am in entire sympathy with the views expressed by the Senator as to the necessity of opening markets abroad. If we had such markets, we would not now be concerning ourselves with this proposed legislation, which was brought into existence because of the loss of our foreign markets.

But shall we now abandon all effort to correct this condition which is resolving the farmer into a condition of perpetual want, a condition of poverty, if you please? Every attempt that has previously been made to relieve the producers affected has resulted in disaster. We can here and now carry out a pledge we made to the people when we went before them seeking their votes. We can carry out the pledge to seek to raise prices of agricultural commodities not as yet affected by our policies.

How can we correct the disparity in the distribution of national wealth? Somebody else is getting the wealth as a result of the farmer's labor, as a result of what he produces. How can we stop that? How can we begin the real distribution of wealth, which should begin at the grass roots, at the very point of production? When shall we begin it?

I shall not commit myself at this time to the principle of price fixing. I confess there is a great deal in what the Senator has said in viewing with apprehension the consequences of such a policy. But where shall we start to correct this condition which gives 30,000,000 of our people only 10 percent of the national wealth?

My philosophy is much like that of the Senator from Maryland, but I can accept the philosophy of the A. A. A. as an expedient. Yet the Senator rejects it, and I ask the Senator what he would substitute as a means of bringing a measure of prosperity back to the 30,000,000 farmers to be served by this measure in view of the conditions which exist with reference to our exports.

Mr. TYDINGS. Mr. President, the Senator will recall that about 2 months ago I brought a program to the floor of the Senate and discussed that program for about two and a half hours. In my judgment, that program would have been conducive to starting the country on the road to better prices and more work. I do not want to be diverted now to review the fundamentals of that program. I am very definite about the point, however, that if I had lost one arm in a sawmill I should not want to stick the other arm in another sawmill. I would much rather give all my attention to the arm I had left and try to save what remained and make of it the greatest possible use.

Mr. MURPHY. If I have lost my farm I am willing to try something else in an effort to get it back.

Mr. TYDINGS. Of course, the Senator is, and so am I; but I do not want to try anything anyone says I ought to try without examination to see whether it is a good thing to try. That has been the trouble. We have had any number of measures come before the Senate, as to which someone has said, "Put this through, and the depression will be ended in no time." However, I have not seen the depression disappearing at a mile-a-minute speed.

I am going to return to what I have said a dozen times, that the depression is fundamental, and any superstructure we build on top of it is not going to cure it. We have got to go back to fundamentals and straighten them out, and make the old foundation solid. It will be a slow and long process, and it is the longest way round, but we will get through much more quickly than walking illusory mirage roads which invite us with so much gusto.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I have yielded to a dozen or more interruptions. I have done hardly anything but yield, and I should like to proceed. However, I am glad to yield to the Senator from Kentucky.

Mr. BARKLEY. This is not a facetious question. We are always being told that we should get back to fundamentals.

Mr. TYDINGS. Does the Senator want me to illustrate what I mean by "fundamentals"?

Mr. BARKLEY. No one has yet explained what is the fundamental to which he wants to get back. If the Senator would do that it would enlighten me a great deal. What are the fundamentals about which we talk so much?

Mr. TYDINGS. I shall give the Senator a few now by way of illustration.

Mr. ASHURST. Mr. President, will the Senator let me give one?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Arizona?

Mr. TYDINGS. Gladly.

Mr. ASHURST. A bill before us provides that no citizen shall have the right to inquire in court as to whether money heretofore taken from him was taken lawfully. It is proposed seriously to tax the citizen and not permit him to go into court to test the validity of the tax.

When the wild Indians captured a prisoner, tied him to the stake and tortured him, they allowed the poor prisoner privilege to cry out and writhe. We propose to torture the American taxpayer and not give him even the privilege to cry out and writhe.

One fundamental is to allow the taxpayer at least the right to writhe and cry out in his torture.

Mr. BARKLEY. Even where we would place the tax on an innumerable multitude of people?

Mr. ASHURST. Certainly the courts should determine such questions. In other words, we ought not to write a book, close it, and say, "This you shall not read. Our actions must not be reviewed by the courts. We are the people. We are the law. We are the knowledge. No court must presume to inquire into our activities."

That is one of the fundamentals to which I should like to come back.

Mr. TYDINGS. Mr. President, I thank the Senator from Arizona for his very worth-while contribution to the discussion. That is a fundamental which I have not surrendered and I do not intend to surrender it. That is one fundamental we still have and to which I am going to hold so far as I am personally concerned.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I want to answer the Senator's question before yielding further. He asked for some fundamentals. I would not run the Government on borrowed money. I would tax and pay as I went. If I had to levy high-income taxes I would do it.

I would not waste money, I would view the depression as it is, feed the people who are unemployed and spend as little unnecessarily as I could so that the debt would be the least burdensome on the people when the time comes to pay it back. That is one good fundamental. It is as old as time itself that we cannot spend ourselves out of debt. That is another fundamental.

Another fundamental to which I hold is that we cannot increase the price of an article and increase its consumption at one and the same time. Fix the price of automobiles at $5,000 apiece and how many of the people who now are riding in automobiles would have new ones?

We seem to have a philosophy that we can increase the prices of meat and foods of all kind and at the same time increase the consumption of such commodities. It cannot be done. Today the people have stopped buying beefsteak and pork in the stores because the price has gone so high that they cannot afford to eat them. I would rather create wealth and feed the people on plenty than to create scarcity and feed the people on some substitute.

Do those instances answer the Senator's question? They are some of the fundamentals about which I feel pretty strongly.

Mr. BARKLEY. No; they do not. The Senator is evidently complaining because the price of agricultural products has increased. Does the Senator mean that we ought to have pursued a policy of doing nothing so that wheat would now be selling at 40 cents a bushel instead of 80, and pork at 3 cents a pound instead of 7 or 8 cents a pound, and that tobacco would be selling at 5 cents a pound instead of 15 or 20 cents a pound? In other words, does the Senator take the position that the Government of the United States ought not to have done anything, artificial or otherwise, temporarily to stimulate the prices of agricultural products during the depression, pending the arrival of the time when normal conditions may return and the law of supply and demand have some effect upon them?

Mr. TYDINGS. The Senator's argument is equivalent to this: Four men go in and rob a bank. They get $400 and divide it among them. Each one has $100. One man speaks up and says, "I am sorry we robbed that bank." Another man speaks up and says, "Are you not $100 better off for the moment?"

The other argument is that the farmer gets 15 cents more for any commodity he raises. That 15 cents does not come from the rich, because the rich eat very little of what the farmer produces. It comes from the masses of the people, of whom 12,000,000 are unemployed and 22,000,000 more of the total population are on the relief rolls. We paid the farmer, who had some income, at the expense of the men who was on the Government relief roll for the very necessities of life with which to keep himself and his wife and his little children alive until an opportunity to work should come.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. The Senator from Kentucky does not mean to say that the money which the farmer has received has not come out of the pockets of the people, does he?

Mr. BARKLEY. Oh, no; I do not mean to say that——

Mr. TYDINGS. Let us be frank about it.

Mr. BARKLEY. But I do mean to say that the Senator's illustration of four men robbing a bank is certainly not an analogous situation to the efforts of the Government of the United States to increase the price of agricultural products.

We have not held up anybody. We have not robbed anybody, unless all taxation is a matter of robbery. The Senator may interpret the processing tax as a robbery. Of course, it is yet to be decided whether or not the Court will hold that tax unconstitutional; but even if the Court should hold it unconstitutional, we all know that in nine hundred and ninety-nine cases out of a thousand the man who paid the tax has already passed it on to the public and it has been paid; and if he is allowed to recover from the Government and nobody can recover from him, it will constitute what the Supreme Court in the gold case described as an unjust enrichment.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Idaho?

Mr. TYDINGS. I will yield to the Senator from Idaho in just a moment.

I wish to say in all calmness that any Member of this body can go to any city or town or hamlet in his State, and can walk into the grocery store where the people who are poor buy their food; and if he finds what I have found—and I believe he will find it—he will find, in many of the stores of this Nation, that people have stopped eating meat because it is too expensive for them to eat. In the little town of Havre de Grace, of 4,500 people, the A. & P. store manager says they do not provide a stock of beef any more because so much of it goes to waste for lack of sale. I found that condition to be true generally in the stores of my town, because with the pyramiding of all these taxes—quite often unjustly—the people cannot afford to consume the quantities of food which they once consumed; and I think any Member of this body can verify that story by contacting the people in his own State, who will subscribe to what I have said.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Oklahoma?

Mr. TYDINGS. I do.

Mr. GORE. I call the Senator's attention to the fact—he is doubtless familiar with it—that this morning the United States Circuit Court of Appeals at Boston, in the Hoosac Mills case, held the processing tax to be void.

Mr. TYDINGS. Yes; I am familiar with it.

I have been diverted from what I intended to say. I asked for the authority to fix prices under the Constitution. I have already spoken at some length on that point. I say that if we have the authority to fix minimum prices, we have the authority to fix maximum prices; and if we have the authority to fix maximum prices, we have the authority to take property without due process of law. I say that the Federal Government no more has the power to fix prices in either interstate or intrastate commerce than it has the power to go into any one State and regulate those functions which are reserved to the States or to the people thereof. This is a government of limited authority, and even its police powers permit it to go no further than the necessary force to be exerted to carry out its express powers.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. Not just now. I wish to finish this statement. Then I shall come back to the general argument.

It is conceded that during the war, under the exercise of the price-fixing power, the farmer was defrauded of the full competitive price of his wheat. If it be true—and I have no reason to doubt it—that in certain cases it worked to the injury of the wheat producers, are Senators willing to project this Government on a policy of price fixing which some day may see the representatives of the urban centers outnumber the rural representatives in the Federal House of Representatives? There the city people will tell our farmers the highest price they may get for the products they raise.

We are not making history for a year, Senators. We are not making history for a decade. We are starting this Government on a line of legislative philosophy which it has never before embraced in all its history. We may live to see the day when the very shield we now hold up for our protection will be beaten into a spear which will pierce the heart of agriculture all over this country.

Even as I speak, the A. A. A. has been held to be unconstitutional. I may be wrong. As I said at the beginning of my remarks, I have the greatest respect and sympathy for Mr. Chester Davis. Confronted as he was with a policy of tariffs which did not apply to agriculture except in part, with the world locked up in watertight compartments, with the farmer able to sell less and less of his products in restricted markets, Mr. Davis said, "Away with theory! I want something practical which I think, during this depression, will lift the farmers up to where they can get something like parity with those who are not employed in agriculture." I sympathize with his objective; but I believe the old, orthodox way of trying to lower the parity to agriculture in a situation where 22,000,000 people exist upon the dole of the Government—a fifth of them all—is more conducive to laying the foundation for recovery than by artificial taxation to drive up prices, which makes those who must consume less able to consume the volume necessary to take up the slack in employment.

I am not at odds with Mr. Davis' philosophy; neither am I arguing against the justice with which he comes here to plead his case. I take issue only with the method by which he seeks to accomplish the purpose he has in mind. The Federal Government is at best one of limited authority, express authority, supplemented and implemented by the police power necessary to carry out the express or implied grants of power in the Constitution. All the power it has is that, and it has no more power than that. The States, on the other hand, are likewise limited in the scope of their powers; and over in a great reservoir remains the power of the people, never given to any governmental agency, State or National, because the entire history of government shows that all governments at times are bad, and they cannot have unrestrained power without damage to the large masses who make up the population.

Therefore, as the power to fix prices never has been given to the Federal Government, either directly or indirectly, I feel that those who are embracing this measure will live to see it declared to be unconstitutional by the courts, that confusion will again come, and we shall have wasted our time on this as we have on other measures without any real, lasting, constructive good being gained for anybody.

Mr. NORRIS. Mr. President——

Mr. TYDINGS. I yield to the Senator from Nebraska.

Mr. NORRIS. In the first place, let me preface my question with the statement that in no way do I desire to controvert the Senator in the assertions he is making; and I concede freely that he has a perfect right to the ideas he has expressed. I concede also that he may be right in them.

Mr. TYDINGS. And I may be wrong, I likewise concede.

Mr. NORRIS. I wish to ask the Senator to take what I believe to be the honest picture of those who are behind this bill.

First, as the Senator has said, the present Agricultural Adjustment Act has been held by the Circuit Court of Appeals to be unconstitutional. Of course, that decision is persuasive, although it is not final.

Mr. TYDINGS. That is true.

Mr. NORRIS. But, assuming that it is likely to be final, let me call the attention of the Senator to what I believe to be true, that the principal object of the pending measure is to meet that very question. If the original act shall be ultimately held unconstitutional, and if this bill circumvents the constitutional objection, the fact that the original act may be held to be unconstitutional would not be any argument against the present attempt to secure the enactment of a bill that is constitutional. I think that is a fair statement.

Mr. TYDINGS. With a qualification, I can agree with much that the Senator has said. However, I am afraid the very thing we are attempting to escape—namely, the declaration of the unconstitutionality of this measure—we are going to lose through the amendments, because we have included in the measure not regulation of milk, not regulation of interstate commerce, but price fixing.

Mr. NORRIS. The Senator will have to agree with me, I think, that the object to be attained is to increase the price of farm products.

Mr. TYDINGS. Yes; I agree with the Senator as to that.

Mr. NORRIS. The Senator has made some assertions about that which on their face, without any modification, I should not contradict. The Senator has said that we cannot reduce the cost to the consumer by increasing the cost to the producer, but while this may seem wrong, and may be entirely wrong, my theory is, and I think it is the theory of this bill and other bills like it, that we can do that very thing. The Senator, although he may say we are wrong in it, must, I think, concede—I believe he will—that in what we believe to be a method of relieving depression we ought to start with the foundation of our superstructure, and get for the producer—who, after all, is the foundation stone of our civilization——

Mr. TYDINGS. And is the farmer.

Mr. NORRIS. Yes, sir; the farmer. I wanted to make my statement a little broader than the farmer when I said "producer", but perhaps "farmer" will include it all. We ought to get for the producer a sufficient amount so that he will not be producing, at a financial loss to himself, the commodities we must have.

Is it not true that if the producer is producing at a financial loss, eventually the civilization based on such a condition must fail? Should we not start with the proposition that the foundation stone, the producer, should get a recompense for his toil?

As I understand, the theory is that when the producer gets a proper compensation for the products he raises, it makes him a consumer; he commences to buy of the factory; the factory, now idle, commences to employ men and pay them higher wages, and they will buy the products of the farm, although they will pay increased prices. If we put the price away down and have no consumers, and no employment for the consumers, it does not make any difference if the commodities are produced for nothing; the producers will eventually fail.

Mr. TYDINGS. I agree with the Senator from Nebraska on that fundamental. He says the farmer has not been getting his parity price, and I do not think he has; but I would much rather, with the least injury possible, bring the artificial prices down to a point where the farmer could trade with those who produce the commodities.

Mr. NORRIS. I agree with the Senator.

Mr. TYDINGS. I do not mean to say that that is an easy thing to do, but I am willing to work on it, although it is slow, in my judgment. In the end we will build on a real foundation, rather than have the whole country on stilts.

Mr. NORRIS. The matter is open. It seems to me that, admitting the premises, namely, that the producer is not getting enough, if this measure is not right, if this kind of legislation is wrong, then it is up to those who claim it is wrong to suggest some other remedy than the one now proposed. I am not denying that they can do so. I realize that men have different opinions about it.

Mr. TYDINGS. The Senator's position is that in the circumstances which confront him he is doing the best he can.

Mr. NORRIS. Yes; and if anyone can do any better, let us give him carte blanche and send him out to do it.

Mr. TYDINGS. I think that on this general philosophy the Senator and I could agree on what we should do in preference to what is proposed, if we could do it; but my fear is that we will never get down to a sound foundation so long as we adopt the policy of placing stilts under this, that, and the other thing. I should like to saw about 2 feet off of some of the stilts rather than put another set of stilts under the farmer.

Mr. NORRIS. I frankly concede to the Senator that I think he has pointed out a danger.

Mr. TYDINGS. Mr. President, I do not care to take up the time of the Senate any longer, except to summarize what I have said. I believe—and it is admitted freely by those who favor the bill—that there is no decision of the courts, there is no precedent, except the war-time wheat proposition, in all the history of legislation wherein Congress has ever embarked heretofore on such a far-sweeping price-fixing proposal, without restraint or control, as is set forth in the bill before us, and that, too, without any limitation, it being left absolutely within the jurisdiction of the Department of Agriculture and its agents to say what the minimum price shall be, with no yardstick, minimum or maximum, by which they must find that price. Therefore, we have not only violated our authority as to delegating power but we have an absence of authority even to hold the power and do the things ourselves.

I take the position that this is a Government of limited powers and that the people themselves hold the power to fix prices, and until the Constitution is amended, or that power is conferred on Congress, we have no right or ability at all to deal with it.

Further than that, in conclusion, even if it is legal, even if it may be temporarily good, it will be the entering wedge, and price fixing will grow on the scale on which tariffs have grown, and we will have Nation-wide campaigns of price fixing, utter confusion, class prejudice and class greed and group greed, until this body will not be able to stand up under the desire to fix this price and that price and the other price in accordance with the wishes of the group affected.

We are not passing this measure for a day or a year or a decade. If price fixing is held to be within the jurisdiction of the Congress, then we will find the need in the future to have the prices of more and more commodities fixed each and every year, and, in my opinion, it will be a Pandora's Box, the lid of which we will never be able to replace once it has been opened.

PAYMENT OF DEBT DUE BY ENGLAND THROUGH TRANSFER OF ENGLISH ISLANDS, AND NICARAGUAN CANAL TREATY

Mr. LEWIS. Mr. President, I am led to depart from the complete phase of this discussion to inject a suggestion for action which I feel is valuable to consider and important not to postpone.

I know when I touch the subject to be mentioned my honorable colleagues will have summoned to their reflection the observation of Polonius upon Hamlet—

Still harping on my daughter.

I call attention to the fact that the public press informs us that England has, in some spirit of generosity, offered to cede to Italy territory of her possession as a consideration of Italy not pressing further her territorial demands or military advance upon Ethiopia. The object of such, if it be for peace, is, of course, commendable. If it be for the service of England in her own defense or profit, it is natural and, therefore, justified.

So, sir, if England finds it agreeable to transfer her territory lying off the zone of her immediate possessions to Italy as the payment of an obligation that shall satisfy an Italian debt due and avoid conflict, I place the query before this honorable body, why should not England, in view of the debt of billions she now owes to the United States of America, not find it agreeable, upon the same theory in which she offers the territory to Italy possessed by her, to turn her attention to the fact that here in the islands of the Caribbean, adjacent to the United States, lies property, islands known as Bermuda, Barbadoes, and Jamaica, that belongs to England, for which she has no necessity as a defense to Britain, nor for the security of England. Yet, sirs, this domain is necessary to the defense of the United States.

Mr. President, I do lay down the doctrine that a free and liberal government should not allow any foreign government to have territory within a gateway from which the Nation could be assailed. Therefore, England would see the justice of a transfer to the United States, for the protection of this Government, of such land as lies adjacent to our Nation, practically in our own waters. Particularly true should this be where England, by transferring it to the United States could pay off her debt which she owes in billions to the United States. It is this debt which England declines to pay. Apparently this is for want of funds. Because of lack of funds, England not only makes no effort to pay, but in her last budget she even refuses to announce the acknowledged debt of interest. Finally, an eminent spokesman of that gracious Nation, speaking from the floor of Parliament, said there was now no further reason to mention the subject.

Mr. President, I rise to call attention to the fact that there are two situations which we now may well bring to our attention. England has these islands which can be transferred as land to the United States for the payment of the debt, where they are so segregated and, if you please, sir, so separated that they involve no central point of her government, and do not strike the main sphere of her existence. These islands, belonging to us by their very nature, and from their possession under nature, could be transferred completely to us for all the uses we could make of them, which can in no wise be inimical to England.

In addition to this, we are now on the eve of beholding the necessity of enlarging the Panama Canal. It has been discovered that it is not sufficient for the uses of our enlarging commerce. England professes to hold some form of a previous agreement with Nicaragua by which she contends her privilege to cut a canal through Nicaragua to precede any right on the part of our own Government. In this precedent England assumes the perogative to obstruct and to defeat the object of the United States to build this second canal, to cooperate as aid to the Panama Canal. England recalls that in taking the Suez Canal for her uses she forced France to yield up a conflicting claim of a parallel privilege held under grant from Egypt.

I therefore suggest that, as a further consideration in the payment of the debts which England owes us, she promptly transfer this claim of canal from Nicaragua to the United States. We have heretofore disputed the claim. For a while it stood in such a menacing attitude that we yielded our contention for the time, and adopted as a substitute the Panama Canal route. England, for and as payment of a

part of the debt which is now due us, may transfer the concession, whatever the nature may be, to the United States. From this we could at once perfect a complete title in our own behalf. From this we may construct the second and necessary canal in aid of the Panama Canal. By this we should project our commerce without obstruction, and assure something of a natural defense at the south of our Nation as well as that to the east.

I take the liberty of inviting the attention of this honorable body to the fact that the hour surrounding us is a serious one; and if it is possible that other nations shall be at war, though not at war with us, they could, nevertheless, punish us for services we may, as a neutral, give in commerce to some country at war, all in the discharge of our privilege of merchandising. The assailing nation could seize one of these islands lying at the very door of our country, and in the seizure use it as the base from which to assail America. Behold how defenseless we should be! On the other hand, in the possession of this property we could so conduct ourselves as to enable us to defend and protect this country against the very advance which all eyes now may behold as possible.

Mr. President, I rise to make this suggestion at this time because it seems that there is no effort being made on the part of these great debtors to pay the United States. I deplore to have to say, in the presence of these honorable colleagues of mine, that there seems to be a silence on the part of the eminent men of our Government looking to the enforcement of this payment. We seem inclined, for some reason, to let it lag, drawl, and linger. It is hoped by the debtor it may be something forgotten, or looked upon as a matter of an intrusion if it should be offered for further discussion.

I deplore that status. I am opposed to it. I want action. I want that action which shall enforce this payment; and if it be true that these honorable governments are unable to pay for lack of money, here I describe the property which they possess, which can be transferred to pay the debt with no injury to any and with some profit to ourselves.

Mr. President, the time has come when this country must look about her. This is the Western Hemisphere. We seem to forget it. Here, in this country, there should be an American continent of the continent of America. For that reason I tender the suggestion that it may receive in the proper quarter its due regard, that something be done looking toward an arrangement with these countries which have these islands in our waters for transferring such share of them as shall not injure other lands; but, sir, to contribute a payment upon the obligation due us, and something to the preservation and protection of the United States, the friend nation of all.

Having expressed the view, sir, and stated the policy, I trust my honorable colleagues will see from it that there is the second feature of protection of the Nicaragua Canal, and the construction of that great inlet and that avenue, so necessary to our future, and which should be now considered in such a way as will insure to us the title and opportunity which we must behold now, in a very short while, may become essential.

I am anxious for the protection of America. I am anxious for this continent to be preserved. I want the friendship of all other nations; but I ask that honor in the payment of debts due the United States which, if it cannot be done with money, may be done by such transfer of such powers at our own doors as become our rights as a Nation.

I thank the Senators for letting me indulge these views at this moment. Later I shall elaborate them to the completion of the expression defining our new policy—the continent of America as an American continent.

Mr. LEWIS subsequently said: Mr. President, with the consent of the chairman of the committee, I beg at this moment to give a notice.

A short while ago I addressed the Senate upon a certain subject, and refused further to elaborate, after having suggested my position, because of the anxiety of the chairman of the committee to conclude consideration of the pending bill. I desire to give notice that at the conclusion of the consideration of the bill I purpose to elaborate the discussion which I opened this morning, and I shall also present a resolution at what I think will be the appropriate time for its consideration.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. SMITH. Mr. President, I am very anxious that the Senate should make what disposition it chooses of this bill; but in view of the statement made by the Senator from Maryland [Mr. TYDINGS] I desire the Senate again to understand the purpose of the so-called "price-fixing section."

Anyone studying the bill will see that this price fixing is predicated upon the fact that the producers and the handlers handling at least 50 percent shall get together under a trade agreement and determine the minimum price. That is not arbitrary action on the part of the Government, but is based upon the action of the producers.

All this bill purports to do is that when agreements are reached as to a minimum price, the Federal Government, insofar as it can do so in the exercise of its delegated powers under the commerce clause, will help the farmers in good faith to carry out the contract and receive the minimum price. Of course, as was reiterated to the committee, the producers can at any time ask for a cessation of the agreement, and it will be ended at once. That was repeated and reiterated before the committee.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. CONNALLY. Of course, when the producers determined upon fixing a minimum price, they would have to have some sort of vote to fix the minimum price in the whole industry.

Mr. SMITH. Yes; a minimum price for that commodity.

Mr. CONNALLY. Yes; but let us take the case of citrus fruits or anything else. When the producers once fixed that minimum price they could not unfix it unless they had another vote, could they?

Mr. SMITH. I think not.

Mr. BANKHEAD. I will say they could sign another trade agreement.

Mr. SMITH. Oh, yes; they could at any time, by a majority vote, rescind their previous action.

Mr. CONNALLY. That is what I am talking about. They would have to have another majority vote, of course, to do that.

Can the Senator from South Carolina give us any idea how long it would take in some instances? The Senator from Alabama on yesterday indicated that the minimum price could be fixed, and, if they changed their minds, in 2 days' time it could be called off. I am wondering how that can be done if it is necessary to consult everybody in an industry; and my interest in the question is as to the wisdom of fixing a minimum price for perishable commodities. While a vote was being taken, the oranges or other perishables might all rot, or the fruit might all go to the bowwows while those administering the measure were waiting on the sovereign votes of the producers.

Mr. SMITH. They can get together and fix their formula, just as is done by other trade organizations. They can, through their organization, carry out the will of the majority of the producers and fix the price as conditions may develop, just as is done by any other organization.

This is an attempt on the part of the Government to make it possible for an organization of producers to receive at least a price which they may think is a reasonable price at that time. Neither the Senator nor anyone else thinks an arbitrary price should be fixed, but it is subject to the will of the majority of the producers.

Mr. CONNALLY. Mr. President——

The PRESIDING OFFICER (Mr. ADAMS in the chair). Does the Senator from South Carolina yield to the Senator from Texas?

Mr. SMITH. I yield.

Mr. CONNALLY. Let me ask the Senator what would be an arbitrary price? They could fix any price they wanted to; so in this particular case it might be arbitrary, might it not?

Mr. SMITH. No; not if it were done by a vote of the majority. Suppose they all agree that they will have a minimum price. Perhaps it may be a minimum price today, but it may be changed tomorrow.

Mr. CONNALLY. That is what I am getting at. In other words, it is the Senator's idea that they will enter into some sort of an arrangement and empower some organization, or one man or a group of men, to fix the price when, if, and how they desire?

Mr. SMITH. Yes; certainly, as other trade organizations do.

Mr. CONNALLY. I was trying to get at that, because the debate has indicated that the producers themselves are going to do it.

Mr. SMITH. The producers do it; but they set up the organization which has been referred to.

What I wish to have the Senator from Texas understand is that this is an attempt to create an organization which will protect the price paid the farmer just as trade organizations protect their trades; and I do not think there would be any more common sense used in this than would be used in the trade agreements. Do the Members of the Senate desire to defeat this provision and leave the farmer where he now is? There is not a farmer in America raising the ordinary agricultural commodities which are generally marketed who has ever had one word to say in regard to the price of the thing he produces, nor have we ever fabricated or fashioned any kind of an organization which stood between the unorganized and defenseless producers of the raw material, on the one hand, and the organized purveyors of the things he needs, on the other hand.

The Senator from Texas knows, and I know——

Mr. CONNALLY. I would not be sure that I do.

Mr. SMITH. That there is not a farmer in his State who has ever fixed the price of a pound of cotton in Texas, a State which makes one-third of all the cotton grown in America. All in the world that the farmer does is to grow the crop and deliver it at the other fellow's price. I desire to ask the Senator this practical question, and also ask it of the whole Senate——

Mr. CONNALLY. I was going to try to answer the former question before the Senator asked another.

Mr. SMITH. I will give the Senator ample time to answer; but, since this occurs to me, I want to ask this body of intelligent men, if I do not insult them by using that adjective [laughter], how many merchants and manufacturers in and around the city of Washington would exist for 1 month if they had to sell their goods at the price which the purchaser put on them? That is a practical question that faces us as practical men.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. Yes; I yield.

Mr. BYRD. Why does not the Senator from South Carolina propose to fix the price of cotton? This bill does not propose to fix the price of cotton or the price of wheat. Why does not the Senator make an effort to fix the price of every food product if he believes in the principle of price fixing?

Mr. SMITH. That is exactly what I want done, and what I tried to do by the cooperatives; but we could not get enough farmers to come together, because there was no promise of aid. However, if the Federal Government will now say to the farmers, "So far as the Constitution will allow, if you will get together and pool your commodities, so far as we can do so constitutionally, we will aid you until you learn to walk."

Mr. BYRD. But does not the Senator realize that it is easier to fix the price of cotton than it is to fix the price of beans? He proposes to fix the price of beans which are grown in every State of the Union.

Mr. SMITH. No; I do not.

Mr. BYRD. And beans are a perishable food product; but the Senator declines to make an effort to fix the price of cotton.

Mr. SMITH. I do not know that this applies to vegetables alone. If the principle is good for one, it is good for the other.

Mr. BYRD. The bill does apply to vegetables alone, for it so says in the title. If the Senator favors price fixing, why does he not go down the line and fix the price of cotton and fix the price of wheat and fix the price of meats and of everything else which the farmer produces?

Mr. SMITH. I am not trying to get the Government to fix the price of anything.

Mr. BYRD. The Senator is advocating the bill.

Mr. SMITH. I am advocating the farmer fixing the price, as the Senator knows.

Mr. BYRD. The Senator well knows that there is nothing in this bill that gives the farmer the right to fix his prices, because the marketing agreements are made by 50 percent of the handlers, and all the farmers can do is to terminate an agreement after it has been made.

Mr. SMITH. I will read to the Senator the section. I know that there was a mistake made.

Mr. BYRD. That mistake has not been rectified as yet, either.

Mr. SMITH. It will be rectified. If the Senator wants constructively to help the farmer, he will not try to destroy a method that might help him.

Mr. BYRD. I object, Mr. President, to the Senator from South Carolina making about this bill a statement which is not correct. The bill does not give the producers the right to fix their own prices; it gives that power to 50 percent of the handlers, as the Senator well knows.

Mr. SMITH. Very well. I will read the provision to the Senator as found on page 22. It occurs under the heading "Orders With or Without Marketing Agreement."

The Senator will find under paragraph (B)—

That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein.

Mr. BYRD. Mr. President, this is a matter which I am anxious to have accurately presented to the Senate. Will the Senator read section 8, which is the first step in the establishment of marketing agreements, whereby 50 percent of the handlers can establish a marketing agreement? The second step is if the handlers decline to do that, then 75 percent of the producers may do it. That is in the bill.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. MURPHY. I think the Senator from South Carolina as well as myself have already conceded to the Senator from Virginia the acceptance of an amendment to the section to which reference has just been made providing also for the consent of two-thirds of the producers. When and if the Senator shall offer such an amendment, to that extent, as I indicated to him yesterday, there is a disposition on the part of the Senator from South Carolina, and certainly there is a disposition on my part, to accept it.

Mr. SMITH. Certainly. I asked those who were charged with the drafting of the bill why they had separated the two provisions to which the Senator from Virginia has called attention. I asked them why they had provided that if 50 percent of the handlers agreed the order as to the marketing arrangement might be made but did not include in the same section the consent of the producers. Their idea was that if they could get the consent of the handlers to handle a given product on certain terms, then it would be agreeable to the producers, for the handler was the obstruction in the way.

Let me call attention to the fact that there was a misunderstanding. When the suggestion was made by the Senator from Virginia, that there should be included the consent of the producer as well, all of them agreed and said that it would have been very much better to have included such a provision in both paragraphs. However, the chairman of

the committee honestly thought that the preceding language predicated all marketing agreements upon the action of a majority of the farmers signing the agreement.

I will say to the Senator from Virginia that wherever there is any language in this bill which throws any doubt whatever as to whether or not agreement is predicated on the consent of the farmers, I want it made clear that it must be so predicated and will offer no objection. I would not even stand on the floor as chairman of the committee to pretend to advocate the passage of this bill if I did not believe it had in it at least an effort to create a line of resistance by which the farmer could obtain at least some return for what he produces.

Mr. President, every Senator knows that the degrading influence in agriculture, that which has impoverished the farmers is their inability ever to name any price for any staple article they produce and sell.

Mr. BYRD. Mr. President, may I ask the Senator just one more question? Then I will not interrupt him further.

Mr. SMITH. I yield.

Mr. BYRD. If the Senator favors the principle of price fixing——

Mr. SMITH. By the farmer.

Mr. BYRD. Well, by the farmer or by anybody.

Mr. SMITH. I mean by the farmer.

Mr. BYRD. If the Senator favors the principle of price fixing, why not amend this bill so as to include every food product of every character and description.

Mr. SMITH. I am taking the bill as it stands, and God knows that the Senator from Virginia and every other Senator ought to help the man who produces the food we eat and the clothing we wear at least to have some say so.

Mr. BYRD. If the Senator approves price fixing, is it not his duty, holding the views he does, to move to amend this bill so as to include cotton and every other farm commodity?

Mr. SMITH. I do not want to use a term that has become universally obnoxious—price fixing. But why should not the man who is the producer of the food we eat and the raw material out of which we are clothed not be helped to name at least a reasonable return for that with which he sustains organized society?

Mr. BYRD. I agree with the Senator fully that the producer should be helped, but if the Senator thinks price fixing is the way to help him, let him move to amend the bill so as to include all other articles of food.

Mr. SMITH. Because one-sixtieth of a grain of strychnine might be a tonic is no reason why I should take a fistful. [Laughter.]

Mr. BYRD. What the Senator desires to do is to have foods and vegetables take so much strychnine that nobody will be able to eat them.

Mr. SMITH. No; but I suspect the Senator is more engaged in the production of—no, I will not make that reference.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. SMITH. Yes.

Mr. MURPHY. In effect, have we not established a minimum price already by our loans on cotton and on corn, much money having been loaned by the Government on each of those commodities?

Mr. SMITH. But it must be understood that it is treason, it is absolutely against the law of organized society and decency to stand here and make a plea for the poor degraded wretch who feeds and clothes the world. We may talk eloquently about railroads and insurance companies and factories and organized labor, but the poor devil who today is out yonder making the wheat and the corn and raising the hogs is "Mr. Hayseed", and what right has he even to be considered by the Members of this great legislative body who fill their stomachs with the products of the farm every day and come here clothed by the products of his labor? For the shirt I now wear I paid $2.50. It is composed of 5 ounces of the simplest weave of cotton known to the manufacturer, but that cotton in the form of a shirt is sold at the rate of eight or nine dollars a pound.

Contrast that with the 8 cents a pound paid the farmer for 12 months' toil, gambling with the seasons. Anywhere from eight to twelve dollars is paid for a pound and a half of cow hide to go on your hoofs. [Laughter.] Under modern chemical processes of tanning, in 48 hours the hide is ready to be used in the manufacture of shoes; and yet it takes the rancher on the plains of the West 3 mortal years to raise a pound of hide.

We sit here and strain at a gnat and swallow a camel. Just consider the time we are losing here when we dare bring in a measure designed to help "Reuben." Oh, no, that will not do. But when it comes to a banking bill——

Mr. DICKINSON. Mr. President, will the Senator yield?

Mr. SMITH. Not right now. I am in a reasoning way and I do not wish to have my logic interrupted. [Laughter.]

A bill is going to be brought before us affecting banking, as a bill has been before us for the regulation of utilities; we have bills brought before us for many other purposes, and, oh, with what zeal they are considered. It is an everlasting and unanswerable indictment of the Members of this body that we find so great a number of protagonists for any organized industry—the implication is deadly—and yet when we begin to talk about the agricultural interests there is indifference on the part of everybody. The farmer has no lobby here. He has no organization that may directly or indirectly affect the attitude of Senators. He is numerically great, but organically disorganized. Therefore we can safely stand here and talk about the constitutional provisions which affect him in the field.

Mr. President, it is very discouraging to me. I would to God that the farmers of the country could do one of two things—organize themselves so as to be felt as a unit at the ballot box, or strike for a twelvemonth. What would happen to this country if, for the sake of his self-respect and a demonstration of his manhood and of his right to a place in organized society, the farmer should say, "If I am not to be respected, if I am not to be considered in the scheme of things, I shall withdraw from the markets. I shall not sell any food or any raw material except enough to support myself and my family." How far are our metropolitan centers from starvation? What would be the result? Yet we treat him like the nations of the earth treat disorganized China, more numerous in population than any other nation of the earth, but, with no coherence, no organization, an open door to all nations.

Cannot Senators, if they have any desire to aid, offer constructive criticism of the bill? I am disappointed in the attitude of the Senate toward the bill. If there be anything in it that will help the farmer, that can be made legal and constitutional, let us have it. Any set of ignoramuses can come here and tear down the finest building in Washington which it has taken great genius to build. Any of us can be destructive, but it takes a man of brain and character to be constructive.

Mr. President, I have made my last appeal to the Senate to treat fairly this effort on the part of the Committee on Agriculture and Forestry. I have made my last plea to preserve constructive and helpful elements of the bill. Where it is unconstitutional, let Senators suggest what can be done to make it constitutional and still preserve its efficacy so far as the farmer is concerned. But do not let us burn down our house because we think there is a rat in it.

Mr. NORBECK. Mr. President, will the Senator yield?

Mr. SMITH. Certainly.

Mr. NORBECK. There are two objections made to the bill. The first is that it is not constitutional. The second is that it is so drawn that it is constitutional. What are we to do?

Mr. SMITH. Yes; it is as I said yesterday:

> I can and I can't; I will and I won't.
> I am damned if I do, and damned if I don't.

It does not seem to make any difference what we do.

Mr. NORBECK. I have never seen lawyers in the Senate object to anything because it was constitutional, but now they object to a bill that is so drawn as to be constitutional, and their objection seems to be based solely on that ground.

Mr. SMITH. Mr. President, I sincerely hope the Members of this body will join with us in this effort. It is a period of transition. I acknowledge, as everyone must, that the conditions are rapidly changing in the relations of the Government to the people. All the discoveries of science have changed conditions, but the fundamental principles are still here. I beg this body, instead of offering destructive and carping criticism, to get together constructively and pass a bill that will bring some hope to the hopeless millions toiling in the fields of America.

Mr. DICKINSON. Mr. President, I think there is a genuine desire on the part of every Senator to do whatever can be done for the farmer. I do not think there is any use of chasing rainbows. I do not believe there is any use of enacting legislation which is not economically sound and which will not work. I have yet to find a single solitary illustration anywhere in history which admits that price fixing will work. It may give a temporary relief for a few minutes, but in the end it always results in disaster and distress. That has been the history of price fixing all along the line.

Mr. NORBECK. Mr. President, will the Senator from Iowa yield?

Mr. DICKINSON. I yield.

Mr. NORBECK. Does the Senator refer only to Government price fixing or does he refer to the price fixing by the trusts?

Mr. DICKINSON. I am referring to Government price fixing.

Mr. NORBECK. The trusts seemed to be able to fix prices and to make them stick.

Mr. DICKINSON. I do not agree with the Senator on that point. I think prices follow the law of supply and demand. There may be some little marginal profit in it somewhere that the Senator from South Dakota does not like, but, in the end, I have found that every effort on the part of the grain exchange, or of any individual, to fix prices has always resulted in disaster and ultimately in collapse. That is the history of the board of trade at Chicago. It is the history of every other effort that has ever been made along artificial price-fixing lines.

Mr. President, I desire to consider for a few minutes the question of whether the Senate is doing a thing that should not be done in the face of the record of the legislation to date. For instance, there has just been rendered a decision in the circuit court of appeals in the city of Boston in the case of Franklin Process Co. against Hoosac Mills Corporation. I have here the brief filed by the complainant and also the brief filed in behalf of the Government. On page 48 of the brief of the receivers, I find this contention:

> The Constitution contains no clauses or provisions delegating to the United States the power to regulate, fix, or control prices or to control manufacturing, agriculture, and trade except interstate or foreign commerce. It is even more evident that it gives no power to improve the economic conditions of any class of citizens or to redistribute the wealth of the country, nor can such power be held to be implied for implied powers must clearly and directly appropriate to the carrying out of the granted powers, and such powers have never been held to exist if the connection is remote or uncertain. * * *
>
> (*United States* v. *DeWitt*, 9 Wall. 41; *Loan Asso.* v. *Topeka*, 20 Wall. 655.)
>
> It is beyond the power of the Federal Government to reclaim arid lands although there may be arid lands in need of reclamation and the Federal Government is the only organization large enough to accomplish it. Such a power is one of those reserved to the States.
>
> Citing *Kansas* v. *Colorado* (206 U. S. 49–91).

In other words, there is the main contention with reference to price fixing in a case which has just been decided in the circuit court of appeals in the city of Boston.

A press dispatch of today reads as follows:

> BOSTON, July 16.—The cotton textile and other processing taxes, under the Agricultural Adjustment Act, met the fate of the N. R. A. codes today.
>
> In the Federal circuit court of appeals here the processing taxes were declared unconstitutional on two grounds.
>
> One was that Congress had no authority to regulate the production of cotton, which is primarily under control of the States.
>
> The other ground was that the law itself is an improper delegation of authority.
>
> Judges Scott Wilson and George F. Morris concurred in the decision.
>
> Judge George H. Bingham dissented.
>
> At Washington, Government attorneys said a prompt appeal to the United States Supreme Court will be taken.

Why do we proceed to do a thing which we do not know to be within the letter of the law, and keep on amending and attempting to amend the existing law, when as a matter of fact the fundamental principle involved in this case is exactly the same as that in the Agricultural Adjustment Act as it was originally passed? And if the original law is unconstitutional by reason of the two grounds set forth, these amendments likewise would be clearly unconstitutional.

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. FRAZIER. This decision, as I understand, affects only the district in New England and, of course, will not be final until the Supreme Court shall have passed upon the matter.

Mr. DICKINSON. It affects all the processing taxes to be collected in that district, and will be a precedent for every other circuit court of appeals in the United States. Of course, it will not become national law until it shall have been passed on by the Supreme Court of the United States.

Mr. FRAZIER. Of course, the other circuit courts of appeal do not necessarily follow the precedent this court has set, nor does the Supreme Court. In the recent decision on the amendment to the Farm Bankruptcy Act passed at the last session, two district courts held it to be unconstitutional, and the Supreme Court held the other way.

Mr. DICKINSON. Oh, yes. I am perfectly familiar with the right of the courts in the different areas to reach different conclusions.

Excerpts from the decision handed down today in Boston by the United States circuit court of appeals are as follows:

> The Government contends that Congress does not seek by the act to interfere with the State's control over agriculture, inasmuch as the reduction of acreage and of production of either of the basic agricultural products depends on voluntary agreements by the producers, and the processing and floor taxes depend on the execution of such agreements to reduce production.
>
> Citing *Massachusetts* v. *Mellon* (262 U. S. 447).
>
> But it is clear, we think, under the recent decision of the Supreme Court in the Schechter Poultry Corporation case, decided May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz: to control or regulate the production of agricultural products in the several States by the methods adopted in this act, is beyond the power of Congress (*Kansas* v. *Colorado* (206 U. S. 406), *Flint* v. *Stone Tracy Co.* (220 U. S. 107)).
>
> The processing and floor taxes are not dependent on the execution of agreements to reduce acreage or production alone, but on the determination by the Secretary without any foundation other than his own opinion that the existing economic emergency demands that to accomplish the declared purpose of the act, rental or benefit payments shall be made. The imposing of the taxes automatically follows. The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose deemed by Congress in furtherance of the "general welfare", but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.
>
> The issue of whether, under the act, there has been an unauthorized delegation by Congress of its legislative powers is decisive of the case before this court. Except as a premise for the conclusions which follow, it is unnecessary to restate what has been so often reiterated by the courts, viz: that the Federal Government is a government of enumerated powers, and Congress cannot delegate legislative powers to the executive department. The line between grants of legislative powers and the authority to perform a purely administrative function, as drawn in the decisions, may at first blush appear wavy instead of straight, notwithstanding the rule has been often definitely stated.
>
> The decree of the District Court is reversed, and the case is remanded to that court with directions to enter a decree for the appellants.

As a matter of fact, that simply gives a synopsis of the decision rendered in this case. The two grounds set forth, it seems to me, are in no way clarified by the amendments now proposed here. If the original act is unconstitutional upon the grounds stated, the original act as amended by these amendments must fail.

There have been numerous suggestions along this line. I think it was only yesterday, or the day before, that the circuit

court of appeals in Cincinnati held the act authorizing condemnation of land for subsistence homesteads to be unconstitutional, on the theory that the Government under the Constitution has no right to condemn lands for that purpose, or to use or expend public money therefor.

I remember that in the T. V. A. case a similar question arose; also, in the farm-tenant case, the Bankhead bill, with reference to the right of the Government to issue bonds guaranteed by the Government, endorsed by every taxpayer in the country, to buy land for speculative purposes, to be sold out in allotments to individuals. In other words, we are stretching and trying to write into the Constitution all along the line authority which is not there.

I read now from pages 36 and 37 of the reply brief of the United States, giving some of the views of the Government with reference to what may be done:

As a final reply to the contention of the receivers that the use of the proceeds of the processing taxes for rental and benefit payments is class legislation since they inure to the individual advantage of producers of basic agricultural commodities, the language of the court in *Coster* v. *Tidewater Co.* (18 N. J. E.), pages 518, 523, 524, is adopted:

"The legislative power is not competent to take the property of A and transfer it to B, simply for the benefit or convenience of B, because such an act has no public aspect; it concerns and affects, exclusively, the two individuals. In such case, it would be within the authority of the judiciary to pronounce such transfer unconstitutional and void. But if the sequestration of the property of A will, to a material extent, be serviceable to the public at large, whether such sequestration shall take place, must be committed, as a pure matter of discretion, to the legislature, provided such discretion be exercised in good faith, and does not rest, incontrovertibly, upon a false foundation."

In other words, it is my belief that in order to take property from A and transfer it to the general public, there must be vested in the property something of a public-interest nature. It must be of the type of transportation; it must be some type of service which is recognized as being imbued with a public interest. I do not believe it can be the mere matter of producing crops, or the mere matter of the production of any commodity, or the mere matter of the price which may be received for a commodity in one locality as against another price. Therefore, I contend that the Government, in its effort to sustain this law, is again attempting to write into the general rule of the law a condition which really is not there.

I presume there are a great many Members of the Congress who, if the roll were called today, would vote to charge the production of foodstuffs in the country with a public interest. I do not think we can do it under the Constitution. I do not believe it would be a good thing if we could do it under the Constitution, because, on the whole, I think we are trying to impose too much responsibility upon the Government. In other words, if a certain condition exists in one locality, I can see how the power of the State, the inherent power of the people themselves in that locality, will rise to a point where they will overcome that condition in their own right.

I can see how the problems of California ought not to be made the problems of Maine. I can see how the problems of Minnesota ought not to be made the problems of Florida. On the other hand, if we bring together all the problems of all those States which have to do, not only with agriculture but with all other phases of society, all the social-economic problems that can be gathered together and lay them on the doorstep of the Federal Government, we shall find that the Government is no longer able to function, and sooner or later it will fall of its own weight. That is the danger I see in many of the steps we are now taking.

Only a few days ago I secured a copy of the new book, The Liberal Tradition, by Lewis W. Douglas. There can be no partisanship so far as Mr. Douglas is concerned. He was formerly Budget Director for the present administration.

From page 52 I begin the quotation:

Expressly this language means a system of planned prices. Its implications, however, are much greater, for under it the Federal Reserve Board is practically directed to control the activities of every industry and of every productive enterprise in the United States. It must be viewed not alone and as an isolated proposal but in connection with the many other attempts to circumscribe our activities by governmental dicta and to plan our economy.

Then he gives the various efforts.

Some of the many other attempts to plan our economy may be listed as follows:

(1) The Agricultural Adjustment Administration Act and its clarifying amendments, which vest in the Executive complete power to plan agriculture and all processing of agricultural products.

(2) The National Recovery Administration, which vests in the Executive complete control of all industry and commerce.

(3) The Wagner labor bill, which centralizes control of all employer-employee relations.

(4) The Guffy coal bill, which in effect socializes coal mines.

(5) The Securities Act, which, even as amended, tends to make the United States Government the exclusive capitalist.

(6) The Social Security Act, immaturely considered, which tends to socialize all savings.

We could go much further than that. He has not itemized them all. There could be included the Bankhead Land Socialization Act, to which I have heretofore referred, and also the Tennessee Valley Authority Administration.

The question in my mind is whether or not we are laying on the doorstep of the Federal Government more responsibility than it should assume; and in the end, instead of bringing relief to the people, instead of affording a solution of any of the problems, will it not bring about a collapse that will be worse than the existing condition?

I read from page 54 of the same book:

The case is strong against the planners. Experience proves that no group, however divine may be its spark of intelligence, is able successfully to plan the various activities of men engaged in hundreds of thousands of different fields and employed in the production of hundreds of thousands of articles which go to make up our complicated modern social and economic organism.

From page 101, I read the following:

The fallacies of a planned economy, too, have been analyzed. Its complete incompatability with both freedom and equality and with the survival, existence, and growth of a vital middle class; the universal poverty which it causes; the social evils which it intensifies; the despotism which it makes inevitable. And it has been shown, also, that the present pseudo-planned economy leads relentlessly into the complete autocracy and tyranny of the collective state.

I now wish to refer to the issue of the Saturday Evening Post of today. It contains an article from which I think we can learn something. It refers to the lessons of history of years ago.

I know that there are a great many people who say we do not need to pay any attention to the signposts of history, that we can ignore them in economics, that we can ignore them in all walks of life; but usually we will find as we proceed that, unless we pay attention to the signposts of history, we fall into the very pitfalls into which the people of various other countries have heretofore fallen.

On page 36 of the Saturday Evening Post which appeared today, there appears an article by Raymond G. Carroll from which I read:

Why did the splendid, yes, magnificient, civilization of the Roman Empire sink into the blackness, the chaos, and the misery of the Middle Ages? Why did Rome prove unequal to her problems? What were the causes of her decline? In the answers to these questions are there any lessons for modern minds? Some do find them there.

The ancients had their antiquity, which we may assume to have been regarded by them with a share of the same disdain which we affect toward all the prior generations which we see massed behind us. It is not the habit of those who wear the garments of trail blazers to cast a scrutinizing eye back over remote persons and events. Yet the ancients were pretty much the same as we are.

The Roman Emperor Diocletian, in 301 A. D., promulgated an edict fixing a maximum price for provisions and other articles of commerce, and a maximum wage for every service, whether by a common laborer, an experienced lawyer, or physician. He was warned against price fixing and wage making by the abortive attempts in the same direction by the Assyrians, the Persians, and the Egyptians centuries before, but all experience was brushed aside.

There was but one penalty for a violation of the edict of Diocletian, engraved on stone and set up in every market place throughout the Roman Empire, and that was death, both for the one who asked for an excess of the official price and for the one who paid it. Deportation was an alternative penalty in

extreme extenuating cases. Trade was thus forbidden to fluctuate, exactly as now, and no allowances were made for differences of conditions of production or transportation.

What happened in Rome? The Diocletian edict, plus the commercial speculation of insiders and several bad harvests, ruined the commerce of the Empire. The depreciation of the currency that followed brought about a return to a system of barter, and Romans no longer bought and sold on credit or with the aid of money. Under Diocletian, the Senate became a political nonentity, the last traces of republican institutions disappeared and were replaced by an absolute monarchy approaching to despotism.

Mr. President, that gives some idea of what the experience has been. When we analyze the civilization of Rome we find that they had many of the things we now have; and to say that we are so much superior to them that we can avoid all the pitfalls into which they fell would be sheer egotism on our part.

Much of the article quoted has been heretofore referred to in various articles. I find something quoted here from Governor Hadley, of Missouri, which I think is well worth while. He said:

Destroying the right of private ownership of property, denying to a man of talent and ability the right to advancement or extra reward for his services, brought upon the Roman world a social, industrial, and economic break-down that was the natural result of these efforts to run counter to the inflexible rules of human nature and the inexorable laws of supply and demand. Then, as always in the history of the world, have such efforts not only failed but produced a melancholy train of misery and misfortune. Hope and ambition were banished from the hearts and minds of men.

Mr. NORBECK. Mr. President——

The PRESIDING OFFICER (Mr. MOORE in the chair). Does the Senator from Iowa yield to the Senator from South Dakota?

Mr. DICKINSON. I yield.

Mr. NORBECK. Does the Senator believe that price fixing brought on the decline in the civilized world, which extended all over Europe and was not confined merely to the Roman Empire? The Senator must admit that the period referred to was one when everything was breaking down.

Mr. DICKINSON. Are we not now in a period when everything is breaking down?

Mr. NORBECK. But does the Senator attribute the break-down in the Dark Ages to price fixing?

Mr. DICKINSON. That was one of the causes.

Mr. NORBECK. The Senator says one of the causes.

Let him be fair. That is only one of the many things that have happened to the farmers and caused their present lamentable condition.

Mr. DICKINSON. If the Senator from South Dakota thinks he is any better friend of the farmer than I am, very well.

Mr. NORBECK. I have heard the Senator from Iowa complaining here about the lack of profits for industry. I have heard him say here that industry is getting into the red on account of conditions. Are not all the Iowa farmers in the red? I have heard the Senator say nothing about that.

Mr. DICKINSON. I have mentioned that a good many times. The Senator listens when he wants to listen, and does not the rest of the time.

Mr. NORBECK. The Senator from Iowa stood for the Hoover farm relief bill. That brought a dark age in the United States among the farmers.

Mr. DICKINSON. The same thing exactly is being done under the A. A. A. The Government is lending on cotton at 12 cents, and it loaned on wheat at $1.25.

Mr. NORBECK. The difference is, I voted——

Mr. DICKINSON. Let me finish stating my position.

Mr. CONNALLY. Mr. President, I would like to have order on the other side of the Senate. [Laughter.]

Mr. DICKINSON. The collapse of civilization has never come about from one thing.

Mr. NORBECK. Exactly.

Mr. DICKINSON. I am not contending that price fixing is the only thing that helped bring about the collapse of the Roman Empire. Nor am I contending that price fixing is the one thing we ought now to avoid. I contend that there are many things we ought to avoid.

Now I shall make further reference to where we are drifting. I hold in my hand a publication dated July 15, 1935, entitled "Foreign Crops and Markets", issued weekly by the Foreign Agricultural Service, Bureau of Agricultural Economics, United States Department of Agriculture, Washington, D. C.

I find there are numerous pages of this text—I do not know that there is any authority for its publication—which is given over to the Soviet agricultural program in Russia. I find, before I turn to that particular phase, that United States competitive agricultural imports are now declining. I am glad to hear that. Here, however, is one statement I wish to read. On the bottom of that page I find this statement:

The volume of imports of meat and meat products was nearly double the amount taken last year, 74,000,000 pounds this year as compared with 41,000,000 pounds for 1933–34. Most of this gain is accounted for by the increase in imports of canned beef, which have risen from 37,000,000 pounds during the 1933–34 period to 64,000,000 for the current season.

* * * * * * *

As a result of the drought and the consequent forced slaughter of thousands of head of livestock last year, there exists a large surplus of hides and skins.

As a former Member of the House, I remember that a few years ago there was, in the House of Representatives, a strenuous fight, which lasted some 4 or 6 weeks, on the question of putting a tariff on hides. We finally succeeded in putting a tariff on hides. I think we ought to try to see that the importation of hides are not again increased. We want to hold that market here in our own country.

I continue to quote:

Butter is the only item in dairy products to show much change from last year. The volume of imports of this commodity in the current July-May period was roughtly three times as large as the volume for the corresponding months of 1933–34.

Turning to page 62, I find that the importations of butter for 1934–35 were 20,956,000 pounds, as against 689,000 pounds in 1933–34. In other words, the imports were more than 26 times greater.

Mr. NORBECK. The Senator contends that we should maintain our own market for the production of hides. How does the Senator think we ought to do that?

Mr. DICKINSON. I think we could do it if we had a higher tariff on hides.

Mr. NORBECK. Has it ever occurred to the Senator that hides are not a product in themselves? Hides are a by-product. Provision first has to be made as to what to do with the carcass.

Mr. DICKINSON. As a matter of fact, we are importing a great deal of beef all the time.

Mr. NORBECK. But what percentage? The Senator quoted certain figures, but does that represent 1 percent or half of 1 percent?

Mr. DICKINSON. I could not give the Senator the percentage, but I think it is 6 percent.

Mr. NORBECK. Following one of the worst shortages of crops we have ever had.

Mr. DICKINSON. The point I desire to make to the Senate, however, is that we cannot fix the price of an animal on one product alone. It is not only the T-bone steak that is involved; it is the chuck; it is the hide; it is the hoof and the hair.

Mr. NORBECK. The Senator said that there was a great struggle in the other House on the question of a tariff on hides. Hides are not a product. Hides are just a part of the animal.

Mr. DICKINSON. I said we had a fight on putting a tariff on hides, and we had a hard time getting a tariff put on hides, and I think the Senator from South Dakota voted for it.

Mr. NORBECK. Yes; but I did not vote for the Hoover farm-relief program, and the Senator from Iowa did.

Mr. DICKINSON. The Senator from South Dakota, however, is supporting a plan which is along the same lines as one which has been tried before.

Mr. NORBECK. The Hoover farm-relief plan brought us nothing, and at the time it was before us a Senator from New

England said it was not going to bring us anything. He said: "Senator NORBECK, I am going to vote for it, although there is nothing in it except to give Uncle Sam a chance to lose some money, and he can afford to do it." He was right. The farmer got nothing out of the Hoover farm bill.

Mr. DICKINSON. Beginning at page 53, and running to page 57, I find the entire article in this Foreign Crops and Markets given up to an amplification of the scheme of agricultural control in Russia. Quoting from page 53:

The Soviet Government is confronted with the problem of organizing the harvesting campaign and gathering the crop in the shortest possible time and with a minimum loss. In former years, good crops in the field have been materially reduced through the inefficiency of harvesting operations and a noncooperative attitude among the members of certain collective farms.

Further down it is said:

A field will be considered fully harvested and cleared of grain only with the approval of the chairman of the collective farm or the manager of the state farm.

COTTON

It is expected that this year's cotton production will reach 2,342,000 bales (of 478 pounds) compared with 1,736,452 bales in 1934. For this reason the Soviet Government has been paying particular attention to the cotton crop.

We are paying a bonus in this country to keep our people from raising crops. We are imposing upon them a restriction, saying they must not raise cotton. I quote further:

The Commissariat of Agriculture of the Soviet Union must outline the chief measures concerning the cotton season. Special attention must be paid to the question of planning the entire work in the fields, labor-hours, wages, full utilization of equipment, and particularly measures which would induce the farmers to exert themselves to the best of their ability.

* * * * * * *

The immediate concern of the Soviet Government is not only to coordinate all types of harvesting work, but it is also concerned now with the delivery of grain to the state, i. e., with the fulfillment of the 1935 agricultural-procurement program.

Mr. President, instead of having ever-normal granaries over there, they have what is known as the Government production program. After the farmers have raised so much grain and turned it into the hands of the Government, they may have for their own utilization whatever amount they have left. In other words, if there is a crop failure, the farmer must turn over to the Government his entire quota before he may have any left for himself.

Continuing to quote from page 54 of this report:

The struggle for grain, for the fulfillment and overfulfillment of the grain-collection plan, remains with us a component, inseparable part of our entire work aimed toward the completion of the foundation of the Socialist economy. The grain-collection plan is the most important component part of the general national economy, which to a considerable degree determines our resources for the further development of Socialistic reconstruction.

Judging by recent official statements this pronouncement still holds true in 1935. It is for this reason that the Government is not sparing any effort this season to insure the fulfillment of the plan according to schedules already announced.

* * * * * * *

The 1935 plan is in all essentials similar to the one introduced in 1933. Its outstanding feature is the substitution of a fixed grain tax levied upon each cultivated hectare of the land for the former contract system of grain collection. The collective farmer is paid for the grain delivered in this manner at a price fixed by the state. The total of these tax obligations is determined by the area already sown.

Then the report proceeds to show how they sow and how they reap. Quoting further:

Yet another measure which aims toward a speedier delivery of grain is the provision of the resolution which eliminates any trade in grain, both by the collectivized and individual farmers, or any buying of grain by the State cooperative organizations, beginning July 1, 1935.

In other words, they are simply put out of business so far as grain production is concerned.

I continue to quote:

The trade in agricultural products may be resumed only after the grain collection plan has been completed, the farmers' obligations to the machine tractor stations discharged, and seed has been set aside for fall and spring planting.

In other words, the farmers must rent the tractor, and they must pay the rent before they may have any seed, and a certain amount is set aside for sowing in the fall of the year. This statement gives some impression of how a collectivized or socialized agriculture proceeds.

I continue to read from page 56:

The distribution of income in the collective farms in accordance with the principle of "whoever works more and better receives more", may also play an important part in bringing about a successful harvesting season. The quality of production as a most important criterion in determining the remuneration of the collective farmers is stressed in all decrees dealing with the organization of labor in the collective farms. If, for instance, a member of a collective farm plows 1 hectare (2.47 acres) in 1 working day, which is the nominal, he is credited with 1 labor-day; should he only plow one-half of a hectare in 1 working day he is credited with one-half of a labor-day; but if he plows 1½ hectares in 1 working day, he is credited with 1½ labor-days.

Such, in the main, are the measures intended to insure a successful harvesting season and a fulfillment of the procurement plan. The chief reliance of the Government seems to be not upon mere issuance of orders, drawing up of resolutions, and other forms of management on paper, but, on the contrary, upon a tendency away from administrative fiat and toward an appeal for the cooperation of the collectivized peasantry, expressed in terms of mutual economic advantage.

The strange thing is that just at the time when we are considering here an amendment to the A. A. A. Act, which is the ever normal granary plan for our country, the Department of Agriculture, through its foreign agricultural service, finds it necessary to devote about three-quarters of its weekly publication to an emphasis of what is really happening under the planning system in Soviet Russia so far as agriculture is concerned.

I do not say there is any connection between the two, except the conclusions we may draw that one plan is like the other. If we are working to that end this plan will not help the farmers of any State in the Union, but in the end will be their undoing. The farmers have been the greatest individualists and I believe are the greatest individualists we have today. They want to proceed in their own way. They do not want to have someone tell them how and when to plant and how much they may sell or how much they shall curtail their crops.

In conclusion, I want to quote from Walter Lippmann in today's New York Herald Tribune, in which he speaks about planning:

My friend, Mr. Mark Sullivan, may see in all this the deep planning of a highly intellectualized "brains trust." But to my eye it looks much more like the absence of any plan and the lack of intellectual effort, the work of tired brains, relying on their wishes and their prejudices and throwing out casual suggestions which they are too hot and bothered to think about.

For these reasons it is my hope the amendment will be rejected. In the end, I think it would be a splendid thing if the bill should be sent back to the committee whence it came for reconsideration. I do not believe, under the circumstances, that the Supreme Court can hold the A. A. A. Act, as amended, to be constitutional, and for that reason I shall vote against the amendment.

The PRESIDING OFFICER. The question is on the committee amendment on page 18, line 21.

Mr. BYRD. Mr. President, I make the point of no quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Chavez	Holt	O'Mahoney
Ashurst	Clark	Johnson	Pope
Austin	Connally	Keyes	Radcliffe
Bachman	Copeland	King	Reynolds
Bailey	Costigan	La Follette	Robinson
Bankhead	Davis	Lewis	Russell
Barbour	Dickinson	Lonergan	Schall
Barkley	Dieterich	McCarran	Schwellenbach
Bilbo	Donahey	McGill	Sheppard
Black	Duffy	McKellar	Shipstead
Bone	Fletcher	McNary	Smith
Borah	Frazier	Maloney	Townsend
Brown	George	Metcalf	Trammell
Bulkley	Gerry	Minton	Truman
Bulow	Gibson	Moore	Vandenberg
Burke	Gore	Murphy	Van Nuys
Byrd	Guffey	Murray	Wagner
Byrnes	Hale	Neely	Wheeler
Capper	Hatch	Norbeck	White
Caraway	Hayden	Norris	

The VICE PRESIDENT. Seventy-nine Senators have answered to their names. A quorum is present. The question is on the committee amendment on page 18, after line 20, to insert paragraph (G).

Mr. BYRD. Mr. President, I shall detain the Senate for only a moment.

The Senator from Vermont [Mr. AUSTIN] yesterday asked a question to which at the time I was unable to respond. He asked whether or not paragraph (G), at the bottom of page 18, had anything to do with the control of the prices of milk.

In answer to that question I desire to say that that paragraph has nothing to do with the control of milk prices; and that opinion is confirmed, as I understand, by the chairman of the committee, the Senator from South Carolina [Mr. SMITH].

I am very sorry that the vote cannot be taken at the same time on paragraphs (F) and (G), as they are related. I desire to say to the Senate that in the event the committee amendment known as "paragraph (G)" shall not be agreed to, and later on the Senate shall decline to eliminate paragraph (F), I shall move to reconsider the vote on paragraph (G), because either both paragraphs should be in or both should be eliminated.

The VICE PRESIDENT. The question is on agreeing to the committee amendment designated as paragraph (G), at the bottom of page 18.

Mr. BYRD. Mr. President, as I understand, the parliamentary situation is that a vote in the negative is a vote against confirming the action of the committee.

The VICE PRESIDENT. This is a committee amendment which the Senate must vote into the bill if it is to become part of the bill.

Mr. VANDENBERG, Mr. BYRD, and Mr. NORBECK called for the yeas and nays, and they were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. McNARY. Mr. President, a parliamentary inquiry.

Mr. BARKLEY. Mr. President, I desire to propound a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Oregon has already risen for that purpose.

Mr. McNARY. It is probably of the same nature. The question, as I understand, is on agreeing to the committee amendment.

The VICE PRESIDENT. The question is on adopting the committee amendment. Those who desire the committee amendment to be adopted will vote "yea". Those opposed to it will vote "nay." The clerk will continue the calling of the roll.

The Chief Clerk resumed the calling of the roll.

Mr. McNARY (when his name was called). On this question I have a pair with the senior Senator from Mississippi [Mr. HARRISON], and therefore withhold my vote. If the Senator from Mississippi were present he would vote "yea", and if I were at liberty to vote I should vote "nay."

The roll call was concluded.

Mr. DAVIS (after having voted in the negative). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN]. If he were present, he would vote "yea." I transfer my pair to the senior Senator from Delaware [Mr. HASTINGS], who would vote "nay" if present, and will allow my vote in the negative to stand.

Mr. AUSTIN. I announce the necessary absence of the Senator from Oregon [Mr. STEIWER] and the Senator from California [Mr. MCADOO], who have a general pair. If the Senator from Oregon were present, he would vote "nay." I am not advised how the Senator from California would vote.

Mr. FRAZIER. My Colleague [Mr. NYE] is absent. He has a general pair with the senior Senator from Virginia [Mr. GLASS]. If my colleague were present, he would vote "yea"; and I understand the Senator from Virginia if present, would vote "nay."

Mr. BULKLEY (after having voted in the negative). I announce my general pair with the senior Senator from Wyoming [Mr. CAREY], who is necessarily absent. I understand that a special pair has been arranged for him on this question, so I will allow my vote to stand.

Mr. LEWIS. I desire to announce that the junior Senator from Massachusetts [Mr. COOLIDGE], the senior Senator from Massachusetts [Mr. WALSH], the Senator from Virginia [Mr. GLASS], the Senator from Mississippi [Mr. HARRISON], the Senator from Kentucky [Mr. LOGAN], the senior Senator from Louisiana [Mr. LONG], the Senator from California [Mr. MCADOO], the junior Senator from Louisiana [Mr. OVERTON], the Senator from Nevada [Mr. PITTMAN], the Senator from Oklahoma [Mr. THOMAS], the Senator from Utah [Mr. THOMAS], and the Senator from Maryland [Mr. TYDINGS] are necessarily detained from the Senate.

I wish further to announce a special pair between the Senator from Oklahoma [Mr. THOMAS] and the Senator from Wyoming [Mr. CAREY]. I am not advised how the Senator from Oklahoma would vote on this question. The Senator from Wyoming [Mr. CAREY] would vote "nay."

I wish also to announce a special pair between the Senator from Utah [Mr. THOMAS] and the Senator from Maryland [Mr. TYDINGS]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Maryland would vote "nay."

Mr. AUSTIN. I desire to announce that the Senator from Wyoming [Mr. CAREY], the Senator from Delaware [Mr. HASTINGS], the Senator from North Dakota [Mr. NYE], and the Senator from Oregon [Mr. STEIWER] are necessarily absent.

The result was announced—yeas 40, nays 38, as follows:

YEAS—40

Austin	Costigan	McGill	Reynolds
Bankhead	Duffy	McKeller	Robinson
Barkley	Frazier	Minton	Russell
Bilbo	Gibson	Murphy	Sheppard
Black	Guffey	Murray	Shipstead
Brown	Hayden	Neely	Smith
Bulow	Holt	Norbeck	Trammell
Byrnes	Johnson	Norris	Truman
Capper	La Follette	O'Mahoney	Van Nuys
Caraway	Lewis	Pope	Wheeler

NAYS—38

Adams	Chavez	Gerry	Moore
Ashurst	Clark	Gore	Radcliffe
Bachman	Connally	Hale	Schall
Bailey	Copeland	Hatch	Schwellenbach
Barbour	Davis	Keyes	Townsend
Bone	Dickinson	King	Vandenberg
Borah	Dieterich	Lonergan	Wagner
Bulkley	Donahey	McCarran	White
Burke	Fletcher	Maloney	
Byrd	George	Metcalf	

NOT VOTING—18

Carey	Hastings	Nye	Thomas, Utah
Coolidge	Logan	Overton	Tydings
Couzens	Long	Pittman	Walsh
Glass	McAdoo	Steiwer	
Harrison	McNary	Thomas, Okla.	

So the amendment of the committee was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 156. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the city of Perth Amboy, N. J.;

S. 2904. An act to prohibit the interstate transportation of prison-made products in certain cases;

S. 3038. An act to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration facility, Alexandria, La.;

H. R. 298. An act for the relief of Jack Page; and

H. R. 617. An act for the relief of Lake B. Morrison.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. BORAH. Mr. President, I call the attention of the Senator from South Carolina to page 16, the amendment

which yesterday I asked to have go over. We may dispose of it now. I withdraw any opposition to the amendment involving soybeans, so that may be disposed of.

Mr. SMITH. May we have a vote on it?

The VICE PRESIDENT. There was so much confusion in the Chamber that the Chair was not able to hear what the Senator said.

Mr. SMITH. On page 16 the amendment to add the word "soybean" was passed over yesterday by request.

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 16, line 11, as amended.

The amendment, as amended, was agreed to.

Mr. BYRD. A parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BYRD. I intend to move to strike out subsection (F) at the proper time. Will it be in order at that time for me to move to reconsider the vote by which subdivision (G) was adopted? Those are related provisions. If the chairman of the committee could give me assurance that he would not object to a reconsideration of the vote in the event the Senate should strike out subdivision (F)——

The VICE PRESIDENT. The Senator is within his parliamentary right in making a motion to reconsider the vote within 2 days. If the bill is passed, after 2 days the Senator would not have the right to make such a motion.

Mr. BYRD. I will make the motion to reconsider at the proper time.

The VICE PRESIDENT. If the Senator will permit the Chair, the Chair does not believe the Senator is in a position to make a motion to reconsider, having voted on the losing side.

Mr. BYRD. I had an agreement with the chairman of the committee.

Mr. ROBINSON. Mr. President, I suggest to the Senator from Virginia that that issue can be raised when subdivision (F) is acted upon.

Mr. BYRD. I simply wanted to serve notice on the Senate that they were related provisions.

Mr. ROBINSON. The Chair has suggested that the Senator from Virginia is not in a position to make a motion to reconsider. If subdivision (F) shall be voted out, there will be no difficulty about a reconsideration of the vote on subdivision (G); but the question as to subdivision (F) must first be disposed of, and there is no occasion now for raising the issue of reconsideration.

With the approval of the Chairman of the Committee on Agriculture and Forestry, in charge of the pending bill, I should like to submit a request for unanimous consent to limit debate during the further consideration of the bill.

I ask that debate be limited so that after the conclusion of the business of the Senate today no Senator may speak more than once nor longer than 30 minutes on the bill, nor more than once nor longer than 15 minutes on any amendment that may be pending or that may be offered.

Mr. McNARY. Mr. President, I regret that I am not in a position to consent to the proposal made by the Senator from Arkansas. There are several important amendments yet to be discussed, and they may be fully discussed. There are some Members of the Senate absent who might desire to discuss the questions, and at this time I could not consent to the proposed limitation. However, I am willing that it should be considered tomorrow sometime during the discussion of the unfinished business.

Mr. ROBINSON. I may say that I had intended offering the request yesterday. I discussed the subject with the Senator from Oregon, and understood that he was not in a position yesterday to consent to such an arrangement, but felt that he might be today. If he is not in a position to do so, if the debate is to be continued without limit, which would mean, of course, that lengthy speeches might be made on irrelevant subjects, I shall feel that it will be necessary for the Senate to continue in session longer than heretofore. We have been proceeding in a leisurely way, and we may have to change that procedure. At the suggestion of the Senator from Oregon, I spoke to a large number of Senators, and found them all in accord with the proposal I have submitted. I do not know of anyone, save the Senator from Oregon, who objects to a limitation on the debate; but, of course, the request is subject to objection, and I can make no further suggestion at this time.

Mr. McNARY. Of course, Mr. President, we all yield, and we try to yield gracefully in the face of facts. I had hoped we might come to an agreement, and I still hope so. But this is not the last day of the world. I am willing to meet this suggestion tomorrow, and will meet it fairly, as I always do meet suggestions. I am not in a position now to agree to the proposal, and I shall object.

The VICE PRESIDENT. Objection is heard, and the clerk will state the next amendment passed over.

The next amendment passed over was, on page 19, line 8, after the word "more", to insert "of the following"; and after line 10, to insert the following:

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

Mr. KING. Mr. President, may I inquire of the chairman of the committee just what the implications are that will arise from this amendment? Does it mean that milk and all its products shall be subject to all the terms of the law?

Mr. SMITH. No; it is simply a provision for the filing of the price subject to change at any time. It is simply that the price must be filed so that the public will be advised as to the prices paid.

Mr. KING. If it is desired later that there should be some change in the assumption of control over milk, there would be no objection to returning to this for further consideration?

Mr. SMITH. Milk is excepted.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE PRESIDENT. The clerk will state the next amendment passed over.

The next amendment passed over was, on page 19, in line 16, before the word "Providing", to strike out "(B)" and insert "(C)"; in the same line, after the word "the", to insert the words "appointment or"; in line 18, before the word "selection", to insert "appointment or"; in line 19, after the word "which", to strike out "among other things,"; and, in line 20, after the word "include", to insert "only"; so as to read:

TERMS COMMON TO ALL ORDERS

(7) In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the appointment or selection by the Secretary of Agriculture, or a method for the appointment or selection, of an agency or agencies and defining their powers and duties, which shall include only the powers.

The amendment was agreed to.

Mr. COPELAND. Mr. President, the Senator from South Carolina will recall that on yesterday I suggested the insertion of some language on line 18, page 19, and I assume that because that is not a committee amendment the Senator would prefer to have it go over.

Mr. SMITH. In which line?

Mr. COPELAND. Line 18, after the word "agencies", it was agreed that there should be inserted in parentheses the words "which in the case of milk shall be a market administrator." That was agreed to yesterday, but I assume the Senator would prefer to have it go over?

Mr. SMITH. Yes.

Mr. MURPHY. I may say to the chairman of the committee that I assured the Senator from New York yesterday that, in my opinion, the chairman of the committee would have no objection to the acceptance of the amendment proposed by the Senator.

Mr. SMITH. However, as we are going through committee amendments, and this would be an amendment to the House text, I prefer that it wait.

Mr. COPELAND. Very well. I think that is only right.

The VICE PRESIDENT. The clerk will state the next committee amendment passed over.

The next amendment passed over was, on page 20, line 23, after the word "order", to insert "which is produced or marketed within the production or marketing area defined in such order"; so as to read:

ORDERS WITH MARKETING AGREEMENT

(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 percent of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order.

The amendment was agreed to.

The next amendment passed over was, on page 21, line 4, before the word "Any" strike out "(A)", and in line 11, after the word "order" to insert "which is produced or marketed within the production or marketing area defined in such order"; so as to read:

ORDERS WITH OR WITHOUT MARKETING AGREEMENT

(9) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 percent of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines.

Mr. KING. Mr. President, recurring to the amendment which has just been agreed to, I ask the Senator in charge of the bill what limitations are to be found in the bill with respect to the areas, the milk areas, or, for that matter, areas affecting any other commodities? Who is to determine what the area shall be? Shall it be a State, or a subdivision of a State, or several States?

Mr. SMITH. The Senator will find that on page 23 of the bill. It is to accommodate itself to those areas where similar conditions prevail, and is to accommodate itself largely to what is already the marketing area.

Mr. KING. However, I presume it is in the discretion of the Secretary of Agriculture, or whoever he may designate to carry out the provisions of the bill.

Mr. SMITH. No; I think it will be largely determined upon the consent of those affected in the area. It will be necessary to get the consent of the producers within each area before the prices can be established.

The VICE PRESIDENT. The question is on agreeing to the amendment on page 21, lines 4 and 11.

The amendment was agreed to.

The next amendment passed over was, on page 21, line 17, before the word "that" to strike out "(1)" and insert "(A)", and in line 23, after the word "therein" to insert "which is produced or marketed within the production or marketing area specified therein"; so as to read:

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and.

The amendment was agreed to.

The next amendment passed over was, on page 22, line 3, before the word "That", to strike out "(2)" and insert "(B)", and in line 6, after the word "or", to strike out "favored by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, or by producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market during such period" and to insert "favored:

"(i) By at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption in the marketing area specified in such marketing agreement, or order, or

"(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold or consumed within the marketing area specified in such marketing agreement or order", so as to read:

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored;

(i) By at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold or consumed within the marketing area specified in such marketing agreement or order.

Mr. COPELAND. Mr. President, according to our agreement yesterday I think the chairman would be willing to change "two-thirds", in line 14, to "three-fourths"; and also, in lines 24 and 25, to strike out "two-thirds" and insert in lieu thereof "three-fourths." That was the arrangement we had on yesterday.

Mr. SMITH. The chairman of the committee was absent at that time. I do not know whether that difference is serious enough to interfere with carrying out the provisions of the bill. I offer no objection to changing "two-thirds" to "three-fourths."

Mr. COPELAND. That should be done in each instance.

The VICE PRESIDENT. The clerk will state the amendment proposed by the Senator from New York [Mr. COPELAND] to the committee amendment.

The CHIEF CLERK. On page 22, line 14, it is proposed to strike out "two-thirds" and to insert in lieu thereof "three-fourths." On the same page, lines 24 and 25, it is also proposed to strike out "two-thirds" and to insert in lieu thereof "three-fourths."

Mr. JOHNSON. Mr. President, is it proposed to change from two-thirds to three-fourths the proportion of those who shall make the marketing agreements?

Mr. COPELAND. Yes.

Mr. JOHNSON. I do not consent to that, so far as I am concerned. An increase from two-thirds to three-fourths, I submit to the chairman of the committee, ought not to be made.

Mr. SMITH. I have consulted the Department as to their experience, and they said that they would prefer the two-thirds, but, in their opinion, three-fourths would not make any material difference whatever in the agreements they have signed up thus far.

Mr. JOHNSON. Mr. President, in response permit me to say it might make a very material difference. If two-thirds, in the experience of the Department, has been the appropriate proportion which ought to be applied, and if the De-

partment also says it believes two-thirds to be the appropriate proportion, I can see no reason for increasing it to three-fourths. It would simply make more difficult the operation of the bill, and make it more difficult for those who desire to come under it to get under it.

I hope the amendment to the amendment will not be adopted.

Mr. SMITH. In justification of the position I take, I wish to say that I have stated the facts to the Senate. I will, of course, have nothing to do with the administration of this law, if enacted. However, it will be left entirely with the Senate as to whether it will agree to the three-fourths or the two-thirds. Of course the question will be put to a vote.

Mr. JOHNSON. But, Mr. President, it ought to be made perfectly plain, I think, that those who have administered the law in the past prefer the proportion of two-thirds and not the proportion of three-fourths.

Mr. SMITH. They do; that is the fact.

Mr. JOHNSON. Then I think the amendment to the amendment ought not to be adopted, because experience has demonstrated the fact, and we ought not to change it in the light of what has transpired in the days gone by.

Mr. COPELAND. Mr. President, Senators will observe on page 13, line 5, where the volume of milk is referred to, that in the House bill it says "three-fourths of the volume." The milk producers of my State do not like the bill, anyway, but they are anxious that a larger proportion of the producers should be permitted to determine what shall be done. I submit to my friend from California that, while there is not much difference between two-thirds and three-fourths, after all it means something; and yesterday, after rather full consideration, it was determined that there would be from those in charge of the bill no opposition to the change. The Senator from Iowa [Mr. MURPHY] was in charge of the bill at the time, and that was the position he took. So I appeal to the Senate to make the change from two-thirds to three-quarters.

The VICE PRESIDENT. The clerk will again state the amendment offered by the Senator from New York to the amendment of the committee.

The CHIEF CLERK. As an amendment to the committee amendment, it is proposed, on page 22, line 14, to strike out the words "two-thirds" and to insert in lieu thereof the words "three-fourths."

Mr. JOHNSON. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. JOHNSON. This is a committee amendment. We are now considering only committee amendments which were passed over, and the amendments which were to be presented otherwise were to be presented subsequently to the determination of the committee amendments in the bill.

The VICE PRESIDENT. Let the Chair call the Senator's attention to the fact that, as the Chair understands, this is an amendment to a committee amendment.

Mr. JOHNSON. One of those which were passed over.

The VICE PRESIDENT. Yes; but the Chair does not know of any agreement to prohibit amendments to committee amendments. There was no agreement to that effect.

Mr. JOHNSON. That is quite true; but this is an amendment now offered from the floor, and the committee amendment was the one which was passed over. The right to offer the amendment, of course, rests with the Senator from New York [Mr. COPELAND], but not under the system which prevails in the consideration of the amendments.

Mr. SMITH. Mr. President, I think the Senator from California is laboring under a misapprehension. The committee amendments which were passed over certainly are subject to amendment as we reach them. The amendments to the text will come after we shall have gotten through with the committee amendments.

The VICE PRESIDENT. The Chair understands the parliamentary situation to be that in the beginning the Senator from South Carolina [Mr. SMITH] asked unanimous consent to have committee amendments considered prior to any amendments offered to perfect the bill. Later on, the Senator asked that certain amendments be passed over without prejudice; so now they come up de novo. Therefore, the Chair thinks the amendment is in order.

Mr. BORAH. Mr. President, what is the purport of this amendment? Is it proposed to increase the two-thirds to three-fourths?

Mr. COPELAND. Yes.

The VICE PRESIDENT. The Senator from New York has offered an amendment on page 22, line 14, and lines 24 and 25, to strike out the words "two-thirds" and insert the words "three-fourths."

Mr. COPELAND. Mr. President, yesterday I thought the matter was settled. Argument was made at that time. It should be kept in mind that there are two types of orders under consideration. First, there are orders in connection with the marketing agreements; second, there are orders in cases where it has been felt impossible to effect a marketing agreement. The provision for making orders in the absence of a marketing agreement is one of the most drastic authorizations of the measures. Its drastic character may be seen from the fact that such orders may be made only following the approval of the President. To stand any reasonable chance of enforcement, as I see the matter, it is obvious that the orders should be supported by a strong producer sentiment; and, therefore, the proposal is that compulsory orders shall not be made unless approved by at least three-fourths of the interested producers.

A minority less than 25 percent might well be expected to thwart any attempted regulation. That is the reason why the proposal for the concurrence of three-fourths of the producers brings the provision in harmony with the requirement under somewhat similar circumstances which I have pointed out on page 13. Certainly there is a much stronger reason for the adherence of 75 percent of the producers. I hope that the Senate will agree to what those in charge of the bill agreed to yesterday, that the number should be changed from two-thirds to three-fourths.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from New York to the amendment of the committee.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The VICE PRESIDENT. The next amendment of the committee which has been passed over will be stated.

The next amendment passed over was on page 23, line 14, in the subheading, to strike out "rule" and insert "application", so as to read:

Regional application.

The amendment was agreed to.

The next amendment passed over was, on page 24, line 17, after the word "Secretary", to strike out "may" and insert "shall", so as to read:

COOPERATIVE ASSOCIATION REPRESENTATION

(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

The amendment was agreed to.

The next amendment passed over was, on page 25, line 17, after the word "*Provided*" and the comma, to strike out "That no person shall be convicted under this title because of any violation of any order or of any obligation imposed in connection therewith, if such violation occurs between the date upon which such person files with the Secretary a petition, with respect to such order or obligation, as provided for in subsection (15), and 5 days after the Secretary enters a ruling thereon", and insert: "That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary,

and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15)", so as to read:

VIOLATION OF ORDER

(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than $50 or more than $500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided,* That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).

The amendment was agreed to.

The next amendment passed over was, on page 26, line 24, after the word "business", to strike out the word "is" and insert the word "are"; on page 27, line 11, after the word "requires" and the period, to strike out "Nothing contained in this subsection (15) shall be construed to prevent, hinder, or delay the United States or the Secretary of Agriculture from pursuing the remedies provided for in section 8a (6) of this title." and insert "The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 8a (6) of this title", so as to read:

PETITION BY HANDLER AND REVIEW

(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The district courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within 20 days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

The amendment was agreed to.

The next amendment passed over was, on page 28, line 10, before the word "specified", to strike out "as", and in line 15, after the word "order", to strike out "provided that such majority have during such representative period produced for market more than 50 percent of the volume of such commodity produced for market during such period" and insert "within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption within the marketing area specified in such marketing agreement or order: *Provided,* That such majority have, during such representative period, produced for market more than 50 percent of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 percent of the volume of such commodity sold or consumed in the marketing area specified in such marketing agreement or order", so as to read:

TERMINATION OF ORDERS AND MARKETING AGREEMENTS

(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption within the marketing area specified in such marketing agreement or order: *Provided,* That such majority have, during such representative period, produced for market more than 50 percent of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 percent of the volume of such commodity sold or consumed in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

Mr. McNARY. Mr. President, I wish to submit an inquiry with reference to the language proposed to be stricken out on page 28, commencing in line 15.

The VICE PRESIDENT. That is the amendment which has just been stated.

Mr. McNARY. May I ask the chairman of the committee wherein there is any change made from the House text?

Mr. SMITH. The purpose of the amendment was to determine the interests both by area and by volume, by production, and by marketing area.

Mr. McNARY. The House text proceeds upon the theory that there must be 50 percent of the volume and of the quantity, and the other consideration applies that factor as well as the area?

Mr. SMITH. Yes.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment passed over was, on page 29, line 16, after the word "orders", to insert a colon and the following proviso: "*Provided,* That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8 (c), given not less than 3 days prior to the date fixed for such hearing, shall be deemed due notice thereof", so as to read:

PROVISIONS APPLICABLE TO AMENDMENTS

(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders: *Provided,* That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8 (c), given not less than 3 days prior to the date fixed for such hearing, shall be deemed due notice thereof."

The amendment was agreed to.

Mr. KING. Mr. President, may I inquire of the Senator from South Carolina [Mr. SMITH] if there is any limitation in the bill as to the duration of the A. A. A. Act or of the pending bill? That is to say, will they terminate contemporaneously or is there any period fixed for the termination of either?

Mr. SMITH. Mr. President, no provision is made in this bill to that end, but in section 13 of the original act there is a provision that it shall cease to be in effect when the President finds the emergency to have come to an end.

Mr. KING. Is it left entirely to the discretion of the President of the United States as to how long the measure now before us, if it shall be enacted into law, and the A. A. A. Act shall continue in force?

Mr. SMITH. The Senator must realize these are simply amendments to the original act, but in that respect they are not amendatory of the original act.

Mr. KING. I assume the Senator has accurately stated the situation, but it seems to me this would be a good time, before the fall shall have passed, to amend the original act so that it shall terminate at a given time.

Mr. SMITH. We are proceeding upon the assumption that this is emergency legislation and that recovery shall have been made and we shall have returned to normalcy, if I may use the term which sprung up during war times, these provisions will not be necessary, but we will be in such a glorious state of prosperity that our difficulties will have disappeared like mist before the sun.

Mr. KING. Of course we shall look forward with the eye of the prophet to that day and will rejoice when it shall have dawned, but notwithstanding the A. A. A. measure is predicated upon the assumption that when parity of prices had been reached between agricultural commodities and other industrial commodities, processing taxes would cease. Now I find in the bill a provision that when that happy state shall have been reached we may go on enforcing these taxes until 20 percent above parity shall have been attained, and I am not sure that even when that state shall have been attained there is any provision that when the emergency shall have passed the bill shall cease to operate or that the A. A. A. shall terminate.

Mr. GERRY. Mr. President, I should like to ask the chairman of the committee a question because I desire to have the point clear in the record and also clear in my own mind. On page 40 of the bill, beginning in line 23, it is stated that when "more than 20 percent of the fair exchange value thereof" is reached, "the rate of such tax shall be reduced * * * to such rate as equals 10 percent of the fair exchange value thereof." In other words, the tax does not continue as was originally intended, but is lowered to 10 percent of the fair exchange value. Am I correct in that understanding?

Mr. SMITH. If the Senator will read the paragraph beginning in line 3 he will understand that the benefit payments will cease when a certain stage is reached. Then the tax will be reduced to zero and pass out of existence; but where there is a temporary approach to parity and there is reason to believe it is merely temporary during the marketing year the tax may be reduced to 10 percent. If, however, for 2 months preceding the next marketing year the conditions are such as to justify the belief that the parity will be maintained, the tax will be reduced to zero, and no benefit payments made.

Mr. GERRY. But it is always left to the Department to declare that condition to have been reached.

Mr. SMITH. Yes; but it is always dependent upon the facts in the case. The facts in the case will be that when parity shall be reached and maintained, no benefit payments will be made, and therefore no tax will be levied or collected. That is provided for in the first paragraph on page 40. In the next paragraph it is provided that during a marketing period where the price reaches parity, or even above, it may be reduced, for the obvious reason that during the same marketing period prices may drop away down below parity, and otherwise no machinery and no provision whatever would be made to recoup for the benefit of the producer.

Mr. GEORGE. Mr. President, may I ask the Senator if, under these amendments, these taxes may not be continued so long as the Secretary of Agriculture or the Administrator has any obligations under the act?

Mr. SMITH. I do not understand the Senator's question.

Mr. GEORGE. So long as the Secretary or the Administrator has any obligations under the act, so long as he is called upon to perform any duty with respect to the payment of benefits, or if he is engaged in purchasing commodities to be kept in storage, as is authorized under the bill, are not the processing taxes to be continued?

Mr. SMITH. No; I think not, for this reason: I went over the language carefully, and called their attention to the fact that there was a moral as well as a legal obligation implied, and it is explicit; that where we levy a tax for the purpose of bringing the price of the produced material up to parity, when the processors and the producers have agreed upon and maintained that price or above that price, as in the case of tobacco, it is morally wrong still further to collect the tax, because the object was to raise the price to parity.

Mr. GEORGE. That is entirely true. The distinguished chairman is entirely correct; but, if he will study his bill——

Mr. SMITH. I went over those terms very carefully.

Mr. GEORGE. I understand, but I am going by the bill. If the Senator will study the bill, he will find that the processing taxes will continue until certain affirmative findings and conclusions shall have been reached by the Secretary or the Administrator, and that they may be continued notwithstanding the parity price has been attained and has been maintained during the period if there is any other obligation or any other undertaking by the Administrator which has not been discharged. So I wish it to be made perfectly clear that the purpose of the bill as it actually is written, considering all the technicalities, is to continue this tax practically indefinitely.

Mr. GERRY. Mr. President, that is what I was afraid of. The statement of the Senator from Georgia is very clear. It seems to me that the section should be made clearer, because the idea is just what the chairman of the committee has said.

Mr. SMITH. I think the Senator from Georgia has misconstrued the bill, because whenever parity shall be reached, the bill provides, not only in the paragraph under discussion, but in the one on page 5, that—

> Whenever * * * the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or
>
> The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title—

The tax shall cease.

Mr. GEORGE. Mr. President, that provision is found in the bill; but under the subsequent amendments which are included in the bill I do not think I can be wrong in my conclusion.

Mr. SMITH. Will the Senator call the attention of the chairman of the committee to the specific language to which he refers?

Mr. GEORGE. I shall be very glad to do so, but I had not anticipated doing so.

Mr. SMITH. There was no such understanding whatever in the discussions of the committee.

Mr. GEORGE. I am quite sure of that.

Mr. SMITH. If the Senator will find in the bill any provision under which the Secretary of Agriculture may tax the processor for some other purpose than bringing about parity, the chairman now commits himself to strike that from the bill.

Mr. GEORGE. I am glad to have the Senator say that.

Mr. GERRY. I am glad to hear that.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. CONNALLY. I do not know what is in the mind of the chairman with regard to that matter; but while we probably shall have to abandon a great many of the details of the rather complex structure we now have before us, I am one who believes we are going to have to continue for a long while the processing taxes in behalf of the major agricultural crops, and the Senator from Texas favors it.

What hope have we, unless we maintain the processing taxes, that agricultural prices of themselves will maintain any fair relationship to the costs of other commodities? They did not do it before the war, and they have not done it since the war. They did it for a short time only under the influence and the stimulation of a great shortage of food supplies in Europe, because millions of men were withdrawn from productive enterprise and were killing each other.

Mr. SMITH. Is the Senator from Texas saying that he would be willing to tax the processor after the price of the commodity had reached parity, the object of the tax?

Mr. CONNALLY. No; perhaps not; but I am not in favor, simply because for a little while——

Mr. SMITH. Provision is made here——

Mr. CONNALLY. Just a moment.

Mr. SMITH. Oh, certainly; I will give the Senator all the time he wishes.

Mr. CONNALLY. I thank the Senator very much. He is generous with his time. I am very grateful to him for being allowed to talk a little while.

The moment the price reaches parity, produced probably by some temporary cause, I am not in favor of instantly abandoning the processing taxes.

Mr. SMITH. That is not in the bill. I tried to make clear that the tax would be reduced only temporarily when the price reached parity or above during a current marketing year; but if, preceding the next marketing year, conditions were such as to warrant, in the estimation of both the producers and the Department, the belief that the price would be parity or above, the tax could be reduced to zero.

Mr. CONNALLY. I thank the Senator. What I am trying to point out is this:

I have heard the Senator from South Carolina, standing upon this floor, denounce the high industrial costs, the high tariffs that the farmer has to pay. I have heard him say here within the past few days that never in the history of the world has the farmer been able to fix his own price and get what he desired for his product. What is there in the future which indicates to the mind of anyone that without some form of relief such as the Agricultural Adjustment Administration industrial costs are coming down and farm prices are going up?

No one, if he will study the history of the past, can believe that that will happen; and, so far as I am concerned, I am prepared to vote for processing taxes in behalf of the major agricultural crops whose surpluses are exported, and whose prices, therefore, are fixed in the export market. I am willing to vote for processing taxes on such products in order to equalize the spread between the high price of industrial products which the farmer has to buy and the low price of agricultural products which he has to sell.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. CONNALLY. Just a moment. By the same process of reasoning, if the American farmer is forced by law to pay a higher price for the products of American industries in order that the men who work in those industries may receive higher wages and in order that the men who own the factories may derive higher dividends, why is it not fair for the same men who work in the factories and the same men who own the factories to pay the farmer increased costs on his product in the form of a processing tax in order that the man who labors on the farm and the man who owns the farm may get back a little of what they have been paying to the industrialists for 75 years?

I am astonished that the senior Senator from South Carolina should be opposed to that sort of a principle.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. SMITH. Mr. President, I do not want the Senator to take me to task for doing what he is arguing against. If the price of the farmer's produce reaches a parity with the protected price or any other price of the commodities he has to buy, that is, if the farmer's dollar has a value of 100 cents as compared with what he has to buy, does the Senator think it is fair to keep on taxing the other industries to pile up an extraordinary price even above the ungodly protected price? Does he think that is fair?

Mr. CONNALLY. I will answer the Senator, but I promised to yield first to the Senator from Rhode Island.

Mr. SMITH. I do not want the Senator to misquote my statement.

Mr. CONNALLY. I will come to the Senator's suggestion if he will give me time. I will reach the Senator on the calendar.

Mr. SMITH. The Senator from South Carolina will take care of himself.

Mr. CONNALLY. The Senator from South Carolina not only takes care of himself, but of the time of everybody else.

Mr. SMITH. No, that is not a task I would assume.

Mr. CONNALLY. The Senator from Texas thought he had the floor. He promised to yield, but was denied that opportunity by the Senator from South Carolina.

Mr. SMITH. I now give the Senator the opportunity.

Mr. CONNALLY. I will yield to the Senator in due process, but I reserve the right to control my own time. I now yield to the Senator from Rhode Island.

Mr. GERRY. My question was as to what provision there is in the bill to provide for the situation affecting the taxes when the price shall have reached parity. The Senator will understand that in the textile business it is very important whether or not the tax is to continue after parity shall have been reached. The Senator from Georgia seemed to have some doubt as to the interpretation of the bill. I think that should be made very clear.

Mr. CONNALLY. Let me say to the Senator from Rhode Island that I am not talking about parity as parity was defined in the bill originally. I am not prepared to say that I am going to live by that rule of parity the rest of my life. That was a standard that was fixed arbitrarily by taking a certain series of years, from 1909 to 1914. I do not know that that standard of measurement was necessarily fair at that time.

Mr. NORBECK. Mr. President, will the Senator yield to me?

Mr. CONNALLY. I yield.

Mr. NORBECK. The testimony before the committee was to the effect that the parity ratio was established before farmers had Fords or had radios, and did not take into consideration those things which were then considered luxuries.

Mr. CONNALLY. That is correct.

Mr. NORBECK. So that he has to be on a lower standard of living in order to live at the parity price.

Mr. CONNALLY. The Senator from South Dakota is exactly correct. The standard of parity which we adopted was one which obtained at a time when the farmer had no artificial aids whatever. In other words, the prices were fixed, not by artificial devices, but by the natural process of things. So we adopted that, but it is not necessarily a safe and fair guide value, because at that very time the industrial interests were receiving bounties in the form of high tariffs, and the laboring men in the factories, at least in theory, were receiving higher wages because of the existence of those tariffs.

I understand the difficulties of the Senator from Rhode Island, in whose State there are textile factories. Of course, the textile mills are having to pay more for the cotton they spin because of the processing tax. That makes it more difficult for them to compete in foreign markets.

I have an amendment now pending which will be of benefit to the textile producers in that I propose that the Government shall use a part of the import revenues to pay an export bounty on the manufactured cotton, not on raw cotton, but on the articles manufactured in the textile mills, in order to aid the textile manufacturer to compete in the export trade and to some extent to repay him for the burden which is imposed upon him by the processing tax.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. CONNALLY. I now yield to the Senator from South Carolina, if he desires.

Mr. SMITH. The point I desire to make is this: The Senator talked about taking an arbitrary date. The statisticians took the date when, in their opinion, the purchasing power of the agricultural dollar was a hundred cents. That will be maintained in all the exigencies of the subsequent marketing trend. For instance, if the thing the farmer has to buy goes up, then the parity is spread. In other words, the object of this entire proposal is to give to the farmer, in return for what he sells, the same value in dollars as he pays for the things he buys, and, of course, there is a sliding scale. We took the year when it happened that his dollar was worth exactly what the dollar of the industrialist was worth. It just happened that that was the year when there was such a parity.

Mr. CONNALLY. Mr. President, of course the Senator from South Carolina has elucidated the matter entirely, completely, and thoroughly, and the statement means just what the Senator from Texas said a moment ago, that when we adopted a standard of parity we adopted a standard in which the farmer had no artificial benefits, but one which he reached by reason of world economic laws. I am not prepared to say that for all time that is a just standard, and I am prepared to vote for a new standard whenever it appears that the farmer is entitled to that sort of a standard.

I am not attacking the Senator from South Carolina. He says the purpose of the bill is so-and-so. Of course, that is the purpose. My complaint is that it does not necessarily attain the purpose by the measures which the Senator from South Carolina proposes.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. SMITH. Mr. President, will the Senator from North Carolina allow me a moment?

Mr. BAILEY. Certainly.

Mr. COPELAND. A parliamentary inquiry.

The PRESIDING OFFICER (Mr. CLARK in the chair). The Senator will state it.

Mr. COPELAND. What is the amendment now before the Senate?

The PRESIDING OFFICER. The next amendment passed over has not been stated.

Mr. CONNALLY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Texas has the floor. The Senator from New York rose to propound a parliamentary inquiry.

Mr. CONNALLY. I propound a parliamentary inquiry myself. I thought when one had the floor he had to be asked to yield.

The PRESIDING OFFICER. The Senator does not have to be asked to yield when a parliamentary inquiry is propounded.

Mr. CONNALLY. I have the floor. If the Senator wants me to yield, I will yield, but I do not understand the process whereby he can take me off the floor.

Mr. COPELAND. I did not take the Senator off the floor.

The PRESIDING OFFICER. Under the Senate practice a parliamentary inquiry is equivalent to a point of order. There is no amendment before the Senate at the present time. The inquiry of the Senator from New York was equivalent to a point of order. The Chair announced that the next amendment passed over had not been stated.

Mr. CONNALLY. There is a flock of amendments pending; the whole bill is before the Senate.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. BAILEY. Mr. President——

Mr. CONNALLY. I yield to the Senator from North Carolina.

Mr. BAILEY. I am making an inquiry only for information. I freely confess that I have had the very greatest difficulty in comprehending the pending bill in its details or as a whole. I have carried it around with me for several days.

On the matter of the base price, the parity price, we are all in confusion. I wish to see if we can clear it up. I may be entirely wrong.

We began in the Agricultural Adjustment Act in 1933 with the pre-war period parity, August 1909 to July 1914. That was the base and that was the standard of parity in the old act and the present law. But at the top of page 3 of the pending bill that standard is abandoned and a different standard is established. If that be true, I wish to know it; and if it be not true, I wish to be corrected; but I shall read the language. It is as follows:

> Whenever the Secretary of Agriculture has reason to believe that:
> (a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value therefor for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and—

And so forth.

It occurs to me that we are asked to establish a new standard. Are we still on the old standard of 1909 to 1914?

Mr. SMITH. Yes.

Mr. BAILEY. Then what is the meaning of this language?

Mr. SMITH. The terminology is interchangeable—"fair exchange value or parity."

Mr. BAILEY. Would that be the fair exchange value as of now or the fair exchange value as of 1909–14?

Mr. SMITH. The fair exchange value as interpreted in terms of 100 cents of the farmer's purchasing price as it was in 1924.

Mr. BAILEY. But that took as the base 1909–14. This language is without dates, but I understand the Senator now to say that the base is still 1909–14. Is that correct?

Mr. SMITH. That is correct.

Mr. CONNALLY. Mr. President, I do not care to occupy more of the time of the Senate. What I rose to do was to challenge the statement of the Senator from South Carolina and other Senators that at some time or other we had to abolish the processing taxes. It seems to me that if we are to maintain any sort of a farm program at all for the benefit of farm producers, we must maintain the processing taxes in some form, or else go into the Treasury itself. The processing taxes are the sounder and the better method, because we are making the consumers of the product pay a higher price; and the justification is that the farmer himself has been paying all his life a higher price for the commodities he has consumed. So I, for one, am prepared to vote, whenever and however it may be necessary, for a permanent system of processing taxes.

The VICE PRESIDENT. The clerk will state the next amendment passed over.

The next amendment passed over was, at the top of page 38, to insert:

> SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND BARLEY
>
> (5) If at any time prior to December 31, 1937, any tax with respect to flaxseed, or barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. The provisions of section 16 of this title shall not apply in the case of flaxseed and barley.

Mr. McNARY. Mr. President, that opens up a very controversial question. Would the Senator from South Carolina be willing to recess at this time?

Mr. SMITH. Mr. President, we have consumed practically all of the day on matters which were of interest to those who discussed them; and while the discussion perhaps has been very illuminating, we have made very little progress. I should prefer to go on and at least try to get rid of a few more of the amendments.

Mr. McNARY. This is an amendment which will require considerable discussion. A number of the Members of the Senate are absent. It is nearly 15 minutes after 5. We have had a good day, and have progressed very well.

Mr. GEORGE. Mr. President, I suggest to the Senator from South Carolina that it is going to take some time to dispose of the amendment on page 38 relating to flaxseed. I hope the Senator will either ask for a recess now or let that amendment go over until tomorrow morning. I can assure the Senator that we cannot finish it tonight.

Mr. SMITH. Mr. President, I do not know of any time——

Mr. GEORGE. The Senator is not going to finish the bill tonight.

Mr. SMITH. I know the Senator is not going to finish the bill this afternoon, but what we are trying to do is to make as much progress as possible.

Mr. GEORGE. That is all very well; but there are many of us here who have not taken up much time on this amendment or any other amendment, and it is not fair to hold the Senate in session after 5:15 in the afternoon when it is perfectly obvious that we have now reached a portion of the bill as to which there will be considerable discussion.

The amendments which immediately follow this amendment all go to the very vitals of this whole measure. There may be other committee amendments which the Senate could take up, but it is obviously not fair to take them up this afternoon.

Mr. SMITH. Mr. President, I do not know just where the element of fairness or unfairness is.

Mr. GEORGE. It is 5:15 o'clock, and it is now past the middle of July. There are some of us who have not taken up a great deal of time in discussing any matter before the Senate, or any particular issue which may have arisen before the Senate. It seems to me that an amendment which is so important and so intricate as is this amendment might be passed over until tomorrow. I am not particularly interested in the other amendments; but I do know, and the Senator from South Carolina knows, that inasmuch as the amendment relates to the taxes and provisions relating to proceedings in court, we have reached the point in the bill where certainly some time will necessarily be consumed.

There may be other committee amendments undisposed of outside of these particular amendments. I am not familiar with them; but I make the request, which the Senator does not have to grant, that this particular amendment, paragraph (5), on page 38, go over until tomorrow morning.

Mr. McNARY. Mr. President, I simply wish to make the request, after what has been said by the Senator from Georgia, that the Senator from South Carolina consent that the Senate take a recess at this time.

Mr. SMITH. Mr. President, so far as I am concerned, the Senator knows that I am just as weary—perhaps more so—than is any other Senator here, because unfortunately I am more or less charged with the responsibility of trying to pilot this measure to its final conclusion. I am compelled to be in attendance all the time, and I desire to have the bill completed as soon as possible.

Mr. McNARY. The Senator has worked assiduously and has been kindly, and we have all tried to cooperate in the consideration of this very comprehensive bill. I think such cooperation will continue, and I am only asking that the Senate may recess at this time.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. SHIPSTEAD. I wish to add my request to that of the Senator from Georgia and the Senator from Oregon that the Senator from South Carolina consent that a recess be taken at this time.

The Senator from South Carolina has worked hard today and he has done everything he could to further the passage of the bill. He says he is weary, and I desire to assure the Senator that the Senators who have not taken part in the debates are as weary as he is, possibly more so. On behalf of those who are weary—and I am sure we are in the majority—I ask the Senator from South Carolina to consent that the Senate now take a recess.

Mr. SMITH. I can appreciate what the Senator says, that some Senators not actively engaged in the debates on this particular bill are weary. They have reason to be weary.

Mr. WALSH. Mr. President, in connection with the pending bill, I desire to call the attention of the Senate to a news item published today in the Washington Evening Star, as well as in every other newspaper in the country. It relates to a decision rendered today by the United States Circuit Court of Appeals holding unconstitutional the processing taxes and the flour taxes imposed under the Agricultural Adjustment Act. I ask unanimous consent that the article in question be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. CLARK in the chair). Without objection, it is so ordered.

The article is as follows:

[From the Washington Evening Star of July 16, 1935]

A. A. A. TAX IS ILLEGAL, UNITED STATES APPEALS COURT IN BOSTON ASSERTS—SPLIT DECISION OF 2 TO 1 HOLDS PROCESSING, FLOOR LEVIES UNCONSTITUTIONAL—JUDGES SCORE DELEGATION OF AUTHORITY TO SECRETARY—CONGRESS FIXED NO RULES FOR HIM, BUT PERMITTED LAWS BY DECREE, TRIBUNAL DECLARES

BOSTON, July 16.—The United States Circuit Court of Appeals today held unconstitutional the processing and floor taxes imposed under the Agricultural Adjustment Act.

The court found that no such authority to impose taxes had been delegated to the Secretary of Agriculture by the Constitution or by decisions of the Supreme Court.

The Circuit Court's decision was based upon a test case brought by receivers of the Hoosac Mills, which sought recovery of $81,694.48. The decision was subscribed to by Judges Scott Wilson and George F. Morris. Judge George H. Bingham, senior justice, dissented.

The Hoosac Mills suit was one of many brought by textile corporations who sought recovery of taxes paid on constitutional grounds. It was chosen by United States attorneys as a test case to be carried to the United States Supreme Court chiefly because of the initial success of the Government in obtaining a favorable decision in the district court of Judge Elisha H. Brewster.

COLLECTION OF $700,000,000 HELD UP

Yesterday Judge Brewster had hinted that this finding might be reversed by the Circuit Court as he ordered continuation of a temporary injunction preventing collection of processing taxes from four New Bedford mills and a Fall River corporation.

The collection of some $700,000,000 of processing taxes hinges upon the question of their constitutionality.

"It is clear", said the court of appeals decision, "that the main purpose of the act is to control and regulate the production of the so-called "basic agricultural commodities" of the several States, through agreements with the producers and in consideration of what is termed "rental or benefit payments", to reduce acreage or production for market sufficient to increase the current average price of such products to that elusive point where the returns to the farmer from the production of such commodities will purchase under present conditions the same amount of industrial products that the returns to the farmer from the same products would buy in the 5-year pre-war period from July 1909 to August 1914. * * *

HEARING IN FALL SEEN

Frank J. Wideman, Assistant Attorney General in charge of tax cases, said the Hoosac case would be heard before the Supreme Court "some time in the fall * * *, in any case before the holidays."

The decision will not stop processing tax collections, Wideman said.

Two other direct tests of the A. A. A.'s constitutionality, now awaiting action of the Federal Court of Claims here, probably will be heard in October, he added.

The Hoosac Mills case may be consolidated with these two, brought by Continental Mills and Interlaken Mills in the Supreme Court hearing.

THREE APPEALS TOMORROW

About 200 suits to stop tax collections are pending. These ask injunctions, and Government attorneys contend they do not involve the constitutionality of the tax. The circuit court at Louisville will meet tomorrow to hear an appeal from three Cleveland injunction suits against the A. A. A.

Gratification at the promptness of the Boston decision was expressed by Chester C. Davis, the A. A. A. Administrator.

Davis said it probably would result in an early ruling by the Supreme Court on the taxes and the entire farm program.

Officials were quick to say that the ruling would not affect immediate progress of the adjustment programs.

CANNOT INVADE INTRASTATE FIELD

"The power of Congress to regulate interstate commerce does not authorize it to do so by taxing products either of agriculture or industry before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

"The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation, for any purpose deemed by Congress in furtherance of the 'general welfare', but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose."

The court also set forth: "The power to determine what the law shall be, what property shall be affected by taxation or regulation, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

MUST LAY DOWN GUIDE

"The power to impose a tax and to determine what property shall bear a tax can only be determined by the legislative department of the Government. If Congress undertakes to lay down a guide for an administrative officer to follow in carrying out its mandates, it must be an intelligible and reasonably definite standard. * * *

"The balance between production and consumption of certain commodities or the equalizing of the purchasing power thereof between certain widely separated periods alone forms no such standard.

"If Congress has the power to control or regulate the production of agricultural products within the several States, and assess a tax on their processing or sale for that purpose, it is obviously legislative in character. Query: Then has Congress set up any definite standard for the Secretary's action in making rental or benefit payments to producers and thereby imposing a processing tax?

"NO SUCH GUIDE FOUND

"We find no definite, intelligible standard set up in the act for determining when the Secretary shall pay rental or benefit pay-

ments in order to reduce production of any particular commodity except in his own judgment as to what will effectuate the purpose of the act.

"The declaration of the emergency in the agricultural act contains no such standard for the Secretary of Agriculture to follow in entering into restrictive agreement with producers of agricultural products. It is merely a statement of conditions which, in the judgment of Congress, warranted legislative action. * * *

"Without requiring any findings to warrant his action, Congress has empowered him, in conjunction with the producers, to determine when a reduction of acreage or production of any one of the agricultural commodities which it termed basic should be resorted to to accomplish the act, when rental or benefit payments are to be made and in what amounts, and thereby to determine through the initiation of the benefit payments or rentals the consequent imposition of a tax.

"NO FACT FINDING MADE

"The Secretary made no findings of facts as to why he selected the first list of basic commodities for reducing acreage or production, and was not required to do so. He simply made a proclamation; rental and/or benefit payments are to be made with respect to cotton; and a processing tax automatically followed.

"While the amount of the reduction of acreage or production of any basic commodity under this act is done by agreements and not by a code, the purpose and the result is the same; viz, the control and regulation of a great intrastate industry. * * *

"If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress or to foretell the future limitations of local self-government.

"SCHECHTER CASE CITED

"No standard or guide is here laid down to determine how the compensating tax shall be fixed or what elements shall be taken into consideration in determining the amount, except that it shall be determined by the amount necessary to prevent such disadvantage in competition. We find no decision of the Supreme Court authorizing such a delegation of power to an administrative officer.

"On the contrary, the recent decision in the Panama Refining Co. case and the Schechter Poultry Corporation case, we think, clearly condemns it as unwarranted under the Constitution.

"If Congress has invaded a field over which it has no control under the Constitution, or the Secretary has been unlawfully vested with legislative powers, the exercise of which has affected these appellants, it is not necessary to consider whether the processing and floor taxes are direct taxes, or, if excise taxes, are not uniformly laid.

"The decree of the district court is reversed and the case is remanded to that court with directions to enter a decree for the appellants."

ILLINOIS COLLECTIONS BALKED—COURT HOLDS CONSTITUTIONALITY AT LEAST APPEARS DOUBTFUL

SPRINGFIELD, ILL., July 16.—The United States District Court has ruled the Government temporarily cannot collect processing taxes from 12 firms in central and southern Illinois.

Eleven milling companies and one packing firm have been granted a temporary order restraining the Government from collecting the taxes. They claimed the A. A. A. was unconstitutional.

Judge Charles G. Briggle issued the order late yesterday declaring constitutionality at least appeared doubtful. He held that a section saying no injunction should be issued to prevent the collection of taxes did not apply because of extraordinary circumstances in the cases involved.

"The equitable powers of the court were invoked in spite of the prohibitory provisions of the section relating to injunctions, because of the character of the penalties involved for failure of the companies to pay the taxes and the multiplicity of the suits required to get refunds from the Government", Justice Briggle said.

He held the companies should pay the taxes to the clerk of the court, pending decision of the constitutionality of the act.

VIRGINIA MILLERS PROTEST

RICHMOND, VA., July 16.—Virginia millers today had joined with peanut companies of the Old Dominion in a protest against processing taxes.

Judge John Paul in district court at Harrisonburg Monday will hear petitions of the Shenandoah Milling Co. and other millers for an injunction to restrain the collector of internal revenue from collecting processing taxes on wheat ground into flour.

Other petitions have been filed by the J. M. Strickler Mills of Harrisonburg and the Natural Falls Milling Co. of Bridgewater. Judge Paul has granted a preliminary restraining order on each.

EXECUTIVE SESSION

Mr. ROBINSON. Mr. President, with the approval of the Senator from South Carolina, it is my intention to move an executive session.

Mr. SMITH. I think that will be all right, Mr. President.

Mr. ROBINSON. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER (Mr. CLARK in the chair). If there be no further reports of committees, the clerk will state the first nomination in order on the calendar.

THE JUDICIARY—DISTRICT OF COLUMBIA MUNICIPAL COURT JUDGES

The legislative clerk read the nomination of Nathan Cayton, of the District of Columbia, to be judge of the municipal court, District of Columbia.

The PRESIDING OFFICER (Mr. CLARK in the chair). Without objection, the nomination is confirmed.

The legislative clerk read the nomination of George C. Aukam, of the District of Columbia, to be judge of the municipal court, District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Ellen K. Raedy, of the District of Columbia, to be judge of the municipal court, District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

JUDGE OF THE POLICE COURT, DISTRICT OF COLUMBIA

The legislative clerk read the nomination of Walter J. Casey, of the District of Columbia, to be judge of the police court, District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

SPECIAL COUNSEL, NAVAL RESERVE NO. 1, CALIFORNIA

The legislative clerk read the nomination of John W. Preston, of California, to be special counsel.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

WORKS PROGRESS ADMINISTRATION

The legislative clerk proceeded to read sundry nominations for State administrators in the Works Progress Administration.

Mr. McKELLAR. I ask unanimous consent that the nominations on the calendar for State administrators in the Works Progress Administration be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate, as in legislative session, took a recess until tomorrow, Wednesday, July 17, 1935, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 16 (legislative day of May 13), 1935

JUDGES OF THE MUNICIPAL COURT FOR THE DISTRICT OF COLUMBIA

Nathan Cayton to be judge of the municipal court, District of Columbia.

George C. Aukam to be judge of the municipal court, District of Columbia.

Ellen K. Raedy to be judge of the municipal court, District of Columbia.

JUDGE OF THE POLICE COURT, DISTRICT OF COLUMBIA

Walter J. Casey to be judge of the police court, District of Columbia.

SPECIAL COUNSEL, NAVAL RESERVE NO. 1, IN THE STATE OF CALIFORNIA

John W. Preston to be special counsel, naval reserve no. 1, in the State of California.

STATE ADMINISTRATORS, WORKS PROGRESS ADMINISTRATION

Thad Holt for Alabama.
W. R. Dyess for Arkansas.
Frank Y. McLaughlin for California.
Matthew J. Daly for Connecticut.
J. L. Hood for Idaho.
Wayne Coy for Indiana.
Evan Griffith for Kansas.
George H. Goodman for Kentucky.
John H. Mackall for Maryland.
Harry Lynn Pierson for Michigan.
Wayne Alliston for Mississippi.
Victor Christgau for Minnesota.
Matthew S. Murray for Missouri.
D. F. Felton for Nebraska.
William H. J. Ely for New Jersey.
Lea Rowland for New Mexico.
Lester Herzog for New York.
G. W. Coan, Jr., for North Carolina.
Thomas H. Moodie for North Dakota.
E. J. Griffith for Oregon.
Edward N. Jones for Pennsylvania.
Lawrence Pinckney for South Carolina.
M. A. Kennedy for South Dakota.
Harry S. Berry for Tennessee.
H. P. Drought for Texas.
William A. Smith for Virginia.
George H. Gannon for Washington.
J. Burleigh Cheney for Rhode Island.

POSTMASTERS

CONNECTICUT

Helen O. Gatchell, Andover.
Frank E. Hurgin, Bethel.
Lawrence T. Loftus, Broad Brook.
Pauline I. Olie, Pequabuck.
John L. Walker, Ridgefield.

GEORGIA

Essie T. Patterson, Byromville.
Jim Lou Cox Hoggard, Camilla.
Zack L. Strange, Collegeboro.
Joseph D. Holland, Nashville.
Thomas Archie Pearson, Nicholls.
William E. Fitts, Rocky Ford.
Watson K. Bargeron, Sardis.

IDAHO

Harold E. Landacre, Dubois.

IOWA

LeVerne Riggs, Cumberland.
Thomas H. Kenefick, Eagle Grove.
John B. Murphy, Fairbank.
Edward A. Kregel, Garnavillo.
Raymond A. Johnson, Latimer.
Earle F. Rex, Odebolt.
Lee E. Finders, Oelwein.
William H. Theisen, Palmer.
Francis W. Aubry, Perry.
Charles A. Alter, Persia.
Charles B. Chapman, Prescott.
Marie Eilers, Steamboat Rock.
Mack C. DeLong, Washington.
Jimmie N. Hopkins, Whiting.

KANSAS

John H. Eckhart, Almena.
Lindsey S. Haile, Howard.
Alfred L. Hastings, Thayer.

KENTUCKY

Charles A. Myers, Bandana.
Gertrude Owens, Brodhead.
Ernest Muster, East Bernstadt.
Hallie Casey, Loyall.
Harry Greene, Milburn.
Arthur K. Slaton, Slaughters.

MAINE

Charles L. Ripley, Andover.
George L. Hawes, East Corinth.
Loton R. Pitts, Naples.

MARYLAND

Claudine M. Friend, Friendsville.
Nena M. Jamison, Walkersville.

MONTANA

Mearl L. Fagg, Billings.
Joseph E. Swindlehurst, Jr., Livingston.
Mary E. Matthews, Oilmont.

NEW HAMPSHIRE

William J. Neal, Meredith.
Glea L. Rand, Plymouth.

NORTH DAKOTA

Ella M. Nevin, Bathgate.
August M. Bruschwein, Driscoll.
Everal J. McKinnon, Ross.

OREGON

Viva Todd, Cloverdale.
Thomas W. Angus, Gardiner.
Rose Mildred Chisholm, Monroe.
Harry E. Mahoney, Oakland.
Pearl A. Lawson, Riddle.
Charles A. Purcell, Troutdale.
Edward F. Kelso, Yoncalla.

SOUTH DAKOTA

Frederick S. Countryman, Canova.
Grover C. Kenworthy, Deadwood.
Bastian J. Kallemeyn, Hayti.
Robert Maley, Sr., Howard.
Frank O. Schumaker, Iroquis.
Julius Pfitzer, Java.
John Krambeck, Lead.
George W. Lawrence, Mount Vernon.
Mary A. Hurley, Lennox.
William E. Ruckle, Onida.

WASHINGTON

Felix P. La Sota, Metaline Falls.

HOUSE OF REPRESENTATIVES

TUESDAY, JULY 16, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our blessed Heavenly Father, we pray that the spirit of the Lord may rest upon us—the spirit of wisdom and understanding, the spirit of counsel and might, the spirit of knowledge and the fear of the Lord. Do Thou keep us untroubled and unclouded by regular desire; free us from delirious fancy and help us to see through every perplexity and triumph over every assault of evil. Let the blessed divinities of patience and golden hope work in us. May obligation to our country, the subordination of self be fostered by a Christian faith. We thank Thee for a world which Thou hast made and clothed in all its glory; it is so rich in materials and opportunities. Make us altogether one in the unity of the faith and of the knowledge of the Son of God. Amen.

The Journal of the proceedings of yesterday was read and approved.

RAILWAY MAIL SERVICE

Mr. MEAD. Mr. Speaker, I ask unanimous consent to vacate the proceedings of the House by which the bill (H. R. 7506) to provide for a stenographic grade in the offices of Chief Clerk and Superintendent in the Railway Mail Service was considered and passed.

The Clerk read the title of the bill.

Mr. SNELL. Mr. Speaker, reserving the right to object, will the gentleman tell us the reason for this request?

Mr. MEAD. The reason for the request is that although the bill had been amended by the Committee on Post Offices and Post Roads, the same amendment was again offered from the floor and adopted, so that the bill now carries two identical amendments, and I want to eliminate one of them.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MEAD. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 7506, and I shall ask the House to vacate the proceedings by which the Sweeney amendment was agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the title of the bill.

Mr. MEAD. Mr. Speaker, I ask unanimous consent to vacate the proceedings by which the Sweeney amendment was agreed to on yesterday.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. WOODRUM. Mr. Speaker, I ask unanimous consent to address the House for 2½ minutes.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. WOODRUM. Mr. Speaker, much is being said now in the press, and some remarks were made on the floor of the House yesterday about the adjournment of Congress. I agree 100 percent with the very delightful optimism expressed by the distinguished and able gentleman from Georgia that Congress ought speedily to adjourn. [Applause.] If I interpret your applause correctly, it is an expression of sympathy with the sentiment rather than an expression of your intentions.

Mr. Speaker, in the first place, this is not an unusually long session of Congress. I have before me the record and I find that the long session of Congress, which this would have been had it not been for the twenty-first amendment to the Constitution, usually runs about 6 or 7 months. If there had been no such constitutional amendment this session would have adjourned along about the middle of June or 1st of July.

I am as anxious to get home as any Member of Congress. Without discussing the propriety or impropriety or the good judgment of taking up a tax bill now, the fact remains that it is up, and I address my remarks particularly to my colleagues of the majority; for, after all, the responsibility of legislation and carrying out the President's program is with us. I want to say to you, gentlemen, that to my mind it will be a major strategical blunder on our part to leave this Congress without settling one way or the other the question of the tax bill. [Applause.]

I believe that no Congress has ever passed a tax or tariff bill in an election year. I think that is correct, although I have not verified the record. I have, however, talked to some oldtimers, and I believe that is correct. If we leave this matter now we will not pass it at all. Our leader, the President of the United States, has said we must raise some additional revenue. I am not saying how it ought to be raised or what kind of a bill we ought to vote for, or whether you want to vote for a tax bill or not, but I say it is fair to us and to the American public to settle this issue now in order that the business people, the taxpayers, and the rest of the country may know what they have to face.

Mr. BLANTON. Will the gentleman yield?

Mr. WOODRUM. I yield to the gentleman from Texas.

Mr. BLANTON. If it had not been for the "lame duck" amendment, this session of Congress would have been the short session and would have adjourned sine die on March 4, 1935.

Mr. WOODRUM. That is correct.

Mr. BLANTON. So this is an extraordinarily long session.

Mr. WOODRUM. No; this would have been the long session.

Mr. BLANTON. The gentleman is incorrect. The short session always followed an election year until the "lame duck" amendment changed it.

Mr. FITZPATRICK. May I ask the gentleman if the first session of the Seventy-second Congress did not pass a nuisance-tax bill?

Mr. WOODRUM. Maybe the gentleman is correct, but I do not think we ever passed a general-tax bill in an election year.

Mr. Speaker, I am as anxious as anyone is to go home, but I appeal to my colleagues on both sides of the aisle that the business men of the country have a right to know what they will have to face in the way of taxes. You may think it is hot here in Washington right now, but I want to tell you that if we do not settle this issue it is going to be an awful sight hotter when we go back home, and in the elections next year.

[Here the gavel fell.]

WITHDRAWAL OF RIGHT TO SUE UNITED STATES ON BONDS AND SIMILAR OBLIGATIONS

Mr. STEAGALL. Mr. Speaker, I ask unanimous consent that House Joint Resolution 348 may be given a privileged status on Thursday; that there may be 2 hours of general debate, to be confined to the bill and to be divided equally between myself and the gentleman from Ohio [Mr. HOLLISTER], the ranking minority member of the Committee on Banking and Currency.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. WOLCOTT. Mr. Speaker, reserving the right to object, we have had several requests for time on this side. This is a very important bill, and there are many Members who believe it is vital to the integrity of the obligations of the Federal Government. For this reason I am constrained to insist that we have at least 4 hours.

Mr. STEAGALL. Will not two hours and a half be satisfactory?

Mr. WOLCOTT. That would allow only an hour and a quarter to a side. I have in mind two Members who will speak for at least an hour, and I have received requests this morning from three other gentlemen for talks ranging from 10 to 30 minutes, so I do not see how we can possibly do credit to this bill unless we have not less than 4 hours' general debate, or 2 hours on each side.

Mr. STEAGALL. Mr. Speaker, I renew my request and amend the request to make it 3 hours of general debate, to be confined to the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama as amended?

Mr. SNELL. Mr. Speaker, reserving the right to object, we want to cooperate in this matter. As a matter of fact, we are against the principle of this bill; but I appreciate the fact that you have the power to bring in a rule here which would make general debate shorter if it was so desired. For this reason, and being desirous of getting a reasonable amount of time to discuss this proposition, may I ask the gentleman to make it 3½ hours?

Mr. STEAGALL. May I say to the minority leader that, to be perfectly frank, I had a reasonable basis to believe that 3 hours would be considered ample time by the minority, and I hope the gentleman will agree to 3 hours.

Mr. SNELL. We have had so many requests for time that we just cannot get through in that time.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. KNUTSON. Mr. Speaker, in view of the numerous requests for time on this side, may I suggest that the minority side be given two-thirds of the time to be allotted?

Mr. STEAGALL. Of course, I cannot agree to that.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. SNELL. Mr. Speaker, I object.

ADJOURNMENT SINE DIE

Mr. DEEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DEEN. Mr. Speaker, I desire to offer a privileged resolution, and I want to inquire whether or not I will be permitted to discuss the objections that may be offered to the resolution on any point of order which may be made against the same?

Mr. SISSON. Will the gentleman withhold his request?

Mr. DEEN. Not at this time.

The SPEAKER. The Chair cannot answer the gentleman's question at this time.

Mr. DEEN. Mr. Speaker, I offer a privileged resolution, which I send to the desk.

The Clerk read the resolution, as follows:

House Concurrent Resolution 31

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Tuesday, the 23d day of July, 1935, and when they adjourn on said day they stand adjourned sine die.

Mr. O'CONNOR. Mr. Speaker, I move to lay the resolution on the table.

The question was taken; and on a division (demanded by Mr. DEEN and Mr. SNELL) there were—ayes 111, nays 48.

Mr. SNELL. Mr. Speaker, I make the point of order there is not a quorum present.

Mr. PARSONS. Mr. Speaker, I make the point of order there is a quorum present.

The SPEAKER. The Chair is counting. [After counting.] Two hundred and eleven Members are present, not a quorum.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 261, nays 87, not voting 81, as follows:

[Roll No. 127]

YEAS—261

Adair	Colmer	Eckert	Hill, Samuel B.
Amlie	Connery	Edmiston	Hobbs
Arnold	Cooley	Ellenbogen	Hook
Ayers	Cooper, Tenn.	Evans	Hope
Barden	Costello	Faddis	Houston
Beiter	Cox	Farley	Huddleston
Biermann	Cravens	Ferguson	Hull
Binderup	Crawford	Fiesinger	Imhoff
Bland	Crosby	Fitzpatrick	Jacobsen
Blanton	Cross, Tex.	Flannagan	Jenckes, Ind.
Bloom	Crosser, Ohio	Ford, Miss.	Johnson, Okla.
Boehne	Crowe	Fuller	Johnson, Tex.
Boileau	Crowther	Fulmer	Johnson, W. Va.
Boland	Cullen	Gambrill	Jones
Brooks	Cummings	Gavagan	Kee
Brown, Ga.	Daly	Gehrmann	Kelly
Brunner	Dear	Gilchrist	Kennedy, Md.
Buchanan	Delaney	Gingery	Kennedy, N. Y.
Buck	Dempsey	Goldsborough	Kenney
Buckler, Minn.	Dickstein	Gray, Ind.	Kerr
Burch	Dies	Gray, Pa.	Kloeb
Burdick	Dietrich	Green	Knutson
Caldwell	Dingell	Greenway	Kocialkowski
Cannon, Mo.	Disney	Greenwood	Kopplemann
Cannon, Wis.	Dobbins	Greever	Kramer
Carmichael	Doughton	Gregory	Lambertson
Carpenter	Doxey	Haines	Lambeth
Cartwright	Drewry	Hamlin	Lanham
Castellow	Driscoll	Hancock, N. C.	Larrabee
Celler	Driver	Harlan	Lea, Calif.
Chandler	Duffey, Ohio	Hart	Lee, Okla.
Citron	Duffy, N. Y.	Harter	Lemke
Clark, N. C.	Duncan	Healey	Lesinski
Coffee	Dunn, Miss.	Higgins, Mass.	Lewis, Colo.
Colden	Dunn, Pa.	Hildebrandt	Lewis, Md.
Cole, Md.	Eagle	Hill, Ala.	Luckey
Ludlow	O'Brien	Russell	Tolan
Lundeen	O'Connor	Ryan	Tonry
McAndrews	O'Day	Sabath	Truax
McClellan	O'Leary	Sadowski	Turner
McCormack	Parks	Sanders, La.	Umstead
McFarlane	Parsons	Sanders, Tex.	Utterback
McKeough	Patman	Sandlin	Vinson, Ga.
McLaughlin	Patterson	Sauthoff	Vinson, Ky.
McReynolds	Patton	Schaefer	Wallgren
McSwain	Pearson	Secrest	Warren
Mahon	Peterson, Fla.	Shanley	Wearin
Mansfield	Pettengill	Sirovich	Weaver
Marcantonio	Pierce	Sisson	Welch
Martin, Colo.	Pittenger	Smith, Conn.	Werner
Mason	Polk	Smith, Va.	West
Massingale	Quinn	Smith, Wash.	Whelchel
May	Rabaut	Smith, W. Va.	White
Mead	Ramsay	Snyder	Whittington
Meeks	Ramspeck	South	Wilcox
Merritt, N. Y.	Randolph	Spence	Williams
Miller	Rankin	Stack	Wilson, La.
Mitchell, Ill.	Rayburn	Steagall	Withrow
Mitchell, Tenn.	Reilly	Stefan	Wood
Montague	Richardson	Stubbs	Woodrum
Montet	Robertson	Sullivan	Young
Moran	Robinson, Utah	Taylor, Colo.	Zimmerman
Moritz	Rogers, N. H.	Taylor, S. C.	Zioncheck
Murdock	Rogers, Okla.	Terry	
Nelson	Romjue	Thomason	
Nichols	Rudd	Thompson	

NAYS—87

Allen	Ekwall	Kahn	Reed, N. Y.
Andresen	Engel	Kinzer	Rich
Arends	Englebright	Kleberg	Robsion, Ky.
Bacharach	Fenerty	Kniffin	Rogers, Mass.
Blackney	Fish	Lehlbach	Seger
Boylan	Fletcher	Lord	Short
Brewster	Focht	McLean	Snell
Buckbee	Gasque	McMillan	Sweeney
Carlson	Gearhart	Mapes	Taber
Cavicchia	Gifford	Marshall	Tarver
Christianson	Goodwin	Martin, Mass.	Taylor, Tenn.
Church	Griswold	Merritt, Conn.	Thomas
Claiborne	Guyer	Michener	Thurston
Cole, N. Y.	Gwynne	Millard	Tinkham
Cooper, Ohio	Halleck	Mott	Treadway
Culkin	Hancock, N. Y.	Palmisano	Turpin
Darrow	Hess	Peterson, Ga.	Wadsworth
Deen	Hill, Knute	Plumley	Wilson, Pa.
Dirksen	Hoeppel	Powers	Wolcott
Dockweiler	Hoffman	Ransley	Wolverton
Dondero	Holmes	Reece	Woodruff
Doutrich	Jenkins, Ohio	Reed, Ill.	

NOT VOTING—81

Andrew, Mass.	Corning	Lamneck	Schneider
Andrews, N. Y.	Darden	Lloyd	Schuetz
Ashbrook	DeRouen	Lucas	Schulte
Bacon	Ditter	McGehee	Scott
Bankhead	Dorsey	McGrath	Scrugham
Beam	Eaton	McGroarty	Sears
Bell	Eicher	McLeod	Shannon
Berlin	Fernandez	Maas	Somers, N. Y.
Bolton	Ford, Calif.	Maloney	Starnes
Brennan	Frey	Maverick	Stewart
Brown, Mich.	Gassaway	Monaghan	Sumners, Tex.
Buckley, N. Y.	Gildea	Norton	Sutphin
Bulwinkle	Gillette	O'Connell	Thom
Burnham	Granfield	Oliver	Tobey
Carter	Hartley	O'Malley	Underwood
Cary	Hennings	O'Neal	Walter
Casey	Higgins, Conn.	Owen	Wigglesworth
Chapman	Hollister	Perkins	Wolfenden
Clark, Idaho	Keller	Peyser	
Cochran	Kimball	Pfeifer	
Collins	Kvale	Richards	

So the motion was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. Scrugham with Mr. Burnham.
Mr. Sears with Mr. Maas.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Cochran with Mr. Carter.
Mr. Thom with Mr. Kimball.
Mr. McGrath with Mr. Collins.
Mr. Scott with Mr. Andrew of Massachusetts.
Mr. Bulwinkle with Mr. Bacon.
Mr. Chapman with Mr. Ditter.
Mr. Maverick with Mr. Hollister.
Mr. Darden with Mr. Perkins.
Mr. Oliver with Mr. Andrews of New York.
Mr. DeRouen with Mr. Bolton.
Mr. Schuetz with Mr. Eaton.
Mr. Granfield with Mr. McLeod.
Mr. Starnes with Mr. Wolfenden.
Mr. Schulte with Mr. Stewart.
Mr. Sumners of Texas with Mr. Hartley.
Mr. Bankhead with Mr. Tobey.
Mr. Berlin with Mr. Wigglesworth.
Mr. Cary with Mr. Schneider.
Mr. Somers of New York with Mr. Kvale.
Mr. Gassaway with Mr. Walter.

Mr. Keller with Mr. Hennings.
Mr. Underwood with Mr. Pfeifer.
Mr. Gildea with Mr. Gillette.
Mr. Dorsey with Mr. Eicher.
Mr. Owen with Mr. Richards.
Mr. Monaghan with Mr. Casey.
Mrs. Norton with Mr. Bell.
Mr. Corning with Mr. Lloyd.
Mr. O'Malley with Mr. Clark of Idaho.
Mr. Maloney with Mr. O'Connell.
Mr. O'Neal with Mr. Brennan.
Mr. McGroarty with Mr. Frey.
Mr. Ford of California with Mr. Brown of Michigan.
Mr. Fernandez with Mr. McGehee.
Mr. Lamneck with Mr. Lucas.
Mr. Ashbrook with Mr. Buckley.
Mr. Beam with Mr. Peyser.

The result of the vote was announced as above recorded.

COMMITTEE ON AGRICULTURE

Mr. DOUGHTON. Mr. Speaker, I offer a privileged resolution for immediate consideration.

The Clerk read as follows:

House Resolution 297

Resolved, That SCOTT W. LUCAS, of Illinois, be, and he is hereby, elected a member of the standing Committee of the House of Representatives on Agriculture.

The resolution was agreed to.

JUDICIAL NULLIFICATION

Mr. SISSON. Mr. Speaker, I ask unanimous consent to extend my remarks and to include therein an address I recently made at the Institute of Public Affairs at the University of Virginia.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SISSON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I made at the Institute of Public Affairs at the University of Virginia July 10, 1935:

An exhaustive discussion of the question of the power of the Federal judiciary to pass upon the constitutionality of acts of Congress cannot, of course, be given within the limits of this address. A thorough and exhaustive discussion would involve the history from contemporary sources of the framing of the Federal Constitution in the Convention of 1787 and of the ratifying conventions held subsequently thereto in the several States. It would also include an analysis of a number of the decisions by the Supreme Court wherein the constitutionality of acts of Congress was passed upon by the Court. To go further and make the study of this question of practical value for the present and future there should be included within the study such related questions as:

Should the Supreme Court or other Federal courts have the power to nullify acts of Congress?

And the other equally important related question:

What is the remedy for the present anomalous situation in our Government wherein laws which have been in effect for a period of years, and under which men have made contracts, engaged in business, shaped their lives, may be set aside by a court?

Any such exhaustive discussion of this subject would obviously extend far beyond the limits of my address.

I am simply hoping at this time to present to you such a statement of the subject as will show it merely in outline and as may lead this body and others, where leaders of thought and those who mold public opinion meet, to give further consideration to this question which is daily becoming of greater importance to our country and which, if our present economic system and our present form of government are to be preserved, must soon be answered.

I wish in this address to make two points:

First, neither the Supreme Court nor any of the lower Federal courts have under the Constitution any right to adjudge an act of Congress unconstitutional; or in any suit between private litigants to pass upon the constitutionality of an act of Congress.

Second, the exercise or assumption of such power by the Supreme Court or other Federal courts is not only unnecessary in our system of government, but it is also positively harmful, and its continued assumption and exercise in these times constitute a danger to our form of government and our economic system, such as may at any time cause them to break down.

The proof of my first point that such power is not given to the Supreme Court or other Federal courts in the Constitution requires, of course, not only a careful reading of the Constitution itself, which may be easily done by any lawyer or other student of our Government; but also in order to determine the intention of the framers of the Constitution with respect to this power of judicial nullification, a study of the Constitutional Convention of 1787 from the contemporary sources of the history of the Convention, consisting of the notes of the Convention as kept by Madison, Pierce, King, Hamilton, and others. I regret that the limits of this address will not allow me to do much more than give you my conclusions as to the intention of the makers, gathered from such sources and from such valuable contributions to the history of the Constitution and the purposes of its makers as have been made by Jackson H. Ralston, Esq., Dr. Edward S. Corwin, professor of jurisprudence of Princeton University; Horace A. Davis, Esq., of Brookline, Mass.; Dr. James F. Lawson, of Falls Church, Va., and several others from whom I have borrowed very liberally and to whom I make my grateful acknowledgment. My conclusions, however, may be readily checked and verified from the contemporary sources which I have mentioned and may be easily disproven if in any respect they are incorrect.

I fully appreciate that this inquiry is startling in its nature to a great many of our people—even to a great many lawyers—who have acquiesced in this unwarranted assumption of power by the Federal courts and who have not subjected it to the light of the history of the framing of our Federal Constitution, the purposes of its makers, or the effects of this assumed power of nullification by the courts. I know, therefore, that in some quarters my purpose will be distorted and misrepresented, and that I shall be accused, as I aready have been in certain newspapers, of seeking to cut the heart out of the Constitution and to undermine our form of government.

I might say in reply—if reply be necessary—to those who make the charge that I am proceeding to undermine the Government, that in my denial of the right of the judges to exercise the power of nullifying acts of Congress, I am in rather respectable company. The constitutionality of the exercise of this power was denied, and the Court severely criticized for attempting to exercise it, by some of the greatest of our Presidents; notably Jefferson, Jackson, Lincoln, Grant, and Theodore Roosevelt. My colleague, Representative LEWIS, has so ably and fully covered this in his recent speech upon this subject in the House of Representatives that I shall content myself by simply calling attention to the fact that none of our great Presidents ever conceded this power, and that all of them have challenged and resisted it when it was either asserted or exercised by the Court during their respective administrations.

I feel sure, however, that it is unnecessary for me to defend myself before this body against any such charge, and that those here today will understand that I am not attacking the Supreme Court nor the Constitution. On the contrary, no one as a lawyer more fully recognizes than I the character and ability typified by the membership of the Supreme Court, not only now but generally throughout our history, as well as the usefulness and necessity of the Supreme Court in our dual scheme of government. It is my purpose to add to, not to detract from, the usefulness of the Court, and the respect that should be given to it by our people. I am trying to help preserve the Court and preserve our present form of National Government. I do not agree, however, at all with those who falsely or foolishly represent that there is anything so sacred about the Supreme Court as to make it immune to constructive criticism, or anything so immutable about each and every part of the Constitution as to condemn those of us who suggest changes—either in the form of the instrument or a broader construction of some of its provisions, either of which may be found to be necessary to meet the changed conditions of modern times.

Jefferson said that the people must from time to time "be attentive to amendments to the Constitution to make it keep pace with the advances of the age in science and experience." He added that if reformation, adding to the powers of the Government, be resisted, it is to be expected that the people will "undertake it themselves by force, their only weapon, and work it out through blood, desolation, and long-continued anarchy" (Sun Dial Letters 279, 138; S. Works 144).

So much for those who now call themselves "Jeffersonians", whether they are Democrats or Republicans, and who would have you believe that Jefferson opposed such extension of the national powers as might be found necessary in changing times to keep pace with changing conditions.

My first point, as stated above, is that the Supreme Court has no power, either under the expressed or implied powers of the Constitution, to adjudge unconstitutional a law passed by the legislative branch, the Congress; or, in any suit between private litigants, to pass upon the constitutionality thereof.

That the power of judicial nullification is conferred in language in the Constitution itself, no one of reputation as a lawyer, as a student of our Government and its origin will dare publicly assert, and if anyone so asserts, ask him to point out to you that part of the Constitution which either in words, or impliedly, confers upon the judicial branch of the Government power to override the legislative and, as in most cases, the executive branch of the Government. So much for the expressed power.

That I am right about this is as demonstrable as any mathematical proposition and requires only an examination of the Constitution itself.

It is equally demonstrable that no such power to the Supreme Court is implied in the Constitution or was so intended by the makers thereof or was understood by the Thirteen Original States when in their several conventions they ratified the Constitution and entered into the Federal Union.

Now, as to the intention of the framers of the Constitution:

Our Federal Constitution, in the form in which it was submitted to the 13 States, was prepared in the Constitutional Convention of 1787. That Convention, composed of delegates from 11 of the Original States, carefully and during its many weeks of deliberation, considered among other things as one of its most

important questions what check or safeguard, if any, should be provided against the passage of laws by the legislative branch of the Federal Government that were beyond the Federal powers. Various measures were from time to time proposed, some of which were brought to a vote in the Convention.

The plan to give the judicial branch alone the power to override a law passed by the legislative branch, thereby making the act of the legislative branch (approved by the executive branch as was finally decided upon in the Convention) a nullity was never, in that Convention, seriously enough considered as to bring it to a vote. After much discussion of this question it was proposed in a resolution that a council of revision should be established for the purpose of passing upon the constitutionality of laws passed by Congress. This council of revision was to be composed of the members of the judicial branch when established (now the Supreme Court) and the executive branch (now the President); in other words, to annul a law passed by Congress the concurrence was necessary, not of the Court alone, but also of the President.

This was the only proposal looking to a judicial veto that was even brought to vote by the framers of our Constitution. It was also proposed in the same resolution that in the event a law passed by Congress was decided by such council of revision to be unconstitutional that the Congress might then repass the law by a two-thirds majority of each of the branches thereof, if either the members of the judiciary or the executive disapproved, and by a three-fourths majority if both the members of the judiciary and the executive disapproved. This resolution, a much more guarded and less drastic form of judicial veto or nullification by the Court than now employed, was rejected by the convention by a vote of 8 States to 2 in favor of the Executive veto. (Madison's Notes on the Convention. Haines Doctrine of Judicial Supremacy, p. 144.)

In short, the framers of the Constitution relied in the Constitution which they presented to the Thirteen States upon the method of the well-known, so-called "checks and balances", whereby each of the two branches of Congress should be a check upon the other, both as to hasty or unwise action and also as to unconstitutionality, and whereby the Executive, the President, through his veto power, should have a check upon both. No judicial check upon unconstitutional action by the legislative branch was submitted or intended.

The advocates of judicial nullification, however, make the historical argument of long-time acquiescence and rely in effect not upon a written but upon an unwritten constitution. Relying upon the saying that the law is what the judges say it is, they go back to Chief Justice Marshall's opinion in *Marbury* v. *Madison* (1 Cranch 137), decided in 1803. They rely upon the oft-repeated statement that Marshall here asserted the power of judicial veto, and that it has never since been disputed. This case merely involved the appointment of a justice of the peace of the District of Columbia and did not, except so far as the jurisdiction of the Court was concerned, involve the constitutionality of an act of Congress. That part of Marshall's opinion in which he went out of his way to declare that the Supreme Court had the power to annul an act of Congress as being unconstitutional was pure dictum. There was no opportunity to challenge or contradict Marshall's statement except to say that it was unfounded, which Jefferson, then President, most pointedly did.

My second point, as stated above, is that the exercise or assumption of such power by the Supreme Court or other Federal courts is not only unnecessary in our system of government, but it is also positively harmful, and its continued assumption and exercise in these times constitutes a danger to our form of government and our economic system such as may at any time cause them to break down.

The power of judicial nullification was never again attempted to be exercised against any act of Congress of general application until the well-known Dred Scott decision of 1857, when the Supreme Court decided that the Missouri Compromise Act of 1820 was unconstitutional, an act which had been in effect for 37 years and in which Congress had provided that all other territory north of the southern boundary of Missouri should be kept free. The Missouri Compromise, it will be remembered, was an act passed by Congress, in carrying out a compromise entered into by Representatives in Congress from the free States and the slave States, and as between those who were opposed to the further extension of slavery into territory to be organized into States and those who did not wish at that time to have the institution of slavery interfered with. This act was passed by Congress to "insure domestic tranquillity" by preserving the Union from dissension and disseverance over the question of the extension of slavery.

This decision of the Supreme Court unnecessarily deciding an act of Congress unconstitutional, an act which had been in effect 37 years and which had been passed by Congress, to preserve the Union, in the judgment of most students of history, did more to bring on our great unnecessary Civil War than all other causes combined. None of the Southern States—no one of our sovereign States repudiated this agreement.

I venture to say that no one of the then slave States would have sought to withdraw from the agreement entered into between the two sections in 1820 in the Missouri Compromise Act. As has so frequently occurred since that time, and in recent times in our history—with great disaster to our people—it was in a suit between private litigants that this decision was made. It remained for the Supreme Court, in a political decision, unnecessarily to cause this great evil. Most students of history agree that except for the Dred Scott decision of 1857 our terrible and disastrous Civil War would never have ensued, and that the institution of slavery would gradually but eventually have fallen by its own weight.

Of this decision Abraham Lincoln said: "Somebody has to reverse that decision, and we mean to reverse it. If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court—in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal. Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world?"

The storm of criticism following upon the Supreme Court's Dred Scott decision, as well as the Civil War as a result thereof, kept the Supreme Court from again asserting the power of judicial veto until the Legal Tender cases in 1870. The United States in order to finance the Civil War, caused in large part by the decision of the Supreme Court in the Dred Scott decision, had, by act of Congress, made the notes of the Government legal tender.

In a private suit in 1870 the Court declared the Legal Tender Act of Congress unconstitutional. Grant was President, and he not only challenged the power of the Court but he filled up the Supreme Court—i. e., "stacked" it, so to speak—so that the Court in the same year reversed itself and declared the Legal Tender Act of Congress unconstitutional. Had this decision of the Supreme Court been made during the war and been acquiesced in by the executive and legislative branches of the Government, it would have rendered the Government impotent and helpless to preserve the Union from disseverance.

In the income-tax decision of 1894 the Supreme Court for a third time adjudged an act of Congress unconstitutional, and again in making its decision exercised a legislative rather than a judicial function. Mr. Justice Field, in writing for the Court in that decision, said: "It discriminates between those who receive an income of $4,000 and those who do not; * * * whenever such a distinction is made and the law imposes a tax under it, * * * it is class legislation * * *." That there was a difference between the levy of a 5-percent tax on the income of a man receiving $4,000 or more a year and upon another man having an income scarcely large enough to furnish his family with the barest necessities of life, never occurred to the distinguished member of the Supreme Court who wrote the opinion. This decision was cured by constitutional amendment. The two former decisions of which I spoke had been cured, one by the Civil War and the other by the Court's reversal of its own decision.

The Supreme Court later (in 1906) by a 5 to 4 decision adjudged the Federal Employer's Liability Act, passed by Congress, as unconstitutional. When, sometime afterward, Congress reenacted this law, it was sustained by the Supreme Court. But in the interval there were some thousands of men killed or maimed and they or their families left without remedy through the doubtful exercise of what the Supreme Court itself declared to be its power.

In decisions during the past three decades the Supreme Court has much more frequently than during the first hundred years of our history asserted its power to nullify acts of Congress. The majority of the Court has been usually extremely zealous in safeguarding property and has, in fact, stretched the "due-process" clause extremely thin in order to safeguard property against the revenue acts passed by Congress, and in its construction of the "due-process" clause has been extremely solicitous of the right of freedom of contract in decisions involving the right of parents to sell the labor of their children, and generally in denying the power of Congress to protect women, children, and labor in general as to minimum wages and maximum hours, and has more frequently asserted and exercised the power of judicial veto.

Time does not permit me to discuss these instances in detail.

Now, I am going to be so bold as to make the statement that during the entire period of time from the first exercise of this assumed and unconstitutional power of the Supreme Court in the Dred Scot case in 1857 down to its recent decisions in the present year, in which the Court has exercised its power of nullifying acts of Congress, it will be found that in each of these the judges were exercising not a judicial function but a legislative or a sociological function.

I shall not expand this further for lack of time and also by reason of the fact that my esteemed colleague, at whose feet I have sat as a student of this subject, and whose greater research I must concede, Congressman DAVID J. LEWIS, of Maryland, who will speak to you tomorrow, will present this phase of the subject by facts and arguments which I believe are unanswerable. I am also going to be bold enough to make this assertion: That in none of the cases wherein the Supreme Court has exercised the power of judicial nullification—from the Dred Scott decision of 1857 down to its decisions of the current year—has the Court really safeguarded either the rights of the people or the rights of the States. On the contrary, it has caused such a derangement of the functions of the Government itself as have in some instances required curing either by constitutional amendment or by a reversal by the Court of its own decisions. Again let me say I am not attacking the Court either as an institution or as to its membership. The Court, during all this time, has been simply upholding the principle of stare decisis, and has been bound up in its own precedents, as Congressman LEWIS will ably demonstrate.

In support of my second point that this power is unnecessary, and is not only unnecessary, but is harmful to our scheme of government, I should like to give you the results of a comparative study of other governments, did not the limits of this address

forbid. I should feel, however, that this very cursory treatment of a subject which is deserving of the most careful consideration, would be inconclusive and ineffective in pointing to an ultimate objective or remedy if I failed to direct your attention to the fact that now, even more than ever before in our history, does the assumption of this power on the part of the Court, or the threat of its exercise at the instance of private litigants, create an anomalous and unbearable condition in our Government.

It may be urged by some that the recent decision of the Court in the Schechter case, wherein the N. R. A. was, in effect, adjudged unconstitutional, was of constructive service. It may, I think, be conceded without harm to my argument that the N. R. A. was too hastily put together and that some of its provisions were unworkable. Its codes extended to certain businesses and trades in which enforcement was either too difficult or impossible. When that act was passed the economic system of the country was on the verge of collapse. It was not beyond the bounds of possibility or of danger that the flames of revolution might sweep over us. When a fire has been started and is about to spread damage is sometimes caused to property by the fire department in quenching the fire. The Recovery Act needed to be revamped and this would have been done. I believe the Court, in the limitations placed upon interstate commerce in its decision, went much too far.

The Court recently adjudged the Railroad Retirement Act as unconstitutional. Language employed in such recent decisions of the Court threatens that the Social Security Act and other legislation—some pending and some passed by the Seventy-third Congress—will also receive the condemnation of the Court. All of these acts, such as the Railroad Retirement Act—all of the legislation now proposed and pending, such as the Social Security Act—are exercises on the part of the law-making branch of the Government of powers long exercised in other countries of the world. England, Germany, most of the self-governing dominions of Great Britain, have long carried out these purposes as functions of government, and have built up thereby bulwarks against economic insecurity and economic waste and loss.

That an act may be passed by the Congress, representing the sovereign will of a sovereign people, approved by the Executive, also representing all of the people, that men may order their businesses and their lives, make their contracts and engagements under such law for years, only to have it stricken down years later by the assumed unconstitutional exercise of power by an appointive judiciary, is, I say, an anomalous and unbearable state of affairs and one wherein we fall short of the ability to exercise the sovereign powers of a nation.

It may not always be easy to draw the line between the State powers and the national powers. I am as much of a believer in State rights as anyone. But there must be no gap between the State powers and the National powers. What concerns a single State alone within its own borders; what does not affect the rights, the interests, the well-being of the people of other States; what the State may control by its government, those things are within the powers of the States, and the National Government has no duty or right to step in. What does not fall within the limits which I have stated of the State powers, and is necessary for the general welfare of the people, must be within the national powers, exercised by the will of the people working through their elected representatives, the legislative and executive branches of the Government.

No further argument can possibly be needed to prove that the Constitution does not give, either expressly or impliedly, the power to the Supreme Court to nullify statutes passed by Congress, nor to pass upon their validity in an action between private litigants. It is easy to go further and show that this power was specifically denied.

Article III of the Constitution provides for the Federal judiciary and prescribes the jurisdiction of the Supreme Court. Let me call your attention again to the second paragraph of section 2 of article III:

"In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

The above paragraph prescribes the whole original jurisdiction of the Supreme Court. The appellate jurisdiction is, as set forth, in such paragraph left to Congress to prescribe.

Of course, nowhere is any power given to any of the lower Federal courts to pass upon the constitutionality of an act of Congress.

If the convention had intended to give this power to the Supreme Court, apt words would, under every rule of construction applying thereto, have been used to effect such grant.

The Constitution does give the Supreme Court by article III appellate jurisdiction to pass upon the question as to whether acts passed by the legislature of a State are in conflict with the Federal Constitution.

This power is, of course, expressly granted and is necessary in our dual scheme of government to prevent a conflict between legislative acts.

In my opinion, the practice of State courts in invalidating statutes passed by the legislature thereof or passing upon the question as to whether acts of State legislatures are within the powers of such legislature, as expressed in the constitution of the State, is to be condemned. The legislature is the supreme law-making body of the State and represents the sovereign will of a sovereign people.

Needless to say, the lower Federal courts have no power under the Constitution to pass upon the constitutionality of acts of Congress, and this should at once be expressly declared by an act of Congress.

Congressman LEWIS who will speak to you tomorrow will, I understand, discuss the welfare clause of the Constitution. But to afford at least an introduction to his argument, as well as a basis for discussion today, let me say that this clause was not thrown into the Constitution as a meaningless phrase. Madison admitted that the welfare clause gave the Federal Government "a fund of power inexhaustible and wholly subversive of the equilibrium between the General and State Governments", and "all within reach of the former."

It was intended by this clause to make the Federal Government a Government of sovereign powers and able to do those things which every sovereign government must do in order to secure the safety and happiness of its citizens.

It is fitting that this discussion of what properly belongs to the national powers should be presented in Virginia, and I hope that there are some Virginians here today to consider this subject. I speak in full appreciation of the fact that we are not far from a shrine of all true Americans, where Jefferson, statesman, philosopher, and sage, so long lived, struggled, and thought. And I would remind those who cite Jefferson as an advocate of the rights of the States and who think that ends the argument that his highest aim was to secure and safeguard the rights of the people and to secure their welfare and happiness, and that if he found it necessary to effect that purpose, he would have been among the first—as he was when he did so find it necessary—to advocate an extension of the national powers sufficiently so that there should not be a no-man's land between the national powers and the State powers wherein the people might be exploited, or their dignity, happiness, and security jeopardized.

I said that this ought expressly to appeal to Virginians; because when the Virginia delegation to the Convention of 1787 arrived in Philadelphia, they came a little ahead of most of the others. That delegation was headed by Washington and included Madison, Randolph, and Mason, and that delegation prepared an outline of a plan for our National Government for discussion in the Convention, and, item by item, that plan was acted upon. As showing the power the Virginia plan proposed to confer upon Congress, I quote the following from the plan itself:

"To enjoy the legislative rights vested in Congress by the Confederation; moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; and to negative all laws passed by the several States, contravening in the opinion of the National Legislature the articles of union."

In order finally to effectuate the purpose of this plan the welfare clause was placed in the Constitution itself.

To those who contend that it is unsafe to intrust a general power without check by an umpire, such as the Supreme Court, as a guard against the exceeding of constitutional limits, if they need authorities, I refer them again to Jefferson, Jackson, Lincoln, and the others of our great Presidents. That a power may be abused is no reason for its denial; and where, again, to paraphrase the words of Lincoln, can power be more safely lodged than in the representatives of the people, who, by their ballots, may speedily correct the abuse of its exercise. In the case of the abuse of this power by the law-making body, the people may correct it at the next election. In the case of a denial, a curtailment of a power necessary to the general welfare by this assumed unconstitutional usurpation by the Supreme Court, usually only death of a sufficient number of the members thereof can correct it.

The surest way to destroy the Constitution—our present form of government—is to give it such a rigid construction, at the same time not recognizing the general-welfare clause, as to make it too narrow and inflexible to meet modern needs. It is an old trick of the reactionaries, of those who have long fattened on special privilege, to arrogate to themselves the sole responsibility of defending established forms such as the Constitution. They profess great fear that those who would show that the Constitution is flexible enough to meet modern needs, if rightly interpreted, may elope with our beloved Constitution, while all the while they are endeavoring to keep her shackled and confined in a dungeon.

The power of judicial nullification was, at the time of the making of the Constitution, unknown among the governments of the world, then or formerly existing. Had it been the intention of the makers to grant this power to a court to nullify the acts of the law-making body, to include that in the jurisdiction of the Court, it is unthinkable that they would not have clearly and positively expressed it in language that would have been unmistakable.

"Every well-organized government has political power to provide for the general welfare of its own people" (Lawson on the general-welfare clause).

It would be strange, if it were true, that a representative democracy such as ours is less well equipped with power to provide for the general welfare than an autocracy or an oligarchy. The Parliament of England was not then, and has not been since, and is not now, subject to such limitation; and this is not, as the advocates of judicial nullification contend, because England has no

written constitution, but rather because every act of Parliament becomes a part of her constitution.

Did the framers of our Government believe that they, our people—do you believe that our people now are not to be trusted to govern themselves? Yet the argument of those who claim the existence of a constitutional sanction for judicial nullification presupposes just this. And so with those who contend that the judicial nullification or veto is necessary in our system of government.

"The argument from the possible abuse of a power against its existence or use is, in its nature, not only perilous, but, in respect to governments, would shake their very foundations." (Story's Commentaries, p. 425.)

In summary, I stand upon the following propositions, which I believe the majority of the Congress will sustain and which I believe a majority of our people will uphold when informed upon these propositions:

1. That the exercise by the Supreme Court in any suit of the power to declare an act of Congress unconstitutional, whether between private parties or otherwise, is in itself not warranted by any power conferred in the Constitution, either expressed or implied; and, therefore, such power does not legally exist under our Constitution or scheme of government.

2. That the power of judicial veto is not necessary in our scheme of government and ought not to exist.

3. That its exercise by the Supreme Court has resulted not in protecting the States or the people in their rights, but, on the contrary, has been harmful to our scheme of government and has lessened the respect of our people for their Government and Constitution and their support thereof.

4. That the remedy is that together with whatever necessary amendments clarifying the welfare clause of the Constitution or extending the national powers where needed to meet the conditions of modern times, there should be a restatement by an act of Congress of its own legislative powers, as well as of the jurisdiction of the Supreme Court with respect to its power to pass upon the constitutionality of acts of the legislative branch of the Government.

I have appended at the end of this paper a brief bibliography of the sources from which I have drawn and to which I direct your attention. Most important of all, I wish to make my most grateful acknowledgments to my colleague, Representative DAVID J. LEWIS, of Maryland, and point your attention to his discussion of the welfare clause of the Constitution, which even more clearly points you to the remedy. Congressman LEWIS' address to you and his very able speech in the House of Representatives on this subject under date of June 29, 1935, printed copies of which are available and which I am sure he will be glad to furnish, in my opinion so supplement my much briefer and more cursory argument as, that taken together, they clearly prove that our Federal Constitution, the noblest instrument of government ever conceived by the mind of man, is, when properly construed, as adequate to meet the needs of government today as it was when first ratified by the original Thirteen States.

On May 31 I introduced in the House of Representatives a resolution calling for an investigation of the legislative powers of Congress and involving therein the question of the power of the Supreme Court to pass upon the constitutionality of acts of Congress. This resolution is House Resolution 234. It has been referred to the Rules Committee, and I trust it will be reported to the House during this present session of Congress. A copy of this resolution will be furnished by me upon request to anyone who is interested or can be procured from your Member of Congress.

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UTILITY HOLDING-COMPANY BILL

Mr. PETTENGILL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. PETTENGILL. Mr. Speaker, the other day I read into the RECORD a letter which I had written to Hon. Joseph P. Kennedy, Chairman of Securities and Exchange Commission, with reference to the public-utility holding-company bill.

I have received a reply from Mr. Kennedy. In justice to him, his reply ought to be made a part of the RECORD, and I am, therefore, asking to extend my remarks by including it, and also my response to him of even date.

I trust that this correspondence may be helpful to those interested in understanding the points of difference between the House and Senate drafts with respect to section 11.

I have the highest regard for Mr. Kennedy. He is doing a splendid job with reference to the Securities Act of 1933. Under the intelligent administration which he and the other members of this Commission are giving to that act, holding companies which exist only to sell securities based on fictitious values are going to die of financial malnutrition. It has been my judgment that the Securities Act, wisely administered, will in itself make the recurrence of many of the abuses in the public-utilities field impossible. Of course, the Securities Act covers only the issuance of securities. Other abuses, such as excessive profits on intercompany transactions, not arrived at by virtue of arm's length bargaining, will be eradicated under the bill as it passed the House, which is probably the most drastic regulatory bill which has ever passed the House of Representatives.

The correspondence is as follows:

JULY 12, 1935.

MY DEAR MR. PETTENGILL: Your letter of July 10 regarding my communication with Senator WHEELER is at hand.

When Senator WHEELER requested an expression of my views on certain phases of the House bill I purposely refrained from expressing any opinion on the issues of legislative policy between the House and the Senate. Rather did my letter confine itself strictly to the practical problems of administration in three phases of the House bill.

You state that I was entirely inaccurate in saying "the phrase 'public interest' is not defined and the bill furnishes no effective standard." Let me quote you my exact words. Speaking of the Commission's task under section 11 of limiting the operations of holding companies to such numbers of integrated public-utility systems as are in the public interest, I wrote: "The phrase 'public interest' is not defined in the House bill. Thus this bill furnishes no effective standard to guide the Commission in the momentous decisions it must make as to which of the holding-company systems are to be broken up and how such process is to be effected."

After a very careful reconsideration of the House bill in the light of your letter, I am bound to adhere to my original conclusion.

In support of your contention that my statement was incorrect, you rely upon the provisions of section 1, particularly sections 1 (a) and 1 (b) and 1 (c) (referred to in your letter as subsection (6)). Let me deal with these seriatim.

(1) I am unable to comprehend in what respect section 1 (a) can be held to define "public interest" so as to furnish a standard for administering section 11. Section 1 (a) merely discloses that public-utility holding companies and their subsidiaries are affected with a national public interest because, among other things, their securities are widely distributed and their service and other contracts are performed through the mails and instrumentalities of interstate commerce and their practices affect interstate commerce and make effective State regulation impossible. It is hardly sensible to urge that a congressional declaration that a business is affected with a public interest is equivalent to a definition of the public interest which should guide the Commission in permitting or prohibiting the continuing of existent holding-company systems.

(2) Section 1 (b) declares that in view of the disclosures in the investigations conducted by the Federal Trade Commission and the House Committee on Interstate and Foreign Commerce, the national public interest and the interest of investors and consumers may be adversely affected by abuses of the holding-company systems as set forth in five subparagraphs. This recital of abuses will be helpful in determining the nature and scope of the rules and regulations which the Commission is authorized to make in order to correct abuses within limited and specified fields. But no definition of "public interest" can be drawn from these abuses which will afford to the Commission any effective standard for determining the fundamental economic policy as to the number of integrated systems a holding company should be allowed to retain.

(3) Section 1 (c) declares that when the abuses enumerated in 1 (b) become widespread the holding company, unless regulated, becomes injurious to investors, consumers and the general public. A general policy is stated interpreting the whole act to prevent these adverse effects and to eliminate the abuses of public-utility holding-company systems. But this declaration gives the Commission no practical assistance in deciding the particular problems under section 11. There is nothing in the language to which you have referred me or, for that matter, in the whole House bill which can guide the Commission in determining whether the public interest requires that a given holding-company system should embrace 1 or 10 public-utility systems.

Because of the above considerations and your failure to point out that the bill furnishes an effective standard or a definition of "public interest" for the application of section 11, I must insist, sir, that my statements to Senator WHEELER were entirely accurate.

In view of the publicity you have given your letter I assume, of course, you will be good enough to read my reply in the House.

Respectfully yours,

JOSEPH P. KENNEDY, *Chairman.*

Hon. SAMUEL B. PETTENGILL,
House of Representatives, Washington, D. C.

JULY 15, 1935.

JOSEPH P. KENNEDY,
Chairman Securities and Exchange Commission,
Washington, D. C.

DEAR MR. KENNEDY: I have your letter of July 12 written in response to my letter to you of July 10, with reference to your letter to Senator WHEELER criticizing the public-utility bill as passed by the House.

I have such a high regard for you and the splendid job you are doing that it is unpleasant for me to differ with you on this matter. I do so only in justice to our committee, who worked so tirelessly with a complex and difficult problem, and to the Members of the House who approved and ratified our work.

The issues are of great importance to the country. It is only to make more clear the differences that exist between the House and the Senate bills that justifies my writing you again.

You say the House bill furnishes "no effective standard to guide the Commission", etc. In my letter of the 10th I say that if "better standards can be defined I would welcome them."

If the emphasis is only on the adjective "effective" there does not seem much to warrant a reply from me on this point, for it is readily admitted that you have a perfect right to your opinion as to the "effectiveness" of the standard.

But when you go to the country with the flat statement that "the phrase 'public interest' is not defined in the House bill" and therefore express your "vehement" opinion that section 11 is "most unfortunate", I am bound to disagree. Section 1 (b), together with subsection (c) of the same section, is clearly in substance and legal effect a definition of the public interest. This definition may not fill your specifications of what it should be, but that there is "no" definition is, I repeat again, "entirely inaccurate."

Surely you do not require some copybook clause as, "The term 'public interest' is defined to mean," etc., or insist that a definition is only a definition if it appears in the section bearing the caption "Definitions."

Nor do I assume that you would require such standards for administrative action as the legislative fiat, "All holding companies shall be liquidated and the Commission shall execute this mandate", or "all holding companies beyond the first degree shall surrender their charters", or "Company ABC shall keep subsidiary companies D and E and sell companies F and G", or "Company MNO shall be dissolved and Company XYZ shall not be dissolved."

Such legislative standards would be "effective", but they would not be intelligent. One holding-company system in the second degree might be operated honestly and efficiently in the public interest, yet be decreed to die; and another company in the first degree be commuted for life, however dishonest and inefficient.

"Off with their heads" might be a boon to commissions, but death to investors, consumers, and employees.

The question is really whether Congress is capable of setting up definitions and standards of intelligent discrimination between what serves the public and what exploits the public.

So let us explore the bill once more for definitions and standards of the public interest.

It is an axiom of the law that courts and administrative agencies will examine the "four corners" of an act to ascertain the legislative will. For example, Chief Justice Hughes recently said, "We examine the context to ascertain if it furnishes a declaration of policy or a standard of action which can be deemed to relate to (a certain section) and thus to imply what is not there expressed." And in the same case Justice Cardozo wrote: "I deny that such a standard is lacking * * * where the act with all its reasonable implications is considered as a whole." (*Panama Refining Co.* v. *Ryan*, 293 U. S. 388, the "hot oil" case). Laws are interpreted in the light of the evils sought to be remedied.

In the original draft, in the Senate redraft, and in the House redraft the phrase "necessary or appropriate in the public interest or for the interest of investors or consumers" appears with almost wave-length frequency. Yet definitions are not attached to each of these phrases whenever they appear, whether in section 11 or elsewhere, nor do I suppose you require that to be done.

So what is the "public interest"? It is to be found by reading the entire bill, the legislative hearings and report, the hearings and report of the Federal Trade Commission, etc., and particularly by reading section 1 of the House bill, to which I have already referred. Of that section, subsection (b), (1), (2), (3), (4), (5), and subsection (c) are most important.

So that those who may care to read our correspondence may follow this discussion more intelligently, I am attaching these sections as a postscript.

Let us now examine your letter in the light of these provisions of the House bill.

You say with respect to these provisions, "This recital of abuses will be helpful in determining the nature and scope of the rules and regulations which the Commission is authorized to make in order to correct abuses within limited and specified fields."

It is clear to me that in saying this you admit that you are wrong in stating "the phrase 'public interest' is not defined in the House bill", because your statement is an admission that the "public interest" is defined for the purposes of the provisions under authority of which the rules and regulations to which you refer are to be made. And by reason of section 1 (c), if it is defined for those provisions it is defined for section 11.

It may be that you intended to say that the legislative policy thus declared would be "helpful" to the Commission in determining the rules and regulations to be prescribed with respect to the dozens of cases where the term "in the public interest" appears, but would not be "helpful" in section 11 where the term "in the public interest" also appears.

But, if so, is your position tenable?

Does not section 11 (b) of the House bill, the provision in question, operate in a limited and specified field, even though the problems are admittedly difficult? The field apparently is limited and specific enough so that those who wrote section 11 of the Senate bill felt able to determine that a holding-company system should be limited to some geographically and economically integrated public-utility system, and it seems reasonable to suppose that a competent administrator, like yourself, could form an intelligent judgment on the problems involved when guided by principles laid down by Congress.

Section 11 makes it the duty of the Commission after notice and hearing (a day in court to act on the merits of each case rather than an arbitrary sentence of death irrespective of the merits) to "limit the operations of the holding-company system. * * * to a single integrated public-utility system" (which is carefully defined in sec. 2) "except that if the Commission finds that it is not necessary in the public interest to so limit the operations of such holding-company system" the Commission shall take such action as it finds necessary "consistently with the public interest", etc.

Admitting that the problem involved in section 11 in any case may be difficult, nevertheless, in determining what is in the public interest, it seems to me that it would be at least "helpful" to the Commission to go back to the legislative policy set forth in section I (b) and read again such phrases as refer to the difficulty to appraise earning power, absence of uniform standard accounts, issuance of securities on fictitious values, paper profits from intercompany transactions, excessive charges, absence of arm's length bargaining, absence of free competition, difficulty in allocating charges, difficulty of effective State regulation, control through disproportionately small investments (pyramiding), absence of economies in management, adequacy of service, etc.

It is very much to be regretted that the House Interstate and Foreign Commerce Committee did not have the benefit of your valued criticisms until the House bill was before the Senate for action.

As you have now, however, at the invitation of Senator WHEELER, criticized the House bill "vehemently", I make you a sporting and good-faith invitation to act constructively in the matter.

Assuming that the "off with their heads" doctrine is not to prevail, will you be good enough, with the help of your counsel, to prepare a definition of the "public interest" and declaration of "effective" standards which, in your judgment, should be incorporated in the bill, and send copies to the conferees?

As I said in my first letter to you, "if better definitions of the public interest can be drawn and better standards can be defined, I would welcome them."

It is easy to criticize; hard to construct. In your reply you offer nothing constructive.

I now invite you to do so. I do so in justice to our committee and the House of Representatives.

With the highest personal regards, I am,

Very respectfully yours,

SAMUEL B. PETTENGILL,
Member of Congress.

Postscript: Section 1. (b) Upon the basis of facts disclosed by the reports of the Federal Trade Commission made pursuant to Senate Resolution 83 (70th Cong., 1st sess.), the reports of the Committee on Interstate and Foreign Commerce, House of Representatives, made pursuant to House Resolution 59 (72d Cong., 1st sess.) and House Joint Resolution 572 (72d Cong., 2d sess.) and otherwise disclosed and ascertained, it is hereby declared that the national public interest, the interest of investors in the securities of holding companies and their subsidiary companies and affiliates, and the interest of consumers of electric energy and natural and manufactured gas, are or may be adversely affected—

(1) when such investors cannot obtain the information necessary to appraise the financial position or earning power of the issuers, because of the absence of uniform standard accounts, when such securities are issued without the approval or consent of the States having jurisdiction over subsidiary public-utility companies; when such securities are issued upon the basis of fictitious or unsound asset values and of paper profits from intercompany transactions, or in anticipation of excessive revenues from subsidiary public-utility companies; when such securities are issued by a subsidiary public-utility company under circumstances which subject such company to the burden of supporting an overcapitalized structure and tend to prevent voluntary rate reductions;

(2) when subsidiary public-utility companies are subjected to excessive charges for services, construction work, equipment, and materials, or enter into transactions in which evils result from an absence of arm's length bargaining or from restraint of free and independent competition; when service, management, construction, and other contracts involve the allocation of charges among subsidiary public-utility companies in different States so as to present problems of regulation which cannot be dealt with effectively by the States;

(3) when control of subsidiary public-utility companies affects the accounting practices and rate, dividend, and other policies of such companies so as to complicate and obstruct State regulation of such companies, or when control of such companies is exerted through disproportionately small investment;

(4) when the growth and extension of holding companies bear no relation to economy of management and operation or the integration and coordination of related operating properties; or

(5) when in any other respect there is lack of economy of management and operation of public-utility companies or lack of efficiency and adequacy of service rendered by such companies, or lack of effective public regulation, or lack of economies in the raising of capital.

(c) When abuses of the character above enumerated become persistent and wide-spread the holding company becomes an agency which, unless regulated, is injurious to investors, consumers, and the general public; and it is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted, to prevent the adverse effect upon the public interest and the interest of investors and consumers referred to in subsection (b), and to meet the problems and to eliminate the abuses connected with public-utility holding-company systems.

THE LOBBY INVESTIGATION

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. RANKIN. Mr. Speaker, when I was testifying before the Rules Committee this morning on the lobby investigation one of the members of the committee asked me if I had any suggestions as to how they should proceed with the investigation.

Since this will probably be one of the most important investigations ever made by a committee of either the House or the Senate, and fraught with the most far-reaching consequences, I am going to suggest here a line of procedure that should be followed by both the House and the Senate investigating committees.

First. Every Member of the House and of the Senate should be invited or summoned to appear and testify on oath on the following points:

(a) As to whether or not he has been approached by any utility lobbyist or lobbyists, and if so, he should give the name or names of said lobbyists.

(b) He should be compelled to tell how much stock he or members of his immediate family own in any of these utilities, including holding companies of all kinds.

(c) Whether or not he represents any of these utilities as agent or attorney, or is a member of a firm that represents any of them, in any capacity; whether or not any member of his immediate family represents any utilities in any capacity.

(d) Whether or not he has been employed, within the last 2 years, to represent any of these utilities as agent or attorney, or has received pay from them for making speeches on the radio or elsewhere.

(e) Whether or not any utilities have written any speeches for him or her, or furnished material from which speeches have been prepared.

(f) And to furnish the committee with such evidence as he or she may have of any fraud, corruption, coercion, or other misconduct on the part of utility companies or holding companies to effect legislation pending before Congress.

Members of the House and Senate should not object to giving this information, if they are in the clear. If they are not in the clear, Congress and the country ought to know about it.

Second. The committee should subpena the utility companies shown to be involved in this lobby and compel them to produce their records, in order to ascertain just what moneys have been spent and what influences have been exerted to try to influence pending legislation; and should, if necessary, subpena telegraph companies and compel them to show who paid for the hundreds of thousands of telegrams that poured into the offices of Members of the House and Senate, who signed those telegrams, and by what authority. They should also summon the officials of these utilities, put them on the stand, and make them testify under oath as to the moneys expended and other influences exerted in order to try to influence pending legislation.

They should be required to testify and to submit their records to show the amount of money spent on newspapers, magazines, and other publications, as well as radio addresses and platform speeches.

In my opinion, they will in this way uncover the greatest slush fund, as well as the greatest saturnalia of fraud, corruption, and deceit ever known in a campaign of this kind.

Third. They should send a questionnaire to every newspaper and magazine in the country, and require the owner or editor to state on oath exactly who owns the publication, and whether or not any utility or any officer or director, attorney or agent, of any of these utilities own any interest in said newspaper or magazine.

They should also be compelled to state on oath how much stock, if any, the editor, manager, or any officer or director of said newspaper or magazine owns in any utility company, or what interest the members of their families own in any utility company. They should also be required to show on oath, what moneys have been received from any utility company for advertising or for other purposes within the last 2 years, by whom that money was paid, and for what purpose it was paid.

We ask for and demand a free press in this country, and yet the Power Trust owns or controls some newspapers in every State in the Union, some of which deliberately distort the news, deceive the public with misleading headlines or with editorials written by or at the request of these utilities. The honest newspaper or magazine publisher who is in the clear will be glad to give this information, and the others should be compelled to do so, in order that their readers may know whom those publishers serve.

Every advertising agency that assisted in this campaign of propaganda should be thoroughly investigated.

Mr. Speaker, this is the battle of the century.

It is one that affects every human being in America. The ultimate consumers of electric lights and power are being overcharged approximately $1,000,000,000 a year to feed this enormous octopus known as the "Power Trust."

Thousands of innocent investors, old men and old women whose earning days have passed, helpless widows and orphans, trusting and unsuspecting citizens who had managed to save up a few dollars—these people have been robbed and plundered by the sale of these watered stocks in the most cruel, conscienceless, and inhuman manner.

Officials have been corrupted, elections bought or stolen, legislatures have been dominated, Governors have been controlled, Senators have been influenced, Congressmen intimidated, and the President threatened by this consciousless, corrupt supergovernment, this insatiable octopus that is reaching into every State of the Union, into every county, into every municipality, and into every home, and sucking the economic lifeblood from the American people, in order that it may carry on its damnable practices and go unwhipped of justice.

The American people, by the millions, are looking to Congress with outstretched hands, appealing to us for relief. We have it in our power to give that relief, and it will be given if the members of these committees do their duty in making a thorough, full, and complete investigation.

We must not fail!

WHEAT

Mr. ROBERTSON. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. ROBERTSON. Mr. Speaker, the wheat-growing sections of the United States face a rather serious situation. They have an estimated crop of 731,000,000 bushels, a do-

mestic consumption of six hundred and some million bushels, and an expected surplus of over 100,000,000 bushels.

An attack is being made upon efforts of the Government to bring the price to the farmer of wheat to parity. The processing tax may be set aside. We have pending in the Senate a House provision to appropriate $100,000,000 to assist in the disposition of surplus farm products. The price of wheat under the pressure of the present surplus is going down. The purchasing power of the farmer is still 20 percent below what it ought to be, and it may go lower. This is a situation that should challenge our most thoughtful consideration. If the farmer loses his purchasing power, the city factories cannot operate. Wheat is the chief cash-money crop of many farmers. Our problem is to see that these wheat producers get a fair return for their crop.

A number of Virginia newspapers carried a statement from me in their issue of July 15 urging Virginia wheat growers to sign wheat contracts and stating that the deadline was July 17. Investigation at the Department of Agriculture discloses that this deadline, which was announced by compliance agents in at least one Virginia county was arbitrarily fixed by them. The matter involved merely the completion of contracts entered into for the 1933, 1934, and 1935 crops. The Government is now ready to send out benefit checks to those who have complied with that contract with respect to the crop to be harvested in 1935, but before the Government can forward a benefit payment to a wheat grower he must sign what is called a "compliance contract", which is what its name indicates, a paper showing that he has complied with his agreement with the Government. Evidently compliance agents in the county in question gave to the paper published in that county a statement that July 17 was the deadline to urge contract wheat growers of the county to complete the transaction so that checks could be delivered; or else there was a misunderstanding on the part of the local compliance agents. The Department of Agriculture has fixed no deadline, but the fact remains that the sooner a contract wheat grower signs the compliance agreement the sooner he can receive his benefit payment.

The Chief of the Wheat Allotment Section of the Department of Agriculture advises me today that the Government estimates the 1935 crop at 731,000,000 bushels and domestic consumption at 625,000,000 bushels. The same agency estimates a 1935 export market for from 35,000,000 to 40,000,000 bushels. No estimate has been attempted as to the probable size of the crop to be harvested in 1936, nor the probable export market during that calendar year, but as I stated in the interview given to the Associated Press, the Department indicates that there are no present factors to indicate that the domestic price for 1936 will be above parity.

The Department, notwithstanding pending litigation over the processing tax, is proceeding with plans for the control program for the crop to be harvested in 1936. This contract has not yet been prepared, and its terms will not be announced until August. Wheat growers will probably be given until February 1936 to sign control contracts. The present Department of Agriculture plans do not contemplate any radical changes in previous wheat contracts. The minor changes now being contemplated will probably put some additional restrictions upon the big wheat-producing areas of the West and Middle West and be more liberal to the smaller wheat growers of the East.

In order that a Virginia wheat grower may determine for himself the pros and cons of a compliance contract, let us assume, for the sake of argument, that he is able to produce for the 1936 market 1,000 bushels of wheat. If he could succeed in marketing his full crop at $1.12, it would not be to his interest to sign a contract to reduce his potential crop. But if, on the other hand, after exporting 35,000,000 bushels of the 1935 crop, the United States carries over, above domestic needs, a surplus of 71,000,000 bushels, to which is added in 1936 an additional surplus of equal or greater amount, the effect undoubtedly will be to depress the domestic market. Therefore, for the sake of argument again, let us assume that the domestic price in 1936 is 65 cents per bushel. The farmer in that year who produces 1,000 bushels of wheat under a control contract will receive 65 cents per bushel plus 47 cents on his domestic allotment of 540 bushels to bring that to the parity price of $1.12. That would net him a benefit payment of $253.80.

I have supported the wheat-control plan because it gave promise of conferring benefits upon the wheat grower on a voluntary basis. No wheat grower is compelled to sign a control contract, and, as a matter of fact, while the average sign-up in the United States was 85 percent, the sign-up in Virginia on the 1933–34–35 contract was only 30 percent. On the other hand, no wheat grower can receive the special benefit offered by the Government unless he does sign and comply with the terms of his contract. Production in Virginia in 1935 is considerably above that of 1934, and we see what has happened to the price. I fear we will see the same thing happen not only in Virginia but in the Nation at large in 1936 if we continue to increase production without increasing opportunities for export.

While we have a tariff of 42 cents a bushel on wheat imported for human consumption and a 10-percent ad valorem tariff on wheat imported for livestock feed, that tariff is no real protection when the United States produces a supply above domestic requirements. The component parts of farm machinery and tools which the farmer must buy are produced and sold in the United States under a protective tariff that frequently exceeds 100 percent. As an evidence of the effectiveness of the tariff on machinery and tools, a farmer has but to compare their present price with their pre-war price, and likewise to note the value of various classes of imports during 1934. During that year our imports were as follows:

Animals and animal products	$158,530,000
Vegetable food products and beverages	467,886,000
Rubber and rubber manufactures	104,991,000
Tobacco and tobacco manufactures	28,529,000
Cotton and cotton manufactures	41,362,000
Wood and paper	181,454,000
Textiles except silk and cotton	119,678,000
Other inedible vegetable products	47,216,000
Nonmetallic minerals	86,444,000
Metals and manufactures except machinery	129,744,000
Machinery and vehicles	11,799,000
Chemicals and related products	65,126,000

It will be noted from the foregoing list, embracing hundreds of millions of dollars, the import of machinery and vehicles constituted an item of only $11,799,000.

Since, therefore, a 42-cent per bushel import tariff afforded no protection to the American wheat producer, the Government imposed upon the American consumer a processing tax of 30 cents per bushel, which, of course, is nothing more or less than a tariff to that extent for the benefit of the American farmer. It amounts to subsidizing the domestic production of wheat to the extent of over $100,000,000 a year. If the American farmer does not want that benefit, he does not have to take it, and is perfectly free to produce and sell if, as, and when he can.

I have never claimed that the present wheat-control program is either a perfect or permanent solution of our problem. The permanent solution is a restoration of foreign trade, but with all the major nations of the world except the United States—a total of 25 in number—now subsidizing the production and export of farm products, and with but a small dent having been made in foreign tariff walls, quotas, and embargoes by reciprocal trade agreements, he is more optimistic than I who believes in any quick restoration of normal foreign markets for our agricultural products.

We are, therefore, facing a fact and not a theory. The fact is that the American farmer is still 20 percent below parity in his purchasing power, with prospects of further reduction. Some help can be given a wheat grower by the present control plan, but that plan may break down in the face of a 250,000,000-bushel surplus in 1936. If the Senate concurs in the House appropriation in the A. A. A. amendment bill of approximately $100,000,000 to be expended in facilitating the export of domestic farm products, some help may be afforded in that way, unless it results in a dumping program, in which event we would be promptly met by retaliatory measures of foreign nations affected.

It should be apparent to all that our farm situation is a difficult and complicated one, but the fact remains that the present administration is making a more serious and determined effort to aid the American farmer than any previous administration in the history of the Nation.

The Republican Party, in the passage of the Hawley-Smoot tariff bill, started an international trade war from which American agriculture will not recover for many, many years.

PAYMENT OF ADJUSTED-SERVICE CERTIFICATES

The SPEAKER. Under the previous order of the House, the gentleman from Texas [Mr. PATMAN] is recognized for 20 minutes.

THE FISH DISCHARGE PETITION

Mr. PATMAN. Mr. Speaker, there is pending before the Committee on Appropriations House Joint Resolution No. 300, which provides that the Secretary of the Treasury is authorized and directed to pay the World War veterans their adjusted-service certificates according to the plan laid down in the so-called "Vinson bill" with money that has been appropriated for public works. The resolution states—

Out of the appropriation of $4,000,000,000 and the unexpended balance of appropriations made by the Seventy-third and Seventy-fourth Congresses for public works.

This resolution was filed on May 23, 1935, by Representative FISH, of New York. On July 8, 1935, Representative FISH filed a motion to discharge the Committee on Appropriations from further consideration of the resolution in order that it might be brought before the House for immediate consideration if 218 signatures can be obtained.

MONEY ALREADY ALLOTTED

I have in my hand a statement from the Treasury of the United States dated July 12, 1935. This statement is about the same as the one of July 8, 1935, and the $4,000,000,000 referred to has been allotted except $1,990,000,000. This is all the money that is remaining, unallotted, out of the $4,000,000,000 for public works.

Of the unexpended balance appropriated in 1933 for public works, referred to in the gentleman's petition, there is left only $4,000,000 unallotted. There is remaining in the other appropriation of 1934, referred to in the resolution, only $4,000,000. Therefore there is less than $2,000,000,000 remaining, unallotted, out of the $4,800,000,000 for public works.

TREASURY STATEMENT

I insert herewith the following statement issued by the United States Treasury July 12, 1935:

Funds appropriated and allocated for recovery and relief, expenditures therefrom, and unexpended balances, July 12, 1935

Organization	Appropriations		
	Statutory and Executive allocations		
	National Industrial Recovery Act, approved June 16, 1933	Emergency Appropriation Act, 1935, approved June 19, 1934	Emergency Relief Appropriation Act, 1935, approved Apr. 8, 1935
Agricultural aid:			
Agricultural Adjustment Administration	$37,554,000.00		
Less processing tax			
Net	37,554,000.00		
Commodity Credit Corporation	3,000,000.00		
Farm Credit Administration	60,000,000.00	$146,785,000.00	
Federal Farm Mortgage Corporation			
Federal land banks:			
Capital stock			
Paid-in surplus			
Reduction in interest rates on mortgages			
Relief:			
Federal Emergency Relief Administration	152,304,158.95	480,590,512.75	$545,000,000
Federal Surplus Relief Corporation			
Civil Works Administration	400,005,000.00		
Emergency conservation work	323,362,315.00	343,390,000.00	322,894,000

Funds appropriated and allocated for recovery and relief, expenditures therefrom, and unexpended balances, July 12, 1935—Con.

Organization	Appropriations		
	Statutory and Executive allocations		
	National Industrial Recovery Act, approved June 16, 1933	Emergency Appropriation Act, 1935, approved June 19, 1934	Emergency Relief Appropriation Act, 1935, approved Apr. 8, 1935
Relief—Continued.			
Department of Agriculture, relief		$92,845,000.00	
Public Works:			
Boulder Canyon project	$44,125,000.00	3,000,000.00	
Loans and grants to States, municipalities, etc	491,350,787.39	155,077,257.00	$41,893,017
Loans to railroads	199,580,506.00		
Public highways	437,141,725.00		500,000,000
River and harbor work	252,792,586.68	94,699,000.00	121,855,500
Rural Electrification Administration			75,000
Works Progress Administration			54,075,939
All other	744,895,913.06	70,862,470.00	135,170,664
Aids to home owners:			
Home-loan system:			
Home-loan bank stock			
Home Owners' Loan Corporation			
Federal savings and loan associations			
Emergency housing	33,729,500.00		186,632,000
Federal Housing Administration	1,000,000.00		
Resettlement Administration	38,918,877.95	3,389,487.25	101,650,000
Subsistence homesteads	6,811,963.10		
Miscellaneous:			
Export-Import Banks of Washington	1,250,000.00		
Federal Deposit Insurance Corporation			
Administration for Industrial Recovery	17,408,000.00	5,000,000.00	
Reconstruction Finance Corporation—direct loans and expenditures			
Tennessee Valley Authority	50,000,000.00	25,000,000.00	
Total	3,295,230,333.13	1,420,638,727.00	2,009,246,120
Unallocated funds:			
By the President		715,095.00	1,990,753,880
By Public Works Administration	4,769,666.87	4,821,178.00	
Grand total	3,300,000,000.00	1,426,175,000.00	4,000,000,000

INSUFFICIENT AMOUNT REMAINING FOR VETERANS

It will require about $2,250,000,000 to pay the veterans. It is true that the veterans will only get about $2,000,000,000, but it will require about two billion and a quarter dollars to make all the payments to the banks and to the government holding these certificates as loans. Therefore, the resolution could not be effective because there is not sufficient money remaining, unallocated, to pay the adjusted-service certificates. There is only one way that this payment can be made as proposed by Representative FISH, and that is to cause the Government to violate its promises to the people and to the cities and States where this money has been promised, and pay it to the veterans.

METHOD OF PAYMENT SECONDARY

I want to pay the veterans their certificates—it makes no difference what method you use, the method with me is secondary and always has been, but I am not going to ask that the payment be made in a way that will bring the veterans into disrepute.

Mr. KENNEY. Will the gentleman yield?

Mr. PATMAN. No; I am sorry, I cannot yield—I will yield to the gentleman from New York if in any way I misquote him or make an incorrect statement, but I will not yield to anybody else.

STEERING COMMITTEE TURNED PLAN DOWN

Our steering committee for the passage of H. R. 1 had a meeting about June 1, 1935, and we took up this very question of the money being paid to the veterans out of the Public Works fund, and we decided that it would bring the veterans into disrepute because every citizen or every representative of a city or State who could not get a project

approved would say that it was because the veterans have the money. Every needy citizen who could not get on the relief roll would say that the veterans got the money, and every needy citizen who is not getting sufficient money on relief would say that he would be getting more if the money had not gone to the veterans. Every unemployed man who could not find a job would say that he would have had a job if it was not for the fact that the veterans had taken the relief and Public Works money.

Therefore, we would be bringing the veterans into disrepute, and I am not going to ask for the payment of this debt in any way that will bring the veterans' cause into disrepute before the American people. [Applause.]

DOLE WOULD BE CONTINUED

What are the $4,000,000,000 for? It is to give three and a half million men an opportunity to work, and, therefore, if you take two and one-fourth billion and pay it to the veterans you could not give men work, and you will have to contine them on the dole.

If I wanted to continue the dole, I would not mind taking the money away and giving it to the veterans, because then the dole would have to be continued. But if I want to discontinue the dole and get the people of the country employed, who are anxious and willing to get into pay jobs I would want that $4,000,000,000 to remain intact so that the people might get the jobs.

I have here a copy of this morning's Washington Herald of Tuesday, July 16, 1935. The headline of one item is, "Delay Keeping 3,500 Men on the Dole List Here." This refers to the District of Columbia only. It is as follows:

DELAY KEEPING 3,500 MEN ON DOLE LIST HERE—NONAPPROVAL OF WORKS PROJECTS PUZZLES ALLEN; 2,780 GET JOBS HERE DURING JUNE

Delay in approval of District works projects by the Works Progress Administration and the Treasury Procurement Office is keeping 3,500 men on relief rolls here.

This disclosure came yesterday as the Department of Public Welfare announced a reduction of 2,780—720 less than the number waiting for work on submitted projects—in the District's June relief rolls.

ALLEN IN DARK

Commissioner George E. Allen, Works Progress Administrator for the District, has submitted projects totaling $2,000,000 and promising work for 2,500 relief beneficiaries. The intervening weeks have brought no word to him of the status of these projects. He said yesterday:

"I don't know what has happened to them. I have had no official information about them."

Approval would mean immediate employment of the 3,500, he said.

There is complaint made that this money is not being spent more rapidly, in order that 3,500 men here in the District might be taken off the dole and be given jobs. All right. This same newspaper is advocating paying the veterans out of Public Works, as proposed by Representative FISH. Therefore, they are advocating keeping these 3,500 men on the dole in the District, because they could not be given jobs if the veterans are given the money.

REPRESENTATIVE FISH OPPOSED TO FULL PAYMENT

I would not mind signing a petition or cooperating with my distinguished colleague from New York [Mr. FISH], simply because he belongs to another political party. It makes no difference with me, but I do think that if I am going off to cooperate with someone in the payment of these certificates, which many of us here have been waging a fight to have paid for 6 years, I want to cooperate with somebody whose every heart beat and pulse throb I know is in the interest of the payment of the adjusted-service certificates. Representative FISH is just as much entitled to his views as I am to mine. He is as honest in his conviction as I am, and I would not impugn his motives or question his sincerity, but I am going to show you that Congressman FISH has not been for the payment of the adjusted-service certificates in the past, and for that reason I am reluctant to follow such a new convert, knowing how he feels.

DEBATED WITH REPRESENTATIVE FISH

When I started this fight 6 years ago, along with other Members of this House, who was it that I was debating with all over this country? I was debating with Representative FISH. I was for the payment and he was against it. I debated with him many times in this country. He was against the payment and I was for it.

CONGRESS REFUSED FIRST FISH COMPROMISE

In 1924, when the Adjusted Service Certificate Act came up, Representative FISH appeared before the committee, and he said that he wanted to offer a compromise, the Fish compromise, which would have meant giving the veterans at that time instead of $1,000 average certificate, an $800 average certificate, reducing them $200. That was the Fish compromise. He was overridden, and Congress went ahead and passed the $1,000 certificate law.

THE SECOND FISH COMPROMISE

Then in 1931, when we got up a petition here to force consideration of the bill to pay the certificates in full and we had about the required number of signatures and they promised us a 50-percent loan on every certificate, Representative FISH came in and in effect said, "Don't let them have 50 percent, let them have 47 percent, if they will make the right kind of a pauper's oath in order to get it", and offered that as the Fish compromise plan. But his plan was overriden and we got the 50 percent for the veterans.

THE THIRD FISH COMPROMISE

In 1932 we had a petition again asking for the payment of the adjusted-service certificates and to discharge the Committee on Ways and Means. Just before the bill was to come up Representative FISH introduced a bill to reduce the interest rate from 4½ percent to 3 percent on loans, and he called it the "Fish compromise." Do not pay them all of it, just reduce the interest to 3 percent, he, in effect, said. The bill for full payment, my bill, passed the House by a majority at that time of 211 to 176, and he voted gainst it.

THE FOURTH FISH COMPROMISE

In 1934 the full-payment bill came up again, and what happened? The discharge rule was applied, it is true. On February 6, 1934, and just before the bill came up on March 12, 1934, Representative FISH offered another compromise, known as the "Fish compromise." "Don't pay them all, just reduce the interest rate to 2 percent, and that will be all right", he said by the introduction of this bill. Very well. That was in 1934. We went ahead and passed the bill, the Patman bill, in the House by a majority of 295 for to 125 against, and he voted against it. In fact, he had charge of the time in opposition to the bill and I had charge of the time in favor of it.

HE VOTED AGAINST THE 1935 BILL

In 1935 the bill comes up again and does he vote for it? No. He has never voted for it, he has always said that he was against it, and he has always said the debt is not due until 1945, and that he would never vote for this payment until the Budget is balanced. So he voted against it in 1935.

HIS PAUPER'S OATH AND DOLLAR A DAY BILL—THE FIFTH FISH COMPROMISE BILL

He has always voted against it, but there was one bill he said he would be for. This is his latest bill on this subject. If I were to start with Mr. FISH on this plan and he would want to compromise it in some way, I presume he would be in favor of the bill that he has introduced. He introduced the bill H. R. 14439 on January 26, 1933, when there was a revival of interest in favor of full payment, and it was to be known as the "Fish compromise." It is for full payment—the first time he intimated he would favor full payment—and here is the way he wants to pay it: He wants the veteran to get $30 a month of the remainder due him if he is married and has dependents and $15 a month if he is single, provided, first, that he must show that he has borrowed the limit on his certificate; second, that he has remained continuously unemployed for 180 days or that he has not made more than $1 a day during that period of time. Then he must also swear, make a pauper's oath, in which he sets forth his unemployment, his income, his assets, his dependents and so forth, and he must swear that he does not possess more than $300 worth of both real and personal property; and if he will get his neighbors, not his relatives, disinterested parties, to swear

to that, then the veteran will get $15 of his money if he is single, and the married one $30 of his money—that is, a month—for the next 6 months.

NEW PAUPER'S OATH EVERY 6 MONTHS

At the end of 6 months he will have to file a new affidavit. That affidavit must show that during the last 6 months he has not made over a dollar a day. The married veteran, if he has collected a dollar a day on his certificate, at the end of 6 months, if he has made one red cent during the preceding 6 months, he will be disqualified from drawing the money during the next 6 months. And for a single veteran who has received $15 a month, if he receives as much as 50 cents a day on an average throughout that period, he will be disqualified for the next 6 months. That is the Representative's bill that he offered as another compromise.

THE SPECIFIC PROVISIONS OF BILL

I am inserting herewith the specific provisions of Representative FISH's bill referred to:

SEC. 510. Payments of the face value as provided in section 509 of this act shall be made in monthly installments on the 15th day of each month, the first installment to fall due on the 15th day of the month in which application is filed in the Veterans' Administration, although the due date may antedate the date of application. Monthly installments shall be at the rate of $30 per month to married veterans or those with dependents and at the rate of $15 per month to all others: *Provided*, That no part of said money shall be paid to any veteran except where the following conditions have been complied with:

(a) That the applicant has already borrowed on his certificate so that his total indebtedness to the Government, including principal and interest, is at least 50 percent of the face value of his certificate.

(b) That the applicant shall have been continuously unemployed for a period not less than 180 days immediately preceding the date the application under section 509 hereof was filed in the Veterans' Administration or that his income from all sources during the same period has not averaged more than $1 per day.

(c) That the applicant does not have an interest in real or personal property in an amount in excess of $300: *Provided further*, That the administrator is hereby authorized and directed to accept the affidavits of two disinterested persons as sufficient proof of the veteran's sworn statement concerning employment, income, assets, marital status, and dependents, and all decisions of the administrator or employee duly authorized by him of questions of fact and law affecting any claimant to the benefits of sections 509, 510, and 511 of this act shall be final and conclusive.

SEC. 511. The maturity date under the provisions of sections 509 and 510 and this section shall be the date application is filed with the Veterans' Administration: *Provided*, That after six such installments have been paid the installments shall be discontinued and shall not be renewed except upon new application filed with the Veterans' Administration with supporting evidence as required for original applications in sections 509 and 510 hereof. Should no new application be filed or where because of change of financial status no further installments could be authorized under a new application, any unpaid balance of the face value as provided in sections 509 and 510 hereof shall be held by the Veterans' Administrations to the credit of the veteran and upon his death or upon the maturity date of the surrendered certificate such balance shall be paid to the estate of the veteran.

I presume he is still in favor of it. That is the second time he has brought up the pauper's oath for veterans. He brought it up in 1931 when we were trying to get them the whole amount. He said, "Give them 47 percent if they will make a pauper's oath." Now he again wants them to make a pauper's oath, and their friends and disinterested parties must swear to it, swear that they did not make over a dollar a day and have not made it for the last 6 months or they cannot draw a dime of their money. I am not in favor of legislation like that. I want to pay this money. It makes no difference to me the method of payment, but I want the money paid to the veterans in a way that it will not bring the veteran's cause into disrepute and in a way that the veterans can honorably collect their own money.

IF PART OF $4,000,000,000 TAKEN

Suppose we were to take this relief money that is remaining unallocated, where would it come from? It would come from highways and grade crossing eliminations $300,000,000; $325,000,000 would come from loans to cities. We would have to take it away from them on self-liquidating projects. We would have to take $400,000,000 away from rural rehabilitation, relief in stricken agricultural areas, irrigation and reclamation, and so forth. We would have to take $264,000,000 away from the Federal housing. We would have to take $300,000,000 away from the appropriation to take care of the white-collar workers in this country, the ones we are expecting to give jobs to take them off of the dole. The city of New York and the State of New York will profit more from that $300,000,000 than any other city or State in this Nation; yet if this resolution were to become law, all of this money I have mentioned would have to be taken away. The people would not be given an opportunity to work and make a living for themselves and their families, but they would have to remain on the dole.

Amount allocated and amount remaining

Name of project	Amount authorized in $4,000,000,000 bill	Amount allocated
Highways, roads, streets, and grade-crossing elimination	$800,000,000	$500,000,000
Federal Emergency Relief Administration, which includes loans or grants for projects to States, Territories, possessions, municipalities, and self-liquidating projects to public bodies	900,000,000	545,000,000
Rural rehabilitation and relief in stricken agricultural areas, water conservation, transmountain water diversion and irrigation, reclamation	500,000,000	101,650,000
Rural electrification	100,000,000	75,000
Housing	450,000,000	186,632,000
Assistance for educational, professional, and clerical persons (white-collar class)	300,000,000	None
Emergency conservation work, including C. C. C. camps	600,000,000	322,894,000
Sanitation, prevention of soil erosion, prevention of stream pollution, prevention of seacoast erosion, reforestation, forestation, flood control, rivers and harbors and miscellaneous projects	350,000,000	121,855,000

WHY RESOLUTION INTRODUCED

I am not going to read his speech of May 24, 1935, the day after he introduced this resolution, as disclosed in the CONGRESSIONAL RECORD of that date, because I do not have time. But he said in this speech, which is in the CONGRESSIONAL RECORD, that he wanted it paid that way because billions are being doled out of the Treasury to various groups; because the new-deal administration has repudiated most of its contracts, obligations, and pledges, but insisted on singling out the agreement made with the veterans to keep. I want to say to the gentleman that if his resolution were to become a law he would make this Government violate its contracts with the unemployed and the destitute, the cities, counties, and States that already have this money allocated to them.

WOULD MAKE GOVERNMENT VIOLATE PROMISES

Therefore, instead of carrying out a contract he would be making the Government of the United States violate a contract. He says further that he wants this resolution passed because Rex Tugwell has been allotted a billion dollars of this money to undertake further unsound and socialistic experiments. Very well. I have noticed there are no Democratic names on that petition. Out of about 46 names there are only two or three Democrats. I see why that is now. In order for a Democrat to sign that petition he must say that the administration is wasting this $4,000,000,000 in money. He must say that Dr. Tugwell is engaged in unsound and socialistic experiments, at the request of the President of the United States. He must say that the present administration has violated and repudiated most of its contracts, obligations, and pledges. The Democrats of this House must say that in order to sign this petition and be consistent.

Now, I could tell you what is behind this, but I do not have the time to do it. I wonder if the House would be interested in it? I will ask unanimous consent to proceed for 10 additional minutes as I should like to tell just what is behind it.

I ask unanimous consent, Mr. Speaker, to proceed for 10 additional minutes since I only have 2 minutes remaining.

Mr. TAYLOR of Colorado. Reserving the right to object, Mr. Speaker, if we consent to the gentleman from Texas proceeding for 10 additional minutes, the gentleman from New York [Mr. FISH] will, of course, be entitled to 10 additional minutes, and probably several other gentlemen may ask for time on the same subject. For that reason, and in the interest of orderly procedure, and because of considerable complaint that we put in so much time listening to

speeches that important business is being neglected, I feel obliged to object.

Mr. PATMAN. Will the gentleman reserve that for a moment?

Mr. TAYLOR of Colorado. Yes.

Mr. PATMAN. This House will likely be taking 3-day recesses shortly, and it occurs to me the Members ought to have a right to say something once in a while. They can do it if the leadership will bear with us. Every one of us represents 300,000 people. We are their chosen Representatives. They sent us here. I do not think the leadership of this House should make any effort to stop Members from speaking when they have plenty of time to do it. [Applause.] I say that with all due respect to the distinguished gentleman from Colorado [Mr. TAYLOR], but I think there is too much effort made in this House to stop Members from speaking, when we adjourn sometimes in the middle of the afternoon, over week ends, and 3 days at a time, and then sometimes rush a bill through under the 40-minute rule. I think the gentleman should be very considerate of the Members of the House who desire to make speeches.

Mr. TAYLOR of Colorado. Let me say to the gentleman, and to the House, that I have been in a friendly way criticized by several Members recently for not performing what they say is the official duty of the majority leader of the House, to prevent so many speeches. I have tried to be as fair and as considerate as possible of the wishes of all the Members. I believe Members are entitled to an opportunity to make a reasonable number of speeches. I think short speeches are helpful and ought to be permitted. But when the House, as the Members did yesterday, cheer to the echo a suggestion that Congress should promptly adjourn, it would seem to indicate their desire to finish the business of this session.

Mr. PATMAN. They did not vote that way, though.

Mr. TAYLOR of Colorado. We all know there are very many important matters that we ought to dispose of in a deliberate way before we can in an orderly and appropriate manner adjourn this session. This puts upon me quite a responsibility which I have no intention of evading. I should like to give more time to many gentlemen to express their views. I know they would be instructive and helpful. I would welcome an expression of the House on this matter. Personally, I am perfectly willing to allow a few short speeches every day. We might as well listen to a half dozen 5-minute speeches as to waste 40 minutes on a quorum call. I think long speeches should be deferred until we are substantially through all of the more important measures.

Mr. LUNDEEN. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Colorado. I yield.

Mr. LUNDEEN. Mr. Speaker, I wish to say to the majority leader that I have heard no criticism of his leadership. So far as he is concerned, we seem to be getting along fine, and in the main we are satisfied with his leadership [applause] with the possible exception of some of the Republican minority.

PAY THE SOLDIERS' ADJUSTED-SERVICE CERTIFICATES IN CURRENCY NOW

Mr. PATMAN. Mr. Speaker, I can conceive of no more important subject than the payment of the soldiers' adjusted-service certificates, and if we spend the rest of this day until the hour we ordinarily adjourn or stay here far into the night, we would not be taking half the time we ought to be spending on this important subject. We want that bonus paid now in good United States currency. It ought not to be paid out of the Public Works or relief appropriations. [Applause.]

Mr. TAYLOR of Colorado. Let me say further that the order of business today is the consideration of the Private Calendar. There are about 400 bills on that calendar. The omnibus bill has been postponed three times. This may possibly be the last day on which it can be considered before adjournment. A great many Members have bills upon this calendar that are important to them. Therefore, for the purpose of expediting the business of the House, I feel constrained to object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. KENNEY. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I cannot yield; the gentleman objected to my request for additional time, and I only have 1 or 2 minutes. I am sorry.

Mr. Speaker, I do not have time to follow up this discussion. In conclusion, I have no suggestion to make about the method of paying the adjusted-service certificates; I want them paid, for I believe they represent an honest debt and that their payment will increase purchasing power, but I am not going to ask that these certificates be paid in a way that will bring the veterans of this country and their cause into disrepute. [Applause.]

The SPEAKER pro tempore. The gentleman from New York [Mr. FISH] is recognized for 20 minutes.

Mr. FISH. Mr. Speaker, the voice is the voice of Jacob, but the hands are Esau's. The voice is the voice of WRIGHT PATMAN, of Texas, but the hands are the hands of the Democratic organization and very probably the President of the United States.

Ever since this resolution was introduced every effort has been made to see that no single Democrat signed it. The organization has been in fear and trepidation lest the Democratic membership, hearing from home and from the veterans, would go up and sign this resolution, no. 300, now upon the Clerk's desk; so the gentleman from Texas is picked out by the organization to come here and try to persuade, as he says, as a friend of the veteran, the Democratic side at least from not taking the only opportunity they will get in the rest of this session to pay the adjusted-service certificates by signing this petition and bringing out my resolution and passing it.

It must be self-evident to everyone, of course, that it cannot be passed without Democratic votes. I believe most of the Members on the Republican side will sign it. If you want to take the responsibility, which is yours and you have the right to assume it, of blocking this resolution by preventing its coming up on the floor of the House for a vote, if you want to block the payment of the adjusted-service certificates, you on the Democratic side have the right to do it.

Mr. KENNEY. Mr. Speaker, will the gentleman yield?

Mr. FISH. No; I cannot yield; the gentleman from Texas did not yield.

Mr. Speaker, I do not propose that the gentleman from Texas, or any other Member of the House shall come before you and question my record as a friend of the veteran, a record which goes back long, long before the gentleman from Texas came to this House.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I decline to yield.

Mr. PATMAN. Will not the gentleman yield for a correction?

I did not question his record, I questioned his record on the payment of the adjusted-service certificates.

Mr. FISH. That is what I am talking about, and it goes back long before the gentleman came to Congress.

When President Harding was in the Executive Mansion, I, as a Republican, voted to override his veto on the adjusted service certificate bill. Later I voted again to override the veto of President Coolidge on the so-called "bonus." Still later I voted to override the veto of President Hoover to pay 50 percent of the certificates by way of loans to veterans.

I believe my record is known throughout this country among the veterans; and I do not propose to have the gentleman from Texas, who came here long after I did, get up in the House and try to muddy the waters and make out that I have not fought for the veterans in this House, when on two different occasions in my own congressional district these banker friends of the gentleman from Texas put up candidates against me in the primary because, and only because, on both those occasions I had voted to override a Republican President to put through an adjusted service certificate bill. That is my record and that record stands. (The words following were ordered taken down and on the order of the House were subsequently ordered expunged from the RECORD.)

Mr. PATMAN. Mr. Speaker, I ask that the gentleman's words be taken down.

Mr. FISH. Would the gentleman prefer——

Mr. HAMILTON. Mr. Speaker, when the gentleman is called to order he must take his seat until the matter is determined.

The SPEAKER. The gentleman from New York [Mr. FISH] will take his seat.

Mr. BLANTON. Mr. Speaker, I ask that the words of the gentleman from New York [Mr. FISH] be taken down also, to wit:

> The voice is the voice of Jacob, but the hands are the hands of Esau's. The voice is the voice of WRIGHT PATMAN of Texas, but the hands are the hands of the Democratic organization, and very probably the President of the United States, and that the President of the United States and the administration had prevented Democratic Members from signing this petition and that Mr. PATMAN was picked by the administration to advise Democratic Members not to sign it.

I challenge that statement and make a point of order against same, and ask that those words be taken down.

The regular order was demanded.

The SPEAKER. The regular order is for the reporter to take down the words and for the Clerk to report them to the House, which will be done.

Mr. McFARLANE. Mr. Speaker, a further point of order. I ask that the Well of the House be cleared.

Mr. SNELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SNELL. What is the question before the House?

The SPEAKER. Certain words uttered by the gentleman from New York [Mr. FISH] have been asked to be taken down.

Mr. SNELL. What is wrong with a man expressing an opinion similar to the words uttered by the gentleman from New York, whether it reflects on one Member or another?

The SPEAKER. The Chair will pass on that matter at the proper time. It is not subject to debate, as the gentleman knows.

The Clerk will report the words.

The Clerk read the words objected to and ordered taken down.

Mr. BLANTON. Mr. Speaker, all the words objected to were not read by the Clerk. I asked that the following words used by the gentleman from New York [Mr. FISH] be taken down, to wit:

> The voice is the voice of Jacob, but the hands are the hands of Esau's. The voice is the voice of WRIGHT PATMAN, of Texas, but the hands are the hands of the Democratic organization, and very probably the President of the United States. Ever since this resolution was introduced every effort has been made to see that no single Democrat signed it. The organization has been in fear and trepidation, lest the Democratic membership hearing from home and from the veterans would go up and sign this resolution so that the gentleman from Texas is picked out of the organization to come here and try to persuade the Democrats from signing.

Those are statements I challenged and asked to be taken down.

Mr. SNELL. Mr. Speaker, I make the point of order that the request of the gentleman comes too late.

The SPEAKER. The Chair thinks the gentleman from Texas is entitled to have the words taken down.

Mr. EKWALL submitted a parliamentary inquiry, which the Chair held to be not in order; and following a demand for the taking down of the words on the order of the House, the language was expunged from the RECORD.

Mr. BLANTON. Mr. Speaker, I make the point of order that the gentleman from Oregon [Mr. EKWALL] is not in order.

Mr. PATMAN. Mr. Speaker, I ask that the words of the gentleman from Oregon [Mr. EKWALL] be taken down.

The SPEAKER. The Clerk will report the words of the gentleman from Oregon.

Mr. MILLARD. Mr. Speaker, I raise the point of no quorum.

The SPEAKER. The Chair will count. [After counting.] Two hundred and thirty-three members present, a quorum.

The Clerk will report the further words of the gentleman from New York [Mr. FISH].

The Clerk read as follows:

> Mr. FISH. Mr. Chairman, the voice is the voice of Jacob, but the hands are Esau's. The voice is the voice of WRIGHT PATMAN, of Texas, but the hands are the hands of the Democratic organization and very probably the President of the United States. Ever since this resolution was introduced every effort has been made to see that no single Democrat signed it. The organization has been in fear and trepidation lest the Democratic membership, hearing from home and from the veterans, would go up and sign this resolution, no. 300, now upon the Clerk's desk; so the gentleman from Texas is picked out by the organization to come here and try to persuade, so he says, as a friend of the veteran, the Democratic side at least from not taking the only opportunity they will get in the rest of this session to pay the adjusted-service certificates by signing this bill and bringing it out and passing it.

Mr. BLANTON. Mr. Speaker, I make a point of order.

Mr. SNELL. Mr. Speaker, this is not debatable.

Mr. BLANTON. I want to make a point of order.

The SPEAKER. The point of order has already been made, and the Chair is about to make a ruling.

The gentleman from New York [Mr. FISH] is reported to have made, among other statements, the following statement [reading the words objected to and asked to be taken down by the gentleman from Texas, Mr. PATMAN].

The rules of the House provide that Members of the House shall observe proper decorum in debate. This is the only way in which matters may be discussed in a sound, sensible, sane manner, and a proper conclusion arrived at. Those Members particularly who have been here for years, it seems to the Chair, should be doubly careful to strictly conform to the rule.

The rules provide that when a Member rises to interrupt another he shall address the Chair and do it respectfully and secure the consent of the Member who is talking.

There is a rule of the House which ought to be familiar to every Member of the House, particularly to those who have been here for a number of terms, which reads as follows:

> When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker" and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

The reason for the adoption of that rule, of course, is perfectly obvious.

The gentleman from New York [Mr. FISH] used the word "snoop" in reference to the gentleman from Texas [Mr. PATMAN]. The Chair will read to the House the definition of the word "snoop" as it appears in Webster's New International Dictionary, and I take it this will be accepted as authentic:

> Snoop: To look or pry about or into others' affairs in a sneaking way. One who snoops; a prying sneak.

The Chair thinks it very clear that the use of this word by the gentleman from New York [Mr. FISH] violated the rules of the House and therefore holds the words out of order.

The Clerk will call the first omnibus bill on the Private Calendar.

Mr. BLANTON. Mr. Speaker, I ask for a decision by the Chair on the balance of the words taken down.

Mr. PATMAN. Mr. Speaker, I ask for a decision on the words of the gentleman from Oregon.

The SPEAKER. The gentleman from Oregon [Mr. EKWALL] interposed his remarks in the form of a parliamentary inquiry and asked this question [reading the words objected to].

It is not necessary for the Chair or any Member to go to the dictionary to know what "stool pigeon" means, and the Chair thinks that is as clearly out of order, or even more so, than the remarks made by the gentleman from New York.

Mr. BLANTON. Mr. Speaker, I ask for a ruling by the Chair on the other remarks of the gentleman from New York [Mr. FISH] referring to the gentleman from Texas [Mr. PATMAN] which I had taken down and read by the clerk.

The SPEAKER. The Chair thinks, with respect to that part of his remarks, the gentleman from New York [Mr. FISH] was indulging in a little flight of oratory, and while

they may have bordered upon a violation of the rules which should govern decorum in debate, the Chair having ruled upon the statement to which the Chair has just alluded, the Chair does not think it necessary to pass on that question, especially as the objection was not raised at the time these words were uttered.

Mr. SNELL. Mr. Speaker, I ask unanimous consent that the gentleman from New York may proceed in order.

Mr. BEITER. Mr. Speaker, I object.

Mr. CONNERY. Mr. Speaker, I ask unanimous consent that the gentleman from New York may be permitted to conclude his speech in order.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. FISH] be allowed to proceed in order.

Mr. HOOK. I object, Mr. Speaker.

Mr. PATMAN. Mr. Speaker, I move to expunge from the RECORD the words referred to.

The SPEAKER. Does the gentleman's motion apply also to the remarks made by the gentleman from Oregon [Mr. EKWALL]?

Mr. PATMAN. Yes; Mr. Speaker.

The question was taken; and on a division (demanded by Mr. SNELL) there were—ayes 151, noes 56.

Mr. SNELL. Mr. Speaker, I ask for the yeas and nays.

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the gentleman from New York be allowed to proceed in order.

The SPEAKER. The gentleman from New York [Mr. SNELL] asks for the yeas and nays. All those in favor of taking this vote by the yeas and nays will rise and stand until counted. [After counting.] Forty-five Members have risen, a sufficient number, and the yeas and nays are ordered.

The question was taken; and there were—yeas 247, nays 75, not voting 107, as follows:

[Roll No. 128]

YEAS—247

Adair	Delaney	Houston	Owen
Amlie	Dempsey	Huddleston	Palmisano
Arnold	Dickstein	Imhoff	Parks
Ashbrook	Dies	Jacobsen	Parsons
Ayers	Dietrich	Jenckes, Ind.	Patman
Barden	Dingell	Johnson, Okla.	Patterson
Beiter	Disney	Johnson, Tex.	Patton
Bell	Dobbins	Johnson, W. Va.	Pearson
Berlin	Dondero	Jones	Peterson, Fla.
Biermann	Doughton	Kee	Peterson, Ga.
Binderup	Doxey	Kelly	Pierce
Bland	Driver	Kennedy, Md.	Polk
Blanton	Duffey, Ohio	Kennedy, N. Y.	Rabaut
Bloom	Duffy, N. Y.	Kenney	Ramsay
Boehne	Duncan	Kleberg	Ramspeck
Boland	Dunn, Miss.	Kloeb	Randolph
Boylan	Dunn, Pa.	Kniffin	Rankin
Brennan	Eagle	Kocialkowski	Rayburn
Brooks	Eckert	Kramer	Reilly
Brown, Ga.	Edmiston	Kvale	Richardson
Brunner	Ellenbogen	Lambertson	Robinson, Utah
Buchanan	Evans	Lanham	Rogers, N. H.
Buck	Faddis	Larrabee	Rogers, Okla.
Buckler, Minn.	Fiesinger	Lee, Okla.	Romjue
Burch	Fitzpatrick	Lesinski	Rudd
Caldwell	Flannagan	Lewis, Colo.	Russell
Cannon, Mo.	Fletcher	Lewis, Md.	Ryan
Carmichael	Ford, Calif.	Ludlow	Sabath
Carpenter	Ford, Miss.	Lundeen	Sadowski
Cartwright	Fuller	McAndrews	Sanders, La.
Cary	Fulmer	McClellan	Sanders, Tex.
Castellow	Gasque	McCormack	Sandlin
Celler	Gassaway	McFarlane	Sauthoff
Chandler	Gavagan	McKeough	Schaefer
Chapman	Gehrmann	McLaughlin	Secrest
Citron	Gingery	McMillan	Shanley
Claiborne	Goldsborough	McReynolds	Sirovich
Coffee	Gray, Ind.	Mahon	Sisson
Colden	Green	Mansfield	Smith, Conn.
Cole, Md.	Gregory	Martin, Colo.	Smith, Va.
Colmer	Griswold	Mason	Smith, Wash.
Connery	Haines	Massingale	Smith, W. Va.
Cooley	Hamlin	May	Snyder
Cooper, Tenn.	Hancock, N. C.	Mead	South
Costello	Harlan	Merritt, N. Y.	Spence
Cox	Hart	Miller	Stack
Cravens	Harter	Mitchell, Ill.	Steagall
Crosby	Healey	Mitchell, Tenn.	Stubbs
Cross, Tex.	Higgins, Mass.	Montet	Sullivan
Crosser, Ohio	Hildebrandt	Moritz	Tarver
Crowe	Hill, Ala.	Murdock	Taylor, Colo.
Cullen	Hill, Knute	Nelson	Taylor, S. C.
Cummings	Hill, Samuel B.	Nichols	Terry
Daly	Hobbs	O'Brien	Thomason
Dear	Hoeppel	O'Connor	Thompson
Deen	Hook	O'Leary	Tolan
Tonry	Vinson, Ky.	Werner	Williams
Truax	Wallgren	West	Wood
Turner	Walter	Whelchel	Woodrum
Umstead	Warren	White	Young
Utterback	Wearin	Whittington	Zioncheck
Vinson, Ga.	Weaver	Wilcox	

NAYS—75

Allen	Engel	Kahn	Robsion, Ky.
Andresen	Englebright	Kinzer	Rogers, Mass.
Bacharach	Fenerty	Knutson	Seger
Blackney	Fish	Lehlbach	Short
Boileau	Focht	Lord	Snell
Brewster	Gearhart	McLean	Stefan
Buckbee	Gifford	Mapes	Taber
Cannon, Wis.	Gilchrist	Marcantonio	Taylor, Tenn.
Carlson	Goodwin	Marshall	Thomas
Cavicchia	Guyer	Martin, Mass.	Thurston
Christianson	Gwynne	Michener	Tinkham
Church	Halleck	Millard	Treadway
Cole, N. Y.	Hancock, N. Y.	Mott	Turpin
Crawford	Hess	Pittenger	Wilson, Pa.
Culkin	Hoffman	Plumley	Withrow
Darrow	Holmes	Ransley	Wolcott
Dirksen	Hope	Reece	Wolverton
Doutrich	Hull	Reed, Ill.	Woodruff
Ekwall	Jenkins, Ohio	Reed, N. Y.	

NOT VOTING—107

Andrew, Mass.	Driscoll	Lloyd	Quinn
Andrews, N. Y.	Eaton	Lucas	Rich
Arends	Eicher	Luckey	Richards
Bacon	Farley	McGehee	Robertson
Bankhead	Ferguson	McGrath	Schneider
Beam	Fernandez	McGroarty	Schuetz
Bolton	Frey	McLeod	Schulte
Brown, Mich.	Gambrill	McSwain	Scott
Buckley, N. Y.	Gildea	Maas	Scrugham
Bulwinkle	Gillette	Maloney	Sears
Burdick	Granfield	Maverick	Shannon
Burnham	Gray, Pa.	Meeks	Somers, N. Y.
Carter	Greenway	Merritt, Conn.	Starnes
Casey	Greenwood	Monaghan	Stewart
Clark, Idaho	Greever	Montague	Sumners, Tex.
Clark, N. C.	Hartley	Moran	Sutphin
Cochran	Hennings	Norton	Sweeney
Collins	Higgins, Conn.	O'Connell	Thom
Cooper, Ohio	Hollister	O'Day	Tobey
Corning	Keller	Oliver	Underwood
Crowther	Kerr	O'Malley	Wadsworth
Darden	Kimball	O'Neal	Welch
DeRouen	Kopplemann	Perkins	Wigglesworth
Ditter	Lambeth	Pettengill	Wilson, La.
Dockweiler	Lamneck	Peyser	Wolfenden
Dorsey	Lea, Calif.	Pfeifer	Zimmerman
Drewry	Lemke	Powers	

So the motion was agreed to.

The following pairs were announced:

Until further notice:

Mr. McSwain with Mr. Wadsworth.
Mr. Greenwood with Mr. Merritt of Connecticut.
Mr. Drewry with Mr. Crowther.
Mr. Clark of North Carolina with Mr. Rich.
Mrs. Greenway with Mr. Cooper of Ohio.
Mr. Kerr with Mr. Ditter.
Mr. Quinn with Mr. Arends.
Mr. Zimmerman with Mr. Powers.
Mr. Wilson of Louisiana with Mr. Schneider.
Mr. Robertson with Mr. Dondero.
Mr. Lea of California with Mr. Burdick.
Mr. Farley with Mr. Wigglesworth.
Mr. Dockweiler with Mr. Lemke.
Mr. Montague with Mr. Welch.
Mr. Pettengill with Mrs. O'Day.
Mr. Driscoll with Mr. Ferguson.
Mr. Greever with Mr. Luckey.
Mr. Sweeney with Mr. Gray of Pennsylvania.
Mr. Gambrill with Mr. Lambeth.
Mr. Moran with Mr. Richards.
Mr. Somers of New York with Mr. Brown of Michigan.
Mrs. Norton with Mr. O'Neal.

The result of the vote was announced as above recorded.

Mr. PATMAN. Mr. Speaker, I move that the gentleman from New York may be permitted to proceed in order.

The motion was agreed to.

Mr. TABER. Mr. Speaker, I move that the House do now adjourn.

Mr. PATMAN. I make the point of order that the gentleman from New York has the floor and he cannot be taken off his feet.

The SPEAKER. The point of order is well taken.

Mr. FISH. Mr. Speaker, in view of the fact that the House has seen fit to expunge the use of the word "snooper", I want to say to the Speaker and to the House that it is impossible for me to proceed, because that is merely a mild, temperate, insignificant word compared with what I expected to use in the balance of my remarks. [Laughter.]

Mr. BLANTON. Mr. Speaker, I ask that those words be taken down. It is an affront to the House.

The SPEAKER. The Chair thinks that although the gentleman from New York may have intimated that he has worse remarks to make, he has not actually uttered them. The House has already ruled on what he did say.

Mr. TABER. Mr. Speaker, I have a preferential motion. I move that the House do now adjourn.

The SPEAKER. Does the gentleman from New York [Mr. FISH] yield the floor?

Mr. FISH. I have concluded, Mr. Speaker.

The SPEAKER. The gentleman from New York [Mr. TABER] moves that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. TABER) there were 49 ayes and 172 noes.

Mr. TABER. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 58, nays 271, not voting 100, as follows:

[Roll No. 129]

YEAS—58

Allen	Gearhart	Lord	Seger
Bacharach	Gifford	McLean	Short
Blackney	Gilchrist	Mapes	Snell
Brewster	Goodwin	Marcantonio	Taber
Buckbee	Guyer	Marshall	Taylor, Tenn.
Carlson	Halleck	Martin, Mass.	Thomas
Cavicchia	Hancock, N. Y.	Millard	Thurston
Church	Hess	Mott	Tinkham
Crawford	Holmes	Peterson, Ga.	Treadway
Culkin	Hope	Plumley	Wadsworth
Darrow	Jenkins, Ohio	Ransley	Wilson, Pa.
Doutrich	Kahn	Reece	Wolcott
Engel	Kinzer	Reed, Ill.	Woodruff
Englebright	Lambertson	Reed, N. Y.	
Fenerty	Lehlbach	Rogers, Mass.	

NAYS—271

Adair	Dickstein	Huddleston	O'Leary
Amlie	Dies	Hull	Owen
Andresen	Dietrich	Imhoff	Palmisano
Arnold	Dingell	Jacobsen	Parks
Ashbrook	Disney	Jenckes, Ind.	Parsons
Ayers	Dobbins	Johnson, Okla.	Patman
Barden	Dockweiler	Johnson, Tex.	Patterson
Beiter	Dondero	Johnson, W. Va.	Patton
Biermann	Doughton	Jones	Pearson
Binderup	Doxey	Kee	Peterson, Fla.
Bland	Drewry	Kelly	Pettengill
Blanton	Duffey, Ohio	Kennedy, Md.	Pierce
Bloom	Duffy, N. Y.	Kennedy, N. Y.	Pittenger
Boehne	Duncan	Kenney	Polk
Boileau	Dunn, Pa.	Kleberg	Rabaut
Boland	Eagle	Kloeb	Ramsay
Boylan	Eckert	Kniffin	Ramspeck
Brennan	Edmiston	Knutson	Randolph
Brooks	Ekwall	Kocialkowski	Rankin
Brown, Ga.	Ellenbogen	Kopplemann	Rayburn
Brunner	Evans	Kramer	Reilly
Buchanan	Faddis	Kvale	Richardson
Buck	Ferguson	Lambeth	Robertson
Buckler, Minn.	Fiesinger	Lanham	Robinson, Utah
Burch	Fitzpatrick	Larrabee	Rogers, N. H.
Burdick	Flannagan	Lea, Calif.	Rogers, Okla.
Caldwell	Fletcher	Lee, Okla.	Romjue
Cannon, Mo.	Focht	Lemke	Rudd
Cannon, Wis.	Ford, Calif.	Lewis, Colo.	Russell
Carmichael	Ford, Miss.	Lewis, Md.	Ryan
Carpenter	Frey	Ludlow	Sabath
Cartwright	Fuller	Lundeen	Sadowski
Cary	Fulmer	McAndrews	Sanders, La.
Castellow	Gambrill	McClellan	Sanders, Tex.
Chandler	Gassaway	McCormack	Sandlin
Chapman	Gavagan	McFarlane	Sauthoff
Christianson	Gehrmann	McLaughlin	Schaefer
Citron	Goldsborough	McMillan	Secrest
Claiborne	Gray, Ind.	McReynolds	Shanley
Clark, N. C.	Gray, Pa.	McSwain	Sirovich
Coffee	Green	Mahon	Sisson
Colden	Greenway	Mansfield	Smith, Conn.
Cole, Md.	Greenwood	Mason	Smith, Va.
Cole, N. Y.	Gregory	Massingale	Smith, Wash.
Colmer	Griswold	May	Smith, W. Va.
Connery	Gwynne	Mead	Snyder
Cooley	Harlan	Merritt, N. Y.	South
Cooper, Tenn.	Hart	Michener	Spence
Costello	Harter	Miller	Stack
Cox	Healey	Mitchell, Ill.	Steagall
Cravens	Higgins, Mass.	Mitchell, Tenn.	Stefan
Crosby	Hildebrandt	Monaghan	Stubbs
Cross, Tex.	Hill, Ala.	Montet	Sullivan
Crowe	Hill, Knute	Moritz	Sweeney
Cullen	Hill, Samuel B.	Murdock	Tarver
Cummings	Hobbs	Nelson	Taylor, Colo.
Daly	Hoeppel	Nichols	Taylor, S. C.
Dear	Hoffman	O'Brien	Terry
Delaney	Hook	O'Connor	Thom
Dempsey	Houston	O'Day	Thomason
Thompson	Vinson, Ga.	Werner	Withrow
Tolan	Vinson, Ky.	West	Wolverton
Tonry	Wallgren	Whelchel	Wood
Truax	Walter	White	Woodrum
Turner	Warren	Whittington	Young
Turpin	Wearin	Wilcox	Zimmerman
Umstead	Weaver	Williams	Zioncheck
Utterback	Welch	Wilson, La.	

NOT VOTING—100

Andrew, Mass.	DeRouen	Keller	O'Neal
Andrews, N. Y.	Dirksen	Kerr	Perkins
Arends	Ditter	Kimball	Peyser
Bacon	Dorsey	Lamneck	Pfeifer
Bankhead	Driscoll	Lesinski	Powers
Beam	Driver	Lloyd	Quinn
Bell	Dunn, Miss.	Lucas	Rich
Berlin	Eaton	Luckey	Richards
Bolton	Eicher	McGehee	Robsion, Ky.
Brown, Mich.	Farley	McGrath	Schneider
Buckley, N. Y.	Fernandez	McGroarty	Schuetz
Bulwinkle	Fish	McKeough	Schulte
Burnham	Gasque	McLeod	Scott
Carter	Gildea	Maas	Scrugham
Casey	Gillette	Maloney	Sears
Celler	Gingery	Martin, Colo.	Shannon
Clark, Idaho	Granfield	Maverick	Somers, N. Y.
Cochran	Greever	Meeks	Starnes
Collins	Haines	Merritt, Conn.	Stewart
Cooper, Ohio	Hamlin	Montague	Sumners, Tex.
Corning	Hancock, N. C.	Moran	Sutphin
Crosser, Ohio	Hartley	Norton	Tobey
Crowther	Hennings	O'Connell	Underwood
Darden	Higgins, Conn.	Oliver	Wigglesworth
Deen	Hollister	O'Malley	Wolfenden

So the motion was rejected.

The Clerk announced the following additional pairs:

Mr. Celler with Mr. Cooper of Ohio.
Mr. Driver with Mr. Rich.
Mr. Crosser of Ohio with Mr. Dirksen.
Mr. Martin of Colorado with Mr. Crowther.
Mr. Hancock of North Carolina with Mr. Powers.
Mr. Montague with Mr. Robsion of Kentucky.
Mr. Haines with Mr. Kimball.
Mr. Gasque with Mr. Merritt of Connecticut.
Mr. Meeks with Mr. Schneider.
Mr. McKeough with Mr. Fish.
Mr. Deen with Mr. Lesinski.
Mr. Gingery with Mr. Hamlin.
Mr. Dunn of Mississippi with Mr. Bell.
Mr. Casey with Mr. Berlin.
Mr. Driscoll with Mr. Buckley of New York.

The result of the vote was announced as above recorded.

CONFERENCE REPORT OF SOCIAL-SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that I may have until midnight tonight to file a conference report on H. R. 7260, the social-security bill.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. EKWALL. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes.

The SPEAKER. Is there objection?

Mr. McFARLANE. I object.

Mr. EKWALL. Mr. Speaker, I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. EKWALL. I want to know whether it is a question of whose ox is gored when remarks are made on the floor. On July 10 the gentleman from New York [Mr. O'CONNOR] used this language in speaking of the gentleman from Mississippi [Mr. RANKIN]——

Mr. BLANTON. Mr. Speaker, I make the point of order that the gentleman cannot complain as to what occurred at a previous session of the House.

The SPEAKER. The Chair does not understand the point of inquiry.

Mr. RANKIN. I make the point of order, Mr. Speaker, that the gentleman from Oregon is out of order at any time during the day until a motion is made permitting him to proceed in order, for the reason that his words were stricken from the RECORD this morning.

The SPEAKER. The gentleman from Oregon is propounding a parliamentary inquiry. The Chair cannot rule upon it until he indicates what it is.

Mr. EKWALL. I just wanted to state that Mr. O'CONNOR called the gentleman from Mississippi a squirter—used language of that kind.

Mr. BLANTON. Mr. Speaker, I rise to a point of order. In the first place, that is not the language the gentleman used, and in the second place, there was no request then for taking the words down, and in the third place, what the gentleman refers to occurred on July 10.

The SPEAKER. The Chair passed on that question a few moments ago and that ruling stands.

THE PRIVATE CALENDAR

OMNIBUS BILLS

The SPEAKER. The Clerk will call the first bill on the Private Calendar.

The Clerk called the bill (H. R. 8060) for the relief of sundry claimants, and for other purposes.

Mr. MARCANTONIO. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The roll call just taken discloses the presence of a quorum, and the Chair thinks the point of order is dilatory.

Mr. BLANTON. Mr. Speaker, I regret to take up any time now because of the loss of much time by the House today, but regardless of what the Speaker's ruling may be, for the preservation of the rights of certain Members who believe as I do, I make the point of order against this new rule amending clause 6 of rule XXIV, and wish to put in the RECORD my reasons for contending that these so-called "omnibus bills" are not authorized by the rules of the House of Representatives.

The simple House resolution passed by the House on March 27, 1935, does not attempt to amend any rule of the House except one single clause of one rule, to wit, clause 6 of rule XXIV. It does not attempt to repeal or set aside any existing rule of the House except clause 6 of rule XXIV, and it is a substitution only for said clause 6 of rule XXIV. I hope the Speaker will keep that in mind in passing on the matter.

I make the point of order that this amended clause 6 of rule XXIV is inoperative and does not authorize omnibus bills, because it is incomplete and does not properly provide for such omnibus bills and is inconsistent with rules still in existence and in conflict with rules that have been the rules of the House, some of them for 140 years. I call attention first to the third paragraph of clause 1 of rule XIII:

> Third. A calendar of the Committee of the Whole House to which shall be referred all bills of a private character—

That is the creation of that Private Calendar. It does not authorize any omnibus bills. Then I call attention to a portion of clause of said rule XIII, because bills on the House Calendar and Union Calendar may be put on the Consent Calendar also—

> and if objected to by three or more Members it shall immediately be stricken from the calendar, and shall not thereafter during the same session of the Congress be placed again thereon.

Mr. O'CONNOR. Will the gentleman yield?

Mr. BLANTON. I yield.

Mr. O'CONNOR. What was the last reference about striking from the calendar? What rule was that?

Mr. BLANTON. That was clause 3 of rule XIII.

Mr. O'CONNOR. That pertains to the Consent Calendar.

Mr. BLANTON. I will show the connection in just a minute. If the gentleman will let me proceed in my own way I think I will take just about one-third the time I would otherwise be forced to take. I mentioned that part of clause 3 of rule XIII because under said rule, upon application, bills on the House Calendar and bills on the Union Calendar may be transferred to and also appear on the Consent Calendar.

I call attention, Mr. Speaker, to rule XIX concerning amendments:

> When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon.

There has been no repeal of that rule. There has been no change of that rule. There has been no amendment of that rule. That rule still stands as a rule of the House of Representatives, adopted and in force in this Congress. Yet procedure under it, and the rights of a Member under said rule XIX, are quite different to those under this new clause 6 of rule XXIV.

Which of them are we to operate under? Are we to operate under rule XIX, which is still in full force and effect, or are we to operate under this entirely different rule, this new clause 6 of rule XXIV?

Now I want to call attention to the following part of rule XX:

> Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to that point.

That rule is still the rule of this House. Think of the confusion that will ensue. After we pass one of these omnibus bills, and it is unscrambled by resolving all of the House bills passed in it, into their original forms, and we send them to the Senate and the Senate should amend them by placing an entirely new amendment on a House bill carrying $100,000,000, under rule XX, we would have to consider it in the Committee of the Whole House on the state of the Union, but under this new rule—clause 6 of rule XXIV—we could consider it in the House in direct violation of rule XX, which has neither been amended nor repealed.

Now, I want to call attention to the following part of rule XXI, to wit:

> Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be, Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, unless the reading in full is demanded by a Member, and the question shall then be put upon its passage.

That rule is still in full force and effect. But its provisions relating to the engrossment of a House bill could not be followed out with regard to one of these omnibus bills, because you do not engross a bill until just before its final passage, and under clause 6 of rule XXIV these omnibus bills may embrace a number of House bills, and also a number of Senate bills, which have already been engrossed by the Senate, and under rule XXI you could not properly engross such a bill.

I call attention to the following portion of rule XXII, to wit:

> 3. All other bills, memorials, and resolutions may, in like manner, be delivered, endorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the RECORD of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with rule XI, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.

That rule has not been repealed. It has not been amended. It has not been changed in any way. Yet, if you proceed under it, you could not proceed under this new clause 6 of rule XXIV.

I call attention to the following part of clause 3 of rule XXIII, which still stands as a rule of this House, unamended and unrepealed:

> All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

That is a standing rule of this House. It has been a rule of this House for many years. It has never been amended. It has never been repealed. It has never been changed by one word, I submit to the Speaker. Yet, if you proceed under it, you certainly could not proceed under this new clause 6 of rule XXIV.

We all know that in the Committee of the Whole there is generous general debate allowed, while under clause 6 of rule XXIV there is no general debate and only a few minutes allowed for amendments.

Now, in a moment I will call attention to another rule that is in direct conflict. I want to call attention first to a bill that is on this calendar, scrambled into an omnibus bill, subject to be called up today under this so-called "clause 6 of rule XXIV." Does it appropriate money? Certainly it does. It is the Minnesota fire bill this House defeated in the last session. If we pass this bill, it will require anywhere from twelve to fifteen million dollars to pay it, so our Government officials have estimated.

Mr. PITTENGER. Mr. Speaker, I make the point of order that the gentleman is not discussing the point of order. The gentleman is discussing a bill.

Mr. BLANTON. I am calling attention to a violation of the rule which I have just read.

Mr. PITTENGER. I ask for the regular order, Mr. Speaker.

Mr. BLANTON. I am calling attention to this rule XXIII, which is unamended, unrepealed, and unchanged, which says that when a bill is a charge on the people, when it appropriates money out of the people's Treasury, it shall go to the Committee of the Whole under general debate. I am showing that one of the provisions in this very bill that is on this calendar, this so-called "omnibus bill", embraces a bill which was old H. R. 3662, known as the "Minnesota fire bill", which if passed would appropriate out of the people's Treasury anywhere from twelve to fifteen million dollars, a bill that this House voted on adversely last year, and by a large majority voted it down, and then killed it.

Mr. KVALE. Mr. Speaker, I make the point of order that the gentleman is not in order.

Mr. BLANTON. That is all I have to say about that $12,000,000 bill, but I want to call attention to the fact that it does appropriate money.

Now, here is another clause of this omnibus bill, on page 7, that seeks to appropriate $331,879.25.

Mr. MARCANTONIO. Mr. Speaker, I make the point of order that the gentleman from Texas is not discussing his point of order, but is discussing the bill; and I now ask the Chair to instruct the gentleman from Texas to proceed in order.

Mr. BLANTON. The gentleman from New York may not see the relevancy of it, but I am sure the Chair does. [Laughter.]

The SPEAKER. The Chair thinks the gentleman is within his rights in referring to bills contained in this omnibus bill in discussing the point of order.

Mr. MARCANTONIO. The gentleman is discussing the contents of the bill. I think it is far-fetched.

The SPEAKER. The Chair thinks it would throw some light upon the position taken by the gentleman from Texas.

Mr. BLANTON. Mr. Speaker, this clause of this omnibus bill would appropriate $331,879.25 out of the Public Treasury. Now, turn over to the next page of this omnibus bill. Here is a bill, old H. R. No. 4178, introduced in this Congress by the gentleman from New York [Mr. O'CONNOR], which seeks to appropriate $968,748.12, and which, for a number of years, we have prevented from passing.

Mr. KVALE. Mr. Speaker, I demand the regular order. The gentleman is not proceeding in order, but persistently violates the rules of the House. I ask that the Speaker instruct the gentleman to proceed in order.

The SPEAKER. The Chair understands the gentleman from Texas is making the point of order that this bill should be considered in the Committee of the Whole House on the state of the Union, rather than in the House, and he bases his argument upon a rule governing the consideration of bills. The gentleman from Texas, as the Chair understands, is seeking to demonstrate that the bill in question does provide for certain appropriations.

Mr. BLANTON. Certainly; yet the gentleman from Minnesota says I am violating the rules of the House, though the Speaker of the House does not say so.

The SPEAKER. The Chair will say to the gentleman from Texas, however, that he has sufficiently demonstrated the fact that the bill does carry appropriations. The Chair, however, does not want to cut the gentleman from Texas off. [Applause.]

Mr. BLANTON. Mr. Speaker, I want to make out my case in the RECORD for the future.

The SPEAKER. The gentleman will proceed.

Mr. BLANTON. Mr. Speaker, every clause of this omnibus bill takes money out of the Public Treasury, for this $968,748.12 will come out of the Public Treasury.

Mr. PITTENGER. Mr. Speaker, I make the point of order that again the gentleman is discussing bills instead of the point of order against this rule.

The SPEAKER. The Chair overrules the point of order. The Chair will hear the gentleman from Texas.

Mr. KVALE. Mr. Speaker, I ask unanimous consent that the gentleman's time may be extended for 3 days.

Mr. BLANTON. The Speaker will attend to that.

The SPEAKER. The gentleman will cease interrupting.

Mr. BLANTON. The gentleman from Minnesota does not have to render me any assistance.

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. BLANTON. No; I do not yield. I am not addressing myself to the gentleman from Minnesota, but to the Speaker of the House; the Speaker is to determine this question.

Mr. LEHLBACH. Mr. Speaker, will the gentleman yield?

Mr. BLANTON. No; I do not yield to anybody. I am addressing my point of order to the judgment of the Chair, to the unswerving, unwavering, great wisdom of the Chair. [Applause.]

Mr. KNUTSON. Mr. Speaker, a parliamentary inquiry.

Mr. BLANTON. Mr. Speaker, I do not yield for a parliamentary inquiry.

The SPEAKER. The gentleman from Texas declines to yield.

Mr. BLANTON. Mr. Speaker, I want to call the Chair's attention to the reason why such a rule as rule XXIII was passed by the House many years ago. It was for the protection of our constituents. It is still the rule of the House. It was to protect the taxpayers. It was to save the public money. Why, if this $968,748.12 bill in the omnibus bill should be passed by the House, it provides there could be an attorney's fee of $96,874.81. Is not that a fat-sized attorney's fee, when there has been no trial in court?

This demonstrates why, in its wisdom, the Members of the House of Representatives have put rule XXIII in their manual requiring that such bills shall be considered in the Committee of the Whole House on the state of the Union where they can be properly argued, properly debated, and properly understood by the Membership, and properly amended before they vote such large sums out of the Public Treasury into the private pockets of some individual.

Now, Mr. Speaker, I want to call the Chair's attention to another feature, clause 5 of rule XXIII of the House of Representatives, to wit:

> When general debate is closed by order of the House, any Member shall be allowed 5 minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak 5 minutes in opposition to it, and there shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee.

This is a standing rule of the House and has been a rule of the House for many years. It has not been changed, it has not been repealed, it has not been amended; and it is in conflict with this so-called "change of one rule, clause 6 of rule XXIV." The rights which it safeguards to Members are curtailed and to a large extent wiped out by this new clause 6 of rule XXIV. Under which are we to operate?

I want to call attention to just a few of the Senate rules relative to Senate bills. This so-called "change of clause 6 of rule XXIV", just one clause of one rule, not only affects House bills, Mr. Speaker, but it materially affects Senate bills that are properly passed by the Senate of the United States

and messaged over to the House and properly referred to committees by the Speaker under the rules of this House, and the comity that exists between the House and the Senate, which comity has existed ever since the beginning of the Congress.

Let me first indicate to you all the references to omnibus bills in this clause 6 of rule XXIV, to show how ineffectual they are, how incomplete they are; how it leaves everything to innuendo and guess, making no provision as to how they shall be handled, and leaving everything up in the air, as it were.

Here is the first clause that relates to an omnibus bill in this general chain:

On the third Tuesday of each month, after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar—

This is the first reference—

preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar.

Nowhere in the rules of the House of Representatives is there direct provision or authority to incorporate bills objected to into an omnibus bill, except by reference and innuendo in this clause 6 of rule XXIV.

Mr. KVALE. Mr. Speaker, a parliamentary inquiry.

Mr. BLANTON. Mr. Speaker, I do not yield.

The SPEAKER. The gentleman from Texas has the floor.

Mr. BLANTON. When the Chair gets ready to rule, he will exercise his own judgment.

Here is the next reference, Mr. Speaker, to omnibus bills:

Omnibus bills shall be read for amendment by paragraph—

What omnibus bills are referred to? Where has there been provision in the rules of the House creating omnibus bills or authorizing omnibus bills or providing for the way in which they shall be incorporated, how they shall be drawn, how they shall be introduced and how they shall be considered? There is not a rule existing in the House of Representatives that covers those matters. Everything is silent in the rules regarding all of those important matters. Here is the next reference:

Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce the amounts of money stated or to provide limitations.

Remember the standing rule of the House of Representatives read by me that every Member who rises to offer a bona fide amendment shall be heard, and that rule has not been repealed. In order to repeal a rule you have to mention that it is repealing a rule, just like it has been mentioned here that this is a substitution for clause 6 of rule XXIV. That must be done before it can take its place or before a single rule of the House of Representatives may be obliterated.

The next reference to omnibus bills is the following:

Upon the passage of any such omnibus bill, said bill shall be resolved into the several bills—

Listen to this—

and resolutions of which it is composed, such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally.

Mr. Speaker, we have a standing House rule in reference to engrossing House bills. The rule of the House of Representatives, that is unchanged, unamended, and unrepealed, is that when a House bill has been passed upon and read the second time, the Speaker says: "The question is, Shall the bill be engrossed and read the third time?" That is the rule of the House that is unamended and unchanged. That is the only rule we can go by, because this other proposition is just innuendo and conjecture.

The next reference to an omnibus bill is as follows:

In the consideration of any omnibus bills the proceedings as set forth above shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution.

Mr. Speaker, who is given the authority by a rule of this House to unscramble this omnibus bill? No authority is here given to anyone. Who is going to do the unscrambling if an omnibus bill is passed which contains both Senate and House bills, involving millions of dollars? How are you going to engross them? How are you going to unscramble them? How are you going to resolve them back into their original form? How are you going to resolve this $968,748.12 bill back into the form in which my good friend from New York, Mr. O'CONNOR, first introduced it? How are you going to get it back into its original form? Who is going to do it? Who is given the authority to do it under this so-called "rule"?

Mr. Speaker, I call attention to the fact that under the comity of the two Houses, which has existed for over 140 years, it is provided that when a Senate bill is passed by the United States Senate and messaged to the House, unless there is a House bill of similar import reported by a committee and on the calendar, it cannot be called up at all except under suspension of the rules. Under the comity of the two Houses, unless the condition exists as I mentioned a minute ago, the Speaker is compelled to refer that Senate bill to the proper committee for consideration. Under the comity that exists between the two Houses there is no committee that has the right to scramble a lot of Senate bills into one measure, together with a lot of House bills, and bring a lot of Senate and House bills on the floor and put them into the hopper under a House bill number. That has never been authorized and never will be properly authorized, unless and until it is done by a concurrent resolution which will give the Senate of the United States a right to approve of this matter.

Mr. Speaker, I do not care to use the time of my colleagues any further. They have been patient. I feel that I should extend the balance of my remarks if I am permitted to do so.

Mr. Speaker, I have some Senate rules here, and other data, that I ask unanimous consent to insert in the RECORD in connection with my remarks. If this unanimous-consent request is granted, I do not care to take any more of the time of my colleagues.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MARCANTONIO. I object, Mr. Speaker.

Mr. BLANTON. All right; I will read them to the gentleman. I am glad to have him here to listen to them. I am going to teach him some of the rules of the House and Senate.

Mr. MARCANTONIO. Mr. Speaker, I make the point of order that the gentleman is not in order in making those last remarks, and I ask that those words be taken down.

Mr. BLANTON. I have said nothing that reflects on the gentleman, Mr. Speaker.

The SPEAKER. The gentleman may not interrupt the gentleman from Texas. The gentleman stated a few days ago that he was stating this case for a higher court in the event he was overruled, and the Chair feels that in all fairness he should give the gentleman from Texas an opportunity to present his side of the matter.

Mr. MARCANTONIO. Mr. Speaker, I ask that the remarks made about me be taken down.

Mr. BLANTON. I withdraw them if they have affronted my colleague.

Mr. SNELL. No; you will not withdraw them.

The SPEAKER. The gentleman will confine himself to the point of order.

Mr. MARCANTONIO. Mr. Speaker, I ask that the words be taken down.

Mr. BLANTON. I do not mind that. The Speaker will not hold them out of order.

Mr. SNELL. When the gentleman has been called to order he should take his seat.

Mr. BLANTON. I will ask the Speaker to rule whether or not when I was continually interrupted I had the right to so reply to the gentleman.

Mr. MARCANTONIO. The gentleman is not going to teach me anything, The gentleman has stated that he is going to teach me the rules of the House about which I knew nothing.

The SPEAKER. The Chair does not think those words are subject to a point of order. The gentleman from Texas will proceed in order.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that in connection with my remarks I be permitted to insert excerpts from several Senate rules.

Mr. MARCANTONIO. Mr. Speaker, I object.

The SPEAKER. Objection is heard. The gentleman will proceed.

Mr. BLANTON. I refer the Chair to the following portion of rule XXVIII of the United States Senate:

> Messages shall be sent to the House of Representatives by the Secretary, who shall previously certify the determination of the Senate upon all bills, joint resolutions, and other resolutions.

Mr. MARCANTONIO. Mr. Speaker, I make the point of order that the gentleman cannot read from any document or from any other papers.

The SPEAKER. This is for the information of the Chair, and the point of order is overruled. The gentleman from Texas will proceed in order.

Mr. EKWALL. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The Chair will count. [After counting.] Two hundred and two Members present, not a quorum.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Mr. McFARLANE. Mr. Speaker, a parliamentary inquiry. Can the gentleman from Oregon make a point of order, since his remarks were expunged?

The SPEAKER. The Chair is unable to answer the inquiry in the absence of a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 130]

Adair	Crosser, Ohio	Hollister	Perkins
Andrew, Mass.	Crowther	Johnson, Okla.	Peyser
Andrews, N. Y.	Culkin	Keller	Powers
Arends	Darden	Kimball	Reece
Bacon	Dear	Kniffin	Rich
Bankhead	DeRouen	Lamneck	Richards
Beam	Dirksen	Lewis, Md.	Robsion, Ky.
Berlin	Ditter	Lloyd	Sabath
Binderup	Dorsey	Lucas	Schneider
Bolton	Doutrich	Luckey	Schuetz
Brown, Mich.	Eaton	McGehee	Schulte
Buckley, N. Y.	Eicher	McGrath	Scott
Bulwinkle	Englebright	McGroarty	Scrugham
Burch	Fernandez	McLean	Sears
Burnham	Frey	McLeod	Shannon
Carter	Gambrill	McMillan	Smith, Conn.
Cartwright	Gasque	Maas	Stack
Cary	Gildea	Maloney	Starnes
Casey	Gillette	Martin, Colo.	Stewart
Celler	Goldsborough	Merritt, Conn.	Sumners, Tex.
Chapman	Granfield	Montague	Sutphin
Clark, Idaho	Gray, Pa.	Nichols	Sweeney
Clark, N. C.	Hamlin	Norton	Tobey
Cochran	Hancock, N. C.	O'Connell	Underwood
Collins	Hart	Oliver	Wigglesworth
Colmer	Hartley	O'Malley	Wilson, La.
Cooper, Ohio	Hennings	O'Neal	Wolfenden
Corning	Higgins, Conn.	Patton	

The SPEAKER. Three hundred and eighteen Members have answered to their names, a quorum.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

Mr. LEHLBACH. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. BLANTON] may extend his remarks by including therein the citations and references that he has spoken of.

Mr. BLANTON. That is all I care to do.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, I object.

The SPEAKER. Objection is heard, and the gentleman from Texas will proceed.

Mr. BLANTON. Mr. Speaker, one of these so-called "omnibus bills" introduced under this changed clause 6 of rule XXIV of the House has been introduced as H. R. 8524. It has taken a new calendar number, no. 622, and embraces a number of House bills and Senate bills.

It embraces Senate bill 929, an act for the relief of the Southern Products Co. This Senate bill, S. 929, takes money out of the Treasury. It was passed by the Senate in due form. The bill was duly and regularly passed by the Senate, under the rules of the Senate and in accordance with the rules of the Congress. It was duly messaged over to this House and by the Speaker duly referred to a committee, under the rules of the House. It was regularly called and regularly objected to, and now, forsooth, Mr. Speaker, the Committee on Claims, without any authority from the Senate and in violation of the standing rules of the House which have been unchanged and unamended and unrepealed, it is put into this omnibus bill, H. R. 8524,—a Senate bill put into the hopper of the House and it takes a House number, if the Chair please, and to this extent is known as a "House bill", H. R. 8524, and thereby loses its Senate identity and its Senate integrity as a bill. It is now known as "House bill 8524."

I call attention to another House bill, H. R. 8750, introduced in this House on July 2, 1935, which is another one of these so-called "omnibus bills." It has taken House Private Calendar No. 702.

The SPEAKER. How many illustrations of that kind has the gentleman?

Mr. BLANTON. I know the Chair is tired, and I will not put in any further ones, and I shall not call attention to a number of rules I wanted to cite.

The SPEAKER. The Chair has no disposition to cut off the gentleman.

Mr. BLANTON. I know the impatience of my colleagues, Mr. Speaker, and this is not in any way dilatory. I am pursuing my judgment as a Member of the House of Representatives who has believed, ever since I have been here, under my oath, in the integrity of the rules of the House, and I want to see those rules upheld with respect to the passage of legislation.

This particular House Calendar No. 702 is now H. R. 8750, embraces Senate bill No. 753, duly passed by the Senate of the United States, duly messaged over to the House, referred to the appropriate committee, duly reported here and put on the calendar, objected to, comes back into the House with a new number on the House Private Calendar, with the Senate identity lost and the Senate number lost, so far as the bill number is concerned, because it is known now as House bill H. R. 8750.

Mr. Speaker, you cannot pass legislation in that way, that takes money out of the Public Treasury. You cannot pass legislation under the rules of the House that have been in vogue for 140 years, since Congress was first created, by a simple House resolution. That is against the Senate rules and against the rules of the House. The law provides that when a bill takes money out of the Public Treasury it must go into the Committee of the Whole House, whether it is a House bill or a Senate bill. If it is a House bill, if it takes money out of the Public Treasury, it must be debated in the Committee of the Whole. If it is a Senate bill and takes money out of the Public Treasury, it must be debated in Committee of the Whole. That is the protection placed by Congress around the taxpayers' money.

Mr. Speaker, you cannot pass a simple House resolution to take any money out of the Treasury except in one way. You can take it out of the contingent fund of the House because that has been put there by legislation approved by the House and Senate and signed by the President. That is the reason you can take it out of the contingent fund.

The Senate has also a contingent fund and can take money out of that fund by a simple Senate resolution, because it was placed there by legislation properly passed by Congress and approved by the President, placing it in the Senate contingent fund.

But the Senate could not bring in a simple Senate resolution taking one penny out of the Public Treasury. The

House could not bring in a simple House resolution taking one cent out of the Federal Treasury.

Now, I call attention to a further Senate rule:

Messages shall be sent to the House of Representatives by the Secretary, who shall previously certify the determination of the Senate upon all bills, joint resolutions, and other resolutions which may be communicated to the House, or in which its concurrence may be requested.

That is the way Senate bills reach the House. When the Senate passes a Senate bill it is messaged to the House. It goes on the Speaker's table to be referred. The Senate at any time before that bill is finally passed into law can by resolution ask for the recall of their bill, ask that it be sent back to the Senate for further action before the House takes action.

How could the Senate recall its said bill, S. 753, when it has now been scrambled into and has become House bill H. R. 8750?

How could the Senate recall its bill, S. 929, when it has now been scrambled into and has become House bill H. R. 8524?

How could the Senate recall its bills when they have been broken up and scrambled together with a bunch of House bills and given a House bill number? It could not do it. Such practice would be a violation of the Senate rules and it would be a violation of the House rules.

This is an important matter and in closing I state that I have no personal feeling in it. I have tried to protect the public money in the Treasury. If the House of Representatives wants thus to vote it out, that is its business.

I do not know what the Speaker's ruling is; I imagine that following his former ruling when this rule was passed, he will probably rule against me, but I have made my record on it for the future, and if the Comptroller General rules against any of these bills after they are passed, or if any taxpayer of the United States, and there will be some, ever brings such a bill before the Supreme Court of the United States for revision and contests the legality of its passage, the legality of taking the people's money out of the Treasury in this haphazard way by a simple House resolution, then there will be a chance for the Supreme Court to render a proper decision upon it.

I submit the matter to the Speaker.

Mr. O'CONNOR. Mr. Speaker, I desire to be heard on what has been called a "point of order", but which I now brand openly and publicly as nothing more than a filibuster. We have had this filibuster all day, conducted principally by the gentleman from Texas [Mr. BLANTON] and the gentleman from New York [Mr. TABER], both of whom are self-appointed watchdogs of the Treasury, opposed to every private bill except their own.

Mr. BLANTON. Mr. Speaker, I rise to a point of order. I gave notice the other day that I would present this point of order. I leave it to the Speaker whether I have done it in sincerity.

Mr. O'CONNOR. Mr. Speaker, I insist that is not a point of order.

Mr. BLANTON. When the gentleman charges me with filibustering, it is not true.

Mr. O'CONNOR. Mr. Speaker, of 100 risings on the floor of the gentleman from Texas [Mr. BLANTON], under the guise of a "point of order", not 1 out of those 100 is a real point of order.

What is the situation here? We have a filibuster here against the consideration of private claims in an omnibus bill, and it is going to succeed.

Mr. FISH. Mr. Speaker, I want to know whether it is in order to take down the words of the gentleman from Texas when he says, "it is not true"?

Mr. O'CONNOR. Oh, I never asked anybody to take down any words that refer to me.

Mr. FISH. I ask that the words be taken down.

The SPEAKER. The gentleman is entirely too late in making his demand.

Mr. FISH. Exactly the same thing happened in my case.

The SPEAKER. The gentleman is mistaken about that. The gentleman is too late in making his request.

Mr. O'CONNOR. Mr. Speaker, I believe there has grown up in this House a mollycoddle attitude that no one can say "boo" to a Member. I cannot imagine anything that could be said about me that I would emphasize by insisting on the words being taken down. [Applause.] If they were taken down and given publicity, lots of people might agree with what had been said, many people who might not have thought of it before, but when attention was drawn to the characterization of me they might also then agree that the words were correct.

Of course, this filibuster is going to be successful, but other days are coming. As I recall the House has never adjourned in recent years without taking up all the bills on the Private Calendar and on the Consent Calendar; and that should be done. The gentleman from Texas [Mr. BLANTON] referred to a bill introduced by me, and, of course, he did so viciously.

Mr. BLANTON. Mr. Speaker, I ask that the gentleman's words be taken down. The gentleman from New York is Chairman of the Rules Committee, but he cannot get away with that. I did not do so viciously.

Mr. O'CONNOR. Mr. Speaker, I withdraw the word "viciously."

The SPEAKER. The gentleman from New York has withdrawn the remark.

Mr. O'CONNOR. Mr. Speaker, I inherited that bill from my predecessors, and everyone on the Claims Committee, and anywhere else, who has examined the bill believes it is a meritorious measure. It has been repeatedly recommended by the Government, by the Federal Reserve Board, and the Secretary of State. I have never raised one finger or uttered one word in its behalf, and to me personally it means nothing whether it passes or not, except that one of our citizens faces a great injustice at the hands of his own Government.

What does the gentleman from Texas [Mr. BLANTON] really say, if anything, in support of his alleged "point of order"? The crux of his argument is that the Committee on Rules cannot bring in a rule to change the rules of the House, and, further, that we cannot bring in a rule to change a part of a rule. He contends that while we can modify a whole rule, we cannot change a clause or a section of a rule.

The gentleman in his filibuster did not read all the rules of the House, but he might as well have done so, because there was not one section of any rule which he read that had any application whatsoever to the rule in respect to the Private Calendar, which this House, with 332 Members present, adopted by a record vote with only 40 against it, including, of course, the gentleman from Texas [Mr. BLANTON].

Now, Mr. Speaker, what does the Constitution of the United States provide? Article 1, section 5, provides:

Each House may determine the rules of its proceedings.

So well settled is that right that in *United States* v. *Ballin* (144 U. S. 1)—and I read from page 5, the court—Mr. Justice Brewer—said in discussing the validity of a rule of the House which had been attacked in the courts:

Neither do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration.

If the gentleman from Texas [Mr. BLANTON] is laying the foundation for a case for the Supreme Court, on the statement I just read he will not have much chance of success.

Continuing the Court said:

With the courts the question is only one of power. The Constitution empowers each House to determine its rules of proceedings. It may not, by its rules, ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceedings established by the rule, and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time.

For instance, during these 150 years, as the gentleman from Texas [Mr. BLANTON] alleges.

Further the Court said:

The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the House, and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

Now, that is as it should be. The Supreme Court or any other body cannot make our rules. The gentleman from Texas [Mr. BLANTON] said that the Claims Committee had not consulted another body as to what it would do with bills coming from that other body. Well, I hope the day will never come when they feel they should pay any attention whatever to that other body in proceeding under the rules of this House.

Now, Mr. Speaker, the gentleman from Texas [Mr. BLANTON] pretended to raise a "constitutional" question, with which the distinguished Speaker nor any other presiding officer has anything to do.

The gentleman from Texas [Mr. BLANTON] referred to clause 3 of rule XIII, but was careful not to say that rule related solely to Consent Calendar. He then referred to rule XIX, which has no application whatever to the question before us. He mentioned rule XX, which also has no application. He read rule XXI, which also has no application whatsoever. He laid stress on rule XXII, clause 3, which likewise has no application whatsoever. He read and reread rule XXIII, clause 3, providing for considering of bills in Committee of the Whole, when the bills appropriate money, but he well knew that every day we here consider bills in the House as in Committee of the Whole, including many bills which appropriate money, and we often bring in rules for such procedure.

He well knew that there never was a private bill appropriating money considered in Committee of the Whole in 25 years.

The Rules Committee can change the rules of this House at any time, providing a majority of the House so votes, which provides that a bill appropriating $4,000,000 or $10,000,000,000 shall be considered in the House as in Committee of the Whole. That is one of the many rules of the House which the Rules Committee can change as fast as the Rules Committee can meet and this House will approve its action.

The gentleman from Texas [Mr. BLANTON] spoke about one bill included in an omnibus bill allowing attorneys' fees above 10 percent. Of course, that provision can be amended when the bill comes before the House. That is one of the many provisions that can be amended under this omnibus bill rule.

The gentleman from Texas [Mr. BLANTON] referred to rule XXIII, clause 5, which has no application whatsoever to what we are discussing. He might just as well have referred to the rule as to the election of the Speaker as to any of the provisions of the rules to which he did refer. None were in any respect applicable.

He referred to Senate bills being included in our omnibus bills. He said incorporating Senate bills objected to here in an omnibus by a rule of the House could not be done. In all his argument he forgets that this rule is a rule of the House, adopted by the House, which changes every other rule which is inconsistent with it and which preceded it. We do not have to specifically repeal a law or a rule. If we subsequently pass a law or rule inconsistent with previous laws or rules, the subsequent rule or law prevails.

The gentleman from Texas [Mr. BLANTON] spoke about the engrossment of these bills, and, of course, he referred to House bills, because Senate bills are already engrossed. Of course, when the omnibus bill is broken down, these House bills will be engrossed.

The gentleman spoke about the method and machinery of "unscrambling" the bills. That is obviously a job for the clerks of the House. In the discussion of this rule on March 26 that was thoroughly gone into, and the methods and machinery of handling that matter were specifically pointed out.

The gentleman from Texas [Mr. BLANTON] even referred to rule XXVIII of the Senate as though a rule of that body could have any application to the proceedings of this House, when the Constitution says, "Each House may determine the rules of its proceedings." That language, by the way, is the only provision in the Constitution concerning the matter.

When the distinguished gentleman from Texas [Mr. BLANTON] graces that great forum in that new $12,000,000 Supreme Court Building over there across the street, arguing his great constitutional point on this rule, I hope he has a copy of the Constitution with him. [Laughter.]

Mr. McCORMACK. Will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. McCORMACK. May I also call the Speakers' attention to the fact that the rule governing omnibus bills, as the gentleman from New York has well said, is one of simple procedure, and preserves the identity of each Senate bill and resolution when it provides—

> That in the consideration of any omnibus bill the proceedings, as set forth, shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to, were considered by the House as a separate and distinct bill or resolution.

So that the identity of each Senate bill is preserved. This is a simple procedure to expedite action for the House, to meet a situation that confronts us, and it is clearly within the power of the House, as the gentleman has so ably argued.

Mr. O'CONNOR. The rule permits each Senate bill to be put in these omnibus bills in toto. They can then be amended, and passed, and when the omnibus bill is passed with Senate bills in it, the omnibus bill is resolved or broken down into the individual Senate bills.

This argument advanced here today by the gentleman from Texas [Mr. BLANTON] under the guise of a "point of order" which was really a filibuster, is an offense to the House of Representatives which should not be tolerated. Before we adjourn we should consider not only individual private bills, but I, for one, am willing to stand here against this filibuster or a million filibusters until we consider the omnibus bills. [Applause.]

The SPEAKER. The Chair is ready to rule.

Last Friday the gentleman from Texas [Mr. BLANTON] kindly indicated that it was his purpose to make the point of order he has raised today when the House began consideration of the so-called "omnibus private claims bill." The gentleman from Texas has served in the House for many years with distinction and is familiar with the rules of the House, and the Chair has given considerable thought to the point of order since the gentleman indicated on last Friday that it was his purpose again to raise it on this occasion.

The gentleman from Texas, in his argument today, has contended that this rule conflicts with a number of rules to which he has referred. Without passing upon the question of whether or not there is a conflict, the Chair will state that if there is a conflict the rule last adopted would control. The Chair assumes that if this rule should be found to conflict with previous rules, that the House intended, at least by implication, to repeal that portion of the previous rule with which it is in conflict.

The Chair may state that in passing upon this point of order it is not the province of the Chair, nor has the Chair any such intention, to pass upon the question of whether or not this rule is advisable or whether a better one could have been adopted.

The gentleman contends that the House may not, in the exercise of the power conferred upon it by the Constitution "to determine the rules of its proceedings", adopt a rule which has the effect of permitting an omnibus bill to contain one or more separate Senate bills as well as sundry House bills.

The Chair, in passing upon points of order, is limited by the terms of the rule which is applicable to the determination of the point of order. No one seriously questions the fact that the House did on March 27, 1935, by a majority vote adopt a resolution which had for its purpose an amendment to the rules of the House and which upon its adoption became clause 6 of rule XXIV. Although it is not necessary for the determination of the point of order for the Chair to pass upon the question as to whether the House had the power to make such a rule, the Chair will refer but briefly to two decision heretofore made—one by an eminent Speaker and one by the Supreme Court of the United States.

Mr. Speaker Blaine, in the Forty-third Congress, in passing upon a question involving the right of the House to formulate rules, said:

He (the Chair) has several times ruled that the right of each House to determine what shall be its rules is an organic right expressly given by the Constitution of the United States. * * * The House is incapable, by any form of rules, of divesting itself of its inherent constitutional power to exercise its function to determine its own rules.

The Supreme Court, speaking through Mr. Justice Brewer in *U. S.* v. *Ballin* (144 U. S. 1), said:

Neither do the advantages or disadvantages, the wisdom or folly, of * * * a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each House to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just.

It is contended now that there is no rule of the House which authorizes a Senate bill to be incorporated in a House omnibus bill. The rule itself refutes that assertion, for in the second paragraph of the rule there is this language:

On the third Tuesday of each month * * * preference (shall) be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar.

Also, in the fifth paragraph of the rule there is a specific reference to Senate bills that may be included in an omnibus bill. It would seem that the language used in the rule contemplated inclusion of Senate bills as well as House bills if they had been previously objected to on a call of the calendar.

There has been some concern expressed as to whether it is possible to identify the Senate bills incorporated in an omnibus House bill. This concern may be removed by merely glancing at an omnibus bill. We find there that the Senate bills carry their own number and title in a paragraph set off by itself. Inasmuch as the omnibus bill carries each individual bill included therein by its number and title, it does not seem as though too great a difficulty would be encountered for the clerks after the passage of the omnibus bill to resolve the portions thereof into their original form. That is merely a clerical undertaking which does not present any undue difficulty. The Chair would think that after the passage of an omnibus bill the Journal would show the specific action on each individual bill which had been embodied in it. A message would be sent to the Senate stating that the House had passed such and such a bill, if it be a House bill, and requesting the concurrence of the Senate therein. If it be a Senate bill, the message would merely state that the House had passed it with the attestation of the Clerk of the House, which would not be questioned by the Senate.

On March 26, 1935, when the Rules Committee reported this change of the Private Calendar rule to the House, the gentleman from Texas [Mr. BLANTON] raised a point of order against the resolution, and in passing upon that point of order the Chair said:

In disposing of a point of order it is not within the province of the Chair to consider the effect, or what may be the effect, of the passage of any rule on legislation which may be pending. After all, rules reported by the Committee on Rules must be considered and acted upon by a majority of the House, which action, of course, is controlling.

Following the decision of the Chair which held in order the resolution, there was extensive debate upon the merits of the proposed change in the rule relating to procedure on private bills. The gentleman from New York [Mr. O'CONNOR] explained the rule in minute detail. Opposition to the rule was expressed by several Members, but the House, notwithstanding the objections voiced, adopted the rule. It remains now for the Chair to pass solely on the question as to whether the House may parliamentarily proceed to the consideration of the so-called "omnibus bills" under the rule. The Chair reiterates the statement he made on March 26, that it is not within the province of the Chair to consider the effect or what may be the effect of this rule. The Chair may only look to the rule itself and direct the House to proceed in accordance with its terms.

The Chair, therefore, overrules the point of order made by the gentleman from Texas and directs the Clerk to proceed with the reading of the bill.

Mr. TRUAX. Mr. Speaker, I move that the House do now adjourn.

The motion was rejected.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. LLOYD (at the request of Mr. WALLGREN), for 4 days, on account of illness.

To Mr. GILLETTE (at the request of Mr. JACOBSEN), for one week, on account of important business.

FIRST OMNIBUS CLAIMS BILL

The SPEAKER. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc.,

H. R. 396

For the relief of the Virginia Engineering Co., Inc.

That the claim of the Virginia Engineering Co., Inc., for extra costs incurred in complying with requests of the Director of the Veterans' Bureau incident to the work performed under contract of June 24, 1924, for equipping the Veterans' Bureau Hospital at Aspinwall, Pa., be referred to the Court of Claims with authority to hear and determine the same as the law and equities may require, taking into account the actual out-of-pocket expenses, if any, incurred by said company in complying with such requests as well as the loss of profits, if any, in doing the work, as requested by the Veterans' Administration: *Provided,* That the claimant shall within 90 days from the enactment hereof file in said court its petition setting forth fully its ground of claim.

With the following committee amendment:

On page 1, line 5, strike out all of page 1 and page 2, lines 1 to 9, inclusive, and insert in lieu thereof the following:

"That the Court of Claims of the United States be, and it is hereby, given jurisdiction to hear and determine the claim of the Virginia Engineering Co., Inc., and to award just compensation for extra costs incurred in complying with requests of the Director of the Veterans' Administration incident to the work performed under contract of June 24, 1924, for equipping the Veterans' Administration Hospital at Aspinwall, Pa., and to enter decree or judgment against the United States for such just compensation, if any, notwithstanding the bars or defense of lapse of time, laches, or any statute of limitation. Suit may be instituted by the claimant at any time within 4 months from the approval of this act. Proceedings in any suit brought in the Court of Claims under this act, appeals therefrom, and payment of any judgment therein shall be had as in the case of claims over which such court has jurisdiction by virtue of the Judicial Code."

Mr. BLANTON. Mr. Speaker, I offer an amendment to the amendment. At the end of the amendment, insert what is known as the "attorneys' fees proviso", which is found at the bottom of page 3, with the exception of making it applicable to any amount that is found by the Court of Claims.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: At the end of the amendment insert the following "*Provided,* That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The SPEAKER pro tempore (Mr. O'CONNOR). The gentleman from Texas is recognized for 5 minutes.

Mr. BLANTON. Mr. Speaker, this is the usual amendment that is placed in all such bills. When this matter goes to the Court of Claims, if the Court of Claims awards any amount, it is not necessary that there be a larger attorney's fee than 10 percent paid, because the whole matter has been virtually adjudicated by the committee. The evidence has been worked up. The same evidence that has been presented to the committee will be presented to the Court of Claims,

and 10 percent of the amount allowed, if any be allowed at all, will be a sufficient attorney's fee for the attorneys. I think the amendment to the amendment should be adopted.

The SPEAKER pro tempore. The question is on the amendment to the amendment offered by the gentleman from Texas [Mr. BLANTON].

The amendment to the amendment was agreed to.

The SPEAKER pro tempore. The question is on the committee amendment as amended.

The committee amendment as amended was agreed to.

Mr. McFARLANE. Mr. Speaker, I rise in opposition to the bill or to strike out the last word.

The SPEAKER pro tempore. The Chair will state that a motion to strike out the last word or a so-called "pro forma" amendment is not in order under the rule.

Mr. McFARLANE. Mr. Speaker, I move to strike out the entire paragraph.

The SPEAKER pro tempore. The paragraph has not been read.

Mr. McFARLANE. I thought the Clerk had finished reading the paragraph.

The SPEAKER pro tempore. The Clerk started to read the paragraph. If the gentleman will contain himself until that is read, he then may move to strike the paragraph out.

The Clerk read as follows:

H. R. 918

For the relief of Flensburger Dampfercompagnie

That there is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, for payment to the Flensburger Dampfercompagnie, of Flensburg, Germany, for interest on the sum of $24,422, improperly collected from the said company by the United States Government for excess tonnage duties between November 22, 1919, and November 11, 1921, the said duties having been held by the United States Court of Claims to have been wrongfully withheld from the plaintiffs, from November 11, 1921, to August 17, 1932, when the judgment was paid, at the rate of 5 percent per annum, the sum of $13,147.17.

With the following committee amendments:

On page 3, line 5, strike out the words "that there is hereby authorized to be appropriated" and insert in lieu thereof the words "that the Secretary of the Treasury be and he is hereby authorized and directed to pay";

On page 3, line 8, strike out the words "for payment" and insert in lieu thereof the words "in full settlement of all claims against the United States"; and

On page 3, line 18, at the end of the line, insert the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

Mr. TRUAX. Mr. Speaker, I move to strike out the paragraph just read.

The SPEAKER pro tempore. The Clerk will report the motion.

Mr. TRUAX. Mr. Speaker, I move to strike out from line 3, page 3, to line 6, page 4.

The SPEAKER pro tempore. The gentleman from Ohio moves to strike out the paragraph beginning on line 3, page 3, to line 6 on page 4, and is recognized for 5 minutes.

Mr. TRUAX. Mr. Speaker, this bill provides for the payment of the sum of $13,147.17 as interest on $24,422 improperly collected from the claimants. This claim has been heard in a most thorough manner by the Court of Claims, and after an impartial review of the very claim which is embodied in this bill the Court of Claims said that the claimants were entitled to the sum of $24,442. This amount was paid to these claimants on August 17, 1932, by the Government of the United States as payment in full of the amount that the court found to be due.

The court did not say that the claimants were entitled to any interest on this claim. The court thought, and the court held, that these claimants were paid in full and that there should be no interest collected thereon. Yet, today, the bill you are now asked to consider involves an additional payment of $13,147 as interest, and dates back to the year 1919.

This is only a sample of bills that are included in these omnibus bills, bills that have been objected to heretofore by Members of the House on the Republican side as well as on the Democratic side. The Members in this House who have given their time and have made studies of these various bills are convinced that some of the bills, of which this is one, are wholly without merit, that the claimants have been paid in full years ago, and that they have no just claim upon the Federal Treasury today.

Mr. PITTENGER. Mr. Speaker, will the gentleman yield?

Mr. TRUAX. Yes; I yield.

Mr. PITTENGER. If the gentleman will read the section he will see that this interest is due on a judgment that it took this country 11 years to pay. Now, why does the gentleman say the Government does not owe any interest on this money? Let us be fair in our statements to the House about bills that have been considered by the Claims Committee.

Mr. TRUAX. All right, I will answer the gentleman. If interest had been due and if interest were coming to these claimants, the court would have allowed interest at that time. They were not entitled to any interest. The Court of Claims is an official body set up to function in these very cases. The Members of Congress are not supposed to have the time or to take the time to thoroughly investigate these claims.

I hope the House will vote for my amendment.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio to strike out the paragraph.

The question was taken; and on a division (demanded by Mr. TRUAX) there were—ayes 40, noes 65.

Mr. TRUAX. Mr. Speaker, I object to the vote on the ground there is no quorum present.

The SPEAKER pro tempore (Mr. O'CONNOR). Evidently, there is not a quorum present. The call is automatic.

Mr. BLANTON. Mr. Speaker, I move that the House do now adjourn.

The question was taken, and the motion was rejected.

The SPEAKER pro tempore. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 141, nays 143, answered "present" 2, not voting 143, as follows:

[Roll No. 131]

YEAS—141

Arnold	Fletcher	Kinzer	Pierce
Ashbrook	Focht	Kleberg	Polk
Ayers	Ford, Miss.	Kloeb	Rankin
Bacharach	Gasque	Kniffin	Ransley
Barden	Gearhart	Kocialkowski	Robsion, Ky.
Blanton	Goodwin	Lambertson	Rogers, Mass.
Buchanan	Gray, Ind.	Lambeth	Rogers, N. H.
Buckbee	Green	Lanham	Sanders, Tex.
Caldwell	Greenway	Lemke	Schaefer
Cannon, Mo.	Greenwood	Lesinski	Secrest
Cannon, Wis.	Greever	Lewis, Colo.	Smith, Conn.
Carlson	Griswold	Lord	South
Carpenter	Guyer	Ludlow	Stefan
Castellow	Haines	Lundeen	Stubbs
Church	Halleck	McClellan	Taber
Citron	Hancock, N. Y.	McFarlane	Tarver
Coffee	Hancock, N. C.	McLean	Taylor, Colo.
Colden	Harlan	Mahon	Taylor, S. C.
Colmer	Hess	Marcantonio	Taylor, Tenn.
Cooper, Tenn.	Hildebrandt	Marshall	Terry
Costello	Hill, Ala.	Martin, Mass.	Thomas
Cravens	Hill, Knute	Massingale	Thomason
Crawford	Hill, Samuel B.	Meeks	Truax
Darrow	Hook	Michener	Turner
Deen	Hope	Millard	Umstead
Dobbins	Huddleston	Miller	Utterback
Dondero	Hull	Mitchell, Tenn.	Wadsworth
Doxey	Imhoff	Moran	Wallgren
Duncan	Jenkins, Ohio	Moritz	Warren
Dunn, Miss.	Johnson, Okla.	Murdock	Wearin
Edmiston	Johnson, Tex.	Nelson	Whelchel
Faddis	Johnson, W. Va.	Owen	Whittington
Farley	Jones	Patman	Wood
Fenerty	Kahn	Patterson	Young
Flesinger	Kee	Pearson	Zioncheck

NAYS—143

Allen	Dies	Kvale	Romjue
Amlie	Disney	Lea, Calif.	Russell
Andresen	Doughton	Lehlbach	Ryan
Beiter	Drewry	Luckey	Sandlin
Blackney	Driscoll	McCormack	Sauthoff
Bland	Duffey, Ohio	McKeough	Seger
Bloom	Duffy, N. Y.	McLaughlin	Shanley
Boileau	Eckert	McReynolds	Short
Boland	Ekwall	Mapes	Smith, Va.
Boylan	Ellenbogen	Mason	Smith, W. Va.
Brennan	Engel	Maverick	Snell
Brewster	Evans	May	Snyder
Brooks	Ferguson	Mead	Steagall
Brown, Ga.	Fitzpatrick	Merritt, N. Y.	Thom
Brunner	Ford, Calif.	Monaghan	Thompson
Buck	Gehrmann	Mott	Thurston
Buckler, Minn.	Gifford	O'Brien	Tinkham
Carmichael	Gingery	O'Connor	Tolan
Cavicchia	Goldsborough	O'Day	Tonry
Celler	Gregory	O'Leary	Treadway
Chandler	Gwynne	Parsons	Turpin
Chapman	Hart	Patton	Vinson, Ky.
Christianson	Healey	Peterson, Ga.	Walter
Claiborne	Higgins, Mass.	Pettengill	Weaver
Cole, Md.	Hobbs	Pittenger	Welch
Connery	Hoeppel	Plumley	West
Cooley	Hoffman	Quinn	White
Cox	Holmes	Rabaut	Wilcox
Crosby	Houston	Ramspeck	Williams
Cross, Tex.	Jacobsen	Rayburn	Wilson, La.
Crowe	Jenckes, Ind.	Reed, Ill.	Withrow
Cullen	Kennedy, Md.	Reilly	Wolcott
Daly	Kenney	Richardson	Wolverton
Delaney	Kerr	Robertson	Woodruff
Dempsey	Knutson	Robinson, Utah	Zimmerman
Dickstein	Kramer	Rogers, Okla.	

ANSWERED "PRESENT"—2

Biermann	Dunn, Pa.

NOT VOTING—143

Adair	Dietrich	Kopplemann	Randolph
Andrew, Mass.	Dingell	Lamneck	Reece
Andrews, N. Y.	Dirksen	Larrabee	Reed, N. Y.
Arends	Ditter	Lee, Okla.	Rich
Bacon	Dockweiler	Lewis, Md.	Richards
Bankhead	Dorsey	Lloyd	Rudd
Beam	Doutrich	Lucas	Sabath
Bell	Driver	McAndrews	Sadowski
Berlin	Eagle	McGehee	Sanders, La.
Binderup	Eaton	McGrath	Schneider
Boehne	Eicher	McGroarty	Schuetz
Bolton	Englebright	McLeod	Schulte
Brown, Mich.	Fernandez	McMillan	Scott
Buckley, N. Y.	Fish	McSwain	Scrugham
Bulwinkle	Flannagan	Maas	Sears
Burch	Frey	Maloney	Shannon
Burdick	Fuller	Mansfield	Sirovich
Burnham	Fulmer	Martin, Colo.	Sisson
Carter	Gambrill	Merritt, Conn.	Smith, Wash.
Cartwright	Gassaway	Mitchell, Ill.	Somers, N. Y.
Cary	Gavagan	Montague	Spence
Casey	Gilchrist	Montet	Stack
Clark, Idaho	Gildea	Nichols	Starnes
Clark, N. C.	Gillette	Norton	Stewart
Cochran	Granfield	O'Connell	Sullivan
Collins	Gray, Pa.	Oliver	Sumners, Tex.
Cole, N. Y.	Hamlin	O'Malley	Sutphin
Cooper, Ohio	Harter	O'Neal	Sweeney
Corning	Hartley	Palmisano	Tobey
Crosser, Ohio	Hennings	Parks	Underwood
Crowther	Higgins, Conn.	Perkins	Vinson, Ga.
Culkin	Hollister	Peterson, Fla.	Werner
Cummings	Keller	Peyser	Wigglesworth
Darden	Kelly	Pfeifer	Wilson, Pa.
Dear	Kennedy, N. Y.	Powers	Wolfenden
DeRouen	Kimball	Ramsay	Woodrum

So the amendment of Mr. TRUAX was rejected.

The following pairs were announced:

Until further notice:

Mr. Woodrum with Mr. Wilson of Pennsylvania.
Mr. McAndrews with Mr. Reece.
Mr. Sabath with Mr. Culkin.
Mr. Boehne with Mr. Reed of New York.
Mr. Burch with Mr. Burdick.
Mr. Cartwright with Mr. Englebright.
Mr. Fuller with Mr. Doutrich.
Mr. Fulmer with Mr. Gilchrist.
Mr. Montet with Mr. Gavagan.
Mr. Spence with Mr. Dietrich.
Mr. Parks with Mr. Binderup.
Mr. Stack with Mr. Colmer.
Mr. Driver with Mr. Ramsay.
Mr. Sirovich with Mr. Werner.
Mr. Eagle with Mr. Harter.
Mr. Rudd with Mr. Randolph.
Mr. Dear with Mr. Cummings.
Mr. Sanders of Louisiana with Mr. Nichols.
Mr. Larrabee with Mr. Peterson of Florida.
Mr. Mansfield with Mr. Sisson.
Mr. Vinson of Georgia with Mr. Gray of Pennsylvania.
Mr. Lewis of Maryland with Mr. Sadowski.
Mr. Dingell with Mr. Lee of Oklahoma.
Mr. Sullivan with Mr. Mitchell of Illinois.
Mr. McMillan with Mr. Kennedy of New York.
Mr. Flannagan with Mr. Palmisano.

The following Members changed their votes from "aye" to "no": Mr. WHITE, Mr. COX, Mr. RICHARDSON, Mr. MAY, Mr. BEITER, Mr. PARSONS, Mr. CROWE, Mr. ROBSION of Kentucky, Mr. VINSON of Kentucky, and Mr. WEAVER.

The result of the vote was announced as above recorded.

Mr. TABER. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 3, line 18, after the word "of", strike out "$13,147.17."

Mr. PITTENGER. Mr. Speaker, I make the point of order that that is the same thing we have just voted on. It is a dilatory amendment.

The SPEAKER. The Chair has no information that it has been voted upon, and overrules the point of order.

Mr. TABER. Mr. Speaker, we are just about in this situation whether or not the House is going to vote blindly or whether it is going to vote on the merits of private bills presented to us.

Frankly, I believe from what I have been able to learn, that this bill has no merit in it, because it has not been customary in connection with other private bills to pay interest. Why should we allow interest to go to German claimants where they do not pay their debts to us? [Applause.]

Mr. KNUTSON. Mr. Speaker, I challenge that statement.

The SPEAKER. If the gentleman from Minnesota desires to interrupt the gentleman from New York, he will proceed under the rules.

Mr. KNUTSON. Mr. Speaker, will the gentleman from New York yield?

Mr. TABER. I am sorry, but I cannot yield at this time. I have known a great many of these bills reported out here for American claimants without interest. Why the House should go wild and attempt to pay interest on these claims I cannot understand.

Unless this House establishes a practice of considering these bills on their merits, and voting down those that have no merits, it will break down this system which has been established by this rule right at the very start. I hope this amendment will be adopted, and that in that way you will throw out the effects of this bill and get rid of it, so that you will not destroy your rule and destroy the whole procedure. When bills have merit, they ought to be passed, be they private bills or any other, and they ought not to be considered on some wild idea but should be considered on their merits.

Mr. TRUAX. Mr. Speaker, will the gentleman yield?

Mr. TABER. Yes.

Mr. TRUAX. Does not the gentleman believe, in view of the fact that this claim was fully adjudicated by the Court of Claims in 1932 at which time the court refused to allow interest, that this House has no justification for overriding that decision?

Mr. TABER. It has not, in my opinion.

Mr. LEHLBACH. Does not the gentleman draw a distinction between interest on a claim and interest on a judgment rendered by a court and a refusal to pay a judgment?

Mr. TABER. Not under such circumstances.

Mr. COSTELLO. The Court of Claims rendered this judgment on February 18, 1932. The United States paid that judgment on August 19, 1932. All the interest that could be involved would be 6 months.

Mr. HANCOCK of New York. Mr. Speaker, will the gentleman yield?

Mr. TABER. Yes.

Mr. HANCOCK of New York. This amendment merely strikes out the computation and leaves in the bill "interest at the rate of 5 percent."

Mr. TABER. The amount that is to be paid is the meat of the question.

Mr. HANCOCK of New York. But the rate of interest of 5 percent remains in the bill if the gentleman's amendment is adopted.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. PITTENGER. Mr. Speaker, I rise in opposition to the amendment. I hope the House will vote down the amendment. It has voted down the motion of the gentleman from Ohio [Mr. TRUAX] to strike out the paragraph. The amendment offered by the gentleman from New York [Mr. TABER] is, in my opinion, dilatory; it is a repetition of the same thing that we voted on. I do not know of any reason why the Government of the United States should withhold money that belongs to somebody for 11 years without paying interest on it. It had the use of it all that time.

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. PITTENGER. Yes.

Mr. KNUTSON. The gentleman from New York tried to drag a red herring across the trail by impugning Germany's standing as a debtor. Will the gentleman tell the House what moneys Germany owes the American Government?

Mr. PITTENGER. I do not know of any.

Mr. KNUTSON. And I do not either.

Mr. COSTELLO. Will the gentleman tell why the Court of Claims refused to grant interest at the same time that they made the award of $24,000?

Mr. PITTENGER. I suppose because there was no authority in the jurisdiction of the court to do it.

Mr. COSTELLO. The fact is that the court did not allow it.

Mr. PITTENGER. It should have.

Mr. ROBSION of Kentucky. What did the United States withhold—money or property?

Mr. PITTENGER. Money due these people.

Mr. ROBSION of Kentucky. What did the Government do with the money during those 11 years?

Mr. PITTENGER. It had the use of it all that time. I should say that this amendment is frivolous and it is without merit. It ought to be voted down and the Claims Committee of this House ought to be backed up by the membership of the House. That is all I have to say.

The SPEAKER. The question is on the motion of the gentleman from New York.

The question was taken; and on a division (demanded by Mr. TABER) there were—ayes 76, noes 72.

So the amendment was agreed to.

Mr. HANCOCK of New York. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 3, line 18, strike out all of line 18 up to the colon.

Mr. HANCOCK of New York. Mr. Speaker, the House has already declared itself as being opposed to paying interest on this claim. The amendment just adopted, offered by the gentleman from New York, only half does the job. It strikes out the total sum of interest but simply allows interest at the rate of 5 percent from November 11, 1921, to August 17, 1932.

If the House wishes to complete the job, you should vote for this amendment which eliminates the words "at the rate of 5 percent", as well as the figure "$13,000."

The SPEAKER. The question is on the amendment offered by the gentleman from New York [Mr. HANCOCK].

The amendment was agreed to.

The Clerk read as follows:

H. R. 928

To authorize the Comptroller General of the United States to settle and adjust the claim of the George A. Fuller Co.

That the Comptroller General of the United States be, and he is hereby, authorized and directed to settle and adjust the claim of the George A. Fuller Co. for an amount not exceeding $29,808.08, as reimbursement of expenditures made and cost of work performed by the said George A. Fuller Co. in the completion, at the request of the National Surety Co., of contract W-6511-qm-621, dated July 9, 1931, with the Supreme Construction Co. for the construction of certain buildings at Fort Jay, Governors Island, N. Y., after the United States had terminated the right of the Supreme Construction Co. to proceed and the work had been taken over by the National Surety Co., as surety on the performance bond, and before said surety company was placed in the hands of a rehabilitator appointed by the Insurance Department of the State of New York. Such allowance as may be made by the Comptroller General as herein provided shall be paid from the appropriation made for the construction of the buildings in question, which are hereby made available therefor, and the payment so made shall be charged to the National Surety Co. in the adjustment of the accounts between said company and the United States.

With the following committee amendment:

Strike out, beginning on line 10, page 4, down to and including line 6, on page 5, and insert in lieu thereof the following: "That the Comptroller General of the United States be, and he is hereby, authorized and directed to settle and adjust the claim of the George A. Fuller Co. in an amount not to exceed $29,808.08 for labor and material furnished and work performed by it in the completion of contract W-6511-qm-21, dated July 9, 1931, with the Supreme Construction Co., for the construction of certain buildings at Fort Jay, Governors Island, N. Y., subject to the requirement that the Supreme Construction Co., and its surety, the National Surety Co., or their receivers and liquidators, file with the Comptroller General of the United States their written consent to such settlement and adjustment, and subject to the further requirement that said claim, if not filed within 60 days after the date of approval of this act, shall not be received and considered by the Comptroller General of the United States. Such allowance as may be made by the Comptroller General as herein provided shall be paid from the appropriation made for the construction of the buildings in question, which is hereby made available therefor, and the payment so made shall be charged to the contractor and to the surety in the adjustment of the accounts between said companies and the United States as if the payments had been made to them."

Mr. BLANTON. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. BLANTON to the committee amendment: On page 5, line 10, of the committee amendment, strike out "$29,808.08" and insert in lieu thereof "$808.08."

Mr. BLANTON. Mr. Speaker, this George A. Fuller Co. ought to be compelled to pursue its remedies against the company responsible to it under its contract. It has no contract with the United States. It was not employed by the United States. If you will go down the Avenue and around Washington you will see some of the largest buildings built by this Government now under construction by the George A. Fuller Co. They have made hundreds of thousands of dollars from this Government on contracts, and despite that, they come in now with a claim of $29,000 against the Government when it has no contract with the Government and the Government did not employ it, and its claim ought to be against the surety company that employed it.

Now, $29,000 is a small amount for Congress to handle, but after all it is a pretty good sum. If some of you lawyers who practice law when you go home, had a client who was being sued for $29,000 you would fight every step of the way in that court to save him from paying it if he did not owe it. You would see that the proper pleadings were there. You would file your exceptions and demurrers against improper pleadings. You would see that they made proper allegations before they got into court. You would see that an unbiased jury was selected. You would see that no evidence that was not in accordance with the law and procedure was introduced against your client. You would fight every step of the way and probably take 2 or 3 days trying that case involving $29,000.

Yet Congress, without knowing a thing in the world about the case, except from affidavits filed, would pass such a bill in a few minutes. We have a way of trying cases on affidavits here. There is not a judge on earth who would allow an ex parte affidavit to be introduced against your client in a court; affidavits, without any cross-examination by the Government or by anyone on behalf of the people back home whom you represent and I represent, whose tax money pays these claims. I have seen many hundreds of millions of dollars paid out during the years I have been here on affidavits. They have never been paid out with my consent. I have voted to stop them every time they came up. I do not believe this Congress ought to pay the George A. Fuller Co. $29,000 on this claim. I do not think they ought to pay them a cent.

Mr. TABER. Will the gentleman yield?

Mr. BLANTON. I yield.

Mr. TABER. The Comptroller General, according to page 20 of the report says "The enactment of this bill would operate to deprive the United States of its right of priority

and set-off in this case and would thus be regarded a precedent for like surrender in similar cases."

Mr. BLANTON. Certainly.

Mr. CELLER. Will the gentleman yield?

Mr. BLANTON. I am sorry, I cannot yield, as I want to use my remaining time to speak against this claim.

I ask the Speaker not to take such interruptions out of my time.

I want to be fair to everybody. If the Government of the United States justly owes anybody money, I want to see the Government pay it. But it does not owe this $29,000. It is not simply $29,000 that is involved here. Just as the gentleman from New York [Mr. TABER] has suggested, your Comptroller General, one of the most valuable men we have in the make-up of this Government, Gen. J. R. McCarl, tells you that if you pass this bill you will cost this Government many times the amount involved in this bill.

Mr. WHITE. Will the gentleman yield?

Mr. BLANTON. I am sorry; I cannot. I must use my own time. All that we can do here is to do what we think is right. I do what I think is right. I follow my judgment. I do not follow anybody's judgment but my own, except on administrative matters that are brought here, where the President says that he and his administration need it for the Government—to bring us out of this terrible depression. That is the only time I waive my judgment. But on these matters when they come up I may not vote always with the majority, but I vote my honest sentiments. I vote for what I consider to be the good of the people of the United States whom I, in part, help to represent here. We do not just represent the people of our district. The oath which I took and which you took is to represent the people of the United States in this Congress, people in every district in the 48 States of this Union.

I am not going to vote to allow this sum; I am going to vote against this Fuller bill. I was compelled to offer this pro forma amendment to enable me to speak against the bill.

Mr. CELLER. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I believe the gentleman from Texas is very unfair in this entire proposition. Boiled down to its essence, we have simply the situation where a concern by the name of the Supreme Constructing Co. contracted with the Government to do some building at Fort Jay. A bond was put up by the National Surety Co. The Supreme Construction Co. got into difficulties and could not complete its contract. Under the arrangement the National Surety Co. would be compelled to go forward with the work. The National Surety Co., unfortunately, also got into difficulties after, however, it, with the knowledge of the Government, had contracted with the George Fuller Construction Co. to complete this work. The George Fuller Construction Co. devoted its time and energies and expended $29,808.08 exactly. No interest is asked. This money was spent for labor and material. The company seeks to make no profit whatever in completing this contract.

On a mere technicality the Comptroller General says that the Government has offsets against the National Surety Co. on other bonds of other buildings and other constructions, but which offsets have no relation to the Fort Jay matter or to the claimant. The National Surety Co., unfortunately, is in difficulties; its assets are being liquidated by the superintendent of insurance of the State of New York. Because the Government cannot offset against the National Surety Co. is no reason why the Government should be unjustly enriched to the disadvantage of the George A. Fuller Construction Co. The latter came forward willingly with the knowledge and approval of the Government to complete this work. Along comes the gentleman from Texas and wants to offer an insult to the intelligence of the Membership of this House by suggesting that we give this company for its labor and material—no profit whatsoever—for the completion of this work, a measly $808.08. Perhaps he wants to be smart. I say it would be ridiculous to have this amendment prevail. Certainly this company is entitled to the money it expended in the way of labor and materials even though because of this technicality the Government may lose on its other bonds with the National Surety Co. by way of being unable to offset anything that may be due by the Government through defaults of those insured by the National Surety Co.

Mr. ROBSION of Kentucky. Who hired the Fuller Co. to do the work?

Mr. CELLER. The Government hired the Fuller Co. to do the work at the instance of the National Surety Co., or rather the National Surety did the hiring with approval of the Government. The Government cannot deny approval. It stood by and offered no objection.

Mr. COSTELLO. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield.

Mr. COSTELLO. The contract was made by the National Surety Co. with the George A. Fuller Co. The Government did not sign any contract whatsoever with the Fuller Co.

Mr. CELLER. The gentleman does not mean to imply that the George A. Fuller Co. could go to Fort Jay, put up its scaffolds, bring in labor from various parts of the country, bring in material with the Government knowing nothing about it. The Government in this way consented to have this work done and the building erected. The Government knew all about it all the time. To say that the Government knew nothing about it would be ridiculous. If the Government should take this position business concerns would not come forward in the future to advance their moneys in the way of labor and material to complete work started by some other concern.

Mr. ROBSION of Kentucky. Did the Government contract to have the George A. Fuller Co. do it?

Mr. CELLER. The Government had knowledge of it. It practically consented. Its acceptance is equivalent in justice and equity to an actual contract.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas.

The amendment was rejected.

Mr. COSTELLO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 4, beginning in line 7, strike out all down to and including line 4 on page 6.

Mr. O'CONNOR. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. O'CONNOR. Has the committee amendment been passed upon?

The SPEAKER. It has not.

Mr. O'CONNOR. I understand this is a motion to strike out the committee amendment.

Mr. CELLER. It strikes out all of the committee amendment.

Mr. O'CONNOR. The committee amendment should be passed on; the Members should be given an opportunity to vote on the committee amendment.

The SPEAKER. The committee amendment undertakes to insert. The gentleman from California moves to strike out all of the committee amendment. The Chair thinks, therefore, that it is a preferential motion.

Mr. COSTELLO. Mr. Speaker, I think we should clearly understand the facts involved in this case. The Government entered into a contract for the building of a hospital at Fort Jay on Governors Island. The contracting company filed a bond through the National Surety Co. The company failed. The Government went to the National Surety Co. and asked them whether they wished to have the Government take over the completion of the hospital building or whether the National Surety Co. itself would take over the work. The National Surety Co. agreed to take over the work and engaged the services of the George A. Fuller Co.

The Federal Government did not contract with George A. Fuller & Co. at any time in these proceedings. Subsequently the National Surety Co. got into financial difficulties, and as a result the insurance commissioner of the State of New York took over its affairs. Under these circumstances the hospital building was completed, and the sum of $37,467.50 remains in the Treasury to pay off the balance due contractors. Now this bill is going to authorize payment to the George A. Fuller Co. in the sum of $29,808.08 by the Federal

Government, before all other claimants. There is no privity of contract between the Fuller Co. and the United States Government. If there is an agreement at all, it lies between the United States Government and the insurance commissioner of the State of New York.

Mr. Speaker, there are five objections to the passage of this bill. First, the United States is by law entitled to priority of payment of its claims where the debtor is insolvent. In this case the surety company owes the United States, however, more than the United States owes the surety company. Secondly, other subcontractors have rights equal to, if not superior to, those of the Fuller Co. Third, by passing this bill we operate to deprive the United States of its right of priority and set-off, which would be used as a precedent for a like surrender of rights in similar cases. In other words, the United States Government has a right to offset the $37,467.50 we owe to the insurance company against the amount which the insurance company owes the Government. If we pass this bill, we waive those rights and establish a precedent which I think would be very bad legislation. Fourth, by passing this bill, it might deprive other creditors of the insurance company, not connected with this hospital construction work at all, of their just pro rata share of such amount as might be found to be due to the surety company.

In other words, this money should be paid to the surety company. There are other claimants besides this contractor who have claims against the surety company. We are not in position to judge of those claims. The claimants are not before us; yet we are going to pay one of the claimants $29,808.08. Fifth, there is some question as to whether the surety company might not still recover the amount which we would pay by this bill to the Fuller Co. when a final adjustment is made between the United States Government and the surety company. In other words, we are not sure but what the insurance company may come back to the Congress, even though we pay the Fuller Co. $29,808.08, and demand payment of that amount of money to the insurance company.

Mr. CELLER. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, may I say in answer to what the gentleman has just stated, that there is the moral equivalent privity of contract because you cannot stand idly by and accept the benefits conferred by someone else and then say you are not bound.

At Fort Jay the Army officers superintended this work; they supervised the work. These Army officers are the arms, the agents of the Government. They saw this building erected and completed by this claimant. It does not now lie in the mouth of the Government, as it would not lie in the mouth of any other contender, now that it has taken the benefits; to say there is not privity of contract it would be a sort of legalized robbery. The minute the Government consented to have this work done under these circumstances it is bound as though by contract.

Mr. McCORMACK. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. After the contract was made by the Fuller Co. with the insurance company, did the insurance company go into receivership before the contract was completed?

Mr. CELLER. That is correct.

Mr. McCORMACK. Therefore the Fuller Co. did not have to complete the work?

Mr. CELLER. It did not have to do it at all. They only agreed to do this work because the Government officials begged them to complete the work after the surety company hired claimant to do the work.

Mr. McCORMACK. When the insurance company went into the hands of a receiver there was some uncompleted work which the Fuller Co. did not have to complete?

Mr. CELLER. The gentleman is correct.

Mr. McCORMACK. And the Fuller Co. went ahead and completed the work at their own expense?

Mr. CELLER. Yes. In fact, further, there was allotted and set aside something like $37,000, which the Government is ready and willing to pay out. It wants the authority from this body to pay this money. The money is there.

Mr. Speaker, there is no danger of double payment. You are conjuring up a fear that cannot exist. I certainly would not vote for a double payment. Should any entity come before us at a subsequent period with a fantastic bill asking us to pay again, certainly we are not going to consent to that, and because of that imaginary fear we should not deprive this company of the money which it expended for labor and material.

Mr. MASSINGALE. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Oklahoma.

Mr. MASSINGALE. I want to vote right on this matter. I should like to have the gentleman explain, if he can, why the Comptroller General recommended that we not pay this claim?

Mr. CELLER. Because of the technicality I referred to in my previous remarks, namely, that the Government would not have an offset against the National Surety Co. But those offsets arise out of probably hundreds of other transactions, hundreds of other buildings, and the guaranteeing of hundreds of other contractors. Just because of that technicality it would be highly unjust to deprive this company of these thousands of dollars which they have advanced. Remember that no profit is asked in connection with this matter. No interest is asked. It is only money advanced for labor and material by this company that came forward out of the goodness of its heart and finished this work.

Mr. Speaker, I want to read this statement made by the committee. The committee states this accurately:

1. The contract has been completed and accepted; the United States has obtained all that it contracted to receive, but it has not paid out the agreed contract price in exchange for labor and material furnished.

2. It is due only to a matter of form that the Government has not disbursed either all or part of the contract balance of $37,467.50 remaining to the credit of this contract. If the Government had completed the contract for the account of the surety, such part of the balance as was necessary to effect completion of the work would have been expended. It is urged, therefore, that it is due to a pure matter of form in that the surety having elected to complete the contract, that the Government is still holding money on account of the contract balance.

Under those circumstances, I again implore the Members of this House not to deprive the Fuller Co. of that which is justly due it, the twenty-nine-odd thousand dollars.

To get the record accurate I insert in my remarks a complete statement prepared for me by the counsel of the claimant, Mr. Leo T. Kessam, a distinguished lawyer, who represented, ably and well, our Judiciary Committee in the receivership investigation:

Under date of July 9, 1931, a contract was executed by the United States of America (contract no. W–6511–qm–621) and the Supreme Construction Co., Inc., a New York corporation, for the construction of a hospital at Fort Jay, Governors Island, N. Y.; the contract price being $331,600, with extras aggregating $31,446.60, making a total contract price to be paid by the Government of $363,046.60. On or about July 10, 1931, the National Surety Co. executed a public contractor's performance bond, standard Government form, in relation to this contract. Under date of January 19, 1933, the Government terminated the contractor's right to proceed, and informing the surety of this default, inquired as to whether the surety wished to proceed with the work or to have the Government complete it for their account. Such notice and inquiry to the surety is contained in a letter dated January 19, 1933, written by Maj. John D. Kilpatrick, Quartermaster Corps, constructing quartermaster, at room 510, 39 Whitehall Street, and is as follows:

"Inclosed herewith for your information, formal notice of default of the Supreme Construction Co., Inc., on their contract with the Government for the construction of one hospital at Fort Jay, Governors Island, N. Y., taking effect as of today.

"Immediate advice is requested as to whether the National Surety Co. elects to proceed with the completion of the work, or agrees to the Government's completing the work for the surety's account."

On January 20, 1933, the surety advised the Government that it elected to exercise its right to complete the work. Thereafter the National Surety Co. made a contract in writing with my client, George A. Fuller Co., for the completion of this contract and accordingly thereafter, and as a result of the work done by

my client, the contract was completed and formally accepted by the Government as of June 20, 1933.

By virtue of an order of the Supreme Court of the State of New York, signed by Mr. Justice Edward J. Gavegan, and dated April 29, 1933, the superintendent of insurance of the State of New York was authorized and directed to forthwith take possession of the property of the National Surety Co. and to conduct its business pursuant to the provisions of article XI of the insurance law of the State of New York. The superintendent of insurance, acting by his duly authorized agents, requested the George A. Fuller Co. to continue with the work of completing the hospital pursuant to the terms of their contract with the National Surety Co. and advised the George A. Fuller Co. that the moneys due it under its contract would be paid in full, if they would continue their work, just as soon as the balance of the contract price was paid by the Government to the surety. Thereupon the Fuller Co. continued with the work and subsequently completed it in strict conformity with the original Government specifications and as a result thereof the contract was completed and as before stated, the work formally accepted by the Government.

Upon the completion of the original contract between the Government and the Supreme Construction Co., Inc., a contract balance in the amount of $37,467.50, remained, which is arrived at as follows:

Original contract price	$331,600.00
Approved extras	31,446.60
Total contract price	363,046.60
Paid by Government prior to default	325,579.10
Unpaid balance	37,467.50

Upon the completion of the contract between the Fuller Co. and the surety, the former, which had received certain payments under its contract with the surety, was entitled to receive the sum of $29,808 08. In support of the statement herein that the Superintendent of Insurance agreed to see that the Fuller Co. was paid out of the moneys set aside for this contract by the Government and that the balance due to it is the sum stated herein, reference is made to an original letter from the assistant special deputy superintendent of insurance, Bertram H. Bratney, dated January 29, 1934, which original letter is attached hereto (exhibit "B"), and wherein the assistant special deputy superintendent of insurance in charge of the rehabilitation of the National Surety Co. consents that the Government may pay directly to Fuller this sum of $29,808.08, out of the contract balance remaining to the credit of the original contract in this matter.

We must consider this letter as a claim and demand that the United States pay to the George A. Fuller Co., out of the proceeds in its possession and to the credit of the above-described contract, the sum of $29,808.08. This claim is based as follows:

I. THE CONTRACT BALANCE OF $37,467.50 IS AVAILABLE TO PAY THIS CLAIM

The contract has been completed and accepted; the United States had obtained all that it contracted to receive, but it has not paid out the agreed contract price in exchange for labor and material furnished. The Government has not seen fit to pay the balance of the contract price to the National Surety Co. and it is presumed that this payment is postponed at this time because of certain alleged indebtedness of that surety company to the Government under other bonds. While it is conceded that the Government may exercise the right of set-off it has been held that there is a duty on the part of the Government of establishing the legality of the set-off and the bringing of court proceedings for that purpose, as the validity of the set-off cannot be otherwise determined.

Richmond, Fredericksburg & Potomac Railroad Co. v. *McCarl* (63 Fed. (2d) 203; 61 App. D. C. 290).

However, up to the present so far as the claimant knows, the Government has not judicially determined any definite amount of set-off as against the National Surety Co. and, accordingly, at the present time and in view of the fact that the National Surety Co., acting by authorized agents of the superintendent of insurance (exhibit B), have consented that this payment be made to this claimant, there is presently no legal objection to the payment.

II. AS A MATTER OF FAIRNESS AND EQUITY THIS CLAIM SHOULD BE PAID

(a) It is only due to a matter of form that the Government has not disbursed either all or part of the contract balance, $37,467.50, in payment of the cost of completing this work, after the default of the original contractor. The Government, through its contracting officer, Maj. John D. Kilpatrick, gave to the surety an option to determine whether it, the surety, should complete the work, or whether the surety preferred to have the Government complete the work for the account of the surety. (See Major Kilpatrick's letter quoted already.) No one will dispute the fact that if the Government had completed the work as it had a legal right to do, it would have long before this disbursed such part of the contract balance as represented the cost of completion. Consequently, it may be urged that due to a pure matter of form, in that the surety elected to complete the contract, that the Government is still holding this contract balance and, in fact, had the Government contracted with this claimant instead of the surety for doing the very same thing, viz., completing this defaulted contract, the Government would now already have paid the claim asserted herein.

(b) As is indicated by the present laws, it will be conceded that the Government is anxious to protect persons or corporations who have furnished labor or materials used in the construction or repair of any public buildings or public work. Surely it may be properly urged here, that every known equity must be in favor of this claimant who has furnished labor and material to the Government for which it has not been paid and for which, through no fault of its own, it cannot be paid except through redress to the funds available and in possession of the Government for this particular purpose.

III. THE COMPTROLLER GENERAL OF THE UNITED STATES HAS THE AUTHORITY TO PAY THIS CLAIM

(a) As a matter of law: As set forth in point I this payment may be properly made as a matter of law because "there is no present judicial determination as to set-off which would as a matter of law perhaps prohibit payment.

(b) As a Matter of Equity: Chapter 334, of the Laws of 1928, approved April 10, 1928, and contained in vol. 45 of the United States Statutes at page 413, provides as follows:

"*Be it enacted, etc.*, That when there is filed in the General Accounting Office a claim or demand against the United States that may not lawfully be adjusted by the use of an appropriation heretofore made, but which claim or demand, in the judgment of the Comptroller General of the United States, contains such elements of legal liability or equity as to be deserving of the consideration of the Congress, he shall submit the same to the Congress by a special report containing the material facts and his recommendation thereon."

Under this statute, surely, if the Comptroller General shall find that the claim of the George A. Fuller Co., as herein set forth may not lawfully be adjusted, certainly if he shall find deserving elements of legal liability or equity, then through the medium of this statute, he has the opportunity of assisting this claimant.

Because of this unusual situation in which the claimant finds itself and because of the fact that the Government has had the advantage of the labor and material furnished by the claimant, and because the claimant is in this position due to no fault of its own and without other remedy, it is sincerely and respectfully urged that this claim be given careful consideration and attention and it is further respectfully urged that this claim be allowed as stated.

The SPEAKER. The question is on the motion of the gentleman from California to strike out the paragraph.

The question was taken; and on a division (demanded by Mr. CELLER) there were—ayes 79, noes 43.

Mr. CELLER. Mr. Speaker, I object to the vote on the ground there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

ENROLLED BILLS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 298. An act for the relief of Jack Page; and

H. R. 617. An act for the relief of Lake B. Morrison.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 156. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the city of Perth Amboy, N. J.;

S. 2904. An act to prohibit the interstate transportation of prison-made products in certain cases; and

S. 3038. An act to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration facility, Alexandria, La.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 44 minutes p. m.), the House adjourned until tomorrow, Wednesday, July 17, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

425. A letter from the Secretary of War, transmitting, pursuant to section 1 of the River and Harbor Act approved January 21, 1927, the Flood Control Act approved May 31, 1924, and the River and Harbor Acts approved March 3, 1925, and July 3, 1930, a letter from the Chief of Engineers, United States Army, dated July 11, 1935, submitting a report, together with accompanying papers and illustrations, containing a general plan for the improvement of Guadalupe River, Tex., and channel in San Antonio Bay to connect with

the Intracoastal Waterway, for the purposes of navigation and efficient development of its water power, the control of floods, and the needs of irrigation (H. Doc. No. 238); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

426. A letter from the Secretary of War, transmitting a draft of a bill for the relief of the heirs of Burton S. Adams; to the Committee on Claims.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ROMJUE: Committee on the Post Office and Post Roads. H. R. 2793. A bill to amend the provisions of laws relating to appointment of postmasters; without amendment (Rept. No. 1533). Referred to the Committee of the Whole House on the state of the Union.

Mr. SWEENEY: Committee on the Post Office and Post Roads. H. R. 8369. A bill relating to laborers in the Railway Mail Service and motor-vehicle employees of the Postal Service; without amendment (Rept. No. 1534). Referred to the Committee of the Whole House on the state of the Union.

Mr. PATMAN: Committee on World War Veterans' Legislation. H. R. 4513. A bill to authorize payment of claims for unauthorized emergency treatment of World War veterans; without amendment (Rept. No. 1535). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROMJUE: Committee on the Post Office and Post Roads. H. R. 8790. A bill to amend section 6 of the act of February 28, 1925; without amendment (Rept. No. 1536). Referred to the Committee of the Whole House on the state of the Union.

Mr. SANDERS of Texas: Committee on Ways and Means. House Joint Resolution 335. Joint resolution to permit articles imported from foreign countries for the purpose of exhibition at the Texas Centennial Exposition and celebrations to be admitted without payment of tariff, and for other purposes; without amendment (Rept. No. 1537). Referred to the Committee of the Whole House on the state of the Union.

Mr. DOBBINS. Committee on the Post Office and Post Roads. S. 1439. An act amending the postal laws to include as second-class matter religious periodicals publishing local information; without amendment (Rept. No. 1538). Referred to the Committee of the Whole House on the state of the Union.

Mr. DOBBINS: Committee on the Post Office and Post Roads. H. R. 8730. A bill to provide special rates of postage on reading matter and sound-reproduction records for the blind; with amendment (Rept. No. 1539). Referred to the Committee of the Whole House on the state of the Union.

Mr. JONES: Committee on Agriculture. H. R. 8851. A bill to amend the Packers and Stockyards Act, 1921; without amendment (Rept. No. 1541). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CULLEN: A bill (H. R. 8870) to further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes; to the Committee on Ways and Means.

By Mr. HUDDLESTON: A bill (H. R. 8871) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by motor carriers operating in interstate or foreign commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GREGORY: A bill (H. R. 8872) authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Woman's Club of the city of Paducah, Ky., the silver service in use on the U. S. S. *Paducah*; to the Committee on Naval Affairs.

By Mr. McSWAIN: A bill (H. R. 8873) to provide further for membership on the Board of Visitors, United States Military Academy; to the Committee on Military Affairs.

Also, a bill (H. R. 8874) to increase the efficiency of the Medical Corps of the Regular Army; to the Committee on Military Affairs.

By Mr. MILLER: A bill (H. R. 8875) to clarify section 104 of the Revised Statutes (U. S. C., title II, sec. 194); to the Committee on the Judiciary.

By Mr. MURDOCK: A bill (H. R. 8876) to impose an excise tax on certain sodium products imported from foreign countries; to the Committee on Ways and Means.

By Mr. CELLER: A bill (H. R. 8877) to prevent obstruction and burdens upon interstate trade and commerce in motion-picture films and to prevent the restraint upon the free competition in the production, distribution, and exhibition of motion-picture films, copyrighted or not copyrighted, and to prevent the further monopolization of the business of producing, distributing, and exhibiting motion-pictures by prohibiting blind booking and block booking of motion-picture films and by prohibiting the arbitrary allocation of such films by distributors to theaters in which they or other distributors have an interest, direct or indirect, and by prohibiting the arbitrary refusal to book or sell such films to exhibitors in which they have no such interest; to the Committee on Interstate and Foreign Commerce.

By Mr. RANDOLPH: A bill (H. R. 8878) to amend the act of July 15, 1932, establishing a Board of Indeterminate Sentence and Parole for the District of Columbia; to the Committee on the District of Columbia.

By Mr. DOBBINS: Joint resolution (H. J. Res. 352) authorizing the issuance of a special stamp to commemorate the seventieth anniversary of the organization of the Grand Army of the Republic; to the Committee on the Post Office and Post Roads.

By Mr. GRAY of Pennsylvania: Joint resolution (H. J. Res. 353) making an appropriation for the rehabilitation of certain mine rescue cars; to the Committee on Appropriations.

By Mr. WALLGREN: Joint resolution (H. J. Res. 354) to establish a commission to formulate a national policy relative to benefits for veterans and their dependents, and for other purposes; to the Committee on World War Veterans' Legislation.

By Mr. MONTET: Joint resolution (H. J. Res. 355) authorizing the President, through the Secretary of War, to modify certain contracts of lease; to the Committee on Military Affairs.

By Mr. DEEN: Concurrent resolution (H. Con. Res. 32) authorizing the President of the Senate and the Speaker of the House to sign enrolled bills; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COLE of New York: A bill (H. R. 8879) granting an increase of pension to C. Cordelia Strong; to the Committee on Invalid Pensions.

By Mr. FISH: A bill (H. R. 8880) for the relief of William H. Ruth; to the Committee on Military Affairs.

Also, a bill (H. R. 8881) for the relief of Louis Vauthier and Francis Dohs; to the Committee on Military Affairs.

By Mrs. GREENWAY: A bill (H. R. 8882) granting an increase of pension to Eva Elliott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8883) for the relief of Lt. Robert A. J. English, United States Navy; to the Committee on Naval Affairs.

By Mr. MARTIN of Colorado: A bill (H. R. 8884) for the relief of Mrs. Ollie Myers; to the Committee on Naval Affairs.

By Mr. ROBINSON of Utah: A bill (H. R. 8885) granting a pension to Susan Turner; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9156. By Mr. HART: Memorial of New Jersey State Legislature, approved June 27, 1935, memorializing Congress to reduce the present Federal taxes on distilled spirits; to the Committee on Ways and Means.

9157. By Mr. JOHNSON of Texas: Petition of G. H. Ingram, Easterly, Tex., favoring House bill 8652; to the Committee on Ways and Means.

SENATE

WEDNESDAY, JULY 17, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, July 16, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	King	Radcliffe
Ashurst	Copeland	La Follette	Reynolds
Austin	Costigan	Lewis	Robinson
Bachman	Davis	Logan	Russell
Bailey	Dickinson	Lonergan	Schall
Bankhead	Dieterich	McAdoo	Schwellenbach
Barbour	Donahey	McCarran	Sheppard
Barkley	Duffy	McGill	Shipstead
Bilbo	Fletcher	McKellar	Smith
Black	Frazier	McNary	Steiwer
Bone	George	Maloney	Thomas, Okla.
Borah	Gerry	Metcalf	Townsend
Brown	Gibson	Minton	Trammell
Bulkley	Glass	Moore	Truman
Bulow	Gore	Murphy	Tydings
Burke	Guffey	Murray	Vandenberg
Byrd	Hale	Neely	Van Nuys
Byrnes	Harrison	Norbeck	Wagner
Capper	Hastings	Norris	Walsh
Caraway	Hatch	Nye	Wheeler
Carey	Hayden	O'Mahoney	White
Chavez	Holt	Overton	
Clark	Johnson	Pittman	
Connally	Keyes	Pope	

Mr. LEWIS. I announce that the Senator from Louisiana [Mr. LONG] and the Senator from Utah [Mr. THOMAS] are unavoidably detained from the Senate.

Mr. VANDENBERG. I repeat the announcement that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent on account of illness.

The VICE PRESIDENT. Ninety-three Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed a bill (H. R. 7506) to provide for a stenographic grade in the offices of Chief Clerk and Superintendent in the Railway Mail Service, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 884) for the relief of Lt. Comdr. G. C. Manning, and it was signed by the Vice President.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate papers in the nature of petitions from several citizens of Gaithersburg, Md., praying for the enactment of House bill 6990, providing a 40-hour week in the Postal Service, which were ordered to lie on the table.

He also laid before the Senate the petition of the "Needy Veterans' Bonus Army", signed by Royal W. Robertson, commander, California; James J. McGrath, lieutenant commander, Pennsylvania, and other citizens, praying for the prompt enactment of the joint resolution (H. J. Res. 300) authorizing and directing the payment of the adjusted-service certificates to the World War veterans out of the appropriations for public works, which was referred to the Committee on Finance.

Mr. POPE presented the following joint memorials of the Legislature of the State of Idaho, which were referred to the Committee on Agriculture and Forestry:

A joint memorial to the distinguished President of the United States and Hon. Harry Hopkins, Federal Works Progress Director for the United States, and the Honorable J. L. Hood, works progress director for the State of Idaho

We, your memorialists, the Legislature of the State of Idaho, respectfully represent that—

Whereas many of the irrigated sections of Idaho have become overrun with noxious weeds, such as wild morning glory and Canadian thistle; and

Whereas due to the economic conditions of our country during the last few years, it has been impossible to furnish State or Federal aid to assist in the eradication of such noxious weeds; and

Whereas the noxious-weed menace is the most serious menace confronting Idaho agriculture today, it having severely impaired, and, in many cases, actually destroyed our farms; and

Whereas this menace has achieved such proportions that the farmers, the counties, and the State of Idaho seem helpless in the face of it: Now, therefore, be it

Resolved by the House of Representatives of the State of Idaho (the senate concurring), That we respectfully urge upon the President of the United States, the Honorable Harry Hopkins, in his official capacity, and the Honorable J. L. Hood, works progress director for Idaho, that they seriously consider the making of an allocation from the Works Progress Administration for the purpose of putting men to work combating the noxious-weed menace that now threatens to destroy much of the valuable farm lands of the State of Idaho; be it further

Resolved, That the secretary of state of the State of Idaho be authorized, and he is hereby directed, to immediately forward certified copies of this memorial to the Honorable President Franklin Delano Roosevelt, to the Honorable Harry Hopkins, and the Honorable J. L. Hood, Public Works director for Idaho, Congressman D. Worth Clark, Congressman Compton I. White, Senator James P. Pope, and Senator William E. Borah.

Joint memorial

To the Senate and House of Representatives of the Congress of the United States of America:

We, your memorialists, the Senate and House of Representatives of the State of Idaho, in legislative session, duly and regularly assembled, most respectfully present the following preamble and resolution, to wit:

Whereas there have heretofore been available certain emergency funds for the retirement of submarginal farm land and the development of this poor land for a better economic and social use; and

Whereas the administrative program and policy of the Government has recently been changed so that insufficient funds are at present available for the further purchase and development of such submarginal lands; and

Whereas the conditions within the State of Idaho are such that the retirement of such poor farm lands from cultivation is necessary for the permanent rehabilitation of stranded farm families, the adequate administration of the Taylor Grazing Act, the consolidation of scattered holdings of Federal, State, and county lands, the reduction of the costs of public services, and the rational development of land resources: Now, therefore, be it

Resolved by the Senate of the State of Idaho (the house of representatives concurring), That we most respectfully urge upon the Congress of the United States that the Congress make sufficient appropriation for the continuance and necessary expansion of the purchase and better economic development of submarginal lands.

RECIPROCAL TRADE AGREEMENTS AFFECTING MANGANESE

Mr. McCARRAN. I ask leave to have inserted in the RECORD a release of correspondence from the American Manganese Producers' Association bearing on the subject of the proposed or existing reciprocal trade agreement between this country and Russia.

I also ask leave to have inserted in the RECORD an article from the Washington Times of July 15 bearing on the same subject, under the caption "Steel Imports Blamed in United States Labor Loss."

There being no objection, the matters were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

AMERICAN MANGANESE PRODUCERS ASSOCIATION,
Washington, D. C., July 15.

"The back-door methods of the State Department in negotiating foreign-trade pacts, to the destruction of American industry, must be stopped", J. Carson Adkerson, president of the American Manganese Producers Association, declared today.

The United States trade pacts with Russia and Brazil will mean a loss to the United States Government of $2,500,000 collectible as duty on manganese ore imported during the last 3 years and now piled in the bonded warehouse yards of the steel companies in the United States. It will mean an additional loss of approximately $2,500,000 per year in revenue on ore to be imported.

The Russian trade pact will serve no purpose in foreign trade. Imported manganese ore will sell at the same price f. o. b. Atlantic ports with or without the duty. The only difference will be the loss of the duty to the United States and the destruction of the growing domestic manganese industry, essential in our national defense, and will deny employment to from 5,000 to 7,000 men at a time when this employment is sorely needed.

[From the Washington Times of July 15, 1935]

STEEL IMPORTS BLAMED IN UNITED STATES LABOR LOSS

NEW YORK, July 15.—More than 3,900 American workmen have been deprived of full-time jobs during the first 5 months of this year because of the increase in imports of foreign steel, the American Iron and Steel Institute announced today.

Government figures on imports and a recent report of the United States Department of Labor on the number of man-hours required to produce steel products were used as the basis of the computations.

STATISTICS QUOTED

The Iron and Steel Institute found that tonnage of steel imports from January to May was 65 percent above the volume of the corresponding period last year. Domestic production during the same period was less than 3.5 percent above the first 5 months of 1934.

The report of the Iron and Steel Institute says:

"Of the jobs lost to American workmen through the importation of foreign-made steel about 2,640 would have been available in the steel mills, according to calculations based on the Department of Labor figures, while mining the ore, coal, and limestone necessary to produce the steel in this country would have employed 570 more men.

TARIFF CHANGES

"Another 590 men would have been required to transport by rail and water the 6 tons of raw materials entered into each ton of steel and finally to transport the finished steel itself to market.

"Manufacture of coke for use in blast furnaces would have given employment to 110 more men."

The Iron and Steel Institute points out that under the reciprocal trade agreements already in force or proposed between the United States and other countries duties are being lowered on many types of steel entering American markets from abroad.

BRITISH AGREEMENTS

Great Britain, on the other hand, recently raised its tariffs on iron and steel from 33⅓ to 50 percent above former levels.

Under threat of securing still higher barriers to protect themselves against the inroads of foreign competition, British steel producers have reached agreements with Continental producers to limit imports after the first year of these pacts to a tonnage below the total imports of 1933—the lowest in many years.

REVISION OF COPYRIGHT ACT

Mr. WAGNER presented several telegrams relating to a revision of the Copyright Act, which were ordered to lie on the table and to be printed in the RECORD, as follows:

NEW YORK, N. Y., *June 22, 1935.*

Senator WAGNER:

I sincerely hope you will oppose copyright bill, S. 3047. The bill gives foreign authors basic copyright without formality, but denies it to American authors. The bill seems to protect chiefly the commercial enterprises which live on the authors.

JOHN ERSKINE.

HOLLYWOOD, CALIF., *July 16, 1935.*

Senator WAGNER,

United States Senate, Washington, D. C.:

The phraseology of the current copyright amendment bill known as the "Duffy bill" bewildered me, because I am not very familiar with such documents. However, what did seep through my mind left me in utter amazement. How can anyone vote for such an un-American document? It is obvious that it deprives the struggling author and composer of every vestige of defense against infringement. It does not take a legal specialized mind to understand that behind this bill are sponsors who are attempting to take away rights by amending the present Copyright Act. I beg of you, honorable sir, that you consider carefully and justly, and when you do I am positive you must vote "nay." In my talks with fellow craftsmen everyone voiced indignant fear at even the possibility of this bill being enacted. I hope my plea, while humble in argument, will have force, because it is sincere and has the little fellow at heart.

LEW BROWN,

(Formerly De Sylva, Brown, and Henderson).

NEW YORK, N. Y., *July 16, 1935.*

Senator ROBERT WAGNER,

United States Senate, Washington, D. C.:

As a song writer of 40 years' standing, I am unalterably opposed to the Duffy bill pending before Senate. The American Society of Authors, Composers, and Publishers is a lifesaver and greatest protection for writers. Congratulations for the wonderful work you are doing. Best wishes and regards.

GUS EDWARDS.

HOLLYWOOD, CALIF., *July 16, 1935.*

Senator WAGNER:

After studying the Duffy bill, no. S. 3047, carefully, I must register my objections to same most emphatically. At the outset this amendment to the copyright bill grants to foreign authors and composers rights which are denied American authors. In my opinion this is too big a price to pay for our entry into the Berne convention. The subsection which removes the minimum damage provision embodied in the existing law works a hardship on the so-called "little fellow", because the possibility of recovering nominal damages would make it unprofitable to defray the expense of a copyright suit. The statutory damages provided for in the present copyright law has certainly acted as a block against legalized piracy. This proposed bill certainly takes away rights from the creators and destroys initiative. Furthermore it will tend to encourage more usage of foreign works when American writers are in urgent need of every encouragement possible. This bill would enable broadcasters and other users of music for profit to help themselves to works without any worry of penalty for infringement. Please believe me, I have given this careful thought, and it is only because of my interest in 90 percent of American composers, authors, novelists, and writers who can barely make a living. I have always held a great regard for your sense of justice, and I am confident you will not fail to recognize the injustice which this bill would do to members of the creative arts.

IRVING BERLIN.

REPORTS OF COMMITTEES

Mr. BAILEY, from the Committee on Claims, to which was referred the bill (H. R. 4226) for the relief of Floyd Hull, reported it without amendment and submitted a report (No. 1093) thereon.

Mr. TOWNSEND, from the Committee on Claims, to which was referred the bill (H. R. 4406) for the relief of Anna Farruggia, reported it without amendment and submitted a report (No. 1094) thereon.

Mr. LOGAN, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 1422. A bill conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of William E. B. Grant (Rept. No. 1095); and

H. R. 1540. A bill for the relief of Lester I. Conrad (Rept. No. 1096).

Mr. CAPPER, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 2421. A bill for the relief of John R. Allgood (Rept. No. 1097);

H. R. 4290. A bill for the relief of Harriet V. Schindler (Rept. No. 1098); and

H. R. 4718. A bill for the relief of Yamato Sesoko (Rept. No. 1099).

Mr. SCHWELLENBACH, from the Committee on Claims, to which was referred the bill (S. 2323) for the relief of Ida C. Buckson, executrix of E. C. Buckson, deceased, reported it with an amendment and submitted a report (No. 1100) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 670. A bill conferring jurisdiction in the Court of Claims to hear and determine the claim of George B. Gates (Rept. No. 1101);

H. R. 1541. A bill for the relief of Evelyn Jotter (Rept. No. 1102);

H. R. 2122. A bill for the relief of William Seader (Rept. No. 1103);

H. R. 2487. A bill for the relief of Bernard McShane (Rept. No. 1104);

H. R. 3167. A bill for the relief of Louis Alfano (Rept. No. 1105);

H. R. 3826. A bill for the relief of John Evans (Rept. No. 1106);

H. R. 4029. A bill for the relief of Thomas Enchoff (Rept. No. 1107);

H. R. 4822. A bill for the relief of Thomas F. Olsen (Rept. No. 1108); and

H. R. 4853. A bill for the relief of Charles H. Holtzman, former collector of customs, Baltimore, Md.; George D. Hubbard, former collector of customs, Seattle, Wash.; and William L. Thibadeau, former customs agent (Rept. No. 1109).

Mr. BURKE, from the Committee on Claims, to which was referred the bill (S. 3186) for the relief of Edward H. Karg, reported it with amendments and submitted a report (No. 1110) thereon.

He also, from the same committee, to which was referred the bill (H. R. 5521) for the relief of Frank Williams, reported it with an amendment and submitted a report (No. 1111) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 2449. A bill for the relief of Floyd L. Walter (Rept. No. 1112);

H. R. 2679. A bill for the relief of Ladislav Cizek (Rept. No. 1113);

H. R. 3506. A bill for the relief of George Raptis (Rept. No. 1114);

H. R. 4812. A bill for the relief of Mrs. Carlysle Von Thomas, Sr. (Rept. No. 1115);

H. R. 4814. A bill for the relief of Lt. Col. Russell B. Putnam, United States Marine Corps (Rept. No. 1116);

H. R. 4815. A bill for the relief of Jasper Daleo (Rept. No. 1117);

H. R. 4820. A bill for the relief of Lawrence S. Copeland (Rept. No. 1118);

H. R. 4824. A bill for the relief of Capt. George W. Steele, Jr., United States Navy (Rept. No. 1119);

H. R. 4833. A bill for the relief of Ciriaco Hernandez and others (Rept. No. 1120);

H. R. 4974. A bill for the relief of Rabbi Isaac Levine (Rept. No. 1121); and

H. R. 5041. A bill authorizing and directing the Secretary of the Treasury to reimburse Lela C. Brady and Ira P. Brady for the losses sustained by them by reason of the negligence of an employee of the Civilian Conservation Corps (Rept. No. 1122).

Mr. WALSH, from the Committee on Finance, to which was referred the bill (S. 1421) to amend subsection (a) of section 313 of the Tariff Act of 1930, reported it with an amendment and submitted a report (No. 1123) thereon.

Mr. KING, from the Committee on the Judiciary, to which was referred the bill (S. 2944) to prevent and make unlawful the practice of law before Government departments, bureaus, commissions, and their agencies by those other than duly licensed attorneys at law, reported adversely thereon.

Mr. NEELY, from the Committee on the Judiciary, to which was referred the bill (S. 3179) to appoint one additional judge of the District Court of the United States for the Eastern, Middle, and Western Districts of Tennessee, reported it without amendment and submitted a report (No. 1124) thereon.

Mr. SHEPPARD, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 7575. A bill to legalize a bridge across Black River on United States Highway No. 60 in the town of Poplar Bluff, Butler County, Mo. (Rept. No. 1125);

H. R. 7591. A bill granting the consent of Congress to the cities of Donora and Monessen, Pa., to construct, maintain, and operate a bridge across the Monongahela River between the two cities (Rept. No. 1126);

H. R. 7620. A bill to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill. (Rept. No. 1127);

H. R. 7659. A bill to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes (Rept. No. 1128); and

H. R. 7809. A bill to extend the times for commencing and completing the construction of certain free highway bridges across the Red River from Moorhead, Minn., to Fargo, N. Dak. (Rept. No. 1129).

Mr. ADAMS, from the Committee on Banking and Currency, to which was referred the bill (S. 3086) to provide for the striking of medals, in lieu of coins, for commemorative purposes, reported it without amendment and submitted a report (No. 1130) thereon.

PRINTING OF PROCEEDINGS ON SEATING OF SENATOR HOLT

Mr. HAYDEN, from the Committee on Printing, reported a resolution (S. Res. 171), which was considered by unanimous consent and agreed to, as follows:

Resolved, That the extracts from the CONGRESSIONAL RECORD containing the proceedings of the Senate in the seating of RUSH D. HOLT as Senator from West Virginia, together with the petitions and the briefs filed with the Committee on Privileges and Elections respecting said seating, be printed as a Senate document.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GEORGE:

A bill (S. 3271) providing for the deductibility of charitable and other contributions by corporations for the purposes of income tax; to the Committee on Finance.

By Mr. McNARY:

A bill (S. 3272) authorizing the Snake or Piute Tribe of Indians of the former Malheur Indian Reservation of Oregon to sue in the Court of Claims; to the Committee on Indian Affairs.

By Mr. BACHMAN:

A bill (S. 3273) for the relief of Oswald Orlando; to the Committee on Claims.

By Mr. DUFFY:

A bill (S. 3274) for the relief of Mary Hobart; to the Committee on Claims.

By Mr. TRAMMELL:

A bill (S. 3275) for the relief of Thomas Ernest Warren; to the Committee on Military Affairs.

By Mr. LA FOLLETTE (by request):

A bill (S. 3276) to provide for payment of hospital care in lieu of hospitalization or domiciliary care in certain cases, and to limit the reduction of compensation in such blind cases; to the Committee on Finance.

HOUSE BILL REFERRED

The bill (H. R. 7506) to provide for a stenographic grade in the offices of Chief Clerk and Superintendent in the Railway Mail Service was read twice by its title and referred to the Committee on Post Offices and Post Roads.

CHANGE OF REFERENCE

On motion of Mr. SHEPPARD, the Committee on Military Affairs was discharged from the further consideration of the bill (S. 3226) for the relief of Gertrude Hunter, and it was referred to the Committee on Pensions.

INCREASE OF TAXATION—AMENDMENT

Mr. CONNALLY. Mr. President, I ask unanimous consent to file, for appropriate reference and printing, an amendment intended to be proposed by me to the tax bill when it shall come from the House of Representatives. The amendment proposes an excess-profits tax.

The VICE PRESIDENT. Without objection, the amendment will be received, printed, and referred to the Committee on Finance.

THE BANKING SYSTEM—AMENDMENTS

Mr. FLETCHER submitted four amendments intended to be proposed by him to the bill (H. R. 7617) to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes, which were ordered to lie on the table and to be printed.

RELIEF OF PUBLIC SCHOOLS—AMENDMENT

Mr. WHEELER submitted an amendment intended to be proposed by him to the bill (S. 3123) to provide for the relief of public-school districts and other public-school authorities, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT TO GRAZING ACT—BAD LANDS NATIONAL MONUMENT

Mr. NORBECK submitted an amendment intended to be proposed by him to the bill (H. R. 3019) to amend sections 1,

3, and 15 of "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes", approved June 28, 1934 (48 Stat. 1269), which was ordered to lie on the table and to be printed.

COMPENSATION FOR THE TAKING OF CERTAIN PROPERTY—AMENDMENT

Mr. CLARK submitted an amendment intended to be proposed by him to the bill (S. 3252) to provide for recovery of compensation for taking property, and for damage to the same from overflow, water seepage, water percolation, or interference with drainage, and for interference with the sewer, drainage, or flood-protection system of any municipality, and to any legally organized drainage or levee district, by the construction, maintenance, or operation of any dam, structure, or other improvement by the United States in or along navigable streams and inland waterways for the improvement of navigation thereon, and to provide for the prosecution of claims against the United States therefor and payment of judgments, which was referred to the Committee on Commerce and ordered to be printed.

RICE LAKE AND CONTIGUOUS LANDS IN MINNESOTA

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2532) to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota" approved June 23, 1926, and for other purposes, which was, on page 3, line 19, after the word "lakes", to insert a colon and the following proviso:

Provided, however, That there shall be and hereby is excluded from said reserves any and all areas, whether of land or water, necessary or useful for the development to the maximum of water power or the improvement of navigation in the Pigeon River, an international boundary stream, and tributary lakes and streams.

Mr. THOMAS of Oklahoma. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

SALARIES AND WAGES

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have inserted in the RECORD a brief article and the accompanying table appearing in the New Republic for July 10. The article is entitled "Some Salaries and Wages."

There being no objection, the article and table were ordered to be printed in the RECORD, as follows:

[From the New Republic of July 10, 1935]

SOME SALARIES AND WAGES

The table that appears below has been compiled by the New Republic from two sets of official figures in Washington. The figures for officials' salaries are drawn from the records of the Securities Exchange Commission. Those for the wages in the same industries are taken from the "Trend of Employment" compiled by the Bureau of Labor Statistics of the United States Department of Labor.

The individual named in the second column is in most cases the chairman or president of the company. He is usually, but not always, the individual receiving the highest salary. It should be noted that the figures for 1933 and 1934 are not strictly comparable, since the latter covers total compensation, including bonuses, etc.

The weekly wages given for December 1933 and for December 1934 are in each case for the industry in which the major part of the company's business lies.

Name of company	Name of officer	His total compensation in 1934	His yearly salary in 1933	Approximate average weekly wage in same industry, December 1934	Approximate average weekly wage in same industry, December 1933
Addressograph-Multigraph Co	J. E. Rogers	$40,800	$40,800	$23	$20
Air Reduction Co., Inc	C. E. Adams	76,269	45,725	24	23
Alpha Portland Cement	G. S. Brown	32,249	36,000	17	15
American Commercial Alcohol Corporation	R. R. Brown	50,797	21,000	24	23
American Hide & Leather Co	C. F. Danner	18,806	15,000	20	20
American Machine & Foundry Co	R. L. Patterson	40,000	40,000	20	18
American Metal Co	H. K. Hochschild	24,000	----------	20	17
American Radiator & Standard Sanitary Corporation	C. M. Woolley	48,000	24,000	19	14
American Rolling Mills	G. Verity	63,000	63,000	19	17
American Safety Razor	M. Dammann	59,740	54,000	20	19
American Smelting & Refining Co	S. Guggenheim	50,000	40,000	20	17
American Snuff	M. J. Condon	64,256	50,000	14	13
American Steel Foundries	G. E. Scott	32,400	32,400	22	19
American Telephone & Telegraph	W. S. Gifford	206,250	----------	27	26
American Woolen Co	L. J. Noah	85,300	84,000	17	16
American Zinc, Lead & Smelting	H. I. Young	25,385	20,000	20	17
Anaconda Copper Mining Co	C. F. Kelley	92,666	208,402	21	20
Anchor Cap Corporation	I. R. Stewart	46,644	31,725	----------	----------
Armstrong Cork	H. W. Prentiss	48,000	----------	----------	----------
Beechnut Packing Co	B. Arkell	20,800	20,800	13	----------
Best & Co	P. LeBoutillier	130,095	60,000	19	18
Bethlehem Steel Corporation	Charles M. Schwab	25,000	250,000	19	17
Blaw-Knox Co	A. C. Lehman	33,500	36,000	24	22
Caterpillar Tractor Co	B. C. Heacock	32,066	28,800	25	19
Certain-teed Products Corporation	G. M. Brown	24,000	32,400	----------	----------
Cluett-Peabody & Co., Inc	C. R. Palmer	47,166	43,500	12	11
Coca-Cola Co	R. W. Woodruff	100,500	75,000	27	28
Crown-Zellerbach Corporation	L. Bloch	67,500	67,500	19	17
Curtiss-Wright Corporation	T. A. Morgan	25,560	25,000	25	24
Diamond Match Co	W. A. Fairburn	100,000	100,000	----------	----------
Distillers and Brewers Corporation	S. Ungeleider	37,500	----------	27	23
Eastman Kodak	F. W. Lovejoy	90,903	----------	----------	----------
Fairbanks, Morse & Co	R. H. Morse	62,500	58,500	24	22
General American Transportation Corporation	M. Epstein	60,000	60,000	----------	----------
Gillette Safety Razor Co	S. C. Stampleman	60,000	60,000	20	19
B. F. Goodrich Co	J. D. Tew	60,142	60,142	26	20
Goodyear Tire & Rubber Co	P. W. Litchfield	81,000	81,000	26	20
Grand Rapids Varnish Corporation	W. E. Brown	25,000	----------	21	20
W. T. Grant	B. A. Rowe	56,071	36,000	19	13
Great Western Sugar Co	W. D. Lippitt	53,363	50,000	15	13
Hercules Powder Co	R. H. Dunham	55,000	31,183	22	19
Hershey Chocolate Corporation	W. F. R. Murrie	91,550	66,550	16	15
Ingersoll-Rand	G. Doubleday	78,000	78,000	----------	----------
Inland Steel Co	L. E. Block	48,750	45,000	19	17
Interlake Iron Corporation	C. D. Caldwell	41,424	41,424	21	20
International Business Machines Corporation	T. J. Watson	[1] 365,358	60,000	25	25
Island Creek Coal Co	T. B. Davis	42,430	43,558	18	17
Jones & Laughlin Steel Corporation	G. G. Crawford	250,000	250,000	19	17
Lehigh Coal & Navigation Co	S. D. Warriner	39,700	----------	24	23
Libbey-Owens-Ford Glass Co	J. D. Biggers	40,000	36,000	19	18
Long-Bell Lumber	M. B. Nelson	14,250	14,250	14	13
Ludlum Steel Co	H. G. Batcheller	45,775	20,945	19	17
Marshall Field & Co	J. McKinley	60,000	60,000	19	18
Mid-Continent Petroleum Co	J. France	81,000	81,000	26	23
Midland Steel Products Co	E. J. Kulas	25,000	22,500	19	17
Mohawk Carpet Mills	A. W. Shuttleworth	50,000	50,000	18	16

[1] Includes other compensation.

[2] Plus stock bonus.

Name of company	Name of officer	His total compensation in 1934	His yearly salary in 1933	Approximate average weekly wage in same industry, December 1934	Approximate average weekly wage in same industry, December 1933
Montgomery Ward & Co., Inc.	S. L. Avery	$100,000	$100,000	$19	$18
National Cash Register Co.	E. A. Deeds	75,000	75,000	26	25
National Distillers Products Corporation	S. Porter	75,400	75,000	27	28
National Lead Co.	W. H. Croft	[1] 88,013	15,000	20	17
National Tea Co.	G. Rasmussen	60,000	60,000	19	18
New York Air Brake Co.	L. R. Burch	36,000	36,000		
New York Shipbuilding Corporation	J. F. Metten	31,000		23	21
Otis Elevator Co.	J. H. Van Alstyne	65,371	48,600	22	18
Otis Steel Co.	J. E. Montgomery	35,000	23,000	19	17
Owens-Illinois Glass Co.	W. E. Levis	100,000	100,000	19	18
Packard Motor Car Co.	A. MacCauley	40,329		25	19
Pan American Airways	J. T. Trippe	17,300	17,100		
Pan-American Petroleum Co.	L. Blaustein	65,250	65,000	26	25
Penick & Ford	A. W. H. Lenders	52,175	38,000	21	20
J. C. Penney Co.	J. C. Penney	42,133	10,000	19	18
Pennsylvania Power & Light Co.	J. S. Wise	27,639		29	23
Peoples Drug Co.	M. G. Gibbs	50,000	40,000	19	18
Pet Milk Co.	W. T. Nardin	50,456	36,000	13	
Phelps-Dodge Corporation	L. S. Cates	76,440	75,000	21	20
Philadelphia and Reading Coal & Iron Co.	A. J. Maloney	60,000	60,000	24	23
Phillips-Jones Corporation	A. S. Phillips	44,119	36,000	12	11
Pittsburgh Coal Co.	J. D. A. Morrow	[2] 34,128	24,772	24	23
Pullman, Inc.	D. A. Crawford	65,484		19	17
Radio Corporation of America	D. Sarnoff	52,330		27	26
Raybestos Manhattan	S. Simpson	39,825	39,600		
Real Silk Hosiery Mills, Inc.	G. A. Efroymson	25,000	25,000	16	14
Remington-Rand, Inc.	J. H. Rand, Jr.	94,120	60,000	26	25
R. J. Reynolds Tobacco Co.	S. Clay Williams	60,000	18,000	14	13
Schenley Distillers Corporation	Grover Whalen	78,186		27	28
Schulte Retail Stores Corporation	L. Goldvogel	30,300		19	18
Sears Roebuck & Co.	L. J. Rosenwald	85,139	61,363	19	18
Simmons Co.	G. G. Simmons	32,400	32,400		
Skelly Oil Co.	W. G. Skelly	48,000	48,000	26	26
Standard Oil of Indiana	E. G. Seubert	117,000		19	17
Standard Oil of Kansas	C. H. Wrightman	46,000	36,000	26	26
Stewart-Warner	J. E. Otis, Jr.	30,000	29,000	26	25
Studebaker Corporation	P. G. Hoffman	50,000		25	19
Tidewater Oil	W. F. Humphrey	[1] 60,000	18,000	26	26
United Aircraft Corporation	D. Brown	15,000	45,000		
United Biscuit Co. of America	K. F. MacLellan	36,000	10,200	21	21
United Drug Co.	L. K. Liggett	62,000		19	13
United States Industrial Alcohol	C. E. Adams	36,300	34,200	24	23
United States Rubber Co.	F. B. Davis	125,219		23	20
United States Smelting, Refining & Mining Co.	C. A. Hight	55,210	40,000	20	17
United States Tobacco Co.	J. M. De Voe	62,820	58,522	14	13
Vanadium Corporation of America	A. A. Corey, Jr.	42,535	30,000	20	18
Walworth Co.	H. Coonley	25,475	25,000	24	22
Warren Bros. Co.	C. R. Gow	16,000			
Westinghouse Electric & Manufacturing Co.	A. W. Robertson	78,805	75,181	22	18
Wheeling Steel Corporation	W. H. Holloway	44,486	27,945	19	17
Wright Aeronautical Corporation	G. W. Vaugh	23,424	20,256	25	24

[1] Includes other compensation.

[2] Plus stock bonus.

THE CONSTITUTION AND THE NEW DEAL

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered on July 13 by Gen. Hugh S. Johnson during a debate with Representative James W. Wadsworth, of New York, before the Ninth Annual Session Institute of Public Affairs at the University of Virginia on the subject of The Constitution and the New Deal.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We have no better statesman than Senator WADSWORTH. He has had my admiration for many years. On this partly partisan question of the new deal. I would ever remember that he selflessly stands for what he believes is best. But I would never forget that he is speaking from his tradition and his type—an aristocrat of the pure Hamiltonian strain and the very flower of the flock.

There are foundations—deep and old—for this controversy over the new deal. It goes back to a conflict of opinion at the very birth of our beginnings—a difference in the genius of the two foremost founders of this Nation. Even if its outward semblance often shifts from party to party, the basis of that difference has remained for a century and a half. It was not fundamentally a question of State rights or Federal power. That was only one aspect of the real underlying conflict which was simply and forever this: "Shall our political and economic policy be what the people want, or shall it be what some guiding group may think is best for them?"

Whether you call one side Federalists, Tories, or Republicans, and the other side anti-Federalists, Whigs, or Democrats—that difference remains—the difference between a disorganized mob and an organized appetite—the difference between run-of-the-mill humanity and its privileged crust—the difference between some approach to equality and a frankly designed unbalance.

There was logic for the old Bourbon formula in the days of our beginnings. Then, few but the wealthy were learned and so equipped to govern. America was a howling wilderness rich in raw resource but with scarcely a mill wheel turning. Wealth in great groups was needed quickly to develop and improve it. Thus—for both a political and an economic reason—there was much to be argued for this idea.

Of the underprivileged, it seemed sufficient to say: "Of the plenty which, by this policy, will rapidly appear, more will trickle down to the poor in a year, than they could expect in a decade of slower development under too pure a democracy."

There was a robust dissent to this doctrine of privilege, and this very ground upon which we stand was the pit from whence was digged its foremost champion, Thomas Jefferson. But this was the frank and outspoken policy of Alexander Hamilton. He acted upon it with vigor. It took its first form under his hand in the protective tariff, which was clearly recognized by the Constitutional Convention to be an outright device to subsidize the infant industries of the eight northern industrial States at the expense of the five southern agricultural States—an open and avowed policy of privilege, the design and the effect of which was to create a power of wealth in favored groups, in favored territorial sections, and in a favored industry against an exploited agriculture. It was conceded by the South as a sacrifice to build a nation. But it was a rule of social inequality, and it bore so heavily that in half a century its vast discrimination brought revolt, first in the South Carolina nullification, and eventually in civil war. That bloody struggle left triumphant the essential doctrine of unbalance, of great groupings of wealth, and of the subsidized industrialization of America. It carried us into the unspeakable era of reconstruction, when one-third of our country was exploited as a conquered province and the clock of its progress set back by half a hundred years. It brought an unparalleled era of corruption in both politics and business from the malodorous administration of Grant straight through the nineteenth century and beyond. Before we talk about the powers of government now being used unthriftily to help the poor we should remember the unchecked period of their prostitution from the Civil War to the late nineties for the magnification of the rich, and for that almost alone. Those were the days when the Government built the railroads and the favored grabbed them; when, under the guise of tariffs and the device of trusts and monopolies, our business baronies of unheard-of concentration of power and wealth had their foundations laid, and when, by dropping all barriers to immigration, we strove to create an industrial empire in export and domestic trade based on the products of imported and sweated labor.

The rollicking sea robbers of the High Barbary and the Spanish Main were just pikers compared to the pelf pilferers of this period, who ran riot on a scale so grand as to make merely a poor pirate blush like a peony.

The Congress and most State legislatures were keyboards on which the favored could play—as on a piano—almost any time their greed might fancy. Government was the tail to the dog of privilege run to rabies.

Nobody suffered very much, because in days of depression there was always a new horizon. The busted citizen could load his family and his belongings into a covered wagon and go to some new place for a new beginning. Land was cheap or free. There was some kind of market for everything. In that more primitive life, a family was not much good if it could not take care of itself in almost any surroundings. Even that way of escape from ruin was rugged individualism.

That period of legalized piracy was the era of pioneering. It was the hey-day of the rugged ones—whether a wolf of Wall Street, a Pittsburgh iron-monger, a copper king, a forty-niner, or the more homely conquerors of the great West—they were a breed that asked help of nobody and of God, approval only, and sometimes not even that. We needed that breed to build a nation.

Now all this is not to be too cavalierly condemned. It was exploitation in the grand manner, but it did people a continent, fashion the strongest industrial and commercial unit in history, and create the wealthiest and most powerful Nation on which the sun ever shone. Its champions point to this bright record of accomplishment and say it could not have been made on any other plan.

Perhaps that is right. But it is a tale that is told. The policy of privilege did some good, but it prepared great harm. Because it has become a pestilence, it had to be remodeled and the new deal did it.

At the turn of the century a new era began and lasted until the great depression. Industrialization, mechanization, and concentration were about to go to unheard of extremes. Even before 1900 this process had become so alarming that Congress began its futile antitrust legislation. It was just a gesture. In 1912 the old Bourbon rule was broken for a moment by the election of Wilson. He tried to make the gesture effective by the Federal Trade Commission and the Federal Reserve Board. It was not enough. They did not stop—they did not even check—the break-neck centripetal pace in which our vast corporations assumed their present stature, the field for industrial jobs was narrowed, agriculture was ruined, and small individual enterprises, in practically every line of human endeavor, were being snuffed out like candles at curfew in a sleepy town.

In the early part of that period there was, roughly, 1 small manufacturing enterprise to every 400 of our population. Toward the end of it there was 1 to 900, which was a reduction by more than half of that field for rugged individualism. In the same period million-dollar concerns more than doubled their piece of the whole business pie at the expense of little fellows. By increasing the use of automatic machines, industrial output per worker was almost doubled (85-percent increase), thus nearly cutting that field for individual effort in two. By 1929 the 200 largest corporations controlled about half of our total corporate wealth—rugged individualism was getting to be a joke.

The era of mergers began. In manufacture, commerce, and finance groupings of wealth and power, already of stupendous size, were rushed together to form new groupings of monstrous proportions—the collectivism of wealth, economic soviets for private gain, a communism of privilege which was rapidly threatening to control the very means of life of the whole population.

At the rate of concentration of control of all human effort and of the elimination of all small enterprise—including jobs—(before it was interrupted by the new deal), it is no exaggeration to say that it would have been a matter of only years until, with one exception, there would have been few, if any, people in this country not dependent upon some monster corporation for wages, salary, income, or pension, and not at their complete mercy in the question of price.

The exception would have been agriculture—which is the stepchild of the old Bourbon formula—and agriculture was rapidly rushing toward a status of pure peonage.

There cannot be honest argument that exactly this state of affairs was not both the purpose and effect of the same Tory policy that was first stated by Alexander Hamilton, that moved to victory at Appomattox, that degraded the South for a generation, plundered our natural resources, seized our facilities for transportation and power, and concentrated in great groups the substantial control of our manufacture, finance, and commerce.

There is no doubt that great benefits came from this system to a large part of our people for a good many years. Mass production enabled these great industrial and financial groupings to make large profits, but it also paid better wages, created a higher type of employment, and resulted in a magically low price for such facilities as automobiles, electrical equipment, and many of the necessities and luxuries of life.

These benefits are also a proper pride to those of the old Bourbon faith whenever the subject comes up for discussion. Some benefits did trickle through grasping fingers to the grass roots. But greed was greater than prudence. They did not have sense enough to let enough trickle to keep the system going. They rubbed out the individual opportunity of so many people and they concentrated so much of the produce of the plan they had created in so few hands and so few places that there were not enough consumers left to take the products of their plants.

The wreckage and the ruin of this hour are proof positive that we have come to the end of an area and that the old Bourbon formula of government of, by, and for the wise, the good, and the beneficent has got to be modified if our political and economic systems are to continue to exist. That modification is the new deal—but again that is ahead of our story.

The war found us just entering a third stage in the industrialization and mechanization and concentration of this country. In early 1914 the red flags of warning were already flying over the system. Prosperity was lagging for lack of customers with the power to buy, when suddenly, in Europe, there appeared the most demanding customer this country ever served—war, whose capacious maw takes all that farms and factories can produce at any price and cries for more.

Every factory went into high speed. The index of all prices went up to about 260 percent of the pre-war level. After we got into the war and withdrew altogether nearly 7,000,000 individuals for military or auxiliary service there was an overwhelming demand for labor which increased the total of wages to astronomical figures. The prices of farm products might have gone to unprecedented levels if, after our entry into the war, Mr. Hoover had not, contrary to the specific promise of the administration, held them down by the unauthorized and illegal use of the sanctions of the Lever Act.

Despite the short depression of 1921 and 1922, the seeds of a vast future prosperity for the United States had been sown, but with those seeds were also sown the tares and thistles of future grief.

Industry in the war had learned the lesson of cooperation. Under war legislation we had literally reorganized our economic structure, eliminated waste, and integrated production within separate areas, but, above all, industrial management had learned the lesson of higher wages.

It is literally true that the dissemination of purchasing power among farmers and wage earners due to a practical revolution of the theory of wages and fair farm prices increased the post-war consuming power of the domestic market for industrial products by more than 40 percent in a period of a few years.

Therein lies the secret of our future. Our task is to enrich this domestic market of ours for the products of farms and factories. The way to do that is not concentration of opportunity but distribution of opportunities. Open the fields for small individual enterprise; stop wiping them out; raise wages; shorten hours; see to it that we have neither favored nor underprivileged classes. Cease our idolatry for mere bigness and restore our agriculture to parity with industry.

That is the new deal. If we can only do that, we shall see the greatest prosperity this country has ever known.

Although the war period must be acknowledged as abortive, at least it was one of those rare eras in our history since the Civil War when the organized appetite of the old Bourbon aristocracy of wealth had passed out of power and the disorganized mob of the democracy was piloting the ship of state. The 12 years of the return of the Bourbons, when Woodrow Wilson surrendered his stewardship to Warren Gamaliel Harding, are worthy of remark.

At the beginning of that period the gold of the world was in our vaults or destined to them. From the position of the greatest debtor in the world we had moved to the front as the greatest creditor in creation. To replace the submarine sinkings, which at one time threatened to wipe the British mercantile fleet out of existence, we had increased our shipbuilding capacity 10 times in 10 months, until it was the greatest in the world, and for the first time since the destruction of the American merchant marine in the Civil War ocean commerce under the Stars and Stripes had advanced to the foremost position on the seven seas.

We had financed and fought a world conflict without scandal, fraud, or politics, an unparalleled record in war government. Our machinery for production was intact and the starved demand of a shattered world reached out to it.

The gallantry of our soldiers and the devotion of our people bespoke the spirit of a great crusade. We were still looked upon as the saviors of allied victory. We alone had come to the peace conference "with malice toward none and charity for all." We stood at such a peak of economic strength, of domestic righteousness, and of international leadership as had never been occupied by any nation. That was the contribution of the same philosophy of the new deal to the science of government in America. With this shining heritage, the material and spiritual fate of this country, and of the whole world, passed back under the Bourbon yoke in 1921.

Let us smother our distaste and review hastily the sordid chain of immediate events—the breach of highest public trust in naval oil reserves, in funds for crippled veterans, and custody of alien property. Induced by examples of notorious corruption in the shadow of the Capitol, a fog of civic evil seemed to rise throughout the land. In 2 years it had stifled the clear moral atmosphere of the war period and smirched our high repute. Government was at once in contact with all that is worst in big business, and indeed with all that is worst in our national life. From that contact sprang a brood of bad beginnings. Politically planned by Bourbon leadership to "give the wets their liquor and the drys their law", the new organization for prohibition enforcement now came to corrupt public office, to debase Federal courts, to degrade all law, to destroy most of the great guaranties of our Bill of Rights, and to create fierce popular dissension which flared forth in 1928 in response to furtive acts of campaign management which stirred up shameful bigotry and intolerance throughout the country.

It gave our language and our people new and hateful words and institutions—"racketeering", "hi-jacking", "bootlegging", and systematized murder. These new practices financed and created

a vast undercover criminal organization which affronted our whole country with its audacity and power and remained until, under the new deal, it has been driven like the Gadarene swine of evil spirits down the precipice to destruction. We shall never know whether effective enforcement was ever possible. We can only be certain what dead-sea fruits it bore in the ruin of an "experiment noble in motive" at the hands of experimenters noble in nothing.

Within 2 years whatever of honor and faith and sure intent our Government had assumed had been smirched and tattered beyond recognition.

In the field of economics, released from the scrutiny of any eye watching over the public interest, and the restraint of any hand imposed for the public good, old tendencies of rapacity, ravishment, and greed came back in tenfold strength in banking, in the stock and commodity markets, and in the whole field of industry and commerce.

Men played for high stakes with other people's money, gambling at fearful odds and seemingly in no sense of fiduciary responsibility whatever. Pity was piffle, greed was a virtue, and business honor was little more than a word in a schoolboy's copy book.

With the savings of the people so freely to be used and with so little account ability under the law, money was available in boundless floods to speed up the scarcely arrested concentration of industrialization, mechanization, and monopoly of great groupings in every field of human effort.

Anticipating a never-ending flow of this easy magic of fake prosperity, the facilities for production by monstrous corporate groupings were multiplied beyond any possibility of normal use. Miraculous profits were created on a constantly increasing inflation of both production and demand, financed by the mortgaging, first, of every element of value in the country—next, of every prospect of increased value—and finally, of every future hope.

It was a Bourbon paradise, the all-time high of the Hamiltonian dream, but it was rotten to its very core.

It had proceeded with the degradation of agriculture to a point where farm buying power was rapidly approaching the vanishing point and this traced squarely back to the very foundation stone of the original Bourbon policy.

It had substituted machines for men at such a destructive rate that, at the height of that fake fantasy of prosperity, there were no less than 3,000,000 employables without jobs.

It had permitted such an extravagant concentration of the profits of a vast production—in the hands of a wealthy few, in swollen corporate surpluses, and above all, in a vast multiplication of all facilities for production and luxurious living—that there was not enough left to keep distributed among the more than 100,000,000 producers the means whereby to consume and enjoy the things they produced. While it created a Frankenstein of productive facility, by that very act it literally strangled and destroyed the domestic market on which alone that producing monster could continue to survive.

By pressing too hard and too rapidly its self-created powers and privileges, the old Hamiltonian theory had become the author of its own destruction.

In 1928 all this was still within the limits of control, but signs of approaching madness were everywhere apparent. We should not forget that summer. It was a season of high-pressure selling, lavish spending, headlong increment of debt—a heyday of promoters, sloganeers, and mushroom fortunes, a time of opportunism, persistence in any course, however unsound, if, for the moment, it promised to get by. Into this feverish atmosphere was launched the 1928 campaign. But in the cool detachment of a Dakota camp, a canny little New England President had typed on slender slips of paper, "I do not choose to run."

The successful candidate could see the dangers clearly, and he stated them obscurely. At Boston, toward the close of his campaign, Herbert Hoover warned the industry of this country that its productive capacity had far outrun any possible power of the domestic market to consume.

Standing there he wrote his prescription for the people, in which he said he saw no disaster, because by continuing our policy of lending billions to backward and crippled countries we could abolish poverty by capturing the markets of the world and selling all that we could produce regardless of the exhausted capacity of our people to consume.

At that very moment the fat was in the fire. The storm that rumbled threats through the next 12 months had been brewing for 25 years. It was the old deal, the climax of the ancient Bourbon philosophy, in a complete concentration of wealth, producing power and arbitrary control of all economic forces in the hands of too few people for the purpose of private gain.

The dizzy dream of the abolition of poverty did not come to an abrupt end. During the year following the election every device was used to postpone the evil day. The zigzag curve of the stock market became the chart of the Ship of State. Whenever it showed any sign of lagging some act of the Government or some word of an official was used to spur it upward. This country will never forget the speculative frenzy of early 1929.

The "great engineer" had a rapidly running bear by the tail. He could not turn it loose. If he allowed it to slow down, it would eat him up. The only thing he could do was to punch it in the rump to make it run faster, and this he did with all the governmental power at his command.

The crash of 1929 was inevitable. The culmination of Bourbon policies had left this country defenseless against collapse. The people had nothing with which to resist. They had only an overwhelming burden of debt. The banks in which their savings were held had devoted them to destruction. There was no help in agriculture, because it, too, was ruined. There was no buying power among workers to sustain production, because everything they had accumulated was swept away.

The most tragic effect of Bourbon bigness and industrialization was suddenly revealed. These great industrial monsters which had become the source of 70 percent of all factory employment had specialized our people. They had become cogs in a machine. When the machine flew apart, they were just scrap metal.

No longer was the trail to the West an open road to high adventure. There was no more free cheap land; and if there had been, these people would have starved to death upon it. The tragedy of unemployment could no longer be avoided by referring these specialists to their rugged individualism. The old Bourbon plan had plowed that under. There is little individualism left for natural persons. The only individualism now is the ruggedness of vast corporate groups. They howl against collectivism, but they have created collectivism on a scale which even Karl Marx never dreamed, and left it on our doorstep.

The struggle is not overcollectivism but overcontrol of collectivism. Shall the masters of these great groups control it for their private gain as Alexander Hamilton proposed, or shall the people retain the last word in the economic government of their daily lives? That is the essential question of the new deal.

The full depth of the collapse of 1929 was not known until March 1933. The record of that catastrophe is too recent to recount. Every bank in the country had to be closed. Agriculture was completely prostrate. The buying power of factory pay rolls was literally at the lowest point in this century and relatively at the lowest point in our history. In desperate competition for the small remaining business, wages had been cut so far and hours extended so long that, at its worst, unemployment was probably not less than 15,000,000 people. Failures of small business enterprise mounted to fantastic heights. Only the strong survived. It is no exaggeration to say that in that terrible month of March 75 percent of our people could not look forward to the summer with any confidence that they would have a roof over their head or food for their bodies.

The great leaders of industry simply abdicated. I know, because I was in the midst of it. The cry was "All is lost save honor." They flocked to Washington with every kind of proposal for the new administration to step in and save them. Not the least extreme of these was the prayer of the president of the United States Chamber of Commerce that industry be turned over to the President of the United States with practically dictatorial powers.

For N. R. A., the leading industries of this country stood on the doorstep of Government and begged for it, or for something much more drastic. Respecting A. A. A., there was no opposition worth the name. It is true that some lobbying associations of industry sought changes in the drafts of bills to mold them nearer to their heart's desire. In the main, N. R. A. had the approval of industry in all except one troublesome clause affecting labor. What is now said of these recovery measures? Let me quote from the press some words attributed to a "chairman" here: "Arbitrary political action in defiance of economic science and the advice of competent authority * * * forced upon the country in violation of individual rights."

The author of those words either does not know what he is talking about or he would not recognize the Goddess of Truth if he saw her stalking naked through the streets. As far as N. R. A. is concerned, his general indictment, "hastily drawn, arbitrarily passed, and all of which has discouraged enterprise and retarded recovery", is another unconscionable—well, it is subject to the same remark.

N. R. A. was based on a plan first proposed in December 1918 on the experience of the War Industries Board, and thoroughly and completely discussed at frequent intervals throughout all the intervening years. The National Recovery Act, in both its titles, had been studied, charted, and projected for nearly a year. Title II of that act, which was the only part of it that was intended to cost the Government any great sum, was a project for public works based on a policy proposed—among many others—by the great engineer himself and a very important group of economists—if economists are ever very important—which principle has been adopted by practically every great nation during the world depression.

It said that N. R. A. was coercive. That is not the truth. On the call of the President within 4 months after the law had passed more than 95 percent of employers who were affected by the act had voluntarily signed the President's reemployment agreement and by actual census count created 2,785,000 jobs. If ever in this country there was a spontaneous, voluntary effort at Nation-wide cooperation that was it, and if it was attended by any element of coercion or violation of individual rights I have never heard asserted what it was. There was not a code in the category that was imposed.

N. R. A. is for the moment gone, but there is not an industry—surely there are few little fellows in business and certainly there is no worker in America—who would not go back to it tomorrow if they could have their way. It has been said that N. R. A. increased prices. That is a stark untruth. From the moment it had effect the N. R. A. group of prices leveled off and have been the most stable of any in the whole price structure. It is said that N. R. A. retarded recovery by reducing real wages. That is equally untrue. From the lowest point of the century N. R. A. increased real wages by 30 percent back to the 1910 level.

It is charged that N. R. A. hurt the little fellow. That is an equal libel. From the highest relative rate in history failures of small business dropped under N. R. A. to the lowest relative point in history—lower even than during the fantasy of fake prosperity. This

same critic before you, after deploring "the tone of partisan prejudice and preconceived judgment on both sides", opened his mouth and let out of him the following diatribe on the new deal, "unscientific, wasteful, extravagant, tainted with political motive, hastily drawn, and arbitrarily passed."

As an economist he says, "* * * I reject and condemn the entire recovery program as unsound in principle, impractical in operation, and harmful in result." There, I submit, you have one of the most impartial, unprejudiced, finely reasoned, logical, and incontrovertible dissertations that have recently fallen from lips of men.

I come to you from a new job that has to do with the destitution, utter and complete, of about one and one-half million human beings in the city of New York.

We are employing there in a professional and administrative capacity all kind of executive and professional people who have seen better days, whose duty it is to plan the further employment of people of all walks of life, all at wages barely sufficient to keep out hunger, thirst, and cold. I see these people daily, talk to them, and receive letters from them by the thousands. They constitute about 20 percent of the population of our greatest and richest city.

You go home after a day of that utterly sunk. I have had jobs, big and little, in my life—as wide a variety as any man I know—but none I ever had remotely compares in its power to take the heart out of you, with this daily immersion in the despairing grief, destitution, and growing hopelessness of more than a million people. Their chief remaining comfort is that the new deal pledges that no one will be allowed to starve or freeze. My God! think of that as a limit for the bright promise of this land of ours. There are 20,000,000 people in that slough of despond in this country.

I know something about the agricultural problem, too. On trips through a large part of the Nation I have made it my business to ride out in the country and talk to farmers on farms.

Before the new deal came they were nearly as hopeless there. It is an even greater tragedy for a farmer to lose his farm than for a worker to lose his job. It is his home, his chosen way of life, sometimes the tomb of his ancestors, and always it is of the very clay with which he was compounded. The new deal has saved agriculture.

In every walk of life the rise from that day of wrath in March 1933, when the President moved in like a rescuer, seized the banks, and preserved all that was left of savings from destruction, has been tremendous. When I remember the blackness of that moment in everybody's heart and mind, I wonder if any man in history ever salvaged so much of hope and courage or did so much to open the road to happiness to so many millions of desperate people.

With such thoughts in my mind, I read again what this patronizing critic says: "As an economist, I reject and condemn the entire recovery program as unsound in principle, impractical in operation, and harmful in result."

Not as a person, but as a type of condescending professor become pedant through years of academic wisecracking down from a dais to immature minds, I should like to take that economist by the scruff of the neck and baptize him three times daily in this pool of misery, this sea of despair, this ocean of hopelessness from which I have just come. Perhaps—though I doubt it—he would not be so glib in rejecting or even condemning the entire recovery program, either "as an economist" or as anything else. I doubt it because I note that he otherwise speaks as a "citizen who urgently prays for an end of the distress and privation of our people."

It is one thing urgently to pray for other people and it is another thing to spit in your hands, roll up your sleeves, and get down to doing something about it.

Perhaps if, "as an economist", he had stood in Washington in March 1933, when the whole economic structure of the Nation was tottering, and this distress of which I speak was 10 times more poignant and acute than it is now, and the great captains of industry became skulking corporals for the nonce, crying for Government to bail them out, he might then also have said that "as an economist" he rejected and condemned everything that was proposed or done; but I doubt that, too, because if he had said that, some of those industrial breast beaters would have bent a short section of lead gas pipe over the base of his medulla oblongata and dumped him into the Potomac River.

It makes me sick to hear a lot of people who in no crisis at any time ever did anything but talk now stand sneering at the work of other men's hands in the relief of the suffering of millions of human beings, and with professorial ponderosity assert that they, as economists, reject and condemn it as unsound in principle and all the rest of that pseudo-scientific tosh.

I would not have the nerve to stand here and try to defend the whole of the new deal. There is a lot of it in which I do not believe. I have stated quite frankly the grounds of my disbelief. I have criticized where I thought that the criticism was constructive. Like every other kibitzing commentator, I have advanced my own plans as better than some of the plans that were put into execution. It is a peculiarly American privilege to pan and to plan, and I claim the rights of my heritage.

But that is not the point. The point is that at the most dangerous crisis in our history, responsibility was bravely taken. Something was done and promptly done. The point is that nobody has gone hungry, or cold, or with any feeling that at the last extremity there is not some help. The point is that there has been no blood flowing in the streets, no riots against the peace of the community, no uprising against constitutional authority, notwithstanding that the policy of the old Bourbons, sustained under that Constitution, had left this country in such wreck and ruin that no less than 1 out of 5 of us in this good day, in the sixth year of the same thing, does not for certain know where his next meal is coming from and is still deprived of the sorry right of every man to live under the curse of Adam—"In the sweat of thy face shalt thou eat bread."

So much for the purely emergency aspects of the new deal. They were necessary. They did the trick. They might have been done better, but that hindsight criticism is a contemptible reason for now asserting that they ought not to have been done at all.

The relief of suffering is costing this Nation five billions a year, and with my own eyes I have seen how pitifully little that is when spread over 22,000,000 sufferers—about 30 cents a day to keep a human being alive. It is a shocking thing—wasteful, extravagant, unsound in principle, and tainted with political motive.

Well, suppose you tried to cut it off. The Bourbons wouldn't dare, and this cost of mopping up their mess is not one tithe of the cost of the mess itself. Five billion dollars in a year. Why, in a few days in 1929 forty billions of value, more than the whole cost of the war, vanished like a drop of water on a red-hot stove. A treasure equal to the value of the British Isles was wiped out in a year. National income was cut by their blundering by no less than $40,000,000,000 every year, and national wealth by $200,000,000,000—and they talk about $5,000,000,000 a year to keep the 22,000,000 victims of their blundering from stark starvation.

Another thing, the billions spent by the organized mob of democracy during the war were handled without one hint of graft peculation or even political advantage, and these multiplied billions are as free from those taints. But you never heard of Bourbon millions trickling through without somewhere, somehow a canny result in political advantage and not a little greasing of outstretched palms.

The so-called "reform measures" are a somewhat different matter—but to say that they should be deferred or omitted is to miss the whole point of the last two elections.

The people elected Franklin Roosevelt in 1932 under an overwhelming mandate to reverse the Bourbon policies of his predecessors. In 1934, with an even greater unanimity, they endorsed what he had done and they demanded that he continue.

In his campaign he laid down a program as clearly as words could state it. The basis of that program was, at every point of application, the essential philosophy of Thomas Jefferson as opposed to the essential philosophy of Alexander Hamilton. He was going to reverse those principles of government which had resulted in too much concentration of wealth, industrial and commercial power, and monopoly control of productive facilities. He was to attempt not so much to level down the peaks in our saw-tooth economic structure as to raise the valleys. He promised to bring a better day to the depressed segments of our population—to elevate agriculture from its quarter century of degradation; to wipe out, and, for the future, prevent, those extortionate abuses we all know existed in banking and in the stock and commodity exchanges. He proposed to see to it that the power of a few over the rights of the many to enjoy the products of their own labors should be lessened. He undertook to reverse the idea of government concentrated solely in the hands of the good, the just, and the beneficent. He promised to break the grip of privilege on public utilities. He repudiated the theory that it is better for all that the benefits of the country strain through a few funnels before they get to the grass roots, and he swore to substitute for that old Bourbon fallacy, the original doctrine of Thomas Jefferson, that it is in the direct and equal spread of individual opportunity that the strength of a nation lies. There is absolutely nothing new in this conflict of the fundamentals of the new deal with the Hamiltonian doctrines, whose history I have briefly outlined, to the point of their extreme application and partial ruin of this country under a succession of Presidents from the Hero of Appomattox to the Great Engineer. In spite of all the recent turmoil, he is a fool who indulges in the belief that by a sophistry the people of this country can be persuaded back to the principles of Hooverism, which are just the Hamiltonian principles running riot.

Who is it that complained of N. R. A.? Not the 20,000,000 workers affected or the millions of little fellows whom it saved from the rapacity of monopolies and chains. Who howls about A. A. A.—not the 40 percent of our population which is rural? Who objects to the regulation of banking and the exchanges? Not the tens of millions of consumers. Who groans under the security legislation? Not the 85 percent of us who dread old age as a period of dependency. And of all these things, little do consumers as a class complain.

Those are the essentials of the new deal, and who is it that stands in opposition? Why, those who sit at the receipt of customs. Small privileged groups of wealth and power, the beneficiaries of Boubonism, the architects of our ruin, and the authors of all this distress. It is they whose paid propaganda has been so successful that we are actually here in a serious round-table discussion exactly as though there were anything of merit to discuss.

I will amend that—there is something to discuss; but it is not fundamental to the new deal. I thoroughly agree that there is going to be no appreciable return to prosperity, employment, and tranquility of mind in this country until business returns to a more normal pace. It seems very clear to me that no amount of Government spending can make an appreciable contribution to a permanent solution of unemployment or to any revival of business. I concur with the critics of the new deal that the constant threat to any kind of economic adventure for profit is retarding recovery. I pray as earnestly as any for a definition of plan and a cessation of new magic.

I am as firmly convinced as they that the fiscal policy of the United States must—at all events and immediately—be headed back toward the promise of our platform and the performance of early 1933—a balance between revenue and expenditure, and that income taxation should be based on a rule of maximum revenue and diminishing returns rather than on any social theory. I am aware that until the threat of monetary inflation by way of the printing presses is absolutely abolished, there can be no sound recovery. I know by personal experience that there is not sufficient coordination of the rapidly expanding activities of government and I hope as eagerly as any for the cessation of experimentation.

These ends I believe can be attained without the slightest impairment of the fundamental aims announced in the Democratic platform or the preelection promises of the President. Those promises, if carried out as here discussed, would not retard prosperity. By a vast enrichment of a balanced domestic market it would give us such prosperity as we have never known. Ninety percent of those promises have been fulfilled or are in process of fulfillment. Some of the departures from them were absolutely forced by circumstance. Others—it might as well frankly be admitted—were mistakes.

As to this penumbra of evils—this froth of errors—while I concede that it is still offsetting benefits from new-deal fundamentals, it is not, I take it, the main subject which you are here to discuss.

The great question for this conference and for the country is whether, having soon proved by the greatest economic catastrophe in history, the fallacy of the old Bourbon doctrine in its application to this new age, we are going to continue in the direction of a better balanced economy, under the general principles of the new deal or whether—because we have become impatient over the lack of any easy magic to end our present distress—we propose to return to the cause of that catastrophe and merit the cynical comment of Proverbs, "As a dog returneth to his vomit, so a fool returneth to his folly."

That I think we shall never do.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. McNARY. Mr. President, yesterday evening I objected to a proposal for a limitation on debate offered by the Senator from Arkansas [Mr. ROBINSON] because I desired further to study the matter. At this time I am willing to enter into the proposal which was made yesterday afternoon.

Mr. ROBINSON. I thank the Senator from Oregon. Then, Mr. President, I ask unanimous consent that hereafter debate be limited so that no Senator may speak more than once or longer than 30 minutes on the bill, or longer than 15 minutes on any amendment.

This is a slight modification of the request which I made yesterday, in that it is now proposed, while limiting the time of any Senator to 15 minutes on an amendment, to permit him to have a division of that time. I make the modification at the request of Senators on the other side of the Chamber.

Mr. McNARY. Mr. President, I am very glad the modification has been suggested. When I objected yesterday to the proposal for a limitation of debate, the Senator from Idaho made the suggestion which is now covered by the request of the Senator from Arkansas. I think the modification will clearly meet the views of the Senator from Idaho.

The VICE PRESIDENT. The Chair understands the request of the Senator from Arkansas to be that each Senator may have 15 minutes on an amendment and that the 15 minutes may be divided?

Mr. ROBINSON. I think it had better be stated the other way, namely, that each Senator shall have 30 minutes on the bill and 15 minutes on any amendment.

The VICE PRESIDENT. And only one speech?

Mr. ROBINSON. No.

The VICE PRESIDENT. That is the point the Chair did not understand.

Mr. ROBINSON. I tried to make plain that as to the bill there would be only one speech, but as to amendments each Senator may divide his time if he chooses to do so.

The VICE PRESIDENT. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

The clerk will state the next amendment passed over.

The next amendment passed over was, on page 38, line 1, to insert the following new paragraph:

"SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND BARLEY

"(5) If at any time prior to December 31, 1937, any tax with respect to flaxseed or barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. The provisions of section 16 of this title shall not apply in the case of flaxseed and barley.

Mr. COPELAND obtained the floor.

Mr. JOHNSON. Mr. President, will the Senator yield for a suggestion?

Mr. COPELAND. Certainly.

Mr. JOHNSON. I assume the Senator is going to attack this particular amendment. I have an amendment to the amendment which I desire to present, and I think the Senator from Minnesota [Mr. SHIPSTEAD] has an amendment which he desires to offer. Would it not be well to perfect the amendment before we enter into the argument in regard to the amendment itself?

Mr. COPELAND. Very well. I shall not take the floor at this time under the circumstances.

Mr. JOHNSON. Mr. President, to the committee amendment I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. In the committee amendment it is proposed, on page 38, after line 13, to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

Mr. KING. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah desire to discuss the amendment of the Senator from California?

Mr. KING. I desire to ask the Senator from California what is the purpose of the amendment?

Mr. JOHNSON. The design of the amendment primarily is to permit those States which have not what is termed by the Agricultural Department a history of 10 years in respect to the benefits which may be allotted, to participate in reality in those benefits for such flaxseed as they may have cultivated or raised. It is to put on a parity the States which would now be denied any participation in the benefits to be derived under the amendment with those which have a longer history of flaxseed production. If the Senator wishes the statistics, I can give them.

Mr. KING. No. If I understand the amendment, as I think I now do, it rather is an expansion than a limitation. It is rather a protection to the flaxseed producers who in the past have not produced this crop, rather than an inhibition against them.

Mr. JOHNSON. Yes.

Mr. KING. It is not intended to legalize any efforts heretofore made by the Department of Agriculture with respect to the control of flaxseed production or the limitation of prices or anything of that kind.

Mr. JOHNSON. No. For instance, the design is, in States where flaxseed has been raised for a period of 2 or 3 or 4 years, to give them the benefits of the amendment as well as States where flaxseed has been raised for 10 years, the 10-year limitation being the one which is now used by the Department of Agriculture.

Mr. KING. I am in sympathy with the amendment, but should be glad to see the whole procedure eliminated.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from California to the amendment reported by the committee.

Mr. NYE. Mr. President, I wonder if the Senator from California would be willing to withhold his amendment until

my colleague [Mr. FRAZIER] reaches the Chamber? He is now on his way here and desires to say something with reference to the amendment.

Mr. JOHNSON. I am willing to do so, of course. I submitted the amendment to the Senator from Minnesota [Mr. SHIPSTEAD]. I was under the impression I had submitted it to the Senator from North Dakota [Mr. FRAZIER], although I may not have done so.

Mr. NYE. My thought is that under the amendment which the Senator from California has offered, the way is broken for a larger production of flaxseed than during the limited years when the plan has been operative as to flax.

Mr. JOHNSON. I think that is undoubtedly true.

Mr. NYE. I am sure my colleague is prepared to speak upon the amendment and that he will desire to be heard. I hope the Senator will withhold his amendment for the time being.

Mr. JOHNSON. Of course, if it is requested, I shall give the opportunity to any Senator to present such argument as he may desire.

Mr. McNARY. Mr. President, will the clerk be good enough to state the amendment again? I did not understand it clearly when it was first read.

The VICE PRESIDENT. The clerk will again state the amendment.

The LEGISLATIVE CLERK. It is proposed on page 38, line 13, to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

Mr. McNARY. It would appear to me that the major design of the amendment is to grant benefits up to the point where there is a surplus produced in this country and that thereafter the amendment shall not be operative. Is that correct?

Mr. JOHNSON. Yes; that is correct.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from California to the amendment reported by the committee.

Mr. JOHNSON. I agreed to withhold the amendment until the Senator from North Dakota [Mr. FRAZIER] may reach the Chamber.

The VICE PRESIDENT. Very well. The amendment is temporarily withheld.

Mr. SHIPSTEAD. Mr. President, I offer an amendment to the committee amendment, which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment offered by the Senator from Minnesota to the amendment reported by the committee.

The LEGISLATIVE CLERK. In the committee amendment it is proposed, on page 38, line 13, after the word "barley", to insert the following:

In the case of flaxseed the first marketing year shall be considered to be the period commencing October 1, 1935, and ending April 30, 1936. Subsequent marketing years shall commence on May 1 and end on April 30 of the succeeding year.

There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to flaxseed) (a) a processing tax on the first domestic processing of perilla seed at the rate equal to the per pound rate of the processing tax which is then in effect on flaxseed, and (b) a processing tax on the first domestic processing of hempseed at the rate of 84 percent of the per-pound rate of the processing tax which is then in effect on flaxseed.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee.

Mr. McNARY. Mr. President, from the reading of the amendment I do not understand it. Probably I would not anyway. I wish the Senator from Minnesota would explain definitely what he seeks to accomplish.

Mr. SHIPSTEAD. Mr. President, as I understand the bill, its purpose is to give a parity price to American agricultural products and to make the parity effective. That is the only reason I can find for supporting any part of the bill—to make the American farmer a part of the economic system placed upon us by the high tariff. I did not vote for the Hawley-Smoot tariff, but if that is to be the policy—and it is the policy—the only excuse I can find for the bill is to put the farmer within the tariff system.

The parity price of flax is $2.25 a bushel. We import 70 percent of the material for which flaxseed is used. The price of flax is $1.52, while the parity price the farmer ought to receive is $2.25.

The competitors of flaxseed, from which linseed oil is made, are particularly perilla oil and hempseed oil, imported products, which are admitted free of duty. Imports from 1930 to 1935 of perilla oil and seed have increased from 8,750,000 pounds to 34,800,000 pounds, something like 500 percent. The importation of hempseed oil, another competitor which comes in free and is sold against the American farmers' production of flaxseed, has increased 1,200 percent. The reason why the tariff on flax is not effective is because of the competition of these products which come in free. The amendment of the committee is worthless without the adoption of this perfecting amendment proposing to put a compensatory tax on the competitors of flaxseed and linseed oil, just as a compensatory tax is placed upon the competitors of soybeans and the other products which are included in this bill.

Mr. KING. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. Yes; I yield.

Mr. KING. The Senator undoubtedly is aware of the fact that linseed oil is indispensable in the manufacture of paints, and paints are indispensable to farmers. They must paint their houses and their barns.

Mr. SHIPSTEAD. Yes.

Mr. KING. It is an indispensable commodity in their economic life. Perilla oil is used extensively, as I recall, in the dressing and protection of various forms of leather used in the manufacture of shoes and boots, and so forth; and the other oils to which the Senator has referred, and which are coming into the United States, are used extensively in the manufacture of various commodities which enter into the lives not only of the farmers but of all classes of people.

If the amendment which the Senator has offered shall prevail, obviously it will materially increase the price of linseed oil, to the disadvantage of the farmers and the disadvantage of those who are now seeking, under the great housing drive, to build homes and to improve their homes. It will materially increase the price of leather to those who manufacture harnesses and shoes and all forms of leather goods, so that the prices to the American people will be substantially increased by reason of the adoption of this amendment.

Personally, if we are to enact legislation of this character, I should prefer to vote a direct subsidy to flaxseed producers and thus save the American people millions of dollars in the form of increased prices which would result from the triumph of the plan suggested by the able Senator from Minnesota.

Mr. SHIPSTEAD. I am glad to have the Senator's views. I have been familiar with his views for some time. However, both the Republican Party and the Democratic Party as such put over the Smoot-Hawley tariff bill. The argument which the Senator advances against the increase in cost of paint is well taken. That is the argument always used in arguing against the tariff.

I do not find people feeling sorry for the farmers who have to pay high prices for machinery because of the tariff on steel, and the additional tariff in the way of increased railroad transportation they have to pay. It is part of the system.

Here is a commodity which the American farmer raises. He desires, in self-defense, to get within the system under which he has been suffering ever since the Civil War; and I expect Senators who hold different views from those I entertain to be as consistent as I am. I make no apologies for putting the farmer into the system which has been forced upon him.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from North Carolina?

Mr. SHIPSTEAD. I do.

Mr. BAILEY. I wish to propound an inquiry to the Senator. I share his view that since industry enjoys protection, and the farmer does not, he is entitled to compensation in order to equalize his economic situation.

The Senator has taken the view that the processing-tax is in the nature of a protective-tariff tax, has he not?

Mr. SHIPSTEAD. Indirectly, I should consider it so.

Mr. BAILEY. Let us see if it is indirectly or directly. The processing tax is a tax on the produce of the farmers of America.

Mr. SHIPSTEAD. Yes.

Mr. BAILEY. A tariff tax is a tax on the produce of the foreigner sold over here.

Mr. SHIPSTEAD. That is true.

Mr. BAILEY. I should like to have the Senator reconcile his statements in view of that fact.

Mr. SHIPSTEAD. It is a tax on what?

Mr. BAILEY. The protective tariff is a tax on the product of the foreigner, on goods sold here.

Mr. SHIPSTEAD. Yes; for the protection of the American industrialist.

Mr. BAILEY. Yes. The processing tax is a tax on the product of the American farmer.

Mr. SHIPSTEAD. Yes.

Mr. BAILEY. Wherein is there any analogy whatever between the protective-tariff tax and the processing tax? That is my question.

Mr. SHIPSTEAD. Because both are a tax on the consumer, and the consumer pays both. The objective in one case is achieved in one manner, and in the other case it is achieved in another manner. The objective of getting a better price for articles of domestic manufacture is achieved by taxing imports, but paid by consumer in higher prices. The objective of getting a better price for farm products is achieved by a tax upon the consumer for the benefit of the American producer.

Mr. BAILEY. Upon the domestic product; and it is not necessarily a tax upon the consumer. It may be a tax upon the produce of the farmer. It may be passed forward, and it may be passed backward. Is not that true?

Mr. SHIPSTEAD. Of course, that may be true. I do not care to argue that matter with the Senator. When the original Agricultural Adjustment Act was passed, it was decided by the Senate that the tax would be passed on to the consumer, just as the protective tariff tax is passed on to the consumer. So far as I can see, that was the only excuse for the legislation. This is only an incident in the legislation; and I hold that it is absolutely consistent with the legislation originally passed, and with the amendments which are proposed.

Mr. BAILEY. Certainly the protective tariff enables the American to sell his product in America as against the foreign competitor.

Mr. SHIPSTEAD. At a higher price.

Mr. BAILEY. Is there anything in this measure which will enable the American producer to sell his goods in America by way of protection as against any foreign competition? Is it not more proper to say that this is a bounty derived from the processing of the farmer's goods and returned to the farmer at the expense of the consumer, if possible? There is a question as to how, and how long, and under what circumstances it can be done; but is there an analogy? In other words does the processing tax in any way justify a protective tariff?

Mr. SHIPSTEAD. That is altogether another question. I hold that the processing tax and the benefit payments are a bounty to the American farmer in the same sense that the protective tariff is a bounty to the American industrialist. If we are going to have parity—and an essential of government is equality before the law—if we pass a law giving bounty to the American industrialist we must give a bounty to the American producer of the raw material, the food which feeds the people who work for the industrialist.

The farmer has fed this country for less than the cost of production. He has been exploited. Here is a product among many others which he has been forced to produce for less than cost of production and for less than a parity price; and if the rest of the legislation is justified, this is justified. If the protective tariff is justified, this form of legislation is justified—I mean, as to its objective.

Mr. BAILEY. The Senator is now saying the processing tax is a bounty. My point is, can it be said that it is in the nature of a tariff? Does it have any analogy whatever with the protective tariff? That is my question. I will agree that it is a bounty, and it is a bounty derived from the product of the farmer, if we wish to give a bounty in that way.

Mr. SHIPSTEAD. It is a bounty assessed upon the consumer.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. In just a moment.

The farmer, under our protective-tariff system, has been in the position of a man selling cheap and buying dear. It is inevitable that he must sell cheap, because he is an exporter. He must sell on the world market. He must meet the competition of the world, and therefore he must sell cheap. When he pays a protective tariff on practically everything he buys, he buys dear, and he pays a penalty for the benefit of the industrialist. I fail to see how there is anything inconsistent between a benefit payment to the farmer taxed upon the consumer and a benefit payment collected by the industrialist and taxed upon the consumer.

Mr. BAILEY. I am not arguing the question of inconsistency; but I was very much struck by the Senator's statement that there is an analogy between the processing tax and the protective tariff. I cannot see the analogy between a tax on goods produced in Europe by others and shipped in here and a processing tax on produce grown by Americans and sold in America. I cannot see where the protection comes in. I can see where there is a bounty.

Mr. SHIPSTEAD. They are both bounties. The protective tariff is nothing but a bounty, and this is a bounty, too.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. LOGAN. Is it not true that a protective tariff imposes a tax, at least indirectly, upon the consuming public which constitutes a bounty to be paid to the manufacturer, and that the processing tax, if we call it that, also imposes a tax upon the consuming public for the benefit of the farmer, and that the two in operation are exactly the same, regardless of the names by which they are called? If we did not have a protective tariff, would there be any necessity for a processing tax such as we are discussing?

Mr. SHIPSTEAD. I do not think so.

Mr. LOGAN. That is the only way to equalize the condition of the farmer in the necessity to which he is put in dealing with manufacturers who are protected and receive a bounty. Is not that true?

Mr. SHIPSTEAD. Yes.

Mr. LOGAN. There is no other justification for it.

Mr. SHIPSTEAD. I can see no other justification.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the committee amendment.

Mr. KING. Mr. President, I should like to ask the Senator from Minnesota if he construes his amendment as continuing the provisions of the bill, so far as flaxseed is concerned, for an indefinite time. It mentions the fact that it is for the year beginning at a certain period and ending in 1936, and each succeeding year. Does he construe that as a declaration by Congress that the provision respecting flaxseed shall continue indefinitely until repealed by Congress? Or is it so intertwined with the A. A. A. act, which, as I understand, ceases to operate only when the President says the emergency has ended, that when he declared there was no emergency it would also affect the amendment which the Senator has offered, and terminate the benefits, if any benefits are to be derived under the amendment?

Mr. SHIPSTEAD. As I understand it, the pending bill is an amendment to the original act, and the original act provides for its termination; so I assume that carries with it all the amendments, and on the termination of the act all

the amendments to it will likewise cease to exist. At least that is my belief.

Mr. JOHNSON. Mr. President, inasmuch as the amendment I offered a few moments ago, which was a perfecting amendment, from our standpoint, has gone over, I should like to have the amendment of the Senator from Minnesota go over in the same fashion, so that the whole subject matter may be taken up at one time. I am now ready to proceed with my amendment, and proceed with the Senator's amendment as well, but I do not want one amendment adopted and another amendment left in the air. I want to know what the perfected amendment of the Senate is going to be in order to determine the action which ultimately shall be taken upon it. So I suggest to the Senator from Minnesota that his amendment lie over in the same fashion as the one I presented.

Mr. SHIPSTEAD. Mr. President, I think that is fair. Unless the amendment of the committee remains in the bill the Senator's amendment would be unnecessary. However, I am willing to withhold the amendment.

Mr. JOHNSON. I have no objection to the Senator's amendment, but I want to perfect the Senate committee amendment so that we may know exactly what it is, and then proceed with it as a whole.

Mr. SHIPSTEAD. That is satisfactory to me.

Mr. JOHNSON. The Senator from North Dakota [Mr. FRAZIER] is now present, and inasmuch as we delayed consideration of my amendment until his arrival, perhaps we may proceed with it. May I suggest, too, that the pending amendment is a Senate amendment, and the bill will have to go to conference upon the particular amendment, if upon nothing else, so the amendments to the amendment might be accepted with the understanding that in conference it will be taken up and the matters involved there considered.

Mr. MOORE. Mr. President, following the suggestion of the Senator from California, I, too, have an amendment which I should like to offer.

The PRESIDENT pro tempore. The parliamentary situation is that there is pending an amendment to the committee amendment. The Chair is not yet advised as to what action the Senator from Minnesota desires to have taken. In the meantime, there is an amendment presented by the Senator from New Jersey, which will take the same course, as the Chair understands, as that taken by the pending amendment of the Senator from Minnesota and the amendment of the Senator from California, which was passed over.

Mr. COPELAND. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. COPELAND. My plea was going to be to strike out the entire amendments, but now I assume that if the perfecting amendments are to have justice done them, there should not be any argument in favor of striking out all the language. It is only fair that the amendments to the amendment should first be presented.

Mr. SHIPSTEAD. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SHIPSTEAD. Does not an amendment to perfect have precedence over a motion to strike?

The PRESIDENT pro tempore. It does.

Mr. SHIPSTEAD. Mr. President, will the Senator from New York yield?

Mr. COPELAND. If I may ask the Chair a question, I suppose that my amendment would be in order only after the amendments to the amendment have been disposed of, if by unanimous consent it is agreed to have the amendments considered?

Mr. NORRIS. Mr. President, may I interrupt the Senator from New York?

Mr. COPELAND. Certainly.

Mr. NORRIS. As I understand, the motion of the Senator from New York is to strike out the committee amendment. That is entirely unnecessary. The question will come on the adoption of the committee amendment, so there will be a vote on that anyway. Before we vote on that we must take up the amendments to the amendment.

Mr. COPELAND. I think I will wait until the amendments to the amendment shall have been considered.

Mr. JOHNSON. Mr. President, has the question on my amendment been put to the Senate?

The PRESIDENT pro tempore. Does the Senator from Minnesota withdraw his amendment for the purpose of allowing the amendment of the Senator from California to be considered?

Mr. SHIPSTEAD. Very well.

The PRESIDENT pro tempore. The amendment of the Senator from California to the committee amendment will be stated. The clerk at the desk advises the Chair that the amendment is not at the desk.

Mr. JOHNSON. The amendment was taken from the desk, I may say to the Presiding Officer, by one of the experts here, and I do not know what has been done with it.

Mr. SMITH. Mr. President, someone handed the amendment to one of the experts, and it will be brought to the Senate in just a moment.

Mr. GEORGE. Mr. President, I desire to offer an amendment, to come at the end of the section, which will not, I will say to the Senator from California and to the Senator from Minnesota, interfere, I think, with the amendments which they are proposing. I should like to have the amendment considered, unless we are ready to proceed with the amendment of the Senator from California.

The PRESIDENT pro tempore. The amendment of the Senator from California has now been handed to the clerk, and it will be stated.

The LEGISLATIVE CLERK. At the end of the committee amendment on page 38, line 13, it is proposed to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from California to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, this is an amendment to the committee amendment on page 38, and has to do with flaxseed.

During the last session of Congress I succeeded in having adopted an amendment to the Agricultural Adjustment Act to include flaxseed, barley, and rye as basic commodities, but no action was taken by the Department to give the farmers producing those grains any benefit. In order to encourage the Department to take some action, and in order to get them started on it, I suggested this amendment in the committee, and I had included in it rye, along with barley and flax. I found from those representing the department before our Committee on Agriculture and Forestry that they had a paragraph prepared to cover rye, which appears on page 37, so rye was left out, but barley and flaxseed were included in this amendment.

The amendment simply authorizes a processing tax of 35 cents per bushel on flaxseed and 25 cents per bushel on barley. It seems to me the Senator from California is unduly worried over this matter, and I cannot see how it would affect the flax growers of his State. I know a considerable amount of flax has been raised in California during the past few years, and it was not my intention at all, in offering the amendment, to curtail those farmers in California in the least.

Ordinarily, during the past several years, until the drought struck us 3 or 4 years ago, North Dakota had produced more flaxseed than any other State of the Union, and the other States around North Dakota—Minnesota, Montana, and South Dakota particularly—have produced a considerable amount of flaxseed.

For years we have been selling our flax at prices below cost of production. We need some assistance. In the local market at Bismarck, N. Dak., on July 13 the price of no. 1

flax was $1.24. The parity price, figured under the pending bill, is something over $2; I have forgotten just the exact amount, but $1.24 is away below the cost of production of flaxseed.

The farmers feel that if we are to have this agricultural adjustment program the ones who produce flax and barley and rye are entitled to some benefits, along with those who produce wheat and cotton and other farm products, and that is why I secured the adoption of an amendment to the original act to include them as basic commodities. They are important commodities, and we believe we are entitled to some benefit on them.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. VANDENBERG. I desire to ask the Senator from North Dakota for his judgment on one phase of the matter. I find that at the present time flaxseed is being imported in greater degree from abroad than at any previous time. What I desire to ask the Senator is, if by the addition of a processing tax to the price of flaxseed we increase the attractiveness of our flaxseed market will we not be overrun by still larger importations except as this proposal be offset by increased tariff protection?

Mr. FRAZIER. I do not understand what the Senator from Michigan means by an attractive market.

Mr. VANDENBERG. What I mean is that as our domestic price on flaxseed goes up, does that not make our market progressively more attractive to imports, and will it not multiply the import of flaxseed?

Mr. FRAZIER. The processing tax of 35 cents a bushel provided for in the committee amendment would be paid on all imports of flax before the flax is processed. All imports coming into this country for processing must pay the processing tax, and that would mean an additional 35 cents a bushel duty or tax.

Mr. VANDENBERG. That is what I inquired about.

Mr. FRAZIER. Instead of making the market attractive, that would make it less attractive to importers, because they would have to pay additional duties.

Mr. VANDENBERG. In view of the additional duties?

Mr. FRAZIER. Yes.

Mr. VANDENBERG. I was inquiring about the additional duty, which is almost absolutely necessary.

Mr. FRAZIER. No; I do not think we understand each other as yet.

Mr. VANDENBERG. Pardon me; I think we do. I am using the word "duty" and the word "tax" interchangeably.

Mr. FRAZIER. The processing tax of 35 cents a bushel, of course, would be paid on all imported flax.

Mr. NORRIS. Mr. President, will the Senator permit me to interrupt him?

Mr. FRAZIER. I yield.

Mr. NORRIS. I am in entire sympathy with what the Senator is trying to do by the amendment to the committee amendment, but, getting down to the exact question now before the Senate, what possible objection could there be to the amendment offered by the Senator from California [Mr. JOHNSON]? I do not see any objection to it if we assume, to begin with, that we want the committee amendment. I can see how a man would be opposed to this whole scheme and be against the committee amendment; but, speaking as one who expects to vote for the committee amendment, I should like to inquire of the Senator from North Dakota, or any other Senator for that matter, and I am doing it for information, what possible objection is there to the amendment which is offered by the Senator from California?

Mr. McNARY. Mr. President, I am not called upon to answer that question, but I wholly agree with the Senator from Nebraska. I cannot see why there should be any objection on the part of anyone to the amendment proposed by the Senator from California.

Mr. NORRIS. Neither can I. If there is any possible objection I should like to hear it stated.

Mr. KING. Mr. President, perhaps I can answer that question. The objection is that it would give a monopoly of the product to a couple of States. Perhaps we believe in such monopolies. If so, why not grant the monopoly?

Mr. NORRIS. No, Mr. President; I believe the amendment of the Senator from California relieves the bill of having any monopolistic tendency.

Mr. COPELAND. Mr. President, the Chamber is in disorder. There are some of us on this side of the aisle who are anxious to hear the debate. I raise the point of order that the Chamber is in disorder.

The PRESIDENT pro tempore. The point of order is well taken.

Mr. McNARY. Mr. President, may not the Senators who occupy seats on the floor preserve some order? I share the views of the Senator from New York. I am very much interested in what the Senator from Nebraska has said, and the reply of the Senator from North Dakota.

Mr. ASHURST. Mr. President, I have not heard a word of the debate on this particular subject this morning. It has been impossible to hear.

Mr. FRAZIER. In reply to the inquiry of the Senator from Nebraska I will say that personally I have no objection to the amendment of the Senator from California. I think, however, it would mean that the Department of Agriculture would take no action whatever in putting a processing tax on flax, or giving us any allotment payments, and for this reason: Since the amendment was adopted at the last session of Congress making flaxseed a basic commodity I have tried repeatedly to get the Department of Agriculture to take some action on the subject. Others from the Middle and Northwestern States, and especially representatives of the Farmers Union, who are interested in the production of flaxseed, have repeatedly tried to get the Department of Agriculture to take some action. The Department has not been able to work out any specific plan, or to take any action at least, but during the past winter, after several conferences, a representative of the Department of Agriculture, who had with him a draft of a proposed bill to take care of flaxseed, came to some of our offices and said that the only justification the Department had under the Agricultural Adjustment Act to put on a processing tax and pay a benefit payment was because of an adjustment which might be made in the production of that particular product. The Department had a bill worked out for flaxseed, which provided that the tariff should be reduced 50 percent approximately—cut from 65 cents down to about half of that amount—and that a 35-cent processing tax be put on flaxseed. The explanation was made that because we only produce about half of the amount of flax which we consume in this country, the 35-cent processing tax would more than offset the reduction in the tariff by making it possible for the Department to make a benefit payment of about 60 or 70 cents, and thus benefit the farmers who produced flaxseed. The Agricultural Adjustment Administration was to pay an allotment on flax based on the acreage of past years in the flax-producing States. Some sort of an agreement was to be signed up between the farmers and the Agricultural Adjustment Administration containing the provision that the farmers would not increase their acreage over what was termed a normal acreage during the past several years, and that if that agreement was signed, then the processing tax would be put on, and the benefit payments would be made.

The Senator from California thinks because California has only produced flax for the last 3 or 4 years that the farmers of California would not be included in this benefit payment. I do not know as to that. I do not think they would receive such payment under the bill which was introduced during the early part of the present session, but the provision now before us has nothing at all to do with that other bill. The pending provision simply sets the amount of the processing tax at 35 cents, and authorizes that amount. Then it would be up to the Secretary of Agriculture to say whether it would be placed into operation or not. According to the explanations made by representatives of the Department of Agriculture, if this amendment should be adopted, there would be no chance

of the flax growers, either in California or any place else, getting any benefit payments.

Mr. NORRIS. Mr. President, that, of course, may be true, but I am not able to see any reason whatever for it. We produce scarcely half of the flax which we consume. As I understand, if the production of flax should be expanded, it might be a good thing; but the person engaged in expanding it ought to be treated in the same way as the man who is now in the business. That would not hurt anyone. It would be a good thing if the production of flax were expanded.

Mr. President, I cannot understand the objection which is being raised. The Senator from North Dakota may be right about it, of course. I have never talked with the Department of Agriculture about the matter, but I cannot see any reason why they should refuse to take action on this basic commodity on account of what the Senator from California proposes.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. SHIPSTEAD. There can be no objection on the part of the farmers of Minnesota, North Dakota, and South Dakota to having more farmers produce more flax so long as there is no surplus.

Mr. NORRIS. That is true.

Mr. SHIPSTEAD. This amendment provides that there shall be no reduction in acreage until the domestic production shall have risen sufficiently high to take care of domestic consumption. When that time arrives then allocation for acreage will be made.

The PRESIDENT pro tempore. The time of the Senator from North Dakota on the amendment has expired. The question is on the adoption of the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the committee.

Mr. FRAZIER. Mr. President, then I will speak on the bill.

The PRESIDENT pro tempore. The Senator is recognized. He has 30 minutes on the bill.

Mr. FRAZIER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. FRAZIER. Does the 30 minutes have to be taken all at one time?

The PRESIDENT pro tempore. Under the unanimous-consent agreement, one speech of not to exceed 30 minutes is allowed on the bill, and not to exceed 15 minutes is allowed on each amendment.

Mr. VANDENBERG. Mr. President, let me ask the Senator from North Dakota a question in my time. I am now speaking on the amendment. May I ask the Senator if this is not the crux of the situation, so far as the Department of Agriculture is concerned? They have a theory, or some officials of the Department have, that there should be a specific limitation upon certain crops which they call either "expensive" or "inefficient"—I have forgotten the exact word. It is precisely the same philosophy with which they have dealt with the production of sugar beets. They say, "this is an inefficient crop from an American production standpoint, and, therefore, although we are not on a surplus basis, and although we are raising only a quarter of our consumption, there should be a sharp limitation, and there should be no further domestic production." Now, may I ask the Senator from North Dakota, in my own time, if that is a comparable situation respecting their philosophy as to flax?

Mr. FRAZIER. Mr. President, I think flax is one of the so-called "inefficient" farm products produced here as to which it is desired to make international trade agreements with foreign countries and not to increase their production here in the United States. I think that is the situation.

Mr. VANDENBERG. Then, if we are defeating that sort of dictation by the Department of Agriculture by including this amendment in the amendment, it seems to me that is what we should do. Why is it not a good thing? The Senator from North Dakota does not believe in that philosophy of the Department of Agriculture, does he?

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. VANDENBERG. Yes.

Mr. FRAZIER. I surely do not believe in that policy at all.

Mr. VANDENBERG. Then why not defeat it in this bill?

Mr. FRAZIER. I have no objection to the amendment of the Senator from California.

When the tariff bill was up, I tried to secure on flaxseed a tariff of 72 cents a bushel; but it was cut down to 65 cents on the ground that we only produce half the amount of flax consumed here. I felt that there should be a higher price so that we could produce more, for there was plenty of room for expansion in the growing of flaxseed if we could obtain a price based on the cost of production.

Mr. VANDENBERG. That would be precisely my conception. The feature of the amendment offered by the Senator from California which appeals to me is that it asserts on behalf of the Congress that that type of restriction of a non-surplus crop ought at least not to be perpetrated in the present instance.

Mr. COPELAND. Will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from New York?

Mr. VANDENBERG. I yield.

Mr. COPELAND. I should like to ask the Senator from North Dakota does the tariff or the lack of a tariff have anything to do with the production of flax?

Mr. VANDENBERG. I would be very glad to have the Senator from North Dakota answer that question in my time.

Mr. COPELAND. I will repeat the question. Does the Senator from North Dakota believe that the tariff or the lack of a tariff has anything whatever to do with the decreased acreage of flax?

Mr. FRAZIER. Mr. President, I do not think there is any question but that the price of flaxseed governs, to a great extent, the quantity produced in the United States. The 65-cents-a-bushel tariff, I will admit, has not been effective to the full extent, but it has been effective probably to 60 or 70 percent. There may be some question as to just how much, but the tariff has had a tendency to increase the acreage of flax in normal years.

Mr. COPELAND. The tariff or the lack of it has nothing to do with the grasshoppers; it has nothing to do with the early frost.

Mr. FRAZIER. Of course not.

Mr. COPELAND. The Department of Agriculture states that the reason why there has been a marked decrease in the acreage of flax is because of the grasshoppers and the early frosts in the flax-producing region. It is stated in the report of the Department of Agriculture:

(a) Flax sensitive to heavy frost, which requires late planting, subjecting it to greater hazard from drought.
(b) Susceptible to grasshopper scourge.

So that the farmers, having discovered that, no longer plant flax. Am I correct in that statement?

Mr. FRAZIER. Of course, drought and grasshoppers would decrease the acreage of flax; there can be no question about that; but if the price can be raised, the acreage will come back very rapidly since the drought has been broken.

Mr. COPELAND. What will the price have to do with grasshoppers and frost?

Mr. FRAZIER. I am not trying to answer that part of the Senator's question. The grasshoppers have nothing to do with the price of flax. Normally one would think the price of flax would rise under a scarcity, but the price has not come up; it is lower now than it has been for years.

Mr. COPELAND. My judgment is, if I may rely at all upon the Department of Agriculture, that there are natural causes responsible for the failure of the flax crop and the profitable raising of flax and that we can do nothing by legislation to improve the situation.

Mr. BARBOUR. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from New Jersey?

Mr. VANDENBERG. I yield.

Mr. BARBOUR. I should like to ask the Senator from North Dakota or some other Senator who can answer the question definitely and specifically, either in my time or in his, whether the term "flax", which has constantly been employed by different Senators, refers to flaxseed only or to fiber flax? These two commodities are absolutely different and distinct. I wish to be clear in my own mind whether or not this reference or any reference is to fiber flax or just to flaxseed. And I want to be sure that other Senators understand this also, particularly those responsible for this phase of this legislation.

Mr. SHIPSTEAD. If I may answer the Senator in his time, having no more time on this amendment——

Mr. VANDENBERG. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. Flax is a different thing from flaxseed.

Mr. BARBOUR. I know that very well. That is the very point I want to make clear.

Mr. SHIPSTEAD. This amendment refers only to flaxseed; it does not refer to flax as such.

Mr. BARBOUR. Simply to flaxseed?

Mr. SHIPSTEAD. Simply to flaxseed.

Mr. BARBOUR. I thank the Senator.

Mr. VANDENBERG. I yield the floor.

Mr. KING. Mr. President, I suggested to the Senator from Nebraska [Mr. NORRIS] a moment ago, when he interrogated the Senator from North Dakota as to the reason why there should be any opposition to the amendment offered by the Senator from California, that it was desired to have a monopoly. It appears that two or three States have practically a monopoly of the production of flaxseed, and now, having obtained a high tariff, 65 cents a bushel, and having limited production in the United States, they want to deny to other persons the right to invade the flaxseed field and to produce flaxseed and to obtain a little of the benefits and bounties which will result from this proposed act and which accrue from the tariff. It seems to me if we are to give bounties and subsidies and that sort of thing, that the amendment offered by the Senator from California is one which is entitled to the support of the Senate as against the position of the Senator from North Dakota.

Mr. President, I recall, as a member of the Finance Committee, the appeals which were made for a tariff upon flaxseed. We granted a tariff of 65 cents a bushel, and the price of flaxseed has risen, as I recollect—I may be in error as to the figures, because I have not examined them for several years—from 20 cents a bushel up to 65 or 70 cents a bushel.

Mr. COPELAND. The price has risen to $1.20 a bushel.

Mr. KING. The price has risen to $1.20 a bushel, I am told; I was somewhat in error. Who is compelled to pay for this enormous increase in the price of flaxseed? The farmers themselves have to pay it in the increased cost of paint and other commodities which they use and which are indispensable and necessary to their activities. The linoleum in their houses is, in part, the product of flaxseed, and there are hundreds of other commodities entering into the lives of the people, farmers as well as the industrialists in the cities, which are affected by the price of flaxseed. From flaxseed are produced oils which are needed in the handling of leather and in preparing it for utilization in the manufacture of shoes and leather goods. It seems to me that this is an example of greed which is not justified.

A tariff of 65 cents a bushel has been levied on flaxseed; there has been an increase in the price perhaps of several hundred percent as the result of the tariff, and now there comes a demand for additional protection in order to prevent others from invading the field.

I shall vote for the amendment offered by the Senator from California; and then, if such a motion shall be made, I will vote to strike out the entire provision. I think it is wholly unjustified.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from California [Mr. JOHNSON] to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The question recurs on the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment of the committee. The amendment to the amendment will be stated.

The CHIEF CLERK. At the end of the committee amendment, on page 38, line 13, after the word "barley", it is proposed to insert the following:

In the case of flaxseed the first marketing year shall be considered to be the period commencing October 1, 1935, and ending April 30, 1936. Subsequent marketing years shall commence on May 1 and end on April 30 of the succeeding year.

There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to flaxseed) (a) a processing tax on the first domestic processing of perilla seed at the rate equal to the per pound rate of the processing tax which is then in effect on flaxseed, and (b) a processing tax on the first domestic processing of hempseed at the rate of 84 percent of the per pound rate of the processing tax which is then in effect on flaxseed.

Mr. COPELAND. Mr. President, is this the amendment of the Senator from Minnesota?

The PRESIDENT pro tempore. It is the amendment of the Senator from Minnesota.

Mr. COPELAND. It sets aside, I presume, the theory of the original act. If I remember the original Agricultural Adjustment Act correctly, a compensatory tax must be levied on products competing with basic commodities. Is that what the Senator has in mind?

Mr. SHIPSTEAD. There was so much noise in the Senate, I did not hear what the Senator said.

The PRESIDENT pro tempore. Let there be order in the Senate so that one Senator may hear another.

Mr. SHIPSTEAD. Will the Senator please restate his query?

Mr. COPELAND. May I first ask the Senator, in my time, as he has exhausted his, what is he proposing by this amendment—a compensatory tax on the products competing with a basic commodity?

Mr. SHIPSTEAD. Yes.

Mr. COPELAND. Is not that the law now? That is the law under the present act, as I understand.

Mr. McNARY. Mr. President, if I may obtrude at this point, let me say that in the original act a compensatory tax was placed on competing articles. At that time no specification was provided as to the amount of the processing tax, but it was based on a given period between 1907 and 1914, known as the "basic period."

In order to overcome the decision in the so-called "chicken case", it is attempted here to have Congress specify the amount of tax on flax; and consequently, to carry out that same parity theory, it is necessary to put a processing tax on the competitive products which are named in the amendment. That is the theory, as I gather it from reading the amendment and having a little knowledge of the original act.

I do not think it changes the theory or the principle at all, in carrying out the purposes of the amendment, in order to get around some of the constitutional objections found to the National Recovery Act, by specifying that Congress shall fix the amount of the tax rather than leaving it to the discretion of the Secretary of Agriculture. If we provide a yardstick for the domestic production of flax, we must provide a yardstick for the competitive agricultural commodity.

Mr. COPELAND. I know the explanation is correct. But what we are doing is still further to increase the cost of paint in this country, to say nothing of the cost of linoleum and other products. I am assured that if this provision without any amendment were to be adopted the cost of paint would be increased at least 35 cents a gallon. If the other drying oils—tung oil, perilla oil, and other oils—are also given the alleged benefit of further taxes, it would mean that every gallon and every quart of paint spread in America would be materially increased in price.

The question is whether we are willing to have that result, involving everybody, when the total acreage of flax in the country is less than a million acres. With a view to helping the owner of a million acres devoted to flax, we are asked to do a thing which would increase the cost of paints, linoleum, and other products containing these various oils.

Senators must decide. It is not difficult for me to decide, when I know there will be a material decline in the making

and sale of paints and increased unemployment by reason thereof.

I suppose Senators from interior States get tired of hearing me talk about unemployment in New York City and in the other cities of my State, but everything we are doing here has a tendency to increase unemployment in my community. We have in New York City the largest group of unemployed in America—2,000,000 in number. A lot of the people now employed in paint factories will be unemployed by reason of this tax, because with the increased cost of paint there will be a decline in demand for it. If any Member of the Senate has had occasion to buy paint, as I have during the past several years, and to note the distinction and difference in the price of paint now and what it was 5 years ago, he knows what added cost means.

This provision must result in a decreased use of paint. Yet in order to help 1,000,000 acres of flax out of the many millions of acres devoted to farm products in the country, we are asked to do a thing which would materially increase the cost of paint and which would affect farmers who have buildings upon their farms which I assume they desire to keep painted.

Here with one hand we are writing a bill to increase taxes upon these various products, and with the other hand, and at the same time, we are making the prices of articles made from them still higher. I think there must come a time when we will stop that sort of thing. Certainly so far as this particular program is concerned, if I am correct in my logic and in the information given me, we are making a great mistake in increasing the cost of essential products and thereby making for more unemployment.

Mr. SHIPSTEAD. Mr. President, did the Senator vote for the N. R. A. Act?

Mr. COPELAND. I think I did.

Mr. SHIPSTEAD. The N. R. A. increased the costs which he is mentioning.

Mr. COPELAND. I know it; and if I had it to do over again, I should not vote for the N. R. A. There are a lot of such things I am not going to vote for now. I do not care if I am the only Democrat, though I know I am not the only one, I am not going to vote for these various measures which in my judgment are doing much to retard progress in America and which are seeking to set aside all those economic laws which are essential to our well-being as a Nation. We cannot make people good by legislation. Neither can we make them prosperous by legislation.

This is my apology as regards my vote 2 years ago on N. R. A. There are a lot of things I know now that I did not know then, and every citizen in America who is a student of affairs has learned a lot now that he did not know then.

We hoped, through these various legislative acts and by the social program set up by them, that we might improve the welfare of America. We tried to prime the pump; we tried to lift ourselves by our bootstraps; but we failed to do those things. If we continue along paths which have been proven by our experience in the past 2 years to be mistaken paths, we are not using the common sense which God gave us and which in my judgment we should exercise.

Mr. SHIPSTEAD. Mr. President, the Senator has made the most excellent argument against protective tariffs and an excellent argument against the N. R. A.

The PRESIDENT pro tempore. Permit the Chair to remind the Senator from Minnesota that he has made one speech on the amendment.

Mr. SHIPSTEAD. No; I have not taken any time on the amendment.

The PRESIDENT pro tempore. The amendment of the Senator from Minnesota is pending and he has made one speech on the amendment.

Mr. SHIPSTEAD. I thought I spoke on the amendment of the Senator from California [Mr. JOHNSON].

Mr. McNARY. Mr. President, I think when the Senator from Minnesota had the floor he was speaking on the amendment of the Senator from California. I recall very clearly the Senator from California offered his amendment, and the Senator from Minnesota had his amendment read at the desk, but it was not pending. The rule, therefore, does not apply to him because he was speaking on an entirely different amendment than his own. I submit that statement because I was present and know what occurred.

The PRESIDENT pro tempore. There was some misunderstanding about the amendments being considered together. If the Senator from Minnesota thinks he has not discussed his amendment, the Chair will so hold.

Mr. SHIPSTEAD. Have I some time?

The PRESIDENT pro tempore. The Senator has 15 minutes.

Mr. SHIPSTEAD. I shall take but 2 minutes. I repeat that the Senator from New York [Mr. COPELAND] has made an excellent argument against protective tariffs and an excellent argument against the N. R. A. I am not here to argue this matter, however.

This is the policy which is being formulated. In anticipation that that policy will be formulated in its completeness this amendment of mine is offered. Any man who does not believe in this policy has a right to vote against the final passage of the bill, but in fairness the formulation of the policy should be completed. This is only a part of the picture, a part of the policy, that the commodity, flaxseed, shall be included in order that the farmer may have for his flaxseed a parity price of $2.25 instead of $1.52 as at present.

Mr. BORAH. Mr. President, the remarks of the Senator from New York [Mr. COPELAND] are worthy of serious consideration. I think the constant increase of prices in this country is one of the things which is retarding recovery and enlarging the number of unemployed. In my judgment, about that there can be no doubt. But I think we ought to make sure that we have located the cause of the increase of prices in this country.

The increase of prices by reason of the increase of farm-product prices is almost infinitesimal by the time it reaches the ultimate consumer. The increase of the price of farm products has had comparatively little effect upon the price the Senator from New York and his constituents have to pay in New York City for agricultural commodities. These prices have been increased by reason of combinations in this country which are fixing prices for the American people.

Yesterday a long debate ensued on the question of the Government fixing prices, in which I do not believe. But I do know that prices are being fixed for a population of 120,000,000 by a comparatively small number of people in the United States. If that is to continue as a permanent policy, then it is better that prices be fixed by the Government. The prices of paints and of meats and of overalls and of practically everything the people must buy are not being fixed by reason of the increase of the price upon the farm, except in a comparatively very small degree, but by those who are in a position to sit around a table and fix the price for the American people. And the Government continues to connive at the great wrong.

Unless we are willing to deal with that question, unless we are willing to handle that proposition, we are not going to lower the price of products in this country; and unless we lower them, unless we prevent the artificial, arbitrary price fixed by arbitrary power, unemployment in this country is going to increase and additional hardship is going to be imposed on the American people. One of the great contributing causes of the depression was this power of a few to extort arbitrary prices from the great body of the people. So long as that power continues and that practice prevails there will be wide-spread poverty and constantly increasing unemployment. There is our problem, and not in the price of farm products.

Mr. KING. Mr. President, apropos of the observations made by the Senator from New York [Mr. COPELAND], I desire to read from a letter I have just received from Judge J. A. Howell, one of the distinguished citizens of my State.

It appears that a number of years ago a packing plant was established in the city of Ogden for the purpose of handling the meat products of Idaho, Utah, and the intermountain region. It was known as the American Packing & Provi-

sion Co. This plant continued its operations for several years but ultimately ceased its activities—largely due to the depression, as many other organizations did during the period referred to.

The corporation was reorganized by a number of the leading citizens of Ogden, among them Judge Howell. They were desirous of establishing and carrying on a modern packing plant, believing that it would prove of benefit to the State and furnish a market for the livestock industry of Utah and other Western States.

Judge Howell in his letter states:

It looked as if this venture would be one that would pay a reasonable return upon our money, and up until the time of the depression it did have fairly good prospects. Of course it suffered, as did all other business, during the depression; and then along came the floor tax and later the hog-processing tax under the Agricultural Adjustment Act, and it is the particular purpose of this letter to state to you what is the effect of that tax upon such a business as this. As I understand it, the purpose of the tax was to secure sufficient funds with which to compensate producers for the limiting of the production, with the ultimate purpose of raising the price of hogs to the producer. It is not the purpose of this letter to argue the economics of such a law, but rather to state the practical results. It was assumed, of course, that this processing tax could be passed along by the producer to the consumer, but this has absolutely not been the result, by reason of the fact that the additional processing tax has caused the price of pork, hams, and other hog products so to increase that the consuming public refuses to purchase them at the price, and the consequence has been that gradually the volume of business of our company has diminished to such an extent that each month the business is running behind at a rate which means that only a limited time can elapse until this business must necessarily close its doors. It may be that ultimately the big packers, even under this law, will be able to survive, but if the experience of the other small packers is similar to ours, and I know of no reason why it should not be, the final result will be to drive all small packers out of the business entirely, and the result right here locally will be, as I have already stated, to close this plant and throw 250 Ogden citizens out of employment, as this tax burden averages between $15,000 and $20,000 a month on this little business.

Now, notwithstanding there are many of us who believe that this sort of a so-called "tax" is but a method of transferring one person's property to another and for other reasons is unconstitutional, it is now proposed by H. R. 8492 to prevent the recovery back of the tax by those who have suffered it, even if it should be declared to be unconstitutional.

Mr. President, in my opinion, some of the legislation which has been enacted during the past few years for the purpose of improving economic and industrial conditions has failed in its purpose. In periods of economic maladjustment, or depression, demands are not infrequently made to enact laws and carry out policies at variance with sound political and economic policies, but justified upon the theory that departures from accepted standards will secure benefits to groups and sections of the population. It is needless to state that grievous disappointments have followed these unsound experiments. Many of the measures which have been urged and adopted to meet periods of depression were enactments and regulations limiting and controlling production, fixing prices, and surrounding producers and distributors, and, indeed, consumers, with drastic and oppressive restrictions.

Under the Agriculture Adjustment Act crops were destroyed, lands condemned to remain fallow, and regulations promulgated and enforced which interfered with the exercise of legitimate rights of individuals and materially retarded economic and industrial rehabilitation.

It is singular that the many lessons of history which emphasized the unwisdom of measures and policies such as I have indicated, should be so unimpressive upon the minds of the people. With hundreds of millions of people denied the necessities of life, and millions in our own country without employment, without adequate food and clothing and shelter, we have put into effect policies that made it more difficult to defeat the forces of depression, revive business, and restore prosperity to the people.

The Senator from Minnesota [Mr. SHIPSTEAD] is now urging that important products be brought under the provisions of the Agricultural Adjustment Act and subjected to the oppressive and restrictive regulations that have proven, in my opinion, so disadvantageous in respect to other commodities. He insists that perilla oil, tung oil, as well as other oils, shall be subjected to the terms of the A. A. Act, as amended. He concedes, as all familiar with these oils will concede, that they are important in promoting and developing industries in our country. It is conceded that the inclusion of these products as well as others mentioned in the bill before us, will increase the prices of these commodities which must be borne by the consumers. It is conceded that the purpose of this bill and the purpose of the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] is to add to the costs of many commodities and to that extent increase the burdens which the people will have to bear.

Already there are complaints heard in various parts of our country against rising prices and particularly against the cost, by many, of the necessities of life. Doubtless it is true that the prices of some commodities are controlled, in part at least, by what might be denominated monopolies or combinations in restraint of trade. In such cases the antitrust laws should be invoked and rigorously applied. Monopoly is hateful, and the monopolistic control of things indispensable to the welfare of the people cannot and should not be permitted. The antitrust laws are broad and comprehensive, and violations should bring punishment to offenders.

Mr. President, there is a fallacy indulged in by many that legislation can cure all of the ills to which humanity is subject. Demands are being made for more laws, more restrictive legislation, the application of policies which experience has demonstrated to be unwise; and it is hoped, if not believed, that important benefits will result therefrom. I think it is recognized that some of these demands do not rest upon the theory of equal and exact justice to all, but rather contemplate that benefits, bounties, and advantages to one group or class shall be paid for by other groups or classes.

Undoubtedly there are economic and political tendencies toward the centralization of authority in the Federal Government, thus weakening the States and interfering with the legitimate exercise of individual rights. In my opinion, if the interpretation placed upon the commerce clause of the Constitution by many is accepted as a guide for congressional and national policies, then the rights of individuals as well as the States will be impaired and the spirit, if not the letter, of the Constitution will be changed. I have said upon a number of occasions that there are movements on foot to increase the authority of the Federal Government far beyond the limits of the Constitution as it came from the fathers and as it was interpreted by them. Under this misinterpretation of the commerce clause substantially all transactions and activities would fall into the category of interstate, and the Federal Government would have the power to control the lives and conduct and activities of the people.

I confess to entertaining serious misgivings as to the future of our form of government if the currents of socialism and paternalism, which are so rampant today, shall continue unabated.

Attempts are being made to overload the Federal Government, to increase its power, and to give to it authority to assume responsibilities belonging to individuals, communities, and States. In the end, if such attempts are successful, the States will be but shadows and the machinery of the Federal Government dominant in every phase and branch of our political, economic, and industrial life.

Senators are familiar with the statement of John Fiske, who said:

If the day should ever arrive (which God forbid) when the people of the different parts of our country shall allow their local affairs to be administered by prefects sent from Washington, and when the self-government of the States shall have been so far lost as that of the departments of France, or even so closely limited as that of the counties of England—on that day the political career of the American people will have been robbed of its most interesting and valuable features, and the usefulness of this Nation will be lamentably impaired.

He adds:

Too much centralization is our danger today, as the weakness of the Federal tie was our danger a century ago.

Mr. President, an important decision was rendered yesterday by the Circuit Court of Appeals of the First Circuit, in the case of William M. Butler et al. against United States of America. It relates to the A. A. Act and holds that

certain of its provisions are unconstitutional. In the light of this decision, as well as other decisions by Federal courts, Congress should hesitate to give its approval to the pending measure because the infirmities of the A. A. Act are found in the pending bill. Indeed, it is believed by some that the measure before us has greater infirmities than the original act.

I desire to read a few excerpts from the opinion:

The power of Congress to regulate interstate commerce does not authorize it to do so by taking products, either of agriculture or industry, before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

* * * * * * *

It is clear, we think, that under the recent decision of the Supreme Court in the Schechter Poultry Corporation case decided on May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz, to control or regulate the production of agricultural products in the several States by the methods adopted in this act, is beyond the power of Congress.

* * * * * * *

The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose deemed by Congress in furtherance of the "general welfare" but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.

* * * * * * *

The Federal Government is a government of enumerated powers and Congress cannot delegate legislative powers to the executive department.

I may add, in passing, that that is sought to be done in the bill which is under consideration.

While the courts have always shown a desire to sustain, if possible, acts of Congress, they have recognized the limitations imposed on Congress in this respect under the Constitution.

* * * * * * *

The power to determine what the law shall be, what property shall be affected by taxation or regulations, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

* * * * * * *

The power to impose a tax and to determine what property shall bear the tax can only be determined by the legislative department of the Government.

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The Secretary made no finding of facts as to why he selected the first list of basic commodities for reducing acreage or production and was not required to do so.

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It cannot be said that the Secretary's judgment that his acts will tend to effectuate the general policy laid down by Congress can be called a finding, as his judgment merely involves his opinion as to the general effect of the agreements he executes, to equalize the purchasing power of the commodity in question with that of the 5-year pre-war period.

I may add in passing that greater discretion and latitude are permitted to the Secretary and to his assistants under the present bill than under the other act, and therefore this measure will be challenged with greater hope of success than the original A. A. A. Act itself.

If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress, or to foretell the future limitations of local self-government.

I ask permission to have the entire opinion of the circuit court of appeals inserted in the RECORD.

The PRESIDING OFFICER (Mr. POPE in the chair). Without objection, the opinion will be inserted in the RECORD.

The opinion is as follows:

[From the New York Times of July 17, 1935]

Following is the text of the Federal circuit court of appeals decision holding the A. A. A. processing and floor taxes illegal:

William M. Butler et al., receivers of Hoosac Mills Corporation, appellants, v. *United States of America, claimant, appellee.* Appeal from the District Court of the United States for the District of Massachusetts. Before Bingham, Wilson, and Morris, JJ.

OPINION OF THE COURT

JULY 13, 1935.

Wilson, J.:

This is an appeal from a decree of the District Court of Massachusetts in the conduct of receivership proceedings against the Hoosac Mills Corporation, a Massachusetts corporation. The United States filed a claim with the receivers for processing and floor taxes levied under sections 9 and 16 of the Agricultural Adjustment Act, chapter 25 (48 Stat. 31) (hereinafter referred to as the act), amounting in the aggregate to $81,694.28, of which $44,057.64 represented processing taxes and interest, and $37,636.64 represented floor taxes and interest.

The receivers in their report to the district court recommended that the claims for these taxes be disallowed. The district court, however, found that the claims were valid and entered a decree ordering the claims to be paid.

COMPLAINTS OF ERROR PUT IN THREE GROUPS

The receivers appealed from the decree and filed numerous assignments of error, which may be grouped under three heads:

(1) The taxes imposed are not warranted under the Federal Constitution in that they were imposed for the unlawful purpose of regulating and restricting the production of cotton in the several States, which is an unwarranted interference with matters solely within the control of the respective States and is violative of the powers reserved to the States under the tenth amendment, and, therefore, does not constitute an exercise of any authority or power of taxation granted to Congress under section 8 of the Constitution.

(2) The delegation of the powers under sections 8 and 9 of the act to the Secretary of Agriculture to determine by agreement with the producers which of the basic commodities enumerated under section 11 of the act as amended shall be restricted as to production, to what extent the acreage devoted to the production of any of such basic commodities shall be limited to bring about the result sought to be gained by the act, to determine when rental or benefit payments shall be made and the amount, and the investing of power in the Secretary to determine when and what competing commodities should be taxed and to what extent, and to determine when such processing tax shall become effective or shall cease to be imposed, is an unwarranted delegation of the legislative power granted exclusively to Congress.

(3) That the processing and floor taxes imposed are direct taxes and are not apportioned as required under section 8 of the Constitution, or, if excise taxes, are not uniform throughout the United States and are therefore not authorized under the Constitution.

RULING INTERPRETS AIMS OF CONGRESS

We are not unmindful of the rules of construction that a presumption exists as to the validity of an act of Congress, or that if an act is susceptible of two interpretations that should be accepted which will uphold its validity.

It is clearly apparent, however, from the provisions of the act that the main purpose of Congress in its enactment was not to raise revenue but to control and regulate the production of what is termed the "basic products of agriculture", in order to establish and maintain a balance between the production and consumption of such commodities, which Congress realized could not in any event be accomplished by compulsory regulation of the production of agricultural products, and it sought to avoid the objection that it was interfering with matters solely within the control of the States themselves by making the restriction of production voluntary by basing the act on the power of Congress to regulate interstate commerce, on its power to tax to provide for the general welfare of the United States, and by declaring that in the acute economic emergency that exists transactions in agricultural commodities have become affected with a public interest.

Title I of the act opens with the following:

"Declaration of emergency: That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agricultural and other commodities, which disparity has largely destroyed the purchasing power of the farmers for industrial products, has broken down the orderly exchange of commodities, and has seriously impaired the agricultural assets supporting the national credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected transactions in agricultural commodities with a national public interest, have burdened and obstructed the normal currents of commerce in such commodities, and render imperative the immediate enactment of title I of this act."

NEW CONGRESS POWERS ARE DENIED BY COURT

According to recent pronouncements of the Supreme Court, however, such a declaration grants no new powers to Congress, nor does a declaration by Congress that under certain conditions the industry of agriculture is affected with a public interest, or burdens and obstructs the normal flow of commerce, necessarily give to Congress the absolute power to control or regulate it by legislation.

The assignments of error are based on the provisions of the following sections:

"SEC. 2. It is hereby declared to be the policy of Congress—

"(1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power, with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco shall be the pre-war period August 1909–July 1914.

"In the case of tobacco, the base period shall be the post-war period August 1919–July 1929.

"(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demands in domestic and foreign markets.

"(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914."

"SEC. 8. In order to effectuate the declared policy the Secretary of Agriculture shall have power—

"(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments.

"Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored.

"In any such case such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing, but no deduction may be made for interest."

PROVISIONS OF ACT FOR COLLECTIONS QUOTED

"SEC. 9 (A). To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation.

"The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (B). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements.

"The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that rental or benefit payments are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided*, That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

RATE OF THE TAX AS PROVIDED BY ACT

"(B) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity; except that if the Secretary has reason to believe that the tax at such rate will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties.

"If thereupon the Secretary finds that such result will occur, then the processing tax shall be at such rate as will prevent such accumulations of surplus stocks and depression of the farm prices of the commodity. In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

"(C) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture."

REGULATIONS GET STATUS AND EFFECT OF LAW

"SEC. 10. (c) The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article processed therefrom, to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of $100, as may be provided therein."

As originally enacted, section 11 read as follows:

"SEC. 11. As used in this title, the term 'basic agricultural commodity' means wheat, cotton, field corn, hogs, rice, tobacco, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this title, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this title cannot be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof.

"SEC. 12. (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000, to be available to the Secretary of Agriculture for administrative expenses under this title and for rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title. Such sum shall remain available until expended.

ACT FIXES THE USES OF SUCH TAX INCOME

"(b) In addition to the foregoing, the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for expansion or markets and removal of surplus agricultural products, and the following purposes under part 2 of this title: Administrative expenses, rental and benefit payments, and refunds on taxes.

"The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated.

"The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection."

"SEC. 15 (a). If the Secretary of Agriculture finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, compared with the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, and the Secretary of the Treasury shall abate or refund any processing tax assessed or paid after the date of such certification with respect to such amount of the commodity as is used in the manufacture of such products."

LAW MAKES PROVISION FOR FIXING OF RATES

"(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof.

"If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary upon the basic agricultural commodity.

"SEC. 16. (a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

"(1) Whenever the processing tax first takes effect there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date.

"(2) Whenever the processing tax is wholly terminated there shall be refunded to such person a sum (or if it has not been paid, the tax shall be abated) in any amount equivalent to the processing tax with respect to the commodity from which processed."

POWER OF CONGRESS OVER PRODUCTION OF AGRICULTURAL COMMODITIES

It is clear from the above sections, together with the other sections of the act, that its main purpose is to control and regulate the production of the so-called "basic agricultural commodities" in the several States, through agreements with the producers and in consideration of what is termed "rental" or "benefit" payments, to reduce acreage or production for market sufficient to increase the current average price of such products to that elusive point where the returns to the farmer from the production of such commodities will purchase under present conditions the same amount of industrial products that the returns to the farmer from the same products would buy in the 5-year pre-war period from July 1909 to August 1914.

PURPOSE OF THE TAXES DECLARED OBVIOUS

The "processing" and "floor taxes", though ostensibly imposed for raising funds to meet extraordinary expenses incurred by reason of the national economic emergency, are obviously intended to provide funds for the rental and benefit payments authorized under section 8, as such taxes are not imposed except when the Secretary determines that rental or benefit payments are to be made, and the proceeds are expressly appropriated for the purpose.

It is urged by the receivers, and in a brief filed by one of the amici curiae, that the restriction of the production of agricultural products is entirely within the control of the several States, and Congress cannot control it directly or indirectly through the executive department, however great the emergency; that even if in a great emergency transactions in agricultural products become affected with a public interest, which is not met by concerted action by the States themselves, it does not lie within the power of Congress to regulate their production; that however wide-spread the public interest in a matter solely within the control of the States themselves, Congress has no power to control or regulate it, it being reserved to the States under the tenth amendment.

The power of Congress to regulate interstate commerce does not authorize it to do so by taking products either of agriculture or industry before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

There is, of course, nothing new in this statement; see *Hammer* v. *Dagenhart* (247 U. S. 251); *Child Labor Tax Case* (259 U. S. 20); *Chassaniol* v. *City of Greenwood* (291 U. S. 584); *Kidd* v. *Pearson* (128 U. S. 1); *Keller* v. *United States* (213 U. S. 138, 145); *New York* v *Miln* (11 Pet. 102, 139); *United Leather Workers International Union et al.* v. *Herkert* (265 U. S. 457); *United Mine Workers et al.* v. *Coronado Co.* (259 U. S 344, 408); *Crescent Cotton Oil Co.* v. *Mississippi* (257 U. S. 129); *Champlin Refining Co* v. *Corporation Commission of Oklahoma* (286 U. S. 210, 235); *United States* v. *Eason Oil Co.* (8 Fed. Sup. 365); *United States* v. *Weirton Steel Co.* (10 Fed. Sup. 55).

ESSENTIAL THAT STATES RULE LOCAL MATTERS

In *Hammer* v. *Dagenhart,* supra, page 275, the Court said:

"A statute must be judged by its natural and reasonable effect (*Collins* v. *New Hampshire* (171 U. S. 30, 33, 34)). The control by Congress over interstate commerce cannot authorize the exercise of authority not entrusted to it by the Constitution (*Pipe Line cases* (234 U. S. 548, 560)). The maintenance of the authority of the States over matters purely local is as essential to the preservation of our institutions as is the conservation of the supremacy of the Federal powers in all matters entrusted to the Nation by the Federal Constitution.

"In interpreting the Constitution it must never be forgotten that the Nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the National Government are reserved (*Lane County* v. *Oregon* (7 Wall. 71, 76)). The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority is inherent and has never been surrendered to the General Government (*New York* v. *Miln* (11 Pet. 102, 139); *Slaughter House cases* (16 Wall. 36, 63); *Kidd* v. *Pearson,* supra.

"To sustain this statute would not be, in our judgment, a recognition of the lawful exertion of congressional authority over interstate commerce but would sanction an invasion by the Federal power of the control of a matter purely local in its character, and over which no authority has been delegated to Congress in conferring the power to regulate commerce among the States.

"We have neither authority nor disposition to question the motives of Congress in enacting this legislation. The purposes intended must be attained consistently within constitutional limitations and not by an invasion of the powers of the States. This court has no more important function than that which devolves upon it the obligation to preserve inviolate the constitutional limitations upon the exercise of authority, Federal and State, to the end that each may continue to discharge harmoniously with the other the duties entrusted to it by the Constitution."

POINTS TO DECISION IN SCHECHTER CASE

The Government contends that Congress does not seek by the act to interfere with the States' control over agriculture, inasmuch as the reduction of acreage and of production of either of the basic agricultural products depends on voluntary agreements by the producers and the processing and floor taxes depend on the execution of such agreements to reduce production, citing *Massachusetts* v. *Mellon* (262 U. S. 447); but it is clear, we think, that under the recent decision of the Supreme Court in the Schechter Poultry Corporation case, decided on May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz, to control or regulate the production of agricultural products in the several States by the methods adopted in this act is beyond the power of Congress (*Kansas* v. *Colorado,* 206 U. S. 46; *Flint* v. *Stone Tracy Co.,* 220 U. S. 107).

The processing and floor taxes are not dependent on the execution of agreements to reduce acreage or production alone, but on the determination by the Secretary, without any foundation other than his own opinion, that the existing economic emergency demands that to accomplish the declared purpose of the act rental or benefit payments shall be made. The imposing of the taxes automatically follows.

The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose deemed by Congress in furtherance of the general welfare, but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.

DELEGATION OF LEGISLATIVE POWERS

The issue of whether under the act there has been an unauthorized delegation by Congress of its legislative powers is decisive of the case before this court.

Except as a premise for the conclusions which follow, it is unnecessary to restate what has been so often reiterated by the courts, viz, that the Federal Government is a Government of enumerated powers, and Congress cannot delegate legislative powers to the executive department.

The line between grants of legislative powers and the authority to perform a purely administrative function as drawn in the decisions may at first blush appear wavy instead of straight, notwithstanding the rule has been often definitely stated.

The Supreme Court of Ohio in *Cincinnati, Wilmington, etc., R. R.* v. *Commissioners* (1 Ohio St. 77, 88), stated the rule in a form which has been approved by the Supreme Court of the United States (*Field* v. *Clark* (143 U. S. 649)), and again in the recent case of *Panama Refining Co. et al.* v. *Ryan et al* (293 U. S. 388, 426):

"The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made."

The Supreme Court in the Panama Refining Co. case, supra, also said:

"The Congress manifestly is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. Undoubtedly legislation must often be adapted to complex conditions involving a host of details with which the National Legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicability which will enable it to perform its function in laying down policies and establishing standards while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the Legislature is to apply. Without capacity to give authorizations of that sort, we should have the anomaly of a legislative power which in many circumstances calling for its exertion would be a futility."

PREVIOUS COURT RULINGS ARE QUOTED IN DECISION

The Court, however, added:

"But the constant recognition of the necessity and validity of such provisions, and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate if our constitutional system is to be maintained."

And in the case of *Wichita R. R. & Light Co.* v. *Public Utilities Commission* (260 U. S. 48, 59) the Court said:

"In creating such an administrative agency, the legislature, to prevent its being a pure delegation of legislative power, must enjoin upon it a certain course of procedure and certain rules of decision in the performance of its function."

It is the application of this principle to complex situations that sometimes makes it difficult to determine whether there has been a grant of legislative power to an administrative officer or merely administrative functions.

While the courts have always shown a desire to sustain, if possible, acts of Congress, they have recognized the limitations imposed on Congress in this respect under the Constitution.

In the leading case of *Field* v. *Clark,* supra, page 692, the court said that the rule "that Congress cannot delegate legislative powers to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution."

Under stress of circumstances we sometimes forget the reason for the division of our Government into three independent branches, which was expressed in the Constitution of Massachusetts by one of those instrumental in securing the adoption of the Federal Constitution:

"In the government of this Commonwealth, the executive department shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them, to the end it may be a government of laws and not of men."

PAST COURT ACTIONS ON DELEGATION OF POWER

The extent to which the court has gone in upholding the acts of Congress upon the ground that Congress may select instrumentalities for the purpose of ascertaining the existence of facts upon which the operation of the law depends, and may properly give authority to administrative officers to determine certain facts, and by establishing primary standards devolve on others the duty to carry out the declared legislative policy in accordance therewith is shown in the following cases:

The Brig "Aurora" (7 Cr. 382); *Field* v. *Clark,* supra; *Buttfield* v. *Stranahan* (192 U. S. 470); *Union Bridge Co.* v. *United States* (204 U. S. 364); *United States* v. *Chemical Foundation* (272 U. S. 1); *Radio Commission* v. *Nelson Brothers Co.* (289 U. S. 266); *United States* v. *Grimaud* (220 U. S. 506); *Hampton & Co.* v. *United States* (276 U. S. 394); *Plymouth Coal Co.* v. *Pennsylvania* (232 U. S. 531); *United States* v. *Shreveport Grain & Elevator Co.* (287 U. S. 77); *Avent* v. *United States* (266 U. S. 127); *Williamsport Wire Rope Co.* v. *United States* (277 U. S. 551); *St. Louis & Iron Mountain Southern Railway Co.* v. *Taylor* (210 U. S. 281, 287).

But an examination of these decisions and others of the Supreme Court will also disclose that when an act of Congress of this nature has been sustained, either there has been clear direction to perform an administrative function or to add a tax of the same character to one already imposed by Congress—*Milliken* v. *United States* (283 U. S. 15, 24); *Patton* v. *Brady* (184 U. S. 608); or to grant relief from an excessive tax already imposed—*Williamsport Wire Rope Co.* v. *United States* (277 U. S. 551); *Heiner* v. *Diamond Alkali Co.* (288 U. S. 502); or a power to determine, after notice and hearing, certain facts upon which the operation of congressional edicts are made to depend, particularly when the determination of the facts are dependent on data not within the knowledge of Congress, or not readily accessible, and the ultimate facts on which the will of Congress depends can only be determined from evidentiary facts to be proved by evidence, which cannot be fairly weighed except by permanent and specially qualified officials, such as the Interstate Commerce Commission, the Commissioner of Internal Revenue, the Board of Tax Appeals, the Radio Commission, or the Tariff Commission, and from the findings of which commission judicial review is provided for—*Interstate Commerce Commission* v. *Louisville & Nashville Railroad Co.* (227 U. S. 88).

LAW-FIXING POWERS NOT ADMINISTRATIVE

The power to determine what the law shall be, what property shall be affected by taxation or regulation, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

The power to impose a tax and to determine what property shall bear the tax can only be determined by the legislative department of the Government. If Congress undertakes to lay down a guide for an administrative officer to follow in carrying out its mandates, it must be by an intelligible and reasonably definite standard (*Adkins* v. *Children's Hospital*, 261 U. S. 525; *Hampton & Co.* v. *United States*, *supra*, p. 409).

The balance between production and consumption of certain commodities, or the equalizing of the purchasing power thereof between certain widely separated periods, alone forms no such standard.

Congress in the National Recovery Act authorized the President to prohibit the transmission of oil in interstate commerce in excess of the amount authorized by a State, which on its face might seem definite, but the Court said in the Panama Refining Co. case, supra, page 415:

"The question whether that transportation shall be prohibited by law is obviously one of legislative policy. Accordingly we look to the statute to see whether the Congress has declared a policy with respect to that subject; whether the Congress has set up a standard for the President's action; whether the Congress has required any finding by the President in the exercise of the authority to enact the prohibition. * * *

"Section 9 (c) does not state whether, or in what circumstances or under what conditions, the President is to prohibit the transportation of the amount of petroleum or petroleum products produced in excess of the State's permission. It establishes no criterion to govern the President's course. It does not require any finding by the President as a condition of his action."

RULING ON THE N. R. A. ALSO IS RECALLED

The Court found no standard in the act by which the President's action was to be governed except a general declaration in section 1 of a policy even broader than that contained in section 2 of this act. The Court said of section 1 of the Recovery Act, page 417:

"This general outline of policy contains nothing as to the circumstances or conditions in which transportation of petroleum or petroleum products should be prohibited—nothing as to the policy of prohibiting or not prohibiting the transportation or production exceeding that the States allow. * * * It is manifest that this broad outline is simply an introduction of the act, leaving the legislative policy as to particular subjects to be declared and defined, if at all, by the subsequent sections."

If Congress has the power to control or regulate the production of agricultural products within the several States and assess a tax on their processing or sale for that purpose, it is obviously legislative in character. Quercy, then, has Congress set up any definite standard for the Secretary's action in making rental or benefit payments to producers and thereby imposing a processing tax?

We find no definite, intelligible standard set up in the act for determining when the Secretary shall pay rental or benefit payments in order to reduce production of any particular commodity except his own judgment as to what will effectuate the purpose of the act.

The declaration of emergency in the Agricultural Adjustment Act contains no such standard for the Secretary of Agriculture to follow in entering into restrictive agreements with producers of agricultural products. It is merely a statement of conditions which in the judgment of Congress warranted legislative action.

Section 2 of the act declaring the policy of Congress in enacting the legislation contains no more than a statement of the objects Congress had in view in passing the act, viz, "To establish and maintain a balance between the consumption and production of agricultural commodities and such marketing conditions therefor as will reestablish prices to farmers at such a level as will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities during the 5-year pre-war period from July 1909 to August 1914."

We can conceive of no goal that can be more elusive and difficult of attainment.

FINDS BENEFIT GRANTS LEFT TO SECRETARY

Without requiring any findings to warrant his action, Congress has empowered him, in conjunction with the producers, to determine when a reduction of acreage or production of any one of the agricultural commodities which it has termed basic, should be resorted to to accomplish the purpose of the act, when rental or benefit payments are to be made and in what amounts, and thereby to determine through the initiation of the benefit payments or rentals the consequent imposition of a tax.

The making of benefit payments, therefore, rests upon, and the consequent imposition of the tax is vested in the discretion of the Secretary, in conjunction, of course, with the producers, governed by no other consideration than the general purpose of Congress to equalize the purchasing power of certain agricultural products.

The carrying out of the policy stated by Congress in section 2 is no more definite as a standard by which the acts of the Secretary are determined than the policy expressed in the National Recovery Act as to transportation of oil and the power vested in the President to prescribe industrial business codes governing the conduct of business.

PRESENT CASE LIKENED TO RULING ON THE N. R. A.

What the Supreme Court said of section 9 (c) of the National Recovery Act in the Panama Refining Co. case may likewise be said of section 2 and section 8 of the Agricultural Adjustment Act. Neither section 2 nor section 8 of this act states whether or under what circumstances the Secretary shall enter into agreements to limit production of basic agricultural commodities.

Action by the Secretary is not mandatory, and the act establishes no criterion to govern his course of action. It requires no finding by him as a condition of his action, nor is any provision for judicial review provided in the act in case of a finding that such standard in fact exists.

It is true that the facts in this case are different from those in the Panama Refining Co. case and in the Schechter poultry case, but the provisions defining the acts of the Secretary differ from those authorizing the acts of the President in those cases only in the general terms employed. The principle involved is the same.

The indefiniteness of the standard by which the Secretary of Agriculture is to proceed is at once apparent and was recognized by Congress in paragraphs (2) and (3) of section 2, in which it was provided that the approach to such equality of purchasing power must be by a gradual correction of the present inequalities at as rapid a rate as is deemed feasible by the Secretary in view of the current consumptive demand in the domestic and foreign markets, and further by protecting the consumers' interest by readjusting farm production at such a level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities which is returned to the farmer above that returned to him during the 5-year pre-war period.

As originally enacted Congress enumerated in section 11 seven products which it termed basic, and later by amendment added rye, flax, barley, grain, sorghum, sugar beets, sugarcane, peanuts, and rice. Benefit payments under the act have been made with respect to wheat, cotton, tobacco, hogs, field corn, and peanuts, but none with respect to barley, cattle, flax, grain, sorghum, milk, or rye.

Congress has not specifically directed that payments should be made to the producers of any one of them except the producers of sugar, or that the processing of any one of these products should be taxed except rice, but as to each of the other commodities enumerated, has left it to the Secretary of Agriculture to determine by agreements with the producers themselves which ones, if any, should receive benefit or rental payments and in what amounts.

FINDINGS OF FACTS HELD TO BE LACKING

The Secretary made no finding of facts as to why he selected the first list of basic commodities for reducing acreage or production, and was not required to do so. He simply made a proclamation that "rental and/or benefit payments are to be made with respect to cotton", and a processing tax automatically followed.

It cannot be said that the Secretary's judgment that his acts will tend to effectuate the general policy laid down by Congress can be called a finding, as his judgment involves merely his opinion as to the general effect of the agreements he executes to equalize the purchasing power of the commodity in question with that of the 5-year pre-war period.

Only when he undertakes to readjust taxes is he supposed to make findings, but in that case it amounts to no more, as the Court said in the Schechter Poultry Corporation case of the President's code-making powers under the National Recovery Act, than his opinion as to its effect in promoting the general policy outlined by Congress in the act itself.

To quote from the opinion in the Schechter Poultry Corporation case, decided May 27, 1935:

"But would it be seriously contended that Congress could delegate its legislative authority to trade or industrial associations or groups so as to empower them to enact the laws they deem to be wise and beneficent for the rehabilitation and expansion of their trade or industries? Could trade or industrial associations or groups be constituted legislative bodies for that purpose because such associations or groups are familiar with the problems of their enterprises?

"And could an effort of that sort be made valid by such a preface of generalities as to permissible aims as we find in section

1 of title I? The answer is obvious. Such a delegation of legislative power is unknown to our law and is utterly inconsistent with the constitutional prerogatives and duties of Congress."

DENIES CONGRESS MAY GRANT POWERS

Because the proposed reduction of acreage and of production of the so-called "basic agricultural commodities" is to be secured through voluntary agreements, the Government also contends that Congress has not delegated legislative powers to the Secretary; but can Congress, in order to effectuate the general policy expressed in section 2 of the act, lawfully delegate to the Secretary the power to determine whether, in consideration of rental or benefit payments to the producers, the production of any one of such basic agricultural commodities shall be reduced and to what extent reduced, without a finding by the Secretary that facts exist requiring a reduction of the acreage and of production of such agricultural commodity, or without some standard fixed by Congress by which action by the Secretary shall be determined; and further provide that upon his determination to pay such rental or benefit payments a tax shall be automatically imposed on the processing of such commodity for the purpose of providing revenue for such rental or benefit payments? We think not.

While the amount of the reduction of acreage or production of any basic commodity under this act is done by agreements and not by a code, the purpose and result is the same, viz: The control and regulation of a great intrastate industry, and the Secretary, with the approval of the President, is authorized to make regulations for carrying out powers vested in him and imposing a penalty for their violation.

If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress or to foretell the future limitations of local self-government.

OTHER POWERS FOUND VESTED IN SECRETARY

But these are not the only powers vested in the Secretary under the act. When a tax shall first be imposed on processing of such commodity depends on the joint action of both the Secretary and the producer, but if the Secretary finds or has reason to believe that a tax determined in accordance with the statistics in the Agricultural Department as to the purchasing power of such commodities in the two contrasting periods will cause such a reduction in the quantity of the commodity or products thereof domestically consumed as to result in an accumulation of surplus stocks of the commodity and in the depression of the farm price of the commodity, and if he finds, after hearings, that such result has occurred, he may make a new rate that will prevent an accumulation of such commodity or a depression of farm prices.

In readjusting the rate of tax there is no mathematical formula or standard provided in the act to guide the Secretary except the indefinite one of preventing an accumulation of surplus stock of any of the basic commodities or a depression in farm prices.

A finding or conclusion by the Secretary, after hearing, that the readjustment of the tax would carry out the congressional policy by preventing the accumulation of a surplus of the commodity amounts to no more than an expression of his opinion.

If it could be urged that there is a standard set up in section 9 of the act for determining the amount of the processing tax, viz, the equalizing of the purchasing power of the basic commodities with the pre-war period, it requires readjustments to such an extent as to render the standard so indefinite as to leave it entirely in the discretion of the Secretary what the amount shall be to accomplish that purpose.

He is also given authority to impose what is termed "compensating taxes"; that is, if the Secretary, after notice and hearing, finds that any competing commodity will cause the processors disadvantage from such competition by reason of excessive shifts in consumption between such commodities or the products thereof, he may specify the competing commodity and a compensating processing tax on the competing commodity necessary to prevent such disadvantage.

No standard or guide is here laid down to determine how the compensating tax shall be fixed or what elements shall be taken into consideration in determining the amount, except that it shall be determined by the amount necessary to prevent such disadvantage in competition.

We find no decision of the Supreme Court authorizing such a delegation of power to an administrative officer. On the contrary, the recent decision in the Panama Refining Co. case and the Schechter Poultry Corporation case, we think, clearly condemns it as unwarranted under the Constitution.

It is not contended that the receivers have been adversely affected by these last two provisions, and is adverted to for the purpose of showing the extent to which Congress has attempted to vest legislative power in the Secretary.

It is not difficult to understand, after studying the act, why the district court concluded that "it must * * * be conceded that legislative functions are conferred upon administrative officers by the act", or that "the Agricultural Adjustment Act indubitably authorizes an executive to exercise powers of a legislative character."

The district court, however, hesitated to hold the authority vested in the Secretary was an unlawful delegation of legislative power, because no decision of the Supreme Court at the time of his decision had held any of the recent acts of Congress unconstitutional on this ground. Since that time, however, the case of Panama Refining Co. and the Schechter Poultry Corporation case have been decided.

PROCESSING AND FLOOR TAXES

Upon determining that benefit payments are to be made to the producers, the Secretary is further vested with the power to fix the amount of the processing tax on any commodity provided for in section 16 and at a rate that will equal the difference between the current average farm price for the commodity and its fair exchange value during the 5-year pre-war period, which fair exchange value is to be determined by him from statistics in the Department of Agriculture.

If the district court, however, understood the receivers as agreeing that the Secretary had correctly followed the mandate of Congress in fixing the tax in the first instance, or as waiving any claim that he had in this respect acted outside the powers vested in him under the act, then, although he appears for some reason outside of what is termed a "mathematical formula" based on the statistics of the Agricultural Department, to have fixed a tax of 4.2 cents per pound, when the mathematical application of the statistics in the Agricultural Department would establisb the rate of the tax at 4.34 cents per pound, the error cannot be taken advantage of in this court.

If Congress has invaded a field over which it has no control under the Constitution, or the Secretary has been unlawfully vested with legislative powers, the exercise of which has affected these appellants, it is not necessary to consider whether the processing and floor taxes are direct taxes or, if excise taxes, are not uniformly laid.

The decree of the district court is reversed, and the case is remanded to that court with directions to enter a decree for the appellants.

Mr. FRAZIER. Mr. President, a few moments ago, when the Senator from New York [Mr. COPELAND] was speaking, he implied that the amount of the tariff had nothing to do with the price of flax, or something of the kind. I desire to say that, in my opinion, the amount of the tariff has nothing to do with the price of paint, either. The price of paint for a number of years has been, it seems to me, unreasonably high compared with the price of flaxseed or the price of linseed oil, which goes into the paint.

I find from the 1935 yearbook, which has just come out, that the average price of flaxseed to the farmer in 1932–33 was 88.1 cents. The year preceding that, 1931–32, the average price was $1.16 per bushel; but the price of the best grades of paint using linseed oil has been consistently, I think, about $4 a gallon. I believe the N. R. A. code put up the price of the best grades a little higher than that.

In my opinion, however, the amount of the tariff has very little to do with the price of paint; and if we are going to protect flaxseed, we should also have a compensatory tax on the substitutes which come in here and take the place of flaxseed—perilla seed, hempseed, and things of that kind.

So I hope the amendment of the Senator from Minnesota will prevail, as we need protection for our linseed oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee. [Putting the question.] The ayes appear to have it.

Mr. KING. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	King	Radcliffe
Ashurst	Copeland	La Follette	Reynolds
Austin	Costigan	Lewis	Robinson
Bachman	Davis	Logan	Russell
Bailey	Dickinson	Lonergan	Schall
Bankhead	Dieterich	McAdoo	Schwellenbach
Barbour	Donahey	McCarran	Sheppard
Barkley	Duffy	McGill	Shipstead
Bilbo	Fletcher	McKeller	Smith
Black	Frazier	McNary	Steiwer
Bone	George	Maloney	Thomas, Okla.
Borah	Gerry	Metcalf	Townsend
Brown	Gibson	Minton	Trammell
Bulkley	Glass	Moore	Truman
Bulow	Gore	Murphy	Tydings
Burke	Guffey	Murray	Vandenberg
Byrd	Hale	Neely	Van Nuys
Byrnes	Harrison	Norbeck	Wagner
Capper	Hastings	Norris	Walsh
Caraway	Hatch	Nye	Wheeler
Carey	Hayden	O'Mahoney	White
Chavez	Holt	Overton	
Clark	Johnson	Pittman	
Connally	Keyes	Pope	

The PRESIDING OFFICER. Ninety-three Senators having answered to their names, there is a quorum present.

The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee.

Mr. KING. Mr. President, I shall not ask for a record vote, but I should like to have a division.

On a division, the amendment to the amendment was agreed to.

Mr. GEORGE. Mr. President, I have sent an amendment to the desk, which I ask to have read.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. In the committee amendment on page 38, following the amendment of Mr. SHIPSTEAD, just agreed to, it is proposed to insert the following:

No tax shall be imposed under section 15 (d) of the Agricultural Adjustment Act, as amended, upon tung seed or their products, including tung oil.

Mr. GEORGE. Mr. President, I do not believe there is opposition to this amendment, but, since it may be thought that tung oil is competitive with linseed oil, it seems to me desirable to have the amendment included in the bill, because the production of tung oil is a new industry. The planting of tung trees, which commenced about 1923 in the States of Florida, Georgia, and around the Gulf coast of Texas, has now reached considerable proportions.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. SHIPSTEAD. My information is that the amendment is not objectionable. That is my opinion from the information I have as to the competitive qualities of tung oil. I can see no objection to the amendment.

Mr. McNARY. May I ask the Senator whether he specifies the amount of the tax?

Mr. GEORGE. I may say to the Senator from Oregon that the amendment would prevent the Secretary of Agriculture from putting a compensatory or equalizing tax on tung oil.

Mr. McNARY. I thank the Senator. I thought this was to provide a compensatory tax, not specifying the amount.

Mr. GEORGE. No; it is to relieve this new domestic industry from the possibility of an equalizing tax.

Mr. JOHNSON. I should like to have the amendment again stated.

The PRESIDING OFFICER. The clerk will again state the amendment.

The CHIEF CLERK. In the committee amendment, on page 38, following the amendment of Mr. SHIPSTEAD, just agreed to, it is proposed to insert the following:

No tax shall be imposed under section 15 (d) of the Agricultural Adjustment Act, as amended, upon tung seed or their products, including tung oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. MOORE] has offered an amendment to the amendment, which will be stated.

The CHIEF CLERK. On page 38, line 4, in the committee amendment it is proposed to strike out the words "flaxseed, or"; in lines 8 and 9, to strike out the words "in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds"; and in line 13, to strike out the words "flaxseed and".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Jersey.

Mr. MOORE. Mr. President, the purpose of the amendment may be briefly stated. In New Jersey there are a number of large linoleum manufacturers. There are also many paint manufacturers and many varnish manufacturers. Those manufacturers employ thousands of workers. If the committee amendment as it now stands should be enacted into law these companies would necessarily have to throw thousands of people out of employment. There is already a tariff of 65 cents a bushel on imported flaxseed and 4½ cents a pound on imported linseed oil.

Linseed oil is the drying oil used in the manufacture of linoleum; it is used in the manufacture of varnish and in the manufacture of paint. The tariff duty is 100 percent effective and, as a result, flaxseed generally sells for 65 cents a bushel higher in the United States than in the world markets, while linseed oil today sells from 8½ to 9 cents a pound in the American market, whereas in the European market it sells for 4 cents a pound.

Notwithstanding the high tariff, the domestic production of flaxseed, which has never been quite sufficient to supply half of our requirements in America, has dwindled during the last 5 years, so that it has become necessary to import nearly three-quarters of our requirements.

The proposed processing tax would, in effect, raise the protection to the domestic producer from 65 cents to $1 a bushel. It would mean a processing tax of 1½ cents a pound on linseed oil, increasing the price on the commodity by that amount. As linseed oil is the chief raw material used in the manufacture of linoleum and also in paints and in varnishes, it would virtually make it impossible for the domestic linoleum and paint industry to compete in the world market with the British and Netherlands manufacturers. It would place a burden of $5,000,000 annually on the consumers of drying oils in America.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, I have before me the Agricultural Year Book for 1935, which just has been issued, and I find that the average production of flaxseed per acre for the 10-year period from 1922 to 1931—that was before the drought—was 7.3 bushels per acre, and at the prices which ranged at that time the farmers were not getting cost of production for their flaxseed.

The average production declined during the years 1933 and 1934 because of the drought throughout a large part of the flaxseed-producing area. The average yield in 1933 was only 5.2 bushels per acre, and in 1934 it was 5.4 bushels per acre. The average price for flaxseed, according to the same Agricultural Year Book, in 1931–32 was 1.16\frac{6}{10}$ per bushel to the farmers, and the average price in 1932–33 was only 88.1 cents per bushel, in spite of the fact that there was a 65-cent duty on flaxseed. So the amount of the duty is not fully effective, and according to the Department of Agriculture, has not been at any time since the duty was put on.

As I previously stated, I am satified that the amount of the duty has little to do with the prices of paint or the prices of linoleum. They are regulated by the manufacturers, who apparently make a mighty good profit. The farmers are producing their product at a loss. The farmers are entitled to more protection. This bill, dealing with agriculture, is for the benefit of the farmers and not for the benefit of the manufacturers.

Mr. President, I trust that the amendment of the Senator from New Jersey will not be agreed to.

Mr. COPELAND. Mr. President, I hope the amendment of the Senator from New Jersey will prevail. Here is an item, inserted in this bill without any hearing, without any notice, which affects a great industry, and which comes to them as a surprise. As I said a little while ago, undoubtedly it will serve to hamper legitimate enterprises now employing thousands of men and, as I view it, it is immoral and indecent to attempt to help an industry where there is no surplus, where there are natural reasons for the decline, as pointed out by the Secretary of Agriculture. So, all in all, I hope the amendment offered by the able Senator from New Jersey will be accepted by the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee. [Putting the the question.] The ayes seem to have it.

Mr. NORBECK. I ask for a division.

Mr. NYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bilbo	Byrd	Coolidge
Austin	Borah	Byrnes	Copeland
Bachman	Brown	Capper	Davis
Bailey	Bulkley	Caraway	Dickinson
Bankhead	Bulow	Carey	Dieterich
Barbour	Burke	Chavez	Donahey

Duffy	Keyes	Murray	Shipstead
Fletcher	King	Neely	Smith
Frazier	La Follette	Norbeck	Steiwer
Gerry	Logan	Norris	Thomas, Okla.
Gibson	Lonergan	Nye	Townsend
Glass	McAdoo	O'Mahoney	Trammell
Gore	McCarran	Overton	Truman
Guffey	McGill	Pittman	Tydings
Hale	McKeller	Pope	Vandenberg
Harrison	McNary	Radcliffe	Wagner
Hastings	Maloney	Reynolds	Walsh
Hatch	Metcalf	Robinson	Wheeler
Hayden	Minton	Schall	White
Holt	Moore	Schwellenbach	
Johnson	Murphy	Sheppard	

The VICE PRESIDENT. Eighty-two Senators have answered to their names. A quorum is present. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee.

Mr. NYE. On that question I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. ROBINSON. I desire to announce the unavoidable absence of the Senator from Arizona [Mr. ASHURST], the Senator from Kentucky [Mr. BARKLEY], the Senator from Alabama [Mr. BLACK], the Senator from Washington [Mr. BONE], the Senator from Missouri [Mr. CLARK], the Senator from Texas [Mr. CONNALLY], the Senator from Colorado [Mr. COSTIGAN], the senior Senator from Georgia [Mr. GEORGE], the Senator from Illinois [Mr. LEWIS], the Senator from Louisiana [Mr. LONG], the junior Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS].

The result was announced—yeas 49, nays 33, as follows:

YEAS—49

Adams	Copeland	Hatch	Reynolds
Austin	Davis	Keyes	Schwellenbach
Bachman	Dickinson	King	Steiwer
Bailey	Dieterich	Lonergan	Townsend
Barbour	Donahey	McCarran	Trammell
Brown	Duffy	McNary	Tydings
Bulkley	Gerry	Maloney	Vandenburg
Burke	Gibson	Metcalf	Wagner
Byrd	Glass	Minton	Walsh
Byrnes	Gore	Moore	White
Carey	Guffey	O'Mahoney	
Chavez	Hale	Overton	
Coolidge	Hastings	Radcliffe	

NAYS—33

Bankhead	Hayden	Murray	Sheppard
Bilbo	Holt	Neely	Shipstead
Borah	Johnson	Norbeck	Smith
Bulow	La Follette	Norris	Thomas, Okla.
Capper	Logan	Nye	Truman
Caraway	McAdoo	Pittman	Wheeler
Fletcher	McGill	Pope	
Frazier	McKellar	Robinson	
Harrison	Murphy	Schall	

NOT VOTING—14

Ashurst	Clark	George	Thomas, Utah
Barkley	Connally	Lewis	Van Nuys
Black	Costigan	Long	
Bone	Couzens	Russell	

So Mr. MOORE's amendment to the committee amendment was agreed to.

Mr. GUFFEY. Mr. President, to the committee amendment I offer the amendment which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment offered by the Senator from Pennsylvania to the amendment reported by the committee will be stated.

The CHIEF CLERK. In the amendment of the committee, on page 38, line 4, it is proposed to strike out "and in the case of barley at the rate of 25 cents per bushel of 48 pounds"; on page 38, line 13, to strike out "and barley"; and on page 38, at the end of section 12 (b) 5, to insert the following: "Amend section 6 of the Agricultural Adjustment Act, as amended, by eliminating therefrom the word 'barley.'"

Mr. GUFFEY obtained the floor.

Mr. FRAZIER. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. FRAZIER. Mr. President, in the committee amendment barley is the only thing left, and I cannot see any need of this amendment.

The VICE PRESIDENT. If the Senate should amend the amendment as the Senator from Pennsylvania suggests, there would not be anything left in the amendment.

Mr. GUFFEY. Mr. President, if it should be adopted, the effect of the proposed amendment would be to eliminate barley from the list of articles on which the Secretary of Agriculture may impose processing taxes. A very large portion of the barley crop is used for feed, which under the law would not in any event be subject to processing taxes. The bulk of the barley which would be subject to processing taxes under the bill is that used in the manufacture of beer, a product already so highly taxed that no additional tax should be placed on the raw material.

Mr. FRAZIER. Mr. President, it is true that a good deal of barley is used for feed, which would not come under this provision if it should go into effect. The bulk of the barley which would be affected is that which is used by brewers in the manufacture of beer. I do not know what is the price of a barrel of beer, but I talked with a man who said he had been connected with the operation of a brewery a few years ago and was very familiar with the prices and the amount of ingredients that went into the manufacture of a barrel of 31 gallons of beer. He said there were about 1 pound of hops, 5 pounds of barley, and a little yeast, the rest being water. Five pounds of barley, at the present price, would be less than 5 cents; the yeast, I presume, would be probably 1 or 2 cents; and I do not know how much hops are a pound, but not very much.

If the Senator from Pennsylvania is more interested in having reduced the cost of beer to the brewers than he is having a fair price afforded the farmers who produce the barley, his amendment is all right.

Mr. NORBECK. Mr. President, does the Senator think if the price of barley were cut 5 cents that beer would be any cheaper?

Mr. FRAZIER. I doubt it. Certainly this little tax on barley which might raise the price to 50 or 60 cents a bushel would not affect the price of beer, because the cost of the 5 pounds of barley which go into the manufacture of a barrel of beer is infinitesimal as compared to the sale price of the beer; and, of course, when divided up into the glass or bottle it is so small as to be, if possible, less than infinitesimal.

I was greatly disappointed by the vote as to flaxseed. About a dozen States in the Union raise flaxseed. A majority of the Senate struck flaxseed out of the bill by almost a 2-to-1 vote in order to protect the manufacturers of linoleum and paints, to the detriment of the farmers who produce flaxseed in a dozen States of this Nation. That is all right, if that is the attitude the Senate wants to take; but, Mr. President, unless something shall be done to increase the prices of products raised by the American farmer so as to give him a price that will return him the cost of production for his product, not only the farmers will go broke but the remainder of the people along with the farmers will also go broke. So if the Senate wants the Nation, including the manufacturers of the raw materials of agriculture, to go broke, they may strike from the bill the agricultural products which we are trying to protect, barley among the rest.

The PRESIDING OFFICER (Mr. MCKELLAR in the chair). The question is on the amendment offered by the Senator from Pennsylvania [Mr. GUFFEY] to the amendment reported by the committee. [Putting the question.] The Chair is in doubt.

Mr. WALSH and Mr. FRAZIER asked for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. KING (after having voted in the affirmative). I have a general pair with the junior Senator from California [Mr. MCADOO]. In his absence I withdraw my vote.

Mr. AUSTIN. The Senator from Delaware [Mr. HASTINGS] is unavoidably detained. If present, he would vote "yea." He has a general pair with the Senator from Utah [Mr. THOMAS].

Mr. LEWIS. I desire to announce the unavoidable absence of the Senator from Kentucky [Mr. BARKLEY], the Senator from Washington [Mr. BONE], the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. PITTMAN], the Senator from Wisconsin [Mr. DUFFY], the Senator from Louisiana [Mr. LONG], the Senator from Califor-

nia [Mr. McADOO], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Montana [Mr. WHEELER].

The result was announced—yeas 40, nays 42, as follows:

YEAS—40

Ashurst	Copeland	Keyes	Reynolds
Austin	Davis	Lewis	Sheppard
Bachman	Dickinson	Lonergan	Steiwer
Barbour	Dieterich	McCarran	Trammel
Bulkley	Donahey	McNary	Tydings
Burke	Gerry	Maloney	Vandenburg
Carey	Gibson	Metcalf	Van Nuys
Chavez	Gore	Moore	Wagner
Clark	Guffey	O'Mahoney	Walsh
Coolidge	Hale	Radcliffe	White

NAYS—42

Adams	Connally	La Follette	Overton
Bailey	Costigan	Logan	Pope
Bankhead	Fletcher	McGill	Robinson
Bilbo	Frazier	McKellar	Schall
Black	George	Minton	Schwellenbach
Borah	Glass	Murphy	Shipstead
Brown	Harrison	Murray	Smith
Bulow	Hatch	Neely	Thomas, Okla.
Byrnes	Hayden	Norbeck	Truman
Capper	Holt	Norris	
Caraway	Johnson	Nye	

NOT VOTING—14

Barkley	Duffy	McAdoo	Townsend
Bone	Hastings	Pittman	Wheeler
Byrd	King	Russell	
Couzens	Long	Thomas, Utah	

So Mr. GUFFEY's amendment to the amendment, reported by the committee, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. WALSH. Mr. President, I move to reconsider the vote by which the Senate adopted the committee amendment, inserting paragraph (G), on page 18, after line 20. This amendment was adopted by two votes. Many Senators, including myself, were absent at the time. The debate was extended, and I think there is no need for further discussion. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. The Senator from Massachusetts moves to reconsider the vote by which the committee amendment on page 18, after line 20, was adopted. The amendment will be stated.

The CHIEF CLERK. The committee amendment, as adopted, inserts, on page 18, after line 20, the following:

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. WALSH. I renew my request for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. LEWIS. I wish to announce the necessary absence of the Senator from Washington [Mr. BONE], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Louisiana [Mr. LONG], and the Senator from Utah [Mr. THOMAS].

The result was announced—yeas 48, nays 43, as follows:

YEAS—48

Adams	Coolidge	Hale	Overton
Ashurst	Copeland	Hastings	Radcliffe
Bachman	Davis	Hatch	Schall
Bailey	Dickinson	Keyes	Schwellenbach
Barbour	Dieterich	King	Steiwer
Borah	Donahey	Lonergan	Townsend
Bulkley	Duffy	McAdoo	Trammell
Burke	Fletcher	McCarran	Tydings
Byrd	George	McNary	Vandenberg
Carey	Gerry	Maloney	Wagner
Clark	Glass	Metcalf	Walsh
Connally	Gore	Moore	White

NAYS—43

Austin	Frazier	McKellar	Reynolds
Bankhead	Gibson	Minton	Robinson
Barkley	Guffey	Murphy	Russell
Bilbo	Harrison	Murray	Sheppard
Black	Hayden	Neely	Shipstead
Brown	Holt	Norbeck	Smith
Bulow	Johnson	Norris	Thomas, Okla.
Byrnes	La Follette	Nye	Truman
Capper	Lewis	O'Mahoney	Van Nuys
Caraway	Logan	Pittman	Wheeler
Costigan	McGill	Pope	

NOT VOTING—5

Bone	Couzens	Long	Thomas, Utah
Chavez			

So Mr. WALSH's motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the committee known as paragraph (G).

Mr. WALSH. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the name of Mr. ADAMS.

Mr. SMITH. Mr. President, before the vote is taken I wish to remind the Senate of the fact that yesterday afternoon this question was debated at length. The vote upon it has now been reconsidered. All I desire to say about the matter is that those who are familiar with the bill know that this is the one attempt in the bill to give those who produce the raw material—the farmers—an opportunity, when they secure control of at least 50 percent of any given commodity which comes under the bill, to agree upon a minimum price for it.

All those who desire to deny the farmer the privilege, through the agency of the Government, of having something like an organization to offset the organizations from which he buys, may vote against the amendment.

Mr. GEORGE. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Georgia?

Mr. SMITH. I do.

Mr. GLASS. Mr. President, I make the point of order that a roll call was ordered, and the Senator from Colorado [Mr. ADAMS] answered to his name.

Mr. SMITH. No; I was on my feet addressing the Chair before the roll call began.

The PRESIDING OFFICER. The clerk did not hear the response of the Senator from Colorado.

Mr. SMITH. But, in any event, the Senator from South Carolina was on his feet.

The PRESIDING OFFICER. That is correct.

Mr. GEORGE. Mr. President, I now desire to ask the Senator if this provision does not leave it to the handlers or distributors to fix the price.

Mr. SMITH. No. If the Senator will read the provision which is in italics, he will see just what it means.

Mr. GEORGE. I have it before me, Mr. President. It says:

Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof—

That is the distributor selling to the consumer.

Mr. SMITH. Yes.

Mr. GEORGE. It continues:

Provided, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers—

That is cooperatives, I presume—

or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. SMITH. All through the cooperation of the producers.

Mr. GEORGE. Will the Senator explain to me what paragraph (F) means?

Mr. SMITH. Paragraph (F) means that the minimum resale price is there fixed for the handler. After the minimum price of the producer is fixed, that is the resale price.

Mr. GEORGE. That is what I am getting at; so that the amendment we are voting on deals with the resale price to the consumer?

Mr. SMITH. No. Paragraph (F) deals with the resale price, and the Senate added paragraph (G), printed in italics—that the producer, or his agent, or an association handling 50 percent of the volume of the commodity, shall fix the first minimum price to the producer. The first paragraph provides that the producers shall have a resale price, so that some outsiders may not come in and chisel in on them.

Mr. GEORGE. So the price to the handler would be fixed, and the price at which the handler or producer must offer the commodity to the public would also be fixed.

Mr. SMITH. The minimum price.

Mr. GEORGE. Yes; the minimum price.

Mr. BARKLEY. Mr. President, will the Senator from South Carolina yield to me?

Mr. SMITH. I yield.

Mr. BARKLEY. For years Congress has been attempting to encourage cooperative marketing among farmers in order to give them an advantage which would offset their disadvantage through the organization of almost all others from whom they buy their necessities.

Mr. SMITH. Yes.

Mr. BARKLEY. We thought so well of that that we incorporated in the Clayton Act a provision that no such organization should be regarded as a violation of the antitrust law.

Mr. SMITH. Exactly.

Mr. BARKLEY. From time to time there have been organized all over the country farmers' cooperative marketing associations. We have had them in Kentucky affecting tobacco. There have been such organizations in Virginia and North Carolina. They have also been formed in other parts of the country with respect to different farm products in order that, by cooperation, the farmers might be able to sell their own products through such associations and have some voice in the fixing of the prices received by them.

If I understand the amendment, it simply sanctions and legalizes in this proposed act what Congress and the people for years have been attempting to do through the organization of farm cooperative marketing associations.

Mr. SMITH. Mr. President, let me call the attention of the Senator to the fact that the reason why the cooperatives have heretofore failed has been because they never could get control of a sufficient amount of a given commodity to enable them to establish a price. This is an attempt, with the cooperation of the Government, to enable them to get control of at least 50 percent, and then let them agree upon what they think is a reasonable price.

Mr. NEELY and Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield; and if so, to whom?

Mr. SMITH. I yield to the Senator from West Virginia.

Mr. NEELY. Mr. President, I should like to read a telegram which I have just received, and I should like to have the views of the chairman of the committee with regard to it. The telegram is from Parkersburg, W. Va., and is as follows:

> Fruit growers of our State threatened with domination by more powerful Western States if price-fixing section of A. A. A. becomes law. This section allows bureaucratic control of prices on perishable fruits, which will probably be ruinous instead of helpful to West Virginia growers.

Does the chairman of the committee believe there is any basis for the fear expressed in this telegram?

Mr. SMITH. I do not, for the reason I have just stated. This amendment largely affects the two parties to the first process, the producer, and the first handler. Under this provision the producers, having control of 50 percent of the produce, will name a minimum price. Then the minimum resale price will be agreed upon by those who sell.

In addition to that, the bill provides for regional processing and marketing so that, as in the case of citrus fruits, for example, as I explained, Florida is to itself and can agree upon what it pleases. A majority of the producers of citrus fruits will determine what they shall do or whether they shall do anything. The same is true of the Rio Grande region and of California. So that these regions will be enabled to protect themselves in their marketing agreements. The regions will be established according to the will of those who consider that they are in a homogeneous section.

Mr. NEELY. Mr. President, if the Senator will yield for one more question, is it not a fact, then, that the fruit growers of West Virginia and those in the region of which they are a part would themselves determine the price in the first instance instead of the price being determined on the Pacific coast?

Mr. SMITH. Yes.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BYRD. I cannot permit that statement to go unchallenged.

Mr. SMITH. I think the Senator has challenged nearly every statement the chairman of the committee has made.

Mr. BYRD. This colloquy sustains what I have been contending. The Senator from South Carolina has frequently said that no marketing agreement can be promulgated without the consent of the producer, when his own bill gives the power to 50 percent of the handlers to promulgate such agreements.

I wish to refer, however, to what the Senator from West Virginia has said. There is no requirement in the bill that the marketing agreements shall be regional. In the discretion of the Secretary they may be Nation-wide, if he chooses. Therefore, the question asked by the Senator from West Virginia is whether the fruit growers of the West could impose minimum prices on the fruit growers of the East.

Mr. SMITH. Can the Senator point out in the bill a provision under which the Secretary may disregard regional agreements and have a Nation-wide set-up to suit himself?

Mr. BYRD. Mr. President, will the Senator point out a provision under which the Secretary of Agriculture is compelled to have regional agreements?

Mr. SMITH. I will read what is in the bill.

Mr. BYRD. Very well. From what page is the Senator about to read?

Mr. SMITH. Page 23. It reads:

> REGIONAL APPLICATION
>
> No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

Mr. BYRD. That is the very point I make, that regional agreements are not required; they are simply discretionary with the Secretary of Agriculture. What the Senator has read sustains exactly what I said.

Mr. SMITH. When he finds that in any particular case the regional set-up does not effectuate the purposes of the act.

Mr. BYRD. Mr. President, the Senator made the positive statement that marketing agreements could not be made except by regions. I submit to the Senator that he has made a mistake in making that statement, because the bill provides that they shall only be regional to effectuate the declared policy of the act, and if they do not effectuate the declared policy of the act, they may be Nation-wide.

Mr. SMITH. But the agreements will be regional after it is discovered that as to any one product or commodity the object of the measure, which is to get a better price for the farm products, cannot be more effectually carried out.

Mr. BYRD. But that is in the discretion of the Secretary.

Mr. SMITH. The discretion of the Secretary would be limited by the first part of this provision, which would still leave it within the hands of the producers to determine whether or not a regional set-up was more satisfactory to them than one covering the entire scope.

Mr. BYRD. I submit to any Member of the Senate who will read the section just read by the Senator that it is left in the hands of the Secretary.

Mr. BORAH. Mr. President, I should like to know definitely what commodities this price-fixing provision will cover.

Mr. SMITH. I will state to the Senator from Idaho that if he will turn to page 16, he will find that it covers the products named in subsection (6), and Senators are familiar with what was stricken out yesterday.

Mr. BORAH. Let us read it. There was a great deal of dispute yesterday about what it covered.

Mr. SMITH. As I recall, the bill will read:

In the case of fruits (including pecans and walnuts but not including apples and their products, tobacco and its products, vegetables, not including vegetables for canning) and their products.

"Soybeans", I understand, is still in the bill. "Hops" is out. Bees went out through Virginia. [Laughter.] "Poultry" is out.

Mr. BORAH. In other words, it covers fruits, not including apples——

Mr. SMITH. Yes; and not including fruits for canning.

Mr. BORAH. And tobacco and its products, vegetables and their products, and then it covers soybeans.

Mr. SMITH. And naval stores.

Mr. BORAH. That is all the price-fixing proposition would cover?

Mr. SMITH. Yes.

Mr. BARKLEY. Mr. President, I understand that paragraph (F) of the House text is a part of the bill.

Mr. SMITH. Yes.

Mr. BARKLEY. Assuming, for the sake of the argument, or for any other purpose, that paragraph (F) permits the handlers of certain of these commodities, if 50 percent of the total quantity of the commodity or product covered by such order is controlled, to fix a minimum price——

Mr. SMITH. For resale.

Mr. BARKLEY. For resale.

Mr. SMITH. Yes.

Mr. BARKLEY. Assuming that to be true, and it is in the bill as it passed the House, and unless stricken out by the Senate will be in the bill as it is enacted, if paragraph (G) is not agreed to the result will be that the handlers of these products, if they control 50 percent, may fix a minimum price for resale, while the producers themselves will have no voice and no power in the fixing of the price at which they sell a given product to the handlers.

Mr. SMITH. That was the reason for the Senate committee amendment, to make it entirely clear. It was rather an implication that the Department would through its dealings with the farmers about marketing agreements take care of them in the first place; and the bill was so drawn as to leave it open to the criticism that there was being put into the hands of the handlers through the bill the power of fixing the price, proceeding upon the assumption that in the original text they would through the marketing agreements deal first with the farmers, and in these agreements the handlers were included. But the Senate, to make it perfectly clear, adopted this amendment. There is another place in the bill where a similar provision occurs, and an amendment will be offered to include that so as to make it conform in this text to what is provided in the original act.

Mr. BAILEY. Before the Senator takes his seat, may I ask him if my understanding is correct that we are creating a system of marketing areas within which one may sell and one may not sell?

Mr. SMITH. Oh, no.

Mr. BAILEY. What is the object of the area?

Mr. SMITH. The object of the area is more conveniently to ascertain just what the opinion is, just as we did in connection with citrus fruits in California.

Mr. BAILEY. Does the Senator mean that the opinion in such an area would govern?

Mr. SMITH. Yes, sir; in such an area; but it would not keep anyone else from coming in.

Mr. BAILEY. Very well. There is another matter about which I have some trouble. Am I to understand that paragraph (G), which we are now considering, provides that an association or cooperative marketing organization having control of 50 percent of the volume of a commodity may determine the price at which the first handler shall sell it—not the price at which it sells it to the handler but the price at which the first handler shall sell it?

Mr. SMITH. No, Mr. President; that provision is contained in paragraph (F). Paragraph (G) fixes the price at which the producer shall sell it; and in paragraph (F), which precedes it, there is provision that the handlers handling 50 percent may determine the resale price.

The PRESIDING OFFICER. The time of the Senator from South Carolina on the amendment has expired.

Mr. GEORGE. Mr. President, I wish to ask the Senator from South Carolina a question. If the bill does not fix the areas, or if they may not be fixed under its provisions, how is it that the price may be fixed within a given area, and how is it that a uniform price would not exist throughout the country?

Mr. SMITH. Mr. President, a uniform price does not now exist throughout the country.

Mr. GEORGE. I know; but I am asking why it would not exist if we should establish it by law.

Mr. SMITH. Then we shall merely be conforming to the regions where perhaps the prices now differ.

Mr. GEORGE. If the bill does not establish regions, how does it follow that there can be established a price which would be nonuniform throughout the country? If one should be permitted to ship freely from one region into another, how would he be affected by the price in the region into which he was shipping his product?

Mr. SMITH. Under the terms of the bill, if he ships into a certain region he will conform to the price in that region.

Mr. GEORGE. Then the bill does establish regions?

Mr. SMITH. It does establish regions and regional prices. I did not say it did not.

Mr. GEORGE. Exactly. That is what I wanted the Senator to come to—that there cannot be a regional price without establishing regions.

Mr. SMITH. That is true.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 18, paragraph (G). On that question the yeas and nays have been demanded and ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS (when his name was called). On this question I have a pair with the Senator from Alabama [Mr. BLACK], who is detained from the Senate by committee duties. I therefore withhold my vote. If the Senator from Alabama were present, he would vote "yea." If I were at liberty to vote, I should vote "nay."

Mr. BYRD. Mr. President, a parliamentary inquiry. If a Senator desires to vote to agree to the committee amendment, he should vote "yea", and if he desires to vote to reject the committee amendment he should vote "nay"?

The PRESIDING OFFICER. That is correct.

Mr. MOORE (when his name was called). On this question I have a pair with the junior Senator from Pennsylvania [Mr. GUFFEY], and therefore withhold my vote. If the Senator from Pennsylvania were present, he would vote "yea." If I were at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. LEWIS. I wish to announce that the Senator from Alabama [Mr. BLACK], the Senator from Indiana [Mr. MINTON], and the Senator from Washington [Mr. SCHWELLENBACH] are detained by a meeting of the Lobby Committee.

I also wish to announce the necessary absence from the Senate of the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Louisiana [Mr. LONG], the Senator from California [Mr. MCADOO], the Senator from Nevada [Mr. PITTMAN], and the Senator from Utah [Mr. THOMAS].

I desire further to announce a general pair between the Senator from Utah [Mr. THOMAS] and the Senator from California [Mr. MCADOO]. I wish further to announce that the junior Senator from Washington [Mr. SCHWELLENBACH] is paired with the junior Senator from Indiana [Mr. MINTON]. If present and voting, the Senator from Washington would vote "nay", and the Senator from Indiana would vote "yea."

The result was announced—yeas 41, nays 44, as follows:

YEAS—41

Austin	Frazier	Murphy	Sheppard
Bankhead	Gibson	Murray	Shipstead
Barkley	Harrison	Neely	Smith
Bilbo	Hayden	Norbeck	Thomas, Okla.
Bone	Holt	Norris	Trammell
Brown	Johnson	Nye	Truman
Bulow	La Follette	O'Mahoney	Van Nuys
Byrnes	Lewis	Pope	Wheeler
Capper	Logan	Reynolds	
Caraway	McGill	Robinson	
Costigan	McKellar	Russell	

NAYS—44

Ashurst	Connally	Glass	Metcalf
Bachman	Coolidge	Gore	Overton
Bailey	Copeland	Hale	Radcliffe
Barbour	Davis	Hastings	Schall
Borah	Dickinson	Hatch	Steiwer
Bulkley	Dieterich	Keyes	Townsend
Burke	Donahey	King	Tydings
Byrd	Duffy	Lonergan	Vandenberg
Carey	Fletcher	McCarran	Wagner
Chavez	George	McNary	Walsh
Clark	Gerry	Maloney	White

NOT VOTING—11

Adams	Guffey	Minton	Schwellenbach
Black	Long	Moore	Thomas, Utah
Couzens	McAdoo	Pittman	

So the committee amendment on page 18, being paragraph (G), was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, and that the House insisted upon its disagreement to the amendments of the Senate numbered 17, 67, 68, 83, and 84 to the bill.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. McSWAIN, Mr. HILL of Alabama, Mr. MONTET, Mr. McLEAN, and Mr. PLUMLEY were appointed managers on the part of the House at the conference.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. TYDINGS. Mr. President, the amendment which was just rejected by the Senate, as I understand, proposed the insertion in the bill of paragraph (G) on page 18.

The VICE PRESIDENT. The Senator is correct.

Mr. TYDINGS. That being true, I ask the chairman of the committee whether he proposes to leave in the bill paragraph (F), to which paragraph (G) is a clarifying amendment and in the nature of a tie-in with paragraph (F)? If paragraph (G) goes out, certainly paragraph (F) ought to go out.

Mr. ROBINSON. Paragraph (F) is in the House text, and it is entirely independent of the amendment which was just voted on.

Mr. SMITH. Whatever action the Senate may take on paragraph (F) will come after the conclusion of the consideration of the committee amendments.

The VICE PRESIDENT. It is not in order now to move to strike out section (F) except by unanimous consent. The next amendment which has been passed over will be stated.

The CHIEF CLERK. On page 45, after line 16, it is proposed to insert a new section, as follows:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synethic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn or the products thereof."

Mr. COPELAND. Mr. President, there has been considerable discussion both on and off the flood regarding this amendment, which relates to rayon. Of course, personally, I should like to see it eliminated entirely from the bill, because it is very apparent to those of us who are interested in the rayon industry that it will be very sadly crippled if this amendment shall be adopted.

Mr. MURPHY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MURPHY. Will the Chair state what is under consideration at the moment? There has been so much confusion it has been impossible to understand.

The VICE PRESIDENT. Senators will kindly refrain from conversation to enable the clerk once more to read the amendment, so that Senators may know what is before the Senate.

The Chief Clerk again stated the amendment, on page 45, after line 16, to insert section 15.

Mr. COPELAND. Mr. President, we have discussed various ways of dealing with this problem. I do not think anyone is disposed to hurt the cotton industry, if that can be avoided; but we are equally anxious in our section of the country that the rayon industry be not injured. It is our contention that rayon does not compete with cotton in price, and it is very doubtful if it competes in style or use. I think this is so well understood by those who have studied the question that we may well decide whether we are going to eliminate the committee amendment entirely or whether we are going to accept the amendment which has been worked out by the committee.

Mr. BYRNES. Mr. President, will the Senator yield to me?

Mr. COPELAND. I yield.

Mr. BYRNES. I wish to state to the Senator that I desire to offer an amendment as a substitute, of which I think the Senator will approve, and which would include silk as well as rayon. I wanted to ask the members of the committee if, after the reading of the amendment and an explanation of it, they will not agree to it and let it be voted on; and if it should be adopted, then, if the Senator from New York is opposed to the entire section, he may vote against the committee amendment, as amended.

Mr. COPELAND. I am very glad to yield to the Senator from South Carolina for the purpose of presenting his amendment.

Mr. BYRNES. To the committee amendment, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. In lieu of the amendment reported by the committee, on page 45, beginning on line 17, it is proposed to insert the following:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsections:

"(g) There shall be levied, assessed, collected, and paid a processing tax, on the first domestic processing of any material which results in the production of rayon or other synthetic yarn suitable for commercial winding, at the rate of 5 cents per pound standard weight thereof.

"(1) The tax shall be measured by the yield in pounds of rayon or other synthetic yarn suitable for commercial winding.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn suitable for commercial winding' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where such yarn is in form either to be packaged and/or sold as such or to be used in further manufacturing.

"(3) Rayon and other synthetic fiber waste, staple fiber, ropes of more than 500 filaments, monofilaments, and the products thereof, shall be exempt from the processing tax imposed by subsection (g) of this section 9.

"(h) During any period after the date of the adoption of this amendment when a processing tax is in effect with respect to any material which results in the production of rayon or other synthetic yarn there shall be levied, assessed, collected, and paid:

"(1) Upon raw silk in which the sericin content exceeds 15 percent, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 10 cents per pound standard weight thereof;

"(2) Upon raw silk in which the sericin content is 15 percent or less, and upon silk advanced in manufacture to and including yarn, thread, and fabrics, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 12 cents per pound standard weight of silk (not including other textile fibers);

"(3) Upon wearing apparel and other manufactured products wholly or in chief value of silk, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 15 cents per pound standard weight of silk (not including other textile fibers);

"(4) Pierced cocoons, frisons, and other silk waste shall be exempt from any tax imposed by this section 9.

"(i) In lieu of the refunds or credits authorized to be made with respect to rayon or the products thereof and silk or the products thereof, under subsection (c) of section 15 and section 17 of this title, upon the delivery to any organization for charitable distribution or use, including any State or Federal welfare organization for its use, or upon the exportation to any foreign country and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, or the island of Guam, of any rayon or silk, or any product thereof, there shall be paid out of the amounts appropriated and made available by section 12 of this title, or there shall be credited, under rules and regulations to be made by the Secretary of Agriculture and the Secretary of the Treasury, an amount of money (1) in the case of rayon, equivalent to the amount of tax which would be payable with respect thereto under subsection (g) of this section 9 and (2) in the case of silk, based upon the quantity of silk by standard weight contained therein multiplied by the applicable rate of tax specified in subsection (h) of this section 9.

"(j) General provisions:

"(1) The taxes imposed by subsections (g) and (h) of this section 9 shall be at the rates fixed therein and shall not be altered by the Secretary of Agriculture, regardless of the rate of the processing tax in effect on cotton. If at any time the processing tax on cotton is wholly terminated, or if for any reason the provisions of subsections (g), (h), or (j) of this section 9 are held invalid or become inoperative, the provisions of subsections (g) to (j), inclusive, of this section 9 shall thereupon simultaneously cease to be in effect.

"(2) The provisions of section 8, subsection (d) of section 15, and paragraph (1) of subsection (a) of section 16 of this title shall not apply in the case of rayon, or other synthetic yarn, or silk, or the products thereof.

"(3) The provisions of subsections (g), (h), (i), and (j) of this section 9 shall become effective at 12:01 a. m. eastern standard time of the day following the date of the adoption of this amendment.

"(4) For silk and products thereof the term 'standard weight' means the moisture-free weight plus 11-percent moisture regain thereon.

"(5) The term 'moisture-free weight' means the total weight (other than moisture) of dry clean fiber plus sericin, oil, sizing, and/or loading or weighting.

"(6) For rayon or other synthetic yarn the term 'standard weight' means the dry clean fiber weight plus 11-percent moisture regain thereon in the case of synthetic products of cellulose base, or the dry clean fiber weight plus 7.5-percent moisture regain in the case of synthetic products of cellulose ester base."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Carolina to the amendment reported by the committee.

Mr. McNARY. Mr. President——

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Oregon?

Mr. BYRNES. I yield.

Mr. McNARY. Is the amendment just read an amendment to the bill?

The VICE PRESIDENT. It is an amendment, in the form of a substitute, for the committee amendment on page 45, ending at line 20, on page 46.

Mr. BYRNES. It is an amendment, by way of a substitute, for the committee amendment.

Mr. McNARY. Then I understand the language proposed to be inserted by the committee is to be stricken entirely out of the bill and the language suggested by the Senator from South Carolina is to be inserted in the bill?

Mr. BYRNES. That is correct.

Mr. McNARY. Will the Senator explain his amendment?

Mr. BYRNES. Yes; I desire to do so.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. BYRNES. I yield.

Mr. HASTINGS. May I inquire if the Senator expects action upon the amendment at this time without any Senator having an opportunity to read or consider it?

Mr. BYRNES. The amendment was printed and is on the Senator's desk, and I assumed he had read it. I think I can explain it.

Under the existing law the Department has held hearings at the request of cotton manufacturers in order to determine whether rayon is a competitive commodity upon which the processing tax should be levied in accordance with the authority given to the Secretary of Agriculture. The act, however, provided that the competitive tax should be levied only when there was an excessive shifting of the purchasing power to the competitive commodity, in this instance to rayon. Because of the construction placed upon the words "excessive shifting", no tax was ever levied on rayon.

The cotton manufacturers have contended that they have been subjected to unfair competition because the processing tax necessarily increased the price of their commodity and they were forced to compete with rayon.

The position of the rayon manufacturers is, of course, that they would prefer not to have any processing tax levied upon their commodity, but if a tax is to be levied, they believe it should be levied in accordance with the provisions contained in the amendment which I have offered and not in accordance with the provisions of the committee amendment.

The amendment which I have offered has been prepared as a result of conferences between representatives of the rayon industry and representatives of the Department of Agriculture and of the Internal Revenue Bureau.

Mr. BYRD. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. BYRNES. I yield.

Mr. BYRD. I may not have heard the Senator correctly, but I understood him to say the amendment is satisfactory to the manufacturers of rayon. Virginia produces one-half of the rayon produced in the United States, and our manufacturers are bitterly opposed to it.

Mr. BYRNES. The last words I uttered before the Senator rose were that the position of the rayon industry, as I understand, is that they do not want any processing tax levied, but if a processing is to be levied, they prefer that it be levied in accordance with the provisions of the amendment which I have offered, instead of the amendment which was reported by the committee. I also stated that the amendment had been prepared as a result of conferences between representatives of the rayon industry and representatives of the Department of Agriculture and of the Internal Revenue Bureau.

Mr. BYRD. Has the Senator a copy of his amendment?

Mr. BYRNES. It was printed, and a copy of it should be on the desk of the Senator.

Mr. McNARY. Mr. President, may I inquire if this proposal was ever submitted to the Committee on Agriculture and Forestry?

Mr. BYRNES. No. The amendment, with the change resulting from the conference referred to, was agreed upon only yesterday when I tendered the amendment and asked to have it printed.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BYRNES. Certainly.

Mr. WAGNER. Would the Senator care to state what particular individuals representing the rayon industry were present at the conference?

Mr. BYRNES. I shall be glad to state that. My information from the representatives of the Department is that Mr. Little, vice president of the Franklin Rayon Corporation, of Providence, R. I., who has been connected with the code authorities on this subject as well as retaining his position as vice president of the Franklin Rayon Corporation, and others were present, but that Mr. Little was the active participant in the discussions with reference to the amendment.

Mr. WAGNER. Did he have authority to speak for the rayon manufacturers?

Mr. BYRNES. I do not know, and, therefore, I cannot say that he did. I have no information that he represented himself as representing all and authorized to speak for all of the rayon producers.

Mr. WAGNER. Is it not a fact that the rayon industry generally is not satisfied with this particular proposal?

Mr. BYRNES. I think the Senator misunderstood me. What I said was that my information is that, if there is to be a tax, the rayon producers prefer the tax provided for in the amendment which I have tendered rather than the provisions contained in the amendment reported by the committee. I desire to explain the amendment which has been presented, and with the Senator's knowledge of the situation, he can then determine whether or not it is justified.

Mr. WAGNER. My knowledge is inferior to that of the Senator from South Carolina, but what I am trying to ascertain is who was able to speak for the industry with sufficient authority to say that this amendment would be acceptable generally to the rayon industry.

Mr. BYRNES. I again think the Senator misunderstood my statement because I would not go as far as that. I say that their position, as presented to me——

Mr. WAGNER. Whose position?

Mr. BYRNES. The position of the rayon producers as represented by Mr. Little and some other gentlemen interested in the industry, whose names I do not recall, is that they prefer the amendment which I have tendered rather than the committee amendment which is contained in the bill, and that is all. I would not go further.

Mr. WAGNER. Has the Senator any information as to the extent to which Mr. Little speaks for the industry?

Mr. BYRNES. No.

Mr. WAGNER. Or what percentage of the industry he speaks for?

Mr. BYRNES. No; I have said I do not know and I would not have anything I have said to be understood to mean anything more than I have actually stated as having been stated by him.

I desire to point out the differences between the committee amendment and the amendment which I have offered.

Mr. GLASS. Mr. President, will the Senator submit to an interruption?

Mr. BYRNES. Certainly.

Mr. GLASS. I have frequently had occasion to call attention to the fact that nobody, as it seems to me, ever rises in the Senate and speaks for the consumer. I should like to inquire if there were any representatives of the consumers of these products at the conference, and why it should be assumed that the wearers of rayon and of silk would want to be taxed out of existence?

I am not speaking alone for the rayon industry. I am speaking for the poorer people who cannot wear silk, but who can buy rayon. It seems to me that unless they were represented at the conference referred to their interest was entirely ignored.

It is true that Virginia produces about one-half of the rayon manufactured in this country. In that State it has come to be a great industry, employing many thousands of people. But I am not speaking altogether for the rayon industry. I am concerned about the people who wear rayon. I do not think it should be so highly taxed as that it would be a burden upon them to buy it.

Mr. BYRNES. Let me say to the Senator from Virginia that, of course, I know he represents the consumers, as every other Senator on the floor represents consumers. I am not in position to answer whether any consumer of silk or rayon or cotton was present. I mentioned that matter solely because of the technical language used in the amendment, and I would not want it to carry any significance other than my words would justify as to the attitude of the rayon manufacturer who was participating in the framing of the amendment.

Mr. GLASS. Mr. President, will the Senator pardon me if I ask one further question?

Mr. BYRNES. Certainly.

Mr. GLASS. If it is not expected to pass the bill this afternoon, would the Senator be willing to have his amendment go over until tomorrow, so that those of us who are interested in both the industry and the consumers may have an opportunity to make some inquiry about it?

Mr. BYRNES. I have no objection at all; but, of course, I say that subject to the approval of the Senator in charge of the bill. I should like, however, to proceed to point out the differences, because thus far I have not been able to get beyond the mere statement as to the preparation of the amendment.

Mr. ROBINSON. The Senator had better use his time.

Mr. BARBOUR and Mr. WAGNER addressed the Chair.

The VICE PRESIDENT. Does the Senator from South Carolina yield; and if so, to whom?

Mr. BYRNES. I yield first to the Senator from New Jersey, who first rose.

Mr. BARBOUR. Mr. President, I am reluctant to interrupt the Senator. I realize that he has been interrupted a number of times; but in the early part of his remarks he made reference to the competition of rayon with cotton. Do I understand that in the Department of Agriculture, as a result of their investigations, it is contended by that Department that rayon competes in any direct sense with cotton? Because, as one who has been in the textile business a great many years before I resigned and came to the Senate, I assure the distinguished Senator from South Carolina that rayon actually competes with silk, and not with cotton.

Mr. BYRNES. Mr. President, the difficulty is that it is impossible to find a manufacturer of cotton in the United States of America who would agree with the Senator from New Jersey as to that.

Mr. BARBOUR. With all due respect, I say that that is not a correct statement.

Mr. BYRNES. The manufacturers of cotton have more than once appealed to the Department of Agriculture to levy a compensatory tax upon rayon because of the belief that rayon has competed with cotton and has done great injury to the cotton manufacturers.

Mr. BARBOUR. Mr. President, I do not desire to pursue the subject too far; but I can assure the Senator that in many instances—and I know it is an unwitting mistake—the Senator's statement is not correct.

Mr. BYRNES. I know that there is a difference of opinion; that every man interested in rayon has contended that it does not compete with cotton, and that every manufacturer of cotton in South Carolina—and I think I know them all—takes the other view. If the Senator from New Jersey should undertake to convince them that rayon does not compete with cotton, he would have a splendid time for the rest of his natural life in that endeavor; and I assume that the rayon manufacturers are just as strong in their position. That matter has been discussed in the Department, and they have had hearings consuming days. Lawyers have represented the rayon interests; the cotton manufacturers have appeared; and they became dissatisfied because the tax was not levied, and attribute much of their trouble to the failure of the Department to levy it.

Mr. BARBOUR. As I have said, Mr. President, I do not want to pursue this question too persistently; so let me

conclude, if I may, by saying that I am correct to this extent: The company with which I was connected for 25 years before I came to the Senate uses a great deal of cotton and it uses no rayon and uses no silk. We know, from experience in our own case, that rayon competes with silk and not with cotton, except in a very remote, theoretical degree. I will admit, however, in the final sense, so to speak, it can be said that all textiles compete with one another.

Mr. GLASS. Mr. President, rayon competes with cotton only in the same sense that cotton competes with any wearing textile.

Mr. BARBOUR. That is what I say; in a remote or theoretical sense it can, of course, be said that any textile may be considered as competing with any other textile. But in the sense that I take it, we are all viewing competition in this whole general connection; rayon certainly competes with silk and not in the same sense at all with cotton.

Mr. WAGNER. Mr. President——

Mr. BYRNES. I yield to the Senator from New York.

Mr. WAGNER. I desire to ask the Senator a question which may somewhat clarify the situation. It is true, is it not, that under the present law the Agricultural Adjustment Administration has power to impose a compensatory tax in the event it is satisfied that there is competition existing between the basic commodity and the other commodity, namely, rayon?

Mr. BYRNES. Mr. President, I prefaced my remarks by making the statement, first, that that was the existing law, and that the compensatory tax could be levied only where it could be proved to the satisfaction of the administrator that there was an excessive shifting of the purchasing power to the other commodity.

Mr. WAGNER. Of course, Mr. President——

Mr. BYRNES. As I understand, there is a time limit on speeches, and my 15 minutes is liable to be exhausted in answering the questions of Senators, without my ever being able to explain the difference between these amendments.

Mr. WAGNER. The Senator may have my time.

Mr. BYRNES. The committee amendment provides for a tax upon rayon, but by its terms it limits that tax to what, for lack of a better word, I call the "lower grades" of rayon. The rayon producers believe this would be difficult for them to handle, because it would cause some of the grades of rayon now selling cheaply, by reason of the processing tax, to demand a higher price than the finer grades of rayon.

The VICE PRESIDENT. The time of the Senator from South Carolina on the amendment has expired.

Mr. BYRNES. Mr. President, I desire to speak on the bill.

Mr. COPELAND. Mr. President, I may say to the Senator that I intended to give him my time in which to answer.

Mr. BYRNES. I thank the Senator from New York.

Mr. COPELAND. While I am on my feet I should like to say that I think the wise thing for those of us whose constituents are interested in the rayon business is to accept this amendment. Then we can fight out the matter on the general question of whether or not we are going to have anything on the subject in the bill. So I am sympathetic with what the Senator is trying to do.

Mr. BYRNES. Mr. President, I desired to submit that suggestion to the Senate later; but at this time I wish to proceed with my remarks.

The rayon producers, very wisely, in my opinion, have considered that it would be difficult to adjust their business to the provisions of this measure; and what they would prefer is to have a flat rate, such as is provided in the amendment, because it would be easy for the manufacturers to adjust their business to the flat rate.

Mr. BYRD. Mr. President——

Mr. BYRNES. I am sorry I cannot yield. My time was exhausted on the amendment, and I now have no time except upon the bill.

Mr. BYRD. The Senator has 30 minutes on the bill.

Mr. BYRNES. The rayon producers state that unless there is a tax levied upon silk they would be injured, and I agree with them; and, because I agree with them, my amendment provides for a tax upon silk which would be equivalent to the tax which is levied upon rayon, and, so far as the rayon producers are concerned, would preserve their status as to competition with silk. They further state that imposing the tax as provided in the amendment, amounting to 125 percent above the rate upon cotton, would create uncertainty in the business; that the consumer of rayon goods would hesitate to purchase at this time, believing that 6 months or 3 months later there might be a reduction of the processing tax upon cotton, and, as a result, a reduction in the processing tax upon rayon; that it would have a tendency to cause small purchases, hand-to-mouth buying, and thereby injure their business. They believe that the levy of the flat rate provided in this amendment—not based upon any fluctuating tax upon cotton—would protect their interests so long as the same character of tax is levied upon silk, their chief competitor.

Mr. BARBOUR. Mr. President——

Mr. BYRNES. So this amendment seeks to accomplish that objective. In doing so, necessarily the so-called "experts" upon these matters have had to include many technical phrases. The phrases which are contained in the amendment are the trade language and the trade definitions. I should like to explain some of them.

Mr. BARBOUR. Mr. President, will the Senator yield, in my time, just for a question?

Mr. BYRNES. Very well. Then I will yield to the Senator from Virginia [Mr. BYRD].

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Jersey?

Mr. BYRNES. I do.

Mr. BARBOUR. The Senator spoke about including silk within the purview of this amendment.

Mr. BYRNES. It is included.

Mr. BARBOUR. The Senator included it because he felt it was fair in respect to what he wishes to do in connection with rayon?

Mr. BYRNES. I think so.

Mr. BARBOUR. Was anybody in the silk industry consulted?

Mr. BYRNES. No. I think I was unfortunate in making the statement that as to these technical phrases the experts of the Department permitted a representative of the rayon industry to discuss with them these trade definitions, because my language has been construed as referring to a conference to which consumers should have been invited, and to which all manner of competitors should have been invited. I regret greatly that I mentioned it. I mentioned it only to explain the presence in the amendment offered by me of technical phrases, with which I knew Senators would know I was not familiar and could not possibly be familiar.

Mr. BARBOUR. Mr. President, assuming that I am consuming my own time, and not that of the distinguished Senator from South Carolina, I simply desire to make clear to the Senate that so far as I know—and I think I speak for one of the largest silk-producing centers and States in the United States—no one had any knowledge at all that this amendment was going to be forthcoming, except, as the Senator says, that it has been printed and was on the desks of Senators for the first time this morning. I do not know how many Senators saw it. I certainly did not.

Mr. BYRNES. I cannot say of my own knowledge that anyone engaged in the business knew this; but I do say that I am informed that those who are chiefly interested in the matter, the Japanese interests, have been better advised, then, than have Members of the Senate, because they have been advised; they have discussed it with officials of the Department, and have been exceedingly active in that connection.

Mr. BARBOUR. I am not speaking in terms of the interests of the Japanese. I am speaking in terms of the interests of the American manufacturers.

Mr. BYRNES. I am saying that I know the Japanese interests have been advised of it, and I know that on the floor of the Senate I have heard it said for several days that

in case rayon should be included in the processing-tax section, silk should be included, and I believe it should be.

Mr. BARBOUR. The Senator and the Japanese may agree, but I do not.

Mr. BYRNES. The Senator from New Jersey is not going to agree with me in any respect about anything connected with this amendment, and I will announce that understanding now. [Laughter.] Just on that line, I am handed an amendment which has been pending for many days, presented by the Senator from Alabama [Mr. BANKHEAD], which proposes to include silk; and I think there is one other amendment here which proposes to include silk.

Mr. BYRD. Mr. President, in my own time, may I ask a question of the Senator?

Mr. BYRNES. I yield to the Senator from Virginia.

Mr. BYRD. The Senator from South Carolina stated that the representatives of the rayon industry——

Mr. BYRNES. I said one representative, and some other gentlemen I did not know.

Mr. BYRD. One representative had agreed to this amendment, providing that if any taxation is placed upon rayon——

Mr. BYRNES. No, Mr. President; I corrected the Senator before.

Mr. BYRD. In other words, they prefer this amendment to the one in the bill?

Mr. BYRNES. That is what I have said.

Mr. BYRD. Mr. President, this is a very complicated amendment. It so happens that Virginia produces one-half of the rayon produced in America. We have five large plants. The manufacturers of my State have not advised me that they are willing to accept this amendment in the event that any tax is imposed as provided by the bill. I desire to ask the Senator from South Carolina if it would not be agreeable to defer the presentation of the amendment until I may consult the manufacturers of my State.

Mr. BYRNES. I have already stated to the senior Senator from Virginia [Mr. GLASS] that it will be entirely satisfactory to me to do that, provided the chairman of the committee, in charge of the bill, has no objection. It is satisfactory to me.

Mr. BYRD. How much time, then, shall I have?

Mr. BYRNES. The Senator from Virginia knows that as well as I do, because I have not consulted the Senator in charge of the bill. I am occupying the floor. If the Senator consults him, I am satisfied to have that course taken.

Mr. BYRD. I simply wish to confirm what the Senator has said as to the amendment meeting with the approval of the manufacturers of Virginia.

Mr. BYRNES. I repeat, I have not made that statement, and I would not want the Senator to be under that impression. The only statement made to me was that the representatives of the rayon industry who were in conference said that they would much prefer this amendment, which levies a tax upon silk at a flat rate, to the language of the bill.

Mr. BYRD. That was only one representative?

Mr. BYRNES. Yes.

Mr. BYRD. There is no intention on the part of the Senator to press for immediate consideration?

Mr. BYRNES. I have said that I do not intend to do so, and it will be entirely satisfactory to me to let the amendment go over.

Mr. WAGNER. Mr. President, will the Senator yield to me in my time?

Mr. BYRNES. I yield; I am collecting a lot of time.

Mr. WAGNER. The Senator can have my time, because I want to have this matter made perfectly clear.

The Senator is asking us now to accept an amendment imposing a tax upon an industry which represents an investment of $250,000,000, at least, and employs about 200,000 men, without giving that industry, before the committee originally or since, except as to one representative, a chance even to be heard upon the imposition of the tax. I think that is an extraordinary situation. I have never known such a one to exist before in this body.

Mr. BYRNES. Mr. President, that is a most extraordinary statement of the Senator; evidently he has not been following the subject. The question of a tax upon rayon was heard before the committee. It was presented in the committee report, in any event.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BYRNES. I yield.

Mr. WAGNER. The chairman of the committee, the Senator from South Carolina, and the Senator from Alabama conceded to me upon the floor that the rayon industry had not been heard before the committee, and that this amendment was agreed to by the committee without giving that large industry even a chance to be heard as to whether the tax proposed was just or unjust.

Mr. BYRNES. If that be the fact, then my statement was erroneous.

Mr. WAGNER. I have followed the matter closer than the Senator thought.

Mr. BYRNES. If the Senator will permit me, I will show him to what I had reference. I am not a member of the committee, and I assumed there had been some hearing and some consideration. But I think a most extraordinary attitude is taken by those who say they are interested in the rayon industry, when they have before them a bill which provides for a tax upon rayon and no tax upon silk, which is the committee amendment, a tax upon rayon which is unsatisfactory to the rayon producers.

The amendment I have offered is a substitute for the committee amendment, and provides for a tax upon rayon, a tax which has been prepared carefully, and which is more satisfactory, I know, to anyone who has studied the question, than is the tax upon rayon proposed by the bill. In addition, with the tax upon silk, it certainly is more acceptable to the rayon producer.

If it were adopted, then the question would come upon the adoption of the committee amendment as amended, and the Senator from New York and any other Senator who feels as he does about it, if not satisfied with the tax upon rayon in connection with the tax upon silk, would have an opportunity to vote against that, with the knowledge that if he lost he would at least have the protection granted by the tax upon silk. If this amendment is not adopted and he votes upon the adoption of the committee amendment without the tax upon silk and loses, then he has no compensatory tax for the competitor who he says is a cheap competitor, the silk manufacturer.

I think it ought to be clear that anyone who is interested in rayon producers, when confronted with the choice of having to vote for the committee amendment without any tax on silk, or my substitute, ought to vote for the substitute, which seeks to protect them. They should vote for this amendment, and then, on the next vote, which will be on the adoption of the committee amendment, they can vote against the entire proposal if they see fit to do so.

Mr. President, I do not wish to consume any more time in detailed explanation of the amendment. Because it is indicated that a number of Senators desire that this amendment go over, instead of consuming the time, I ask permission to have printed in the RECORD a statement that I have which will give a detailed explanation of the various sections of the amendment.

Mr. WHITE. Mr. President, will the Senator yield for a question?

Mr. BYRNES. I yield.

Mr. WHITE. Is the compensatory tax on rayon, proposed in what I will call the Senator's amendment, the same as the tax on rayon carried in the bill? I am disregarding the compensatory tax on silk for the moment.

Mr. BYRNES. No. The tax on rayon in the bill—

Mr. WHITE. Is 125 percent of the cotton tax?

Mr. BYRNES. Yes; and is objected to by the rayon manufacturers for the reason that it is levied only on some grades, which would disturb their entire price structure, and for the further reason that it is based upon 125 percent of the tax levied upon cotton. They fear that if that were

adopted there would be uncertainty in the trade as to what the tax would be, and purchasers would withhold purchases from month to month, hoping that there would be a reduction in the processing tax upon cotton, which would be followed by a reduction in the processing tax upon rayon. They believe that with the certainty of a rate which is the equivalent of the tax now levied upon cotton, and with the knowledge that it will continue so long as there is a tax levied upon cotton, it would be advantageous to their industry.

No one interested in the cotton manufacturing industry desires to hurt the rayon manufacturers, and it is only because I believe it is fair to them, because I am convinced that it is a wise thing to do, that I am offering the amendment.

Mr. WHITE. Let me see if I understand it. The Senator's contention is that the compensatory tax proposed in the committee amendment is an uncertain amount, while the tax proposed by him in the amendment we are now considering is of a definite amount?

Mr. BYRNES. That is exactly the point, and because it is of a definite amount it would be of great advantage to those engaged in the industry, in addition to the further fact I have mentioned, that in the committee amendment the tax is levied only upon certain grades, and the processing tax is levied upon those grades, which necessarily will increase the price, so that they will have to sell for a higher price than grades now selling in the market in excess of those lower grades. That was the other point.

Mr. WAGNER. Mr. President, will the Senator yield to give me some information?

Mr. BYRNES. I yield.

Mr. WAGNER. Under the law as it is now, if there is any commodity which is a competitor with a basic commodity, the Agricultural Adjustment Administration has the right and the power to impose a compensatory tax.

Mr. BYRNES. That is correct, and, as I have said, the position of the cotton industry is that because the requirement is that the proof shall show an excessive shift, the department has been overcautious, because it involves the levying of a tax, and in its interpretation of the word "excessive" it has refrained from levying a tax, even though those charged with the decision were of the opinion that the competition was such as to justify the levying of a tax.

Mr. WAGNER. But compensatory taxes have been levied upon other commodities, have they not, when the Department of Agriculture or the Administration have discovered that there is a competitive condition?

Mr. BYRNES. I know of one instance.

Mr. WAGNER. Why is it that in this case cotton is picked out to be treated in a method different from that applied to every other basic commodity under the Adjustment Act?

Mr. BYRNES. I do not know as to what other commodities there have been hearings and where the question has been raised. In respect to that I know only what I have heretofore stated; that the cotton industry of New England and of the South, according to every manufacturer from whom I have heard during the last year, has contended in the hearings that, because of the interpretation placed upon the word "excessive" in connection with the shifting, the tax has not been levied; and that rayon, certainly of the lower grades, has been doing great injury and great harm to the cotton industry. I know that is a most controversial point; there is no question about it being so.

The purpose of my amendment, and what I hope to do, is to perfect the committee amendment.

Mr. WAGNER. I rather take the view of the Senator from Virginia that if there is no justification under the A. A. A. for imposing this tax, we are simply adding a burden on the consumers of the country.

Does it not amount to this, that we are asked to impose this compensatory tax because the Agricultural Adjustment Administration has refused to impose a tax, after a hearing lasting a year, where all of the facts were presented? Indeed, without any knowledge of the subject, without any hearing before a committee, we are asked to substitute our judgment, blindfolded, as it were, because we cannot know the subject, for the judgment of the Agricultural Adjustment Administration, and impose this tax.

I think we ought to stand by the law as it now is. Then if, after a proper hearing, where all the facts are presented to the Agricultural Adjustment Administration, they are satisfied that there is a competitive condition which requires a compensatory tax, then it ought to be imposed; but I do not think we ought to be asked to act blindly in this way and impose a tax upon the consumers of the country when there may not be any justification for it.

Mr. BYRNES. I do not think it could be said that we would be acting blindly. I think the Senator knows just as well as I do that rayon is a competitor of the finer grades of cotton goods.

Mr. WAGNER. No; I have been examining the records and the statistics, and I think the Senator is mistaken about that.

Mr. BYRNES. Then the Senator and I cannot agree on that point. All the evidence which has been presented to me by the manufacturers of cotton is to the contrary. They may be wrong. I have been convinced, however, that they are right; and, therefore, I do not think that by reason of the attitude of the Department and its interpretation of the burden of proof which is required in order to establish excessive shifting the cotton manufacturer should be denied the relief which would be granted by levying an equivalent tax on rayon.

Mr. President, I ask unanimous consent to have inserted in the RECORD at this point a short statement in explanation of the pending amendment.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The statement is as follows:

DISCUSSION OF PROPOSED SECTION 15 OF H. R. 8492, AMENDING SECTION 9 OF THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

The significant differences are as follows: The amendment as reported out by the Senate committee imposed a tax on rayon at the rate of 125 percent of the cotton-processing tax rate which at present would be 5.25 cents per pound. The difference between a rate of 5.25 cents per pound on rayon and the rate of 4.2 cents per pound net weight of cotton is an allowance for waste occurring in the production of cotton yarn. In other words, a rate of 5.25 cents per pound on rayon yarn is essentially the same as the amount of tax paid on the amount of raw cotton required in the manufacture of a pound of cotton yarn of the type most nearly comparable to rayon yarn. In this amendment the rate of tax on rayon is rounded to 5 cents per pound and is not to be altered on the basis of variations in the cotton-processing tax rate.

In both drafts of subsection (g) the rayon tax was to be measured by the yield in pounds of rayon or other synthetic yarn suitable for commercial winding. By the Senate committee draft, however, the tax would be confined to the coarser rayon yarns, and the finer rayon yarns would be exempted from the tax. The coarser rayon yarns as defined in the Senate committee draft would include about two-thirds to three-fourths of all the rayon yarn produced, and would include those sizes of rayon yarns which may be considered as being most highly competitive with cotton, although there is no definite line of demarcation between that rayon which is competitive with cotton and that which is competitive with silk. The amendment would tax all rayon yarns. If silk is to be taxed, obviously all sizes of rayon yarns should be taxed.

Paragraph 3, subsection (g), of the attached proposed draft of section 15 lists the synthetic products and byproducts which would not be subject to the processing tax on rayon. Rayon and other synthetic fiber waste would include waste occurring in the production of rayon and in the production of rayon products. Staple fiber is rayon filaments which have been cut up into uniform lengths, usually less than 2 inches, and is used in manufacturing spun rayon, which in turn is used largely in conjunction with or in substitution for woolen and worsted yarns. Ropes are the filaments from which staple fiber is produced. Monofilaments include such products as artificial horsehair and artificial straw, which are used in the millinery trade and which apparently do not compete with cotton.

Subsection (h) of section 15 would impose an import tax on silk and silk products to compensate for the tax on rayon. The proposed rate of tax on raw silk with sericin content or gum content in excess of 15 percent is 10 cents per pound. This is twice the rate on rayon and takes into consideration the fact that a pound of silk will go farther than a pound of rayon in producing cloth and textile articles. For example, a hundred yards of a given rayon fabric might weigh 20 pounds, whereas a competing silk fabric, before being degummed, loaded, or weighted with tin, might only weigh 10 pounds per 100 yards.

On raw silk with a sericin or gum content or 15 percent or less, and upon thread yarns and fabrics the proposed rate of tax is 12 cents per pound, standard weight of silk. Nearly all of the raw

silk coming into the United States has a sericin or gum content in excess of 15 percent. A higher rate of tax on silk having a sericin content of 15 percent or less would tend to prevent removal of part of the sericin before importation as a means of minimizing tax payments. By fixing the rate of tax on yarns, threads, and fabrics as provided in the amendment it would be possible to eliminate most of the complexities and uncertainties that would be met in formulating regulations and conversion factors for silk products. In manufacturing silk the gum content is removed and loading or weighting is added. The amount of this loading or weighting may vary from a negligible percentage up to 100 or 150 percent of the original weight of raw silk. Figures are not available as to the average amount of weighting, but in the case of silk products imported from Japan it is said to be low. Since the average gum content is around 20 percent, the removal of all the gum and the failure to add any weighting or loading would make necessary a compensatory tax from this factor of 12.5 cents per pound on fabric in order to fully compensate 10 cents per pound on raw silk. In addition there is some loss in manufacture up to the cloth stage. The proposed rate of 12 cents per pound on yarns, threads, and fabrics would be slightly low for such products if they contain little or no weighting. In the case of heavily loaded fabrics, however, a tax at the rate of 12 cents per pound would be somewhat greater than the amount of tax that would be paid on raw silk required in their manufacture. While there would be some slight inequities, it appears that a rate of 12 cents per pound would be a reasonable average.

Because of cutting losses in manufacturing garments and other fabricated products a compensating rate of tax at the rate of 15 cents per pound is suggested for these products.

By making a compensating tax on silk and silk products apply at the time of importation rather than at the time of the first domestic processing, the collection of the tax would be greatly simplified.

No tax will be imposed under subsection (h) on silk waste defined in paragraph 4 as pierced cocoons, frisons, and other silk waste. Pierced cocoons are damaged, unwindable cocoons, which are considered as waste. Frisons are brushings or tangled, unwindable silk filaments, considered as waste.

Subsection (i) specifies the rates at which refund payments would be made on silk and silk products exported from the United States or delivered to an organization for charitable distribution or use. These payments would be made on any such articles exported or delivered to organizations for charitable distribution or use after the effective date of this amendment, even though a compensatory import tax had not been paid thereon. This would avoid the confusion which would be involved in determining at the time of exportation or delivery to such an organization whether a tax had been actually paid with respect to a particular product. In the absence of the provisions of subsection (i), it would be several months after the effective date of the compensatory import tax on silk before all or the major part of the silk products exported or delivered to a charitable organization would be subject to refund payments. During this long period of adjustment some articles would be subject to refund payments and others would not. The rates of refund payments provided for in subsection (i) are the same as the rates of compensatory import taxes imposed by subsection (h).

The proposed subsection (j) contains general provisions that are consistent with the compensatory tax aspects of the proposed amendment.

The most important of these general provisions are as follows:

It is provided that no adjustment be made in the rates of tax on rayon and silk and silk products irrespective of any changes that may be made in the rate of tax on cotton except that when the cotton tax is wholly terminated the taxes on rayon and silk will terminate also.

It is also provided that in the event that the tax on either rayon or silk or the general provisions of subsection (j) become inoperative the taxes on both rayon and silk and silk products will cease simultaneously.

The general provisions contain definitions applicable to the weight of rayon and silk which are in conformity with trade practice and would therefore appear to be beneficial in the administration of the proposed taxes.

In connection with the definition of standard weight of rayon it might be noted that the synthetic products of cellulose base are those which are produced by the viscose and the cuprammonium processes of rayon manufacture. Synthetic products of a cellulose ester base are those made by the cellulose acetate process of rayon manufacture.

The proposed amendments appear to be satisfactory as compensatory tax provisions applicable to rayon and silk. The benefits of simplicity obtained by fixing the rates of tax on semimanufactured and manufactured silk products should greatly outweigh the benefits of more precise equivalents that could be arrived at only through cumbersome and complex conversion factors. In this connection it should be kept in mind that for commodities of high value, such as silk and its products, variations of a fraction of a cent in the rate of tax would have little importance from the standpoint of protecting cotton or rayon or influencing the course of trade in silk products. Therefore, it is highly desirable that impractical refinements be eliminated for the sake of simplicity and certainty.

Mr. GLASS. Mr. President, I am indebted to the Senator from South Carolina [Mr. BYRNES] for agreeing to let this particular amendment go over. The more I have heard him speak on the subject the more nonplused I have become. Of course, South Carolina is a great cotton-manufacturing State. Virginia also is to some extent. I think we have in Virginia the largest cotton mill in the world.

It was not my purpose to imply that the Senator from South Carolina had not very clearly stated the case from his point of view; but what puzzles me is that I have not heard from a single cotton mill in Virginia, and, as I said, I think we have in Virginia the largest cotton mill in the world. I have not received from them a single communication on this subject. There has been no complaint whatsoever that rayon is in competition with their product; and if such competition is so clearly established, it seems almost incredible that the Virginia cotton mills should not have communicated with either one of the Virginia Senators about a problem which so greatly interests them.

For that reason I am obliged to the Senator from South Carolina [Mr. BYRNES] for letting the amendment go over until we may make some inquiry about it.

Mr. SMITH. Mr. President, of course, the bill came to us from the House. In the Senate committee we had no communication from the Department on this subject, and, so far as I know, the House had no communication from the Department. However, prior to the time the bill came over from the House there was complaint as to the encroachments of certain rayon manufactured goods upon the marketing of certain cotton goods. When the parties interested—namely, the cotton manufacturers—made that complaint, it was suggested to them that they prepare an amendment which in their opinion would meet the situation. They did so, and that was the one which was presented to the committee and was adopted by the committee. To what actual extent articles composed of rayon affect the cotton market I have no way of knowing, except through the complaint of the cotton manufacturers.

When the amendment was adopted by the Senate committee and the bill was reported to the Senate, certain of those interested in rayon appeared; and, as the result seems to be, they, in conjunction with certain cotton manufacturers, have prepared the substitute amendment which my colleague has here presented.

There is language in the original text of the bill which I desire to call to the attention of the Senate. It has been referred to; but, after reading it, I cannot understand why the Department of Agriculture has not availed itself of the complaints of the cotton manufacturers and ascertained what are the facts.

I desire to read the provision to which I refer. It is found on page 21 of the compilation of the Agricultural Adjustment Act, as amended, as of June 29, 1934. It reads as follows:

> The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing, or will cause, to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition.

As I see it, that is an ample provision, and under it if there is a question as to competition existing to the disadvantage of the taxed article, or it is likely to exist to the disadtage of the taxed article, then, after due hearing and the ascertainment of the facts, if the Secretary finds that this menace exists, or is likely to exist, he shall put a compensating tax on the competing article to the point where the disadvantage will disappear.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McKELLAR. Is it not true that the Department of Agriculture has held hearings in accordance with the provisions of this act, and has certified that there is no competition in this instance, and has refused to impose the tax provided for in the amendment?

Mr. SMITH. Mr. President, I think the real fact is that the relation to cotton of rayon and rayon yarns and the

commodities into which they are converted is so complex, and there are so many uses to which the rayon and rayon yarns are put, that I do not think it really could be decided definitely whether they were invading the domain of cotton or whether they were competing with silk.

Mr. McKELLAR. Has the Department acted in this matter? I have not been advised, and I ask the Senator whether he has been advised on that point?

Mr. SMITH. The Department has not acted in this matter.

Mr. McKELLAR. They were instructed to act in the matter, and undoubtedly they held hearings; and if they have not acted, it seems to me the present law is complete in that behalf; so I see no reason for an amendment of any kind.

Mr. SMITH. As I stated, the cotton interests have complained, and complained bitterly.

Mr. McKELLAR. They had a forum to which they could go. They have gone before the Department of Agriculture, and evidently the Department of Agriculture has not sustained them. After leaving it to the hearing and decision of the Department of Agriculture, and the Department not having imposed the tax, why, in that situation, should the Congress step in and impose a tax, anyway?

Mr. SMITH. There is an implication in the complaint of the cotton manufacturers that they have not been fairly dealt with by the Department.

Mr. McKELLAR. Was there testimony to that effect before the Senate committee?

Mr. SMITH. The committee did not hold a hearing on this matter. The committee members have received communications upon the subject, as have, perhaps, the Senator from Tennessee and other Senators. The complaint has continued for more than a year.

Just to what extent the Department of Agriculture went into the matter, and to what extent they thought the complaint was justified or not justified, I am not in a position to state. However, I was amazed when the cotton manufacturers said that nothing had been done, when they complained so bitterly about the competition and brought to my attention certain articles and compared those which were made out of cotton with those which were made out of rayon, and showed how the price of rayon was now under the selling price of cotton with respect to articles used for the same purpose, being certain articles of clothing and underclothing. They said: "We pay a tax, and by reason of that tax we are excluded from the market which has been entered by rayon, which does not pay a tax." I asked if they had applied for a compensatory tax, and they said they had.

Mr. McKELLAR. Mr. President, I may say, as the Senator from Virginia [Mr. GLASS] said a few minutes ago, that there are a great many cotton mills in my State, and I have not received a communication from a single cotton mill complaining that they were being discriminated against in this matter. On the other hand, there are a number of rayon mills in my State, and they are complaining very greatly because of the proposed tax, for they say they are not in competition with cotton, but are in competition with silk.

Mr. SMITH. Personally I have had quite a number of complaints from cotton mills located not only in my State but in other States that the competition is very severe. One manufacturer, I remember, came in and showed me the articles to which I have just referred.

Mr. McKELLAR. Mr. President, I call the Senator's attention to the further fact as to cotton linters, which is, of course, a form of cotton, and quite a valuable form, as it now turns out, that 15 percent of all the cotton linters, or about 75,000,000 pounds, is used every year in the manufacture of rayon.

That largely has brought about the increased price of linters from about one-half cent a pound to something like 5½ cents a pound. In other words, as it seems to me from the standpoint of the cotton grower, to take away this market for linters might work a very great hardship on the producer of cotton. I hope it will not.

I have made a study of the matter in the last few days, and I believe there is no great degree of competition between cotton and rayon. I expect to vote against the amendment, but if we cannot get that much, manifestly the next best thing is to accept the amendment of the junior Senator from South Carolina [Mr. BYRNES] or something along that line, because in the absence of striking out the committee amendment the next best position for the rayon manufacturers is to accept that amendment with a compensating tax.

Mr. SMITH. I call the Senator's attention to the fact that the use of linters in rayon is of no benefit to the cotton producer at all. That is the short fiber taken off the seed after the farmer has had his lint taken off. When he sells his seed and they are delinted by the oil mills, that is something which goes to the benefit of the mills and not to the benefit of the farmer.

Mr. McKELLAR. I regret to have to differ in any form with such high authority on cotton as is the Senator from South Carolina, but in my section of the country the cash crop of the colored people is the seed cotton. The increased price of linters has largely influenced the increased price of cottonseed. Just 2 or 3 years ago cottonseed sold on the market for something like $11 a ton. Today it is selling for more than $40 a ton. It seems to me we ought not to do anything to destroy or to endanger the market for linters and for cottonseed, which is of very great importance to our section of the country, as the Senator knows.

Mr. SMITH. The price of the seed resulted from the extremely low production of cotton. Only 9,000,000 bales were produced, as against 15,000,000 bales previously.

Mr. McKELLAR. That is one of the factors.

Mr. SMITH. Some of the seed buyers will deduct from the seed in proportion as they seem not to be closely ginned, for the reason that they say they have to go through a double ginning on a very fine machine which takes the lint from the seed. In any event, I have never known the seed to be influenced in the slightest degree by the linters that are on them, because the quantity of linters depends upon whether or not the breast of the gin is open or shut. Some gins gin very closely and others gin not so closely, but the price of the seed has nothing to do with the amount of linters on the seed.

Mr. McKELLAR. Under the old philosophy that "the proof of the pudding is in the eating" we know that linters have gone up in price with seed. Cottonseed has increased more than four times and linters have increased a little more than that. They go up and down together.

The VICE PRESIDENT. The time of the Senator from South Carolina on the amendment has expired.

SOCIAL SECURITY—CONFERENCE REPORT

Mr. HARRISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 28, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69, 71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: " : *Provided*, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937 by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is

prevented by its Constitution from providing such financial participation"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: "welfare services (hereinafter in this section referred to as 'child-welfare services') for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" and a comma; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "EIGHT"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "eight"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"APPROPRIATION

"SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the condition in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"STATE PLANS FOR AID TO THE BLIND

"SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenture of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

"(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

"(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

"(2) Any citizenship requirement which excludes any citizen of the United States."

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments: On page 24 of the Senate engrossed amendments, line 19, strike out "permanently", and on page 25 of the Senate engrossed amendments, line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"DEFINITION

"SEC. 1006. When used in this title the term 'aid to the blind' means money payments to blind individuals."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "XI"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1101"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1102"; and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1103"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1104"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1105"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, JR.,
Managers on the part of the Senate.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
Managers on the part of the House.

Mr. McNARY. Mr. President, I think it would be quite worth while and informative if the Senator would discuss the conference report.

Mr. HARRISON. Mr. President, I was about to make a statement with reference to it. The conferees on the social-security bill have reached an agreement on all differences except the so-called "Clark and Black amendments." The Black amendment went with the Clark amendment—providing for continuation of private pension plans. The conferees were unable to agree on that matter.

The conferees met many times, I think having more than a dozen meetings. Throughout the Senate conferees tried to carry out the wishes of the Senate as required by the record vote on the so-called "Clark amendment." The House conferees were adamant as to the Clark amendment, though

they were able to agree on all the other differences between the House and the Senate. As soon as this part of the report shall be adopted, as I hope it may be, I expect to ask that the Senate further insist upon the so-called "Clark and Black amendments" and that a further conference be had with the House on those matters.

I may say in that connection, however, that when the House conferees reported today the report was overwhelmingly adopted and the House disagreed to the Clark amendment by a vote of 269 to 77.

There were several amendments of some importance on which we were able to agree. The so-called "Russell amendment", for instance, which was designed to take care of those States which, because of constitutional inhibitions, would be unable to participate in the matter of old-age assistance, was modified to some extent, but will carry out the general purposes of the original amendment, in that the States may participate without appropriations of funds by the State. The aggregate of amounts the political subdivisions of each State put up for old-age assistance plans will be matched by the Federal Government, just as if the State were financially participating. The objective of the Russell amendment was thus achieved in substance, and the House has agreed to it.

The House receded on the so-called "La Follette amendment", on which the sentiment of the Senate was practically unanimous. That was an amendment giving the option to States to adopt various plans with reference to unemployment insurance, whether the pool system or the separate reserve system, and permitting additional credit against the Federal tax where State contributions are reduced because of stabilization. The wishes of the Senate prevailed in that matter.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Massachusetts?

Mr. HARRISON. I do.

Mr. WALSH. May I ask the Senator what was done about the amendment in which I was interested, which was proposed and adopted when the bill was before the Senate, relating to noninterference by Federal officials with parental control of children?

Mr. HARRISON. That was taken care of. The House receded on part of the Senator's amendment, and the Senate receded on the other part. Of course, the Senator will recall that we invited him before the conference committee to explain the amendment, and I think the wishes of the Senate largely prevailed in that matter.

The Senator from South Dakota [Mr. NORBECK] had an amendment with reference to pensions for Indians. I may say that the Senate conferees fought valiantly in behalf of the amendment offered by the Senator from South Dakota, but our wishes did not prevail, and at the very last moment the Senate conferees finally yielded on that amendment.

Mr. NORBECK. Mr. President, does the Senator feel that if the Senate should take a definite stand for a pension for Indians the House might go along in regard to it?

Mr. HARRISON. The Senate conferees did take a definite stand.

Mr. NORBECK. No; I mean, if the Senate, by vote of the Senate, should take such a stand, does the Senator feel that that would have any influence on the situation in the House?

Mr. HARRISON. If we were to take a vote now?

Mr. NORBECK. Yes.

Mr. HARRISON. Of course, the Senator is fully cognizant of the rules of the Senate, because he has been here a long time, and has handled many bills. In order to do that, we should have to vote down the entire report; and while I share the sympathy which the Senator has for the Indians, I hope we shall not have to go to the extreme measure of voting down the entire report in order to secure another vote on that one amendment.

Mr. NORBECK. The Senator thinks the Senate amendment would be rejected in the House even if we should do that?

Mr. HARRISON. Yes; I feel sure that there is no way to put the amendment in this bill after what has occurred.

Mr. NORBECK. I very much regret, indeed, the way we treat the Indians, because they are so helpless. Whole families of them have been living on a dollar a week. We have now begun to recognize that we took away their lands from them without just compensation and have passed 80 or 90 statutes providing that they may sue. One statute, affecting a certain tribe of Indians, was passed during the Wilson administration. The case has not as yet been tried; but the House, in handling an appropriation bill last week, put in a proviso that the suits might be started all over again. That is, they provided that different counterclaims might be made, but they did not make any distinction between suits which permitted counterclaims and those which did not. In fact, the representative of the Department of Justice said there were 24 of these cases where the act was broad enough to admit all counterclaims.

I am pleased to say that the Senate Appropriations Committee did not take the view of the House; but we know that the House is going to insist on its proviso. The Senate committee felt that it was legislation on an appropriation bill, and therefore improper. They felt that it was entirely too broad, too unfair in its basis, so the proviso was stricken from the appropriation bill by the Senate committee. Whether or not we are going to yield on that, too, I do not know; but I hope that even the Indians may be given a little consideration. The older Indians, who have lost their hunting grounds and their opportunity to make a living by agriculture, and who are living on reservations that do not produce, have simply been told to starve; and even now in this bill they are simply told, "We shall take care of everybody else but not of the Indians."

I regret that the Senate had to yield on this amendment.

Mr. HARRISON. Mr. President, the Senate conferees were in sympathy with the views of the Senator from South Dakota.

Mr. LA FOLLETTE. Mr. President, will the Senator from Mississippi yield?

Mr. HARRISON. I yield.

Mr. LA FOLLETTE. I should like to say, for the benefit of the Senator from South Dakota, that as one of the Senate conferees I was very much interested in his amendment. My interest was not only because of the fact that the Senator from South Dakota had sponsored the amendment, but because as a member of the Senate Committee on Indian Affairs I was somewhat familiar with the problem which the Senator's amendment tried to reach; and I was very much in sympathy with its objective.

I desire to say, in support of what the chairman of the Senate conferees has had to say, that it is my opinion that we could not prevail upon the House conferees to accept that amendment even if we should vote down the conference report and have another conference. The House conferees were absolutely adamant upon the subject. I also desire to assure the Senator from South Dakota that I shall be glad, as one Member of the Senate, to help him in attempting to have this matter taken care of in a separate piece of legislation.

Mr. NORBECK. I thank the Senator.

Mr. HARRISON. Mr. President, there are just two other matters I wish to mention which were in difference between the two Houses.

One of these was whether the Social Security Board should be an independent agency or under the Department of Labor. It will be recalled that the Senate placed it under the Department of Labor. The Senate was forced to yield on that matter.

As to the other matter, the amendment to take care of the blind, the Senate's views on that subject prevailed, with an amendment.

I shall be glad to answer any further questions in regard to the conference report.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives on certain amendments in disagreement, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
July 17, 1935.

Resolved, That the House insist upon its disagreement to the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. HARRISON. Mr. President, on the four or five amendments still in disagreement, I move that the Senate insist upon its amendments and ask for a further conference with the House, and that the Chair appoint the conferees on the part of the Senate.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi.

The motion was agreed to; and the Vice President appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate at the further conference with the House of Representatives.

Mr. CONNALLY. Mr. President, is it the purpose of the conferees to have a vote in the Senate on the Clark amendment?

Mr. HARRISON. That amendment has gone back to conference.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. COPELAND. Mr. President, I desire to say just a word about this amendment.

I am very much distressed over the situation. The rayon people of my State are opposed to any legislation relating to the subject of rayon; but, if there must be legislation on the subject, they prefer the amendment which was offered by the Senator from South Carolina [Mr. BYRNES].

It will be unfortunate for us if we have any division of sentiment in this matter, or division as regards procedure. My own thought is that we might better accept the amendment offered by the Senator from South Carolina, and then do our best to defeat the amendment as amended. There is a difference of opinion here, however, among those of us whose States are interested in the rayon business; and I am only sounding a note of warning, hoping that overnight we may reach some conclusion as to strategy.

Once more, however, I desire to say that so far as I am concerned, I think the best strategy is to accept the amendment of the Senator from South Carolina, and then do the best we can to throw the amendment as amended out of the window.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. COPELAND. I do.

Mr. WALSH. Does the Senator from New York find any sentiment among the industrialists in his State in favor of levying a processing tax upon rayon because it is an injustice to the cotton industry to have a processing tax on cotton without one on rayon, which is in competition with cotton?

Mr. COPELAND. There is no desire in my State to have any such legislation enacted here.

Mr. WALSH. Is the reason why there is now agitation for a processing tax on rayon because there is such a tax on cotton goods, and because it is not fair to the cotton industry to have a processing tax on cotton without having one on rayon, with which it has to compete?

Mr. COPELAND. Yes.

Mr. WALSH. Very well. Now, the rayon manufacturer asserts, "If you are going to put a processing tax on us, we want one on silk." Is not that true?

Mr. COPELAND. That is true.

Mr. WALSH. "Because it is an injustice to the rayon industry to have a tax on rayon unless there is one on silk."

Mr. COPELAND. That is true.

Mr. WALSH. To what absurdity does such taxing power go? What further proof do we desire to be convinced of the unsoundness of this proposed legislation. If we adopt this measure, we shall be for all time adding new taxes to help remove injustices which processing taxes bring to a particular product upon which such a tax is levied.

Mr. COPELAND. Of course, I am 100 percent with the Senator in what he says.

Mr. NORRIS. Mr. President, will the Senator yield there?

Mr. COPELAND. I yield.

Mr. NORRIS. I am very much impressed by the questions of the Senator from Massachusetts; but we had the same predicament about fruits and canned fruits. We have already established the precedent. This amendment seeks to continue that precedent in uniform fashion throughout the bill. We included fruits and left canned fruits out. Would not that be just the same as leaving one of these products in and the other out, even though they do compete with each other? The Senate has already done that.

Mr. BARBOUR. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. BARBOUR. I should like to ask unanimous consent to strike out on page 49 section 19, beginning in line 19, so as to make the bill conform with an amendment already agreed to, offered by my colleague, the junior Senator from New Jersey [Mr. MOORE], which eliminated from the bill on page 38 the section beginning with line 3, affecting flaxseed.

The VICE PRESIDENT. When that is reached, the Senate will have a chance to vote upon it. Does the Senator ask unanimous consent for the present consideration of the amendment?

Mr. JOHNSON. Mr. President, I should object to unanimous consent, because the Senator from North Dakota [Mr. FRAZIER] called my attention to this, and he has been called out to a committee meeting, and would like to have it await his return.

Mr. BARBOUR. That is perfectly agreeable.

Mr. TYDINGS. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. TYDINGS. In placing a processing tax upon cotton, it is done upon the theory that the producers of cotton are to be benefited by the proceeds of the tax. Why in the world the producers of rayon should be taxed to help the producers of cotton, as the Senator from New York says, is beyond understanding. Certainly rayon is a separate thing from cotton.

I should like to ask the Senator if he knows upon what ground the committee has attempted to tax some product which has nothing to do with cotton in order to pay a particular benefit to the cotton farmers?

Mr. CONNALLY. Mr. President, will the Senator from New York yield to me to answer?

Mr. COPELAND. The Senator from Texas covets the opportunity to make the answer.

Mr. CONNALLY. I do not covet it, but I knew the Senator from New York was not going to answer, and I thought I would answer the question for him.

Let me say to the Senator from Maryland that, as I understand, one of the components of rayon is low-grade cotton, and it is a competitor of cotton. The man who makes the cotton cloth in New York and Massachusetts has to pay the processing tax because he manufactures cotton. The rayon man, on the other hand, pays no processing tax on his rayon.

Mr. TYDINGS. If he had cotton in the rayon, he would certainly pay a processing tax on it.

Mr. CONNALLY. The Senator from South Carolina says he does not.

Mr. TYDINGS. The Senator from South Carolina, with all due respect, must be misinformed on that subject.

Mr. SMITH. No; it was brought out, in the absence of the Senator, if the Senator from New York will allow me, that what they use in the manufacture of rayon is what is

called "linters", and that is not produced when the cotton is ginned for the farmer. It is short lint taken off the seed after the ginning.

Mr. CONNALLY. But it is cotton just the same.

Mr. SMITH. It is cotton, but it is that which does not go into cotton manufacture. It goes into explosives, and it is the base of cellulose, but it does not go into the ordinary manufacture of cotton. Therefore it does not pay any processing tax.

Mr. CONNALLY. Yet it goes into an article which competes with cotton, to wit, rayon.

Mr. TYDINGS. The point I wished to make, and to which I addressed myself, was that we do not tax rayon on the quantity of cotton in the rayon, but we treat the whole rayon as if it were made out of cotton.

Mr. SMITH. I should like to call attention to the act that was passed 2 years ago, which provided:

> In the case of cotton, the term "processing" means the spinning, manufacturing, and other processing, except ginning, of cotton, and the term "cotton" shall not include cotton linters.

That is in the act, and, therefore, no processing tax is paid.

Mr. TYDINGS. Mr. President, will the Senator from New York yield further?

Mr. COPELAND. I yield.

Mr. TYDINGS. What I am complaining about is that the amount of cotton in rayon is not taxed. The proposal is to tax the rayon as if it were all cotton.

Mr. SMITH. Mr. President, will the Senator allow me?

Mr. TYDINGS. I yield.

Mr. SMITH. It is not upon the ground that we are taxing rayon for the benefit of cotton; we are taxing rayon because we have taxed cotton; and rayon is competing in the textile market; and the goods made out of rayon are coming in without a tax and taking the place of similar cotton goods which cannot go in on account of the tax.

Mr. TYDINGS. Mr. President, the Senator from South Carolina in his answer has been very frank, and I wish to thank him. In other words, we are not taxing rayon because of the amount of cotton in rayon.

Mr. SMITH. No.

Mr. TYDINGS. We are taxing rayon because having taxed cotton for the benefit of the cotton farmer we cannot afford to have something else which might compete go untaxed, and therefore, though it is in no respect cotton whatsoever, we are to tax that product, not for the benefit of rayon, not for the benefit of anyone connected with the operation of producing rayon, but to take this remote quantity, tax it, and then turn part of that tax back to the cotton farmer. If that is government, and if that is the policy of taxation that is to be introduced in this body, I think the sooner we adjourn and go home and get a good night's sleep and come back and learn how to levy taxes the better off the Nation will be.

Mr. SMITH. Under that doctrine we should have adjourned when the Hamiltonian idea of high protection came in, for we have been taxing with a compensatory tax everything that competes in the market with the thing that has the blessing of the high protective tariff.

Mr. BORAH. In view of the fact that the Jeffersonian party is now in power, why not repeal the Hamiltonian policy?

Mr. SMITH. I will vote "aye."

Mr. BORAH. I know the Senator will, but he will be very much alone. [Laughter.]

Mr. SMITH. Yes; very much alone; that is true.

Mr. TYDINGS. Mr. President, will the Senator from New York yield again?

Mr. COPELAND. I yield.

Mr. TYDINGS. I do not think the analogy of tariff taxes is a good one. The idea of taxing one product for the benefit of another may at times avail to help the other, but basically, as I understand, back of the tariff is the idea of protecting the standards of labor and standards of living generally. In this case, however, there is no effort to protect rayon, which is certainly a commodity indigenous to the United States. We might at least say, through a compensatory duty, that the purpose back of levying the duty is to protect all of the industries of the United States equally, but in this case the proposal is to tax, for the benefit of cotton, something which has nothing to do with cotton.

Mr. President, I have often heard the farmer complain that he had to sell his goods in the world market, where the tariff does not apply, and pay taxes on everything else that he has to buy; but, lo and behold! at last we have the good old farmer right here in the United States Senate doing the very thing of which he complained. Such is principle.

Mr. ASHURST. Mr. President——

The PRESIDING OFFICER (Mr. HAYDEN in the chair). Does the Senator from Maryland yield to the Senator from Arizona?

Mr. TYDINGS. I yield.

Mr. ASHURST. In the interest of historical accuracy, I wish to say that Thomas Jefferson was a high-tariff man. Read his 16 unanswerable letters urging a high tariff. He was one of the great leaders of the high protective tariff. He was in Washington's Cabinet. We know that Washington was a protectionist. We know that James Madison piloted through the House of Representatives the first tariff bill ever passed in the United States. In its preamble it declared for the protection of infant industries of the United States. When Jefferson became President he appointed the same Madison Secretary of State. Nearly all the protagonists of the high protective tariff in the West used the 16 letters of Thomas Jefferson to prove that he was a protectionist.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. ASHURST. I yield to the Senator from Virginia.

Mr. GLASS. Will not the Senator from Arizona state in that connection the background of those letters? Does the Senator recall the fact that this was then an infant Nation and that the proposal was to protect infant industries in order not to be dependent upon European industries?

Mr. ASHURST. Yes.

Mr. GLASS. Are there any longer any infant industries in this country except rayon?

Mr. ASHURST. Yes; Mr. President, during the depression nearly all of them have been reduced to the status of infants.

Regarding the background, it will be remembered that when James G. Blaine was preparing his book, Twenty Years in Congress, America waited with some degree of impatience to read what that brilliant man would say about the tariff, knowing that he was the great champion of a protective-tariff system. He simply wrote that all that could be said and all that ever would be said in behalf of the protective tariff was said in the House of Representatives in 1789 when James Madison piloted through the House the protective-tariff bill. Blaine almost dismisses the subject with those words.

Mr. BORAH. Mr. President, is there now, or has there ever been, any difference between political parties in the United States on the tariff question?

Mr. ASHURST. In theory; no.

Mr. BORAH. In practice, then?

Mr. ASHURST. Yes. Mr. President, for a while our southern brethren followed the leadership of John C. Calhoun, who himself began his public life as a high-tariff advocate.

Mr. GORE. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. GORE. I have just entered the Senate Chamber. Did the Senator state the rates of duties proposed in the first tariff act of 1789?

Mr. ASHURST. The rates varied. There were ad valorem rates and specific duties, if I remember correctly. It has been some years since I have read that law. There was also a preferential allowed to importers who brought goods into the United States in American bottoms, which I heartily approve.

Mr. GORE. But those were regarded as protective rates. Does the Senator think they would be acceptable now?

Mr. ASHURST. Those rates might not be particularly acceptable at this time.

I wish to make the point that in the House of Representatives in 1789 they were protecting the United States against the cheap, forced, slave, and underpaid labor of certain foreign countries. The real reason why I believe in a protective tariff is not because the founder of the Democratic Party believed in it. That is not my real reason for believing in it, but it is a reason. I believe that the United States will not survive as against the cheap, the forced, and the underpaid labor of certain foreign countries. I do not, for example, believe that the mills of New England or of any other industrial State will long survive in competition with the cheap labor of Europe. I know—I do not guess, but I know—that the copper, the manganese, and other enterprises, for example, will not survive as against the cheap, the forced, and the underpaid labor of certain foreign countries, which is paid some 40 or 50 cents a day, and works 12 hours a day. This I say with particular reference to copper producing.

It is useless to resort to our old prejudices and predilections. I came to the Senate a flaming low-tariff man. I stood for years and hurled my delicate, fine, and exquisite porcelain theories against a solid, hard, concrete wall of fact; and it was only my porcelain which was shattered—never the wall of fact. I became tired of throwing porcelain against that adamantine wall.

The free-trade, low-tariff idea is the most beautiful, symmetrical theory in the world. Low tariffs will not function in this brass-tack, matter-of-fact, workaday world, if we expect our workmen to live and subsist as becomes the dignity of an American workman.

I beg the Senate's pardon for introducing the tariff question into this subject; but Senators know that the stoutest apostle of a faith is the convert. Whether his zeal arises from a feeling that he should be apologizing for past errors or he is enthused by the light which has come upon him I do not know; but I do know that the stoutest apostle of a doctrine anywhere is a man who has been converted from the opposite side. That is the position I occupy on the tariff.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. HASTINGS. My recollection is that the tariff issue in recent years was raised in about the year 1887. President Cleveland was urged to send a message to the Congress in December 1887 proposing a reduction in the tariff; and to me the curious thing about it is that the real reason for urging it was that the Democratic Party did not know what to do with the surplus which was being created by the tariff rates. It seems to me they had a different condition in 1887 than that which they have today.

I merely desired to call attention to the fact that what brought on in 1887 the effort of the Democrats to reduce the tariff was the fact that they did not know what to do with the surplus. However, I take it that the Democratic Party during the present administration would know what to do with a surplus if they could find one.

Mr. ASHURST. Mr. President, I have no remark to make in answer to the production of the pungent intellect of my friend from Delaware.

Daniel Webster went to Congress from New Hampshire a pronounced free-trader. It is known to every Senator that he became a great protective-tariff champion, a tower of protection in New England, because he found, forsooth, that his constituency could not exist without a protective tariff. John C. Calhoun, educated in Yale or Harvard—I forget which; my friend from South Carolina knows——

Mr. GORE. Yale.

Mr. ASHURST. Calhoun began his public life as a protectionist. He found that his section at that time would be better served by low tariffs or free trade. We draw our opinions—and it is not to our disgrace that we do—and we derive many of our ideas from our environment, from our experience in life, and usually from the sections whence we come. It was natural, proper, and logical that John C. Calhoun should swing over from the position of a high-tariff advocate to that of a low-tariff advocate, a free-trader. It was natural that Daniel Webster—he of the imperial intellect, the expounder of the Constitution, whose voice boomed like a golden bell hung in the canopy of the skies—it was natural that he should turn from a low-tariff, free-trade man to become a high protective-tariff advocate.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. ASHURST. Certainly. I am always glad to yield to my able friend from Tennessee.

Mr. McKELLAR. With reference to the background, does not the Senator believe, from reading the history of both Calhoun and Webster, that one of the principal reasons for their change was Andrew Jackson, of Tennessee?

Mr. ASHURST. Yes. The able Senator from Tennessee is quite correct. In the old Senate Chamber, which is to be a repository of memorials of past greatness, Jackson and Van Buren sat side by side as Senators. Jackson had not as yet been stung by the Presidential bee. That was probably in 1822 or 1823. Jackson sat side by side with Van Buren, the low-tariff advocate, and their friendship became very close. The circumstance is so well known to history that it is not necessary to descant upon it.

However, they had a serious dispute over the tariff. Van Buren was for low tariff and Jackson for high tariff; and when Clay, great leader of the protective-tariff system, asked Jackson what, in the mind of Clay, was an embarrassing question, how high a tariff ought to be, Jackson replied, "It ought to be a judicious tariff." This answer angered Clay, so that he replied with an oath, "Well, by ———, I am for a tariff, judicious or injudicious."

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. ASHURST. I yield the floor to the able Senator from Tennessee.

Mr. McKELLAR. Mr. President, I should like to make a suggestion. The Senator from Arizona in his historical summary is correct with one exception. He is exactly correct about Mr. Jackson and Mr. Van Buren sitting side by side in the Senate and becoming great friends, which friendship lasted all their lives; but Andrew Jackson came to the Senate in 1822 for the very purpose of furthering his Presidential candidacy.

Mr. ASHURST. Mr. President, I would not presume to question the historical accuracy of the statement of the Senator from Tennessee. I have learned to depend upon the Senator from Tennessee for historical information, particularly with reference to Tennessee. But let me say to the Senator from Tennessee that it was not Tennessee which first proposed Jackson for the Presidency, though doubtless many of his friends in Tennessee thought he would be a good candidate. It was the high protective State of Pennsylvania which first seriously proposed Andrew Jackson for the Presidency.

Mr. McKELLAR. The Senator is entirely correct in that statement.

Mr. GLASS. Mr. President, in the detailed historical recital the Senator from Arizona has omitted to say whether the bee which stung Andrew Jackson was a "queen" bee or some other kind of a bee. [Laughter.]

Mr. President, I am concerned for the reputation of Thomas Jefferson, who was a Virginian. In his maturer life he wrote one sentence which has been more vividly remembered and oftener repeated than anything that was ever written in his so-called "tariff letter", which advocated a species of retaliation against Great Britain. The sentence was this: He declared for "equal rights to every man and special privileges to none." How anybody can get a high protective tariff out of that declaration is beyond my conception.

Moreover, I challenge any Senator here to point to a single platform declaration of the Democratic Party since the end of the Civil War that even so much as squinted at a high protective tariff, except the one in 1928 at Houston. We went from one end of the country to the other in the campaign of 1932 denouncing the Smoot-Hawley bill and declaring for its abrogation or modification. If there ever was a time on the face of God's earth when the Democratic Party had an opportunity to adopt a Democratic tariff bill, it has been since 1932 when it had a two-thirds majority in both Houses of Congress and had the President as well.

Mr. ASHURST. Mr. President, will the Senator grant me a moment to reply to his question?

Mr. GLASS. My question about the queen bee? [Laughter.]

Mr. ASHURST. If I had an hour granted to me I would not make myself so ridiculously presumptive as to attempt to engage in a debate with the able Senator from Virginia [Mr. GLASS] regarding Thomas Jefferson more than to say that what the Senator said is probably true. But after the fever and sensation and heat of the forum had subsided and after he retired from the Presidency, Thomas Jefferson became a contemplative philosopher and no longer an active statesman. No doubt Jefferson, as I hope we all shall do when we reach that stage, became more or less of a philosopher.

Notwithstanding the justly recognized scholarship and learning of the Senator from Virginia, I assert here and elsewhere that during the time when Thomas Jefferson was a responsible statesman, charged with responsibility for the destiny of the young Republic, grasping the nettles of fact daily, he was a protectionist.

Mr. SMITH. Mr. President, I wonder if the Senate recalls the fact that we barely escaped a civil war in 1828 and in 1832, when my State, led by Calhoun, matchless in his logic and interpretation of the Constitution, rebelled against the tariff of 1828. How anyone in this body with the facts of history so tragically written can forget that fact is beyond me. Had it not been for Clay, doubtless at that time we would have been in the war which subsequently came, precipitated by Calhoun's declaration, "You have no constitutional right to do this", namely, to pass a protective tariff. He said, "We might pass a tariff for revenue, but no one can find constitutional authority to pass a tariff for the special benefit of one class as against another class." Hence we had the ordinance of nullification. Subsequently the very same principle precipitated us into a civil war.

Mr. McKELLAR. Mr. President, the Senator from South Carolina said that Mr. Clay prevented that catastrophe at that time. My recollection of history is very different. The man who prevented the catastrophe at that time was again Andrew Jackson.

Mr. SMITH. No. If Andrew Jackson had had his way he would have hanged Calhoun and plunged us into civil war, but Clay came in and through a series of amendments brought about a reduction of tariff over a period of time which would ultimately bring the tariff back to where it would be tolerable.

Mr. BORAH. Mr. President, the series of amendments which Clay offered and which were accepted still left the tariff a protective tariff.

Mr. SMITH. It did leave it a protective tariff, but brought it back to a point where it was not the enormously intolerable thing it was at that time. Of course it was very mild compared to what we have now. As the Senator from Virginia [Mr. GLASS] has said, we wrote our platform denouncing that which unquestionably was one of the causes of the catastrophe into which we have been plunged, and yet here we are, Democrats, so called, and not a word either here or at the other end of the Avenue suggesting that we should carry out the pledges which we solemnly made to the people.

Mr. GLASS. Mr. President, with the exception of myself, the Senator from South Carolina [Mr. SMITH] has the best tariff record of any Democrat in the Senate. That will be attested by the Vice President, who reminded me of the fact a while ago. But now the Senator from South Carolina is departing from the philosophy of Calhoun and is so rabid that he wants to levy a compensating tariff duty to keep rayon from its alleged competition with cotton. [Laughter.]

Mr. SMITH. Mr. President, as chairman of the Committee on Agriculture and Forestry, I am carrying out the edict of my committee and following the example of the distinguished Senator from Virginia who sat right here and swallowed his own words in relation to another bill, or at least turned it over to someone else. I am trying as loyally as I can to carry out the edict of my committee, but I am not going to vote for any form of protective tariff, not even in this bill.

Mr. GLASS. The Senator from Virginia did not stultify himself on that occasion. He stood here and defended every single, solitary provision of that bill but one, because he believed in every provision of it but one; and when we got to that one provision he voted his convictions.

Mr. SMITH. Yes; and the Senator from South Carolina will do the same thing if the Senator from Virginia will just keep quiet. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Carolina [Mr. BYRNES] to the amendment of the committee.

Mr. BULKLEY. Mr. President, as I understand, the question is on substituting the amendment offered by the Senator from South Carolina for the committee amendment.

The PRESIDING OFFICER. That is correct.

Mr. BULKLEY. That will not incorporate the amendment in the bill?

Mr. SMITH. As I understand the parliamentary situation, Mr. President, my colleague [Mr. BYRNES] has offered a substitute for the Senate committee amendment. That is now pending. I hope we may have a vote on that question.

Mr. BYRD. Mr. President, the author of the amendment has agreed to wait until tomorrow.

Mr. BYRNES. Mr. President, will my colleague yield to me?

Mr. SMITH. I yield.

Mr. BYRNES. In the absence of the senior Senator from South Carolina from the floor, the senior Senator from Virginia [Mr. GLASS], the junior Senator from Virginia [Mr. BYRD], and the senior Senator from New York [Mr. COPELAND] asked me if it would be agreeable to me to let the amendment to the committee amendment go over until tomorrow. I told them that it would be, but that I could not speak for the chairman of the committee, who was in charge of the bill, and was not on the floor at the time. That is the situation.

Mr. SMITH. Mr. President, all I am asking is that we may make some progress. Senators have made up their minds how they are going to vote on this amendment. They know now how they will vote just as well as they will know tomorrow morning; and if they are like I am, and try to read the technical terms which are employed in connection with rayon, they will know less tomorrow morning than they now know.

If it would aid to reach a conclusion, if I thought any Senator would take these amendments and study them and then govern himself accordingly, whether it would influence him for or against the substitute amendment, I should not hesitate; but I have been here a quarter of a century. I know what all this means.

Mr. McKELLAR. Mr. President, will the Senator yield to enable me to ask a parliamentary question?

Mr. SMITH. Yes.

Mr. McKELLAR. There is before the Senate a committee amendment which many of us are going to vote to reject. The junior Senator from South Carolina [Mr. BYRNES] has offered an amendment in lieu of the committee amendment, as a substitute for it.

The PRESIDING OFFICER. In the nature of a substitute.

Mr. McKELLAR. Naturally, I think the case for rejection would be stronger if we were voting on the committee amendment than if we were voting on the substitute amendment of the Senator from South Carolina. Is there any parliamentary method by which that could be accomplished, whereby the vote would first come on the committee amendment? I do not know whether there is or not, and, therefore, I am asking the Chair.

The PRESIDING OFFICER. Under the rule, the vote must first be taken upon the amendment in the nature of a substitute.

Mr. SMITH. That is what I thought.

The PRESIDING OFFICER. If that should be agreed to, then the committee amendment, as amended, would be voted upon.

Mr. GLASS. Mr. President, I think those of us who represent States largely interested in the manufacture of rayon presented a very reasonable request to the junior Senator from South Carolina in the absence of the senior Senator from South Carolina to whom the request could not then be presented. That request was that this particular amendment go over until tomorrow in order that we might communicate with those who are vitally concerned about this matter, and determine our action upon it.

I do not know this afternoon how I shall vote. I may know tomorrow how I shall vote. I do not wish to delay the bill. God knows I have been sitting around here for 8 days waiting for this bill to be passed in order that I may bring before the Senate a bill with the conduct of which I am charged. I do not wish to delay the matter for a minute; but we presented what I thought was a very reasonable request, and the junior Senator from South Carolina agreed to it.

Mr. SMITH. Mr. President, I did not hear the Senator. I was out of the Chamber at the time he made the explanation. It was the intent of those who desire the delay to communicate with those who are interested. I have no disposition to deny any Senator any opportunity to inform himself about a matter with which he is charged.

Mr. BULKLEY. Mr. President, does the chairman of the committee oppose the pending amendment as a substitute for the committee amendment?

Mr. SMITH. I have not made up my mind about it; but I might just as well declare now as at any other time that I am not going to vote for any measure which has in it the element of a protective tariff. This one has—both of them have—and I will not vote for it. I did not do so before, and I will not do so now; but I am doing my best to discharge my duty to my committee. Individually, I am opposed to it. I have been opposed to it. I refused to vote for the other bill when it had incorporated in it, as part I, a bill which I had favored. I refused to vote for it because had I done so I should have had to vote for the protective-tariff system.

Mr. BULKLEY. Mr. President, I respect the Senator's candor, and I respect his position. What I was leading up to was this: Can we not agree to accept the amendment offered by the junior Senator from South Carolina [Mr. BYRNES] as a substitute for the committee amendment, and then let the vote on the adoption of the committee amendments go over until tomorrow?

Mr. McKELLAR. The Senator from Virginia [Mr. GLASS] does not wish to have that done.

Mr. SMITH. Mr. President, may I have the attention of the Senator from Virginia [Mr. GLASS]?

Mr. GLASS. Yes, sir.

Mr. SMITH. The Senator from Ohio suggested that we act upon the substitute offered by my colleague [Mr. BYRNES], and then let the committee amendment, if it shall be amended, or if the amendment to it shall be voted down, go over until tomorrow. The point was made that the Senator from Virginia and others desire time to investigate and ascertain the attitude of their constituents who are interested in the substitute as well as in the committee amendment. If that is the attitude the Senator takes, I am perfectly willing to have the Senate take a recess at this time.

Mr. McKELLAR. Mr. President, before that is done, would the Senator from South Carolina be willing to depart from the usual parliamentary procedure and vote first on the amendment of the committee; and then, if it should be adopted, vote secondly on the substitute amendment of the Senator from South Carolina [Mr. BYRNES]?

Mr. SMITH. That would be a rather complicated thing to do, because if we should adopt the committee amendment, we should be estopped from voting on the substitute amendment.

Mr. McKELLAR. Not if it were done by unanimous consent.

Mr. WAGNER. Mr. President, will the Senator from South Carolina yield?

Mr. SMITH. Yes.

Mr. WAGNER. I desire to add my request to that made by the senior Senator from Virginia [Mr. GLASS] to have this whole matter go over until tomorrow. The senior Senator from South Carolina was not in the Chamber when his colleague [Mr. BYRNES] offered the amendment and made an explanatory statement with reference to it. Among other things we understood him, at least, to say that the rayon industry generally would prefer the amendment offered by him to the present amendment. Personally, I am opposed to both, and I shall continue to be opposed to both, no matter what attitude the rayon industry may take in the matter, because I think the proposal is an injustice to the consumer; but we desire to inquire to what extent there is unanimity of opinion among the rayon industries of our respective States. I thought that was a rather reasonable request.

Mr. SMITH. That matter has been gone into and explained so far as the chairman of the committee is concerned. It is a matter of absolute indifference to me personally which amendment the Senate takes, or whether it takes either. The Senate may be governed by its judgment in the premises.

Mr. WAGNER. Let us now take a recess.

Mr. SMITH. I was making that proposition when the Senator from New York rose.

Mr. McNARY. Mr. President, is it the desire of the chairman of the committee in charge of the bill that we recess now, or that we have a vote on the rayon substitute?

Mr. SMITH. Under the request made by the Senator from Virginia and the Senator from New York, as they desire to communicate with those who are interested, I think perhaps it would be well to take a recess now, and take up this matter tomorrow.

May I ask the Senator from Arkansas if it would not be a very good idea if we could meet earlier tomorrow?

Mr. ROBINSON. Mr. President, I was just about to suggest that in view of the slow progress that is being made the Senate now take a recess until 11 o'clock a. m. tomorrow. I hope the Senator from Oregon will find it consistent to agree to that.

Mr. McNARY. Mr. President, of course I am anxious to cooperate in the disposition of the bill, but I am informed that some work is set for tomorrow morning, and I think we can get along pretty well if we meet at 12 o'clock.

Mr. ROBINSON. If the Senator indicates he will object, I will not submit a request, but I wish to make the statement that unless more rapid progress shall be made it will be necessary for the Senate to hold longer sessions, and if we cannot meet at 11 o'clock tomorrow morning, it may be necessary to continue in session tomorrow, as well as during the remainder of the week, much later than has been the recent practice.

I wish to add that it seems to me we should cooperate to conclude the consideration of the bill by some hour Friday. Unless we do that, it will probably be necessary to have a session on Saturday. The pending bill has been before the Senate for a long time, the discussion has taken a very broad range, and while a limitation on debate has been agreed upon, the progress that has been made today is rather disappointing; we have not disposed of very many matters.

If the Senator from Oregon wishes to maintain his attitude, I will give notice that the Senate will remain in session tomorrow until a later hour than has been the practice heretofore.

ADDRESS BY GENERAL M'ARTHUR BEFORE RAINBOW DIVISION VETERANS

Mr. SHEPPARD. Mr. President, I ask unanimous consent to have incorporated in the RECORD an address delivered by Gen. Douglas MacArthur, Chief of Staff, United States Army, before national meeting of the Rainbow Division, World War, at Washington, D. C., July 14, 1935.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. President and Gentlemen of the Rainbow Division, I thank you for the warmth of your greeting. It moves me deeply. It was with you I lived my greatest moments. It is of you I have my greatest memories.

It was 17 years ago—those days of old have vanished, tone and tint; they have gone glimmering through the dreams of things that were. Their memory is a land where flowers of wondrous beauty and varied colors spring, watered by tears and coaxed and caressed into fuller bloom by the smiles of yesterday. Refrains no longer rise and fall from that land of used to be. We listen vainly, but with thirsty ear for the witching melody of days that are gone. Ghosts in olive drab and sky blue and German gray pass before our eyes; voices that have stolen away in the echoes from the battlefields no more ring out. The faint, far whisper of forgotten songs no longer floats through the air. Youth, strength, aspirations, struggles, triumphs, despairs, wide winds sweeping, beacons flashing across uncharted depths, movement, vividness, radiance, shadows, faint bugles sounding reveille, far drums beating the long roll, the crash of guns, the rattle of musketry, the still white crosses!

And tonight we are met to remember.

The shadows are lengthening. The division's birthdays are multiplying; we are growing old together. But the story which we commemorate helps us to grow old gracefully. That story is known to all of you. It needs no profuse panegyrics. It is the story of the American soldier of the World War. My estimate of him was formed on the battlefield many years ago and has never changed. I regarded him then, as I regard him now, as one of the world's greatest figures—not only in the era which witnessed his achievements but for all eyes and for all time. I regarded him as not only one of the greatest military figures but also as one of the most stainless; his name and fame are the birthright of every American citizen.

The world's estimate of him will be founded not upon any one battle or even series of battles; indeed, it is not upon the greatest fields of combat or the bloodiest that the recollections of future ages are riveted. The vast theaters of Asiatic conflict are already forgotten. The slaughtered myriads of Timour and Ghengis Khan lie in undistinguished graves. Hardly a pilgrim visits the scenes where on the fields of Chalons and Tours the destinies of civilization and Christendom were fixed by the skill of Aetius and the valor of Charles Martel.

The time indeed may come when the memory of the fields of Champagne and Picardy, of Verdun and the Argonne shall be dimmed by the obscurity of revolving years and recollected only as a shadow of ancient days.

But even then the enduring fortitude, the patriotic self-abnegation, and the unsurpassed military genius of the American soldier of the World War will stand forth in undimmed luster; in his youth and strength, his love and loyalty, he gave all that mortality can give. He needs no eulogy from me or from any other man; he has written his own history, and written it in red on his enemy's breast, but when I think of his patience under adversity, of his courage under fire, and of his modesty in victory I am filled with an emotion I cannot express. He belongs to history as furnishing one of the greatest examples of successful and disinterested patriotism. He belongs to posterity as the instructor of future generations in the principles of liberty and right. He belongs to the present—to us—by his glory, by his virtues, and by his achievements.

The memorials of character wrought by him can never be dimmed. He needs no statues or monuments; he has stamped himself in blazing flames upon the souls of his countrymen; he has carved his own statue in the hearts of his people; he has built his own monument in the memory of his compatriots.

The military code which he perpetuates has come down to us from even before the age of knighthood and chivalry. It embraces the highest moral laws, and will stand the test of any ethics or philosophies ever promulgated for the uplift of mankind. Its requirements are for the things that are right, and its restraints are from the things that are wrong. Its observance will uplift everyone who comes under its influence. The soldier, above all other men, is required to perform the highest act of religious teaching—sacrifice. In battle and in the face of danger and death he discloses those divine attributes which his Maker gave when he created man in his own image. No physical courage and no brute instinct can take the place of the divine annunciation and spiritual uplift which will alone sustain him. However horrible the incidents of war may be, the soldier who is called upon to offer and to give his life for his country is the noblest development of mankind.

On such an occasion as this my thoughts go back to those men who went with us to their last charge. In memory's eye I can see them now—forming grimly for the attack, blue-lipped, covered with sludge and mud, chilled by the wind and rain of the fox hole, driving home to their objective, and to the judgment seat of God. I do not know the dignity of their birth, but I do know the glory of their death. They died unquestioning, uncomplaining, with faith in their hearts and on their lips the hope that we would go on to victory.

Never again for them staggering columns, bending under soggy packs, on many a weary march from dripping dusk to drizzling dawn. Never again will they slug ankle deep through the mud on shell-shocked roads. Never again will they stop cursing their luck long enough to whistle through chapped lips a few bars as some clear voice raised the lilt of Madelon. Never again ghastly trenches, with their maze of tunnels, drifts, pits, dugouts—never again, gentlemen unafraid.

They have gone beyond the mists that blind us here and become part of that beautiful thing we call the spirit of the Unknown Soldier. In chambered temples of silence the dust of their dauntless valor sleeps, waiting, waiting in the chancery of heaven the final reckoning of Judgment Day. "Only those are fit to live who are not afraid to die."

Our country is rich and resourceful, populous and progressive, courageous to the full extent of propriety. It insists upon respect for its rights, and likewise gives full recognition to the rights of all others. It stands for peace, honesty, fairness, and friendship in its intercourse with foreign nations.

It has become a strong, influential, and leading factor in world affairs. It is destined to be even greater if our people are sufficiently wise to improve their manifold opportunities. If we are industrious, economical, absolutely fair in our treatment of each other, strictly loyal to our Government, we, the people, may expect to be prosperous and to remain secure in the enjoyment of all those benefits which this privileged land affords.

But so long as humanity is more or less governed by motives not in accord with the spirit of Christianity, our country may be involved by those who believe they are more powerful, whatever the ostensible reason advanced may be—envy, cupidity, fancied wrong, or other unworthy impulse may direct.

Every nation that has what is valuable is obligated to be prepared to defend against brutal attack or unjust effort to seize and appropriate. Even though a man be not inclined to guard his own interests, common decency requires him to furnish reasonable oversight and care to others who are weak and helpless. As a rule, they who preach by word or by deed "Peace at any price", are not possessed of anything worth having, and are oblivious to the interest of others including their own dependents.

The Lord Almighty, merciful and all-wise, does not absolutely protect those who unreasonably fail to contribute to their own safety, but He does help those who, to the limit of their understanding and ability, help themselves. This, my friends, is fundamental theology.

On looking back through the history of English-speaking people, it will be found in every instance that the most sacred principles of free government have been acquired, protected, and perpetuated through the embodied, armed strength of the people concerned. From Magna Carta to the present day there is little in our institutions worth having or worth perpetuating that has not been achieved for us by armed men. Trade, wealth, literature, and refinement cannot defend a state—pacific habits do not insure peace nor immunity from national insult and national aggression.

Every nation that would preserve its tranquillity, its riches, its independence, and its self-respect must keep alive its martial ardor and be at all times prepared to defend itself.

The United States is a preeminently Christian and conservative nation. It is far less militaristic than most nations. It is not especially open to the charge of imperialism. Yet one would fancy that Americans were the most brutally blood-thirsty people in the world to judge by the frantic efforts that are being made to disarm them both physically and morally. The public opinion of the United States is being submerged by a deluge of organizations whose activities to prevent war would be understandable were they distributed in some degree among the armed nations of Europe and Asia. The effect of all of this unabashed and unsound propaganda is not so much to convert America to a holy horror of war as it is to confuse the public mind and lead to muddled thinking in international affairs.

A few intelligent groups who are vainly trying to present the true facts to the world are overwhelmed by the sentimentalist, the emotionalist, the alarmist, who merely befog the real issue which is not the biological necessity of war but the biological character of war.

The springs of human conflict cannot be eradicated through institutions but only through the reform of the individual human being. And that is a task which has baffled the highest theologians for 2,000 years and more.

I often wonder how the future historian in the calmness of his study will analyze the civilization of the century recently closed. It was ushered in by the end of the Napoleanic Wars which devastated half of Europe. Then followed the Mexican War, the American Civil War, the Crimean War, the Austro-Prussian War, the Franco-Prussian War, the Boer War, the opium wars of England and China, the Spanish-American War, the Russo-Japanese War and, finally, the World War—which, for ferocity and magnitude of losses, is unequalled in the history of humanity.

If he compares this record of human slaughter with say the thirteenth century when civilization was just emerging from the Dark Ages, when literature had its Dante; art its Michelangelo and Gothic architecture; education, the establishment of the famous colleges and technical schools of Europe; medicine, the organization of hospital systems; and politics, the foundation of Anglo-Saxon liberty, the Magna Carta—the verdict cannot be that wars have been on the wane.

In the last 3,400 years only 268—less than 1 in 13—have been free from wars. No wonder that Plato, that wisest of all men, once exclaimed, "Only the dead have seen the end of war!" Every reasonable man knows that war is cruel and destructive. Yet, our civilization is such that a very little of the fever of war is sufficient to melt its veneer of kindliness. We all dream of the day when human conduct will be governed by the Decalogue and the Sermon on the Mount. But, as yet it is only a dream. No one desires peace as much as the soldier, for he must pay the greatest penalty in war. Our Army is maintained solely for the preservation of peace—or, for the restoration of peace after it has been lost by statesmen or by others.

Dionysius, the ancient thinker, twenty centuries ago uttered these words: "It is a law of nature, common to all mankind which time shall neither annul nor destroy, that those that have greater strength and power shall bear rule over those who have less." Unpleasant as they may be to hear, disagreeable as they may be to contemplate, the history of the world bears ample testimony to their truth and wisdom. When looking over the past, or when looking over the world in its present form, there is but one trend of events to be discerned—a constant change of tribes, clans, nations, the stronger ones replacing the others, the more vigorous ones pushing aside, absorbing, covering with oblivion the weak and the worn-out.

From the dawn of history to the present day it has always been the militant aggressor taking the place of the unprepared. Where are the empires of old? Where is Egypt, once a state on a high plane of civilization, where a form of socialism prevailed and where the distribution of wealth was regulated? Her high organization did not protect her. Where are the empires of the East and the empires of the West which once were the shrines of wealth, wisdom, and culture? Where are Babylon, Persia, Carthage, Rome, Byzantium? They all fell, never to rise again, annihilated at the hands of a more warlike and aggressive people, their cultures memories, their cities ruins.

Where are Peru and old Mexico? A handful of bold and crafty invaders destroyed them, and with them their institutions, their independence, their nationality, and their civilization.

And saddest of all the downfall of Christian Byzantium. When Constantinople fell, that center of learning, pleasure, and wealth—and all the weakness and corruption that goes with it—a pall fell over Asia and southeastern Europe which has never been lifted. Wars have been fought these nearly five centuries that have had for at least one of their goals the bringing back under the cross of that part of the world lost to a wild horde of a few thousand adventurers on horseback whom hunger and the unkind climate of their steppes forced to seek more fertile regions.

The thousand years of existence of the Byzantine empire, its size, its religion, the wealth of its capital city were but added incentives and inducements to an impecunious conqueror. For wealth is no protection against aggression. It is no more an augury of military and defensive strength in a nation than it is an indication of health in an individual. Success in war depends upon men, not money. No nation has ever been subdued for lack of it. Indeed, nothing is more insolent or provocative, or more apt to lead to a breach of the peace than undefended riches among armed men.

And each nation swept away was submerged by force of arms. Once each was strong and militant, each rose by military prowess, each fell through degeneracy of military capacity, because of unpreparedness. The battlefield was the bed upon which they were born into this world and the battlefield became the couch on which their worn-out bodies finally expired. Let us be prepared, lest we, too, perish.

"They will tell of the Peace Eternal—
And we would wish them well!
They will scorn the wrath of war's red path,
And brand it the road to Hell.
They will set aside their warrior pride—
And their love for the soldier sons—
But at the last they will turn again
To Horse and Foot and Guns.

"They will tell of the Peace Eternal—
The Assyrian dreamers did—
But the Tigris and Euphrates ran
Through ruined lands. And mid
The hopeless chaos loud they wept,
And called their chosen ones
To save their lives at the bitter last
With Horse and Foot and Guns.

"They will tell of the Peace Eternal—
And may that peace succeed:
But what of a foe that waits to spring?
And what of a Nation's need?
The letters blaze on history's page—
And ever the writing runs—
God and Honour and Native Land—
And Horse and Foot and Guns."

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. HAYDEN in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. PITTMAN, from the Committee on Foreign Relations, reported favorably the nomination of Hoffman Philip, of New York, to be Ambassador Extraordinary and Plenipotentiary to Chile.

He also, from the same committee, reported favorably the nomination of Anthony J. Drexel Biddle, Jr., of Pennsylvania, to be Envoy Extraordinary and Minister Plenipotentiary to Norway.

He also, from the same committee, reported favorably the nomination of Lester A. Walton, of New York, to be Envoy Extraordinary and Minister Plenipotentiary to Liberia.

He also, from the same committee, reported favorably the nominations of several officers in the Diplomatic and Foreign Service.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the calendar is in order.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

RECESS

Mr. ROBINSON. As in legislative session, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Thursday, July 18, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 17 (legislative day of May 13), 1935

CONSUL GENERAL

Parker W. Buhrman, of Virginia, now a Foreign Service officer of class 4 and a consul, to be a consul general of the United States of America.

UNITED STATES MARSHAL

Albert M. Rowe, of West Virginia, to be United States marshal, northern district of West Virginia, vice Harry A. Weiss, whose resignation is effective August 31, 1935.

PROMOTIONS AND APPOINTMENTS IN THE NAVY

The following-named commanders to be captains in the Navy from the 30th day of June 1935:

Francis A. L. Vossler.

Edmund D. Almy, an additional number in grade.

Lt. Comdr. Edwin T. Short to be a commander in the Navy from the 1st day of June 1935.

The following-named lieutenant commanders to be commanders in the Navy from the 30th day of June 1935:

Alexander R. Early	Robert W. Cary
William A. Heard	Lewis J. Stecher

Lt. Comdr. Gerard H. Wood to be a commander in the Navy from the 1st day of July 1935.

Lt. Emmet P. Forrestel to be a lieutenant commander in the Navy from the 30th day of June 1934.

Lt. Delmer S. Fahrney to be a lieutenant commander in the Navy from the 31st day of May 1935.

The following-named lieutenants to be lieutenant commanders in the Navy from the 30th day of June 1935:

Karl J. Christoph	John E. Gingrich
Jack E. Hurff	Douglass P. Johnson
Alf O. R. Bergesen	Joseph T. Talbert
Lyman S. Perry	Benjamin P. Ward
Jerome F. Donovan, Jr.	James R. Tague
Dixwell Ketcham	James B. Carter
William J. Strother, Jr.	John B. Mallard
Mark H. Crouter	James L. Wyatt
Cato D. Glover, Jr.	John M. Thornton
Harold F. Fick	George D. Morrison

Lt. (Jr. Gr.) William C. Schultz to be a lieutenant in the Navy from the 1st day of May 1935.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 1st day of June 1935.

Harry A. Simms
Glenn M. Cox

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 2d day of June 1935:

Richard S. Mandelkorn	Robert T. Simpson
Floyd B. Schultz	Joseph J. Loughlin, Jr.
Charles J. Weschler	Charlton L. Murphy, Jr.
Francis A. Van Slyke	John H. S. Johnson
William R. Miller	Terrell A. Nisewaner
Charles J. Palmer	Albert E. Gates, Jr.
Paul W. Pfingstag	Irwin Chase, Jr.
Robert L. Evans	Henry H. McCarley
Halford A. Knoertzer	Reader C. Scott
Walter D. Coleman	Charles H. Kretz, Jr.
Donald I. Thomas	Charles H. Smith

Midshipman George Hutchinson to be an ensign in the Navy, revocable for 2 years, from the 6th day of June 1935.

Midshipman Robert M. Hinckley, Jr., to be an ensign in the Navy, revocable for 2 years, from the 6th day of June 1935.

The following-named medical inspectors to be medical directors in the Navy, with the rank of captain, from the 1st day of July 1935:

Andrew B. Davidson
William L. Irvine
Griffith E. Thomas

Medical Inspector Gardner E. Robertson to be a medical director in the Navy, with the rank of captain, from the 1st day of July 1935.

Surgeon Rolland R. Gasser to be a medical inspector in the Navy, with the rank of commander, from the 1st day of August 1934.

The following-named surgeons to be medical inspectors in the Navy, with the rank of commander, from the 30th day of June 1935:

John H. Chambers	Leslie B. Marshall
Orville R. Goss	Robert P. Parsons
Paul T. Crosby	Travis S. Moring
Ladislaus L. Adamkiewicz	Lynn N. Hart
Robert H. Snowden	Robert H. Collins
Thomas L. Morrow	Otis Wildman
William H. H. Turville	Charles L. Oliphant
Clarence J. Brown	John E. Porter
Ely L. Whitehead	Horace R. Boone
Arthur H. Dearing	Fenimore S. Johnson
Paul M. Albright	David Ferguson, Jr.
Charles H. Savage	Stephen R. Mills
Walter A. Fort	James A. Brown
Felix P. Keaney	Rollo W. Hutchinson
James R. Thomas	Carlton L. Andrus
Frank W. Ryan	Millard F. Hudson
Robert B. Team	John T. Stringer
Walter M. Anderson	John H. Robbins

Dental Surgeon Leon C. Frost to be a dental surgeon in the Navy, with the rank of commander, from the 30th day of June 1935.

Passed Assistant Paymaster John L. H. Clarholm to be a paymaster in the Navy, with the rank of lieutenant commander, from the 1st day of June 1934.

Passed Assistant Paymaster Charles J. Lanier to be a paymaster in the Navy, with the rank of lieutenant commander, from the 29th day of June 1934.

Naval Constructor Joseph L. McGuigan to be a naval constructor in the Navy, with the rank of commander, from the 1st day of August 1934.

The following-named naval constructors to be naval constructors in the Navy, with the rank of commander, from the 30th day of June 1935:

Robert N. S. Baker
William Nelson

The following-named naval constructors to be naval constructors in the Navy, with the rank of commander, from the 1st day of July 1935:

Melville W. Powers
Howard L. Vickery

The following-named civil engineers to be civil engineers in the Navy, with the rank of commander, from the 30th day of June 1935:

Ben Moreell	William H. Smith
Carl A. Trexel	Willard A. Pollard, Jr.
Alden K. Fogg	John J. Manning
Robert E. Thomas	William M. Angas
Edward C. Seibert	

Gunner Stanley F. Krom to be a chief gunner in the Navy, to rank with but after ensign, from the 1st day of October 1934.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 17 (legislative day of May 13), 1935

POSTMASTERS

ALABAMA

Grace C. Spangler, Leighton.
Jeptha H. Blake, Sheffield.

COLORADO

Lena Humiston, Bayfield.
Rose Richards, Buena Vista.
Rudolph G. Verzuh, Crested Butte.
Jenner A. Hames, Genoa.
Anna May Durham, Mount Morrison.
Cleatus G. Marshall, Pagosa Springs.

INDIANA

Blanche Webster, Bloomingdale.
Lawrence H. Barkley, Moores Hill.

MASSACHUSETTS

Thomas F. Coady, North Attleboro.
Timothy W. Fitzgerald, Salem.
Frank J. Lucey, Wenham.

NEBRASKA

Rose T. Fleming, Monroe.

OHIO

Franklyn W. Thomas, Bowling Green.
Raymond C. Ritenour, Cedarville.
John M. Paull, Conneaut.
Archie L. Wardeska, Irondale.
Frank J. Lange, Kelleys Island.
William N. Long, Kingsville.
Leo M. Keller, Nevada.
Fred L. Decker, Ostrander.
Clare S. Myers, Roseville.
Howard Barns, Sabina.
Stanley Lynn, Thornville.
Frank M. Fox, Waynesville.
Vance K. McVicker, West Salem.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JULY 17, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Blessed Lord God, in the noontide light of Thy perfection we humble ourselves and pray Thee to make us wise to know the right and give us courage to perform it. We beseech Thee to illuminate, inspire, and fortify us against the blighting power of evil; this strength is found in the consciousness of divine favor, in the enjoyment of the divine presence, and in living a truly godly life. Bring our whole land to the realization that Thou art the basis for morals, the guaranty of public order, and the blessed inspiration of civilization and progress. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 884. An act for the relief of Lt. Comdr. G. C. Manning; and

S. 2532. An act to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes.

THE JUDICIARY COMMITTEE

Mr. UTTERBACK. Mr. Speaker, I ask unanimous consent that the Judiciary Committee may be permitted to sit during the sessions of the House today and Thursday and Friday and Saturday of this week.

The SPEAKER. Is there objection?

There was no objection.

CALENDAR WEDNESDAY

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that the business in order today on Calendar Wednesday be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. CHRISTIANSON. I object.

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the business on Calendar Wednesday today be dispensed with.

The question was taken; and two-thirds having voted in favor thereof, the motion was agreed to.

RESIGNATION

The SPEAKER laid before the House the following communication:

WASHINGTON, D. C., *July 17, 1935.*

Hon. JOSEPH W. BYRNS,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: I hereby respectfully submit my resignation as a member of the following committees: Committee on Claims, Committee on Patents, Committee on Roads.

Yours very truly,

SCOTT W. LUCAS.

THE MILITARY DISAFFECTION BILL

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

There was no objection.

Mr. MAVERICK. Mr. Speaker, the Military Affairs Committee, of which I am a member, has recently reported out or ordered to report out, without a quorum, and without reading the bill, what is known as the "military disaffection bill" and which, in my opinion, is one of the most outrageous invasions of human rights ever attempted on the American people. It gags the press; it gags every liberty given in the Constitution of the United States. It violates every precedent of American liberty and adopts the philosophy of communism and fascism—that is, that the civilian population shall be subject to the military instead of our civil government controlling the military. It is a dangerous bill and I shall have plenty to say about it later.

It should be known as the "Stalin-Hitler bill." It is the first time any such attempt has been made in peace time; I consider it one of the most dangerous bills ever reported out of a committee.

Strangely enough, the newspapers did not at first pay any attention to it, although it primarily violates the right of freedom of the press.

The first newspaper to give it any attention was the Newark Evening News, in a special article by Mr. Walter Karig, their able representative in Washington, of that newspaper. This newspaper deserves great credit for giving this news, and I am not complimenting the newspaper, or Mr. Karig, because they happened to put the story on the front page.

As a result of this article, it has now become pretty well known over the Nation, and the rest of the newspapers are taking it up. Also, due to the fact that the bill was pushed through the Senate almost entirely by accident and by unanimous consent, this article has brought the matter to the attention of many Senators, and many Senators are outraged over it.

The article in the Newark Evening News, which was printed on Monday, July 15, 1935, is as follows:

CENSORSHIP BILL NEAR ADOPTION—WOULD GIVE MILITARY PEACE-TIME POWER OVER PRESS—SILENTLY PUSHED

By Walter Karig

WASHINGTON.—Insidious assaults on the constitutionality guaranteed freedom of the press have been suspected from time to time in the last 2 years, but the first bill seriously to threaten Federal interference with the publication of newspapers, magazines, and books has just been favorably reported in the House after slipping through the Senate without a record vote.

Camouflaged as a patriotic measure to prevent distribution of radical propaganda in the Army and Navy, the bill gives the Military and Naval Establishments broad powers to censor and punish the press. It is a delegation of authority over civilians unprecedented in peace time, and if the bill becomes law—it stands excellent chance of passage—soldiers or sailors may invade any home or office to confiscate written or printed matter held suspect, with warrants issued under the old war-time Espionage Act.

PLENTY OF LAWS NOW

The bill originated in the Senate as S. 2253 and is without sponsorship there, although Senator TYDINGS (Democrat of Maryland) of the Naval Affairs Committee, which favorably reported it, declared that the War and Navy Departments wanted it. It is not an administration measure in the sense of having White House endorsement, however.

The bill was labeled no. 5845 in the House, where it was sponsored by Representative MCCORMACK (Democrat, Massachusetts), Chairman of the Special Committee on Un-American Activities. The House Military Affairs Committee toned the Senate measure down somewhat.

Representative MCLEAN (Republican, New Jersey), a member of the Military Affairs Committee, thinks the proposed law at least unnecessary. He said he voted to report it because he thought the House amendments removed most of the vicious qualities from the Senate bill, but that his belief is there are "plenty of laws" now to take adequate care of the situation the bill ostensibly attacks. MCLEAN said the bill was scarcely complimentary to the soldiers and sailors of the Nation. "If everybody was as patriotic as these men are", he said, "we could do without a lot of laws."

LIKE RUSSIA

Representative MAVERICK (Democrat, Texas) did not vote to report the bill, but in an unofficial minority report termed it "hysterical", "unconstitutional", and akin to the press-destroying laws of Soviet Russia and Fascist Germany.

"As the bill stands", MAVERICK later declared to this bureau, "it means 2 years in jail and a heavy fine for any newspaper editor who publishes and any newspaper reporter who writes stories critical of the Army and Navy or military equipment. A newspaper which gets information leading it to suspect that certain military airplanes are untrustworthy, or that a new ship was jerry-built, and publishes that information lays itself open to suppression, confiscation, and imprisonment of its editor and writers. The latitude of interpretation of the law is so great there is practically no limit."

The Senate bill made it a crime subject to imprisonment, fine, and confiscation for any individual or corporation to "advise, counsel, urge, or solicit" members of "military and naval forces" to disobey the laws and regulations of the military forces. Amendments in the House committee specify the Army and the Navy, eliminating the National Guard and the Marine Corps, and wrote in the phrase that the offending writer must have had "intent to incite disaffection." Under the Senate bill newspapers or the publishers and authors of books or pamphlets could be punished for criticizing the use or behavior of National Guardsmen on strike duty, for instance.

CRITICISMS OF CAMPS OUT

However, the "intent to incite disaffection" clause injected by the House committee takes away with one hand what concessions were made by the other to limit the application of the law.

It is held by critics of the bill, including legal authorities, that a writer or publisher could be held to have had "intent to incite disaffection" through criticism of naval intervention by the United States in Cuba or Haiti or Nicaragua. Editorials or newspaper accounts criticizing the management or conditions at civilian military training camps, at Army or Navy maneuvers, or in forts and naval bases would fall under the ban.

Accounts and opinions taking exception to the loss of life through ship collisions and airplane failures such as marked the recent Pacific Fleet games could, under the terms of the bill, subject the publishers to confiscation of their newspapers or magazines. Even if found not guilty after trial, the damage would have been done.

DOUBTING WAR'S VIRTUES

These, however, are specific examples of the intended law's possible effects. There is no inhibition in the bill to prevent the military authorities from taking action against any newspaper or magazine article or book which in their opinion would, if read by a soldier or sailor, make him doubt the virtues of war. Any book or article preaching nonaggression, or treating warfare too realistically, might offend some admiral or general, whereupon the

whole edition could be confiscated and impounded until court action determined the application of the law.

The bill goes beyond constructions upon the freedom of the press. It is not required that the military offensive matter be printed or even circulated. Manuscripts may be seized under the enabling Espionage Act. A man might tell a friend he was writing a book or article which, upon report, sounded offensive to the authorities and find his house raided as a result. Even letters are brought under ban, and a mother writing to a run-away son in the Army or Navy, innocently deploring his environment, his companions, or his imminent transfer to China, would be subject to 2 years in jail and $1,000 fine.

Senator SCHALL, Republican, of Minnesota, who has consumed hours in tirades against the Roosevelt administration for more or less imaginary assaults on the freedom of the press, was mutely present in the Senate when the bill was read and adopted. So was Senator VANDENBERG, Republican, of Michigan, a newspaper publisher and leading contender for the Republican Presidential nomination, but he was paying attention to other matters at the time of the Senate's action. It was a session devoted to the Consent Calendar, when personal bills, almost always of minor importance, are called up and mechanically adopted.

Despite the quietness attending the bill so far, a silence broken only by MAVERICK's criticism accompanying the report, the proposed law is one of the most sweeping and potentially disruptive of American tradition yet seen in Congress, the several revolutionary new-deal bills not excepted.

THE TENNESSEE VALLEY AUTHORITY BILL

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H. R. 8632, the Tennessee Valley Authority bill, disagree to the Senate amendments and agree to the conference asked for.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

Mr. MAVERICK. Reserving the right to object, will the gentleman from South Carolina inform this House how many conferees there will be?

Mr. McSWAIN. I do not mind stating to the gentleman that I have recommended to the Speaker to appoint five.

Mr. MAVERICK. The Senate has appointed three conferees, and the gentleman who is chairman of my committee recommends five. The other day the Republicans objected to the gentleman from Texas [Mr. RAYBURN] having six conferees when the Senate had five, and Mr. RAYBURN agreed to this for a Republican member of his committee. Why should we in this case have a different number from the Senate? There must be some peculiar reason. I do not know what the general custom is but I do not see why we should not have the same number as the Senate; this seems reasonable and equitable. I do not see why we should not do the same for the Democrats as we did for the Republicans, I do not believe the T. V. A. should be discriminated against. The House has spoken. Let us not hold this program up any longer.

Mr. McSWAIN. I think the gentleman from Texas has the information that he seems to be asking for. He has that in his own breast. There is no need for bringing it out here.

Mr. MAVERICK. I do not know about my breast, but I have something very clearly in my head. Since the gentleman knows what is in my breast, I am sure he knows what is in my head about this long-drawn-out T. V. A. affair. I think it ought to be brought out, if we are going to have unfriendly Members on the conference. The T. V. A. has suffered enough obstruction.

Mr. BLANTON. Will the gentleman yield?

Mr. MAVERICK. Yes.

Mr. BLANTON. There are instances where the Senate has had five and even seven conferees, and in one instance the Senate had nine.

Mr. MAVERICK. Undoubtedly the gentleman is technically correct. But there may be reasons for this. We ought to have a clear understanding.

Mr. McSWAIN. We all know that conferees for each House only have 1 vote. It makes no difference how many there are on the conference committee. They are all bound to support the House bill.

The SPEAKER. Is there objection?

Mr. MAVERICK. Mr. Speaker, reserving the right to object, an agreement was made by certain Members of the Military Affairs Committee to have five conferees, with unfriendly people on this committee. As one of the friends of the T. V. A., I was not invited, and as far as I know Mr. THOMASON, of Texas, and Mr. WILCOX, of Florida, and Mr. HILL of Alabama, also friends of the T. V. A., were not there. I think it is wrong. I think this is a bad precedent to put unfriendly men on the conference committee; it may hold things up, and it does not appear to me as fair—I will not be a party to any agreement unfriendly to the purposes of the great T. V. A. program.

The SPEAKER. Is there objection?

Mr. SNELL. Mr. Speaker, I reserve the right to object. Is this conference agreeable to the gentleman from Pennsylvania [Mr. RANSLEY] and the gentleman from New Jersey [Mr. McLEAN]?

Mr. McSWAIN. I have spoken to Mr. RANSLEY twice, and the conferees I propose to nominate are entirely satisfactory to him.

Mr. EKWALL. Mr. Speaker, will the gentleman yield?

Mr. McSWAIN. Yes.

Mr. EKWALL. Does the gentleman know what the gentleman from Texas [Mr. MAVERICK] means by the term "unfriendly"? Does he mean unfriendly to his particular ideas?

Mr. MAVERICK. I mean unfriendly to what the House decided on. I am talking about the bill as passed in the House. It happens that I am with the majority, with the President, and with the Democratic Party, and for the great T. V. A. program.

The SPEAKER. Is there objection?

Mr. McFARLANE. Mr. Speaker, I reserve the right to object, to ask this question: I would like to see the personnel of the conference committee appointed according to the way the majority of the House voted, and the personnel should be so appointed so that a majority of the committee will favor the majority position of the House. Take the first three members on the conference committee, based on their vote on this question, and on the different administration amendments in the different issues voted on in the House. How would their known position on this legislation stand up with the opinion of the majority of the House on the legislation?

Mr. McSWAIN. The three members on the majority side whom I have nominated to the Speaker voted for the bill and voted against the motion to recommit. As I have stated time and time again, I am for whatever the House does; and I state again that I am for the House bill.

The SPEAKER. After all, the Chair appoints the conferees. The Chair is always willing to accept the suggestions made by the chairman of the committee which has charge of the bill, assuming that the members who are appointed will stand for the House measure because they represent the House in the conference.

Mr. MAVERICK. One of the members of the conferees has been one of the three bitterest opponents on the committee of the bill the President wants, and that is the gentleman from Louisiana [Mr. MONTET]. As I understand it, he is one of those to be appointed. Yes; Mr. MONTET finally voted for the bill, but he has consistently fought the bill from the very beginning.

The SPEAKER. The Chair would certainly not assume that the gentleman from Louisiana would accept a position as a conferee and not stand for what the House wants, because that is what the House conferees are expected to do, consistent with any proper compromises that are necessary in order to put the measure through. On the contrary, the Chair has complete confidence in the gentleman in every sense of the word. That is a matter which should appeal to the conferees when they go into session, and, after all, when the matter is reported to the House, the House has its opportunity to express its approval or disapproval of the conference report.

Mr. MAVERICK. I have respect for the traditions by which the Speaker is bound, and I hope he is correct in believing that the T. V. A. bill will get sympathetic treatment according to the will of the House. I hope the House conferees will show their good faith and report promptly. I am frank to say that I do not like the situation.

Mr. McFARLANE. Mr. Speaker, still further reserving the right to object, a policy has been announced in the other body of appointing all conferees based upon the record of their votes in determining the number that shall be appointed from the majority and the minority, as to legislation. That policy was announced early this session. I hope the Chair will bear that in mind when the conferees are appointed, based on the differences between the amendments to the bill as it came to the House and the amendments as we rewrote the bill on the floor of the House.

Mr. BLANTON. Mr. Speaker, I make the point of order that this is a prerogative of the Chair and we have nothing to do with it.

Mr. MAVERICK. I withdraw my objection, but I want the RECORD to show my protest. I will wait and see. I am willing to withdraw this objection on the theory that I will never do anything to obstruct the T. V. A.—and I hope the conferees will take the same attitude. This bill should have been finally settled and adopted long, long ago.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Chair appointed the following conferees: Mr. McSWAIN, Mr. HILL of Alabama, Mr. MONTET, Mr. McLEAN, and Mr. PLUMLEY.

SOCIAL SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I call up the conference report upon the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a social security board; to raise revenue; and for other purposes, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from North Carolina calls up the conference report upon the bill 7260, and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. NICHOLS. Mr. Speaker, I reserve the right to object. Is this the conference report that has to do with the social security bill?

The SPEAKER. The Chair so understands it.

Mr. NICHOLS. Then I desire to propound a parliamentary inquiry. Will the reading of the statement, rather than the reading of the report, preclude Members from having an opportunity to vote for the approval or disapproval and to be heard upon the report of the conferees?

The SPEAKER. Not at all. As to the reading of the statement, it is up to the House to adopt the report, the time for debate being in control of the gentleman from North Carolina.

Mr. NICHOLS. I am just a little green on the parliamentary procedure, and I wanted to know that this would not foreclose the House on any rights in considering the conference report.

The SPEAKER. Not at all. Is there objection?

There was no objection, and the Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 28, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69, 71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: ": *Provided*, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: "welfare services (hereinafter in this section referred to as 'child-welfare services') for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" and a comma; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid." and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "EIGHT"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "eight"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"APPROPRIATION

"SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"STATE PLANS FOR AID TO THE BLIND

"SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim

for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

"(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

"(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

"(2) Any citizenship requirement which excludes any citizen of the United States."

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments: On page 24 of the Senate engrossed amendments, line 19, strike out "permanently", and on page 25 of the Senate engrossed amendments, line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"DEFINITION

"SEC. 1006. When used in this title the term "aid to the blind" means money payments to blind individuals."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "XI"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1101"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1102"; and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1103"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1104"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1105"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

R. L. DOUGHTON,
SAM. B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
Managers on the part of the House.

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, Jr.,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

On amendment no. 1: The House bill, with reference to the appropriation authorized for grants to States for old-age assistance, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to aged individuals without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals. The House recedes.

On amendments nos. 2 and 3: The House bill required the State plan for old-age assistance to provide that if the State or any of its political subdivisions collects from the estate of any recipient any amount with respect to old-age assistance under the plan, one-half of the net amount so collected shall be promptly paid to the United States. The Senate amendments provide for the repayment to the United States in such cases, instead of one-half of the net amount so collected, a portion of the net amount collected proportionate to the part of the old-age assistance representing payments made by the United States. The Senate recedes.

On amendment no. 4: This amendment provides that in order to assist the aged of States, who have no State system of old-age pensions, until an opportunity is afforded the States to provide for a State plan, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, in lieu of the amounts payable under the House bill which were to be matched by the States, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is 65 years of age or older, and who is declared by such agency as may be designated by the Social Security Board to be entitled to receive the same, old-age assistance not in excess of $15 a month.

The House recedes with an amendment, in lieu of the Senate amendment, which provides that the State plan for old-age assistance, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

On amendment no. 5: The House bill provided that the Board, before stopping payments to a State for old-age assistance on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendments nos. 6, 7, and 8: The House bill, with reference to the "Old-age reserve account" for the payment of Federal old-age benefits under title II, provided that the amount of authorized appropriations should be based upon such tables of mortality as the Secretary of the Treasury should adopt; that the Secretary of the Treasury should submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the account; and that he should include in his annual report the actuarial status of the account. The Senate amendments transfer these duties to the Social Security Board. The Senate recedes.

On amendment no. 9: This amendment provides that for every month during which the Board finds that an aged person, otherwise qualified for Federal old-age benefits under title II, is regularly employed, after he attains the age of 65, a month's benefit will be withheld from such person, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefits to such person. The House recedes.

On amendments nos. 10 and 11: The House bill excepted from the term "employment", as used in title II relating to the payment of Federal old-age benefits, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

On amendments nos. 12, 13, and 14: These amendments make changes in paragraph numbers. The Senate recedes.

On amendment no. 15: The House bill in defining the term "employment", as used in title II relating to the payment of Federal old-age benefits, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes, the conferees omitting this language as surplusage, based on the fact that the Internal Revenue Bureau has uniformly construed language in the income-tax laws, identical with that found in the House bill, as exempting hospitals not operated for profit, and also on the fear that the insertion of the words added by the Senate amendment might interfere with the continuation of the long-continued construction of the income-tax law.

On amendment no. 16: This amendment excepts from the definition of "employment", as used in title II, relating to the payment of Federal old-age benefits, service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendments nos. 18 and 19: The House bill provided that the Social Security Board should not certify for payment to any State under title III amounts for the administration of the State unemployment-insurance law unless such law provides for payment of unemployment compensation solely through public employment offices in the State. The Senate amendments require that the State law must provide for payment of unemployment compensation through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate recedes on amendment no. 18, and the House recedes on amendment no. 19 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the State law cannot be approved by the Board unless it provides for the payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve.

On amendment no. 20: The House bill provided that the Board, before stopping payments to a State for grants for unemployment-compensation administration on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 21: The House bill, with reference to the appropriation authorized for grants to States for aid to dependent children, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to dependent children without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children. The House recedes.

On amendments nos. 22 to 27, 29 to 38, and 40 to 44: The House bill placed the administration of title IV, relating to grants to States for aid to dependent children in the Social Security Board. The Senate amendments transfer these functions in part to the Secretary of Labor and in part to the Chief of the Children's Bureau, and make clerical changes to carry out this policy. The Senate recedes.

On amendment no. 28: The House bill in title IV, relating to grants to States for aid to dependent children, provided that no State plan should be approved which imposes as a condition for eligibility for aid to dependent children a residence requirement which denies aid to any child residing in the State who was born in the State within 1 year immediately preceding the application. The Senate amendment permits the State plan to deny aid to such a child if its mother has not resided in the State for 1 year immediately preceding the birth. The House recedes.

On amendment no. 39: The House bill provided that the Board, before stopping payments to a State for aid to dependent children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 45: This amendment adds to the definition of a "dependent child" for the purposes of title IV, giving aid to dependent children, a requirement that the child must have been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent. The House recedes.

On amendment no. 46: The House bill in defining the term "dependent child" for the purposes of title IV, relating to grants to States for aid to dependent children, contained a requirement that the child must be living in a "residence" maintained by one or more of certain relatives as his or their own home. The Senate amendment clarifies the meaning of the word "residence" by making it certain that it is not confined to a separately maintained house but refers to any place of abode, whether a separate house, an apartment, a room, a houseboat, or other place of abode. The House recedes.

On amendments nos. 47 and 48: Under the House bill the allotments to each State from appropriations made for maternal and child-health services were made on the basis of the live births in such State as compared with the total number of live births in the United States. The Senate amendments provide that the proration shall be made on the basis of figures for the latest calendar year for which the Bureau of the Census has available statistics. The House recedes.

On amendment no. 49: This is a clarifying amendment. The House recedes.

On amendment no. 50: The House bill provided that the methods of administration required in the State plan for maternal and child-health services should be such as are "found by the Chief of the Children's Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

On amendment no. 51: This is a clarifying amendment. The House recedes.

On amendment no. 52: This amendment requires the report filed by the State with respect to estimated expenditures for maternal and child-health services to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

On amendment no. 53: The House bill provided that the Secretary of Labor, before stopping payments to a State for maternal and child health services on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 54: This is a clarifying amendment. The House recedes.

On amendment no. 55: The House bill provided that the methods of administration required in the State plan for services to crippled children should be such as are "found by the Chief of the Children's Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

On amendment no. 56: This is a clarifying amendment. The House recedes.

On amendment no. 57: This amendment requires the report filed by the State with respect to estimated expenditures for services to crippled children to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

On amendment no. 58: The House bill provided that the Secretary of Labor, before stopping payments to a State for services to crippled children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendments nos. 59 and 60: The House bill authorized an appropriation of $1,500,000 and provided that the money so appropriated should be allotted among the States for payment of part of the cost of county and local child welfare services in rural areas. The purpose of the section was stated to be the cooperation with State public welfare agencies in establishing, extending, and strengthening, in rural areas, public welfare services for four types of children—homeless, neglected, dependent, and those in danger of becoming delinquent. Senate amendment no. 59, besides clarifying the language of the House bill, provided that in making allotments there should be taken into consideration plans developed both by the State welfare agency and the Children's Bureau. The areas in which child welfare services were to be encouraged were extended from "rural areas" to those "predominantly rural", and "other areas in special need" were included in the work of developing the work of State services for encouraging adequate support of child welfare organizations. The classes of children to be aided, however, were limited to those who were homeless or neglected. Amendment no. 60 prescribes the method of making payments. The House recedes on amendment no. 60, and recedes on amendment no. 59 with an amendment, to the effect that the classes of children to be cared for will include children who are homeless, dependent, neglected, or in danger of becoming delinquent.

On amendment no. 61: The House bill authorized additional appropriations for the administration of the Vocational Rehabilitation Act of June 2, 1920, as amended, by the "Federal agency authorized to administer it." The Senate amendment provides that the authorized appropriation should be for the administration of such act by the Office of Education in the Department of the Interior. The Senate recedes.

On amendments nos. 62, 63, and 64: These are clarifying amendments. The House recedes.

On amendment no. 65: The House bill established a Social Security Board for the administration of certain portions of the act. This amendment provides that the Board shall be established in the Department of Labor. The Senate recedes.

On amendment no. 66: This amendment provides that no member of the Social Security Board during his term shall engage in any other business, vocation, or employment, and also that not more than two of the members of the Board shall be members of the same political party. The House recedes.

On amendment no. 69: This amendment provides that appointments of attorneys and experts by the Social Security Board may be made without regard to the civil service laws. The House recedes.

On amendment no. 70: This amendment provides that the report of the Social Security Board to Congress, required by the House bill, shall be made through the Secretary of Labor. The Senate recedes.

On amendments nos. 71 and 72: The House bill provides that if more or less than the correct amount of tax under title VIII is paid with respect to any wage payment, then proper adjustments should be made in connection with subsequent wage payments to the same individual by the same employer. The Senate amendments provide that such adjustments shall be made without interest. The House recedes.

On amendment no. 73: This amendment provides that if the tax imposed by title VIII is not paid when due there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate was 1 percent a month. The House recedes with an amendment correcting a clerical error.

On amendment no. 74: This amendment provides that the Postmaster General shall each month send a statement to the Treasury of the additional expenditures incurred by the Post Office Department in carrying out its duties under this act, and that the Secretary of the Treasury shall be directed to advance, from time to time, to the credit of the Post Office Department, "from appropriations made for the collection and payment of taxes provided under section 707 of this title", such amounts as may be required for additional expenditures incurred by the Post Office Department in the performance of the duties and functions required of the Postal Service by the act. The House recedes with clarifying amendments.

On amendments nos. 75 and 77: The House bill excepted from the term "employment", as used in title VIII imposing certain excise taxes, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

On amendment no. 76: The House bill excepted from the term "employment", as used in Title VIII relating to certain excise taxes, service performed by an individual who has attained the age of 65. The Senate amendment strikes out this exception. The Senate recedes.

On amendments nos. 78, 79, and 80: These are amendments to paragraph numbers. The Senate recedes.

On amendment no. 81: The House bill in defining the term "employment", as used in title VIII imposing certain excise taxes, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

On amendment no. 82: This amendment excepts from the definition of "employment", as used in title VIII relating to certain excise taxes, service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendment no. 85: This is a change in a title heading. The House recedes with an amendment to conform to the action on amendment no. 91.

On amendments nos. 86 and 87: The House bill provided as one of the conditions for the approval of a State law for unemployment compensation that the law must provide that all compensation is to be paid through public employment offices in the State. The Senate amendment changes this requirement so that compensation must be paid through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate recedes on amendment no. 86 and the House recedes on amendment no. 87 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the Board shall not approve any State law unless the law provides that all compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve.

On amendment no. 88: The House bill provided that the Social Security Board shall certify each State whose unemployment compensation law is approved, except that it shall not certify any State which, after notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in the bill or has failed substantially to comply with such provisions. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 89: This amendment provides that if the excise tax imposed by title IX is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate of interest was 1 percent a month. The House recedes.

On amendments nos. 90 and 91: The House bill provided that the term "employment", as used in title IX, should not include any person unless on each of some 20 days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was 10 or more. The Senate amendments reduce the number of days from 20 to 13 and the number of individuals from 10 to 4. The Senate recedes on amendment no. 90 and the House recedes on amendment no. 91 with an amendment fixing the number of individuals at eight.

On amendment no. 92: The House bill, in defining the term "employment", as used in title IX relating to certain excise taxes, excepted service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

On amendment no. 93: This amendment excepts from the definition of "employment", as used in title IX imposing certain excise taxes, service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendment no. 94: Under the House bill in title IX, providing for a tax on employers with a credit against the tax of contributions paid into an employment fund under a State law, the term "unemployment fund" was defined as a fund "all the assets of which are mingled and undivided and in which no separate account is maintained with respect to any person"; in other words, requiring a "pooled" fund. The Senate amendment strikes out this requirement, leaving it to the State to define the character of its special fund. The House recedes.

On amendment no. 95: This is a clerical amendment. The House recedes.

On amendments nos. 96 and 97: Amendment no. 96 provides that a taxpayer under section 901 (unemployment excise tax) may, for 1938 or any taxable year thereafter, obtain an additional credit against his tax under certain conditions. A taxpayer carrying on business in a State will credit against the tax the amount of his contributions under the law of that State; and, under this new section, he will also credit the amount by which his contributions are less than they would have been if he had been contributing at the maximum rate in the State. The additional credit, however, is limited by not allowing it to exceed the difference between the actual amount paid and the amount he would have paid at a 2.7 percent rate; and the amendment also provides for limiting the additional credit to the proper difference allowed by the State law, diminishing it if the employer has failed to make any of the contributions required of him. In figuring what contributions the employer would have paid at the maximum rate, the highest rate applicable to any employer each time when contributions are payable is the rate considered. The amendment also provides that even if an employer is getting credit under section 902, and additional credit under this section, he shall never credit against tax more than 90 percent of the tax. Amendment no. 97 places restrictions on the allowance of the additional credit.

(1) A taxpayer who has been contributing to a pooled fund, and is allowed a lower rate than that imposed on other employers in the State, will get the additional credit only if he has had 3 years' compensation experience under the State law, and only if the lower rate is fixed as a result of his comparatively favorable experience.

(2) The taxpayer may have guaranteed the employment of his employees, and be contributing to a guaranteed employment account maintained by the State agency. In this case, if he claimed the additional credit under section 909, he would get it only if his guaranty had been fulfilled, and only if his guaranteed employment account amounted to at least 7½ percent of his guaranteed pay roll.

(3) The taxpayer may be contributing to a separate reserve account, from which benefits are payable only to his employees. If he claims the additional credit under section 909, it would be allowed only if, in the preceding year, those of his employees who became unemployed and were eligible for compensation received compensation from the reserve account. Furthermore, the additional credit would be allowed only if the reserve account amounted to 7½ percent of his pay roll, and was at least five times larger than the amount paid out from it, in compensation, in that year (among the 3 preceding years) when the greatest amount was thus paid out from it.

The amendments also defines terms used in this section:

(1) "Reserve account" is defined as a separate account in a State unemployment fund, from which compensation is payable only to the former employees of the employers contributing to the account. The account may be maintained with respect to one employer or a group of employers.

(2) "Pooled fund" is an unemployment fund (or part of such a fund, if some employers are maintaining separate accounts in the fund) in which all contributions are mingled and undivided. Compensation is payable from it regardless of whether the claimant was formerly in the employ of an employer contributing to the pooled fund; but where some employers in the State have reserve accounts, their former employees get compensation from the pooled fund only if the reserve accounts are exhausted.

(3) "Guaranteed employment account" is, like a reserve account, a separate account in an unemployment fund, but it can be maintained only with respect to certain employers. Compensation is payable from it to those of such employer's employees who, having been guaranteed employment, nevertheless become unemployed due to a failure to fulfill the guaranty, or become unemployed at the end of the year for which the guaranty was made, due to the nonrenewal of the guaranty. To be a "guaranteed employment account", such separate account would have to be maintained with respect to an employer who had guaranteed the wages of all of his employees (or if he maintains more than one distinct business establishment, of all the employees in at least one such establishment) for at least 40 weeks in a 12-month period. The wages guaranteed should be for at least 30 hours a week; but if 41 weeks, for instance, were guaranteed instead of

40, the weekly hours guaranteed could be cut from 30 to 29; and if 42 weeks were guaranteed, only 28 hours wages per week would need to be guaranteed. While ordinarily all the employees would have to be covered, the employer would not have to extend the guaranty to any new employee until the latter had served a probationary period of not more than 12 consecutive weeks.

(4) "Year of compensation experience", used only in relation to an employer, is defined as any calendar year during which, at all times in the year, a former employee of such employer, if there was one who was eligible for compensation, could receive compensation under the State law.

On amendments nos. 98 to 104: These amendments insert a new title to provide for grants to States for aid to the blind, authorizing $3,000,000 for the fiscal year ending June 30, 1936, and thereafter a sum sufficient to carry out the title. Aid to the blind is defined as money payments to permanently blind individuals and money expended for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind. The payments are to be made on an equal matching basis, the machinery for the payments being modeled on the provisions of title I relating to old-age assistance. The administration of the title is placed in the Social Security Board. The State plan in order to be approved must, in addition to similar requirements as in the case of title I, provide that no aid will be furnished an individual with respect to any period with respect to which he is receiving old-age assistance under a State plan approved under title I. The State plan must also provide that money payments to a permanently blind individual will be granted in direct proportion to his need and the plan must also contain definitions of "blindness" and "needy individuals" which meet the approval of the Board. There is no age requirement, and the Federal contribution in the case of any individual is not to exceed $15 a month. The House recedes on this new title with amendments striking out the provisions relating to the expenditure of moneys for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind; providing for money payments to blind persons in lieu of persons who are "permanently" blind; and omitting the requirements that the State plan must provide that money payments will be granted in direct proportion to the need of the individual and that the plan must contain definitions of "blindness" and "needy individuals."

On amendment no. 105: This amendment provides pensions for heads of families and single persons of Indian blood over 65 years of age, payable from the Federal Treasury. The pension is $30 a month, reduced in the amount of the annual income. The amendment also provides for a pension of $10 a month for persons of Indian blood under 65 years of age but permanently blind, and also a pension of $10 a month for persons of Indian blood crippled or otherwise disabled. Indians and Eskimos of Alaska are to receive pensions in one-half the amounts above provided. The Senate recedes.

On amendments nos. 106, 107, 110, 111, 112, and 113: These amendments make changes in title and section numbers. The House recedes with the necessary amendments.

On amendments nos. 108 and 109: The House bill provided that nothing in the act should be construed as authorizing any Federal official, in carrying out any provision of the act, to take charge of a child over the objection of either parent or of the person standing in loco parentis to the child "in violation of the law of a State." Senate amendment no. 108 added State officials to the officials affected by the amendment and Senate amendment no. 109 struck out the language above quoted, "in violation of the law of a State." The Senate recedes on amendment no. 108 and the House recedes on amendment no. 109.

The House recedes from its disagreement to the amendment of the Senate to the title of the bill.

On amendments nos. 17, 67, 68, 83, and 84 (dealing with the exemption of private pension plans in titles II and VIII) the conferees are unable to agree.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
Managers on the part of the House.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Washington [Mr. SAMUEL B. HILL].

Mr. SAMUEL B. HILL. Mr. Speaker, the conferees on the social-security bill have agreed on all of the amendments in controversy except the so-called "Clark amendments", plus an amendment to that amendment known as the "Black amendment."

There were 113 Senate amendments. There are five of those amendments constituting a group known as the "Clark amendments" and to which the House conferees disagreed in conference, and we have brought them back to the House without including them in the conference report. Of the remaining 108 Senate amendments, about 50 percent of them were agreed to by the House, and the Senate receded on about the other 50 percent, with some amendments to certain of those Senate amendments.

Most of the amendments are purely clarifying.

You will appreciate the fact that the drafting service which serves the House also serves the Senate. We pass a bill first, and they have a little more time when they go before the Senate committee to improve the language. Many of the amendments are simply to improve the language. In other words, they are clarifying amendments. I am not going to take your time with those.

There are certain outstanding Senate amendments upon which the conferees of the House have agreed and to which I wish to call your attention. The first of these is the so-called "Russell amendment." You will recall that under the old-age assistance plan, as passed by the House, the Federal Government contributes dollar for dollar to State pension funds to the extent of $15 per person per month. In order for a State to get any of this Federal contribution, the State must have a State-wide pension plan and must put that plan into operation, and then the Federal Government matches whatever amount the State puts up, to the extent of $15 per person per month.

The Russell amendment grew out of the fact that certain States have constitutional prohibitions against a State pension plan. So the Senate adopted amendment no. 4, on page 5 of the bill. That amendment, in brief, provides that any State, for a period of 2 years, which does not have a pension plan approved by the social-security board and under which it can secure Federal contribution or Federal assistance, may receive from the Federal Government during that first 2 years, $15 per person for qualified citizens of a State, qualified under the provisions of the act to receive old-age pensions. For instance, the so-called "Russell amendment" provides that the Federal Government shall contribute the entire amount of pensions to needy aged persons in those States that are not under a State pension plan, and that the amount so paid shall be $15 per month to each person in such States who can qualify under the provisions of this act.

Mr. TERRY. Will the gentleman yield?

Mr. SAMUEL B. HILL. In just a moment. States that can qualify within that period get only so much, not exceeding $15 per person, as the States contribute. A State with an approved pension plan may pay to its pensioners or its aged needy a total of $20 per month. The State in that case would pay $10 and the Federal Government would pay $10; but under the Russell amendment, where a State has no plan, the Federal Government would pay the $15 per month per person in such State.

Mr. TERRY. Will the gentleman yield now?

Mr. SAMUEL B. HILL. I yield.

Mr. TERRY. Under the Russell plan is it the gentleman's idea that those States which are financially unable to contribute to an old-age-pension plan would get the benefit of the Federal allowance up until 1937?

Mr. SAMUEL B. HILL. That was the effect of it, but it grew out of the fact——

Mr. TERRY. It grew out of that fact, but does not the gentleman feel that the people in those States which cannot contribute at this time on account of the depression should be allowed until 1937?

Mr. SAMUEL B. HILL. It simply comes down to a question of whether you are going to have a purely Federal pension fund or a Federal-aid pension fund. If you once adopt that policy you will never get out of it. It is a question for the Congress to determine, as we did determine in passing the original bill, that we would have a Federal assistance plan and not a Federal plan.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. HUDDLESTON. Is it the gentleman's interpretation of the provision agreed upon by the conferees that only those States can participate under that clause which have in their constitutions prohibitions again a pension fund?

Mr. SAMUEL B. HILL. Yes. The amendment that we bring back here is to that effect. In other words, it is applicable only to those States.

Mr. HUDDLESTON. It is applicable only to those States which have a flat prohibition in their constitutions against a pension plan?

Mr. SAMUEL B. HILL. The gentleman is correct.

Mr. HUDDLESTON. Now, may I ask the gentleman this question: Suppose States have in their constitutions tax limitations which forbid the raising of sufficient funds to pay pensions, will States in that category be able to participate?

Mr. SAMUEL B. HILL. Not under this amendment, as I understand it. In fact, they ought not to. They ought to come in with every other State. We have a number of States throughout the United States that will have to enact legislation in order to come under the provisions of this act.

This Russell amendment, as amended at the conference and brought back to you, simply places the State which has a constitutional prohibition against State pension plans on the same basis as all other States which can, under their constitutions, participate in such a plan.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. NICHOLS. I should like to ask the gentleman if his interpretation of the amendment finally placed in the bill by the House conferees in place of section 4 does not do simply this: That if a State has a constitutional prohibition against its legislature enacting legislation to bring the State within the purview of this bill, that under this amendment the State may participate provided some subdivision or subdivisions of the State government match the Federal grants without the State doing it itself.

Mr. SAMUEL B. HILL. The gentleman has stated it very correctly and very concisely.

Mr. NICHOLS. That being true, then this language does not mean that if there is a constitutional prohibition against the legislature passing a law to bring the State within the purview of this bill, that the Federal Government will make these grants without any contribution from the State for a period of 2 years, does it?

Mr. SAMUEL B. HILL. It does not; no.

Mr. NICHOLS. And that is exactly what the Russell amendment did, was it not?

Mr. SAMUEL B. HILL. That is what it did, not only to that class of States but to all other States for a period of 2 years—States which had no State pension plan.

Mr. NICHOLS. In the event the State constitution was silent as to whether the legislature could pass old-age-pension legislation, and assuming the attorney general of the State should hold that by reason of the constitution being silent on the subject that legislation could not be had touching it until such time as the constitution was amended, does the gentleman think that the other subdivisions of the State government down to the county and city could raise the money with which to match the Federal funds?

Mr. SAMUEL B. HILL. That would be a matter left to the interpretation of the board upon the presentation of the law and constitutional provisions.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. PATMAN. Will the gentleman place in the RECORD the names of the States involved?

Mr. SAMUEL B. HILL. Yes; I think I can do it. The gentleman means involved by reason of some State constitutional prohibition?

Mr. PATMAN. Yes.

Mr. SAMUEL B. HILL. I am not certain that I have all the names of the States in mind; there are three or four of them. I understand that Georgia, Florida, and possibly Oklahoma and Texas are the States in question.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. GREEN. It is necessary for these county and city units to make the contribution in order to receive the benefits?

Mr. SAMUEL B. HILL. Oh, yes. Without contribution from within the States there is not going to be any payment of Federal money under this act, as amended.

Mr. GREEN. It must be matched dollar for dollar?

Mr. SAMUEL B. HILL. Yes; dollar for dollar.

Mr. McFARLANE. Mr. Speaker, will the gentleman yield right there?

Mr. SAMUEL B. HILL. Yes.

Mr. McFARLANE. Do I understand that for the next 2-year period the States affected would have to put up any money, or would they get $15 a month?

Mr. SAMUEL B. HILL. The Federal Government will not pay $15 to them unless they come through with $15 either from the State government or some subdivision of the State. They must first put up pension money to be matched by the Federal Government. They will not get any Federal money otherwise.

Mr. GREEN. I mean before this becomes effective.

Mr. SAMUEL B. HILL. That is true.

Mr. MOTT. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. MOTT. But as to the State which already has an old-age-pension law which may not conform to the Federal requirement, they would have to change their law before they could qualify.

Mr. SAMUEL B. HILL. Unless it is a substantial compliance, unless the law now substantially complies. The fact of the matter is most of the States will have to make some modification of their pension laws to come within the provisions of this bill.

Mr. MOTT. How will the term "substantial compliance" be interpreted?

Mr. SAMUEL B. HILL. That is a matter to be determined by the social security board; but I take it they are not going to split hairs.

Mr. MOTT. They are going to interpret it liberally?

Mr. SAMUEL B. HILL. Yes.

Mr. FERGUSON. Mr. Speaker, if the gentleman will yield, to clarify the situation, under the Russell amendment States would receive up to $15 a month without financial participation for 2 years. Under the amendment as brought in by the conferees the proposition of matching is still intact as originally provided in the House bill, and dollar for dollar has to be matched when the State participates.

Mr. SAMUEL B. HILL. I will say to the gentleman as a Member of this House you have put back upon your State the responsibility of restoring this matching provision. The money may be contributed by the communities or subdivisions of the State, for instance, but the Federal money must be matched by money within the State to make it possible for them to participate.

Mr. FERGUSON. All this requires is that the State get the money from some source if the constitution prohibits action by the State legislature.

Mr. SAMUEL B. HILL. All this does is to make State participation possible by getting money from some subdivision of the State.

Mr. DUNN of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 additional minutes to the gentleman from Washington.

Mr. DUNN of Pennsylvania. I wish the gentleman would explain this situation: In the State of Pennsylvania it will be necessary to amend the State constitution before an old-age-pension law can be passed; it is forbidden by the constitution. It would take at least 5 years to amend the constitution.

The legislature has appropriated money to give the aged relief. In the gentleman's opinion, will this bill help the aged of Pennsylvania?

Mr. SAMUEL B. HILL. It will if the counties, or some other subdivisions of the State government, will contribute pension money to match the Federal contribution.

Mr. DUNN of Pennsylvania. It is not a form of pension, because the State constitution forbids it.

Mr. SAMUEL B. HILL. I could not answer, for I do not know what the facts are.

Mr. BOILEAU. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. May I ask the gentleman to explain the situation in the conference agreement with reference to the State pools and the reserves within those States?

Mr. SAMUEL B. HILL. That is the La Follette amendment. The House yielded on the La Follette amendment and it goes in here as passed by the Senate. The gentleman understands what the La Follette amendment is?

Mr. BOILEAU. Yes.

Mr. SAMUEL B. HILL. The House yielded on that matter. I am not going to take more time on the La Follette amendment because it would take longer than I have at my disposal, but I think the House will be pleased to go along with it.

The social security board as provided in the House was an independent agency and the Senate put it under the Department of Labor. The conference report presents an agreement in reference to that matter. The original provision of the House bill is maintained. In other words, the social security board will be an independent agency of the Government.

We have title 10 put in by a Senate amendment, which has to do with pensions for the blind. The provisions of that amendment as agreed to by the House and as included in the conference report are that the needy blind, regardless of age, are under State plans permitted to have Federal assistance, and the Government will match State money to the extent of $15; in other words, on the same basis as the Federal participation in old-age assistance, except there is no age limit.

[Here the gavel fell.]

Mr. DOUGHTON. I yield the gentleman 5 additional minutes.

Mr. DUNN of Pennsylvania. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Pennsylvania.

Mr. DUNN of Pennsylvania. With reference to pensions for the blind in those States that do not give blind people a pension, may I ask if this bill will help the blind in those particular States?

Mr. SAMUEL B. HILL. It will not, until they adopt pension plans or what we may call "assistance plans."

Mr. DUNN of Pennsylvania. There are only 22 States in the Union that give benefits to the blind. The blind in those States will receive benefits, while the blind in the other States will not.

Mr. SAMUEL B. HILL. Only those States that have provision for the pensioning of the blind will get assistance from the Federal Government under this bill.

The Senate receded in reference to title 11, placed in there by Senate amendment, which provides a pension of $30 a month for needy Indians, to be paid wholly by the Federal Government. There were many provisions in there that we thought were ill-advised. The legislation was hastily drawn and hastily passed, as we thought, without proper consideration, and while we had a sympathetic interest in the aged and needy Indians, yet we felt that if we were to give them assistance in the form of pensions the matter should have more consideration than had been given the subject and more consideration than could be given the subject in this particular legislation; therefore, the Senate receded, and that title is out.

Mr. DIMOND. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Alaska.

Mr. DIMOND. Is it the gentleman's idea that the bill as drawn applies to Indians as well as other citizens of the United States?

Mr. SAMUEL B. HILL. It does. It is my opinion that aged Indians will receive the same benefits as aged white people or any other aged of the United States, because the Indians are by virtue of an act of Congress of 1924 citizens of the United States and have the same status as any other citizen of our country. Therefore, they are entitled to the provisions of the old-age pension under this title.

Mr. DIMOND. Then the striking out or the elimination of the Senate amendment with respect to Indians does not mean that this bill does not apply to Indians?

Mr. SAMUEL B. HILL. It does not mean that, but it does mean that the bill will apply to Indians, needy, aged, and that they will come under the provisions of title 1.

Mr. Speaker, I yield back the balance of my time.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, may I say at the outset that the conferees on this bill, both on the part of the Senate and the House, have devoted a great deal of attention in a very sincere and practical way to clearing up some great differences which existed in the two bills as passed by the respective bodies. There is but one impasse. We reached the point where the conferees could not compromise or agree in any way or manner in relation to what is known as the "Clark amendment."

The conference report has been explained partially by the gentleman from Washington, and he has made a careful analysis of it for the Members of the House. A little later, I understand, the chairman is agreeable to having the Clark amendment alone discussed in some detail. At that time I shall take the opportunity of speaking in support of the Clark amendment.

The minority members were glad to sign the conference report. While some of us on this side have been opposed to the whole scheme as outlined in this bill, that is water over the dam and no longer a factor. The bill has been accepted in all these details by both branches, and the job of the conferees was simply to straighten out the differences between the two branches and not go to the fundamental principles of the measure. I think the chairman of the committee and his majority colleagues are entitled to a great deal of credit for having brought about this agreement. We of the minority, in our humble capacity, have endeavored as far as we could to cooperate. We could not cooperate, however, so far as the Clark amendment was concerned. Personally, I feel it is of very great importance that we have a very full expression of opinion on the part of the House as to the merits of this particular amendment which, as I previously stated, I will discuss in some detail later. When this bill was up for discussion originally there were many most desirable factors in the bill.

Mr. Speaker, the main purpose of the bill is to secure cooperation on the part of the Federal Government for old-age annuities, old-age pensions, and unemployment insurance. Those are the major factors of the bill, but there are also, if one might say, minor items as well as "window trimmings" to a certain extent which should be taken into consideration. We are aiding in the bill some old matters, namely, public health, vocational training, and maternal and child health.

Then we are setting up in this bill, Mr. Speaker, certain new provisions, namely, aid to dependent children, aid to crippled children, child-welfare services, and pensions for the blind. These are certainly all humanitarian movements and should be given our support.

So the minor items, to my mind, are most desirable, while the major items which I have read are in some respects undesirable. The attitude one must decide in voting for or against the final passage of this bill is whether it is desirable to secure these aids with respect to so-called "minor matters" by voting for other matters that you do not approve of. This leaves us in a very embarrassing position. I want to vote for all of these minor items. I want to vote against the major provisions, because I do not think personally they are matters that the Federal Government should undertake at this time, but, in general, I want to commend to my associates on this side of the House the results of the conference, and, for one, I am very pleased to assure my associates that I approve of the conference report and will gladly support it, aside from the disapproval which I have already stated in discussing the attitude of the majority on the so-called "Clark amendment."

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Speaker, not being a member of the conference committee, I can, with propriety and without being guilty of self-adulation, go further in saying nice things about the conferees than did my good friend, the gentleman from Massachusetts [Mr. TREADWAY], because he is a member of the conference committee.

I took a rather active part in the consideration of this important bill in the House and naturally I followed the work of the conferees closely and I may say to my colleagues on the Republican side that I think we have every reason to be proud of the fairness, candor, honesty, and persistency with which the majority members of the conference, as well as the minority members, pursued their duties in handling this important conference between Members of the House and Members of the Senate.

This is probably the most important and far-reaching measure we have considered in the Congress for many years. By this I mean that it deals with the very bread and butter of more people than probably any other measure that has been before Congress for many years. It deals with the poor and the aged and the blind and with nearly every stressful condition of life that may confront unfortunate people. It provides for the poor widow with her hapless brood of orphans; it seeks out the unfortunate youth whose home life is unhappy and who is irresistibly being drawn into the maelstrom of crime and lawlessness; it seeks to remove the dark cloud of poverty that has loomed up before the last days of many old people, and to plant instead a rainbow of hope that their last days might be happy. It will tell the poor blind man and woman, the most sorely afflicted of all our people, that henceforth they need not hold out their tin cups in their thin, emaciated hands, for the people of the greatest Nation in the world have realized that it is the duty of the fortunate to make provision for the unfortunate.

While this bill indicates an advance in public aid to unfortunates, I would have you realize that this bill is not to be considered as the gift of any person or any administration to these deserving people. Rather it is simply a recognition of the sentiment of the people of the Nation toward our unfortunates. It is a milestone marking the growth of civilization from the date of the first murder that we have any record of when a member of the first human family in defense of his foul deed said, "Am I my brother's keeper?" The human race has traveled far since then, but its course has generally been upward.

The conferees were required to assume the task of resolving 113 amendments. They have discharged this duty with tact and rare sagacity. The inconsequential amendments, such as those of diction and legislative terminology, were soon disposed of. Four or five were of major importance. One was the La Follette amendment. Another was the Russell amendment. Another was restoring authority to the social security board and not dividing it so as to put authority in the Secretary of Labor, where it should not be. Another is the Clark amendment, which has not as yet been composed between the conferees, and which will receive special consideration by the House yet today. Another was the amendment including the blind within the protection of the bill. I shall revert to that a little later. For fear I might forget, I should say to those of you who were interested in the question of the constitutionality of the provisions of this bill and who participated with us in the discussions when the bill was before the House that none of these numerous amendments changes the constitutionality of the bill in the least.

Mr. RICH. Mr. Speaker, if the gentleman will yield, I should like to ask this question: Was this bill submitted to the Attorney General to determine whether it is constitutional or not?

Mr. JENKINS of Ohio. I cannot answer the gentleman as to whether the conferees sought any advice of the Attorney General, and I have no desire to enter into a discussion of the constitutionality of the measure at all in the time allotted me.

Mr. COOPER of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. JENKINS of Ohio. I yield to the gentleman from Tennessee.

Mr. COOPER of Tennessee. The gentleman will recall that that matter was discussed, and as a part of my remarks I inserted the opinion of the Assistant Solicitor General on the bill.

Mr. RICH. As amended?

Mr. COOPER of Tennessee. At the time it passed the House.

Mr. JENKINS of Ohio. Yes; and I, too, referred to the uncertain and indefinite opinion of the Attorney General as to the constitutionality of certain titles of the bill, especially title 2 and title 8.

Mr. Speaker, for the remainder of my time I desire to address myself strictly to the amendment providing for relief to the blind. When this bill was up for consideration by the House I offered an amendment that would include the blind within the warm folds of the relief sections of this bill. This amendment was rejected, not on its merits or demerits but because the poor blind could be pushed aside by the young "brain trusters" who were fathering the bill at that time. The Membership of the House was favorable, but the partisan yoke was fitting much closer then than now. But the Senate has inserted an amendment providing relief for the blind in almost the exact language which was contained in my amendment. In effect the Senate adopted my amendment and the conferees have agreed to it. Those of you who were in favor of my amendment, and for whose assistance in that battle I was profoundly thankful, you may now assure your blind constituents that we have won the day and that they may feel that the flag of hope which they cannot see is flying high today. I thank the conferees in behalf of the thousands of poor blind who must grope their way through a dark world.

The Senate made only one material change in my amendment, and I wish to give them credit for it. This amendment provides that one need not be afflicted with permanent blindness in order to benefit under this law. One afflicted with temporary blindness may be included. This will be controlled by the State laws and the board in charge of the matter, who will issue regulations. Why should not a person 45 years of age, stricken with total blindness or temporary blindness for a few months or a few years, be entitled to the benefits of protection just as much as a man who has reached the age of 65 and who has the possession of his sight? Both need help if they have no means of support. To those of you who are friends of the blind, let me say that this amendment in itself will not give $15 a month to every needy, blind person in this country. Each State must pass some sort of legislation and must meet the requirements of this bill just the same as the States must meet the requirements of the bill with respect to the aged and the widows and the children in need. Each State must come forward with some constructive legislation that will match the requirements of the Federal Government in order that the blind people in your State may be taken care of.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. JENKINS of Ohio. I shall be pleased to yield.

Mr. MAY. I want to get one matter of information that the gentleman, no doubt, can give me. As I understand this measure as a whole, it is predicated upon the idea of participation by the States with the Federal Government.

Mr. JENKINS of Ohio. Absolutely.

Mr. MAY. Is there any provision whereby in the States, when they fail to comply with the requirements of the Federal Government, the pensioners in that State can be taken care of by the Federal Government?

Mr. JENKINS of Ohio. No. In old age and blind relief the Government contributes only when the State matches the Government. There are some provisions in this bill which provide for Federal contribution without State matching such as health and sanitation relief, but in all the major provisions of this bill State participation is a necessary condition precedent to Government participation. The philosophy of this plan is to put the administration of this class of relief upon the States and thereby hold it as close to the

people as possible. This class of relief is close to the hearts of the people. They should be permitted to administer it under close and strictly drawn regulations. This relief to the blind is intended to make them self-sustaining and to encourage them to feel that they are not unwelcome, but on the other hand that they are recognized as a part of our citizenship and are entitled to encouragement to help balance the natural handicap under which they are constantly placed. The Savior of man had compassion for the blind. Man himself has sympathy for the blind. This bill permits this sympathy to take tangible form. It transforms sympathy into money, which is a very practical guaranty for happiness. [Applause.]

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. MILLER].

Mr. MILLER. Mr. Speaker, I should like to discuss for a minute the parliamentary situation and the question before us insofar as the Russell amendment is concerned. I do not agree to all that was said by the gentleman from Washington [Mr. SAMUEL B. HILL] as to the effect of the amendment proposed by the conferees. Neither do I agree to the procedure we are following which deprives the House of the right to a separate vote on an amendment as vital as the Russell amendment.

The question presented here is that we must vote the report up or down before the House can express itself as to whether or not they want to adopt and retain the Russell amendment. If we vote the conference report down a motion can then be presented to recede and concur in the Senate amendment, the Russell amendment, which is so vital to some of the States, including Arkansas. If the report is adopted we cannot have a vote on the Russell amendment. Such procedure is not right and in order for us to try to obtain justice for the aged we should vote the conference report down.

It is said that the amendment proposed by the conferees requires contribution on the part of some agency in the State where the State constitution prohibits the passage of participation laws.

Mr. SAMUEL B. HILL. Will the gentleman yield?

Mr. MILLER. I yield.

Mr. SAMUEL B. HILL. It does require the payment.

Mr. MILLER. Where is it so provided?

Mr. SAMUEL B. HILL. Because we did not take it out.

Mr. MILLER. Look at the conference report at the bottom of page 1. It says, "In lieu of the matter proposed to be inserted by the Senate amendment insert the following." What does "lieu" mean?

Mr. SAMUEL B. HILL. The bill, section 3, page 4, provides:

> From the sums appropriated therefor the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, an amount which shall be used exclusively as old-age assistance equal to one-half of the total of the sum expended during such quarter as old-age assistance under the State plan with respect to each individual—

And so forth. We do not relieve somebody in the State from putting up the money.

Mr. MILLER. The only agency that could put up anything is the State itself.

The gentleman says that there are a few States in the Union who could not comply because of the constitutional provisions. I do not know how many States there are, but I understand Georgia is one of them. The contention I make is that if a contribution from the Federal Government is justified, it ought to go to all States alike and should not be dependent upon the constitutional provisions of a State nor upon its present ability to match the Federal funds.

They say it is a question of Federal aid or Federal pension. I do not care what you term it. There is no justification for discriminating against a citizen of Oklahoma or Arkansas or anywhere else in favor of a citizen in any other State. This Federal money is being contributed by the Federal Government, and it ought to go to all of the citizens who are eligible, and we ought to have a right to a separate vote as to whether or not we will accept the Russell amendment and thus do justice to all citizens regardless of where they may live.

Mr. SAUTHOFF. Mr. Speaker, will the gentleman yield?

Mr. MILLER. Yes.

Mr. SAUTHOFF. What have those States the gentleman mentions done within the last 6 months to remove these constitutional obstacles?

Mr. MILLER. I can speak only for Arkansas. We have passed laws to raise money, even to a sales tax.

Mr. SAUTHOFF. What has your State done with regard to the constitutional prohibition?

Mr. MILLER. We have no constitutional prohibition against the enactment of old-age pension laws, and we have enacted such laws, but I know that our eligibles in Arkansas will not receive the sum of $15 a month from the Federal Government, because our State will not be able to match the funds to that extent. We may be able to make some contribution, but it will be small, and I think we should have the time allowed under the amendment in which to place our State finances in shape to meet the requirements, so that our eligibles in Arkansas will receive the same amount of Federal money as is received by any citizen of any other State. That is all that the Russell amendment does, and it is fair, right, and just, and we should adopt it, or rather should agree to it, as passed by the Senate.

It is not pleasing for me to have to call the attention of the House to the fact that Arkansas will not be able to pay its eligibles a pension of $15 per month, but I am more concerned in obtaining a pension for our aged than I am in reciting to you the wonderful natural resources that are within our State, because our aged cannot live on these undeveloped natural resources, and they being citizens of the United States are entitled as a matter of right and justice to the same amounts as are citizens living in more populous and wealthy States, and the only way for this discrimination to be avoided now is to adopt the Russell amendment.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. FULLER].

Mr. FULLER. Mr. Speaker, I realize that some of the States are facing a hard proposition to raise money with which to match Federal aid for old-age pensions. I realize that my State is going to be in that condition, but my State has no more rights than any other State in this Union. If Arkansas cannot comply with this law, God knows it ought not to complain and begrudge other States of the benefit. This is equal and just to all. Not only that, but Arkansas can and will comply with this law, and in a substantial manner.

Mr. MILLER. Mr. Speaker, will the gentleman yield?

Mr. FULLER. Yes.

Mr. MILLER. Does the gentleman think that Arkansas is able to contribute $15 a month to the eligibles under this bill?

Mr. FULLER. It may not be able to contribute that much, but it does not have to contribute any designated amount. The Federal Government contributes and matches any amount paid by Arkansas as a pension up to $15 per month.

Mr. MILLER. What does the gentleman think that Arkansas can contribute?

Mr. FULLER. Statistics show that Arkansas has 75,000 people over 65 years of age and that less than 15 percent of these are eligible for pensions. At $10 per person, it would mean that Arkansas would be required to raise $1,300,000, which amount, being matched by the Federal Government, would pay an average pension of $20 each. The recent legislature of our State provided for practically $1,000,000 for this purpose and we can and will raise what is necessary to take care of the eligibles who are in need over 65 years of age. If it should develop that we cannot raise $10 per person, we can reduce our contribution. In some localities, as is true everywhere, many have never made as much, on an average, as $10 a month in cash and could very well get along with

much less than $30 per month. It is true, however, in cities, where rent must be paid, a larger pension should be allowed. This measure is all based upon need, and it is not contemplated that the State and Federal Governments will provide better living conditions than these people have enjoyed during their lives. We cannot afford to kill thrift and ambition. We cannot afford to take the attitude simply because one is 65 years of age that they are going to remain on "flowery beds of ease" by reason of a big pension; this is based wholly and entirely on the theory of helping those who cannot help themselves and can never be construed anything else than a dole.

Mr. MILLER. Do I understand the gentleman to say that a citizen 65 years of age is not entitled to as much as $10 a month?

Mr. FULLER. I want to say that nobody, simply because 65 years of age, is entitled to any money as a pension; the Government owes no real obligation to give anybody a pension.

Mr. KELLER. Why not? Why are we doing it?

Mr. FULLER. Not as a governmental, legal, or financial duty, but as a humanitarian, social-welfare act to take care of the unfortunate needy—those who cannot take care of themselves.

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. FULLER. Yes.

Mr. VINSON of Kentucky. The legislatures of the respective States will determine the amount of the pension and those who are eligible.

Mr. FULLER. Certainly.

Mr. HUDDLESTON. Is it the gentleman's interpretation of this amendment, in the form reported by the conferees, that if Arkansas should make no contribution, Arkansas will get nothing?

Mr. FULLER. That is right. There are a few States in the Union, two, possibly three, which have a prohibition in their constitutions against using money for this particular purpose. They want until January 1, 1937, to correct this condition, so they can participate and get money for this purpose and receive aid from the Nation. We grant those States that request, with the provision that while the State itself cannot match the Federal money, they cannot get any money for that State unless a county or a municipality or some particular subdivision of the government matches the Federal money. None of this Federal money can go to a State unless matched by the State or a subdivision thereof. I am sorry to have to differ with my colleagues, but I am really chagrined to hear them talk about Arkansas being poverty stricken. Arkansas is not poverty stricken. Arkansas, in natural resources, is one of the most wonderful and rich States in the Union. [Applause.]

I have devoted a greater portion of my life exclaiming the grandeurs and virtues, wealth and undeveloped resources of my State. We proudly boast of Arkansas as the "Wonder State", and I cannot pass unchallenged the statement that we cannot do what other States in the Union can and will do.

In the last few years we have had unprecedented floods and droughts; in addition, we have had a financial depression which is common all over the country. Without these catastrophes we would not be seeking or accepting relief at the hands of the Federal Government. Arkansas is ready, able, and willing, and will, in a substantial way, contribute its portion and take care of its needy over 65 years of age.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas.

Mr. FULLER. We ought not to have any benefit from the Federal Treasury if we do not do our own part. The God's truth of the matter is Arkansas has received approximately $300,000,000 under this relief program and has paid only a few millions into the Federal Treasury as income taxes. What has happened in my State has happened in a great proportion of the other States of the Union. The time has come when we have to protect the Federal Treasury. We have already gone too far in appropriations for various relief. The time has come to call a halt. This dole must stop and give the country time to recover. I never thought I would live to see the day when the Federal Government would take the taxpayers' money to pay pensions to the aged; but the time has come, the emergency is here, and we might as well face it. We ought to perform this duty fairly, justly, and equitably, to all alike, and no State or any class of people are entitled to preference over any other. I have no sympathy with the argument that the Federal Government ought to bear all the burden and pay everyone a pension of a certain age and take care of everyone wanting relief. The true test should be to help the needy, those who cannot help themselves, and carry out the spirit of the Good Samaritan and to perform our duty to our neighbor who is in distress.

Every State seeking relief in the way of a pension for its citizens should match what the Federal Government is willing to pay. I realize that in the future we will hear of people running for Congress on the platform that the States should not pay any of this obligation but the Federal Government should pay it all, and in an amount possibly up to $200 a month. But we all realize that is only political propaganda for the purpose of obtaining office and that it is a burden the Government cannot possibly bear.

Mr. GIFFORD. Will the gentleman yield?

Mr. FULLER. I yield.

Mr. GIFFORD. The gentleman made the statement that there are many people in the State of Arkansas who never averaged $10 a month. Last year, under Mr. Hopkins, were they not paid the usual 45 cents an hour, and have they not made more than $10 a month?

Mr. FULLER. Yes. That is true, although those able to work and make more were only paid about $19 per month. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Arkansas [Mr. FULLER] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I am satisfied the House, when it comes to a vote, is going to do the usual thing and adopt the conference report suggested by the conferees; but you be just advised of what you are doing. There are 18 States in the United States that will not get one cent of the money provided for under this bill.

The distinguished gentlemen of the committee say that no State should be permitted to have any of this money unless they match the money. Well, why not? Where does this money come from? It comes from Federal taxation, does it not? When you gather that money, when you get Federal taxes, you go into every State in the United States and you take it from every individual in the United States. There are no boundary lines; there are no geographical subdivisions which you exempt from the payment of taxes. You collect Federal taxes from all over the United States alike. What is this? This is paying back to people in a certain class the benefits derived from Federal taxes. Then why, in the name of common sense, should you, when you get ready to pay back the benefits of government derived from Federal taxes, set up geographical boundaries or State lines and say, "Old man or old woman, 65 years of age or more, if you live in a State where the constitution will not permit that State to raise funds to match Federal funds, or if you live in a State where the legislature will not pass legislation to permit the State to meet the funds of the Federal Government, or if you live in a State whose ad valorem valuation is so low that they cannot raise money from taxation, then, old man and old woman, American citizen though you may be, old man and old woman, though you have always paid your Federal taxes, because you live in that kind of a State you will be discriminated against by the Federal Government when it gets ready to pass back to the people the benefits of government that you yourselves have helped to build up by the collection and gathering of Federal taxes"? [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Oklahoma [Mr. NICHOLS] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. FERGUSON].

Mr. FERGUSON. Mr. Speaker, sometime ago I wrote every Member of this body explaining the fact that in the Senate was inserted an amendment by Senator RUSSELL that would allow the Social Security Act to actually pay a pension. I urged the Membership of the House to watch this bill closely and vote with me to make this bill actually pay a pension. Now is the time to take this action. I talked to many of you personally on this matter. Now we can keep our word and pass a bill to pay a pension.

You Members who are going home to States where people are not going to receive any pension are going to regret that this day you did not vote down the conference report, with instructions that the Russell amendment be retained. What are you going to do with the people who are writing you every day asking, "When are we going to get the money under President Roosevelt's social-security bill?" That is going to be a hard question to answer. If we are going to take the attitude that the committee has taken, that $15 a month will bankrupt the Treasury, then this bill is indicted as not being in good faith, because it permits that much if the States will match it. Sometime we are going to be liable for $15 a month, if the States are able to do what the Federal Government says they can do. We are not asking for a perpetual proposition. For a period of 2 years, under the Russell amendment, States can participate and the people will actually get a pension check, which they will not get under this law as drawn. [Applause.]

In my opinion, under this bill the people of Oklahoma will not receive pensions for at least a year—until such time as we vote to revise our constitution and levy taxes with which to match the funds from the Government. I hope the Membership of this House will not be misled by the substitute offered for the Russell amendment. This substitute only gives other local agencies than the State power to match Government funds until July 1, 1937. I hope, and my firm conviction is, that we will recognize that this is our last opportunity at this session of Congress to actually pay the old people of the Nation in the States that are not qualified to match Government funds, a pension. Let us vote down this conference report and instruct our conferees to accept the Russell amendment as incorporated in the Senate bill, and actually accept the responsibility of paying our old people a pension immediately on the passage of this bill. I shall be severely disappointed if we vote to accept the bill as recommended by the conferees. I know that I shall have to tell the people entitled to a pension in my State that I failed in my efforts to get them the pension they so justly deserve. I am willing to accept the challenge and work on this proposition until the old people of my district are actually receiving pensions.

In the short time allotted me by the Ways and Means Committee I am unable to make my position clear. I am afraid the Membership of the House does not fully understand the position of many States that will receive no pensions. I also fully realize that the efforts on the part of a few Members here today will be of little effect against the powerful political prestige of the Ways and Means Committee. On the whole, I think the Committee has done a good job; but in this I believe they neglected their duty to see that every qualified person in the United States should actually receive a pension. It is with little hope that I urge you to vote for this amendment in the face of such political prestige, but at least I have the satisfaction of stating my convictions on the floor of the House.

The SPEAKER pro tempore. The time of the gentleman from Oklahoma [Mr. FERGUSON] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Speaker, ladies and gentlemen of the House, we have before us for consideration the conference report on H. R. 7260, to provide old-age pensions, and so forth.

This is President Roosevelt's bill, but has been materially amended in the Senate. It came up for consideration in the House on April 15, and at that time I made a speech during the general debate pointing out that the age limit was too high, and that the President's bill provided no relief for the needy blind or needy crippled people and the inadequacy of the amount and because of the constitutional provisions and financial conditions of many States—the States would not be able to match the Government's money and this would deny pensions to the needy old people in many States and in my State. I also pointed out the inadequacy of the appropriation, and that the amount carried in the bill would not provide more than 80 cents per month for needy old persons in the United States. While the bill was still under consideration, and on April 18, 1935, I offered an amendment (1) to fix the minimum age at 60 years instead of 65, as provided in the President's bill, (2) to provide the same amount of pension for the needy blind and needy cripples as to the needy old people, (3) my amendment also provided that the Government should pay $25 per month to aged needy persons, needy blind persons, and needy crippled persons in the United States without waiting for any contribution from the States.

This amendment was strongly urged by me, because people 60 years of age or over, under our modern system of machinery and efficiency cannot find gainful employment. People who are poor and blind, or poor and crippled, need a pension just as much as old people. I pointed out that the President's bill provided that no needy old person could get a pension until the States should first pass laws, collect taxes, and match the Government's money. I emphasized the fact that the constitution of many States would have to be changed, and the financial condition of many States was such that the States, including Kentucky, would not be able for a long period of time, if at all, to match the Government's money, and therefore, these needy old people in Kentucky and other States similarly situated would be denied any pension. These needy old, needy blind, and needy crippled people have to have help now, and my amendment provided that the Federal Government, on the passage of this act, should pay each one of them $25 per month, at least until July 1937, and gives the States time to change their constitutions, pass new laws, and match the Government's money, but the President and the Democratic leaders of the House were opposed to any such amendment, and with their big Democratic majority they were able to defeat my amendment.

The President's bill went to the Senate. The Senate amended President Roosevelt's bill in many particulars. Senator Russell offered and secured an amendment to the bill in the Senate, which provided that the Federal Government would pay a pension to needy persons 65 years of age, or over, until July 1, 1937, without requiring the State to match the Federal Government's money, but in no event could this pension exceed $15 per month.

INDIANS AND ESKIMOS PREFERRED

The Senate adopted another amendment authorizing the payment of $30 per month to Indians and Eskimos who had attained the age of 65 years, and whose income was less than $1 per day, and also provided a pension for Indians or Eskimos who are blind and under 65 years of age the sum of $10 per month. This would not require any matching and will be paid to these Indians and Eskimos when this measure is enacted into law. I am at a loss to understand why this great preference should be shown to Indians and Eskimos as against white or colored citizens of the United States. If Indians or Eskimos 65 years of age require $30 per month, and Indians and Eskimos less than 65 years of age, who are blind, require $10 per month, I cannot understand why aged needy white and colored American citizens 65 years of age and blind persons should not receive equal consideration with the Indians and Eskimos.

CONFEREES CHANGED SENATE AMENDMENT

After the bill passed the Senate, as is provided by the rules of the House and Senate, this measure was sent to conference. The conferees are made up of 5 Members of the House and 5 of the Senate. It is their business to try to reconcile the differences in the bill as passed by the House and as passed by the Senate.

The conferees modified the Senate amendment as to old-age pensions for white and colored citizens, but not as to Indians and Eskimos, and they have submitted a conference report setting forth this change, which is as follows:

Which provides that the State plan for old-age assistance, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

As I understand this amendment as submitted in the conference report, the Senate amendment providing for as much as $15 per month to needy people 65 years of age or over without State participation is wiped out. Under this conference amendment the Federal Government can only pay a pension to needy people 65 years of age without State participation if the constitution of such State prohibits the State from collecting taxes to provide for old-age pensions. If there is nothing in the constitution of a State prohibiting such State from collecting taxes for old-age pensions, then it must do so and match the Government's money before the Government can contribute any amount to any needy old person in such State. In other words, unless the constitution of Kentucky prohibits the State of Kentucky from collecting taxes for old-age pensions, Kentucky must levy and collect taxes and match the Government's money before anyone in Kentucky can get an old-age pension. On the other hand, if the constitution of Kentucky prohibits the collection of a tax for old-age pensions, then under this amendment submitted by the conferees' report, the Federal Government could pay to needy people in Kentucky, 65 years of age or over, and who are not confined in any institution, a pension not to exceed $15 per month.

I regret very much that this involved amendment was put into this bill. It should have remained as the Senate passed it, which provided that the Federal Government, until July 1, 1937, could pay a pension amounting to as much as $15 per month to needy people 65 years of age and over without State participation. Under the conferees' amendment it must now be debated and argued and decided whether or not the constitution of Kentucky prohibits the State of Kentucky from collecting a tax for old-age pensions. Nothing can be done to relieve the needy old people of Kentucky until this is decided, and if it should be decided that the constitution of Kentucky does not prohibit Kentucky from collecting taxes to match the Government's money for old-age pensions, then nothing can be done, and there will be no help for the aged needy in Kentucky until Kentucky passes laws, collects taxes, and matches the Government's money.

These old people need help now, and they need it very much; and I am deeply grieved that my amendment was not adopted. If it had been adopted, in a short time each needy person in Kentucky 60 years of age or over, each needy blind person, and each needy crippled person would begin receiving $25 per month.

STATE MUST MATCH FEDERAL MONEY

As I have heretofore pointed out, unless the constitution of Kentucky prohibits the collection of taxes to match the Federal money, no needy old person in Kentucky will receive any pension for a considerable time yet. This is true as to needy blind people. There is no provision in the bill for needy crippled people. The House and Senate both turned down my amendment on that, but the Senate did put in an amendment authorizing the payment of pensions to needy blind people, provided the State puts up a like sum.

This bill provides that the Government will match State money, one for two, for pensions for dependent children, needy widows, and needy orphans. This is also true as to vocational training and the public health. Unless the State of Kentucky comes along and passes laws, sets up an organization, and collects taxes to match the Federal money, this legislation will mean nothing to the needy old people, the needy blind people, needy widows, orphans, or dependent children in Kentucky, and this is true as to vocational training for crippled people.

Every citizen of every State in the Union, directly or indirectly, pays taxes into the United States Treasury. The rich States like Pennsylvania and New York, Massachusetts, Ohio, Illinois, and so forth, have provided old-age-pension systems and they are able to match the Federal funds. I am afraid that Kentucky and many other States similarly situated might not be able to match the Federal funds, and therefore we will have the spectacle of the people in the rich States receiving old-age-pension money from the Government and the people in the poor States (where they need the pensions the most) not able to meet the Government's money and not receiving any money from the Government to pay pensions.

As I have pointed out, the people of the poor States will be paying money into the Treasury to provide pensions for those living in the rich States but will themselves receive no pension benefits, and it was this and other circumstances that led me to offer and strongly urge my amendment for the Federal Government to pay each needy old person, each needy blind person, and each needy crippled person $25 per month without it being matched by the State. In this way, each and every needy old, needy blind, and needy crippled citizen of the United States would be treated alike and the Federal Government would not show any partiality among its citizens; and furthermore I know that these classes of people needed help in these terrible times of depression and they need it now and perhaps will never need it so much as they need it now.

I voted for this bill because it was the best bill we had a chance to vote for. Some day we hope to help amend this law so that it may do substantial justice to all American citizens and so that it will at least not give preference to Indians and Eskimos over white and colored citizens.

Mr. DOUGHTON. Mr. Speaker, I yield the remainder of my time to the gentleman from Kentucky [Mr. VINSON].

Mr. VINSON of Kentucky. Mr. Speaker, those of us who are concerned with legislation affecting the people of this country are, and should be, happy that this legislation is drawing near a conclusion.

Some 20 or more years ago, when a great ocean liner struck an iceberg and it became apparent that all could not be saved, our country was thrilled with the heroic utterance and obedience to the order, "Women and children first." Heroes went to watery graves to carry out this order.

Last year, in June, I think, the President of the United States sent a historic message to the Congress in which he said that with all the hazards and vicissitudes of this modern life, the first objective of government should be security for men, women, and children. A second message came to this Congress on January 17 of this year, asking us to give immediate consideration to this problem of social security.

As a member of the Ways and Means Committee, I shall always be proud of the hours and days I have spent assisting in the preparation of this bill. Let me say to the conferees that, regardless of the work they may do in the future, their work upon this bill will be a star in their crowns. They have brought back to the House of Representatives a real social-security bill. Let me say to the membership of this House that of all the votes you will ever cast, even though there may be certain parts of it with which you do not agree, I predict that you will always be happy and proud of your vote and your participation in this great social-security program.

For the first time in the history of this Nation and in the most comprehensive social program that was ever formulated by a legislative body, unfortunate people are cared for. Unfortunate mothers, unfortunate children, unfortunate blind, unfortunate crippled, unfortunate unemployed, unfortunate aged. In the category of the unfortunates who will be cared for under this legislation we start at the cradle and go to the grave. It is a wonderful program, a program benefiting the people of this country.

There may be those who will say that certain changes should be made, but remember, my friends, every dollar that goes to the unfortunates under this bill will be an additional dollar, one dollar more, to go to them than they would

receive without this legislation. It is a great humanitarian program, a program looking toward benefits to people, providing security, social security, to our unfortunates, from the cradle to the grave.

Mr. DOUGHTON. Mr. Speaker, I move the previous question on the adoption of the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

The SPEAKER. The Clerk will report the first amendment in disagreement.

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that the amendments in disagreement, nos. 17, 67, 68, 83, and 84, be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate amendments, as follows:

Amendment no. 17: On page 16, after line 17, insert the following:

"(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection."

Amendment no. 67: On page 45, line 2, insert the letter "(a)."

Amendment no. 68: On page 45, after line 9, insert the following:

"(b) The Board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the Board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

"(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan: *Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

"(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

"(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee, approved by the Board.

"(4) Termination of employment shall constitute withdrawal from the plan.

"(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

"(c) The Board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

"(d) The Board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b)."

Amendment no. 83: On page 55, after line 17, insert the following:

"(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually."

Mr. TREADWAY. Mr. Speaker, before amendment no. 84 is read, may I ask the chairman of the committee if 84 is not a separate matter from the so-called "Clark amendment"? In other words, it is the Black amendment. As I understood it, we were to have up for consideration the Clark amendment only, whereas this is an amendment to the Clark amendment, known in conference as the "Black amendment." I would ask that this be taken up separately. This was not given very much consideration.

Mr. SAMUEL B. HILL. The Black amendment, which is amendment no. 84, would have no place in the picture at all if it were not for the Clark amendment. It is an amendment to the Clark amendment. It all goes together. You cannot separate them.

Mr. TREADWAY. I realize it is an amendment to the Clark amendment, but the Clark amendment itself stops in the middle of page 56.

Mr. SAMUEL B. HILL. If the Clark amendment should fail there would be nothing at all to which the Black amendment could attach itself, so it is so inseparably connected with the Clark amendment that the two cannot be separated.

Mr. TREADWAY. Mr. Speaker, is it not fair to inquire whether or not the Black amendment, so called, should not be further brought up in conference in order to straighten out what appears to be an unfortunate situation in the prohibition language that it carries? As I understand it, this prevents the director of any insurance company being connected with any of these boards.

Mr. SAMUEL B. HILL. I think the gentleman will agree with me that you cannot find any status or excuse on earth for the Black amendment without the Clark amendment.

Mr. DOUGHTON. I shall move that the House disagree to the Senate amendment.

Mr. TREADWAY. That is my point; if the Black amendment should not go back with the Clark amendment to conference.

Mr. DOUGHTON. Certainly.

Mr. TREADWAY. If that is the situation, it is entirely satisfactory to me. Mr. Speaker, I understand now that the so-called "Black amendment" shall further be considered by the conferees with the Clark amendment.

Mr. SAMUEL B. HILL. No; we are considering it right now in conjunction with the Clark amendment, because it is a part of that amendment, and you cannot separate the two. It has nothing to which to attach itself without the Clark amendment.

Mr. TREADWAY. The Clark amendment could be amended?

Mr. SAMUEL B. HILL. Certainly not. It is a part of the Clark amendment. The Clark amendment with the Black amendment constitutes the full Clark amendment.

Mr. VINSON of Kentucky. Amendment no. 84 is in disagreement. The House has either to agree or disagree to it, and I understand the motion of the gentleman from North Carolina will be to disagree to amendment no. 84, along with the other amendments that are known, strictly speaking, as the "Clark amendment."

Mr. TREADWAY. If amendments nos. 82 and 83 go back to conference, would that include amendment no. 84?

Mr. VINSON of Kentucky. Under the unanimous consent that was presented and agreed to.

Mr. TREADWAY. Eighty-four is inseparable from 82 and 83; therefore, it would go back to conference?

Mr. VINSON of Kentucky. Yes; en bloc.

Mr. DOUGHTON. They are to be considered and acted upon en bloc.

The Clerk resumed the reading of the Senate amendments, as follows:

Amendment no. 84: On page 56, after line 12, insert the following:

"SEC. 812. (a) It shall be unlawful for any employer to make with any insurance company, annuity organization or trustee any contract with respect to carrying out a private annuity plan approved by the Board under section 702, if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization or trustee.

"(b) It shall be unlawful for any person, whether employer or insurance company, annuity organization or trustee, to knowingly offer, grant, or give, or solicit, accept, or receive, any rebate against the charges payable under any contract carrying out a private annuity plan approved by the Board under section 702.

"(c) Every insurance company, annuity organization or trustee, who makes any contract with any employer for carrying out a private annuity plan of such employer which has been approved

by the Board under section 702, shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records with respect to such contract and the financial transactions of such company, organization, or trustee as the Board may deem necessary to ensure the proper carrying out of such contract and to prevent fraud and collusion. All such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time, and from time to time, to such reasonable periodic, special, and other examinations by the Board as the Board may prescribe.

"(d) Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $10,000 or imprisonment for not more than 1 year, or both."

Mr. DOUGHTON. Mr. Speaker, I move that the House insist on its disagreement to the Senate amendments which have just been reported by the Clerk.

Mr. TREADWAY. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The gentleman from Massachusetts offers a preferential motion, which the Clerk will report.

The Clerk read as follows:

Preferential motion offered by Mr. TREADWAY: Mr. TREADWAY moves to recede and concur in Senate amendments nos. 17, 67, 68, 83, and 84.

The SPEAKER. The gentleman from North Carolina [Mr. DOUGHTON] is recognized for 1 hour.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, the motion of the gentleman from North Carolina, the chairman of the committee, means the taking out of the bill which is now under consideration the so-called "Clark amendment."

My motion to recede and concur, which is a preferential motion, means the inclusion of the Clark amendment.

The failure to include the idea in the Clark amendment in the original bill and the failure of the House conferees to concur in the action of the Senate and include the Clark amendment is another indication of the present-day intention of the administration to endeavor to control all business procedure. It is another indication of the concentration in Washington in the hands of the present administration of control over business scattered all over this land.

The Clark amendment was adopted in the other body by a vote of 51 to 35, thus demonstrating its strong sentiment in favor of the purpose which the amendment seeks to accomplish. The proposition was fully discussed from all angles, and all the objections that can possibly be brought forth here were made there.

What is the intent of the Clark amendment? Simply to permit business concerns that for many years have had pension systems of their own, contributed to by employees and employers alike or entirely by employers, to continue this system without the penalty of additional taxation to support some other people's employees; and if we fail to adopt the Clark amendment we penalize these people to the extent that either these private pension systems must be liquidated or else the employers and employees must contribute twice, once to their own system and also to the Government system.

I do not want to ascribe any unfair ideas to the administration, but I think this well illustrates what we have been reading about so frequently in the press in recent times of the desire on the part of those in control of the administration to create an attitude of hostility or opposition to our constitutional government. This is the question involved here, as I see it. We are treading on the thinnest kind of ice when we pass certain features of this bill at all. We have not been able to secure from the judicial authorities of the Government, the Attorney General or others, a definite opinion that this bill will be declared constitutional.

Mr. COOPER of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Certainly.

Mr. COOPER of Tennessee. I am sure the gentleman will recall, upon reflection, that the Assistant Solicitor General of the United States appeared before the committee in executive session and presented an opinion of some 11 pages, and in my remarks on the bill when it passed the House I included this opinion as a part of my remarks, and it is in the RECORD.

Mr. TREADWAY. Very good; I admit all that, and I still say that the Attorney General's Department has failed to positively say they could support the constitutionality of this bill. This certainly has also been the attitude of the judicial authorities in the conference. There is no question about the very shaky position of the judicial authorities that appeared the other day before the conferees.

Mr. CHRISTIANSON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield to the gentleman from Minnesota.

Mr. CHRISTIANSON. If the Supreme Court should declare this act unconstitutional and in the meantime if employers should liquidate their pension funds, then what will happen to the empoyees who now receive protection under private pension funds?

Mr. TREADWAY. They will be absolutely out of luck. They will have neither one nor the other and there is no question about that.

Mr. REED of New York. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. REED of New York. And there are some 3,000,000 of them, are there not?

Mr. TREADWAY. As I understand it, the record shows there are 600 private pension funds in various business concerns throughout the country, and as the gentleman from New York states, they employ in the neighborhood of 3,000,000 people who will be absolutely deprived of the protection for which they have been paying over a long period of years.

Mr. REED of New York. And 300 of those private concerns have reserves of over $700,000,000.

Mr. TREADWAY. Yes; and the Clark amendment calls for the approval of the investment of these funds by the new Social Security Board. The Social Security Board absolutely controls the investment of the private funds. The only thing it does not do is to take them away from the private companies. There must be approval by this new Social Security Board of the investment of these private funds.

Mr. REED of New York. And is it not a fact that many of these large concerns were pioneers in this field and had to take a loss resulting from a long period of experiment in order to properly build up this system?

Mr. TREADWAY. Not only that, if I may interrupt my colleague, but when their business was poor and was not paying as they hoped it might, they nevertheless protected their employees with this sort of fund.

Mr. REED of New York. And is it not also a fact that the benefits given by many of these companies are far greater than what they will get from the Government?

Mr. TREADWAY. I was expecting to refer to that very feature. The Clark amendment provides that the benefits from the private insurance funds must be as good or better than those provided for in this bill. Is not that correct?

Mr. REED of New York. That is correct.

Mr. WOOD. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield to the gentleman from Missouri.

Mr. WOOD. The gentleman just stated that if this law were declared unconstitutional, the people who are now covered by private insurance funds would lose the many millions of dollars they had paid in.

Mr. TREADWAY. No; I did not say they would lose it. Those funds would be liquidated and not lost. However, they would lose the benefit of their anticipated retirement annuities.

Mr. WOOD. The fact of the matter is the employers do not pay into these old-age pension funds operated by private companies except by less wages.

Mr. TREADWAY. Oh, they do; the employers and employees both contribute under one form and the employees only under another form. The gentleman is mistaken about that feature.

Now, I want to refer to some features of this debate. Let me quote from the author of this amendment—Senator CLARK. Senator CLARK said:

> The purpose of the amendment is to permit companies which have or may establish private pension plans, which are at least equally favorable or more favorable to the employee than the plan set up under the provisions of the bill as a Government plan, to be exempted from the provisions of the bill and to continue the operation of the private plan provided it meets the requirements of the amendment and is approved by the board set up by the bill itself.

There is the gist of the Clark amendment.

Mr. REED of New York. Will the gentleman yield?

Mr. TREADWAY. Certainly.

Mr. REED of New York. If it is not agreed to by the House, of necessity the private pension plans will either have to be liquidated or the employers will have to pay double rates.

Mr. CHRISTIANSON. The gentleman from Massachusetts is sure that the employers would not continue to contribute to both?

Mr. TREADWAY. No; that is hardly to be expected.

Mr. CHRISTIANSON. If the Clark amendment is not accepted it means the liquidation of the fund.

Mr. TREADWAY. I should assume so.

(The time of Mr. TREADWAY having expired, Mr. DOUGHTON yielded him 10 minutes more.)

Mr. KELLER. Will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. KELLER. If these people pay double, they get double service.

Mr. TREADWAY. Oh, no; I beg the gentleman's pardon. They would not get but one service.

Mr. CRAWFORD. Will the gentleman yield?

Mr. TREADWAY. For a question.

Mr. CRAWFORD. Statistics will show how many of the 600 pensions are holding companies?

Mr. TREADWAY. Oh, I do not know anything about that.

Mr. CRAWFORD. If the question should arise and these were holding companies and they should be decentralized, then what would be the status of the employees—those insured? Assuming that they are not holding companies, what would be the status of the employees at any time?

Mr. TREADWAY. Those assets are in a separate fund, entirely separate from the business carried on by the company. They are under the approval of the new Security Board.

Mr. CRAWFORD. The amount deposited would be, but would they not at that point be in the same status as at the present time, when it is proposed to liquidate them, in the event that this amendment does not carry?

Mr. TREADWAY. If these companies are liquidated and you are an employee of one of these private corporations you would receive your pro rata share in the liquidation, but you would have no further protection under that private system for your old-age insurance, which now you would have.

Mr. THURSTON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. THURSTON. Is there any provision in the bill which would defer liquidation of these plans until the bill is declared constitutional?

Mr. TREADWAY. No. The adoption of the majority motion to insist upon disagreement and strike out the Clark amendment, as I say, sets up the situation which the gentleman from Minnesota [Mr. CHRISTIANSON] just referred to. You will either pay double or you are out of luck. As I said in answer to a question of the gentleman from New York [Mr. REED] there are 600 of these private-plan insurance boards in operation, covering 3,000,000 employees. Three hundred of these covering a million employees are on a reserve basis, with over $700,000,000 of reserve, and still, without the Clark amendment, we are forcing the liquidation of those companies.

Approximately 150,000 employees are now drawing pensions under private plans, and the average of those who share under the contributory plan is $84 per month and the noncontributory $59 per month.

Mr. KNUTSON. And the gentleman will recall a number of us in committee sought to have a similar provision incorporated in the original bill.

Mr. TREADWAY. I mentioned that at the opening of my remarks. This was brought up in committee and originally voted down, showing the desire, as I stated before, to place all this control of business in the hands of Government officials, who are inexperienced in business—and we know who they are, we know who are going to control this proposition—who have never had a bit of experience in business methods.

Mr. KNUTSON. Some of them hardly dry behind the ears.

Mr. TREADWAY. Now for some of the advantages of the private plans. More liberal benefits are paid. Employees get credit for past service, while under the Federal plan you start in anew. Employees 60 years of age are provided for under the private plan, whereas under the Federal plan they are not. Annuities are paid in true proportion to earnings and service, whereas under the Federal benefit rate they are arbitrary. Many private plans permit joint annuities, giving protection to widows, something not included here.

Mr. Speaker, there is no abler man, perhaps, or better constitutional lawyer in the Senate than the Senator from Georgia [Mr. GEORGE]. Let me quote what he stated in the Senate. He said:

> If the Court looks through mere form to the substance of this bill, I assert again that the question of the validity of the bill is one which no responsible lawyer would undertake to say is not in serious question. Hence, why strike down, with the probably unconstitutional bill, the private pension systems and private benefit systems granting benefits to the employees of employers of this country, embracing a large part of our population—why strike those down when a bill is proposed which probably will not pass the muster of the courts?

It seems to me the experience of the past few weeks in getting decisions on the constitutionality of legislation that has been passed by this Congress and the previous Congress, ought to be a caution, an SOS signal to the people who are forcing what is undoubtedly in the opinion of many able lawyers unconstitutional legislation in the provisions of this act.

The employees are fully protected under the Clark amendment. Private plans must be available to all employees without regard to age. Employees may elect whether they will come under the Federal or the private plan. Benefits under the private plan must be equal to or better than the benefits under the Federal plan.

Contributions under the private plan must be deposited with life insurance companies, annuity organization, or trustees approved by the Social Security Board. Termination of employment, whether voluntary or involuntary, constitutes withdrawal from the private plan. Upon an employee's withdrawal from the private plan the employer must pay to the Federal plan an amount equal to the taxes otherwise payable by the employer and the employee, plus 3-percent compound interest. Upon death of the employee his estate shall receive not less than the amount it would have received under the Federal plan.

The Social Security Board may at any time withdraw its approval of the private plan if it fails to meet its requirements. No financial advantage will accrue to employers who may be permitted to retain their private pension system, since they are required to contribute to the private plan not less than they would pay under the Government plan. For this reason, the continuation of the private pension plans will not result in the discharge of the older employees, as some contend.

So far as this argument is concerned, I might add that a private pension plan would cost the employer far more than the amount of taxes he would otherwise pay to the Federal Government. His chief interest in having a more liberal plan is to provide for his relatively older employees. If he expected to discharge these older employees he would not be asking to have his private system continued. The sincerity of the private employers is demonstrated by the fact

that they are now voluntarily paying pensions to about 150,000 superannuated employees.

The argument that the adoption of the Clark amendment will cause titles II and VIII to be held unconstitutional is based upon the theory that it links the two titles together and discloses their true purpose.

As a matter of fact, it has been recognized all the time that titles II and VIII are tied together, and must be so regarded by any court passing judgment on them.

Other provisions of these two titles link them together, such as the sections setting forth those who are neither subject to the taxes or the benefits. Hence the Clark amendment itself would not make titles II and VIII unconstitutional.

The purpose of this bill is to provide security for the aged, and the Clark amendment permits private employers to make more abundant provision for their employees than the Federal Government proposes to make.

The private company method, as included in the Clark amendment, is better for the employees of those 600 companies than is the Federal Government system proposed to be set up in this bill, as to which you are taking a great chance of a decision that it is entirely unconstitutional. If the private pension plans are broken up by this legislation, and the Federal pension plan is later invalidated, the 3,000,000 employees who are now covered by the private plans will be without any protection. In other words, they have everything to lose and nothing to gain under the Federal plan.

I hope, Mr. Speaker, that the Clark amendment will be adopted and that the motion I made to recede and concur will be the action of the House when the vote comes upon it. [Applause.]

The SPEAKER. The time of the gentleman from Massachusetts [Mr. TREADWAY] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Washington [Mr. SAMUEL B. HILL].

Mr. SAMUEL B. HILL. Mr. Speaker, I think it would be well to see just what this act, in its original form, provided for unemployment compensation, and then to examine the Clark amendment and see how one fits into the other or whether there is conflict between the two.

The act as passed by the House provided for a Federal plan to be financed by the levying of taxes upon the employer and upon the employee measured by the pay roll. This money was to be put into the Federal Treasury. It was to enable the Federal Treasury to finance these old-age benefits. If the money were not obtained in this way, we would have to levy other taxes to provide revenue out of which to finance the old-age benefits. The act as passed by the House provides that a man reaching the age of 65 years and having been employed for 5 years or more under employment that comes within the provisions of the act may at the age of 65 and thereafter receive a certain monthly payment called a "benefit" or "annuity." It is evident to you that a man in middle life or approaching old age, who works for 5, 10, or 15 years at an average salary, will not have been able to contribute by his own contributions and by the contributions of his employer in his behalf a sufficient sum of money to finance the annuity to such retired worker; but under the provision of the act no retired worker will receive less than $10 a month, regardless of the fact that he may not have earned in the annuity fund more than $1 a month or even less than $1 a month. He will get an annuity of $10 a month if he comes within this provision and has worked 5 or 10 years only.

Under that provision we are paying to that man an unearned benefit. We are going down into the Treasury to get the money that has not been contributed to the Treasury on his behalf, which money must come out of the general fund of the Treasury, paid in there from tax levies. But we have young men and men in middle life in this category of employment. The young men contribute to the fund and their employers contribute to the fund for them, for a period of 20, 25, or 30, and sometimes 40 years. That money goes into the Treasury. Those young men are not drawing money out of the Treasury during those 20 or 30 or 40 years. So we borrow the money from the money that they pay in, in order to pay these benefits to the older men who are retired after a few years' work. Only in that way can we finance the fund. If we do not have that financial support for the fund, then we would have to go out and levy general taxes to put into the Treasury to pay this money. In the course of a few years it will amount to more than a billion dollars a year paid out in benefits. So that the bill, as it left the House financed itself by the young men carrying, for the first few years, the fund out of which the benefits are paid to the older men, thereby saving the Federal Treasury the necessity of going out and levying general taxes to supplement the Treasury funds for the purpose of financing these benefits.

Now, what does the Clark amendment provide? It provides that the employer, whose employees so choose, may set up an independent pension reserve or benefit system, and be relieved from participation in the contribution to the Federal plan. It means that whenever all of the employees of a private industry chose to go under a private plan, they may contribute to a fund set up by the private industry, and no part of that fund shall go into the Federal Treasury. It means, of course, under the provision of the Clark amendment, that the employer and the employee must pay into that private fund an amount equal to that paid into the Federal fund by others who are not under a private plan. It means that when a worker withdraws from a private plan the employer must pay into the Federal Treasury on his behalf the amount of tax previously paid on his account into the private fund, plus 3-percent interest compounded.

It means that in the case of the death of an employee under the private plan his estate will receive the same amount of money from the private pension plan as it would receive from the Federal pension plan, and that is the amount the employee himself has contributed plus 3-percent interest compounded annually. It does not mean that his estate will get what the employee has contributed plus what the employer has contributed, but only the amount the employee has contributed, and that is the same amount the estate would receive under the Federal plan. But here is the difference: Under the private plan the employer keeps whatever the employer himself contributes to the private plan. Under the Federal plan the amount the employer contributes goes into the Federal Treasury to finance the general compensation fund. It means that under the Clark amendment it would be to the financial advantage of the industry maintaining such plan to employ only young men and not to employ old men, to keep in their employment young men, and as men reach middle age to discharge them, because the companies make their money, they earn their benefit fund, from the contributions of the younger men.

Mr. Speaker, my time is exhausted and I shall be unable to discuss further the Clark amendments and the reasons why they should not be adopted. However, under leave to extend my remarks I submit for the RECORD in support of my contention that the so-called "Clark amendments" would totally wreck and destroy the unemployment-compensation provisions of this act, this memoranda prepared for me giving an analysis of the so-called "Clark amendments" and their effects upon this legislation:

HOW THE CLARK AMENDMENT WOULD WORK OUT

1. Under the Clark amendment existing private-pension plans would either have to be abandoned or fundamentally altered.

From the debate it was evident that many Senators voted for the Clark amendment under the impression that its adoption is necessary to save the existing private-annuity plans. It was not appreciated that all private-annuity plans will have to be radically altered even with the Clark amendment in operation. This is true for the following reasons:

(a) None of the existing plans provides for repayment of the entire amount contributed in behalf of an employee upon his withdrawal from employment. The most liberal of these plans provide for the return to the withdrawing employee of the money he has contributed, with interest. Under the Clark amendment the employer will have to pay back taxes with interest, for all withdrawing employees, which, under the assumptions on which this amendment is based will be equivalent, on the average, to repayment of the contributions of both the employer and the employee with interest. The Clark amendment thus places an additional burden on the existing private-annuity plans and this

will necessitate recalculation of their actuarial basis, with either increases in contributions or reductions in benefits.

(b) All existing plans allow annuities only after employment for a relatively long period of time—a majority of them for periods of 20 to 25 years. Such plans certainly cannot be regarded as being as liberal as the Federal old-age-benefit plan. They will, consequently, have to be revised in this respect. This will again affect the financial basis of these plans and necessitate changes in contribution rates or benefits.

(c) Many of the existing plans have no reserve or only very inadequate reserves. Many more are not irrevocably funded.

(d) Many plans do not pay as liberal benefits on retirement as does the Federal plan, even to employees who have long been with the company. Few, if any, plans pay as liberal benefits for employees who are with the company only for periods of less than, say, 20 years.

The changes which the Clark amendment will necessitate in private annuity plans are extensive and fundamental. Without the Clark amendment most employers, as a practical matter, will wish to reorganize their annuity plans, although they are not legally compelled to do so. But it will be no more difficult to reorganize existing private plans to give benefits supplemental to the Federal plan than it is to revise these plans to conform with the Clark amendment.

2. Under the Clark amendment it will be of advantage, both to the older employees and to the employers, for present older employees to come under the Federal old-age-benefits plan, while the younger employees will be covered by the private annuity plans.

The annuities payable under title II are a percentage of the earnings of the employees after the taking effect of the Social Security Act. The percentage of the earnings on which the annuities are based is materially greater where the total earnings are small than where they are large.

Present older employees will have small total earnings because they will be under the system but a few years. They will consequently get much larger benefits than their own contributions and those of their employers would buy from insurance companies.

All private annuity plans are constructed on precisely the opposite principle. Most of them give no benefits at all to employees who have not been in the employ of the company for a very long period of years, most commonly 20 to 25 years. None of them favors employees who are under the system but a short time.

Under the Clark amendment the employees may elect whether they wish to come under the private annuity plan or under the plan of Federal benefits. Since the social-security bill gives such a distinct advantage to employees who are in the system only a short time—as will be at present all employees now past middle age—it is very evident that these employees will elect to come under the Federal plan. It is to their own interest, as well as to that of the employer, that they should do so. Under the circumstances it is almost certain that substantially all employees who are past middle age when the Social Security Act takes effect, or when a new private annuity plan is inaugurated in the future, will come under the Federal system while the younger employees will be covered under the private annuity plan.

3. Under the amendment it will be to the advantage of the employer to hire only men in the younger age groups.

It needs little explanation that the contributions can be less to pay the same annuity to a man who remains in an annuity system a long number of years than to one who remains in the system but a few years. The cost of an annuity of $1 per annum, beginning at age 65, purchased at insurance company rates, is approximately $1.8622 at age 22; $2.1827 at age 27; $4.2710 at age 47; $6.4757 at age 57.

With such greater costs for older-age groups, it is very evident that an employer can provide benefits as liberal as those of the Federal plan at a much lower cost, if he pursues the policy of hiring only men in the lower-age groups. Employers do not have to discharge employees when they grow old to get this advantage. All that they have to do is to establish a low hiring age limit. Many employers now have such low hiring age limits. The Clark amendment will very materially increase the tendency toward the adoption of such hiring age limits.

4. Employers with private annuity plans will derive great financial advantage through all deaths of employees before reaching retirement age.

Approximately 75 percent of all persons entering industry die before they reach age 65, which is the retirement age in title II and under most private annuity systems. Whenever an employee dies, his estate is to get, under the Clark amendment, at least as liberal benefits as under title II. Under title II the benefits payable on the death of an employee will on the average equal the contributions made by the employee himself, with 3 percent interest. The estate will not get back the contributions of the employer. In the Federal system the saving which thus results goes to the employees who survive until they reach retirement age. Under the Clark amendment this saving will go to the employer.

5. The Clark amendment will wreck the financial basis of the Federal system.

The taxes collected under title VIII of the Social Security Act will in over a long period of time equal the benefit payments that will have to be made under title II. This actuarial balance, however, will be possible only on the assumption that all industrial workers will be brought within the Federal plan. As has been noted above, the Clark amendment will operate to take out of the Federal plan many of the younger industrial workers, while it will give an excessive percentage of the older workers to the Federal system. Under title II the taxes paid by and for the benefits of the older workers will not equal the benefits paid to them, while the taxes paid on the earnings of the younger workers will exceed these benefits. Consequently, through covering a large percentage of the younger employees in the private annuity plans, the financial basis of the Federal system will be wrecked. The benefits provided for the older workers can in that event be paid only through increases in the taxes upon employers who remain within the system or through large governmental contributions.

The same effect is produced through the fact that under the Clark amendment the Federal plan will not get the advantage of the employers' contributions in the event of the death of employees before reaching age 65. This will affect approximately 75 percent of all employees who will be brought under the private annuity plans, and will cause an immense loss to the Federal system.

6. This amendment will greatly increase the difficulties of administering titles VIII and II.

Under the amendment not all employees and not all employers of plants having approved private annuity plans will be outside of the Federal system. Employers will have to pay taxes on those of their employees who are not under their private annuity plan. Without private annuity plans, the tax collection is quite simple, as the Treasury has to pay attention only to the total of the employer's pay roll. Under the Clark amendment it will have to check the individual employees on the pay rolls, immensely increasing the difficulties of collection.

Other difficulties result when employees leave the employment of an exempted employer or otherwise withdraw from his private plan. In that event back taxes have to be paid, and these may be due for many years. This involves going into all pay rolls during the period while the withdrawing employees were with the plan, assuming that such pay rolls have been preserved. There is nothing in the amendment, however, to require that the pay rolls shall be kept any particular time, and if pay rolls are no longer available it will be still more difficult to ascertain the back taxes that are due. The great majority of all employees who come into the employment of an exempted employer are certain not to remain within the employment until age 65, so that this problem of computing the back taxes will be one which will recur in many thousands (perhaps millions) of cases annually.

7. Only relatively large plants can set up private annuity plans.

Of the employees covered under existing private annuity plans, 30 percent are with companies that have over 100,000 employees; 70 percent with companies having over 25,000 employees; and 98 percent with companies having over 2,000 employees. A small employer cannot take advantage of the Clark amendment. It is one which in practice will be a special privilege to the large employers only.

RESPECTS IN WHICH THE CLARK AMENDMENT IS EXTREMELY VAGUE

1. It is not clear in this amendment whether the private annuity plans must be as liberal as the system of Federal old-age benefits under title II of the Social Security Act for all employees, regardless of age or length of employment, or only whether the plan must on the average give as liberal benefits as those provided under title II.

This is a very important point. A private annuity plan may very well give more liberal benefits than the Federal plan for the great majority of employees and yet give no benefits at all, or very inadequate benefits, to the older employees and those who are with the company only a very short time. Most of the existing plans give benefits only to employees who have been with the company for 20 to 25 years. To such employees more liberal benefits can be given than under the Federal plan, and yet the effect of such a private annuity system would be to dump all of the relatively short-time employees on the Federal system, and it is for these employees that the annuities under the Federal plan are most costly.

2. There is no requirement that the contributions to the private annuity plan must be irrevocably earmarked for the payment of pensions or that pensions once granted must be continued throughout the life of the pensioner.

The amendment provides that the contributions must be deposited with a life-insurance company, an annuity organization, or a trustee approved by the Board. There is nothing to prevent the employer from terminating his plan at any time; in fact, it is provided that the board shall withdraw its approval of a plan whenever the employer so requests. When this occurs, there is nothing to guarantee that employees already retired will continue to receive their pensions. The employer must pay back taxes for the employees then in his employ, but any balance remaining in his fund belongs to him.

3. No control is vested in the social security board over contracts which the life-insurance companies, annuity organizations, and trustees make with employers maintaining private annuity plans.

The provisions of these contracts are very material for the adequate protection of the rights of the beneficiaries, but it is at least doubtful under the amendment whether the board can refuse to approve a life-insurance company, an annuity organization, or a trustee because it does not believe that the contract made with the employer adequately protects the employees.

4. No safeguards are included which will make it certain that the Government will be able to collect the back taxes which become payable upon withdrawals from the plan or its complete termination.

Withdrawals will occur in a majority of all cases, since most employees do not remain with one employer throughout their entire industrial life. Likewise, there will be numerous instances

in which employers who have established private annuity plans will go out of business or for other reasons discontinue their plans.

For these reasons, it is certain that employers will have to pay large amounts in back taxes. There is no provision in the amendment under which employers are required to set up reserves for the payment of back taxes. The annuity fund must be deposited with a life-insurance company, an annuity organization, or a trustee, but there is nothing in the amendment which provides that the annuity fund shall be available for the payment of back taxes. Further, an annuity fund may be exhausted and no money may be available for the payment of back taxes.

I. FURTHER COMMENTS ON THE CLARK AMENDMENT

1. The Clark amendment provides adverse selection against the Federal system. While the requirement that the employer and employee pay an equal amount of taxes into the private fund prevents the employer from reducing his payments below the level of the taxes, nevertheless, it is almost certain that the Government fund will be loaded with all the older employees and find it impossible to pay the scale of benefits specified out of the taxes provided in title VIII. When a deficit occurs in the future, the rates in title VIII will have to be adjusted upward or the Government will have to subsidize the system out of general-tax revenues.

2. As was pointed out in the debate on the floor of the Senate, this amendment seriously threatens the constitutionality of title VIII. This exemption is wholly different from the other exemptions in the title. It taxes employers who fail to set up an approved annuity system and falls squarely under the language of the Supreme Court in the Child Labor Tax case holding the so-called "tax" in that law a penalty because "it provides a heavy exaction for a departure from a detailed and specified course of conduct of business."

In order to save title VIII from being held unconstitutional, it would appear imperative either to throw out this amendment altogether or to change it from an exemption of the tax to a payment in title II to such employers.

3. There is nothing in the Clark amendment which will effectively prevent employers from placing all their older employees on the Government fund and retaining in their own fund the younger employees. They could even cause employees to change from one fund to another at any future time, if such change became advantageous to their own fund. For example, if one of their employees were due to retire within a short time, and the contributions paid in on his behalf were less than the actuarial equivalent of his annuity rights, he could be induced to elect the Government system. It is almost a certainty that private employers in the future would keep in their own fund only those employees who would be profitable to the fund. In this way these employers and their younger employees would shirk all responsibility for the older employees—even those within the employment of the particular fund. Obviously this will have to be corrected.

4. Under the Clark amendment, practically every employee of a private employer having an approved retirement plan would be entitled, when he retired, to draw two benefits—one from the private plan, one from the Government for employment other than under such employer. Practically no employees would have worked for a single employer for a lifetime. This would result in these employees drawing larger benefits than they would be entitled to if they were under only one system. For example, suppose an employee with an average salary of $1,000 annually were employed for 10 years in employment under the Government fund and 10 years under a private plan just before retirement. He would be entitled to receive a monthly benefit of $20.83 from the Government and an equal amount from the private plan, making a total of $41.66 a month. But if he had remained continuously under either the Government or the private plan, he would be entitled to draw a monthly annuity of only $29.17. In other words, this employee would receive a pension of $12.49 per month greater than he would otherwise be entitled to. This would constitute a heavy drain upon both funds. The private employer may escape such extra cost by refusing to employ older persons, who have been previously employed with other employers, but the Government cannot so protect itself.

The results which will inevitably flow from this defect will be the absolute refusal of companies with private plans to employ older or even middle-aged workers, except under the condition that they elect the Government plan. This will be difficult to do. It is prohibited in the law, and the employee will recognize that it is to his advantage under the circumstances to elect the private plan. The result will be a refusal by the employer to take on any but very young employees.

5. The Clark amendment provides a very great incentive for employers with private plans to employ only younger persons and to discharge their older employees. By escaping their just share of the cost of annuities for the older persons, such employers in the future will be able to pay much larger annuities than provided in the Government plan. It is well known that in the long run retirement allowances become a component part of salary. The larger the retirement allowance, the lower the salary which is necessary to pay to retain employees. This is well known. Many illustrations could be cited. Employers with private plans will profit almost as much by being able to pay larger benefits as if they were permitted to reduce their contributions.

Under further leave to extend I here submit, as part of my remarks, the following statement by J. B. Glenn:

ALLOWING THE ADOPTION OF THE CLARK AMENDMENT WOULD RESULT IN AN ULTIMATE COST OF BILLIONS OF DOLLARS TO THE FEDERAL GOVERNMENT

To pay benefits scheduled under title II to those who will be entitled to benefits during the earlier years of the Federal annuity system, the Federal Government will deliberately incur a huge deficit of many billions of dollars. This is chiefly because the older workers will receive in annuities much more than the total taxes paid by them and by their employers on their behalf.

The plan is so designed, however, that this huge deficit is gradually wiped out by the profits the Government will make on the annuities of younger workers. The deficit will be eliminated because the tax paid by the employers of younger workers and by the younger workers themselves will more than suffice to pay the benefits to these young workers.

For example, take the case of a young worker, earning $100 per month and entering the system in 1949, at 24 years of age. The profit to the Government from his contribution of $36 per year and his employer's contribution of $36 per year, will be $24 per year, because the sum of $48 per year would be enough to purchase the benefits which he will receive under the bill.

Suppose there are 5,000,000 of these young workers ultimately absorbed in private pension plans. The Federal Government will annually lose $24 for each such worker in these private plans, or $120,000,000 per year. This is part of the profit which was calculated to offset the deficit incurred in the earlier years of the plan and to make the plan actuarially sound. The loss of this profit would make it necessary for the Federal Government to make up this sum from other sources in order to meet its obligations under title II.

J. B. GLENN,
Fellow of the Actuarial Society of America, Fellow of the American Institute of Actuaries, Fellow of the Casualty Actuarial Society.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS of Maryland. Mr. Speaker, I must begin by confessing that I have little to contribute after the discussion we have had by Congressman HILL except my deep conviction of the ill wisdom, indeed of the very destructiveness of the Clark amendment. I am not alone in this opinion. May I give you the advantage for a minute of the result of a comprehensive and responsible study of the whole subject of private industrial pension systems? Observe these two large volumes entitled "Industrial Pension Systems." These books represent the investigation of an economist and statistician, Dr. Latimer, who undertook this work, just published in 1933, at the instance of the Industrial Relations Counselors, Inc. This board's purpose, so far as I can gather, would resemble in a general way the Brookings Institution, with whose contributions you are doubtless familiar. Its membership consisted of Raymond B. Fosdick, chairman; William B. Dixon; Ernest M. Hopkins; Cyrus McCormick, Jr.; John D. Rockefeller, 3d; Arthur Woods; and Owen D. Young.

Now, let me read the conclusions of this very eleborate and responsible study:

By and large the bulk of industrial pension plans in the United States and Canada are insecure; first, because of inadequate financing; second, because of lack of actuarial soundness, even in those cases where some funds have been provided; third, because of failure to provide proper legal safeguards both in connection with funds and with the preservation of rights for employees; and, fourth, because of the absence of definite administrative procedure for carrying out the terms of the plans. Unless the policies pursued by most companies at the present time are changed, there is not much hope for improvement (p. 902).

And then a sentence which appears a little farther on in the book:

The voluntary provision of complete old-age security by industry under a business economy in which the criterion of success and the condition of continuous existence is profits, inevitably involves inescapable contradictions (p. 945).

Mr. COLE of Maryland. Mr. Speaker, will the gentleman yield at that point?

Mr. LEWIS of Maryland. I yield for a very brief question.

Mr. COLE of Maryland. As I understand the Clark amendment, it subjects all private retirement systems, both as to conditions of retirement supervision and the investment of the funds to the board created under this act.

Mr. LEWIS of Maryland. That is true, but the fact lacks significance. Such control is of nominal value only after these interests have been allowed to chisel in and appropriate the low-cost employees, leaving the high-cost employees on the Government fund.

If anybody in the United States can speak on this subject with an assurance of sincerity and, indeed, with a high degree of guaranteed knowledge, it is the president of the American Federation of Labor. In a circular letter received this morning, I find him stating:

Labor is very much exercised over this amendment, as it exempts private annuity plans conducted by employers. Anyone who is well acquainted with the reasons for creating these private annuity plans and the suffering that follows could not for a moment approve that amendment.

I jump several paragraphs of his letter:

Now, therefore, in the name of the organized wageworkers of the United States, as well as those unorganized, I wish to appeal to you to vote against incorporating in the social-security bill the Clark amendment.

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Maryland. Yes.

Mr. VINSON of Kentucky. The gentleman has given much thought to this subject. I wish he would discuss, if he will, the effect of the Clark amendment on persons 45 years of age and over.

Mr. LEWIS of Maryland. It is perfectly apparent in entering into any annuity system like this, Mr. Speaker, that those who enter early would need to pay but a very, very small annual subscription to build their annuities payable to them 30 or 40 years later. In the complete wage-annuity system provided by this bill it is also perfectly apparent that those who enter it older would have to pay much larger subscriptions. The bill provides a flat rate of subscription on all to build a fund adequate to take care of young and old.

Under the Senate amendment the employer by "contracting out" with insurance companies could get much lower rates for young employees, with the result that young persons would be preferred for employment. They attempt to meet this self-evident objection by referring to the following proviso in the amendment:

Provided, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

I pronounce this the grand mockery of our age, that the employees are to have the right to elect, forsooth, under the amendment.

Does anybody believe for a moment that it would confer a real power of election upon the laborers of the United States? I have labored myself for many years. There never was a moment in all of my experience when I had the election as to any condition of my employment; and none will be effectually carried here. I do not complain. Doubtless my employers felt they had to have uniform rules, but they made them, and they left me no election. The youngsters now are already under a high preference. You know about the age limit of employability at 45. The youngsters already under preference are going to have their preference magnified. Because as they may cost the employer but 1 percent on wages while the older case 3 percent the older ones are going to be dismissed at the gate.

Mr. Speaker, the working men and women over 45 years of age are already under a deathlike discrimination in the United States today. I had occasion to state the other day that we had started a new class in America, which I christen "America's untouchables."

They are the men, and who without a day in court are rejected and dismissed at the gate because they are 45 years of age. Would you add by this amendment an additional inducement to competing employers to accentuate this monstrous evil even as against those who are now employed? If we cannot do justice to them, let us pity, at least, these old men and women who are thrown on the scrap heap by industry because their arms are no longer strong enough or swift enough to turn its great wheels in the competitive struggle. This is not an amendment intended to reward pioneer employers who, on their motives of humanity, had organized their systems. If that were the motive of the amendment, it would apply only to a company found conducting such a system on the 1st day of January 1935 and in successful operation for a number of years, which, on qualifying with the Board, might be treated as an exemption. [Applause.]

[Here the gavel fell.]

EQUITY AND JUSTICE IN THE PAYMENT TO THE PHILIPPINE GOVERNMENT FOR LOSSES IN ITS CURRENCY RESERVES

Mr. DELGADO. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a joint statement to the Senate Committee on Appropriations made by the Philippine Resident Commissioners in the United States.

The SPEAKER. Is there objection to the request of the Resident Commissioner of the Philippine Islands?

There was no objection.

Mr. DELGADO. Mr. Speaker, in connection with the second deficiency bill for the fiscal year 1935, I think all Members of Congress are entitled to know the Philippine government's side with reference to the item of $23,862,750.78 due said government as part of its currency reserves. For that reason, Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following joint statement of the Philippine Resident Commissioners to the Senate Committee on Appropriations:

To the Chairman and Members of the Senate Committee on Appropriations:

On behalf of the government of the Philippine Islands and the Philippine people whom we have the honor of representing, and agreeable to your suggestion made to us yesterday during our personal appearance before your subcommittee, we respectfully petition your committee to insert in the second deficiency appropriation bill now before you an item of $23,862,750.78 as payment to the government of the Philippine Islands as part of its currency reserves. This item has been recommended in the Budget submitted by the Treasury and War Departments.

In support of this petition we respectfully urge upon you the equity and justice of this payment, as will be gathered by the following:

PAYMENT PROMISED BY CONGRESS

On June 19, 1934, the President of the United States approved an act known as "Public, No. 419", of the Seventy-third Congress, the pertinent provisions of which follow:

"That the Secretary of the Treasury is authorized and directed, when the funds therefor are made available, to establish on the books of the Treasury a credit in favor of the treasury of the Philippine Islands for $23,862,750.78, being an amount equal to the increase in value (resulting from the reduction of the weight of the gold dollar) of the gold equivalent at the opening of business on January 31, 1934, of the balances maintained at that time in banks in the continental United States by the government of the Philippine Islands for its gold-standard fund and its treasury-certificate fund, less the interest received by it on such balances.

"SEC. 2. There is hereby authorized to be appropriated, out of the receipts covered into the Treasury under section 7 of the Gold Reserve Act of 1934, by virtue of the reduction of the weight of the gold dollar by the proclamation of the President on January 31, 1934, the amount necessary to establish the credit provided for in section 1 of this act.

The above act was passed as an expression of the American Congress following a complete and exhaustive investigation into the merits of the proposal. We respectfully submit for your consideration a review of the record of the hearing on H. R. 9459 which preceded the enactment of Public, No. 419, Seventy-third Congress, and which hearing was conducted by the House Committee on Insular Affairs.

The bill was reported by the committee of the House and later by the committee of the Senate without a single dissenting vote and was passed by Congress with overwhelming support. No phase of the question was left unexplored by the committees of the House and Senate prior to the passage of that act, and it is noteworthy that not a single witness appeared in opposition to the justice or equity of that proposal. A substantial majority of the Members of the Congress which enacted that measure are Members of the present Congress.

Your petitioners, therefore, feel that unless there are circumstances and conditions to which our attention has not been called which militate against the immediate appropriation of the funds proposed in this congressional act, we are in this petition only asking that the American Congress make the appropriation which it has already authorized in the language of Public, No. 419 "when the funds therefor are made available."

CONDITIONS NOT CHANGED SINCE PASSAGE OF ACT

Since President Roosevelt under date of May 7, 1934, recommended to Congress the authorization of the payment to the Philippine Government no circumstance or condition has changed the basis upon which the President's recommendation was made or the principle underlying the action of Congress in respect thereto.

President Roosevelt's letter addressed to the Chairman of the Senate Committee on Banking and Currency follows:

THE WHITE HOUSE,
Washington, May 7, 1934.

Hon. DUNCAN U. FLETCHER,
Chairman Committee on Banking and Currency,
United States Senate, Washington, D. C.

DEAR SENATOR FLETCHER: With the approval of the United States, the government of the Philippine Islands has for many years maintained in banks in this country the major portion of the currency reserves of its monetary system, and has always considered these deposits the equivalent of a gold reserve.

The effect of my proclamation of January 31, 1934, was not only to reduce, in terms of gold, the value of these currency reserves, but indirectly to devalue, in terms of gold, the entire currency circulation of the Philippine Islands. The United States enjoyed an increase in the value of its currency reserves corresponding to the decrease in the value of the dollar.

As the Philippine currency is interlocked with the United States gold dollar under laws enacted by the United States Congress, it would be equitable to reestablish the Philippine currency reserves on deposit in the United States at their former gold value as of January 31, 1934.

I am advised that S. 3530, now under consideration before your committee, is designed to accomplish this purpose.

I recommend its enactment.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

Everything stated in the letter of the President is just as true today as it was in May 1934. The proclamation of January 31, 1934, did in fact reduce, in terms of gold, the value "of these currency reserves" and did devalue, in terms of gold, the currency circulation of the Philippine Islands. That condition maintains. Nothing has corrected it.

Philippine currency is interlocked with the United States gold dollar, as the President so clearly stated, under laws enacted by the United States Congress, which laws are still in full force and effect.

Nothing has removed any of these conditions upon which the President declared "it would be equitable to reestablish the Philippine currency reserves on deposit in the United States at their former gold value as of January 31, 1934."

SENATE COMMITTEE HAS ACTED

Your attention is respectfully invited to the following portion of the report of the Senate Committee on Insular Affairs in connection with S. 3530, the Senate bill which ultimately became Public, No. 419:

"The experts of our Government have decided that the credit of $23,868,750.78 is just, equitable, and fair, and the committee feels that no great government can do less than what is proposed in this bill for its dependent people. It is in no wise suggested that any and all funds on deposit in this country to the credit of individuals and the insular government, over and above the funds actually held as currency reserve funds, should be enhanced in value by an act of Congress.

"Coincident with the Independence Act, a refusal on the part of the American Government to meet its moral obligation in readjusting the currency reserves of the insular government, the value of which is interlocked with our own monetary system, is inconceivable. Such refusal would be an omission unworthy of a great Government and of the Congress, on whom this responsibility now rests."

The "moral obligation in readjusting the currency reserves of the insular government" to which the Senate Committee referred, is, in the absence of any changed conditions or circumstances, as compelling today as it was at the time the Senate Committee so conclusively declared its position. There remains only the moral obligation to carry out the moral obligation agreed to.

LOSSES INCURRED BY PHILIPPINE GOVERNMENT

Nothing could be more conclusive as to the factual circumstances surrounding losses to the Philippine government as a result of the President's proclamation than the following comprehensive statement contained in the report of the Senate Committee on Insular Affairs (Rept. No. 1209, 73d Cong.):

"On January 31, 1934, the insular government had on deposit in American banks $56,276,056.92, a fund constituting the major portion of the currency reserves of the Philippine government, on which the circulation of the insular government is based. This fund, deposited in dollars, has always been considered as the equivalent of gold. Applying the same revaluation as given the United States gold dollar by the proclamation of the President, this fund now amounts to $95,282,398.87, or an increase, had the fund been in actual gold, of $39,006,341.95.

"It is obvious that any change in the value of our dollar automatically changes in the same proportion the value of the peso, the standard unit of value in the Philippine Islands. It is also obvious that the Presidential proclamation of January 31, 1934, in effect, expanded the currency reserves of the United States, but contracted the reserves of the Philippine government, since the Philippine reserves are in dollars.

"In a conference between officials of the Treasury Department, the Bureau of Insular Affairs, acting for the Secretary of War, and the Budget officer, it was decided that the full amount of this credit should not be given to the reserve fund of the insular government, but from this $39,006,341.95 should be deducted $15,143,591.17, the interest which has accrued to the insular government since January 1923. This leaves a balance of $23,862,750.78, which, it is thought by the President and the above-named officials, represents the sum which should be credited to the Philippine government on the books of the Treasury in order to restore the gold value of the Philippine currency reserves as of January 31, 1934.

"When the gold content of the United States dollar was diminished we took credit on our books for approximately $2,811,013,126. Had the insular government had on deposit on the date of the above-mentioned proclamation gold bullion or actual coins as their currency reserve, there would have been no need for this legislation or any adjustment, for the reason that their gold would have increased in value, as did the United States gold.

"During the fall of 1932 the government of the Philippine Islands made representations to this Government with a view of including specific stipulation in the depository agreements that withdrawal of its currency reserve funds should be in gold coin of the United States at the election of the Philippine government. The Secretary of War through the Bureau of Insular Affairs, acting for this Government, stated that he did not 'deem as expedient the amendment of the depository agreement as suggested by the Philippine government.'

"In March 1933, 10 months prior to the President's proclamation, other representations were made on the part of the Philippine government seeking the assurance that deposits of the Philippine government in the United States stand on an equal basis with the deposits of the United States Government and recommended that all deposits of the insular government, except $10,000,000 required for ordinary expenses, be deposited in the Treasury of the United States. Under conditions obtaining in this country in 1932 and 1933, the officials of our Government deemed it inadvisable to accede to any of these requests, although the Philippine government had every right to make these requests and to expect them to be granted."

Not only does the above statement of the Senate committee establish the loss to the Philippine government resulting from devaluation, but it clearly establishes the equities involved in the claim of the Philippine government which Congress promptly recognized by the passage of the act of June 19, 1934.

COOPERATION OF PHILIPPINE GOVERNMENT

The Governor General of the Philippine Islands on June 29, 1933, after reviewing the financial and monetary affairs of the Philippine Islands and with a view to future developments in respect thereto, officially requested:

"That our gold standard and Treasury-certificate funds be converted into gold coin of the standard existing at the time these deposits were made with the depository banks; this coin to be deposited in the United States Treasury or Federal Reserve banks and authority of the President secured to earmark it for their account, by amending the Executive order of April 5, 1933 (which was the first order of the President restricting the circulation of gold). There will be, however, no necessity for withdrawing the above-mentioned deposits from the present depository banks at this time if it is possible to obtain Government assurance that conversion into gold of the standard existing as above outlined, may be at a later date."

Here was an expression of the Governor General anticipating those necessary changes which would place the Philippine reserves in a position of security in the face of any subsequent order or proclamation.

Between June 29, 1933, and January 17, 1934, as pointed out in the Senate report, numerous cables were forwarded by the Governor General of the islands expressing the concern of the islands and stressing the necessity for assuring the gold content of the Philippine reserves on deposit in the United States.

These were supplemented on January 15, 1934, by a letter from the acting secretary of finance of the Philippine Islands addressed to the Secretary of War, in which was reiterated the desire of the Philippine Government that its deposits be treated by the United States Treasury as deposits of coined gold.

The request was sent to the Secretary of the Treasury by the Secretary of War on January 17, 1934.

Finally on January 17, 1934, 2 weeks prior to the President's proclamation, the following cable was sent by the Governor General to the Secretary of War:

"Referring to telegram from this office June 29, no. 212, in particular, as well as other previous cables pertaining to Philippine currency. Have you further information relative to earmarking in gold Treasury certificates funds and the gold-standard fund? Believe allotment of gold to these funds on the basis of present gold content is but fair to Philippines, thus granting Philippine government same advantage as United States in reduction of content of gold dollars backing gold-standard fund and Treasury-certificate fund. Am exceedingly anxious to receive definite decision."

All of the above was reviewed in the report of the Senate committee before enactment of the act of June 19, 1934, recognizing the justice and equity of the payment to the Philippine government.

The Senate committee on the basis of circumstances, conditions, and acts as above referred to, concluded its report as follows:

"At any time, following these representations, prior to January 31, 1934, the Treasury Department could have lawfully sold to the Philippine government gold in the amount of their currency reserves on deposit in the United States at the old value of $20.67 an ounce, or could have authorized the earmarking of gold to be

paid for by the Philippine government with the funds on deposit in the United States. This, however, was not done, although the insular government from time to time has been given assurance by our officials that their interests would be equitably adjusted."

"Our Government, not having acceded to these suggestions and requests, is certainly morally obligated to expand the base of the currency reserves of the dependent government, and to do so without further delay in order to avoid further possible domestic and international financial complications.

"It should be borne in mind that we are dealing in this bill exclusively with the currency reserve funds of the Philippine Islands, and that question should not be confused with the question of individual transactions between the people of the two governments.

"In the case of the Filipino people, they have been forced to take the personal loss—their gold has been turned in, just as was the gold of our own citizens—but no benefits will accrue to them or their government until the value of their gold reserve is reestablished by the Government of the United States. In the case of our own citizens, while the individual may not have been credited, nevertheless, the credit goes to the Federal Government or the whole of the American people, each State, of course, having the same currency system as the Federal Government. It is quite certain that if any State had a separate monetary system tied in with the national money by an act of the Federal Government, the government of such a State would undoubtedly have the same rights and equities as are sought to be established by this bill.

"The Philippine National Bank now owns Liberty bonds and other obligations of our Government amounting to approximately $17,000,000. Likewise, many American securities are held by individual Filipinos. Those obligations will be paid, not in gold, but in legal currency, which means that they will be paid with a devaluated dollar. It should also be stated that the insular government has outstanding bonds of the Manila Railroad payable in pounds, guilders, and Swiss francs. In amortizing these bonds in foreign currencies, due to the difference in exchange as a result of the action of the American Government in revaluing its money, a loss of approximately $10,000,000 will be sustained by the insular government. Surely no one can fail to see the inequity in a failure of our Government to make the insular government whole in a loss occasioned by our own action."

Your attention is directed to supplemental statements of General Cox, Chief of the Bureau of Insular Affairs, on pages 15 to 23 of the hearings of the House Committee on Insular Affairs on H. R. 9459, and to the statement of Lt. Col. Edward A. Stockton, Jr., of the Bureau of Insular Affairs, as contained in the hearings of the House Committee on Appropriations on the second deficiency appropriation bill (pp. 426–427), and to the statement of Mr. Laylin (ibid.) in support of the equities involved in the claim of the Philippine government, all of which stand undisputed in the record.

CONCLUSION

The loss sustained by the Philippine government is definitely established in the depreciation of its currency reserves level due the devaluation of the dollar as a result of the President's proclamation in the amount of $23,862,750.78 after deducting the interest received by it on its deposits prior to January 30, 1934. The loss so incurred would have been avoided had the recommendations of the Philippine government through its designated officials been accepted by the American Government, but which recommendations were not put into effect. When the American Congress was presented with the facts in relation to these matters it solemnly expressed its moral obligation in an act of Congress approved by the President of the United States on June 19, 1934.

Every official of the American Government conversant with or a party to the financial relations of the American Government and the government of the Philippine Islands has recommended the payment of the obligation represented in the claim of the Philippine government.

Your petitioners respectfully submit that in the face of the uncontroverted record, the recommendations of the President of the United States, the recommendations of all public officials conversant with the subject matter, and the solemn act of Congress admitting the moral obligation involved, there is nothing left for the consideration of your committee than the actual appropriation of the item requested.

Conditions and circumstances have not changed. The injury to the Philippine government resulting from the order of the President of January 31, 1934, revaluating the dollar and the equity of the Philippine government to a portion of the "profit" gained by the United States Government as result of the Presidential order, have been clearly established. Your petitioners urgently request your serious consideration of the matters herein related and your favorable action thereon.

Very respectfully submitted.

PEDRO CUEVARA,
F. A. DELGADO,
Philippine Resident Commissioners in the United States.

SOCIAL-SECURITY BILL, 1935

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. MEAD].

Mr. MEAD. Mr. Speaker, I am very much concerned with this amendment, and, as one who has been closely identified with industrial pension plans, I trust that this House will instruct the conferees to reject the so-called "Clark amendment."

The particular reason for my objection to the amendment is that it initiates the Federal system with the worst possible obstacle that we can put in its path. Ever since the creation of the State and private systems there has been a necessary tightening up on the part of industrialists in regard to the appointment of men over 40 years of age. It is a pathetic state to have a constituent of the age of 40, 45, or 50 call on you and tell you his tale of woe as to how he tramped from one industrial plant to another pleading for work, only to be denied the opportunity because his employment would put an increased load on their retirement system. Therefore, for the sake of the aged who are the primary objects of this bill, we ought to eliminate the Clark amendment, and give the Federal system a most appropriate opportunity to display its relative merit.

May I say one other thing from the record? Only 4 percent of the men who are covered by private systems are eventually retired by such systems. Recurring seasonal and cyclical depressions find the aged laid off first. The youthful employees are returned to work first, and in many instances the aged are permanently separated from their jobs and their pensions. Under the Federal system it makes no difference whether you are 20, 40, or 60 years of age, the cost is uniform and does not vary. It would be just as advantageous for an employer in a private plant to employ a man 40 as it would to employ a man 20; but under the system permitted by the Clark amendment it would be to his distinct advantage to employ younger men and to discharge older men. That would be the result of a dual system of pensions.

Private pension plans will have the youth of the country enrolled in their systems, and as men become aged they will have to find a haven of refuge in the Federal plan, and therefore we will be spending more money; we will have the most difficult class to protect, and the private pension plans in protection of their own systems will constantly load the Federal system with the aged workers of the country.

I plead not so much for the pension plan as I plead with you this afternoon for the aged workers of our country; and I say to you, no matter what promises may be made by the proponents of this amendment, the history of our experience with the industrial pension plans during the last quarter of a century indicates that the aged have been penalized and have been taken out of permanent employment and cast upon the scrap heap of life there to depend upon the charity of the Government. Therefore, in justice to the aged and in justice to this plan that we are initiating, let us vote down the Clark amendment and give some hope to the aged, the tragic victims of this machine age. [Applause.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. SAUTHOFF].

Mr. SAUTHOFF. Mr. Speaker, I am opposed to the Clark amendment and I trust that the motion now before the House will be voted down.

The main factor for any concern or any employer in considering what particular annuity system he is going to adopt is the cost of the system. The two prime factors in creating cost are, first, the age of the employee, and, second, the wages of the employee. If it is to be within the control of the private employer what system he is to adopt, naturally he is going to try to reduce these two factors so as to make his cost less by, first, cheaper labor, and, second, younger employees. In this way he can shut out the higher paid labor and he can shut out the older men in the industry. This is exactly the same thing that has been worked, and is being worked today, by department stores and chain stores in the hiring of girls. They hire them on a graduated-scale system. If you work 5 years, you get a raise in pay; if you work 10 years, you get another raise in pay; if you work 15 years, you get a third raise in pay; but before they get to the 10-year period they are let out, and a new crop is constantly coming in. Automatically they are debarred from higher increases in pay. Fire them and you are rid of them. This is the answer, and when these girls go out to seek other jobs in other places they cannot find them. As they grow older it becomes increasingly more difficult to secure work, and thereby increases unemployment.

Besides these two main factors, age and wages, there are some other factors which appeal to me and which I hope you will consider. One of these is when an employee quits and gets a better job, or when he is let out and finds other employment, he starts paying in on his new job, but what happens to what he has already paid in on the old job? In many instances, in fact in most instances, these private systems are under trusteeships, and they are not even protected from claims in case of bankruptcy. In one instance in which I was the attorney I attempted to protect such fund as a preferred fund. The court held there was nothing in the contractual relation that made it a preferred fund, and held that it was commingled with the general assets of the bankrupt concern, and was therefore liable to the debts of the bankrupt concern and that this was not a preferred claim.

It has been mentioned here that many of these firms will take up insurance. Of course they will. They will take up insurance for those over 40 and have a private system for those under 40, because there is nothing in the Clark amendment that provides they cannot set up two systems in one plant. They will take the insurance where it does not cost them as much, because all the overhead of the expense of insurance rates will come out of the fund and not out of the employer. Naturally, he is going to take advantage of this fact.

I now want to point out one more thing which appeals to me as being very serious, and this is the powerful weapon in the hands of the employer over the employee. He can coerce and take away from him all the benefits of the Wagner Labor Disputes Act. The emancipation of the laborer, his deliverance from coercion, his right to act as a free agent, as set forth in this Magna Carta of labor—all its benefits would be seriously endangered if we adopt the Clark amendment.

[Here the gavel fell.]

Mr. SAMUEL B. HILL. Mr. Speaker, in connection with my request to extend my remarks I should like to supplement the request by asking that I be permitted to include memoranda analyzing the Clark amendment and illustrating how it would work and also a one-page letter from J. B. Glenn, Fellow of the Actuarial Society of America, on the same subject.

The SPEAKER pro tempore (Mr. BOLAND). Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMITTEE ON RULES

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight to file reports from that committee.

The SPEAKER pro tempore. Is there objection?

There was no objection.

In accordance with the permission granted by the House Mr. O'CONNOR submitted the following privileged resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. J. Res. 348, a joint resolution "Authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States; withdrawing the right to sue the United States on its bonds and other similar obligations; limiting the use of certain appropriations; and for other purposes." That after general debate, which shall be confined to the joint resolution and continue not to exceed 2 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Banking and Currency, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

THE SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. WITHROW].

Mr. WITHROW. Mr. Speaker and Members of the House, I am opposed to the Clark amendment for two reasons. First, because I am of the opinion that it is actuarially unsound, and second, because I am convinced that it will encourage discrimination against the older employee when he seeks either employment or reemployment.

No plan can be actuarially sound unless all the employees in that industry, both young and old, come under one plan, and unless all of those employees contribute to one fund.

Under the Clark amendment it would be permissible to have not only a private annuity fund, but likewise a portion of the employees of that factory could come under the Federal plan. It naturally follows, owing to the fact that it would be to the advantage of employers, that the older employees would have to come under the Federal plan and to younger employees would choose the private annuity plan. That would result in the younger employees not contributing to the governmental fund, and over a period of years one of two things would happen—either that fund would be depleted or the premiums to be paid would become prohibitive.

We have a number of examples.

I am a member of the railroad brotherhood. I was an officer prior to my election to Congress. We organized an annuity plan that was voluntary. The result was that the only men who chose to come under the plan were the old employees.

The plan had not been working very long before we found that it was a mistake. The result was that the brotherhood lost a number of million dollars, and I sincerely hope that this body will profit by the sad mistakes that we made during those years.

In cases where railroads now have company pension plans to which both employer and employee contribute, it has been our experience that the managements have found reason to lay off employees on one pretext or another, prior to the time they reached a pensionable age. This is not a matter of theory or conjecture. I can cite numerous examples.

Mr. HOUSTON. Will the gentleman yield?

Mr. WITHROW. I yield.

Mr. HOUSTON. What effect would this have on the railroad pension plan?

Mr. WITHROW. It would have no effect at all—none whatever.

Mr. HOUSTON. I understand that, but in the event that we defeat the Clark amendment, as I hope we will, what effect will it have on the present retirement pension plan?

Mr. WITHROW. None at all. Under the Clark amendment it would be to the advantage of the employer to have hired only men in the younger age groups. The cost of an annuity of $1 per annum, beginning at the age of 65, purchased at insurance company rates, is approximately $1.86 at age of 22; $2.18 at age of 27; $4.27 at age of 47; $8.47 at age of 57.

With such greater costs for older age groups, it is very evident that an employer can provide benefits as liberal as those of the Federal plan at a much lower cost if he pursues the policy of hiring only men in the lower age groups. Employers do not have to discharge employees when they grow old to get this advantage. All that they have to do is to establish a low hiring age limit. Many employers now have such low hiring age limits. The Clark amendment would very materially increase the tendency toward the adoption of such hiring age limits and preclude older men from securing employment.

I cannot go further with this subject in the limited time allotted to me. However, it is certain that in order for the Government plan to be successful it must include all age groups, and especially the younger age groups, in order to maintain adequate reserves without resorting to prohibitive contributions by employees or huge subsidies from the Government.

The Clark amendment is unsound in every respect.

I urge that it be defeated. [Applause.]

The SPEAKER. The time of the gentleman from Wisconsin has expired.

Mr. DOUGHTON. Mr. Speaker, I trust the House will insist on disagreeing to and vote down what is known as the "Clark amendment." I do not pretend to pass on the

motives of those who favor this amendment. For aught I know they are sincere, but I am sure that the effect of the Clark amendment will be to cripple or destroy this legislation so that its purposes and its objectives will not be accomplished. This debate has demonstrated clearly that there are many who give but lukewarm or half-hearted support to this legislation, who at heart are opposed to it and would be delighted, in fact, overjoyed, if it could be weakened by the adoption of some amendment whereby it would not accomplish the purpose and objectives for which it is designed. If the Clark amendment should be adopted, that means it would throw the burden on the weak, or almost entirely upon the Government, and that of itself, in my judgment, would tend to so weaken the whole plan that it will be of little or no benefit. Under the Clark amendment the employer with a private plan is exempt only when he is administering his plan properly. Otherwise he is not exempt. If the Clark amendment should be adopted, then you will by necessity have to set up a bureaucracy with a large number of employees because the employee under the Clark plan who is not satisfied with the treatment he receives will be coming post haste to Washington to have an investigation of the employer as to whether or not he is carrying out the purposes and requirements of the act. In that way it will require a large number of Government employees and it will build up a bureaucracy in Washington, the number of whose employees it is not possible at this time to forecast. Moreover, if this law is to succeed, it must have two purposes. It must accomplish the purpose for which it is designed, and it must also stand the test of the courts, and everyone who is familiar with this bill, who is qualified to pass a legal opinion, is convinced that if the Clark amendment is adopted, it seriously endangers the constitutionality of the bill.

They say, on the other hand, and my good friend from Massachusetts [Mr. TREADWAY] contended, that in case the bill should be declared null and void, then the private plan would be destroyed and there would be no protection whatever; but I call his attention to the fact that it is not until 1937 that title VIII is effective, and there will be ample time to have the validity of this act tested in the courts, and if it should fail, then the private plans would still be in existence. So there is no force or potency to that argument.

Mr. DOCKWEILER. As I understand it, under the Clark amendment there is no provision whereby a corporation which wants to have its private pension plan may protect its employees against its own bankruptcy and the fund being dissipated, so that the employees would not get anything.

Mr. DOUGHTON. In many cases that is true. Under the Clark amendment it would not be profitable for older employees to come under private plans. They get favored treatment under the Government plan, and so they would want to stay under the Government plan. The only people who would be covered by private plans would be the younger workers. Thus the Government plan would be left with all the "bad risks", while all the strong contributors would be exempt. Very soon the Government fund would be insolvent, and the entire insurance principle would be destroyed.

Therefore, Mr. Speaker, I am confident the membership of the House will vote down the motion to concur, and further insist on disagreeing to the Clark amendment. [Applause.]

The SPEAKER. The time of the gentleman from North Carolina has expired. All time has expired.

Mr. DOUGHTON. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question now is on the motion of the gentleman from Massachusetts to recede and concur in the Senate amendment.

The question was taken——

Mr. DOUGHTON. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 78, nays 268, not voting 83, as follows:

[Roll No. 132]

YEAS—78

Allen	Darrow	Holmes	Ransley
Andresen	Dirksen	Hope	Reed, Ill.
Andrew, Mass.	Ditter	Jenkins, Ohio	Reed, N. Y.
Arends	Dondero	Kahn	Rich
Bacharach	Duffy, N. Y.	Kinzer	Rogers, Mass.
Bell	Eaton	Knutson	Ryan
Blackney	Ekwall	Lehlbach	Short
Boehne	Engel	Lord	Snell
Brewster	Fish	McLean	Taber
Buckbee	Focht	Marshall	Taylor, S. C.
Carlson	Gifford	Martin, Mass.	Thurston
Cavicchia	Goodwin	Merritt, Conn.	Tinkham
Christianson	Guyer	Michener	Treadway
Church	Gwynne	Millard	Wadsworth
Claiborne	Halleck	Mott	Wigglesworth
Cole, Md.	Hancock, N. Y.	Peterson, Ga.	Wilson, Pa.
Cole, N. Y.	Hancock, N. C.	Pettengill	Wolfenden
Costello	Hess	Pittenger	Woodruff
Crowther	Hoeppel	Plumley	
Culkin	Hoffman	Powers	

NAYS—268

Adair	Dunn, Pa.	Lambertson	Robertson
Amlie	Eagle	Lambeth	Robinson, Utah
Arnold	Eckert	Lanham	Robsion, Ky.
Ayers	Edmiston	Larrabee	Rogers, N. H.
Barden	Ellenbogen	Lee, Okla.	Rogers, Okla.
Beiter	Evans	Lemke	Romjue
Biermann	Faddis	Lesinski	Rudd
Binderup	Farley	Lewis, Colo.	Russell
Bland	Ferguson	Lewis, Md.	Sanders, La.
Blanton	Fiesinger	Luckey	Sanders, Tex.
Bloom	Flannagan	Ludlow	Sandlin
Boileau	Fletcher	Lundeen	Sauthoff
Boland	Ford, Calif.	McAndrews	Schaefer
Boylan	Ford, Miss.	McClellan	Secrest
Brennan	Frey	McCormack	Seger
Brooks	Fuller	McFarlane	Shanley
Brown, Ga.	Fulmer	McKeough	Sirovich
Brunner	Gambrill	McLaughlin	Sisson
Buchanan	Gasque	McMillan	Smith, Conn.
Buck	Gassaway	McReynolds	Smith, Va.
Buckler, Minn.	Gearhart	Mahon	Smith, Wash.
Burdick	Gehrmann	Mansfield	Smith, W. Va.
Caldwell	Gilchrist	Mapes	Snyder
Cannon, Mo.	Gingery	Marcantonio	South
Cannon, Wis.	Goldsborough	Martin, Colo.	Spence
Carmichael	Granfield	Mason	Stack
Carpenter	Gray, Ind.	Massingale	Steagall
Cartwright	Gray, Pa.	Maverick	Stefan
Castellow	Green	May	Stubbs
Celler	Greenway	Mead	Sumners, Tex.
Chandler	Greenwood	Meeks	Tarver
Chapman	Greever	Merritt, N. Y.	Taylor, Colo.
Citron	Gregory	Miller	Taylor, Tenn.
Clark, N. C.	Griswold	Mitchell, Ill.	Terry
Coffee	Hamlin	Mitchell, Tenn.	Thom
Colden	Harlan	Monaghan	Thomason
Colmer	Hart	Montague	Thompson
Connery	Harter	Moran	Tonry
Cooley	Healey	Moritz	Truax
Cooper, Tenn.	Higgins, Mass.	Murdock	Turner
Cox	Hildebrandt	Nelson	Turpin
Cravens	Hill, Ala.	Nichols	Umstead
Crawford	Hill, Knute	Norton	Utterback
Crosby	Hill, Samuel B.	O'Connor	Vinson, Ga.
Cross, Tex.	Hobbs	O'Day	Vinson, Ky.
Crowe	Hook	O'Leary	Wallgren
Cullen	Houston	O'Malley	Walter
Cummings	Huddleston	O'Neal	Warren
Daly	Hull	Palmisano	Wearin
Dear	Imhoff	Parks	Weaver
Deen	Jacobsen	Parsons	Welch
Delaney	Jenckes, Ind.	Patman	Werner
Dempsey	Johnson, Okla.	Patterson	West
DeRouen	Johnson, W. Va.	Patton	Whelchel
Dickstein	Jones	Pearson	White
Dies	Kee	Peterson, Fla.	Whittington
Dietrich	Keller	Pfeifer	Wilcox
Dingell	Kennedy, Md.	Pierce	Williams
Disney	Kennedy, N. Y.	Polk	Wilson, La.
Dobbins	Kenney	Rabaut	Withrow
Dockweiler	Kerr	Ramsay	Wolcott
Dorsey	Kloeb	Ramspeck	Wolverton
Doughton	Kniffin	Randolph	Wood
Doxey	Kocialkowski	Rayburn	Woodrum
Drewry	Kopplemann	Reece	Young
Driver	Kramer	Reilly	Zimmerman
Duncan	Kvale	Richardson	Zioncheck

NOT VOTING—83

Andrews, N. Y.	Burnham	Doutrich	Gillette
Ashbrook	Carter	Driscoll	Haines
Bacon	Cary	Duffey, Ohio	Hartley
Bankhead	Casey	Dunn, Miss.	Hennings
Beam	Clark, Idaho	Eicher	Higgins, Conn.
Berlin	Cochran	Englebright	Hollister
Bolton	Collins	Fenerty	Johnson, Tex.
Brown, Mich.	Cooper, Ohio	Fernandez	Kelly
Buckley, N. Y.	Corning	Fitzpatrick	Kimball
Bulwinkle	Crosser, Ohio	Gavagan	Kleberg
Burch	Darden	Gildea	Lamneck

Lea, Calif.	Montet	Sabath	Starnes
Lloyd	O'Brien	Sadowski	Stewart
Lucas	O'Connell	Schneider	Sullivan
McGehee	Oliver	Schuetz	Sutphin
McGrath	Owen	Schulte	Sweeney
McGroarty	Perkins	Scott	Thomas
McLeod	Peyser	Scrugham	Tobey
McSwain	Quinn	Sears	Tolan
Maas	Rankin	Shannon	Underwood
Maloney	Richards	Somers, N. Y.	

So the motion to recede and concur was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Corning (for) with Mr. Johnson of Texas (against).
Mr. Bolton (for) with Mr. Sullivan (against).
Mr. McLeod (for) with Mr. Lucas (against).
Mr. Cooper of Ohio (for) with Mr. Starnes (against).
Mr. Stewart (for) with Mr. Fitzpatrick (against)
Mr. Hartley (for) with Mr. Somers of New York (against).
Mr. Perkins (for) with Mr. Gavagan (against).
Mr. Fenerty (for) with Mr. Buckley of New York (against).
Mr. Thomas (for) with Mr. Schneider (against).
Mr. Doutrich (for) with Mr. Burch (against).
Mr. Bacon (for) with Mr. Berlin (against).
Mr. Andrews of New York (for) with Mr. Sabath (against).

General pairs:

Mr. Rankin with Mr. Kimball.
Mr. Cochran with Mr. Carter.
Mr. Scrugham with Mr. Burnham.
Mr. Sears with Mr. Maas.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Oliver with Mr. Collins.
Mr. McSwain with Mr. Englebright.
Mr. Crosser of Ohio with Mr. Tobey.
Mr. Montet with Mr Quinn.
Mr. Sweeney with Mr. Eicher.
Mr. Schuetz with Mr. Tolan.
Mr. Haines with Mr. Kelly.
Mr. Bulwinkle with Mr. Lloyd.
Mr. Bankhead with Mr. Casey.
Mr. McGehee with Mr. Driscoll.
Mr. Clark of Idaho with Mr. O'Brien.
Mr. Beam with Mr. Richards.
Mr. Fernandez with Mr. Gildea.
Mr. Kleberg with Mr. Underwood.
Mr. Gillette with Mr. Hennings.
Mr. Schulte with Mr. Scott.
Mr. Duffey of Ohio with Mr. Owen.
Mr. Sadowski with Mr. Dunn of Mississippi.
Mr. Darden with Mr. O'Connell.
Mr. Maloney with Mr. Carey.
Mr. Lamneck with Mr. McGroarty.
Mr. Brown of Michigan with Mr. Lea of California.
Mr. Lea of California with Mr. Ashbrook.

The result of the vote was announced as above recorded.

The SPEAKER. The question now recurs on the motion of the gentleman from North Carolina [Mr. DOUGHTON] that the House insist upon its disagreement to the Senate amendments.

Mr. DOUGHTON. Mr. Speaker, I ask for the yeas and nays.

Mr. SNELL. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 269, nays 65, not voting 95, as follows:

[Roll No. 133]

YEAS—269

Adair	Clark, N. C.	Doughton	Goldsborough
Amlie	Coffee	Doxey	Granfield
Arnold	Colden	Drewry	Gray, Ind.
Ayers	Cole, Md.	Driver	Gray, Pa.
Barden	Colmer	Duffey, Ohio	Green
Beiter	Connery	Duncan	Greenway
Biermann	Cooley	Dunn, Miss.	Greenwood
Binderup	Cooper, Tenn.	Dunn, Pa.	Greever
Bland	Cox	Eagle	Gregory
Blanton	Cravens	Eckert	Griswold
Boehne	Crawford	Edmiston	Hancock, N. C.
Boileau	Crosby	Ellenbogen	Harlan
Boland	Cross, Tex.	Evans	Hart
Boylan	Crosser, Ohio	Faddis	Harter
Brennan	Crowe	Farley	Healey
Brown, Ga.	Culkin	Ferguson	Higgins, Mass.
Brunner	Cullen	Fiesinger	Hildebrandt
Buchanan	Cummings	Flannagan	Hill, Ala.
Buck	Daly	Fletcher	Hill, Knute
Buckbee	Deen	Ford, Calif.	Hill, Samuel B.
Buckler, Minn.	Delaney	Ford, Miss.	Hobbs
Burdick	Dempsey	Frey	Hoeppel
Caldwell	DeRouen	Fuller	Hook
Cannon, Mo.	Dickstein	Fulmer	Houston
Cannon, Wis.	Dies	Gambrill	Huddleston
Carpenter	Dietrich	Gasque	Hull
Castellow	Dingell	Gearhart	Imhoff
Celler	Disney	Gehrmann	Jacobsen
Chandler	Dockweiler	Gilchrist	Jenckes, Ind.
Chapman	Dorsey	Gingery	Johnson, W. Va.
Jones	Marcantonio	Rayburn	Taylor, Tenn.
Kee	Martin, Colo.	Reece	Terry
Keller	Mason	Reilly	Thom
Kennedy, Md.	Massingale	Richardson	Thomason
Kennedy, N. Y.	Maverick	Robertson	Thompson
Kenney	May	Robinson, Utah	Tonry
Kerr	Mead	Robsion, Ky.	Truax
Kloeb	Meeks	Rogers, N. H.	Turner
Kniffin	Merritt, N. Y.	Rogers, Okla.	Turpin
Knutson	Miller	Romjue	Umstead
Kocialkowski	Mitchell, Ill.	Russell	Utterback
Kopplemann	Mitchell, Tenn.	Sabath	Vinson, Ga.
Kramer	Monaghan	Sadowski	Vinson, Ky.
Kvale	Montague	Sanders, La.	Wallgren
Lambertson	Moran	Sanders, Tex.	Walter
Lambeth	Moritz	Sandlin	Warren
Lanham	Murdock	Sauthoff	Wearin
Larrabee	Nelson	Schaefer	Weaver
Lea, Calif.	Norton	Secrest	Welch
Lee, Okla.	O'Connor	Seger	Werner
Lemke	O'Day	Shanley	West
Lesinski	O'Leary	Sirovich	Whelchel
Lewis, Colo.	O'Malley	Sisson	White
Lewis, Md.	O'Neal	Smith, Conn.	Whittington
Luckey	Owen	Smith, Va.	Wilcox
Ludlow	Palmisano	Smith, Wash.	Williams
Lundeen	Parks	Smith, W. Va.	Wilson, La.
McAndrews	Parsons	Snyder	Withrow
McClellan	Patman	South	Wolcott
McCormack	Patterson	Spence	Wolverton
McFarlane	Patton	Stack	Wood
McKeough	Peterson, Fla.	Steagall	Woodrum
McLaughlin	Pierce	Stefan	Young
McMillan	Polk	Stubbs	Zimmerman
McReynolds	Rabaut	Sumners, Tex.	Zioncheck
Mahon	Ramsay	Tarver	
Mansfield	Ramspeck	Taylor, Colo.	
Mapes	Randolph	Taylor, S. C.	

NAYS—65

Allen	Dirksen	Jenkins, Ohio	Reed, Ill.
Andresen	Ditter	Kahn	Reed, N. Y.
Andrew, Mass.	Dondero	Kinzer	Rich
Arends	Ekwall	Lehlbach	Rogers, Mass.
Bacharach	Engel	Lord	Ryan
Bell	Fish	McLean	Snell
Blackney	Focht	Marshall	Taber
Brewster	Gifford	Martin, Mass.	Thurston
Carlson	Goodwin	Merritt, Conn.	Tinkham
Cavicchia	Guyer	Michener	Treadway
Christianson	Gwynne	Millard	Wadsworth
Church	Halleck	Mott	Wigglesworth
Claiborne	Hancock, N. Y.	Peterson, Ga.	Wolfenden
Cole, N. Y.	Hess	Pettengill	Woodruff
Costello	Hoffman	Pittenger	
Crowther	Holmes	Powers	
Darrow	Hope	Ransley	

NOT VOTING—95

Andrews, N. Y.	Corning	Johnson, Tex.	Quinn
Ashbrook	Darden	Kelly	Rankin
Bacon	Dear	Kimball	Richards
Bankhead	Dobbins	Kleberg	Rudd
Beam	Doutrich	Lamneck	Schneider
Berlin	Driscoll	Lloyd	Schuetz
Bloom	Duffy, N. Y.	Lucas	Schulte
Bolton	Eaton	McGehee	Scott
Brooks	Eicher	McGrath	Scrugham
Brown, Mich.	Englebright	McGroarty	Sears
Buckley, N. Y.	Fenerty	McLeod	Shannon
Bulwinkle	Fernandez	McSwain	Short
Burch	Fitzpatrick	Maas	Somers, N. Y.
Burnham	Gassaway	Maloney	Starnes
Carmichael	Gavagan	Montet	Stewart
Carter	Gildea	Nichols	Sullivan
Cartwright	Gillette	O'Brien	Sutphin
Cary	Haines	O'Connell	Sweeney
Casey	Hamlin	Oliver	Thomas
Citron	Hartley	Pearson	Tobey
Clark, Idaho	Hennings	Perkins	Tolan
Cochran	Higgins, Conn.	Peyser	Underwood
Collins	Hollister	Pfeifer	Wilson, Pa.
Cooper, Ohio	Johnson, Okla.	Plumley	

So the motion was agreed to.

The Clerk announced the following additional pairs:

On this vote:

Mr. Johnson of Texas (for) with Mr. Corning (against).
Mr. Sullivan (for) with Mr. Bolton (against).
Mr. Lucas (for) with Mr. McLeod (against).
Mr. Starnes (for) with Mr. Cooper of Ohio (against).
Mr. Fitzpatrick (for) with Mr. Stewart (against).
Mr. Somers of New York (for) with Mr. Hartley (against).
Mr. Gavagan (for) with Mr. Perkins (against).
Mr. Buckley (for) with Mr. Fenerty (against).
Mr. Schneider (for) with Mr. Thomas (against).
Mr. Burch (for) with Mr. Doutrich (against).
Mr. Berlin (for) with Mr. Bacon (against).
Mr. Bloom (for) with Mr. Hollister (against).
Mr. Pfeifer (for) with Mr. Short (against).
Mr. Brooks (for) with Mr. Eaton (against).
Mr. Rudd (for) with Mr. Wilson of Pennsylvania (against).

General pairs:

Mr. Rankin with Mr. Kimball.
Mr. Cochran with Mr. Carter.

Mr. Scrugham with Mr. Burnham.
Mr. Sears with Mr. Maas.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Johnson of Oklahoma with Mr. Plumley.
Mr. Cartwright with Mr. Tobey.
Mr. Carmichael with Mr. Andrews of New York.
Mr. Oliver with Mr. Collins.
Mr. McSwain with Mr. Englebright.
Mr. Montet with Mr. Quinn.
Mr. Sweeney with Mr. Eicher.
Mr. Schuetz with Mr. Tolan.
Mr. Haines with Mr. Kelly.
Mr. Bulwinkle with Mr. Lloyd.
Mr. Bankhead with Mr. Casey.
Mr. McGehee with Mr. Driscoll.
Mr. Clark of Idaho with Mr. O'Brien.
Mr. Beam with Mr. Richards.
Mr. Fernandez with Mr. Gildea.
Mr. Kleberg with Mr. Underwood.
Mr. Gillette with Mr. Hennings.
Mr. Schulte with Mr. Scott.
Mr. Darden with Mr. O'Connell.
Mr. Maloney with Mr. Carey.
Mr. Lamneck with Mr. McGroarty.
Mr. Brown of Michigan with Mr. McGrath.
Mr. Gassaway with Mr. Ashbrook.
Mr. Pearson with Mr. Duffy of New York.
Mr. Nichols with Mr. Hamlin.
Mr. Dear with Mr. Dobbins.

The result of the vote was announced as above recorded.

A motion to reconsider the vote by which the motion was agreed to was laid on the table.

LEGISLATIVE INFORMATION

Mr. LEHLBACH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD. Sometime ago I secured from the Legislative Reference Service in the Library a summary of all acts dealing with compacts between States, pursuant to the constitutional provision on that subject. It has been suggested to me that this information should be made available to the Membership.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. LEHLBACH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following acts of Congress authorizing or ratifying agreements between States for the benefit of Members of Congress:

LIBRARY OF CONGRESS,
Washington, March 21, 1935.

Hon. FREDERICK R. LEHLBACH,
House of Representatives, Washington, D. C.

DEAR SIR: In response to your request of March 16 for information as to how many times Congress has been called on to take action in connection with agreements between the States, I am sending with this a copy of a typewritten summary of "Acts of Congress authorizing or ratifying agreements between States", prepared by Mr. W. C. Gilbert, a member of the staff of the Legislative Reference Service.

Very respectfully,

H. H. B. MEYER,
Director Legislative Reference Service.

Joint resolution of May 12, 1820 (3 Stat. 609, V). Kentucky and Tennessee. Ratification of agreement made on February 2, 1820, to adjust and establish the boundary line.

Act of June 28, 1834 (4 Stat. 708–711). New York and New Jersey. Ratification of agreement made on September 16, 1833, and confirmed by the State legislatures, relating to boundary line, jurisdiction of fisheries, etc.

Act of February 15, 1848 (9 Stat. 211, ch. 10). Missouri and Arkansas. Confirmation of boundary line surveyed by State commissioners and ratified by acts of Arkansas, December 23, 1846, and Missouri, February 16, 1847.

Act of January 3, 1855 (10 Stat. 602, ch. 20). Massachusetts and New York. Consent to cession of district of "Boston Corner" to New York made by Massachusetts, act of May 14, 1853, and accepted by New York by act of July 21, 1853.

Act of February 9, 1859 (11 Stat. 382, ch. 28). Massachusetts and Rhode Island. Attorney General directed to consent to an adjustment of the boundary dispute before Supreme Court by a line agreed on by the parties and confirmed by decree of court.

Joint resolution of February 21, 1861 (12 Stat. 250, no. 9). Arkansas, Louisiana, and Texas. Assent to acts of State legislatures, past or future, looking to removal of "raft" from Red River.

Joint resolution of March 10, 1866 (14 Stat. 350, no. 121). Virginia and West Virginia. Recognition of transfer of Berkeley and Jefferson Counties to West Virginia, "and consent thereto."

Act of March 3, 1879 (20 Stat. 481–483). Virginia and Maryland. Ratification of award in the boundary dispute made on January 16, 1877, by arbitrators appointed under authority of State laws, and confirmed by the legislatures.

Act of April 7, 1880 (21 Stat. 72, ch. 49). New York and Vermont. Ratification of cession by Vermont in adjustment of western boundary near Fair Haven, made by act of November 27, 1876, and accepted by New York on March 20, 1879.

Act of February 26, 1881 (21 Stat. 351–352). New York and Connecticut. Consent to agreement of December 8, 1879, settling the boundary line. See also act of January 10, 1925, below.

Act of October 12, 1888 (25 Stat. 553, ch. 1094). Connecticut and Rhode Island. Consent to agreement of March 25, 1887 (confirmed by Connecticut on May 4, 1887, and by Rhode Island on May 5) settling the sea boundary.

Act of August 19, 1890 (26 Stat. 329–333). New York and Pennsylvania. Consent to agreement of March 26, 1886, settling the boundary line.

Act of July 24, 1897 (30 Stat. 214, ch. 12). South Dakota and Nebraska. Consent to compact signed June 3–7, 1897, settling part of boundary line between Clay County, S. Dak., and Dixon County, Nebr.

Joint resolution of March 3, 1901 (31 Stat. 1465, no. 19). Tennessee and Virginia. Consent to cession of north half of main street between Bristol, Va., and Bristol, Tenn., to Tennessee (made by act of Virginia, Jan. 28, 1901, and accepted by act of Tennessee, Feb. 9, 1901).

Act of March 1, 1905 (33 Stat. 820, ch. 1295). South Dakota and Nebraska. Approval of compact (date not given) establishing boundary south of Union County, S. Dak.

Act of January 24, 1907 (34 Stat. 858–861). New Jersey and Delaware. Consent to agreement of March 21, 1905, defining jurisdiction over Delaware River, including a provision for concurrent legislation affecting fisheries.

Joint resolution of January 26, 1909 (35 Stat. 1160, no. 4). Mississippi and Louisiana. Authorization of compact fixing boundary line and settling criminal jurisdiction upon the Mississippi River.

Joint resolution of January 26, 1909 (35 Stat. 1161, no. 5). Mississippi and Arkansas. Authorization of compact fixing boundary line and settling criminal jurisdiction upon the Mississippi River.

Joint resolution of February 4, 1909 (35 Stat. 1163, no. 7) Tennessee and Arkansas. Authorization of compact fixing boundary line and settling criminal jurisdiction upon the Mississippi River.

Joint resolution of June 7, 1910 (36 Stat. 881, no. 31). Missouri and Kansas. Authorization of compact fixing boundary line and determining criminal jurisdiction upon the Missouri River.

Joint resolution of June 10, 1910 (36 Stat. 881, no. 32). Oregon and Washington. Authorization of agreement to fix boundary on Columbia River by mutual cessions.

Joint resolution of June 22, 1910 (36 Stat. 882, no. 34). Wisconsin, Illinois, Indiana, and Michigan. Authorization of compact (between any two or more States) determining criminal jurisdiction on Lake Michigan.

Act of March 1, 1911 (36 Stat. 961, ch. 186, sec. 1). General consent "to each of the several States * * * to enter into any agreement * * * with any other State or States" for conservation of forests or water supply.

Act of October 3, 1914 (38 Stat. 727, ch. 315). Massachusetts and Connecticut. Consent to establishment of a boundary line "heretofore agreed upon" under acts of Massachusetts, March 19, 1908, and Connecticut, June 6, 1913.

Act of August 8, 1917 (40 Stat. 266, sec. 5). Minnesota and North and South Dakota (or any two of them) authorized to make agreements for improvement of navigation and control of floods on boundary waters and tributaries; execution to be with approval and under supervision of Secretary of War.

Act of April 8, 1918 (40 Stat. 515, ch. 47). Oregon and Washington. Ratification of compact for protection of fish in Columbia River, etc. (requiring joint approval of any change in laws), approved by Oregon (Laws 1915, ch. 188, sec. 20) and by Washington (Laws, 1915, ch. 31, sec. 116).

Act of September 13, 1918 (40 Stat. 959). Wisconsin and Minnesota. Ratification of mutual cessions of territory, and consequent change of boundary. (Wis. 1917, ch. 64; and Minn. 1917, ch. 116.)

Act of July 11, 1919 (41 Stat. 158, ch. 11). New York and New Jersey. Consent to compact authorized by New Jersey (Laws, 1918, chs. 49, 50) and New York (Laws, 1919, ch. 70; and General Laws, 1919, ch. 178), providing for construction, etc., of tunnel under Hudson River.

Joint resolution of March 4, 1921 (41 Stat. 1447, ch. 176). North and South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska (or any two of them) authorized by compact to determine jurisdiction over boundary waters.

Joint resolution of June 30, 1921 (42 Stat. 104, ch. 38). Pennsylvania and Delaware. Ratification of reestablishment of boundary line (Newcastle circle) agreed to by Pennsylvania (act of June 22, 1897) and by Delaware (act of Mar. 28, 1921).

Act of August 19, 1921 (42 Stat. 171, ch. 72). Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming. Consent to negotiation of an agreement (not later than Jan. 1, 1923), for an apportionment of the waters of the Colorado River and its tributaries—subject to approval by legislature of each State and by Congress. An agreement was reached under this authorization, dated November 24, 1922, which was ratified by each of the States except Arizona, during the year 1923. In view of the failure of Arizona to ratify, the other six States, at the 1925 sessions, waived the requirement of approval by all seven; and Congress, in the Boulder Canyon Project Act of 1928, ratified it as thus modified (45 Stat. 1064, sec. 13–a).

Joint resolution of August 23, 1921 (42 Stat. 174–180). New York and New Jersey. Consent to agreement of April 30, 1921

(under provisions of New York Laws 1921, ch. 154, and New Jersey Laws 1921, ch. 151), for the development of the Port of New York Authority—phrased as a supplement to agreement of 1834, noted above.

Joint resolution of July 1, 1922 (42 Stat. 822–826). New York and New Jersey. Consent to supplemental agreement for development of port of New York, contained in New York Laws 1922, ch. 43, and New Jersey Laws 1922, ch. 9.

Joint resolution of September 22, 1922 (42 Stat. 1058). Kansas and Missouri. Consent to compact contained in a resolution of Missouri, April 15, 1921, and of Kansas, March 18, 1921, by which the States mutually exempted the municipal waterworks of Kansas City (Kansas and Missouri) from taxation.

Act of January 10, 1925 (43 Stat. 731–738). New York and Connecticut. Consent to agreement of January 3, 1911 (Conn.) and March 15, 1912 (N. Y.) redescribing the entire boundary—said agreement having been duly ratified and "congressional approval * * * authorized by said States."

Act of January 29, 1925 (43 Stat. 796–798). Colorado and New Mexico. Consent to compact for equitable distribution of waters of La Plata River, signed November 27, 1922, and ratified by Colorado, act of April 13, 1923, and by New Mexico, act of February 7, 1923.

Act of March 4, 1925 (43 Stat. 1268, ch. 534). Washington, Idaho, Oregon, and Montana. Consent to negotiation of compact (not later than Jan. 1, 1927—extended to Dec. 1, 1927, by 44 Stat. 247 ch. 129, and to December 31, 1930, by 44 Stat. 1403, ch. 382) for apportionment of water supply of Columbia River and its tributaries—subject to subsequent approval by each State and by Congress.

Act of March 8, 1926 (44 Stat. 195–201). Colorado and Nebraska. Consent to South Platte River compact, signed on April 27, 1923, and approved by Colorado, act of February 26, 1925, and by Nebraska, act of May 3, 1923.

Act of July 3, 1926 (44 Stat. 831, c. 754). Idaho, Wyoming, Washington, and Oregon. Consent to negotiation of compacts for apportionment of waters of Snake River, subject to ratification by each State and by Congress.

Act of February 26, 1927 (44 Stat. 1247). South Dakota and Wyoming. Consent to negotiation of compacts for apportionment of waters of Belle Fourche and Cheyenne Rivers, subject to ratification by each State and by Congress.

Joint resolution of February 16, 1928 (45 Stat. 120–128). New York and Vermont. Consent to "enter into the * * * compact executed by the commissioners duly appointed * * * pursuant to authority" of chapter 321 of the Laws of 1927 of New York, and Act No. 139, Vermont 1927; and "each and every part and article thereof be, and the same is hereby, ratified, approved, and confirmed."

Joint resolution of March 10, 1928 (45 Stat. 300–303). Wisconsin and Michigan. Consent to enter into compact relating to construction and maintenance of bridge over Menominee River, executed by commissioners on January 14, 1927, under authority of chapter 87, Wisconsin Statutes and Michigan Laws 1925, no. 354 and 1927, Spec. Act No. 98.

Act of December 21, 1928 (45 Stat. 1058, ch. 42). Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming. In addition to the ratification of the Colorado River compact in section 13, as noted above, the Boulder Canyon Project Act in section 4 authorized Arizona, California, and Nevada to make an agreement regarding apportionment of water; and in section 19 authorized the seven States mentioned to negotiate supplemental compacts for the development of the Colorado River.

Joint resolution of March 1, 1929 (45 Stat. 1444, ch. 448). Oklahoma and Texas. Consent to negotiation of compact (apparently to be formulated by the President) relative to title to lands transferred under authority of the case of *Oklahoma* v. *Texas* (272 U. S. 21). Such compact to be ratified by the States and by Congress.

Act of March 2, 1929 (45 Stat. 1502, ch. 520). Colorado and New Mexico. Consent to negotiation of compact for apportionment of water supply of Rio Grande, San Juan, and Las Animas Rivers; subject to approval by States and by Congress.

Act of March 2, 1929 (45 Stat. 1502, ch. 521). New Mexico, Oklahoma, and Texas. Consent to negotiation of compacts for apportionment of water supply of Rio Grande, Pecos, and Canadian or Red Rivers; subject to approval by the States and by Congress.

Act of March 2, 1929 (45 Stat. 1503, ch. 522). New Mexico and Oklahoma. Consent to negotiation of compacts for apportionment of water supply of Cimarron River and any other streams in which jointly interested; subject to approval by States and by Congress.

Act of March 2, 1929 (45 Stat. 1517, ch. 537). New Mexico and Arizona. Consent to negotiation of compacts for apportionment of water supply of Gila and San Francisco Rivers and other streams in which jointly interested; subject to approval by the States and by Congress.

Act of March 2, 1929 (45 Stat. 1517, ch. 538). Colorado, Oklahoma, and Kansas. Consent to negotiation of compacts for apportionment of Arkansas River and other streams in which jointly interested; subject to approval by the States and by Congress.

Act of April 10, 1930 (46 Stat. 154, ch. 130). Oklahoma and Texas. Consent "to any agreements or compacts that have heretofore been or may hereafter be entered into" relating to construction and maintenance of bridges over the Red River.

Act of June 17, 1930 (46 Stat. 767–773). Colorado, New Mexico, and Texas. Approval of Rio Grande compact, signed February 12, 1929, and approved by Colorado, act of April 29, 1929; by New Mexico, act of March 9, 1929; and by Texas, act of May 22, 1929.

Act of January 19, 1931 (46 Stat. 1039, ch. 41). Consent to negotiation of compacts with respect to boundary line—subject to approval by the States and by Congress.

Act of June 9, 1932 (47 Stat. 292, ch. 224). Kentucky and Indiana authorized, through their highway commissions, to enter into "cooperative agreements" relating to the construction, maintenance and operation of bridge over Ohio River near Owensboro.

Act of June 9, 1932 (47 Stat. 294, ch. 225). Kentucky and Illinois authorized through their highway commissions, to enter into cooperative agreements relating to construction, etc., of bridge over Ohio River near Cairo.

Act of June 14, 1932 (47 Stat. 308). Pennsylvania and New Jersey. Consent to compact signed July 1, 1931, relating to operation and maintenance of bridge over Delaware River between Philadelphia and Camden.

Joint resolution of May 29, 1933 (48 Stat. 105). Kansas and Missouri. Consent to compact approved by Missouri (Laws 1933, p. 474) and Kansas (Laws 1933, p. 379), relating to bridge over Missouri River near Kansas City.

Act of June 6, 1934 (48 Stat. 909, ch. 406). Consent "to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime", etc.

NOTE.—Attention should perhaps be directed to the act of April 19, 1930 (46 Stat. 224, ch. 194) by which Congress authorized the State Highway Board of Georgia to cooperate with the State Highway Department of South Carolina in construction and operation of a bridge across the Savannah River at Augusta, Ga. Such cooperation might very well involve some written agreement as to terms and conditions; so that in substance the situation might not be very different from the act, e. g., of June 9, 1932, noted above, where the words "cooperative agreements" were used. The question might then be raised whether the congressional sanction in such cases is not simply on the ground that an interstate stream is involved; it might be argued that such a working agreement, not affecting the territorial sovereignty of the States, is not within the scope of compacts requiring ratification by Congress.

Notice may also be taken of the half-way cases, where the United States has negotiated with individual States, e. g.:

Act of March 21, 1934 (48 Stat. 453, c. 72), providing for a commissioner to act in conjunction with a commissioner on the part of Virginia, and a third selected by these two, in determining the District of Columbia-Virginia boundary—their recommendations to be subject to ratification by Congress and Virginia; or

Act of June 15, 1858 (11 Stat. 310), authorizing commissioners on the part of the United States to act with commissioners on the part of Texas in surveying the boundary between Texas and the Territories of the United States. The boundary thus established, between Texas and the public-land strip, and Texas and New Mexico, was confirmed by act of March 3, 1891 (26 Stat. 971). And an attempted modification by New Mexico, on the formation of the State, was declared of no force and effect by joint resolution of February 16, 1911 (36 Stat. 1454).

A still different situation occurred in the case of Virginia and Kentucky. By an act of December 18, 1789, Virginia authorized the erection of the district of Kentucky into a new State. That act provided that "all private rights, and interests of lands within the said District derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed State, and shall be determined by the laws now existing in this State." This compact was ratified by the convention which framed the constitution of Kentucky and was incorporated into that constitution. The act of Congress for the admission of Kentucky (Feb. 4, 1791, 1 Stat. 189) contained no express reference to the subject; and in *Green* v. *Biddle* (8 *Wheat.* 1) it was argued that the compact was invalid because made without the consent of Congress, contrary to the Constitution, article I, section 10. But the Supreme Court, after observing that the Constitution "makes no provision respecting the mode or form in which the consent of Congress is to be signified" and that the question in such cases is, "has Congress, by some positive act, in relation to such agreement, signified the consent of that body to its validity?" Found in the preamble to the act of 1791, with its reference to the act of Virginia of 1789 and the convention in Kentucky, sufficient indication, under the circumstances, of an assent to the terms of separation set out in the Virginia proposal—including the "compact" in question.

SPANISH COLONIAL MISSIONS

Mr. DEMPSEY. Mr. Speaker, I ask unanimous consent to file a supplemental report on House Joint Resolution 211, to create a commission to study and report on the feasibility of establishing a national monument, or monuments, in the territory occupied by the Spanish Colonial Missions in the States of Texas, New Mexico, Arizona, and California.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

EXPLANATION OF VOTE

Mr. BOLAND. Mr. Speaker, I wish to announce that my colleagues, Mr. BERLIN and Mr. HAINES, are unavoidably absent. Were they present, they would have voted "no" on the Treadway motion and would have voted "aye" on the Doughton motion.

MODERN PROBLEMS OF LAW ENFORCEMENT

Mr. CONNERY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks by printing a speech of J. Edgar Hoover. I made this request yesterday, but under the rules of the Joint Committee on Printing, anything over two pages must be referred to the Joint Committee on Printing for an estimate. I have complied with that.

Mr. O'MALLEY. Reserving the right to object, what is the speech about?

Mr. CONNERY. It is a speech on crime. It is a speech made by J. Edgar Hoover at Atlantic City. I wish a copy of it could be in every home in the United States.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONNERY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of J. Edgar Hoover, Director Federal Bureau of Investigation, United States Department of Justice, before the convention of the International Association of Chiefs of Police at Atlantic City, N. J., July 9, 1935:

May I say with a great deal of pardonable pride that I look forward, throughout the year, to this appearance which I annually make before the International Association of Chiefs of Police. When mutual problems arise, I feel that I can save discussion of them for such a time as this and talk over these difficulties with men who themselves are familiar with such obstacles. In doing so, I know that I need make no lengthy explanations for a proper basis of understanding. I know that we stand upon a common ground. I know that I speak to my own people.

Therefore, this is not a speech. It is a discussion at a stated meeting place where men of experience get together to make use of that experience; a straight-from-the shoulder facing of facts as we know they must be faced. Here, at this meeting, a criminal is understood to be a criminal, with a gun in his hand and murder in his heart. It is not necessary here, in discussing what shall be done with that human rat, to persuade some altruistic soul that he is not a victim of environment or circumstances or inhibitions of malformed consciousness, to be reformed by a few kind words, a pat on the cheek and freedom at the earliest possible moment.

I feel that here I am bulwarked among friends, all of us sworn to stand against a group of dangerous enemies, who consistently attack efficient law-enforcement. So that there be no misunderstanding, let me list those enemies, call them by name: they are the criminals themselves and their friends and allies who are engaged of their own free will in the business of attempting to make crime pay. They are the shyster lawyers and other legal vermin who consort with criminals, guide them in their nefarious acts, hide them away after the crime is committed, use the blood money of law-breaking to bribe witnesses, dissemble evidence and, when possible, convert the judge and jury to a miscarriage of justice.

Beyond this, there is the legal shyster in law-making who, in meetings of bar associations and legislatures, cries out against every statute which aids the law-enforcement officer and works with fanatical zeal for laws which will hamper him. He orates loudly and blatantly upon the preservation of the constitutional rights of the criminal jackal and totally ignores the sacred and human rights of honest citizens. He is backed by the politician, crooked and otherwise, who is willing to trade the property, the well-being, the security, and even the lives of law-abiding persons for ballots spawned in prison cells, and the support of gutter scum. The bullets of the underworld are today poisoned by the verdigris of politics. The law-enforcement officer who seeks to do his duty has no weapon which can combat this venom, once it has been allowed to spread through the arteries of a community; there is no armor which can turn its vicious penetration.

Indeed, it would seem that such enemies were numerous enough and deadly enough without the addition of even a vaster army of antagonists. But there are more, and they are the ones who today form the greatest handicaps of all in the field of law enforcement. I refer to the sob sisters, the intruders, the uninformed and misinformed know-it-alls, the sentimentalists, and the alleged criminologists who believe that the individual is greater than society, that because any criminal can display or simulate even the slightest evidence of ordinary conduct, then, indeed, he must be a persecuted being, entitled to be sent forth anew into the world to again rob and plunder and murder. Why is it that these sentimentalists never think of the human wreckage left in the paths of such marauders? Why do they weep over the murderer and remain dry eyed at the thought of his slaughtered victim? Why must a man be thought good merely because he says he is good, when the facts of his career point to a constant succession of acts antagonistic to the peace and well-being of a community? I refer to the countless thousands of unregenerate criminals who, through the subversive acts of convict lovers, have been turned loose to prey anew upon communities often defenseless because the law-enforcement machinery has been lulled into the belief that these men were still in prison, when in truth they have been secretly released to again go forth upon a new series of depredations.

The time has come when we must look upon all persons who designedly or otherwise help the criminal as being enemies to society. There can be no middle ground. The sob sister who weeps over a kidnaper, and who through a desire for notoriety influences public opinion in favor of mercy for that foul body snatcher, is to my mind little better than the persons who must be punished for having aided, abetted, or harbored him. The fuss budget busybody who spends his or her time, for purposes of self-aggrandizement and a name as a philanthropist, in reducing the already too short sentences of rapists, murderers, kidnapers, and other outlaws, interferes seriously with the proper procedure of justice. The shyster who passes laws for the good of the criminal is no better than his professional brother who hides that criminal; the politician who stuffs his parasitical being upon the fruits of underworld votes is as much a type of vermin as the scum which casts its ballots according to his dictation. The time has come for all of us to look upon them for what they are—enemies to our cause and enemies to society.

To fight this concerted group entails a tremendous job—that of absolute and unflinching cooperation, not only between law-enforcement bodies, but within those bodies. The greatest ally of the criminally minded is looseness of method, bickerings between enforcement agencies, jealousies within organizations. Let us remember this, let us work toward the end that after all we are an army of many segments but with one goal—the protection of society and of ourselves.

For that reason, I like to think of the Federal Bureau of Investigation of the United States Department of Justice not only as an arm of the United States Government but as an agency, maintained by and for each and every State, every county, every cross-roads. There has been much publicity recently about the so-called "G men." Naturally our Bureau is proud of certain achievements. However, allow me to say that the results obtained could not have been realized without the whole-hearted and thorough cooperation of law-enforcement agencies spread throughout the length and breadth of America. To all of you I therefore express my deep gratitude and my pride that with the steady growth of cooperation between the enforcement arms of hamlet, village, city, Nation, and State, there appears upon the horizon a glow of hope, pointing to the day when again the majesty of the law shall be truly majestic, and the criminal reduced to the substratum where he rightfully belongs. May I add that in the Federal Bureau of Investigation it has been found that while crime does not pay, there are huge rewards in the relentless pursuit, apprehension, and punishment of criminals. During the past year, of all persons brought to trial through the investigative efforts of the Federal Bureau of Investigation, convictions were obtained in 94 percent of the cases. The cost of the Bureau for the fiscal year recently ended was approximately $4,680,000. During this time it effected recoveries of property and otherwise saved the taxpayers of America more than $38,000,000. For every dollar which went into crime chasing, more than $8 was brought in. The same sort of record can be made by any other law-enforcement agency of America which is allowed to concentrate upon crime, aided by every known practical and scientific method, plus freedom from influence and the degrading, disrupting burden of politics.

Only a short time ago, the Identification Division of the Federal Bureau of Investigation received its five millionth fingerprint record. Here is the greatest repository of factual criminal data in history, built through cooperation. It is not something which belongs alone to the Department of Justice. We are merely the custodians. It is your information bureau; you are the ones who built it to its present size and scope. Your officers risk their lives to arrest the more than 3,000 criminals whose fingerprint records are received daily in this great collection, which represents America's public enemies.

It is indeed cooperation when the law-enforcement bodies of the world can band together upon a common basis of action which steadily, day after day and month after month, brings about the identification of 50 percent of all persons arrested as having previous criminal records, and actually resulted in the past year in the location of 4,403 fugitives; 12 times a day somewhere in the United States some furtive lawbreaker is stripped of his aliases and revealed as a wanted felon because the law-enforcement bodies of the country have built up in Washington the greatest crook-catching device in the history of crime. Daily the fear of this Division grows in the mind of the criminal, he knows that here are witnesses who cannot be bribed, intimidated, or done away with. Even the agonies endured by such men as Dillinger in attempting to alter their finger tips, or those of the members of the Barker-Karpis gang who resorted to the actual slashing away of portions of their fingers have been found unavailing against the scientific manner in which fingerprint identification has been built up through your aid.

Likewise, the facilities of the crime laboratory of the Federal Bureau of Investigation, which was established in 1932, are yours. You are the men who furnish the evidence upon which to work; you are the men for whom this laboratory was conceived and built. The greater use you make of it, the greater will be its ability to aid and detect and apprehend.

Thus goes the story of the entire Federal Bureau of Investigation. It is not a mere law-enforcement body. It is an institution entrusted with the task of giving aid to crime prevention, to detection and apprehension everywhere. Every growth of investigative methods conceived here is yours for the asking. The aim of the Bureau is constantly centered upon the belief that no one unit of apprehension and detection can be self-sufficient. The

effort must be a concerted one; the idea incessantly in view that crime no longer is local but nationalized, and that the nationalized methods are necessary to combat it.

Even the recent laws which have widened the powers of the Federal Bureau of Investigation were initiated not with the idea of usurping power from local agencies, but with the idea of giving aid to them. To this end no man in America deserves higher praise for his steady and conscientious efforts in the interests of law-enforcement than the Honorable Homer S. Cummings, Attorney General of the United States. It was through his genius and hard work that recent laws were devised and carried through to passage by Congress, centralizing effort in certain types of crimes which, through the growth of swift transportation, were becoming burdensome to local agencies.

Through his unfailing interest and his vision, it has been possible to build up the Federal Bureau of Investigation from a purely investigative agency to a militant one. It was he who brought about the condition of fear which now rules the underworld, the man who made it possible for the Federal Bureau of Investigation to obtain the arms, the ammunition, and the type of trained personnel to carry on a battle to the death, if necessary. That it has been successful is attested by the tombstone names of Wilbur Underhill; John Dillinger; Fred and Ma Barker; Russell Gibson, the kidnaper; "Pretty Boy" Floyd; "Baby Face" Nelson; and others.

The Attorney General's motivating idea throughout this entire plan of action has been that of useful cooperation with local law-enforcement agencies—in other words, to provide the most highly centralized agency possible, which acts as a coordinating agent for the police bodies of the Nation. In this connection, I feel sure that you all will agree with me that cooperation is as necessary from one side as it is from the other. With that cooperation functioning perfectly, marvelous results can be achieved; it has been through such close coordination that the Department of Justice, since the passing of the Lindbergh kidnaping statute in 1932, has been able to solve every one of the 50 cases brought to its attention, resulting in the conviction of 117 persons and the holding in custody of 22 more now awaiting trial. Sentences totaling 1,760 years have been assessed in addition to 24 life sentences, 4 death sentences, 3 culprits who committed suicide, 3 who died by murder at the hands of their gang members, and 4 who learned that you cannot bribe a bullet and who fell before the guns of fearless law-enforcement officers of Federal and local governments.

The record of extortion prosecutions is equally imposing, while that of the protection of national banks shows that since the passing of the law in May 1934, making it a Federal crime to rob a national bank or member bank of the Federal Reserve System, the number of bank robberies of this type dropped from 16 per month to 4 per month. This does not mean that the Federal Bureau of Investigation performed a superhuman task where others had failed. It does mean, however, that this Bureau was able to take the place of a central activating agency, cooperating with local agencies for the purpose of destroying the urge to rob banks. There are at present 65 persons in custody awaiting prosecutive action for this violation of law; 69 others have been convicted, 3 for life, and the others to terms totaling more than 1,616 years. Only one person has been acquitted. More than $125,000 in stolen money has been recovered. That all this was done in close cooperation with local officers is best evidenced by the fact that State trials have brought convictions to 24 persons, two of the sentences being for life; and seven bank robbers were killed by State officers.

Thus with cooperation becoming something vastly more practical than a mere theory, we are concerned with what can and must be done through that cooperation. You long ago have learned the usefulness of the Identification Division; the same field of aid lies before you in the crime laboratory. Here there are scientists and experts who are interested only in learning the truth. The testimony of a crime laboratory expert is unbiased; he has no personal interest in a case, and he is not in the business of testifying for money. To convict the guilty and acquit the innocent is his task; nothing can swerve him from that goal.

With the growth of scientific detection, the burden of laboratory work upon law-enforcement agencies daily grows greater. Likewise, there also increases the danger that commercial "crime laboratories" will more and more enter the picture of detection and apprehension, bringing about a repetition of the difficulties often experienced by expert testimony where evidence is given for hire. The Federal Bureau of Investigation crime laboratory does away with this danger. It is yours. Make the fullest use of it. There are no fees, no honorariums. The reward comes in sending a criminal to prison or an innocent man to freedom.

Our training methods are yours—we welcome their adoption in the law-enforcement bodies of the Nation. There is nothing secret about the manner in which the Federal Bureau of Investigation works. Its formula is a simple one—intensive training, highly efficient and carefully investigated personnel, rigid requirements in education, conduct, intelligence, ability to concentrate, alertness, zeal, and loyalty, plus careful schooling in which we do our utmost to make every man to a degree self-sufficient. He must be a good marksman and have the courage to shoot it out with the most venomous of public enemies. He must know how to take fingerprints and what to do with them afterward. He must learn that no clue, no matter how seemingly unimportant, can be overlooked. He must have constantly before him the fact that science is a bulwark of criminal investigation, and neglect no avenue toward this end. And he must realize that no case ever ends for the Federal Bureau of Investigation until it has been solved and closed by the conviction of the guilty or the acquittal of the innocent.

Therefore, we are shortly embarking upon an experiment for which I have great hopes—the installation of a police training school in the Federal Bureau of Investigation. With the opening date set for July 29, and with the beginning to be made on a limited scale until we have passed the experimental stage, the Attorney General hopes to provide in this police training school a university of police methods which may make the Bureau's most successful methods a part of the regulation police procedure in every part of the United States.

Selected police officials from State and local units may here receive a complete 3 months' course of intensive study in the technique of modern law enforcement. Naturally the vast resources of the Federal Bureau of Investigation will be thrown wide to them, but beyond this there shall be employed the services of outstanding men from universities, the field of criminology, and from police departments themselves.

There will be courses in fingerprinting, in the workings of the crime laboratory; practical field problems shall be studied, methods of attack, of surveillance, of gathering, preserving, and presenting evidence. The gun range of the United States Marine Corps at Quantico, Va., will be used for firearms training, the use of tear gas, riot guns, and machine guns. There will be practice in firing from speeding automobiles, and under conditions simulating those of actual battle.

Beyond this, the local problems of the police official will be thoroughly covered. There will be lectures on traffic control, on patrolling, report writing, court procedure, preparation of cases, and giving of evidence. The visiting official will be taught something of crime motivation, of neighborhood problems and of public relations. Police equipment will be lectured upon in all its branches—it is our aim to present in this police training school the answer to every problem which can arise in Federal, State, or local law-enforcement work. The course is free, police officers in attendance paying only their transportation and subsistence costs.

Our hope, of course, is that the men who undergo this course will return to their various communities equipped to spread their information among their departments; in other words to be missionaries from this university for a more advanced attack upon the crime problems of today. And I believe that one enlightening bit of study will be that portion of the course which treats of secrecy in the successful pursuit and apprehension of today's criminals. Through the employment of the nonpublicized methods of investigative technique the Federal Bureau of Investigation has achieved some of its most successful results.

This is especially true in kidnaping cases and others where the life or welfare of innocent persons is at stake, or where publicity may endanger the lives of local or Federal officers. Secrecy is the most hated word in the life of an outlaw. His best friends are those newspapers which, in their avidity to fulfill the ill-considered public desire for information, seek to publish every possible fact concerning an investigation. Time and again we all have seen efforts at important captures fall simply for the reason that a criminal bought a newspaper of this type and learned of the detailed plans to effect his apprehension.

We must give more attention to this need of secrecy. We must realize, after all, that our job is to capture criminals and not to make our efforts a running, day-by-day recital either of our methods, or actions, or aims or plans.

The impression may have been created by persons with an ax to grind that the Federal Bureau of Investigation desires to seize the glory of criminal catching. To that I answer that this Bureau is in the business of catching crooks—and that this is our sole business. No one knows better than we that the local police, where there is not inefficency, corruption, or headline hunters, and as deeply and seriously concerned with a crime as ourselves. It is to our interest and to the interest of all that recognition of local assistance be fair and just and honest. Therefore, it is my request that when you gentlemen who control the law-enforcement agencies of the Nation feel that you have justification to question why certain tactics are used by the Bureau in some case which arises in your locality, you talk to me personally about it. I am at your service and am only so far away as a telephone connection. Whether you be to the south, the north, the east or west, telephone me. The number is National 7117, Washington, D. C. Let us talk upon a common basis about something in which we are jointly interested, the catching of the criminal. The Federal Bureau of Investigation, I again repeat, is your agency, your clearing house. It should be as much a clearing house of ideas as of actions.

I have mentioned that our common basis is that of catching the criminal. It goes further than that. Our common basis is the public welfare, and to that end we must work in closest harmony. If I may suggest, there are certain goals which lie along the road and to which we should dedicate our most earnest efforts.

One is, of course, the outlawing of politics in all matters concerning the criminal. There should be determined fights on the part of law-enforcement bodies when some shyster legislator brings before a lawmaking body any statute which will further the interest of the criminal or make his apprehension and punishment more difficult. Law enforcement is in a fighting mood, and it must remain militant. When politics seeks to stay its hand by reduced appropriations, by red tape, by enforced appointments, I feel that the official who makes a fight against it will have the support of the public. Certainly this is true of the official who is brave enough

to do what many members of the legal profession seemingly are afraid to do—I mean to make a determined effort to rid the communities of America of that filthy parasite of crime, the conniving, plotting, crime-aiding criminal attorney. We in law enforcement have given the legal profession of America many warnings and numerous opportunities to clean house. Those warnings in many cases have been disregarded and the opportunities have been flouted.

The successful prosecution of B. B. Laska, the Denver attorney, recently convicted of having aided the kidnapers of Charles F. Urshel, of Oklahoma, and the equally successful proceedings against Louis M. Piquett, politician-lawyer of Chicago, convicted of having harbored and abetted a member of the Dillinger gang, are evidences of what is to come in this regard. Here and now, for the benefit of crooked attorneys everywhere, I give them warning that the Federal Bureau of Investigation, whenever it receives the slightest bit of evidence tending to show that these criminal allies have sought to traduce justice through planning, plotting, or aiding in crimes, or by bribery, intimidation of witness, or other unlawful means, will follow such evidence down to the final shred. The Department of Justice has already placed a number of attorneys criminal where they belong. It intends to add to that list considerably.

There also is much work to be done in the field of civil fingerprinting. Already many good citizens of America have evinced interest in the efforts of forward-looking citizens to establish as large a civilian, noncriminal file as possible. It is a task of education in which I feel we should join for the good of society—certainly there could be no more interesting program for local civic organizations than a talk by your fingerprint expert upon fingerprinting in general and the advantages of contributing to the civilian file.

The number of persons who disappear each year, for instance, is amazing. In Los Angeles County alone last year 100 amnesia victims could not be identified and were committed to various institutions as nameless, helpless, friendless persons. If their fingerprints had been on file in Washington, identification would have been almost immediate. The potter's fields of the country yearly receive hundreds of bodies of the so-called "unknown dead." The term is incorrect—somewhere someone knows them, someone searches for them, someone loves them. They are the unidentified dead, often condemned to pauper burial merely because the marks of their fingers are not upon a pasteboard card. The criminal can be identified; the honest man cannot, thus thousands annually wander about the country afflicted by loss of memory; children disappear and are lost forever; daughters are lured from home to sink in disgrace because they are ashamed or fear to return when a welcome forgiveness awaits them. Much of this can be prevented by civil fingerprinting. Let us tell this story whenever possible. Let us point out the benefits to humanity of a central identification bureau where the deposition of fingerprints is the mark of an honest man. Let us show the benefits in business, in safety of travel, in rescue during time of illness or loss of memory. I believe the public will welcome it—and every effort exerted along this line means a lessening in the tremendous task which enforcement agencies must shoulder in the daily hunt for thousands upon thousands of missing persons. More than 5,000 a year disappear from Philadelphia, for instance; 3,000 from Los Angeles; a thousand from Portland, Oreg.; 2,200 from San Francisco; 13,000 from New York; 4,000 from St. Louis—other cities and towns range in proportion. Large numbers of them are found, of course, but only after arduous effort that would be reduced by a great percentage if the law-enforcement official had as his ally a set of identifying fingerprints on file at Washington.

Another problem of grave concern to us all is the ever-recurring one dealing with the extension of various forms of clemency to the criminal. No one in this assemblage, I feel sure, will scoff at the theory of parole and of rehabilitation. I said theory, not practice. There is a vast difference. The theory is beautiful. The practice approaches a national scandal.

It seems inconceivable that the people of America should be taxed the millions upon millions of dollars which they must annually pay for police, State constabularies, Federal enforcement bureaus, courts, penal institutions, and the like, only to have this expense become a mockery. It seems impossible that in an enlightened nation brave officers should be asked to face desperate criminals, to endure danger, injury, and even loss of life that those criminals be captured, only to see them turned loose to again resume their predatory careers. It seems unjust that the brave men of the Federal Bureau of Investigation must face their daily dangers, giving loyally of their years and sometimes of their life blood, unprotected by insurance, retirement pay, or adequate pensions for their widows if they fall on the field of battle, while throughout America millions of dollars are being squandered because of ill-considered, ignorant, or politically controlled parole and clemency actions which release dangerous men and women to prey upon society.

Parole and clemency advocates who love to talk of the beauties of "restricted liberty" as they like to call it, say that we have no parole problem. They say we point to isolated cases. Let them prove it. Let them show by case records where hardened criminals have been reformed after 3 and 4 and even 5 paroles, during which time they have been returned for new crimes.

Strangely enough, in spite of the foregoing remarks, I am an advocate of parole, the right kind of parole. I believe that parole was originated to give the first offender a chance to reform and rehabilitate himself. I believe that any man convicted of a crime should, if he displays reasonable desire to do so and providing his crime not be heinous, be given a chance to face the world anew. But when convicts with extensive records for offenses against society are turned out of prison cells for no other apparent reason than that they have asked for it, or that they have conducted themselves according to the rules of prison, then there is something wrong with America.

How can these State parole and pardon systems justify their actions when there are certain States which will not make the effort necessary to return parole violators, once those renegades have crossed the State line? It is apparent that there is throughout the entire Nation a woeful and, in some cases, absolute lack of any effort to find out what the paroled man does after he leaves prison. All this makes for a ghastly farce and no one knows it better than we who are intrusted with the safeguarding of society.

I repeat that this is a time when law enforcement must fight for its right to conquer the criminal world. To do this, it must combat the aids by which crime flourishes—easy parole, easy commutation, easy probation from sob-sister judges, and above all that monumental fake which has too long been perpetrated upon the American public—the prison sentence which says one thing and means another. There must be a campaign of education to teach the man in the street that he should not be lulled to peaceful acquiescence when a judge sentences a man to jail for 20 years, knowing full well that he will be out in 5.

The American citizen must be taught that prison sentences today are largely a matter of division and subtraction. The criminal knows it. He realizes only too well that scavenger legislative lawyers and soppy sentimentalists have tricked the statutes until today, granted that the criminal has brains enough to simulate good behavior and a desire to rebuild, this would mean that the maximum time this man will spend in prison is one-third of his sentence. Often it is not even that. I have in mind the cases of two criminals, well-known gangsters, robbers, pay-roll hold-up men, and sufficiently dangerous to be listed in the single fingerprint section of the Federal Bureau of Investigation. For their many crimes these men were sentenced respectively to 105 years and 145 years in prison. One escaped from a chain gang five times; the other escaped three. Both were freed within 6 years, and in the space of a few months had committed new crimes, including the robbery of a national bank.

The average murderer spends 10 years behind bars, and murder is supposed to be our greatest crime. Such procedure amounts to little more than subterfuge; law can have little majesty under such conditions. Let the public know the truth and I believe public opinion will rise to a point where sentimentalists, crooks, sob sisters, and convict lovers will be forced to give society a chance by sending prisoners to jail for the full amount of time they deserve to serve.

Thus we come to a discussion of what is justice. Late in May a young boy was kidnaped in a Pacific coast city. He was stolen from a school yard, forced into an automobile, held a prisoner in a pit, and bound in chains. Then he was dragged about the country cramped into the rear trunk of an automobile, after which he was incarcerated in a closet for days while his abductors wrung from the distraught parents the sum of $200,000. At last the money was paid, and the boy, his life forever shadowed by his inhuman treatment, returned to his home.

The homecoming was perhaps the most heart-rending event in the knowledge of the 70 or more experienced journalists and law-enforcement officials who were present. The curly-haired boy, cheerful in spite of his suffering, came out upon the lawn to meet these men and women, all of whom were veterans. They had seen train wrecks, floods, loss of life in accident and shipwreck; many had witnessed executions. They thought they were hard-boiled. Yet, as they viewed this young fellow, striving bravely to forget the ordeal through which he had passed, fighting like the fine, stalwart American boy that he is, to face life and win, despite this gaunt shadow which had crossed his path, there was not an eye which remained dry, not a throat unchoked, not a voice which failed to tremble. The fiends who had taken this youth, who had dared to blight a lustrous young life for the sake of blood money, would be adequately punished, they knew. Regrets were expressed that they could not be hung.

The Federal Bureau of Investigation began a hunt for these kidnapers. In the meantime, however, another search bore fruit, the chase to round up the last of the kidnapers of Edward G. Bremer in St. Paul. Volney Davis, a member of the Barker-Karpis gang, was captured. He pleaded guilty and was sentenced to life imprisonment. His crime had been participation in the stealing of an adult.

In the case of the young boy, Harmon M. Waley was arrested as one of the kidnapers. The arrest revealed that Waley had been a consistent violator of the law since the age of 16. He had been paroled not once but several times, only to violate his parole or commit new crimes. In fact, his parole history was so flagrant that the President of the United States demanded an investigation.

This foul body snatcher, Waley, had imperiled the life of a fine young boy. He had helped to extract a fortune from parents who had been forced into debt to pay the ransom. He had deliberately, maliciously, and fiendishly committed the worst crime that human brain can conceive. Yet his sentence was for but 45 years, a term often equaled in bank robbery cases.

Again I repeat that prison sentences are not sentences but problems in division and subtraction. Within 15 years, Harmon Metz Waley will be eligible for parole, his debt served for having stolen an innocent, defenseless child. Meanwhile Volney Davis, unless he also meets some munificent mercy, will have only begun to serve out that long life sentence for the stealing of an adult. Therefore, I ask, not in a spirit of criticism, of course, but merely from a standpoint of bewildered curiosity, what and where is justice?

INDIANS IN CALIFORNIA

The SPEAKER. The Chair lays before the House the following request from the Senate of the United States:

SENATE OF THE UNITED STATES,
May 13 (calendar day May 31), 1935.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 1793) to amend the act entitled "An act authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California", approved May 18, 1928 (45 Stat. L. 602).

The SPEAKER. Without objection the request will be granted.

There was no objection.

ADDITIONAL UNITED STATES JUDGES

Mr. MONTAGUE. Mr. Speaker, I call up the conference report on the bill (H. R. 5917) to appoint an additional circuit judge for the ninth judicial circuit and ask unanimous consent that the statement may be read in lieu of the report.

Mr. TRUAX. Mr. Speaker, reserving the right to object, I should like to ask the gentleman from Virginia if this is the bill that was originally passed by the House providing for an additional circuit judge for the ninth district but which bill the Senate amended so as to provide for two more judges in California and making permanent in California a temporary appointment existing with reference to another Federal judge?

Mr. MONTAGUE. Substantially that is true.

Mr. TRUAX. Mr. Speaker, I object.

Mr. SNELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SNELL. Mr. Speaker, I understood the gentleman from Virginia called up a conference report. Is that correct?

The SPEAKER. That is true.

Mr. SNELL. There can be no objection to calling up a conference report.

The SPEAKER. The gentleman from Virginia asked permission that the statement be read in lieu of the report.

Mr. BLANTON. It is just a question of saving time.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. TRUAX. I do not object to the reading of the report.

Mr. TABER. I object, Mr. Speaker.

The SPEAKER. The Clerk will read the report.

The Clerk read the conference report.

The conference report and statement are as follows:

CONFERENCE REPORT

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, and 3, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same with an amendment, as follows: In lieu of the amended title proposed by the Senate, amend the title so as to read: "An Act to Provide for the Appointment of Additional United States Judges".; and the Senate agree to the same.

A. J. MONTAGUE,
WESLEY LLOYD,
U. S. GUYER,
Managers on the part of the House.

WILLIAM H. KING,
W. G. MCADOO,
WM. E. BORAH,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) to appoint an additional circuit judge for the ninth judicial district, submit the following written statement explaining the effect of the action agreed on by the conference committee and submitted in the accompanying conference report:

As it passed the House, this bill provided for the appointment of an additional circuit judge for the ninth circuit. The Senate made three amendments to the bill, which the House conferees accepted.

The first Senate amendment adds to the bill provisions for the appointment of two additional district judges for the southern district of California.

The second Senate amendment makes permanent an existing temporary judgeship in the southern California district created by the act of September 14, 1922. The act under which it was created provides that no vacancy occurring in this position can be filled without legislation by Congress.

The third Senate amendment authorizes the appointment of an additional district judge for the eastern district of Virginia. A separate bill for this purpose has already passed the House this session.

The title of the bill is amended to harmonize with its contents as amended.

A. J. MONTAGUE,
U. S. GUYER,
WESLEY LLOYD,
Managers on the part of the House.

Mr. TABER. Mr. Speaker, is it the intention of the gentleman from Virginia to yield time on this conference report?

Mr. MONTAGUE. I should like to expedite it all I can, but I shall not object to a reasonable amount of discussion.

Mr. TABER. I think the House ought to know what it is about and ought to have an opportunity to discuss it.

Mr. MONTAGUE. I shall be glad to state what it is about.

Mr. TABER. And will the gentleman be willing to yield time to those who are opposed to the proposition?

Mr. MONTAGUE. Yes.

Mr. BLANTON. Mr. Speaker, will the gentleman from Virginia yield?

Mr. MONTAGUE. I yield.

Mr. BLANTON. There are two Federal judgeship bills. One is the bill of our colleague from Virginia, which involves only two States—a judge for Virginia and two for California, and the continuation of another there. There is another bill, however, which provides for about 15 Federal judges.

Mr. CELLER. No. I know the gentleman does not want to misstate it; it will make permanent temporary judgeships.

Mr. BLANTON. It involves about 15; and numerous Members on both sides of the aisle are against that bill. We do not want to get the two bills mixed.

Mr. MONTAGUE. That is not this bill.

Mr. BLANTON. That is not this bill. The gentleman's bill merely provides for judges in California and Virginia.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. MONTAGUE. Certainly.

Mr. MICHENER. It is rather difficult for us to hear the gentleman over here. Is this the omnibus judge bill or is this the Virginia bill?

Mr. MONTAGUE. I will state to the gentleman that it is neither.

Mr. MICHENER. What is it?

Mr. MONTAGUE. Sometime since a bill passed this House creating an additional circuit judgeship in the ninth circuit. This bill went to the Senate, where two amendments were offered, I think by the Senator from California [Mr. MCADOO] creating two additional district judgeships for the southern district of California, and also an amendment providing that a judge who has been long serving, I understand, should have his term made permanent, in keeping with the Constitution. The statement shows the fact. There was another amendment also, an amendment offered by Senator GLASS, of Virginia, creating an additional Federal judgeship for the eastern district of Virginia. These are the reasons the bill is back here.

Mr. MICHENER. As a matter of fact, all of these judgeships have been placed in this one bill; I do not care how they started, when you get down to brass tacks that is the situation.

Mr. MONTAGUE. When you get down to brass tacks only three judgeships are put into this bill in addition to making permanent a temporary one.

Mr. MICHENER. How many judgeships does this bill carry?

Mr. MONTAGUE. I have stated that to the gentleman but I will state it again. It carries three new district judgeships, one of whom has already been approved by this House.

Mr. MICHENER. This is not the bill carrying the Arizona judgeship?

Mr. MONTAGUE. Not at all. The gentleman is correct.

Mr. O'MALLEY. Will the gentleman yield?

Mr. MONTAGUE. I yield to the gentleman from Wisconsin.

Mr. O'MALLEY. This bill started out in the House creating one new judgeship?

Mr. MONTAGUE. The bill, as I understand it originated in the House creating one new circuit judgeship in California.

Mr. O'MALLEY. Now it comes back here with three tacked on?

Mr. MONTAGUE. Two tacked onto the bill passed by the House, and one additional, allowing a judge to the eastern district of Virginia, which has heretofore passed the House.

Mr. DOCKWEILER. I yield to the gentleman from Michigan.

Mr. MICHENER. The gentleman speaks of an investigation by the Supreme Court made a number of years ago. Congress set up a Judicial Council, consisting of the members of the Supreme Court and the presiding judge of each circuit. This Council meets once a year. It has been the policy of the Judiciary Committee of the House to give attention to the recommendations of the Judicial Council, and the Judiciary Committee has done that regardless of political consideration and regardless of who is in power. I believe that policy should be carried on. Take Massachusetts, for instance, they should have an additional judge. All the facts show they should have an additional judge, because the business of the Federal court there is away behind. When the Attorney General, regardless of politics, and the Judicial Council, which surely is not partisan, reports that a district needs and must have additional help, it seems to me that we should cut out all logrolling and partisanship and allow these additional judgeships if we find that the recommendations are justified. Needed judges should not be denied because some Senator insists that there will be no bill unless he gets a judge for his State. I think we should allow these judgeships where they are needed. Necessity should be our guide. Michigan needs a judge to take the place of Judge Simmons, who has been promoted to the circuit bench. This is not a new judgeship, but this judgeship lapsed upon this promotion. The Judicial Council asks that Michigan's vacancy be filled, but I am ready to vote against a judge for Michigan if the price is to be unnecessary judges in other States. I think that should be the attitude of the Congress. Political logrolling has no place when dealing with the judiciary.

Mr. MONTAGUE. I may say to the gentleman from Michigan that the pending bill does not have anything to do with the judgeship in Michigan at all.

Mr. MICHENER. I know it does not, but the other bill does.

Mr. PIERCE. Mr. Speaker, will the gentleman yield?

Mr. MONTAGUE. I yield.

Mr. PIERCE. Suppose this conference report is voted down then what happens with respect to the circuit judge for the ninth district and the district judge for the Virginia district. We passed both of those bills, and now they have passed them in the Senate, have they not?

Mr. MONTAGUE. Yes.

Mr. O'CONNOR. That is a very easy question to answer from a parliamentary standpoint. We can insist on our disagreement to the Senate amendments and send it back and provide for a district judge in Virginia.

Mr. PIERCE. We passed a bill providing for a circuit judge for the ninth district.

Mr. O'CONNOR. And they have put in three judges for California.

Mr. PIERCE. I am talking about the circuit judgeship.

Mr. KRAMER. There are only two additional judges provided for California.

Mr. SUMNERS of Texas. Mr. Speaker, ladies and gentlemen of the House, they are undertaking to gang Judge MONTAGUE'S bill.

The argument made against the bill is absolutely unfair. There are two distinct bills before this House. Let us see what the facts are. They are not going to let any of these bills go through, they say. Who are "they"? My distinguished friend from New York, whom I respect—and I appeal from him to the House that controls its own business. What are the facts?

The facts are that Judge MONTAGUE introduced a bill which went to the Judiciary Committee; the committee approved the bill and the House approved the bill. That is one proposition.

The second proposition is Mr. LLOYD introduced a bill taking care of the ninth circuit. The Judiciary Committee approved it; it passed the House and went to the Senate. That is the second proposition.

When the two bills got into the Senate there was a proposition in the Senate for two additional district judges in California, who seem to be referred to by my distinguished friend from New York as Republican judges. We hope that if we get the two more judges we will get in a couple of Democrats. [Laughter.]

Mr. YOUNG. Will the gentleman yield?

Mr. SUMNERS of Texas. For a quick question.

Mr. YOUNG. The gentleman refers to this as Judge MONTAGUE'S bill.

Mr. SUMNERS of Texas. Never mind that. I cannot go into that now, however.

Mr. YOUNG. The entire character of the bill has been changed.

Mr. SUMNERS of Texas. I am giving the House a square statement about the facts. I stated clearly that Judge MONTAGUE introduced a bill. Mr. LLOYD introduced a bill, so that the Senate had two bills before it, and they put in two additional judges from California, as the Senate had a perfect right to do.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield? The gentleman mentioned my name.

Mr. SUMNERS of Texas. Yes.

Mr. O'CONNOR. I think the gentleman intimated that I said something about Republican judges. I do not recall that I mentioned Republican judges.

Mr. SUMNERS of Texas. If the gentleman will look at the RECORD tomorrow, he will recall it.

Mr. O'CONNOR. I am sure it is not in the RECORD. I never mentioned Republican or Democratic judges.

Mr. SUMNERS of Texas. Oh, yes, the gentleman did.

Mr. O'CONNOR. Very well; if I did, I did. I am just as much opposed to Democratic Federal judges as Republican Federal judges. I am for Judge MONTAGUE'S bill and for Mr. LLOYD'S bill.

Mr. SUMNERS of Texas. With regard to these two judges in California, we want to be sensible about the matter. There is not anybody, Democrat or Republican, who will not agree that the record with regard to the southern district of California shows that they need these judges out there. I do not believe there is a single human being, man or woman, who will take his or her place in the Well of the House and state on his own responsibility that the record does now show conclusively that those two judges are needed to carry forward the public business.

Mr. YOUNG. In that event why did not the gentleman's committee report a bill for the creation of those two judges?

Mr. SUMNERS of Texas. Never mind that now.

Mr. LUNDEEN. Mr. Speaker, will the gentleman yield?

Mr. SUMNERS of Texas. If there is any challenge to my statement, I yield.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. MONTAGUE. Mr. Speaker, I yield the gentleman 3 minutes more.

Mr. LUNDEEN. Did the gentleman ever hear of a United States district or circuit judge who was not overcrowded with work? I never did.

Mr. SUMNERS of Texas. I have, and I make this statement. I do not believe anybody who will examine the situation in California but will say that they need these two new judges. That is my judgment. We want this report voted either up or down on its merits. It is not fair in the consideration of this conference report to be talking about 13 other judges.

It is not fair or good sportsmanship or a good legislative way of handling business. We have an arrangement under which the Chief Justice of the Supreme Court and the presiding justices of each of the circuits come in here and go over the business of the courts. They have gone over the business of the southern district of California and recommended these judges. What has happened? Nothing, except that the Senate, a responsible part of the legislative branch of the Government, added two California judges, which is a good thing to add to the bill, we thought. That is all there is to this report.

Mr. O'MALLEY. Mr. Speaker, will the gentleman yield for a question?

Mr. SUMNERS of Texas. Shoot it fast.

Mr. O'MALLEY. Did the House Judiciary Committee study the need for these two additional judges?

Mr. SUMNERS of Texas. I did, and I think the other members did. I do not think there is any disagreement about that.

Mr. O'MALLEY. Did your committee report a bill out?

Mr. SUMNERS of Texas. No. What are we going to do about it now? What is the sensible thing to do about it? Are you going to beat Judge MONTAGUE's bill on the statement of my good friend from New York [Mr. O'CONNOR]? I could take care of that statement if it were pertinent, with regard to good sportsmanship. I helped bring that bill in. I do not want to take any more time, but I do not want to see such tactics resorted to against Judge MONTAGUE's bill on the floor of this House.

Mr. YOUNG. But no one on the floor of the House now is in a position to give us information as to whether or not the present district judges in the southern district of California are on the job or on vacation or how much time they have devoted to their work; and how can we pass on the merits of this unless the gentleman's committee gives us that information?

The SPEAKER. The time of the gentleman from Texas has again expired.

Mr. MONTAGUE. Mr. Speaker, I yield the gentleman 2 minutes more.

Mr. SUMNERS of Texas. I have not the figures, and I do not know whether the California Members have them or not, but I say on my own responsibility that the figures that I have examined and which the other members of the committee have examined show the need for these two judges. Of course, we have not any way on earth of trailing these judges and seeing whether they sit on the bench all of the time they should sit there. The Attorney General thinks they ought to have these judges, and the Chief Justice thinks we ought to have these judges.

Mr. YOUNG. But they ought to be on the job all of the time, because they are the only officeholders in this country who did not take a cut in pay when everybody else did.

Mr. KRAMER. Is it not a fact that continuously they have had judges come in from other districts to help out in southern California?

Mr. SUMNERS of Texas. Yes. I will not take any more time. [Applause.]

Mr. MONTAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Speaker, I am one of those who do not believe in creating any unnecessary Federal judges, and I appeal now to my colleagues who have made that fight with me in this House not to be prejudiced against a meritorious bill.

I believe that every bill ought to be fought out on this floor on its own merits. What is this bill? The gentleman from Texas [Mr. SUMNERS] stated it clearly and distinctly. This is not the Montague bill; it is the Lloyd bill. It went from this House creating a new judge for the ninth district of California. There was also a bill passed here by my colleague Mr. MONTAGUE to create a judge for the eastern district of Virginia, which passed the House. Both were meritorious bills.

Those two bills went to the Senate. The Senate took this Lloyd bill and added Judge MONTAGUE's bill on it as an amendment. So if you vote down the Senate amendment, as the gentleman from New York [Mr. O'CONNOR] advises you to do, you do not pass the Montague bill at all, but you kill it. So you cannot vote down the Senate amendment and pass the Montague bill.

Now, I want to say this on behalf of those two new judges in California. If you will look up California's record you will find that California, comparable to other States of its size, has more new people today, both registered under the census and not registered under the census, than any other State in the Union. The reports that I am getting today are that there are nearly a million people in California who have gotten in there who are not registered at all under the census. They all have to be handled by the courts, for most of them are aliens.

I am one who does not want to see new Federal judgeships created when they are not necessary. I have fought against it. I am nevertheless one Member of this House who believes that they have done right in providing for these two new judgeships in California. [Applause.] I am willing to vote for this bill as it stands on its own merits. Then when the other bill comes up we will look after it on its merits.

I heard a prominent member of the great Ways and Means Committee a few minutes ago say that if there were going to be any votes against the 15-judge bill, he was not going to let this judge bill pass. I voted to put that gentleman on one of the biggest committees in this House, because I liked him and I then thought he was a man of pretty sound judgment. I voted to put him on our great Ways and Means Committee. Hence I was very much surprised to hear him say that if there were going to be any votes against the 15-judge bill, in which he was interested, he would not let any other new judge bill pass. That is not the kind of a statement that a distinguished member of the Ways and Means Committee of this House ought to make. He ought to be bigger than that. He ought to be broader than that. He ought to have better judgment than that. He ought to be more equitable than that to his colleagues and to the various districts of the country. I still have confidence in him, and I would vote again to place him on the Ways and Means Committee, notwithstanding his impulsive statement.

Mr. TARVER. Will the gentleman yield?

Mr. BLANTON. Not just at this moment. I regret I have not the time to yield.

I have served with my distinguished colleague from Virginia [Mr. MONTAGUE] since the war days. He is one of the most lovable characters in this House. [Applause.] He is one of the great men of this country. [Applause.] He has been Governor of the great Commonwealth of Virginia. He has the confidence of the people. He has rendered a distinctive service to the people of his Nation here in the Congress of the United States. [Applause.] This is his bill. Are we going to kill it; are we going to "Ohio it to death" with these talks simply because we are prejudiced against new judges?

I am one who took the floor against that 21-judge bill back in 1922, and if you will refer to my speech made in 1922 against that bill you will see that I quoted one of the strongest speeches against unnecessary judges that was ever made on this floor, made by the Chairman of our great Committee on the Judiciary [Mr. SUMNERS]. His splendid speech made in a former session against creating new unnecessary judgeships was unanswerable.

Chairman SUMNERS of Texas in that speech spoke about the then conditions out in Arizona where the judge was busy only a few months in the year. He then spoke of the then conditions in Colorado. Today that one judge out in Colorado recently has been trying cases in New York City. He was not busy out in Colorado, so they sent for him to help them out in New York City.

Let us pass this Montague bill. Let us give the eastern district of Virginia its judgeship, and let us at the same time do right and justice by California. [Applause.]

The SPEAKER. The time of the gentleman from Texas [Mr. BLANTON] has expired.

Mr. MONTAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, in 1933 I introduced a bill providing for a Federal judge in the eastern district of Michigan. At the beginning of the Seventy-fourth Congress the same bill was resubmitted. It was on the strength of appeals from the citizens of Detroit and of Michigan, supported by the entire bench of Federal judges located at Detroit that I introduced the bill known as "H. R. 2761." I think the fact that an additional judge is needed is borne out by the support that we have from the Judicial Council and the information that we have from the Supreme Court on the need for the reestablishment of what was at one time a temporary judgeship. However, my bill provided for a permanent, new judgeship, regardless of that temporary place which was unfilled since Judge Simmons was sent to the United States Circuit Court of Appeals at Cincinnati.

Now, I am for the bill offered by the gentleman from Virginia [Mr. MONTAGUE]. I never said I was opposed to it. I am for his bill on its merits. I feel that California, in view of the information we have, is entitled to have additional Federal judgeships; but at the same time I want to stress that we in Michigan need an additional judge as much or possibly even more than you need one in Virginia, or as much as you need two in California. Detroit is the fourth largest city in the United States and the eastern district of Michigan is one of the largest and most important, having a volume of legal business so great that the docket is completely swamped. It is not a matter of any personal pride or any desire on my part to obtain a new judge or slip in a Democrat to fill the place. It is an absolute necessity. It is a matter of public need to clear the docket at the earliest possible time.

My bill has been included in the omnibus bill, and I hope that this House will be fair enough to at least dissociate the instances where a nunfair advantage is being taken and support the remainder of the bill purely on its merits. In the meantime, I want to assure the gentleman from Virginia [Mr. MONTAGUE] that I am not only not opposed to his bill but I am absolutely in favor of it. Any quotation of me to the contrary is entirely erroneous. I shall present the House with the necessary and substantiating fact when the omnibus bill is up for consideration.

Mr. Speaker, I yield back the unused portion of my time.

Mr. MONTAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LEA].

Mr. LEA of California. Mr. Speaker, there is a simple principle that should determine the creation of a judgeship in any district; that is, whether or not the judge is needed. The question as to the need for the additional judges in California has been established as fully as it could be established anywhere. The highest authority on that question in the United States should be the Chief Justice of the Supreme Court, Mr. Hughes. Speaking at the American Law Institute in May of this year, Judge Hughes said:

> In the southern district of California this average interval for all classes of cases is from 18 to 24 months. This is a condition which ought not to continue.

Then referring to the fact that the Judicial Conference had recommended these judges for California, he continued:

> It is idle to talk of reforms if judicial administration, which underlies the enforcement of all laws, is not kept adequate and sufficient.

The gentleman from New York made a speech a few minutes ago in which he claimed that the hands of Congress are tied because of some alleged legislative agreement, some gentlemen's agreement, made in 1921. I have great respect for the gentleman from New York, but I think he is talking nonsense to the House when he advances any such argument. The idea that in 1921 a few men in Congress could get together and have some personal understanding about what should be done in the future and that in 1935 we should find ourselves debarred from doing the sensible, the just thing in this matter is nonsense, with all due respect to my good friend from New York. The whole Congress in 1921, even by unanimous vote, would not bind the Congress of 1935. Then how could a few Members by any gentlemen's agreement in 1921 attempt to bind Congress in 1935.

In southern California the population increased 65 percent from 1920 to 1930. The situation today is entirely different from what it was in 1921. Would any sensible man for one moment contend that we should be bound today by the conditions which existed 14 years ago?

Mr. TARVER. Mr. Speaker, will the gentleman yield?

Mr. LEA of California. I yield.

Mr. TARVER. Would it not have been more nearly fair to have brought the California bill before the House as a separate proposition, to have allowed the House to pass on whether or not these judgeships were justified apart from the proposition of the gentleman from Virginia? Why was it advisable to tie it onto this bill in the Senate, having failed to get a favorable report from the House Judiciary Committee?

Mr. LEA of California. The gentleman refers to a question of procedure which does not relate to the merits.

Mr. TARVER. I say it has very great relation to the merits. I want to know why it was not thought advisable to bring the California proposition before the House separately and apart from the proposition for Virginia?

Mr. LEA of California. We have not had the legislative opportunity. We had to avail ourselves of the legislative opportunity that was afforded. We have not asked that it be considered on any other ground than its merits. There is a real need for these judges out there on the coast, and no argument to the contrary has been advanced. The attempt is to defeat the bill for a reason not going to its merits.

Mr. PIERCE. Mr. Speaker, will the gentleman yield?

Mr. LEA of California. I yield.

Mr. PIERCE. How many judges have you in southern California now?

Mr. LEA of California. Four.

Mr. PIERCE. And how great is the population?

Mr. LEA of California. We have over 6,000,000 people in the State.

Mr. PIERCE. How many people are there in the northern district?

Mr. LEA of California. The population there is less than 3,000,000.

Mr. PIERCE. How many judges are there in the northern district?

Mr. LEA of California. Three.

Mr. PIERCE. You have 7 judges, then, for about 8,000,000 people?

Mr. LEA of California. Yes; or over 6,000,000 people.

Mr. PIERCE. We are crowded up in Oregon. I was asking for one more judge. We have only a little over 1,000,000 people with 2 judges.

Mr. LUNDEEN. Mr. Speaker, will the gentleman yield?

Mr. LEA of California. I yield.

Mr. LUNDEEN. What difference does it make how these bills got before us? If the judges are needed, we ought to pass the legislation.

Mr. LEA of California. The statement of the gentleman is so manifestly sensible that I do not see how any man can think otherwise.

[Here the gavel fell.]

Mr. MONTAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. HEALEY].

Mr. HEALEY. Mr. Speaker, I merely want to reiterate the statement of one of the gentlemen who preceded me, that the argument made against this bill of the gentleman from Virginia was most unfair, for it brought in objections to another bill not under consideration at this time. The purpose, of course, was obvious.

This bill of the gentleman from Virginia for the creation of a judgeship in Virginia came before a subcommittee of the Committee on the Judiciary, which sat especially for the purpose of considering these various judgeship bills which have been introduced by Members of the House. I want to correct the statement that has been made previously that some of these bills were not even introduced by Members of the House. A check up I am confident will show that all these bills were introduced by Members of the House. This

bill was favorably considered by the subcommittee and reported to the full committee, by which it was presented to the House and passed by the House. Ample evidence was presented to the subcommittee and to the full committee to justify its favorable report for an additional judgeship in the ninth circuit. The Senate added on the two judgeships for California. The House Committee on the Judiciary has a number of these bills that have been presented by Members of Congress representing various States. The reason the bill for the California judges had not been previously reported to the House is due to the fact that the committee has not had the opportunity to study that particular bill. After reviewing the figures, however, the committee is convinced, and the chairman of the committee so stated in his speech, that California has made a showing that justifies the appointment of these judges.

As for the omnibus bill that may come up for consideration a little later, and which has been so unfairly and unjustly attacked, I merely want to make a brief statement. I introduced a bill for a judgeship in Massachusetts that was reported by the Judiciary Committee and passed by the House. The Senate added on the amendment, which will, if the conference report is adopted, make permanent 15 judgeships which are now temporary ones. This bill will not create a solitary new judgeship. We have a population of 4,300,000 in Massachusetts and have only two Federal district judges—fewer judges than any other State in this Union of even a comparable population. When the omnibus judgeship bill is presented to the House I am sure we can show sufficient justification for the adoption of the conference report which seeks to make permanent these temporary judgeships.

Mr. MONTAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. McFARLANE].

Mr. McFARLANE. Mr. Speaker, so that we will clearly understand the matter before us, may I say that it involves the question of creating and making permanent four additional Federal judgeships? According to the Attorney General's report of 1934, page 187, it costs the Government an average of $71,425.06 for the operation of each circuit court and Federal district court we have today. We have 41 circuit judges and 150 district judges in the United States, Alaska, and District of Columbia, and to increase this number four will add an expense of $285,700.24 to the already overburdened taxpayers. These courts are not needed; what we should do is redistrict and put our present courts to work. The Attorney General's report shows there were 135,128 cases commenced in 1933 and only 70,111 commenced in 1934, while there were 138,598 cases terminated in 1933, and only 90,091 terminated in 1934. There were 82,839 cases left pending in 1933 and 62,832 left pending in 1934. If these courts had disposed of as many cases in 1934 as they did in 1933 they would have pending only 14,325 instead of 62,832, which was 20,007 cases less than there was left pending in 1933. If our present judges would stay on the job and work we would not need any new courts. If you will refer to the bill that will come up next, which is Senate 481, the omnibus court bill, it will be found that the bill makes permanent 15 additional district judgeships.

Mr. HEALEY. Will the gentleman yield?

Mr. McFARLANE. I yield to the gentleman from Massachusetts.

Mr. HEALEY. May I tell the gentleman, so that he will have the correct information, that it does not create a solitary new judgeship.

Mr. McFARLANE. Out of these 15?

Mr. HEALEY. Not one.

Mr. McFARLANE. That may be true, but the bill at least makes permanent 15 temporary courts that will expire with the death of the present occupant of the chair, and according to the records I have just quoted all of these courts should be allowed to expire. The big excuse for creating these courts back in 1921–22 was on account of prohibition. Now that prohibition has been repealed these courts should not be needed further. And according to the records these southern California judges have disposed of less cases the last 3 years than any other judges in the country except Iowa and Massachusetts.

I notice the bill provides for 2 for Massachusetts, 3 for New York, 1 for Pennsylvania, 1 for Michigan, 2 for Missouri, 1 for Ohio, another one for California, and they will get 3 out of this transaction; 1 for Minnesota; 2 for Texas; and 1 for Arizona.

So with all this logrolling, do not be surprised when the boys go to buttonholing you and saying, "Now, you scratch my back and I will scratch yours, and we will raid the Treasury for another $1,071,375.90 to create and make permanent these additional 15 judgeships", and all this when there has been no information given showing any justification for any such procedure. The Attorney General recommends two additional district judgeships for California and New York, but this pending bill gives California three additional judges and Virginia one, to say nothing of the omnibus bill that sprinkles 15 judgeships throughout the country as above indicated. Both of these bills should be defeated and save this $1,357,076.14.

[Here the gavel fell.]

Mr. MICHENER. Will the gentleman yield?

Mr. MONTAGUE. I yield to the gentleman from Michigan.

Mr. MICHENER. The gentleman from Texas [Mr. McFARLANE] said there has been no investigation made as to the number of cases tried, and so forth. I may say that this information was before the committee and is contained in the report of the Judicial Council, as well as the report of the Attorney General, which is in printed form. If the gentleman from Texas will refer to that report, he will find all the information which he seeks.

Mr. MONTAGUE. Mr. Speaker, I yield 1 minute to the gentlewoman from Arizona [Mrs. GREENWAY].

Mrs. GREENWAY. Mr. Speaker, if, quoting the gentleman from Texas, "they are ganging up" on the Virginia Federal judgeship, certainly they have been "picking" on Arizona. It would be thought that we were a trailer attached to an automobile bigger than the automobile itself. The answer to the question asked by the gentleman from Texas I hold in my hand, and if I had more than 1 minute I would give the House the full information.

To include Arizona as a State that might not need a second judge is unjust. These are the amazing and interesting figures: Based on the cases of the last 3 years, if Arizona is not given an additional judge, the one Federal judge will have an average of 1,109 cases a year, whereas the 3-year average for cases per judge, based on United States civil, criminal, and private cases, for 1932, 1933, and 1934 are as follows:

	3-year average	If Arizona excluded from proposed legislation	
		Number judges	Average per judge
Arizona	1,109	1	1,109
Minnesota	2,769	4	692
Massachusetts	1,603	3	534
Southern New York	9,367	11	851
Eastern New York	4,378	6	730
Western Pennsylvania	2,227	3	742
Eastern Michigan	2,653	4	663
Eastern Missouri	1,489	2	744
Western Missouri	1,874	2	937
Northern Ohio	1,788	3	596
Southern California	2,376	4	594
Northern Texas	3,070	3	1,023
Southern Iowa	491	1	491

Mr. MONTAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRUAX].

Mr. TRUAX. Mr. Speaker, I believe that I am the second Member of the House to speak on this bill who is not a lawyer. Perhaps it makes a difference in viewpoint. I may say that in the State of Ohio there is a population of 7,000,000 people. We have five United States district judges who are doing the work in Ohio and doing it well. Ohio does not need an additional United States district judge today. Ohio is not asking

for an additional judge. When these gentlemen say that the State of California, with a population of 6,000,000 people has eight Federal judges, in my humble opinion, an additional judge is not needed out there.

Mr. Speaker, I am in favor of the bill offered by the gentleman from Virginia. I offered an amendment to the bill when it was pending before this House, which amendment was voted down. I think the bill is a good, meritorious bill, and I would ask the distinguished gentleman from Virginia whether or not he would be willing to separate his bill from this other bill, which ignores all ethics of legislative procedure.

Mr. McFARLANE. Will the gentleman yield?

Mr. TRUAX. I yield to the gentleman from Texas.

Mr. McFARLANE. If we vote this down, we can send it to conference and work out a bill satisfactory to the gentleman from Virginia?

Mr. TRUAX. That is what we ought to do. Let us vote down the conference report and send it back from whence it emanated, and then we can adopt the bill as offered by the gentleman from Virginia, which ought to be adopted. We will then end once and for all this grab bag of judgeships by the other body of this Congress, which is unwarranted and unjustified. I say vote down the conference report.

All progressives and liberals in Congress should be unalterably opposed to the present system of creating judgeships, appointing judges, and countenancing their life tenure of office. They should be opposed to the creation of any new judgeships; they should be opposed to the rate of salary, namely, $10,000 per year. They should be opposed to any appointment that is effective for a period longer than 4 years. If they are appointed to terms longer than 4 years, as is now the case, they are not responsible to the common people. They are responsible only to their lifelong training and environment. They are responsible only to the cold analytical minds of their legal profession. They look not upon suffering humanity with sympathetic eyes. They view cases of human misery and suffering only through the yellow, musty pages of age-old law books and constitutions.

The legal fraternity invariably believes in and administers a government of the lawyers, by the lawyers, and for the lawyers. Many lawyers in Congress look upon such matters as only a means to an end for their own personal ambitions and desires. They look upon these measures as a vehicle which at some time can be used to transport themselves into a judicial court, sit upon a judicial throne, and reign there for life at $10,000 a year.

Never a thought give they to the real needs of their country. Never a thought do they exhibit for the problems of the wage workers, farmers, and soldiers. A bounteous fine salary of $10,000 a year for life does not tend to produce nor create humanitarians. It only tends to produce and perpetuate an oligarchy of the judiciary—a dictatorship of the courts—a regime of the courts, by the courts, and for the courts.

The overwhelming sentiments of the common people indicate that we now have too many judges. We ought to rid ourselves of some instead of adding more judges to the pay rolls. More than 150 United States district judges are sitting on the various benches of the country drawing salaries of $10,000 per year, yet we are confronted with the astounding knowledge that not one of these United States district judges voluntarily took a cut in his salary when the National Economy Act was passed by Congress which emasculated the pensions of war veterans and reduced the salaries of Federal employees. Personally, I objected not to the reduction in the salaries of Members of Congress. I did object to, and resented with all the forces at my command, the emasculation of pensions of war veterans. I am happy to state that I voted "r o" on the famous so-called "Economy Act", and voted upon each and every occasion for restoration of pensions of war veterans.

Not a single iota of evidence has been presented during the consideration of this bill to justify the need for additional judges in the State of California. I am told that the State of California now has eight such judges on the bench drawing salaries of $10,000 a year, and, if this bill is passed, the State of California will be given two more district judges making a total of 10 district judges drawing a salary of $10,000 per year for the State of California, with a population of 6,000,000.

I beg to contrast this unjustified situation with my own State of Ohio where the courts function well for 7,000,000 people with a total of five United States district judges on salaries of $10,000 per year. I am glad to state that as yet the Ohio courts have not nullified nor negatived the acts of Congress as has been done by judges in other States. The courts have set themselves up as the ruling bodies of the United States. They unconstitutionally and unjustifiedly set up their own dictatorship and take upon their shoulders the illegitimate power to veto the acts of Congress and the State legislative bodies.

I would have the people of this country know that we may expect other judicial bills from the Committee on the Judiciary. We must expect an omnibus bill that carries with it authorizations for the creation of 15 more United States district judgeships. That means that $150,000 per year burden will be added to the backs of the taxpayers. That means that 15 more lawyers of the country will be placed upon the judicial throne, that 15 more lawyers will be placed on the bench, where they can look with contempt upon the struggles of those who live by the sweat of their brows.

Your attention is directed to the undisputable fact that the prohibition era and the Hoover panic and its consequent prolonged depression are responsible for a large portion of the work performed by United States district courts today. Thousands of cases of equity, thousands of bankruptcy cases must come within their purview. With prohibition a thing of the past, with the country out on its way from the depression, with the farmers again rehabilitated, with workmen back at their jobs, then these Federal courts will not have half as much work to do as they have today.

It is a custom of the courts in this country to take arbitrarily a long summer vacation. Let these men work 12 months of the year as do men of other vocations, of other professions, of other businesses, then there will be no surplus of cases on their dockets, they will clean up their work. Let them work the same as others work and the surplus will be a thing of the past and there will be no clamor, hue, and cry for more judges at $10,000 per year holding office for life. Let our slogan be "Less judges, harder work, and more decisions in the interest of the common people." [Applause.]

[Here the gavel fell.]

Mr. MONTAGUE. Mr. Speaker, this is a rather anomalous situation, where everyone professes to favor the bill but wishes to kill it by a process of parliamentary legerdemain.

Of the merit of the bill there can be no dispute. The method by which additional judgeships got into the bill is aside the case. The merits of the bill itself, however, do not admit of any criticism. The California judges have been recommended by the highest judicial council of the Nation. Proper investigation has been made. That is true also of the circuit judge.

Mr. Speaker, so far as the district judge for my State is concerned, I do not desire to trespass upon the patience of the House any longer.

Mr. YOUNG. Will the gentleman yield?

Mr. MONTAGUE. I yield to the gentleman from Ohio.

Mr. YOUNG. I know this to be a fact, but I would like to ask the gentleman the question because he is a distinguished member of the Judiciary Committee. Is it not a fact that the two United States district judges for the northern district of Ohio disposed last year of more cases than any two of the present district judges for the southern district of California? If those judges out there would work more, judges would not be needed.

Mr. MONTAGUE. I answer the gentleman in this way: We cannot pass upon personal equations. Perhaps one man in this House does more work than four others.

Mr. YOUNG. If these California judges would do the work, they would not need to have intruded them on the gentleman's bill, which was a proper one.

Mr. MONTAGUE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the adoption of the conference report.

The question was taken; and on a division (demanded by Mr. YOUNG) there were—ayes 126, noes 22.

Mr. YOUNG. Mr. Speaker, I challenge the vote on the ground there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 254, nays 43, not voting 132, as follows:

[Roll No. 134]

YEAS—254

Adair	Dockweiler	Kahn	Ramspeck
Allen	Dondero	Kee	Randolph
Andrew, Mass.	Dorsey	Kennedy, Md.	Ransley
Arends	Doughton	Kenney	Rayburn
Arnold	Doxey	Kerr	Reed, Ill.
Ayers	Drewry	Kinzer	Reed, N. Y.
Bacharach	Driver	Knutson	Rich
Barden	Duffey, Ohio	Kocialkowski	Richardson
Beiter	Duffy, N. Y.	Kopplemann	Robertson
Biermann	Dunn, Pa.	Kramer	Robinson, Utah
Blackney	Eagle	Kvale	Robsion, Ky.
Bland	Eaton	Lambeth	Rogers, Mass.
Blanton	Eckert	Lanham	Rogers, N. H.
Boileau	Edmiston	Lea, Calif.	Rogers, Okla.
Boland	Ekwall	Lee, Okla.	Romjue
Boylan	Ellenbogen	Lehlbach	Russell
Brewster	Engel	Lemke	Ryan
Brooks	Evans	Lesinski	Sadowski
Brown, Ga.	Faddis	Lewis, Colo.	Sanders, Tex.
Brunner	Farley	Lord	Schaefer
Buchanan	Fenerty	Lundeen	Seger
Buck	Fish	McAndrews	Shanley
Buckbee	Flannagan	McClellan	Short
Buckler, Minn.	Focht	McCormack	Smith, Conn.
Caldwell	Ford, Calif.	McLaughlin	Smith, Va.
Cannon, Mo.	Ford, Miss.	McMillan	Smith, W. Va.
Carlson	Frey	Mahon	Snell
Carmichael	Fuller	Mapes	Snyder
Carpenter	Fulmer	Marshall	South
Cartwright	Gavagan	Martin, Colo.	Spence
Celler	Gearhart	Martin, Mass.	Stack
Chandler	Gilchrist	Mason	Steagall
Chapman	Gingery	Massingale	Stubbs
Christianson	Goodwin	Maverick	Sumners, Tex.
Church	Granfield	May	Taber
Citron	Greenway	Mead	Taylor, Colo.
Colden	Greever	Merritt, N. Y.	Taylor, Tenn.
Cole, Md.	Gregory	Michener	Terry
Cole, N. Y.	Guyer	Millard	Thomason
Colmer	Gwynne	Miller	Thurston
Connery	Halleck	Monaghan	Tinkham
Cooley	Hancock, N. Y.	Montague	Tolan
Cooper, Tenn.	Hancock, N. C.	Mott	Turner
Costello	Harlan	Murdock	Turpin
Cox	Hart	Norton	Umstead
Cravens	Harter	O'Day	Utterback
Crawford	Healey	O'Leary	Vinson, Ky.
Crosby	Hess	O'Neal	Wadsworth
Cross, Tex.	Higgins, Mass.	Owen	Warren
Crosser, Ohio	Hill, Ala.	Parks	Weaver
Crowther	Hill, Samuel B.	Parsons	Welch
Cullen	Hobbs	Patman	Werner
Daly	Hoeppel	Patterson	West
Darrow	Holmes	Patton	Whelchel
Deen	Hope	Pearson	White
Delaney	Huddleston	Peterson, Fla.	Whittington
Dempsey	Hull	Peterson, Ga.	Wigglesworth
Dickstein	Imhoff	Pfeifer	Williams
Dies	Jacobsen	Pierce	Wilson, Pa.
Dingell	Jenckes, Ind.	Pittenger	Wolcott
Dirksen	Jenkins, Ohio	Plumley	Wolfenden
Disney	Johnson, Okla.	Powers	Zimmerman
Ditter	Johnson, W. Va.	Rabaut	
Dobbins	Jones	Ramsay	

NAYS—43

Amlie	Hildebrandt	McKeough	Secrest
Boehne	Hill, Knute	Marcantonio	Smith, Wash.
Castellow	Hoffman	Mitchell, Tenn.	Tarver
Crowe	Kennedy, N. Y.	Moritz	Taylor, S. C.
Dietrich	Kloeb	Nelson	Tonry
Fiesinger	Kniffin	O'Connor	Truax
Fletcher	Lambertson	O'Malley	Wallgren
Gehrmann	Larrabee	Pettengill	Wearin
Gray, Ind.	Luckey	Polk	Young
Greenwood	Ludlow	Reilly	Zioncheck
Griswold	McFarlane	Sauthoff	

NOT VOTING—132

Andresen	Bankhead	Binderup	Brown, Mich.
Andrews, N. Y.	Beam	Bloom	Buckley, N. Y.
Ashbrook	Bell	Bolton	Bulwinkle
Bacon	Berlin	Brennan	Burch
Burdick	Gambrill	McLean	Schulte
Burnham	Gasque	McLeod	Scott
Cannon, Wis.	Gassaway	McReynolds	Scrugham
Carter	Gifford	McSwain	Sears
Cary	Gildea	Maas	Shannon
Casey	Gillette	Maloney	Sirovich
Cavicchia	Goldsborough	Mansfield	Sisson
Claiborne	Gray, Pa.	Meeks	Somers, N. Y.
Clark, Idaho	Green	Merritt, Conn.	Starnes
Clark, N. C.	Haines	Michell, Ill.	Stefan
Cochran	Hamlin	Montet	Stewart
Coffee	Hartley	Moran	Sullivan
Collins	Hennings	Nichols	Sutphin
Cooper, Ohio	Higgins, Conn.	O'Brien	Sweeney
Corning	Hollister	O'Connell	Thom
Culkin	Hook	Oliver	Thomas
Cummings	Houston	Palmisano	Thompson
Darden	Johnson, Tex.	Perkins	Tobey
Dear	Keller	Peyser	Treadway
DeRouen	Kelly	Quinn	Underwood
Doutrich	Kimball	Rankin	Vinson, Ga.
Driscoll	Kleberg	Reece	Walter
Duncan	Lamneck	Richards	Wilcox
Dunn, Miss.	Lewis, Md.	Rudd	Wilson, La.
Eicher	Lloyd	Sabath	Withrow
Englebright	Lucas	Sanders, La.	Wolverton
Ferguson	McGehee	Sandlin	Wood
Fernandez	McGrath	Schneider	Woodruff
Fitzpatrick	McGroarty	Schuetz	Woodrum

So the conference report was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. Sullivan with Mr. Bolton.
Mr. Lucas with Mr. McLeod.
Mr. Starnes with Mr. Cooper of Ohio.
Mr. Fitzpatrick with Mr. Stewart.
Mr. Somers of New York with Mr. Hartley.
Mr. Buckley of New York with Mr. Perkins.
Mr. Burch with Mr. Doutrich.
Mr. Berlin with Mr. Bacon.
Mr. Rankin with Mr. Kimball.
Mr. Cochran with Mr. Carter.
Mr. Bloom with Mr. Hollister.
Mr. Scrugham with Mr. Burnham.
Mr. Sears with Mr. Maas.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Rudd with Mr. Tobey.
Mr. Oliver with Mr. Collins.
Mr. McSwain with Mr. Englebright.
Mr. Bulwinkle with Mr. Andresen.
Mr. Mansfield with Mr. Culkin.
Mr. Beam with Mr. Gifford.
Mr. Clark of North Carolina with Mr. McLean.
Mr. Cary with Mr. Treadway.
Mr. Darden with Mr. Wolverton.
Mr. Sandlin with Mr. Thomas.
Mr. Sabath with Mr. Reece.
Mr. Sisson with Mr. Burdick.
Mr. Woodrum with Mr. Woodruff.
Mr. Haines with Mr. Stefan.
Mr. Wilson of Louisiana with Mr. Withrow.
Mr. Kelly with Mr. Merritt of Connecticut.
Mr. Wilcox with Mr. Cavicchia.
Mr. Vinson of Georgia with Mr. Andrews of New York.
Mr. Thom with Mr. Schneider.
Mr. Green with Mr. Scott.
Mr. Fernandez with Mr. Richards.
Mr. Corning with Mr. Dear.
Mr. Nichols with Mr. Montet.
Mr. Claiborne with Mr. Mitchell of Illinois.
Mr. McGrath with Mr. Lamneck.
Mr. Bankhead with Mr. Brown of Michigan.
Mr. Casey with Mr. McGehee.
Mr. Moran with Mr. Clark of Idaho.
Mr. Cummings with Mr. O'Connell.
Mr. Sanders of Louisiana with Mr. Quinn.
Mr. Driscoll with Mr. Gambrill.
Mr. Sweeney with Mr. Gassaway.
Mr. Walter with Mr. Hamlin.
Mr. Kleberg with Mr. Underwood.
Mr. Keller with Mr. Hook.
Mr. Johnson of Texas with Mr. Hennings.
Mr. Gray of Pennsylvania with Mr. Goldsborough.
Mr. Houston with Mr. Schuetz.
Mr. Gasque with Mr. Ferguson.
Mr. Dunn of Mississippi with Mr. Lewis of Maryland.
Mr. O'Brien with Mr. Ashbrook.
Mr. McReynolds with Mr. Lloyd.
Mr. McGroarty with Mr. Bell.
Mr. Maloney with Mr. Gildea.
Mr. DeRouen with Mr. Gillette.

Mr. HARLAN changed his vote from "no" to "aye."

The result of the vote was announced as above recorded.

On motion of Mr. MONTAGUE, a motion to reconsider the vote by whom the bill was passed was laid on the table.

THE POLICIES OF THE ROOSEVELT ADMINISTRATION

Mr. TABER. Mr. Speaker I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. TABER. Mr. Speaker, where is America headed? What are her dictators doing to her? What are her dictators doing to the American workingman? Where is America's standard of living?

These are questions which it is time for patriotic Americans to talk about. These are questions to the seriousness of which the American people must be aroused if there is to be any liberty, if there is to be any security, if there is to be any opportunity for the man in America who wants to make something of himself by work, if we are to maintain the standards of living of America.

That the policies of the Roosevelt administration would throw us into a panic, the like of which this country had never seen, began to be evident by January 1, 1933. That such policies were deliberately designed to create that situation did not appear so clear at the time. It simply appeared that there was a lack of a sense of responsibility, a lack of balance, a lack of appreciation of the campaign promises of stable constitutional government which Roosevelt had made on the stump in the 1932 campaign and to which the old-fashioned Democratic Party was always committed. It became apparent after the inauguration on March the 4th that an attempt was to be made by the administration to create a dictatorship, to take away from the Congress all of its authority and have it delegated to the President.

A frightened Roosevelt administration did pass the Emergency Banking Act and other bills to reduce the expenses of the Government, which, in a measure, caused a business upturn in May and June 1933, but on May 12, 1933, the A. A. A. bill was passed and on June 16, 1933, the N. R. A. bill was passed, delegating enormous powers to the Executive and making him practically a dictator and fooling away billions of dollars of the people's money.

On July 7, 1933, the A. A. A. was proclaimed effective. Processing taxes were levied on farm products despite the fact that Mr. Roosevelt had many times said there never should be taxes on food or clothes, and in 3 weeks the price of wheat dropped from $1.25 a bushel to 95 cents, just the amount of the processing tax.

On July 15, the N. R. A. was proclaimed. The N. R. A. created an overlordship of business. It raised prices, stopped production, threw many out of work, and reduced the size of the pay envelops of those whose jobs were left. During all of these times the number of people out of work has increased. On July 15, 1933, the publication, Weekly Survey of Current Business, published by the United States Department of Commerce, showed for business activity a figure of 100, from a low of 60 in March 1933. From July 15, 1933 on, there was a continuous decline until on November 1, 1933, it had reached a figure of 70. There was a slight increase in the rest of 1933 and through 1934 the figure hovered around 80. At the end of 1934 the figure became about 83. It started in 1935 with a little higher level, but it has now gone down to practically 80 and the business activity curve is now below both the 1933 and 1934 levels for this month. Unemployment figures are at their highest. Relief expenditures will this year reach a figure of $150,000,000 for the month of June 1935, as against approximately $100,000,000 in 1934.

Relief is administered in a high-handed, political, extravagant, and thoroughly incompetent manner. It is carried on with the idea of preventing the people from going to work. If we could have relief administered by local people unhampered by the high-handedness and the proven incompetence of Harry Hopkins we could better meet the needs of the people and save money.

We now have a scheme of spending $2,000,000,000 putting people to work on foolish projects which are not useful, under the leadership of Harry Hopkins, the renowned Socialist. This will further demoralize our people, because when a man is working at something that is not useful he has no heart in it. It has a worse effect on the morale of the people even than direct relief.

The number of people upon relief has risen from a figure of 15,750,000 in March 1933, to 22,000,000 in March 1935, and it cannot be much below that now. This administration is completely destroying the morale of our people, destroying their reserves set up for old age and emergencies, and throwing them bodily on relief.

To make this situation more acute, the administration, with the deliberate idea of throwing more people out of work has entered into reciprocal-trade agreements with other countries to let their farm products and other goods into this country at lower rates of duty, and has thereby thrown more people out of work. The purpose of this reciprocal-tariff scheme, according to Secretary Wallace, as appears in his testimony before the Ways and Means Committee on the 8th of March 1934 on pages 45 to 61 of the hearings, was to get rid of those industries which paid higher wages than were paid in foreign countries for the same work.

At the same time that the A. A. A. is attempting to reduce production of cotton, corn, and wheat, the Senate is passing a bill designed to appropriate $1,000,000,000, and add that to our debt, to set up the tenant farmers in business so they can raise more wheat, cotton, and corn. We are also having many hundreds of millions of dollars fooled away on irrigation projects designed to put more land under cultivation to raise corn, cotton, and wheat. This is but evidence of the contradictory policies of the Roosevelt administration.

Roosevelt promised us economy. He has spent, in a little over the 2 years since his inauguration, approximately $16,000,000,000, and this includes the postal deficiency, but not the postal-revenue expenditures; and the revenues of the Government in that time have been less than $7,000,000,000. We have added to the national debt approximately $9,000,000,000, and he still has appropriated and unexpended, which the people will have to pay, $12,000,000,000. This has completely unbalanced the Budget. He has not had the courage to place the taxes on the people to make these expenditures. Every foolish move he has made has prevented business from providing employment; has prevented the people from having work.

The taxes he has proposed will not raise any revenue whatever, but will drive the wealthy out of productive enterprise which provides work for the people into tax-exempt securities. This is not the way to provide employment for the people, but the way to drive them out of work.

If the people are to have better houses to live in, if they are to have more to eat, if they are to have better clothes to wear, and more comforts, it must come as a result of a policy which will provide private employment. Today, if we would stop the foolish Government expenditures, balance the Budget with taxes, and stop doing the foolish things which destroy our farmers and our working people, the improvements required upon industrial plants alone would run five times the foolish expenditures made by the Government to demoralize our people.

What Roosevelt terms reform is in most cases not reform but schemes to wreck business and keep people out of work.

I charge, because there is no other explanation for the operations of the Roosevelt administration, that the efforts of President Roosevelt have been directed deliberately toward those policies which would naturally destroy confidence, throw people out of work and on relief, establish communism and State ownership of all endeavor, but most of all, establish a dictatorship with Franklin D. Roosevelt as dictator.

Where, I ask, is there a place for a labor union in a dictatorship; where is the opportunity for the workingman to have a job; where is the opportunity for the workingman to improve his conditions? He and everyone else will be a slave, just as they are in Russia. Is it not time for the people in America to arouse themselves, throw off the yoke that binds them, demand their liberty, give the farmer an opportunity to operate his business at a profit, and instead of having fake measures for relief of farmers have those that will accomplish something and not destroy them. Now is the time for every good American to come to the aid of his country and take his place and bear his share of the responsibility of citizenship. Throw off the Roosevelt yoke and stand for the improvement and recovery of America.

RELIGIOUS STATUS OF AMERICAN CITIZENS RESIDENT IN MEXICO

Mr. HIGGINS of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. HIGGINS of Massachusetts. Mr. Speaker, on July 16 a petition for an inquiry by the United States into the religious status of American citizens resident in Mexico was presented to the Honorable Franklin D. Roosevelt, President of the United States, by a delegation representing 250 Members of the House of Representatives. The text of this petition reads as follows:

TEXT OF PETITION

At the present time it is reported that there are 14 States in the Republic of Mexico where no minister of religion, be he Christian or Jew, is permitted to exercise his sacred functions. Taking cognizance of this condition, the British Secretary of State for Foreign Affairs, Sir John Simon, has promised the members of the House of Commons that he would interest the British Minister at Mexico City, as well as the British consular officials throughout the aforesaid 14 States of Mexico, to institute an inquiry as to the facilities for Divine worship available to British citizens resident in or visitng these communties.

In view of the fact that there are more American citizens of all denominations than there are British citizens, both resident in and visiting the 14 States where no minister of religion is permitted, the question naturally arises whether a similar inquiry might not be made in the Republic of Mexico through the American Embassy and the American consular officials. The undersigned Members of Congress, together with the full membership of the committee, believe that some simple and constructive measure ought to be taken in order to ascertain the facts on this situation, evidencing an affirmative interest in the religious rights of American citizens of all faiths and creeds.

MEMBERS OF DELEGATION WHO VISITED THE WHITE HOUSE

The members of the committee which presented this petition at the White House were: Representatives JOHN P. HIGGINS, of Massachusetts, chairman, and CLARE GERALD FENERTY, of Pennsylvania, co-chairman; WILLIAM M. CITRON, HERMAN P. KOPPLEMANN and JAMES A. SHANLEY, of Connecticut; JOHN J. BOYLAN, EMANUEL CELLER, JAMES M. MEAD,

RICHARD J. TONRY, HAMILTON FISH, Jr., and THOMAS H. CULLEN, of New York; JOHN W. MCCORMACK, GEORGE HOLDEN TINKHAM, WILLIAM P. CONNERY, and ARTHUR D. HEALEY, of Massachusetts; PETER A. CAVICCHIA and EDWARD J. HART, of New Jersey; J. BURRWOOD DALY, of Pennsylvania; JOHN D. DINGELL and ALBERT J. ENGEL, of Michigan; RAYMOND S. MCKEOUGH, of Illinois; MARTIN L. SWEENEY, of Ohio; and RICHARD J. WELCH and JOHN M. COSTELLO, of California.

In presenting this petition, the committee also gave President Roosevelt a rather lengthy memorandum, prepared by Representatives JOHN P. HIGGINS, of Massachusetts, and CLARE GERALD FENERTY, of Pennsylvania, co-chairman of the voluntary House committee interested in this cause. The text of this memorandum reads as follows:

MEMORANDUM TO THE HONORABLE FRANKLIN D. ROOSEVELT, PRESIDENT OF THE UNITED STATES, WITH RESPECT TO THE PETITION OF THE MEMBERS OF THE VOLUNTARY CONGRESSIONAL COMMITTEE ON MEXICO WITH PARTICULAR REFERENCE TO THE RELIGIOUS RIGHTS OF AMERICAN CITIZENS

(By JOHN P. HIGGINS (D), of Massachusetts, and CLARE GERALD FENERTY (R), co-chairman, Pennsylvania)

The first point which our committee wishes to emphasize is that we come as champions of religious liberty in behalf of all groups and denominations in Mexico, especially wherever the religious or educational rights of our American citizens have been violated. In other words, our representations are not made in the name of one particular group but in the name of all those who believe in God and feel the conscientious obligation to worship the Supreme Being. The movement in Mexico has been admirably pointed out in a recent statement by Dr. Charles S. MacFarland, secretary general emeritus of the Federal Council of Churches of Christ in America, when he says that the persecution is not anti-Christian or anti-Jewish but anti-God. It is a direct assault upon the fundamental rights of conscience.

In order to illustrate this point, the members of our committee direct attention to the fact that more than two-thirds of the 250 signatures upon our petition, a copy of which is attached, which calls for an inquiry as to the facilities available for religious worship by Americans in 14 States in Mexico, are those of Protestant and Jewish Congressmen. These gentlemen evidently agree with the editorial judgment of the organ of the Episcopal Church in this country, which recently declared that the anti-God movement undertaken by the Mexican Government was "a major scandal in world affairs." Numerous Members of Congress have studied the editorials that have appeared in the Christian Index of Georgia, the Christian Century, and the American Hebrew, as well as the formal statement of the National Council of Jews and Christians, and are convinced that the atheistic drive in Mexico is a matter of international concern, especially where it infringes upon the rights of American citizens who desire to worship God according to the dictates of their conscience.

Mr. President, although this committee is convinced that numerous, sincere, and salutary efforts have been made by the American Government in order to bring the Mexican Government to a full realization of the gravity of this problem, the members of the committee, nevertheless, feel obligated to voice their concern that absolutely nothing of an official public character has been put on record to show American concern for the traditional American principle of religious liberty; particularly where the rights of American citizens are involved. This concern, it may be added, is being felt with an increased depth of conviction by all classes and denominations in continental United States. As one of our members express the gist of our position to the Honorable Cordell Hull, American Secretary of State, it is the deeply rooted conviction of the members of this committee that there should be on record some overt statement or public statement which would clearly indicate in the eyes of our own people and to the expectant gaze of the civilized world that the American Government is entirely disassociated from the official persecution of religion in Mexico. It is the belief of our committee that this public statement can be couched in such friendly, courteous, and dignified language that no possible offense can be taken by any official of the Mexican Government. Far from endangering the good-neighbor policy so carefully developed by the United States Department of State, under your administration, Mr. President, this public championing of the principle of religious liberty would win the most cordial admiration both from the vast bulk of the Mexican people and from the populations of all the other Latin American nations.

Above all, Mr. President, the committee is unalterably opposed to any semblance of interference or intervention in Mexico. This is a question of the moral vindication of an ethical principle. The members of our committee desire that American intervention of whatever character should be stopped immediately. There is an impression in many quarters that there has been intervention of an undesirable character, in the sense that an attempt has been made to block the efforts of those interested in this campaign for human rights. It has been publicly charged and never denied that the administration gave orders that there would be no hearings either on the Borah resolution or on any other of the Mexican resolutions now apparently buried in committee in both the House and the Senate. These are indications that, as far as the public is concerned, the United States Government has scarcely manifested an attitude of neutrality, but has actively taken one side as against the other. That the best of intentions have motivated this policy we have no doubt, but with all possible deference and respect it is our duty to submit for your consideration the express conviction of a majority of your Congress that representations, unofficial and discreet in intent, are not enough. In order to illustrate that the desires of the committee are reasonable, fair, and temperate, I am taking the liberty to submit, Mr. President, drafts of proposed public statements that, in the judgment of the full membership of our committee, would effectively give public notice to the world and to Mexico that the American Government is vitally interested in the principle of religious liberty.

"The Government or the United States has not assumed to dictate the policy of other nations, or to make suggestions as to what the municipal laws should be or as to the manner in which they should be administered. Nevertheless, the mutual duties of nations require that each should use its power with due respect for the result which its exercise will produce on the rest of the world. It is in this respect that the religious conditions prevailing in Mexico whether they regard Protestant, Catholic, or Jew, are brought to the attention of the United States. It is an accepted practice under international law for one nation to use its good offices with a view to remove obstacles that may affect the cordiality that should exist between friendly governments and peoples.

"I am fully aware that millions of American communicants of all denominations view with increasing apprehension the existence of religious disabilities in our sister Republic of Mexico.

"I believe that the common consent of mankind and the better universal public opinion favor the utmost development of religion with the fullest opportunities for its teachings and practices, and I earnestly vouchsafe the hope that this idea will find even greater unanimity in the family of nations."

When diplomatic messages such as those outlined above are dispatched in a spirit of friendship to another sovereign nation, there is no reasonable ground for supposing or alleging that intervention or interference is contemplated. This has been made clear in recent days by the statesmanlike, diplomatic representations by the Honorable Cordell Hull, American Secretary of State, to the Ambassador of the Royal Italian Government. Was there a single voice raised in protest against this act of diplomatic procedure? What critic dares to raise the cry of "intervention" or "interference?"

To be sure it will be alleged in support of the procedure in this instance, that the American Secretary of State was justified primarily on the basis of the Kellogg Pact, but our committee believes that there are treaty provisions between the United States and Mexico which furnish a similar basis for remonstrance and protest. The terms of the Mexican agreement, guaranteeing full religious liberty as a condition of recognition, are quoted in the CONGRESSIONAL RECORD (Apr. 25, 1935, p. 6431).

On the other hand it is a matter of recorded history that this administration did actually inspire a demonstration of Senatorial protest against the persecution of Jews in Germany, on June 10, 1933, when eight United States Senators, led by the leader of the Democratic majority, the Honorable JOSEPH T. ROBINSON, and admittedly in the language of the Honorable J. HAMILTON LEWIS, administration whip, acting under instructions from the administration, rose in indignation in the Senate to denounce the religious intolerance in Hitler's Germany. No one on that occasion, Mr. President, suggested or spoke of "intervention" or "interference." In general, it may be said that this was regarded as an intelligent act of high-minded statesmanship. In the light of these precedents, Mr. President, is it not fair to inquire, with every mark of deference and respect, why the same administration should now discourage efforts to bring about a public protest?

Indeed the contrast in the administration attitude, both in regard to Ethiopia and Germany, is so marked that suspicion has been aroused that peradventure Your Excellency has been partially misled as to the wishes of the religious leaders who are interested in this problem. Foreseeing the possibility of such a misunderstanding, we, as chairmen of this committee have brought with us letters and statements from prominent prelates and religious authorities of many denominations.

From these declarations it must be clear that the leaders are not satisfied with a policy of official silence. In order not to burden Your Excellency with lengthy citations, we quote only one letter, couched in the most emphatic and striking language by an American cardinal, a prince of the church, known for his intellectual ability and love of the spirit of universal charity. His words on the subject are clear and unmistakable:

"If a great many more were to do what you have done, the Washington administration might, by this time, have done something for Christians and Jews in that unhappy land. Sooner or later right will prevail; but no thanks should be due to those in Washington who have shirked their duty, and will be remembered for their failure to act."

As for the argument that the Mexican Government wishes to save its honor in coming to an agreement on religious questions, it may be pointed out that the indulgence and the silence of the United States for 20 years have not borne such fruit as may be desired but that on the contrary the Mexican governmental attitude toward all religions has continued almost daily to go from bad to worse. Eight months ago, Mr. President, the brunt of the persecution in Mexico was centered against the Catholic church. Now it has become as violently anti-God as the governmental attitude in Soviet Russia.

Consequently, Mr. President, the members of this committee believe, basing their appeal on numerous precedents in the office of the American Secretary of State and submit as their deliberate judgment the opinion that official silence is neither an adequate remedy for the evils they deplore, nor an honorable position of this Government to maintain. In our judgment, the time has come to publish to the world our deep concern in this question of the rights of conscience. In our judgment, the irreducible minimum which can be expected, in default of some public pronouncement, is to give official instructions from the United States Department of State to the American embassy and the American consular offices in Mexico to the effect that the inquiry suggested in the congressional petition be undertaken without delay. This would make it clear in the words of the petition itself that the group representing the United States of America wishes to evidence "an affirmative interest in the religious rights of American citizens of all faiths and creeds."

The committee believes that this is an eminently fair, moderate, and reasonable request. It further believes that, if acted upon favorably, it will prove by its beneficial results to have been an intelligent act of high-minded statesmanship.

RESPONSE OF PRESIDENT ROOSEVELT

In response to this petition and this statement, prepared by the chairman of the committee, President Roosevelt, himself, wrote out the following memorandum for the Members of Congress and for the press. The memorandum reads:

The President stated that he is in entire sympathy with all people who make it clear that the American people and the Government believe in freedom of religious worship, not only in the United States but also in all other nations.

HAS CONGRESS ABDICATED?

Mr. MOTT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including therein a radio address made by myself on the 5th of July.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. MOTT. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following address which I delivered at Washington, D. C., over the National Broadcasting Co. network on July 5:

The life of the United States as a nation began and has continued under the particular form of government which we now have. It is a form of government which obtains nowhere else on earth. Although it is less than 150 years old, it has endured longer without change in form than any other government in the world. Under it the people of the United States have grown to be the richest, the most powerful, the freest and the most secure of all people of the earth. If there are those who have been inclined to doubt this during the recent years of the depression the most unfortunate of them need only to compare their lot with that of the people of other countries during the same period.

Under our form of government the people themselves, who are the real rulers and from whom all governmental authority is derived, have always been able to meet and solve every problem and every crisis that has risen in our Nation's life. They will continue to do this, in my opinion, so long as they maintain the form of government which has enabled them to do it in the past, and they will solve our present problems if only they will not depart from that theory and that system of government which for 150 years has been distinctly and uniquely their own.

The form of our government is that prescribed by the Constitution, which is the fundamental law of the land and which was made and adopted by the people themselves. It is a grant of limited power from the people to the Federal Government. The Constitution of the United States proceeds upon the theory that all governmental authority is vested in the people and that the exercise of that authority shall be at all times in control of the people. In order to insure this the Constitution has provided that the power granted under it to the Federal Government shall be exercised through the agencies of three separate and distinct departments or branches, each having its own exclusive jurisdiction and function, and that the authority of one branch may not trespass upon or interfere with the function or authority of the others.

The first branch of this governmental agency is the legislative branch, which is composed of a Congress of elected representatives or agents of the people in whom is vested the sole duty and responsibility of making the law. The members of this branch of the Federal Government, both in the House and Senate, are responsible directly to the people who elect them and to no one else.

The second branch of Federal Government is the executive branch, consisting of a President, who is elected by the people, and of the several hundred executive officers ranging from Cabinet members down through the bureau chiefs, department heads, etc., who are appointed by and are responsible to the President. It is the duty of the executive department of the Government to administer the law which the Congress makes. The President is also authorized to recommend legislation for the consideration of Congress and is given the conditional power of the veto which, however, may be overridden by a two-thirds majority of the Congress. So that the full lawmaking authority of the Federal Government always remains in Congress.

The third branch of the Federal Government is the judicial branch, at the head of which is the Supreme Court of the United States. It is the duty of the Supreme Court to interpret the law and to see to it that both the law itself and the administration of it are within the limitations prescribed by the Constitution.

The necessity for a judicial or law-interpreting branch of the Government arises from the fact that the people of the United States in setting up the machinery of Federal Government gave to the Federal legislature only limited lawmaking power. They granted to Congress the right to make certain kinds of law and prohibited it from making certain other kinds. Within the limitations of the Constitution, however, the lawmaking jurisdiction of Congress is not only supreme but exclusive. This constitutional grant of authority from the people to the Federal Government, let me repeat, is limited by the terms of the Constitution. That instrument gives to the Federal Government the right to exercise only a part of the whole governmental power belonging to the people and provides that all power not expressedly granted by the Constitution to the Federal Government shall be vested in the States or in the people themselves.

The power vested in the President by the Constitution is likewise limited. Therefore, whatever may be the case in other governments, under our own system it is absolutely indispensible that there be a law-interpreting branch with authority, in any case directly affecting the constitutional rights of the people, to declare whether an act of the Congress or an action of the President was such an act or action as the people's constitution permits.

The Constitution of the United States is based upon the fundamental theory that ours is a Government of law and not of men. It, therefore, denies to officers of the Federal Government, who are simply agents of the people, any power whatever except that given them by law. Furthermore, it denies to an executive officer any power to make the law which he is charged with administering, and it denies to a legislative officer any power to administer the law which he makes. This is a part of the theory of checks and balances, which is the heart of the Constitution, and the strict aderence to which during the 150 years of our national existence has been responsible not only for the stability of the Government but for the retention of governmental authority in people.

Since the World War, and particularly since the beginning of the world-wide depression which followed the war, there has been a growing tendency on the part of executive officers of governments throughout the world to subordinate the legislative branches of those governments to the executive branch. In several European countries this form of executive usurpation has gone so far that parliamentary government has disappeared altogether and the chief executives of those countries at present not only administer the law but also make it.

The question is repeatedly asked whether the Government of the United States has been able to escape this modern tendency to subdue the power of the lawmaking branch of the Government and to concentrate all authority in the executive department. Since it is obvious that under our form of Government the Chief Executive cannot usurp legislative power unless the Congress itself surrenders that power to him, let us try to answer this question first by inquiring by what methods, if any, it is possible for Congress to do this.

There are three methods by which Congress may abdicate its lawmaking power. The first is by enacting only those laws which the President demands and by refusing to permit consideration of any others. The second is by allowing the President himself, or some of his appointees in the executive departments, to actually write the law and then to have the Congress go through the legal formality of enacting it. The third method is by granting to the President the power to make law himself upon certain subjects through the issuance of orders or proclamations having the force and effect of law. All of these methods of abdicating its power is forbidden to Congress by the Constitution. Therefore, if the Congress has done any of these things it is obvious that to the extent it has done them it has abdicated its lawmaking power to the President.

With a very few exceptions no major laws have been enacted during the present administration except those which have been specifically demanded in messages sent to the Congress by the President. Of the small number of important bills passed without the President's orders most have been promptly vetoed, and the administration majority in Congress is so overwhelming that the overriding of a veto in the Seventy-third and Seventy-fourth Congresses has been practically impossible. There are many important bills now lying in committees which have been introduced by individual Members in pursuance of their constitutional duty and responsibility as lawmakers. The enactment of some of these bills has been long demanded by millions of people of the United States, and in the case of at least one of such bills the legislatures of a majority of the States have formally petitioned Congress to enact it. Yet until the President says that he wants any or all of these laws enacted there is not the remotest possibility of their being considered even by a committee of Congress. In the Congress of the United States the majority is supreme, and when that majority numbers more than 3 to 1 and when it is dominated by the wishes of the Executive administration in power, the right of the minority for all practical purposes of lawmaking is done away

with whenever the desires of the minority conflict with the personal views of the Chief Executive.

Thus through Executive domination of the legislative majority the Congress has progressed far along the road to abdication under the first method I have mentioned.

Again, with but a few exceptions, no bill of major importance enacted during the present administration has been written or drafted or even conceived by an individual Member of Congress or by any committee of Congress. Practically all have been prepared by executive officers of the Government, who are not responsible either to the Congress or to the people. When a bill thus prepared is ready for introduction it is sent by the executive department to the chairman of the committee of Congress which is to report it to the House, and the chairman's name is then printed on the bill as the author of it. Important legislation sent to committee in this manner has been reported to the House without any consideration worthy of that name, without changing a single line or word and under gag rules which have been forced upon the House by the majority party. Under these gag rules no amendment to the bill is permitted. All of this has been done at the demand of the President, whose leaders on the majority side see to it that his orders are carried out by their followers. In this manner the second method of abdication is being effected.

Executive usurpation of legislative power is carried further by the enactment of laws giving to the President authority to make law himself upon certain subjects without consulting Congress at all. Examples of this have been the Economy Act, the Tariff Act of 1933, the Taylor grazing bill, the Bankhead cotton bill, and many others, all of which give the President power to make law. In the 1933 Tariff Act, for example, the Congress surrendered to the President practically all of its effective tariff-making power by authorizing the President, in his own discretion, to raise or lower any existing tariff by 50 percent, merely by issuing an Executive order to that effect.

It must be obvious to all thoughtful people that if this process of abdication is carried to its ultimate and logical conclusion, it will be only a matter of time when there will be no more lawmaking power left in Congress, and that when that time comes there will be no reason for continuing to have a legislative branch of the Government at all. That point has already been reached in other countries, notably in Italy and in Germany, whose parliaments, having abdicated completely to the chief executives of those nations, have been dissolved altogether.

The question now naturally arises: Who is responsible for this situation which is undermining the very foundation of our system of government, and what can be done about it?

The responsibility for this gradual abdication of Congress lies with the people themselves. In their despair during the recent depressing years and in their desire to find a short cut to the solution of their economic problems, the people of this country have unconsciously allowed themselves to follow the example of the people in Europe and to try the experiment of government by men instead of government by law. They did this by electing to the Congress of the United States an overwhelming majority of men whose very campaign pledges should have disqualified them in the eyes of the people as Federal lawmakers under our system of government.

These men did not pledge themselves to make law. They did not pledge themselves even to carry out the declarations of their own party platform in regard to the kind of law that should be enacted. Instead they pledged themselves, as Members of the lawmaking body, to support the head of the executive department of the Government, and to support him 100 percent. I repeat that such a pledge disqualifies its maker for a seat in the lawmaking branch of the Government. A pledge of this kind may be a proper pledge for a Cabinet officer to make, or for any other officer in the executive branch of the Government who is appointed by the President and is responsible to him. But when a Member of the legislative branch makes that pledge he precludes himself in advance from functioning as a legislator, because by it he pledges himself to enact only such a law as the President may want.

As the responsibility for this situation lies with the people so also does the remedy. The Constitution, as I have said, vests all governmental power in the people. It is for the people to say whether they want a Congress of their own representatives who are pledged to perform their constitutional duty and responsibility as independent lawmakers, or whether they want a Congress composed of a majority which has pledged itself in advance not to do that. The representatives of the people who framed the Constitution knew, of course, that the people themselves would sometimes make mistakes. Wisely they provided in that document a speedy and convenient method for the people to correct their mistakes. That method is the constitutional provisions for frequent elections. If the people decide they have made a mistake in allowing their representatives in Congress during the past 3 years to depart from that adherence to our form of government which the Constitution requires they may correct that mistake when again the time comes for them to select those who are to represent them in the lawmaking body of their country.

Mrs. GREENWAY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include certain statistics showing the need of an additional judge in Arizona.

The SPEAKER. Is there objection to the request of the gentlewoman from Arizona?

There was no objection.

COMMITTEE ON ACCOUNTS

Mr. WARREN. Mr. Speaker, I ask unanimous consent that the Committee on Accounts may sit tomorrow during sessions of the House.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

STANDARDS OF CLASSIFICATION FOR TOBACCO

Mr. SMITH of Virginia. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 294.

The SPEAKER. The gentleman from Virginia calls up a resolution which the Clerk will report.

Mr. McFARLANE. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The Chair will count.

Mr. McFARLANE. Mr. Speaker, I withdraw the point of no quorum.

The Clerk read as follows:

House Resolution 294

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H. R. 8026, a bill to establish and promote the use of standards of classification for tobacco, to provide and maintain an official tobacco inspection service, and so forth. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The question is on the adoption of the resolution.

Mr. McFARLANE. Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is not a quorum present.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 884. An act for the relief of Lt. Comdr. G. C. Manning.

BILLS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H. R. 298. An act for the relief of Jack Page; and

H. R. 617. An act for the relief of Lake B. Morrison.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 17 minutes p. m.) the House adjourned until tomorrow, Thursday, July 18, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

427. A letter from Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Alabama, Arizona, New Jersey, and Tennessee on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

428. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Indiana, Kentucky, Minnesota, and North Carolina, January 1, 1935; to the Committee on Interstate and Foreign Commerce.

429. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Georgia, Kansas, Virginia, and Wisconsin on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

430. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Florida, Montana, and South Dakota on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. CULLEN: Committee on Ways and Means. H. R. 8870. A bill to further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes; without amendment (Rept. No. 1542). Referred to the Committee of the Whole House on the state of the Union.

Mr. COLDEN: Committee on the Disposition of Executive Papers. House Report 1543. Disposition of useless papers in the Federal Emergency Relief Administration. Ordered to be printed.

Mr. O'CONNOR: Committee on Rules. House Resolution 300. Resolution providing for the consideration of House Joint Resolution 348; without amendment (Rept. No. 1544). Referred to the House Calendar.

Mr. HOLMES: Committee on Interstate and Foreign Commerce. H. R. 8857. A bill authorizing the States of New York and Vermont to construct, maintain, and operate a toll bridge across Lake Champlain between Rouses Point, N. Y., and Alburg, Vt.; with amendment (Rept. No. 1545). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. HOEPPEL: Committee on War Claims. H. R. 381. A bill granting insurance to Lydia C. Spry; without amendment (Rept. No. 1546). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FULMER: A bill (H. R. 8886) to authorize the coinage of 50-cent pieces in commemoration of the sesquicentennial anniversary of the founding of the city of Columbia, S. C.; to the Committee on Coinage, Weights, and Measures.

By Mr. KELLER: A bill (H. R. 8887) to extend the time within which suits may be brought on yearly renewable term insurance, and for other purposes; to the Committee on World War Veterans' Legislation.

By Mr. CROSS of Texas: A bill (H. R. 8888) making it a felony for anyone to sign any fictitious name or the name of another without his or her consent to any written instrument the intent of which is to influence the vote of any Member of Congress for or against any pending legislation and to convey or cause the same to be conveyed to any Member of Congress as well as anyone who conspires in having same done, and assessing the penalty therefor; to the Committee on the Judiciary.

By Mr. DIMOND: A bill (H. R. 8889) to extend certain provisions of the act of June 18, 1934 (48 Stat. 984), to the Territory of Alaska, to define the boundaries of Indian reservations in Alaska, and for other purposes; to the Committee on Indian Affairs.

By Mr. PEYSER: A bill (H. R. 8890) for the erection of an airport on Governors Island; to the Committee on Military Affairs.

By Mr. HIGGINS of Connecticut: A bill (H. R. 8891) to provide for the acquisition of additional land at New London, Conn.; to the Committee on Military Affairs.

By Mr. WHITTINGTON: A bill (H. R. 8892) to modify and extend the project for the flood control and improvement of the Mississippi River authorized by the Flood Control Act of 1928; to the Committee on Flood Control.

By Mr. BEITER: Resolution (H. Res. 298) authorizing the appointment of a committee to investigate waterway conditions in central New York; to the Committee on Rules.

Also, resolution (H. Res. 299) providing for the expenses of conducting the investigation authorized by House Resolution 298; to the Committee on Accounts.

By Mr. PETERSON of Florida: Joint resolution (H. J. Res. 356) to permit articles imported from foreign countries for the purpose of exhibition at the Pan American Exposition to be held in Tampa, Fla., to be admitted without payment of tariff, and for other purposes; to the Committee on Ways and Means.

Also, joint resolution (H. J. Res. 357) providing for participation by the United States in the Pan American Exposition to be held in Tampa, Fla., in commemoration of the four hundredth anniversary of the landing of Hernando De Soto in Tampa Bay; to the Committee on Foreign Affairs.

By Mr. AYERS: Joint resolution (H. J. Res. 358) to further the development of a national program of land conservation and utilization; to the Committee on Agriculture.

By Mr. COFFEE: Joint resolution (H. J. Res. 359) to further the development of a national program of land conservation and utilization; to the Committee on Agriculture.

By Mr. FENERTY: Joint resolution (H. J. Res. 360) authorizing the Secretary of State to communicate with various nations in regard to settling the debts owed to the United States; to the Commitee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CROWTHER: A bill (H. R. 8893) for the relief of Arthur Reid; to the Committee on Military Affairs.

By Mr. DISNEY: A bill (H. R. 8894) to extend the benefits of the Employees' Compensation Act of September 7, 1916, to Maude R. Crawford, widow of William M. Crawford, a former special disbursing officer with the Indian Office at Pawhuska, Okla.; to the Committee on Claims.

By Mr. FISH: A bill (H. R. 8895) for the relief of Paul J. Francis; to the Committee on Claims.

By Mr. GRAY of Pennsylvania: A bill (H. R. 8896) granting a pension to James Y. Bowser; to the Committee on Pensions.

By Mr. KELLER: A bill (H. R. 8897) for the relief of Ruby Rardon; to the Committee on Claims.

By Mr. TOLAN: A bill (H. R. 8898) for the relief of Barbara Jean Matthews, a minor; to the Committee on Claims.

By Mr. UNDERWOOD: A bill (H. R. 8899) granting an increase of pension to Mary Briggs; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9158. By Mr. CLARK of Idaho: Joint memorial passed by the second extraordinary session of the Twenty-third Legislature of Idaho, regarding submarginal farm land; to the Committee on Agriculture.

9159. By Mr. SADOWSKI: Petition of the Department of Michigan, Veterans of Foreign Wars of the United States, endorsing the establishment of a veterans' hospital in the Detroit area; to the Committee on World War Veterans' Legislation.

9160. Also, petition of the Department of Michigan, Veterans of Foreign Wars, petitioning the reconsideration of the drastic ruling to enable any veteran physically fit to secure enlistment in the veteran's contingent of the Civilian Conservation Corps; to the Committee on World War Veterans' Legislation.

SENATE

THURSDAY, JULY 18, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Wednesday, July 17, 1935, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) to appoint an additional circuit judge for the ninth judicial district.

The message returned to the Senate, in compliance with its request, the bill (S. 1793) to amend the act entitled "An act authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California", approved May 18, 1928 (45 Stat. L. 602).

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson	Pittman
Ashurst	Coolidge	Keyes	Pope
Austin	Copeland	King	Radcliffe
Bachman	Costigan	La Follette	Reynolds
Bailey	Davis	Lewis	Robinson
Bankhead	Dickinson	Logan	Russell
Barbour	Dieterich	Lonergan	Schall
Barkley	Donahey	McAdoo	Schwellenbach
Bilbo	Duffy	McCarran	Shipstead
Black	Fletcher	McGill	Smith
Bone	Frazier	McKellar	Steiwer
Borah	George	Maloney	Thomas, Okla.
Brown	Gerry	Metcalf	Townsend
Bulkley	Gibson	Minton	Trammell
Bulow	Glass	Moore	Truman
Burke	Gore	Murphy	Tydings
Byrd	Guffey	Murray	Vandenberg
Byrnes	Hale	Neely	Van Nuys
Capper	Harrison	Norbeck	Wagner
Caraway	Hastings	Norris	Walsh
Carey	Hatch	Nye	Wheeler
Chavez	Hayden	O'Mahoney	White
Clark	Holt	Overton	

Mr. ROBINSON. I desire to announce that the Senator from Louisiana [Mr. LONG] and the Senator from Utah [Mr. THOMAS] are unavoidably detained from the Senate.

Mr. JOHNSON. I wish to anounce that the Senator from Oregon [Mr. MCNARY] is detained temporarily on official business.

Mr. VANDENBERG. I repeat the announcement as to the absence because of illness of my colleague the senior Senator from Michigan [Mr. COUZENS].

Mr. CONNALLY. I desire to announce that my colleague the senior Senator from Texas [Mr. SHEPPARD] is detained by important business. I desire this announcement to stand as to all votes today.

The VICE PRESIDENT. Ninety-one Senators have answered to their names. A quorum is present.

CIVILIAN CONSERVATION CORPS CAMPS IN TENNESSEE

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Interior, reporting, in response to Senate Resolution 159, agreed to on June 24, 1935 (submitted by Mr. MCKELLAR), relative to the number, personnel, salaries, etc., of Civilian Conservation Corps camps in the State of Tennessee, which, with the accompanying papers, was ordered to lie on the table.

PETITIONS AND MEMORIALS

Mr. TYDINGS presented memorials of sundry citizens of the State of Maryland, remonstrating against the continuance of the Federal tax on gasoline, which were referred to the Committee on Finance.

Mr. COPELAND presented a memorial of sundry citizens of Troy and vicinity, in the State of New York, remonstrating against the continuance of the Federal tax on gasoline, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Italian-American Society of Croton on Hudson, N. Y., protesting against the enactment of the so-called "Dies bill", being House bill 8731, pertaining to the deportation of aliens, which was referred to the Committee on Immigration.

He also presented a resolution adopted at a meeting of citizens in the Croton-Harmon High School, Croton on Hudson, N. Y., opposing all manifestations of war and preparations leading thereto, which was referred to the Committee on Military Affairs.

RECIPROCAL TRADE AGREEMENT WITH RUSSIA

Mr. MCCARRAN. Mr. President, in furtherance of an amendment which I have pending to the bill now before the Senate, and as showing the devastating influence and effect of the so-called "trade agreement" with Russia, I ask to insert in the RECORD a telegram received from the American Match Institute.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NEW YORK, N. Y., *July 17, 1935.*

The Honorable PATRICK MCCARRAN,
Senate Office Building:

Entire American match industry, employing 25,000 workers in 14 different States, heartily endorses your stand opposing recent trade pact our Government has made with Russia. Immense quantities of Russian Soviet strike-on-box safety matches now in Government warehouses will be dumped on American market as soon as this trade agreement goes into effect. We thoroughly agree with you that reciprocal tariff law is unconstitutional.

F. X. A. EBLE,
Manager American Match Institute.

REPORTS OF COMMITTEES

Mr. TYDINGS, from the Committee on Territories and Insular Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 3140. A bill to provide that funds allocated to Puerto Rico under the Emergency Relief Appropriation Act of 1935 may be expended for permanent rehabilitation, and for other purposes (Rept. No. 1131); and

H. R. 8209. A bill temporarily to exempt refunding bonds of the Government of Puerto Rico from the limitation of public indebtedness under the Organic Act (Rept. No. 1132).

Mr. PITTMAN, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 4507) to amend sections 1, 2, and 3 of the act entitled "An act to provide for the commemoration of the termination of the war between the States at Appomattox Court House, Va.", approved June 18, 1930, and to establish the Appomattox Court House National Historical Park, and for other purposes, reported it with amendments and submitted a report (No. 1133) thereon.

R. F. C. LOANS FOR REPAIR OF FLOOD DAMAGES

Mr. WAGNER. From the Committee on Banking and Currency I report back favorably without amendment the bill (S. 3269) to amend the act entitled "An act authorizing the Reconstruction Finance Corporation to make loans to nonprofit corporations for the repair of damages caused by floods or other catastrophes, and for other purposes", approved April 13, 1934, and I submit a report (No. 1134) thereon.

This is a bill which I introduced a few days ago. I have conferred with the leader of the majority side and the leader of the minority side, and they have no objection to the bill. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. STEIWER. Let the bill be read.

Mr. MCKELLAR. What is the bill? I ask that it be read.

The PRESIDING OFFICER. The bill will be read.

The bill was read as follows:

Be it enacted, etc., That the first paragraph of the act entitled "An act authorizing the Reconstruction Finance Corporation to make loans to nonprofit corporations for the repair of damages caused by floods or other catastrophes, and for other purposes", approved April 13, 1934 (48 Stat. 589), is hereby amended by striking out the words "year 1933, and in the months of January and February 1934" and inserting in lieu thereof the words "years 1933, 1934, 1935, and 1936."

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STEIWER:

A bill (S. 3277) authorizing a preliminary examination of the Nehalem River and tributaries, in Clatsop, Columbia, and Washington Counties, Oreg., with a view to the controlling of floods; to the Committee on Commerce.

By Mr. HARRISON:

A bill (S. 3278) to provide for the construction of the Tennessee Valley and Tombigbee River Inland Waterway, and for other purposes; and

A bill (S. 3279) authorizing the city of Natchez and the county of Adams, State of Mississippi, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Natchez, State of Mississippi; to the Committee on Commerce.

By Mr. BARKLEY:

A bill (S. 3280) for the relief of Doris Allen; to the Committee on Foreign Relations.

By Mr. COPELAND:

A bill (S. 3281) to amend the act of February 16, 1929, entitled "An act to amend the act entitled 'An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and the Public Health Service', approved June 10, 1922, as amended"; to the Committee on Commerce.

By Mr. FRAZIER:

A bill (S. 3282) to promote the general welfare of the Indians of the United States of America, and for other purposes; and

A joint resolution (S. J. Res. 162) to promote the general welfare of the Indians of the United States of America, and for other purposes; to the Committee on Indian Affairs.

BIDS FOR GOVERNMENT CONTRACTS SUBJECT TO CODES OF FAIR COMPETITION

Mr. WALSH. I ask consent to introduce for appropriate reference a joint resolution to authorize the acceptance of bids for Government contracts made subject to codes of fair competition. I also ask that certain correspondence from the General Accounting Office relating to the subject matter may be printed in the RECORD.

The VICE PRESIDENT. Without objection, the joint resolution will be received and appropriately referred, and the correspondence presented by the Senator from Massachusetts will be printed in the RECORD.

The joint resolution (S. J. Res. 163) to authorize the acceptance of bids for Government contracts made subject to codes of fair competition was read twice by its title, referred to the Committee on Education and Labor, and ordered to be printed in the RECORD, as follows:

Joint resolution to authorize the acceptance of bids for Government contracts made subject to codes of fair competition

Resolved, etc., That no bid submitted prior to the enactment of this joint resolution in response to the invitation of any executive department, independent establishment, or other agency or instrumentality of the United States, the District of Columbia, or any corporation all the stock of which is owned by the United States (all of the foregoing being hereinafter designated as "agencies of the United States"), if otherwise valid and acceptable, shall be rejected because made subject to the provisions of any code or codes of fair competition, or any related requirements (as provided in Executive Order No. 6646 of Mar. 14, 1934), if the bidder, with the assent of his surety, shall agree in writing that the contract, if entered into, shall, in lieu of such code provisions or other related requirements, be subject to all acts of Congress, enacted after the date of enactment of this joint resolution, requiring the observance of minimum wages, maximum hours, or limitations as to age of employees in the performance of contracts with agencies of the United States. In such cases the compensation provided for in the contract shall be reduced from that stated in the bid by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract is reduced solely by reason of the contractor not complying with the provisions of such code or codes or related requirements, and the compensation for the performance of the contract shall be increased from that fixed in the contract by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract has been increased solely by reason of compliance with such subsequent acts of Congress, if any, relating to the performance of contracts with agencies of the United States.

The correspondence referred to is as follows:

GENERAL ACCOUNTING OFFICE,
July 18, 1935.

SENATOR WALSH: Pursuant to your informal request of this afternoon I have examined the proposed resolution to be introduced by you and return it herewith with copies of the decisions rendered by the Comptroller General to the effect that bids submitted on the basis of code compliance and not accepted prior to May 27, 1935, date of the opinion and judgment of the Supreme Court of the United States in the Schechter case, should be rejected with readvertisement on the basis of eliminating such requirement; that is, on the basis of securing bids without the inclusion therein of such additional amounts as the respective bidders might believe to be necessary in the performance of the contract to reimburse them for the added expenses of code compliance.

I have suggested a few minor amendments in the draft of the proposed resolution, the amendments being typed in black as substitutes for the language of the draft typed in blue, which has been indicated by parentheses. Also, I have proposed the elimination of the phrase "to be", as indicated.

O. R. MCGUIRE,
Counsel to the Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 18, 1935.

The Honorable the SECRETARY OF WAR:

SIR: There has been received your letter of July 13, 1935, as follows:

"Reference is made to your decisions of June 20, 1935, A62730, and July 1, 1935, A63153, A63252, and A63295, to the effect that where bids were submitted on the basis of certificates of compliance with code and as there are now no codes with which to comply, such bids should be rejected with readvertising.

"It is evident that these decisions were based on the assumption that bids submitted under certificates of code compliance include additional compensation on the basis of such code compliance.

"There is enclosed herewith abstract of bids of Rock Island Arsenal, proposal no. 35-330, together with copies of the bids submitted, which were opened May 15, 1935, covering the procurement of armor plate for combat vehicles. The award already has been made for the 19 sets of armor plate for medium tanks under item no. 1 of the circular proposal.

"The other items of this circular proposal cover armor plate for light tanks in various quantities. The requesting of bids under several items covering varying quantities was because at the time the proposal was issued the exact number of vehicles which might be procured with the funds appropriated could not be determined. The making of the award under any of the items covering armor plate for light tanks has been delayed to the present time pending a definite determination of the exact number of vehicles to be procured.

"The number of light tanks which it will be possible to procure has now been definitely determined as 144. The number of sets of armor plate for these vehicles is covered by items nos. 5 and 9 of the proposal. It has been decided that the needs of the Government will best be served by accepting the lowest bid submitted under item no. 9, that of the Diebold Safe & Lock Co. at 72⅞ cents per pound.

"The Diebold Safe & Lock Co. are now manufacturing, under Contract W-741-ORD-1564, 58 sets of armor plate for the same type of vehicle at a price of 82 cents per pound. The Ordnance Department has a resident inspector at the contractor's plant. Also representatives of both Rock Island Arsenal and the Ordnance Office have made various trips to that plant and are familiar with conditions there. Based on reports received from these representatives of the Ordnance Department, it is understood that the Diebold Co. is finding the fabrication of this armor plate much more difficult than was anticipated. It is believed that if the inclosed bids were rejected and new bids requested, the bid of the Diebold Safe & Lock Co. would be materially higher than their present bid. It should be noted that the next higher bid under item no. 9 is 31 percent higher than that of the Diebold Co.

"As the bid of the Diebold Safe & Lock Co. included a certificate as to code compliance which requirement cannot now be included in a contract, and in view of the conditions stated above, decision

is requested as to whether it will be necessary to reject all bids enclosed herewith with readvertisement, or whether it will be proper to award the contract on the basis of the present lowest bid omitting from the contract all requirements as to code compliance."

Where bidding has been upon conditions that must be abandoned in contracting, and especially where such conditions may have influenced the bids either as to amount or as to those bidding, there has not been open competition as required by section 3709, Revised Statutes, and this defect is not overcome by the possibility that new bidding on a proper basis may bring higher prices. With respect to the condition resulting from the decision, dated May 27, 1935, of the Supreme Court of the United States in the Schechter case, holding unconstitutional so much of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 195) et seq., as purported to authorize codes of fair competition and the suspension of the National Industrial Recovery Board of the requirements of Executive Order No. 6646 of March 14, 1934, see the decisions of this office of June 20 and July 1, 1935, mentioned by you.

Accordingly, you are advised with respect to uses of the appropriation proposed to be charged that all bids in the instant matter, not properly accepted, based upon compliance with a code of fair competition—which codes and requirement that Government contractors observe them do not now exist—should be rejected and the needs as to armor plate readvertised on the basis of specifications eliminating all reference to such codes.

The papers are returned herewith.

Respectfully,

J. R. McCARL,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 1, 1935.

ADMINISTRATOR OF VETERANS' AFFAIRS,
Veterans' Administration.

SIR: There has been received your letter of June 27, 1935, as follows:

"The Veterans' Administration is in receipt of Circular Letter No. 100 from the Director of Procurement, Procurement Division, Treasury Department, reading in part as follows:

"'Until such time as the proposed legislation may be acted upon by Congress the Director of Procurement recommends that in lieu of the code compliance requirements stipulated in paragraphs 1 to 4, inclusive, of Executive Order 6646, temporarily suspended by Administrative Order G. C., No. 89, of May 29, 1935, all invitations to bid for supplies, materials, or construction projects of any character include the following clause:

"'"Bids are requested on the basis that if subsequent legislation shall require observance of minimum wages and/or maximum hours of employment and/or limitation as to age of employees in the performance of Government contracts any contract entered into shall be subject to modification to accord with such statutory requirements to the extent authorized or required by law" and contracts based thereon to be entered into accordingly.

"'It is further suggested that awards may be made on pending proposals if the bidder will agree to the inclusion in the contract of the stipulation above quoted in lieu of the code-compliance requirements, and if the bidder does not agree new proposals should be issued which include the above stipulation.'

"In considering the recommendations and suggestions of the Director of Procurement the following questions arise, and it will be appreciate if you will answer them in order that bids may be properly acted upon:

"1. In the event the lowest bidder deletes from his bid the above-quoted provision or otherwise indicates when submitting his bid that he does not subscribe to the said provision may the bid be rejected as not being responsive to the invitation, and, if not, what disposition shall be made of the bid?

"2. In those instances where awards have not been made on pending proposals which do not include the code-compliance requirements and the lowest acceptable bidder refuses to subscribe to the condition recommended by the Director of Procurement, should all bids be rejected and new bids solicited which include the above-quoted provision, and, if not, what action may be taken on such proposals?

"3. In those instances where awards are pending and the bids submitted include the code-compliance requirements, what action should be taken in the event the lowest acceptable bidder refuses to subscribe to the condition recommended by the Director of Procurement in lieu of the code-compliance requirements?

"4. When making emergency or open-market purchases and it is not possible or practicable to get the vendor to subscribe to the condition recommended by the Director of Procurement, may such purchases be made without regard to the condition, inasmuch as transactions of this character do not cover an extended period of time but are negotiated and completed immediately?"

As stated in decision of June 20, 1935, A–62730, the decision dated May 27, 1935, of the Supreme Court of the United States in the Schechter case declared unconstitutional so much of the act of June 16, 1933 (48 Stat. 195 et seq.), as authorized codes of fair competition, with the result that even though bids may have been received containing certificates of compliance with applicable approved codes of fair competition there are now no such codes with which the contractor could comply, and it would be an unauthorized use of appropriations and an unjustified drain upon Public Treasury to award contracts submitted on the basis of compliance with a code when the contractor would not be required to so comply, but, nevertheless, would receive such additional compensation as might on the basis of code compliance in performing have been included in the bid.

After May 27, 1935, the Director of Procurement, Treasury Department, formulated the provision to be included in advertising for bids, as stated in the above-quoted letter of June 25, 1935, and it was stated by this office on June 24, 1935, A–63153, that:

"The provision employed by procurement reserves the right to modify the contract in the event subsequent legislation should require observance of minimum wages, maximum hours, etc., and, to such extent as there may be involved in adjustments additional drains on appropriations, there seems essential a statutory requirement as basis therefor else adjustments might create deficiencies in contravention of law and thus would be unauthorized notwithstanding any administrative reservation in contracting. Contracts obligating appropriations must be definite and certain.

"In view of the fact there was contemplated seeking legislation with respect to fixing maximum hours and minimum rates of wages for workers on Government projects and prohibiting the employment of children thereon and it was administratively desired to reserve, in entering into contracts prior to consideration of such proposal by the Congress, the right to make modification therein to bring them into conformity with such legislation, if enacted, there seemed to this office nothing to prohibit requesting bids and contracting in such manner that if the Congress should by legislation provide for fixing maximum hours and/or minimum rates of wages and/or limiting the age of employees on Government projects, and in such connection should specifically require or authorize modification of existing contracts to conform therewith, where the right had been so reserved in contracting, such contracts could be modified accordingly, and the Director of Procurement was informally so advised.

"It is believed the reservation provided for in circular letter no. 100, issued by the Director of Procurement and approved by the Secretary of the Treasury, will permit modification of contracts wherein employed, with respect to the matters reserved, and to the extent authorized or required by subsequent legislation, and goes as far in the matter as is consistent with the laws relating to the obligation of appropriated moneys."

The reservation contemplates—in the event subsequent legislation shall require observance of minimum wages and/or maximum hours of employment and/or limitation as to age of employees, in the performance of Government contracts, and shall authorize modification of existing contracts wherein the right to so modify has been thus reserved—modification of such existing contracts so as to bring them into conformity with the terms of such legislation with respect to the elements reserved, with right in contractor to be reimbursed the actual additional costs made necessary thereby.

In view of the requirements of section 3709, Revised Statutes, there appears no authority of law for requiring bidders and prospective contractors of the United States to agree to such provision as a condition precedent to contracting with the United States. (See decision of Jan. 2, 1934, A–50815, 13 Comp. Gen. 181, to you, and Jan. 10, 1931, A–34106, 10 Comp. Gen. 294, to the Secretary of the Treasury.) The said provision when included in the advertised specifications may properly be viewed under section 3709, Revised Statutes, only, as a request to bidders on the part of the advertising and contracting agencies of the United States that bids be submitted upon the basis that in event there should be enacted legislation of the character mentioned prior to the completion of the contract to be awarded the contractor will agree to modification of the contract to conform with the terms of the requirements of such law.

Specifically, your questions nos. 1 and 2 are answered in the negative; such bids not being for rejection because the bidder declined to agree to future modification of contracts entered into because of subsequent changes in the law. As to your question no. 3—where bids were submitted on the basis of certificates of compliance with codes and as there are now no codes with which to comply—such bids should be rejected with readvertising. (See above referred to decision dated June 20, 1935, A–62730.) Your question no. 4 is answered in the affirmative.

Respectfully,

J. R. McCARL,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 1, 1935.

GENERAL PURCHASING OFFICER,
The Panama Canal, Washington, D. C.

SIR: There has been received your letter of June 25, 1935, in pertinent part, as follows:

"I am inclosing herewith a copy of Panama Canal Schedule No. 3066, bids under which were opened June 21, 1935, together with copy of amendment no. 1 to the schedule, dated June 10, adding to the 'special conditions' of the schedule a paragraph relative to compliance with employment requirements. This amendment was issued in view of pending legislation which would require certain provisions to be made in Government contracts relative to minimum wage and maximum hour standards.

"I am also inclosing herewith the original bid submitted by the Warren Foundry and Pipe Corporation under Schedule No. 3066. This company is the low bidder on items 4 and 5 of class 2, covering pipe fittings, and also on the flexible joints under class 3 of the schedule. However, it will be noted this bidder states the employment requirement provision covered by amendment

no. 1 would not be complied with. In view of this statement on the part of the bidder, it is respectfully requested that you advise whether or not this office is authorized to make any awards under the above-numbered schedule to the Warren Foundry and Pipe Corporation."

The question stated in the concluding sentence of the above-quoted extract of your letter of June 25, 1935, is answered in the affirmative for reasons stated in the enclosed copy of my decision of today to the Administrator of Veterans' Affairs.

The papers enclosed with your letter are returned herewith.

Respectfully,

J. R. McCARL,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 20, 1935.

The Honorable the SECRETARY OF THE INTERIOR.

SIR: There has been received your letter of June 8, 1935, as follows:

"The Bureau of Reclamation recently advertised for bids for tank-car gasoline, and among the bids received were two from the Texas Oil Co. and the Continental Oil Co., both of which concerns were previously declared to be violators of section 7-A of the National Industrial Recovery Act as embodied in section 7, article II of the petroleum code. In conformity with the provisions of the Executive order of the President dated March 14, 1934, and also in view of your decision regarding violation of codes by bidders, this Department has refused to consider or entertain any bids received from the above-named companies.

"In view of the recent Supreme Court decision regarding the National Industrial Recovery Act this Department desires to be advised whether we would be justified in continuing the rejection of bids received from companies which have been held to be in violation of codes, or whether award can now be made to these companies, provided their bids are low."

The petroleum code as initially issued was based on section 9 of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), which was subsequently held to be unconstitutional in an opinion and judgment dated January 7, 1935, of the Supreme Court of the United States in *Panama Refining Co. et al.* v. *Ryan et al.* Thereafter the Congress in Public, No. 14, approved February 22, 1935, attempted to meet the defects in section 9 of the act of June 16, 1933, as pointed out in the Panama Refining Co. case. Whether it has done so remains to be seen in view of the opinion and judgment dated May 27, 1935, of the Supreme Court of the United States in the Schechter case. However, unless and until the act of February 22, 1935, is invalidated or repealed it is to be observed by the administrative and accounting officers of the United States.

However, the petroleum code of fair competition necessarily fell with section 9 of the act of June 16, 1933, and there is nothing whatever in the act of February 22, 1935, which could be interpreted as reviving such code or as authorizing another code of fair competition to enforce the terms of said act. Section 6 of the act of February 22, 1935, provides a fine of not to exceed $2,000 or imprisonment not to exceed 6 months, or both such fine and imprisonment upon conviction for knowingly violating any provision of said act, and section 10 thereof provides that:

"SEC. 10. (a) Upon application of the President, by the Attorney General, the United States district courts shall have jurisdiction to issue mandatory injunctions commanding any person to comply with the provisions of this act or any regulation issued thereunder.

"(b) Whenever it shall appear to the President that any person is engaged or about to engage in any acts or practices that constitute or will constitute a violation of any provision of this act or of any regulation thereunder, he may in his discretion, by the Attorney General, bring an action in the proper United States district court to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

"(c) The United States district courts shall have exclusive jurisdiction of violations of this act or the regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this act or the regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this act or regulations thereunder, or to enjoin any violation of this act or any regulations thereunder, may be brought in any such district or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 225 and 547)."

That is to say, the act of February 22, 1935, provides the punishment and establishes the judicial procedure to be followed in event of the violation of any provision thereof—and nowhere therein is there included any authority of law for officers of the United States to reject a low and otherwise proper bid submitted by any person, firm, or corporation subject to the act because it may be believed that they have violated some provision thereof. In this connection, your attention is invited to the fact that the requirements of Executive Order No. 6646 of March 14, 1934, relative to code compliance have been suspended. See administrative orders of May 29 and June 3, 1935, of the National Industrial Recovery Board.

Answering your question specifically, you are advised that the rejection of a low and otherwise proper bid submitted for delivery of gasoline, or other petroleum products to the United States upon the basis that such bidder had been administratively declared to be a violator of some provision of the act of February 22, 1935, is not authorized.

Respectfully,

J. R. McCARL,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 17, 1935.

CHAIRMAN UNITED STATES BOARD OF TAX APPEALS.

SIR: There has been received your letter of June 10, 1935, as follows:

"I have the honor to transmit herewith 11 open bids received under the call of May 14, 1935, for bids covering stenographic reporting service for the Board for the fiscal year 1936. The twelfth bid (unopened) was not received by the Board until 3:15 p. m. on May 28, 1935.

"According to the statements submitted by Smith & Hulse, one of the bidders, transmitted herewith, and my own calculations as set forth in the memorandum also enclosed, I am of opinion that the firm of Smith & Hulse may be considered the 'lowest bidder.' The responsibility of this bidder is unquestioned, and with these considerations I ask your decision as to whether the contract for the coming fiscal year may properly be awarded to the firm of Smith & Hulse."

While the unopened bid of Howard B. Smith bears Washington, D. C., postmark 7 p. m., May 27, 1935, and should have been delivered in time to be opened at 12 noon, May 28, 1935, instead of at 3:15 p. m. of that day, as indicated on the envelop, it appears unnecessary at this time to determine whether the bid should be opened for the reason that the advertised specifications contained a provision that—

"No bid will be considered unless it includes or is accompanied by a certificate duly executed by the bidder stating that the bidder is complying with and will continue to comply with each approved code of fair competition to which he is subject, and if engaged in any trade or industry for which there is no approved code of fair competition, then stating that as to such trade or industry he has become a party to and is complying with and will continue to comply with an agreement with the President under section 4 (a) of the National Industrial Recovery Act. (Executive order of Mar. 14, 1934.)"

When the bids—which were required to be accompanied by a certificate that the bidder was complying with, and would continue to comply with, the applicable approved codes of fair competition, or if no code, then with the President's reemployment agreement—were opened, the Supreme Court of the United States had decided on May 27, 1935, in the Schechter case that the provisions of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 196 et seq.), relative to codes and code compliance were unconstitutional. And in such connection it is to be noted the National Industrial Recovery Board on May 29, 1935, as amended June 3, 1935, suspended the requirements of Executive Order No. 6646, of March 14, 1934, as referred to in the above-quoted extract from the advertised specifications of May 14, 1935.

It necessarily follows it would not be proper to now contract on bids required to be submitted on the basis of code compliance. Consequently, all of the bids should be rejected and there should be readvertising on the basis of specifications eliminating such requirement.

The papers are returned herewith.

Respectfully,

(Signed) J. R. McCARL,
Comptroller General of the United States.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—AMENDMENTS

Mr. WHEELER and Mr. O'MAHONEY each submitted an amendment intended to be proposed by them, respectively, to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which were ordered to lie on the table and to be printed.

THE BANKING SYSTEM—AMENDMENTS

Mr. FLETCHER and Mr. NYE each submitted an amendment intended to be proposed by them, respectively, to the bill (H. R. 7617) to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes, which were ordered to lie on the table and to be printed.

REVENUE DERIVED FROM LIQUORS—AMENDMENT

Mr. COPELAND submitted an amendment intended to be proposed by him to the bill (H. R. 8870) to further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and

enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes, which was referred to the Committee on Finance.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. HAYDEN submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was ordered to lie on the table and to be printed, as follows:

On page 66, after line 9, to insert the following as a substitute for the committee amendment striking out section 2:

"SEC. 2. In all suits now pending in the Court of Claims by an Indian tribe or band which have not been tried or submitted, and in any suit hereafter filed in the Court of Claims by any such tribe or band, the Court of Claims is hereby directed to consider and, where equitable, to offset against any amount found due the said tribe or band all sums expended gratuitously and beneficially by the United States for the said tribe or band; and in all cases now pending or heheafter filed in the Court of Claims in which an Indian tribe or band is party plaintiff, wherein the duty of the court is merely to report its findings of fact and conclusions to Congress, the said Court of Claims is hereby directed to include in its report a statement of the amount of money which has been expended by the United States gratuitously and beneficially for the said tribe or band: *Provided*, That expenditures made prior to the date of the law, treaty, agreement, or Executive order under which the claims arise shall not be offset against the claims or claim asserted; and expenditures under the act of June 18, 1934 (48 Stat. L. 984), shall not be charged as offsets against any claim on behalf of an Indian tribe or tribes now pending in the Court of Claims or hereafter filed: *Provided further*, That funds appropriated and expended from tribal funds shall not be construed as gratuities; and this section shall not be deemed to amend or affect the various acts granting jurisdiction to the Court of Claims to hear and determine the claims listed on page 678 of the hearings before the subcommittee of the House Committee on Appropriations on the second deficiency appropriation bill for the fiscal year 1935."

MANIPULATION OF COTTON MARKETS AND PRICES

Mr. SMITH submitted the following resolution (S. Res. 172), which was referred to the Committee on Agriculture and Forestry:

Resolved, That in addition to the authority conferred upon the Committee on Agriculture and Forestry, or any duly authorized subcommittee thereof, under Senate Resolution No. 103, Seventy-fourth Congress, first session, agreed to March 16, 1935, and Senate Resolution No. 125, agreed to May 7, 1935, the committee, or any duly authorized subcommittee thereof, shall have authority to investigate, with a view to determining whether there has been any manipulation, direct or indirect, of the cotton markets, or any undue influence thereupon in connection with the issuance or publication of cotton reports or statements, (1) the causes of the decline of the price of cotton on the cotton exchanges on, prior, and subsequent to March 11, 1935, and (2) the activities of the Department of Agriculture, cotton exchanges, cotton merchants, cotton brokers, cotton millers, bankers, and any other persons, firms, or corporations connected with the cotton business on, prior, and subsequent to March 11, 1935.

The said committee shall report to the Senate at the earliest practicable date the result of its investigation, together with its recommendations for the enactment of necessary legislation.

For the purpose of this resolution and Senate Resolutions 103 and 125, the said committee, or any duly authorized subcommittee thereof, is hereby authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth Congress, to employ such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses, and the production of such books, papers, and documents, to administer oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per 100 words. The limit of expenditures to be made under the authority of this resolution, as well as under the aforesaid Senate Resolutions 103 and 125, is hereby increased by $———, and shall be paid from the contingent fund of the Senate upon vouchers to be approved by the Chairman of said Committee on Agriculture and Forestry.

ADDITIONAL CIRCUIT JUDGE FOR NINTH JUDICIAL DISTRICT

Mr. KING submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) to appoint an additional circuit judge for the ninth judicial district, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, and 3, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same with an amendment, as follows: In lieu of the amended title proposed by the Senate amend the title so as to read: "An Act to Provide for the Appointment of Additional United States Judges"; and the Senate agree to the same.

WILLIAM H. KING,
W. G. MCADOO,
WM. E. BORAH,
Managers on the part of the Senate.
A. J. MONTAGUE,
WESLEY LLOYD,
U. S. GUYER,
Managers on the part of the House.

Mr. KING. I move the adoption of the report.

Mr. JOHNSON. Mr. President, will the Senator state what the report is?

Mr. KING. The result of the conference is that the bills passed by the House and the Senate have been coordinated. The bill as now reported provides for a judge of the Circuit Court of Appeals for the Ninth Circuit, two judges for the District Court of California, and one judge for the District Court of Virginia.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

PAYMENT OF PREVAILING WAGES ON WORK-RELIEF PROJECTS

Mr. McCARRAN. Mr. President, earlier in the session for some 7 weeks the joint resolution in connection with the work-relief program appropriating $4,800,000,000 was held up because of an amendment demanding that the prevailing wage should be adopted in the several sections of the country.

I am happy now to announce to those who supported us in that great fight that by an Executive order, after nearly 3 months of study, it has been concluded that the amendment for the prevailing wage should become the rule under the new works appropriation.

For that reason I send to the desk and ask to have inserted in the RECORD an excerpt from the press of the country showing that the prevailing wage now obtains.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Herald]

UNION WAGES TO BE PAID ON WORKS RELIEF—LOWER SCALES ONLY TO APPLY ON PROJECTS UNDER $25,000; NEWS OF RATE PLEASES LABOR

Prevailing rates of wages will be paid on all work-relief projects costing more than $25,000, the administration informed union leaders yesterday.

Lower scales ranging from $19 to $94 per month, which were announced by President Roosevelt some time ago, will apply only to the small projects handled by Works Progress Administrator Hopkins.

UNIONS PLEASED

Union leaders were elated by this development, as it dispelled their fears that low relief wages would shatter the standard set by organized labor.

The pay on large projects will be based on union scales prevailing April 1, 1935. The old P. W. A. paid wages prevailing April 1, 1933, but it was discovered such wages were often higher than current union scales, due to pay cuts since 1933.

The administration's decision to pay prevailing wages on large projects resulted from the fact that most of these projects will be financed by loans and grants to States and cities. The law of most States requires payment of prevailing wages for public works.

Allotments to Government bureaus for public buildings also will be included in the prevailing-wage category.

EIGHT-HOUR DAY

An 8-hour day and a maximum 140-hour month was established by Mr. Hopkins today for persons employed on P. W. A. projects. These hours may be exceeded only in case of an emergency or when the limitations are "not feasible or practicable."

Deductions will be made from earnings for voluntary absence and illness. Pay will not be continued when work on a project is postponed or completed or when persons on relief are dismissed permanently.

The President yesterday approved an allotment of $97,500,000 to the Civilian Conservation Corps to build up its enrollment and to purchase supplies.

CIRCUIT COURT OF APPEALS' T. V. A. DECISION

Mr. ROBINSON. Mr. President, I ask to have printed in the RECORD an article by the United Press, published in the Washington Post of this date, on the subject matter of the decision on the T. V. A. by the Circuit Court of Appeals at New Orleans.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post of July 18, 1935]

T. V. A. UPHELD BY COURT; UTILITIES SYSTEM SPENT $700,000 ON LOBBYING—ALABAMA CASE REVERSED; CIRCUIT BENCH BACKING SALE OF POWER—FIGHT TO BE CARRIED TO SUPREME BENCH—RULING GIVES CONGRESS RIGHT TO COMPETE WITH PRIVATE INDUSTRY

NEW ORLEANS, LA., July 17.—The new deal scored a victory in the Fifth United States Circuit Court of Appeals today when the tribunal upheld the constitutionality of the Tennessee Valley Authority's "yardstick" electric program.

The decision, reversing an anti-T. V. A. ruling by Federal Judge W. I. Grubb, of Birmingham, swept aside all arguments that the Federal Government may not go into the business of selling surplus electricity.

All three appellate judges concurred in the opinion. They are, Judges Nathan P. Bryan, Rufus E. Foster, and Samuel E. Sibley. Attorneys for both sides had announced they would carry the case to the highest tribunal if the decision here went against them.

HOLDS UNITED STATES MAY COMPETE

"It is within the province of Congress to adopt any reasonable means, whether for lease or sale, for disposing of the surplus hydroelectric power at Wilson Dam", the three-judge circuit court held.

"The use of transmission lines to facilitate sales cannot fairly be said by the courts to be unreasonable or inappropriate", the ruling continued.

"Of course, it is true that the Government of the United States cannot engage at will in private business, but it by no means follows that it cannot sell property which it owns, even though in doing so it may enter into competition with other public or private owners of property.

"We live under a dual government of divided powers—Federal and State—not under separate governments of conflicting powers", the court said in awarding the new deal a singular victory and in answering the challenge that Congress had no authority to establish such a vast operation in competition with private business within State domain.

"The power over navigable waters granted to the Federal Government is not in conflict with but is necessarily superior to the dominion over such waters which the States reserved for themselves.

REHEARING IS ORDERED

"It leads nowhere to say that the Federal Government, in exercising its constitutional powers, acts within 'State domain' since at the same time it is acting within its own domain as well."

Judge Grubb had held that in creating T. V. A., first of the alphabetical agencies sponsored by President Roosevelt's new deal, Congress had exceeded its constitutional authority. The court reversed and remanded the Alabama jurist's decision and now the case returns to his court for rehearing.

The test case originated from an injunction sought by stockholders of Alabama Power Co., protesting sale or lease of Alabama Power Co. transmission lines to T. V. A. The T. V. A. Act of May 18, 1933, authorized the Government to take over the wartime "white elephant" of Wilson Dam and the nitrate plants at Muscle Shoals, Ala., and build new dams to improve navigation, flood control, and general work for the betterment of the Tennessee Valley.

POSSIBLE WAR USE CITED

Also, and foremost in public interest, the T. V. A. was authorized to sell to municipalities in the area surplus hydroelectric power available at the dams it operated on the Tennessee River. This current would be distributed over municipally owned systems to citizens at the low "yardstick" rates, which average about half those charged by private utilities in the region.

The appellate court said: "The right was reserved by the Government, in case of war, to take possession of the property for the purpose of manufacturing explosives or other war purposes.

"The fact that purposes other than navigation (and national defense) will also be served, could not invalidate the exercise of the authority conferred (by Congress), even if those other purposes would not alone have justified an exercise of the congressional power.

"It does not appear that T. V. A. is doing or proposes to do anything more than is authorized by the act. This being so, its motives are immaterial.

"The section of the act which provides that the President shall make recommendations to Congress as to the future policy of developing the Tennessee Valley is unobjectionable, as in any event the President can make any such recommendations to Congress as he thinks proper.

"The act is not subject to the criticism that Congress has abandoned all purposes of navigation and national defense, since navigation is now being improved.

SIBLEY GOES FURTHER

"The act provides for the location of Norris Dam, but whether specifically enough as to type is, as we think, immaterial; for Wilson Dam alone, without any assistance from Norris, Wheeler, or Pickwick Dams, has a surplus after serving the transmission lines which it agreed to purchase from the Alabama Power Co.

"Besides, the Alabama Power Co. has no standing to object even though these additional dams have not been properly authorized by Congress. It is not a riparian owner, or the owner of a dam site which the Government is assuming to take; nor has it any special interests as would entitle it to object to proposed improvement in aid of the national defense or of navigation."

Judge Sibley, concurring in the opinion, also added:

"The manner of the disposal of public property and the extent to which it may be allowed to affect private business are within the discretion of Congress. An exercise of legislative discretion is reviewable at the ballot box rather than in the courts."

Mr. NORRIS. Mr. President, in connection with the article which the Senator from Arkansas just asked to have printed in the RECORD I ask unanimous consent that the entire decision of the court of appeals in the case mentioned be printed in the RECORD as it appears in the New York Times of today.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 18, 1935]

TEXT OF DECISION OF THE FEDERAL CIRCUIT COURT ON TENNESSEE VALLEY AUTHORITY ACT

Bryan, circuit judge:

By contract dated January 4, 1934, the Alabama Power Co., a corporation engaged in the manufacture, transmission, and distribution of electricity, agreed to sell such of its transmission lines as extend from Wilson Dam at the Muscle Shoals plant in Alabama into seven Alabama counties to the Tennessee Valley Authority (T. V. A.), a corporate agency of the United States, created by the act of Congress of May 18, 1933 (48 Stat. 58; 16 U. S. C. A., 831, et seq.). The T. V. A. agreed to pay the purchase price of $1,150,000 upon delivery. The Alabama Power Co. further agreed that it would offer its distribution systems within the territory above named for sale to the respective municipalities in which such systems are located at prices which it was willing to accept; and that it would cooperate with the Electric Home and Farm Authority (E. H. F. A.), a Government corporate agency created to finance sales of electrical appliances, in the sale of such appliances.

The T. V. A. after waiting 3 months for the negotiation and consummation of sales of the urban distribution systems, was to have the right to furnish electric power to any and all such systems regardless of whether the Alabama Power Co. had sold them to the municipalities.

On May 21, 1934, the Alabama Power Co. entered into an agreement with E. H. F. A. to act as the latter's agent in the collection of installments due on the purchase price of electrical appliances sold by retailers to individual customers. On August 9, 1934, the Alabama Power Co., not having sold any of its distribution systems to the municipalities, granted to T. V. A. an option to purchase them; but on January 25, 1935, after this suit was filed T. V. A. gave notice that it had elected not to exercise that option.

MINORITY BROUGHT SUIT

On September 13, 1934, this suit to enjoin performance of the above-mentioned contracts was brought by a minority of the preferred-stock holders of the Alabama Power Co. after they had formally but unsuccessfully demanded that the company itself institute suit to rescind those contracts.

The decree of the district court, entered after final hearing, adjudged the contracts of January 4 and May 21 to be in furtherance of illegal proprietary operations by T. V. A. and ordered them annulled. It enjoined 17 municipal defendants, which were under contract to receive electric power from T. V. A. for use in the area served by the Alabama Power Co., from accepting or expending Federal funds for the construction of city electric-light plants, holding that these contracts were entered into in aid of T. V. A.'s illegal proprietary operations; and further enjoined them and the remaining municipal defendant, the city of Athens, which owns its distribution system, from purchasing electric power from T. V. A. on the ground that T. V. A. was engaged in illegal competition with the Alabama Power Co.

The T. V. A., E. H. F. A., and city of Florence appeal from the decree. The plaintiffs below have taken a cross-appeal, contending that the decree should have included a declaratory judgment in order to prevent T. V. A. from attempting to renew the option contract of August 9, which, it is said, was not exercised because of the pendency of this suit, or from engaging in divers other illegal operations not specifically enjoined.

The district judge made the following, among other, findings of fact: The United States acquired the Muscle Shoals property on the Tennessee River and built thereon Wilson Dam, an auxiliary steam plant, and two nitrate plants for war purposes. The existence of these facilities for the manufacture of war materials constitutes a valuable national asset. Wilson Dam, unaided by other power development, with its eight hydroelectric generators installed by the War Department, is capable of producing 50,000 kilowatts continuously, except during low stages of water; and the steam plant has a continuous capacity of 60,000 kilowatts. In 1934 68 percent of the power generated at Wilson Dam was used for governmental purposes.

SOMETHING OF FUTURE PLANS

Other dams under construction, which, like Wilson, are of the high-dam type, are, upstream, the Norris and the Wheeler, and, downstream, the Pickwick. The release of waters from Norris Dam will increase the continuous capacity of Wilson Dam by 40,000 kilowatts, and Norris Dam itself, if generators are installed,

is capable of producing 73,000 kilowatts, if the Wheeler and the Pickwick Dams are used only as reservoirs.

According to present plans, the total continuous capacity of Wilson and Norris Dams in combination, without the aid of the steam plant, will be 202,000 kilowatts. The construction of Wilson Dam also provides a depth of 9 feet of slack water over the Muscle Shoals rapids, thereby eliminating a serious obstruction to navigation. Navigation will be further improved by the completion of Wheeler and Pickwick Dams. Storage of water by means of reservoirs is essential to adequate flood control on the Tennessee River.

Wilson Dam was completed in 1925 at a cost of $50,000,000. It probably is not capable of producing more water power than would be needed for the national defense in time of war, but in time of peace the power it makes available is so much in excess of the Government's needs for it for national defense and for navigation that, without the installation of any other dam, there is a surplus, even after supplying the transmission lines which T. V. A. agreed to purchase from the Alabama Power Co. There has been no sale or contract for sale of the remaining surplus.

The sale of electric energy generated at Muscle Shoals in excess of that required for operating the locks and servicing Government properties can be made to produce profits which could be applied toward the reimbursement of the cost of Wilson Dam, or expended in the construction of new dams.

COMPETITION AN ADMITTED AIM

It is not the purpose of T. V. A. to limit the production of electric power to that needed by the Government in manufacturing war materials and providing for navigation, but its declared policy is to utilize to the fullest extent possible all the electric energy which the Wilson and other dams are capable of producing, by supplying first governmental needs, and then by selling the surplus to users of electricity, in competition with public-utility corporations engaged in the manufacture, transmission, and distribution of electricity.

In disposing of surplus power T. V. A. intends to obtain revenue, but at the same time to undersell its private competitors in order to establish a "power yardstick" and to demonstrate the advantages of public over private ownership of electric-light plants.

Upon these findings of fact, which may safely be assumed to be correct since none of them is challenged, the district judge concluded, as a matter of law, that the Congress has no constitutional power to confer upon T. V. A., or any Federal agency, the right to enter into such a contract as that of January 4, and that the contract of January 4, since it was void as to T. V. A., was void as to the Alabama Power Co. The district judge, having reached this conclusion, consistently held that the dependent contract of May 21 was also void.

The plaintiff stockholders may be dismissed from further consideration, inasmuch as they are entitled to assert only the rights of the Alabama Power Co. and so we need to consider only the effect of the principal contract of January 4 upon the rights of the contracting parties.

The district judge, having held that T. V. A. was assuming to exercise authority which no act of Congress could constitutionally confer upon it, did not pass upon the contention made on behalf of the Alabama Power Co. that the T. V. A. Act of 1933 was invalid on the ground that it purports to delegate legislative authority. It was the view of the district judge that T. V. A., while it had the implied right to dispose of any surplus electric power, unintentionally created in the exercise of a bona fide effort to make such power only as was needed for the manufacture of war materials and for serving the necessities of navigation, had and could have no constitutional authority intentionally to create and sell any additional surplus.

He, therefore, enjoined further performance of the contract of January 4, not for any inherent infirmity, such as fraud, duress, or inadequate consideration, but solely because he was convinced that the program of T. V. A. for the manufacture and disposal of surplus electric power bore no substantial relation to any lawful governmental function.

It is the contention of T. V. A. that as an agency of the United States it has the constitutional right and statutory authority to dispose of all the electric power, in excess of such of it as may be needed from time to time for the production of war materials and for purposes of navigation, that the Wilson Dam operated to its full capacity can be made to produce.

Wilson Dam is the property of the United States. It was constructed by authority of 124 of the National Defense Act of 1916 (38 Stat. 215) for the purposes of supplying water power for the production of munitions of war and improving navigation on the Tennessee River. The right to erect and maintain it, in the exercise by Congress of the war and commerce powers conferred upon it by the Constitution, is so clear that it is conceded.

The Government by virtue of its lawful ownership of Wilson Dam owns also the water power inevitably created by the construction of that dam (*Kaukauna Co.* v. *Green Bay & Co.*, 142 U. S. 254; *Green Bay & Co.* v. *Patten Paper Co.*, 172 U. S. 58; *United States* v. *Chandler-Dunbar* Co., 228 U. S. 53).

AS TO RIGHT TO SELL POWER

Congress in the exercise of its power, under article IV, section 3, clause 2, of the Constitution, to dispose of property belonging to the United States, may dispose of water power created at Wilson Dam as freely as it may of any other Government property. It never heretofore has been held that the right of disposal exists only as to such part as is accidentally produced in excess of the amount strictly necessary for purposes of national defense or of navigation; but always that right has been supposed to extend to all the excess or surplus.

Water power is property sui generis; unlike most other forms of property it cannot be put away and kept for future use or sale, but it must be either converted into electricity and used up as it is released from storage or allowed to go to waste. If the water stored at Wilson Dam is permitted to pass through the penstocks, in the language of counsel for T. V. A., "there is gold in it", but if allowed to flow unhindered over the dam, "it is forever gone."

As a practical matter there would be no market for the incidental or accidental surplus created in the honest effort to produce only enough electricity to supply strictly governmental requirements; for no user, public or private, of electricity would become a customer unless assurance could be given of a firm and dependable supply.

That the surplus or any of it need not be allowed to go to waste, but that it and all of it may rightfully be disposed of and the proceeds applied toward reimbursement of the cost of a publicly owned dam is well settled (*Kau-Kauna Co.* v. *Green Bay Co.*, supra; *United States* v. *Chandler-Dunbar Co.*, supra; *Arizona* v. *California*, 283 U. S. 423). In the last cited case at page 455, it is said: "As the river is navigable and the means which the act provides are not unrelated to the control of navigation * * * the erection and maintaining of such dam and reservoir are clearly within the powers conferred upon Congress."

And so here, in our opinion, it cannot successfully be maintained that there is no reasonable or substantial relation between the production and disposal of the surplus hydroelectric power available at Wilson Dam and the exercise of the war and commerce powers conferred upon Congress.

HOLDS CONGRESS HAS AUTHORITY

It is within the province of Congress to adopt any reasonable means, whether of lease or sale, for disposing of the surplus. The use of transmission lines to facilitate sales cannot fairly be said by the courts to be unreasonable or inappropriate. Of course, it is true that the Government of the United States cannot engage at will in private business, but it by no means follows that it cannot sell property which it owns, even though in doing so it may enter into competition with other public or private owners of property.

It is not doubted that each of the several States holds in perpetual trust dominion over the navigable waterways within its borders, but it is equally true that the rights of the States in navigable waters are subject to the supreme war and commerce powers of the General Government.

We live under a dual government of divided powers, not under two separate governments of conflicting powers. The power over navigable waters granted to the Federal Government is not in conflict with but is necessarily superior to the dominion over such waters which the States reserved to themselves (*Gibbons* v. *Ogden*, 9 Wheat. 1).

It leads nowhere to say that the Federal Government in exercising its constitutional powers acts within "State domain", since at the same time it is acting within its own domain as well. We conclude that the decree below cannot be sustained on the theory of a lack of constitutional power.

WHAT THE ACT PROVIDES

The inquiry remains whether the necessary statutory power has been conferred on the T. V. A. The Tennessee Valley Authority Act of 1933 was passed for the purpose, among others, "of maintaining and operating properties now owned by the United States in the vicinity of Muscle Shoals, Ala., in the interest of the national defense, * * * to improve navigation in the Tennessee River, and to control destructive flood waters in the Tennessee River and Mississippi River Basins."

The act purports in separate sections to confer on T. V. A. the power to construct dams, reservoirs, and transmission lines; to furnish nitrogen products for military purposes; to allot to the War Department the water power necessary to operate locks, lifts, or other facilities in aid of navigation; and to produce, distribute, and sell electric power "as herein particularly specified."

The "particular specifications" are to sell the surplus power not used in the operation of locks and other works to States, counties, municipalities, partnerships, or individuals. The act further provides for the construction of Norris Dam, and that the President may from time to time recommend to Congress such legislation as he deems proper for flood control, navigation purposes, generation of electric power consistent with flood control and navigation, the proper use of marginal lands, the proper method of reforestation in the drainage basin, and the economic and social well-being of the people living in the Tennessee River Basin.

RIGHTS RESERVED TO GOVERNMENT

The right was reserved by the Government, in case of war or national emergency declared by Congress, to take possession of all or any part of the property described or referred to in the act "for the purpose of manufacturing explosives or for other war purposes." The sections of the act are declared to be separable, to the end that the unconstitutionality of any one section may not affect the validity of any other.

The act is unobjectionable from a constitutional standpoint insofar as it undertakes to confer on T. V. A. the power to take charge of and operate Wilson Dam and to distribute and sell surplus electricity to municipalities as well as to utility companies. "And the fact that purposes other than navigation (and national defense) also will be served could not invalidate the

exercise of the authority conferred, even if those other purposes would not alone have justified an exercise of congressional power." *Arizona* v. *California*, supra. It does not appear that the T. V. A. in respect of its operations at Wilson Dam is doing or proposes to do anything more than is authorized by the act.

MOTIVES CALLED IMMATERIAL

This being so, its motives are immaterial. The section of the act which provides that the President shall make recommendations to Congress as to the future policy of developing the Tennessee Valley is unobjectionable, as in any event the President may make such recommendations to Congress as he thinks proper. The act is not subject to the criticism that Congress has abandoned all purposes of navigation and national defense, since navigation is now being improved, and in the event of war the right is reserved to use the Muscle Shoals property exclusively for national defense.

The Rivers and Harbors Act of 1930 (46 Stat. 927) authorized a project for the permanent improvement of the main stream of the Tennessee River to a navigable depth of 9 feet in accordance with the recommendation of the Chief of Engineers in House Document No. 328 of the Seventy-first Congress, second session. Because there was no recommendation in that House document for high-type dams, or for their location, it is contended that the Tennessee Valley Authority Act undertakes to delegate legislative power with reference to the location and type of the Norris, Wheeler, and Pickwick Dams.

As we have just seen, the act itself provides for the location of Norris Dam, but whether specifically enough as to type is, as we think, immaterial, for Wilson Dam alone, without any assistance from Norris, Wheeler, or Pickwick Dams, has a surplus, after serving the transmission lines which it agreed to purchase from the Alabama Power Co. Besides, the Alabama Power Co. has no standing to object, even though these additional dams have not been properly authorized by Congress (*Frothingham* v. *Mellon*, 262 U. S. 477). It is not a riparian owner or the owner of a dam site which the Government is assuming to take, nor has it any such special interest as would entitle it to object to proposed improvements in aid of the national defense or of navigation (*United States* v. *Chandler-Dunbar Co.*, supra, at p. 73).

On the whole case our conclusion is that the decree of the district judge was erroneous. We, therefore, have no occasion to consider whether the Alabama Power Co., if that decree had been affirmed, would have been entitled to a declaratory judgment.

Appellees take nothing by their cross-appeal. On the direct appeal the decree is reversed and the cause remanded for further proceedings not inconsistent with this opinion.

CONCURRENCE BY SIBLEY

Sibley, circuit judge, concurring:

The district judge also found that the T. V. A. Board had very far-reaching plans for social experimentation which he thought beyond the constitutional limits of the Federal power. This case is not to be decided by the purposes and plans of the Board, but by the validity of what is about to be done under the attacked contracts.

The contracts deal only with surplus power arising at the Wilson Dam, which may, as we hold, be disposed of by Congress. The manner of the disposal of public property and the extent to which it may be allowed to affect private business are within the discretion of Congress. An exercise of legislative discretion is reviewable at the ballot box rather than in the courts.

DECISION HOLDING PROCESSING TAXES UNCONSTITUTIONAL

Mr. CAREY. Mr. President, I ask unanimous consent to have printed in the RECORD the text of the decision of United States District Judge William H. Kirkpatrick, in Philadelphia, declaring the A. A. A. processing taxes unconstitutional, as published in today's Philadelphia Record.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Record of July 18, 1935]

TEXT OF JUDGE KIRKPATRICK'S DECISION DECLARING PROCESSING TAXES ILLEGAL

This suit in equity is to restrain the collector of internal revenue from proceeding to collect a tax. The suit has to do with the tax levied by section 9 of the Agricultural Adjustment Act (7 U. S. C., sec. 609), as applied to the processing of hogs.

The Agricultural Adjustment Act is a comprehensive scheme of legislation, the primary purpose of which, as declared, is in substance to restore purchasing power of agricultural commodities to its pre-war level. The act proposes to attain this result chiefly by the payment to farmers of rental or benefit payments in consideration of their agreements to reduce production (sec. 3)—a program which has been largely put into effect.

The act also provides for "expansion of markets and removal of surplus agricultural products" (sec. 12 (b)), and, under this authorization, the Secretary of Agriculture has purchased such commodities in the open market and has bought and destroyed surplus farm stock. The money needed by the Secretary to do these things is to be raised by an excise tax upon the processing of certain agricultural commodities selected by him from a list set forth in the act (sec. 11). The act appropriates the proceeds of the tax to be available to the Secretary of Agriculture for carrying out its main objects.

STANDING OF PLAINTIFF

This plaintiff has no standing to challenge the constitutionality of those portions of the act which provide for the reduction program, or which delegate powers in connection therewith to the Secretary of Agriculture, or which appropriate the proceeds of the tax to that purpose. As a member of a limited class upon which the tax falls, however, it may call in question the constitutionality of the taxing sections of the statute.

The plaintiff attacks the constitutionality of the tax upon four distinct grounds, one of which, I think, is well taken. I have come to the conclusion that the sections of the act under which the processing tax is levied contains an invalid and unconstitutional delegation of power to the Secretary of Agriculture, thus rendering the tax void.

The principle which sustained the delegation of legislative or quasi-legislative power in all of the cases in which it was upheld was that the Congress itself had first legislated to the fullest extent reasonably practicable in view of the ends to be obtained. In other words, if delegation of legislative power is to be valid, the lawmaking body must use the power so far as it can before passing on the residue to its delegate.

FISCAL LEGISLATIVE POWER

Recognizing the propriety of fiscal legislation which could be adjusted to changing conditions and the necessity for some measure of delegation of power if the flexible provisions of the law were to have any real value, the Court, in *Hampton & Co.* v. *United States*, supra, said: "The same principle that permits Congress to exercise its rate-making power in interstate commerce, by declaring the rule which shall prevail in the legislative fixing of rates, and enables it to remit to a rate-making body created in accordance with its provisions the fixing of such rates, justifies a similar provision for the fixing of customs duties on imported merchandise.

"If Congress shall lay down by legislative act an intelligible principle to which the person or body authorized to fix such rates is directed to conform, such legislative action is not a forbidden delegation of legislative power."

In line with what has just been said, the restriction of the last clause of the quotation is worthy of note—"is directed to conform." It would seem that in cases of delegation of the taxing power the Court had in mind, not only a plenary exercise of that power by the Congress but also a close restriction, if not a total denial, of administrative "discretion" as to so much of it as could be properly delegated.

DELEGATION OF POWER INVALID

Examined in the light of these principles, the delegation of power contained in the processing-tax feature of the Agricultural Adjustment Act is clearly invalid. It is apparent that the Secretary of Agriculture and not the Congress exercises the taxing power, and in so doing there is committed to him a discretion as to the rate of the tax as well as to its incidence which is to all practical intents unlimited.

The act must be carefully read to realize that this is the case, because it is loaded with provisions which appear to be an exercise of the power to legislate and to set up a rule to be followed by the executive. It does contain a declaration of policy and it does contain a rule which purports to restrict the Secretary of Agriculture in carrying out the policy.

The statement of policy is quite as explicit as that declared in the flexible tariff act sustained in *Hampton & Co.* v. *United States*, supra, which was to equalize the differences in costs of production of dutiable articles in the United States and in the principal competing country. I should say that it was sufficiently definite to escape the criticism which condemned the declaration of policy of the National Recovery Act in the Schechter case. To raise the prices of agricultural commodities to an ascertainable figure is a simple and definite object.

UP TO THE SECRETARY

But did the Congress really exercise its function and impose this tax? The tax does not go into effect until action by the Secretary of Agriculture. A list of taxable articles ("basic agricultural commodities") is given in section 11. The Secretary of Agriculture may omit any article from the list or he may not act at all, in which case no tax upon anything will be imposed—a provision which in itself is no more objectionable than that relating to the increase of duties in the flexible tariff act. But in this respect (unlike the flexible tariff) his judgment need not be based upon nor controlled by his ascertainment of any facts or by the existence of any conditions predetermined by Congress as requisite to call the tax into being.

The Agricultural Adjustment Act says "When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity. * * *"

As indicative of the general intent of the act to delegate not only details but the essential taxing power itself it may be noted that section 15 provides that if at any time the Secretary of Agriculture finds that any article of commerce is competing with any of the basic agricultural commodities so that consumer demand is shifting away from such commodities, he may omit the processing tax upon such commodity or he may impose by proclamation a compensating tax upon such competing commodities. He determines what the competing commodity is and what the rate of tax shall be.

RULE OF DELEGATED POWER

Turning now to the rule or formula which purports to guide the exercise of the delegated power, we find that, as it is stated at the beginning of section 9 (b), it is quite simple. The tax is to be arrived at by subtracting the current average farm price for any commodity from the fair exchange value of the commodity (a term clearly enough defined later on in the act). The real trouble, however, is that the formula is obviously not intended and cannot, because of other provisions of the act, be a control upon the exercise of the delegated power.

This provision (fixing the tax rate) gives the Secretary an unfettered power to fix the rate at whatever figure he deems advisable to avoid a threatened accumulation of surplus. A finding is contemplated, but it is not necessarily of existing facts. It is that a certain result will occur—a prognostication of what is likely to happen.

It is argued that his discretion upon this point is controlled by the policy of the act, but obviously there must be more than this. Even the statement of a definite policy and a rule will not save a delegation if the statute expressly authorizes the official to follow it or not, as his judgment may dictate, even though he is to act on expert advice. Granted that, in practice, the exercise of this discretion would ordinarily mean the reduction of a rate rather than an increase, the act does not so specify, and under this provision an increase of the rate of tax beyond the point set by the formula would be fully authorized.

DOES NOT OPERATE AS CONTROL

In addition to the foregoing the defendant himself argues in effect that the formula is not intended to operate and does not operate as a control except as to the initial ascertainment of the rate. He points out that the declared policy is "to establish and maintain such balance", etc., and contends that, though rising prices for a commodity may automatically reduce the rate of the tax as ascertained by the formula, the Secretary may, if he should be of the opinion that a reduction would result in the balance not being maintained, disregard the formula and hold the rate at a point in excess of its upward limit.

He refers to the fifth sentence of section 9 (a), which provides: "Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements."

This, I agree, clearly means that the Secretary, having fixed the rate by the formula is not required to make any downward revision of it, unless he determines that it is necessary to do so to effectuate the declared policy. He can extend the interval for adjustment as long as he thinks necessary, while in the meantime the automatic working of the formula may be giving a series of figures steadily descending below the tax which he has put in effect.

PRESENT RATE ILLEGAL

As a matter of fact that is what has occurred and, unless the act is so construed, the present rate is illegal by the terms of the act itself. On the basis of the latest available data the formula now gives a rate of 81 cents per hundredweight, but the rate of tax is and has been since March 1934 $2.25, and the Secretary proposes to maintain it at that figure until he is satisfied that a reduction of the tax will not destroy the desired balance. Not only is this the effect of the act, but the argument is a plain assertion by the defendant that the apparently definite and easily ascertained formula may be disregarded by the Secretary, leaving the policy of the act as the only semblance of control of his discretion.

The entire intent and purpose of the Agricultural Adjustment Act leads irresistibly to the conclusion that in enacting the processing tax the Congress had no idea of exercising the essential legislative function in that respect, but intended to turn it over to the Secretary of Agriculture to be used by him when and if he needed it as an adjunct to the general scheme for the rehabilitation of agriculture provided for in the body of the act.

OTHER CONTENTIONS NOT SUSTAINED

The remaining contentions of the plaintiff against the constitutionality of the tax are not sustained. But, in view of the importance of the questions involved and of the probable scope of the argument upon appeal, I think it proper for me to state briefly my views upon the other points raised.

The plaintiff argues that the tax is not levied for a public purpose.

The interdependence of agriculture and industry, the close relationship which exists between them and other factors in our modern economic life, are matters of common knowledge. I am satisfied that an act of Congress, such as this, which is designed to rehabilitate agriculture in the interest of the whole Nation, is for a public purpose.

The plaintiff's next contention is that the taxing feature is merely a disguise under the cover of which the Congress is attempting to enter and occupy a field barred by the tenth amendment—the regulation of the farmers' intrastate business.

It cannot be denied that the primary and immediate purpose of the taxing sections under consideration is to raise revenue nor that they do as a matter of fact produce revenue and have produced it in large amounts.

Granted that the purpose of this act is to influence farmers in the conduct of their business, that is not a regulation of commerce as to which the power of Congress is limited by the commerce clause, nor is it such an intrusion into the domestic affairs of the States as transcends the barriers set by the tenth amendment.

NOT IN VIOLATION OF THE AMENDMENT

I have come, not without doubt, to the conclusion that the tax does not contravene the fifth amendment. The plaintiff argues that it is arbitrary and capricious because the rate of tax bears no reasonable relation to the subject taxed, and that it is confiscatory because the rate is a variable, has reached a point where it is destructive and ruinous to the business of the taxpayer, and may, so far as any limitation in the act is concerned, go higher.

I do not think that it can quite be said that the rate of tax as actually imposed bears no rational relation to the article taxed. It is a flat rate per hundredweight slaughtered. It is true that the rate is set with reference to two factors neither of which have anything but the most remote connection with the subject of the tax. They are really the farmers' income today and what it was in an ideal period some 20 years ago.

Nevertheless, the rate as set is directly upon and in direct proportion to the value of the thing taxed, and I do not think in such case that the courts can review the reasoning or method by which that rate was arrived at merely because it is set forth in the act any more than they could inquire into the reasons moving the Congress in fixing the rate of any excise tax where they are not expressed.

TAX MAY BE ARBITRARY

It is true that a Federal statute passed under the taxing power of Congress may be so arbitrary and capricious as to cause it to fall before the due-process clause of the fifth amendment. This does not mean that the fifth amendment limits the taxing power but merely that there are cases in which what purports to be an exercise of that power may in reality be a taking of property without process. If the tax imposed is a genuine tax and does not conflict with any constitutional limit, the courts may not hold the tax void because it is too high or may become too high.

As to the remedy. The plaintiff may have a decree declaring the taxing provisions of the act unconstitutional in accordance with this opinion. I am entirely in accord with the views of Judge Dawson in *Penn* v. *Glenn* (10 Fed. Sup. 483), to the effect that the Declaratory Judgment Act applies and that the occasion is a proper one for a decree under it.

EFFECT OF DECREE

As to the effect of such decree, the following quotation from his opinion is in point:

"If, before the tax is collected, however, it is decided in a declaratory judgment proceeding that the tax cannot be legally collected, it is to be expected that the collector would respect the decision, although he would not be compelled to do so. If he did not bow to the decision, however, and later on it became necessary for the taxpayer to sue him for a refund, as is authorized by section 3226, Revised Statutes, as amended (26 U. S. C. A. 156), the trial court would probably be justified in refusing him a certificate of probable cause, and thus he and his bond would be liable for the judgment obtained.

"If the declaratory judgment proceeding is decided in favor of the taxpayer after the payment of the tax, it would no doubt be accepted by the Commissioner of Internal Revenue as binding upon him on an application for a refund, thus saving the expense and delay of a suit for a refund."

The matter of injunctive relief, depending in part at least upon the effect of the threatened collection upon the business and property of the individual taxpayer, matters as to which a considerable amount of evidence was adduced, and the notes of testimony not having been transcribed, will not be disposed of at this time. Meanwhile the temporary restraining order may be extended for a further period of 10 days.

CONGRESS AND THE COUNTRY—ADDRESS BY SENATOR LEWIS

Mr. MURPHY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the distinguished senior Senator from Illinois [Mr. LEWIS] on July 12 instant, the Senator from Illinois having been chosen to close the "Congress Speaks" series broadcast by the National Broadcasting Co. from the Capitol Building. The subject of the address is Congress and the Country.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I express my indebtedness for the compliment done me in choosing me to deliver the closing address to the country on the activities of Congress, just preceding what is known before the country as the closing of the session.

Let me remind the Nation that this present session of Congress has carried to conclusion legislation the most important and far-reaching in its effect on the destinies of the American people, than legislation of any session of Congress in peace time since the Civil War between the States.

I summon the country to note that often they have been frightened by the mere novelty of legislation. At other times, misled through the terror caused by misconception of the course of the President and expressing misunderstanding as to the purposes of legislation. I invite you to the fact of how oft you have been frightened by intimations of danger and threat of destruction to follow proposed legislation; when later you discovered that the legislation when shaped finally into an act of Congress

never embodied any of the provisions which had been the basis of fear which gossip and rumor had attached to it, as dangerous to the welfare of the country.

May I illustrate with a few instances. In the legislation looking to the general control of the marketing of stocks and securities, known as the security bill, as to this you recall that finance, banking, and commercial circles were frightened under the charges that every form of commercial stock was to be controlled to the degree directed by governmental agencies and that private control and direction of the property were to be taken from the citizen. It was charged that under stock-exchange control all personal supervision and management of ownership by the proprietor was to be destroyed.

Now, I call you to note that the Government placed at the head of the system as director Mr. Kennedy, suggested by the Stock Exchange of New York and its allies throughout America. Today the system as now administered is praised by those who had condemned and we have the public announcement by those engaged in enterprise, that it is the most perfect system to the betterment of all concerned that had been devised under all periods of stock-exchange legislation on the subject.

I now invite you to the fact that time and time again in the last year you had the specter drawn before you of "inflation." The charge made was that America was destroying the standards of your money, "robbing it of gold value," and reducing it to a bubble puffed up with artificial value and inflated with false security.

Thousands of owners of securities disposed of their property at a loss under the influence of these terrors circulated.

Now, behold, when the legislation is finally concluded it brings out America as the first gold country of the world. It holds the largest supply of money gold in any country on earth. Instead of the cry of "Stabilize our money on the basis of other countries!" we are called on to supply France with gold to support her franc—and now to aid England and supply silver to support her silver market. In the meantime, we establish ourselves as the first money market of all the earth. For America we earned the highest standard of credit in existing time.

I now bring you to the late discussion and fright on what is known as the "holding bill", or the legislation for the control of holding companies.

You now see that all of the fears that Congress, made up of patriotic men of all political parties, was going to destroy the property merely because it was called "holding" had no foundation, you see we are merely seeking to prevent the illegal and unnecessary institutions from robbing the public and to assist the public in the protection of honest securities represented by honest property.

Lastly, you are now again in the shadow of a new cloud caused by the general belief that a tax bill proposed is to carry to final destruction all the possessions of the citizen done under the processes of tax appropriation and working confiscation by the processes of taxation.

I inform you, the people, that the leaders of Congress of all political parties are not the manner of people who would destroy their own constituents, rob their own citizens of prosperity, defeat their own prospects for return to power and finally rob themselves, their families, and their children of all their possessions. This would have to be done if they work such an infliction upon their fellow citizen as is now expressed in the fears of many of our people.

I inform you that the tax bill, when it comes forth in final law, carrying the approval of President Roosevelt, will be so adjusted as to apply only to the excess beyond the immediate needs of our citizens and in no wise to go further than the citizen himself would have been willing to pay in his own contribution to that which is being paid for the relief of the needy and oppressed citizen, his fellow countryman.

No confiscation, no appropriation, and no unconstitutional or unjust exaction will ever be laid on the citizen on the theory of just taxation to be passed by this Congress of the United States.

I now recommend to my fellow citizens that they pause at every instance of expressed fears and rumors of danger and reckon with the fact that the Congress is made up of patriotic citizens, high-minded officials of noble character and in themselves, taken all for all—have for their purpose the maintenance of the security of the Nation—the prosperity of the citizen, the honor of the country, and elevating the United States as the first country of the world.

To this object we are assembled and serving, and to this purpose we will conclude our efforts to the welfare of mankind and the blessing of the Nation.

FALSE ISSUES—ADDRESS BY JOHN HAMILTON

Mr. CAPPER. Mr. President, I ask unanimous consent to have printed in the RECORD an able address delivered on July 2 by my fellow townsman, John Hamilton, general counsel for the Republican National Committee, before the Women's National Republican Club of New York City. Mr. Hamilton is Republican national committeeman for Kansas.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

When I was asked by your chairman a few days ago as to the subject of my talk this afternoon, I told her that she might announce it under the title "false issues." Frankly, at that time I had given little thought to what I was to say here today, but I felt quite confident that the conduct of the Roosevelt administration for the past 2½ years offered a wealth of material for the subject I had chosen. Of course I was not disappointed in that for the entire Democratic strategy has been built up on false premises. They have consistently resorted to the old political tricks of either setting up straw men and then giving vigorous battle for the edification and delight of those who were not on the inside of the game, or they mount Mr. Roosevelt on the Democratic ass in the role of a Don Quixote and call upon the people to offer great hurrahs while this valiant warrior gallantly charges the windmill. Unfortunately for the Nation, including those who have made up the cheering section, their game has been played nearly to the point of political perfection. They were able at the outset by threats and intimidation to quiet anyone who had the audacity to venture criticism of policies or measures which were patently unsound and definitely injurious not only to our form of government but to the people for whose benefit this Government exists. That period has now very definitely passed, for men and women throughout this land of ours are beginning to realize the truth and are asking pertinent questions which must be answered. The chief agency to bring the real facts into the light is the Republican Party and it must accept that responsibility. The fact that we will be charged with destructive criticism by those connected with Mr. Roosevelt's administration is quite beside the point for their wails in that regard will be emitted for the sole purpose of diverting the American electorate from the catastrophic mistakes they have made. In due time the Republican Party through its legally constituted convention will offer a constructive platform to the Nation. Until that time we have not only the right but it is our obligation to searchingly inquire into the confusion that reigns in Washington under the leadership of a man who has no more of a program today than he did on March 4, 1933.

Of course, I can't dissect in the few minutes that are allotted to me all of the Rooseveltian straw men that have been paraded before our eyes for they are as numerous as tumblebugs in a Kansas wheat field and quite as irritating. I have chosen three typical instances which I believe will be of interest to you. They are the destruction of orderly legislation, the myth of "Roosevelt the humanitarian", and political corruption in the use of public funds. I have chosen these matters for the reason that each of them presents a typical case of political showmanship built around nonexisting facts.

In years past the Congress of the United States has been the open forum for the discussion of public measures. It has been the assembly ground of the direct representatives of the people. Within its halls have been fully debated the policies of the Nation as they were represented by proposed legislation and as they were construed by Executive orders and decrees. It was a healthy thing for the country that these matters should be brought out into the open for it not only allowed the Members of Congress to ascertain the views of their colleagues but it brought forcibly to the attention of the people both the merits and demerits of the matters under discussion. The lower House merited its name "the House of Representatives", and the Senate in time became known as "the greatest deliberative body in the world." But today these bodies neither represent nor do they deliberate. They have by cajolery, by political blackmail, and by coercion become the mere mouthpiece of the executive branch of our Government. The straw man in this case is to be found in the plea of emergency and loyalty to the President, and the agency used was the gag rule, under which debate was limited or forbidden and the right of amendment was denied. That there was an emergency may be admitted, but that it was not of such a degree as to justify the passage of laws which effected substantial changes in our economic, social, and political life without the bills even being presented to the Members of the House, without the right of amendment or debate will also be admitted by every fair-minded person.

The first important measure of the new deal was the Banking Emergency Act. This act gave the President war powers over all credit, currency, gold, silver, foreign exchange, and the banking system. It gave him power to prevent anyone withdrawing deposits, to close banks, to open banks, to place banks under Government control through conservators, to compel banks to issue preferred stock and sell that stock to the Reconstruction Finance Corporation and by so doing give complete control of the bank to the Government. No one spoke upon the bill except the Chairman of the Banking Committee, who introduced it.

To say he introduced the bill is a technical phrase—there was no bill—the copy which he had was typewritten. It had been sent to him from the White House, with instructions there were to be no changes whatever in its text. The bill was not presented to the Banking Committee; it was not read to the committee. No member of the committee saw the bill. No Member of the House saw the bill. The whole thing was put over in 40 minutes purely upon orders from the White House that it was necessary. The famous Economy Act had much the same history. It was written somewhere in the executive branch of the Government and sent to the House with orders that it be passed as written. The Democratic Committee on Rules brought out a special rule providing that debate on the bill should be limited to 2 hours and that there should be no amendment permitted. The bill was never printed; no Member of the House ever saw it.

The act creating the Tennessee Valley Authority was pushed through in the same manner. Although this bill was more socialistic than anything ever before attempted by this Government,

it was passed by the House under a special rule limiting debate to 6 hours and prohibiting amendment.

The Federal Emergency Relief Act, setting up the Federal Emergency Relief Administration and making an initial appropriation of $500,000,000, was enacted under a special agreement limiting debate to 2 hours and prohibiting any amendment.

The bill which rewrote the Home Loan Corporation Act and giving that agency authority to issue $3,500,000,000 in bonds and do all the other things which it is now authorized to do, was passed by the House under special agreement limiting debate to 1 hour and 30 minutes.

The banking reform bill—which completely revolutionized the banking structure of the United States, separating commercial banking from investment banking and prohibiting investment banks from accepting deposits and doing a general public banking business; which regulated branch banking; which created the Federal Deposit Insurance Corporation—was passed under special rule limiting debate to 4 hours.

The N. I. R. A. was passed without right of amendment under a rule limiting debate to 6 hours, while the debate on the Frazier-Lemke farm bankruptcy bill was limited by rule to 40 minutes. If a little more time had been devoted to these measures possibly someone would have had the sagacity to determine their unconstitutionality. Not that this fact would have prevented some Members of Congress from voting for them.

Other bills shoved down the throat of the Seventy-third Congress via the gag-rule route include the Emergency Railroad Transportation Act, the Gold Reserve Act, the Civil Works Administration Act, the Security Exchange Act, the Federal Housing Act, and the Federal Communications Act. We might have expected that after the turmoil of Mr. Roosevelt's first Congress had died down future legislation would have been taken up in a more dignified and orderly manner, but no sooner had the Seventy-fourth Congress met than it became apparent that more of the same tactics would be employed.

The old straw man still had a kick or two left in him, and they used him to put through the Emergency Work Relief bill carrying an appropriation of $4,800,000,000—the greatest sum ever appropriated by Congress. I will say, in fairness to the President, that while he would not permit amendments to the bill he did recognize the existence of the House by granting its Members a rule which allowed them to debate this measure for a full 3 hours. In this session the gag rule has been applied to such measures as the second deficiency bill and the Wagner bill. It will undoubtedly be applied to many others. Perhaps the most grotesque, and at the same time, pitiful, example of this tendency to rush through legislation of major importance arose when the President ordered his new tax bill to be passed by both Houses of the Congress in a maximum of 5 days. The revolt against this was so wide-spread and deep-seated that the President had to retract his orders, while the obsequious Democrats on the Hill, who had blindly followed his orders, were compelled to accept the role of the goat in order to have the face of the President.

I have not attempted to discuss the merits of these various acts. I have simply tried to picture to you the very serious encroachment which has come about in our legislative procedure—an encroachment that has in fact destroyed the constitutional prerogatives of our Congress without actual change in the Constitution itself. It is the most amazing suspension of the Constitution by indirection that this Nation has ever witnessed, and it has all been brought about under the plea of emergency. It will not be surprising if in the tenth year of the reign of our Lord Franklin we shall see old man emergency still being used as the bogey to scare servile Congressmen out of their constitutional pants. There is an emergency, and it is not a straw man; it is the emergency that exists in the usurpation of the powers of the Congress by the President.

It seems to me that I might close this section of my talk with a slight tribute to SAMUEL B. PETTENGILL, a Democratic Member of the House from Indiana, who, in closing his remarks against the Wheeler-Rayburn bill, said:

"It has been said in the cloakroom that no one can speak against the drastic provisions in the Senate bill and retain his seat in Congress.

"If that be true, it makes little difference to me. If what I say terminates my public life, I shall walk out of here a man, not a coward."

Humanitarian legislation should be too vital a question for partisan politics; but since there are those who in belittling the Republican Party have seen fit to drag this subject into the arena, we can accept the challenge as a test of our idealism without the slightest trepidation. From whence came the first steps looking to the regulation of child labor, the establishment of maximum hours of labor, the supervision and inspection of working conditions, workmen's compensation acts, and a score of other similar social reforms? All, without exception, were first enacted as laws in States predominantly Republican and under Republican administrations. It was only in States having a predominant Democratic leadership that such advancements were consistently opposed, an opposition that arose from the fear that legislation of this character would serve to free the Negro and the white laborer from a social order that holds them in peonage from their childhood to the grave.

Let us consider the question of child labor, which is of unusual interest to us all and of peculiar interest to our women, for it also has a straw man in the attempt to picture the President as the great humanitarian.

If we are to view this picture solely as it has been drawn by the President, we can easily be led to the thought that there had never been a champion of child labor until he assumed the mantle of his office. We could easily come to the conclusion that the Republican Party was hard-hearted and wholly insensible to this problem. As a matter of fact there is nothing in the record of the President which would indicate that he has been at any time interested in child labor as such, nor is the Republican record on this very vital question such that we need in any way apologize for it. The last Federal census was taken in 1930 and if you care to refer to it you will find that there was compiled as a part of that census, certain tables having to do with the employment of children. It seems that in 1900, the total number of children employed in this country between 10 and 15 years old was substantially 1,750,000 and that this figure represented 18.2 percent of the total number of children of that age. There was a gradual increase until in 1910 the number of these children employed was slightly under 2,000,000, but from that date on there was a decided falling off of child labor and in 1930 there were but 670,000 children used in gainful occupation, or 4.7 percent of the whole. I think that it is not out of line for us to consider the reasons for this decided drop in the number of children employed in the trades, and I believe that the only reason which can logically account for that reduction is that in the period from 1910 to 1930 there were drastic laws enacted in many of the States of the Union which prohibited the use of child labor. This legislative reform was more noticeable in what I may call the normal Republican States and as a result we find that in the six territorial divisions which contain a majority of the Republican States as used in the census figures of 1930, New England showed an employment of only 2.2 percent of the children within the age limits mentioned; the Middle Atlantic 1.9 percent, East Northern Central States 1.3 percent, the West Northern Central States 2.5 percent, the Mountain States 2.6 percent, and the Pacific States 1.5 percent. In the Southern States, on the other hand, we find the Southern Atlantic group with 9.5 percent, the East Southern Central States 13.5 percent, and the West Southern Central States 7.3 percent. In other words, in the industrial Northern States, child labor had been reduced between 1910 and 1930 to a very negligible figure. While in the South where such protection was not assured by the legislative prohibition, the number of children still employed was greatly in excess of the general average of the country.

In Mississippi, the home of Senator HARRISON, this same census shows that in 1930, 30.7 percent of all boys and 18.8 percent of all girls from 10 to 15 years of age were employed in gainful industry. What is true in Senator HARRISON'S State, is also true in a varying degree in the other States whose representatives in the Senate and the House are regarded as spokesmen for the new deal. It might not be too much to ask that President Roosevelt, if he were sincere, should exert some of the influence of his public funds upon his political adherents to accomplish what has been done voluntarily in other States during the last 2 decades.

However, my point is not based so much upon the condition as it is upon the pretense as to Mr. Roosevelt's stand. It has been repeatedly stated by his spokesmen, including no less distinguished person than Secretary of Labor Perkins, that President Roosevelt has always been a very ardent advocate of the abolition of child labor. In speaking before the Kentucky General Assembly on February 21 last year, Madam Perkins made the statement that while the President was Governor of New York State he urged the ratification of the child-labor amendment. Now, it is fortunate indeed that Mr. Roosevelt felt so satisfied with his public utterances while he was Governor of your great State that he had a volume published entitled "Public Papers of Governor Franklin D. Roosevelt." This publication not only contained all of his official messages to the legislature, but his official statements while Governor, his executive orders, and his public addresses as well. I can say to you, without the slightest fear of refutation, that nowhere in this volume is there the slightest reference to the child-labor amendment which was pending every day of his tenure as Governor of your State. In none of his messages and recommendations to the legislature is there any record of his ever having called its attention to this amendment or of having asked for its ratification.

What I have said with reference to his public utterances while Governor applies with equal force to those made as a Presidential candidate. A check of a file of his speeches in the campaign of 1932, together with his statement to the press correspondents upon various occasions, fails to disclose any reference by him to the child-labor problem, to the pending amendment to the Constitution, or to any other phase of the problem whatsoever. The Secretary of Labor was either misinformed or was setting up such a straw man when she made her statement to the General Assembly of Kentucky. It is true that Mr. Roosevelt, as President, has made public statements in behalf of the abolition of child labor, but it was not until the N. I. R. A. became a law that he did so, and in this connection his statements were made as an argument in support of the continuation of the N. R. A., and not because of any deep personal concern in child labor as such. His plea for the necessity of the N. R. A.'s continuation upon the ground that if it were not continued we could not hope to rid ourselves of the evil of child labor was patently not in line with the facts when the statistics show that for a quarter of a century, with the exception of a few solidly Democratic States, we have made giant strides toward the solving of this problem by State legislation alone.

As I stated at the outset, the Republican Party need only have pride in the record which the State administrations have made toward the stamping out of this evil and we should not allow Mr. Roosevelt to take himself to the people of our country as the

champion of the child-labor question. His public record does not bear him out in this assumption and we should not allow our people to go uninformed on this most important matter.

The third or last of my exhibits has to do with the administration of the emergency work-relief bill. Here he assumes the role of the gallant Don Quixote, with a sacrosanct attitude with regard to the expenditure of this fund, or for that matter of other funds of a similar character. Do you remember when, in June of 1933, at a conference of relief administrators, he said:

"This means a competent set-up in each State, preferably a commission of five or six well-known citizens who will not only administer relief in a businesslike way but entirely apart from partisan politics."

Have you forgotten that in the fall of that year he had a further conference with Governors, mayors, and civil works' administrators in which he told them:

"I want to tell you very simply that your National Government is not trying to gain political advantage one way or the other out of the needs of human beings for relief. I would like to have the rule adopted that no person connected with the administration of this $400,000,000 will in any single case, in any political subdivision of the United States, ask whether a person needing relief or work is a Republican, Democrat, Socialist, or anything else."

Only a few days ago he threw the same sanctified robe around the shoulders of his $5,000,000,000 fund with the statement to the administrators who had been called in to confer with him that politics should not in any way enter into its disbursement.

That was a splendid attitude to take with regard to such a large sum of money to be used for the ostensible purpose of relieving the distress of the unemployed, and at the same time to pump something of lifeblood into the arteries of industry. Apparently upon the theory that the Governors of some of the States to which this money was allocated would sin against the purposes for which the money was appropriated and conceivably direct it into channels of political purposes, all power of administration of this money was totally withdrawn from their hands even to the extent they were not consulted as to the men who were appointed administrators within their States.

Of course, there are those who believe the Governors of the respective States which are the recipients of funds would appoint men who would as efficiently administer them as some of the agents working under Mr. Hopkins at Washington. But that was not to be. The State administrations were not to be tempted in any way with these appropriations by political exigency. Thus, from the first, the picture has been drawn which seeks in its entirety to present an administration realizing its responsibility both to the unemployed men and to industry, and in that realization insisting that the money so appropriated should be spent within the channels for which it was intended and should not be touched by the sordid political hand.

It has turned out, however, to be a case where the left hand knoweth not what the right hand doeth, for when we look at the type of gentlemen who are to administer these funds in several of the States, assuredly we see the shadow of Mr. Farley and his practical policies cast over the whole picture.

Let us review the situation in Mississippi:

Mr. Hopkins first appointed as relief administrator in that State Mr. Aubrey Williams. Mr. Williams, without apparent political affiliation, tackled the job in a way that marked him as both an honest and efficient administrator. His work was so well done that Hopkins brought him on to Washington as his first assistant. His place in Mississippi was taken by Charles Brawn, who had made a splendid record as assistant administrator for the State of Texas, but now we find Mr. Brawn, despite his reputation as an efficient public servant, supplanted by a Baptist minister, whose chief claim to the position he holds is the fact that he is a more ardent disciple of Senator BILBO than of the Lord. The whole thing, of course, is tied up with Senator HARRISON'S bid for reelection in 1936. I have no doubt that deal will make it much easier for Senator HARRISON with BILBO'S aid to obtain his reelection than for the people of Mississippi to gain either an honest or an efficient administration of public funds set aside for their State.

In Indiana the State administrator is the former secretary to Governor McNutt. Anyone who believes that Governor McNutt's professorial career has in any way dulled his sense of political efficiency need only review the record of his administration in Indiana.

Worse than both of these instances, however, is the appointment in Missouri, where the program has been turned over to Matt Murray, the first lieutenant and chief adjutant of Boss Pendergast, who runs a Democratic organization in Kansas City that bows to none other in the country when it comes to efficiency in obtaining a fair share of the vote for Democratic machine candidates, both national and local. I have no doubt that this same efficiency will be applied to the use of the public money to be turned over to Matt Murray. In fact, it was done in the last campaign, for the Democratic organization in that State used a printed slip among relief workers that contained the following questions:

Name?
Party affiliation?
How will you vote this year?
Are you on relief work?
Do you want the work to continue?
Are you for the new deal?
How many voters in your family?
Do you want a car to call for you?

I presume that inasmuch as relief funds have been kept out of politics by the President, we should assume that these questions were asked and the information compiled for the purpose of an efficient administration of the money being distributed.

In addition to the direct use of Federal funds to bolster up the Democratic machine, as I have pointed out, it has also been used as a bludgeon over State and Federal officers.

At the outset of the Governors' conference held at Biloxi but a few days ago, the Governors assembled there, with but one or two exceptions, evidenced a decided animosity against interference in their States by the Federal Relief Administrator and even the President. Many of these gentlemen openly stated that this interference constituted unwarranted invasion of the rights of States to handle their own problems.

Governor FitzGerald, of Michigan, introduced a resolution protesting against Federal control of relief funds, "demanding that full control of welfare relief administration be placed in the hands of the States." According to the newspaper accounts, certain Democratic Governors who had theretofore given out interviews to the effect that they would not tolerate Federal interference in the matter of administering relief funds in their States, were called on the phone from Washington, some by their Democratic Senators, and others by persons high up in the administration. As a result of this pressure the conference abjectly surrendered and agreed to the demands of Washington that all machinery for the distribution and handling of relief funds and public-works funds in each State be wholly under the control of Washington, and that all individuals handling these funds be appointed by Federal authorities.

In order to make the picture complete Governor McNutt, whose secretary I have noted had been appointed administrator for the State of Indiana, moved to table Governor FitzGerald's motion. The conference ended with a resolution being adopted pledging the enthusiastic support of all the Governors to the President in this work.

What it was that was whispered from Washington over the telephone to these gentlemen that caused them to do an about-face is a matter of conjecture, but I rather imagine we would not be far wrong if we were to hazard the guess that they had been threatened with the withdrawal of Federal money if they did not play the game as it was dictated from Washington.

Nor was Biloxi the only place where politics was being played with this $5,000,000,000 relief bill. Several newspaper correspondents, including some who had been quite friendly to the administration, carried the story last week that on the day the Senate voted on the Wheeler-Rayburn bill the count of noses disclosed the fact that the bill would be beaten unless pressure was brought to bear from administrative sources. Unfortunately, Mr. Farley was absent from the city, possibly dedicating a post office, but Mr. Emil Hurja, Farley's right-hand man and the official patronage distributor of the Democratic National Committee, was called to the Capitol, and, after intensive work on his part for 2 hours, four votes were changed and the bill passed. It is an open secret that the administration's control over the $5,000,000,000 was a deciding factor in lining up the final vote.

From the picture as a whole we may fairly conclude that this fund will be used not only in an attempt to prostitute the electorate of the country but will and already has been used to destroy the freedom of action of both State officials and Members of the National Congress.

Those who have listened to the President's words may suffer the hallucination of fancying a nonpolitical administration of the funds that have been placed in his hands, but those who are not blind and see the machinery backstage know this is not the case. Those in the local communities who are familiar with the character of many of the State administrators to whom this money has been intrusted will be aghast that the task of distributing it has been given to men of admitted connections with corrupt political machines. The diversion of this money to political purposes has been fully expected, but it was not thought that it would be done in such a flagrant manner. The words of the President stand as empty gestures when we consider the facts—"The voice is Jacob's voice, but the hands are the hands of Esau."

I have on several occasions suggested this as a plank in the next Republican platform: "Governmental relief must be free from political corruption." I know Mr. Roosevelt's advisers will not consider that to be a constructive thought but it will at least be a novel one to them.

What I have said here today can be amplified a hundredfold. It is our task to see that the real facts are brought clearly before our people, that straw men should be depicted at their true value and that the Don Quixotes should be unhorsed even if we find a President of the United States among their number. If we will fearlessly and honestly present the facts the people of this country will assuredly rise against the present administration and we will once again see sanity and decency restored to our National Government.

FOREIGN MARKETS FOR AMERICAN COTTON

Mr. BANKHEAD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter written to me by Mr. Oscar Johnston, manager of the cotton pool of the Agricultural Adjustment Administration.

Mr. Johnston spent some time in Europe at the direction of the President, investigating conditions affecting foreign

markets for American cotton. Mr. Johnston knows cotton, including production, markets, and marketing, as few men do. His views are entitled to careful and thoughtful consideration by all who are interested in our cotton problems.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
AGRICULTURAL ADJUSTMENT ADMINISTRATION,
Scott, Miss., June 20, 1935.

Senator J. H. BANKHEAD,
Washington, D. C.

MY DEAR SENATOR: This will acknowledge your letter of June 8, in which you request that I write you in a general way the result of my investigations of the world cotton situation during my recent trip to Europe. You especially ask my conclusions as to whether or not the price of American cotton is reducing our cotton exports, and if not, what, in my judgment, is the underlying cause for the rather serious decline in exports for the current year. I am very glad to give you the conclusions which I have reached as the result of a very careful study of the problems and of all available data upon the subject, both at home and abroad.

PRESENT STATISTICAL COTTON POSITION

At the beginning of the current crop year, August 1, 1934, the world carry-over of American cotton was estimated at approximately 10,600,000 bales, of which approximately 3,000,000 were in foreign countries and 7,600,000 in America. The 1934–35 crop is estimated at approximately 9,500,000 bales. Adding this to the American part of the carry-over we had available 17,100,000 bales with which to meet mill requirements for the current year. From this it is now apparent that the year's exports will be approximately 5,150,000 bales, and the domestic consumption 5,300,000 bales, or a total consumed and exported of 10,450,000. These figures indicate a carry-over into the new year, beginning August 1, 1935, of 6,650,000 bales in America. Consumption abroad has greatly exceeded imports; accordingly, the foreign stock is materially below the figure representing last year's stock. Foreign stocks will certainly not exceed 2,350,000 bales at the end of the current year, which added to the carry-over in America gives a world carry-over of American cotton of 9,000,000 bales.

Of the 6,650,000 bales in America, it appears that mill stocks, that is, stocks in consuming establishments August 1, will be approximately 850,000 bales, leaving a balance in the hands of the trade and/or producers of 5,800,000. Of this approximately 4,450,000 bales are in the hands of original producers, who have been advanced 12 cents per pound and who have incurred carrying charges of at least three-fourths cent per pound, so that this cotton is not available on the market until the owner can sell for a price equal to or better than approximately 12¾ cents per pound. Above that figure to 15 cents, it may be sold only at the discretion of the producer, and at 15 cents or better may be sold by Commodity Credit Corporation. Deducting the 12-cent loan cotton from the American supply, as being unavailable at present prices, we have left 1,350,000 bales; of this I estimate that on August 1 next, 550,000 bales will be held by the manager 1933 cotton producers pool. This leaves 800,000 bales of so-called "free cotton" in the hands of the trade. This is made up of miscellaneous and odd lots, representing stocks or left-overs of several hundred cotton shippers or merchants, from which desirable grades and staples and those most in demand have been selected. The mills of the world will require at least 1,000,000 bales to go through August and will probably require an additional half million bales before any appreciable part of the 1935 crop is available.

From the foregoing figures it is apparent that the world surplus of American cotton August 1 next—that is to say, the total carry-over less a normal carry-over—will be represented by the 4,450,000 bales financed by the 12-cent loan, and that so long as the market remains below 12.5 or 13 cents, the mills of the world will be compelled to obtain their supply of American cotton from the 1935 crop.

The average price of American cotton, middling seven-eighths inch, for the 10½ months of the current year, August 1, 1934, to June 15, 1935, is 12.40 cents per pound. This figure is the average of the 10 designated spot markets for the period indicated. It is evident that during the current year the world will consume at an average price of 12.40 cents per pound 11,200,000 bales.

EFFECT OF THE 1934 12-CENT LOAN ON EXPORTS

It is perfectly apparent from a study of statistics that the 12-cent loan was not a price-pegging or price-fixing device. With the loan in effect, the market price of cotton, as determined at the 10 designated spot markets, was 12.64 cents from the beginning of the season to and including March 9. During this period 4,171,961 bales came under the 12-cent loan. Since that date—that is to say, since the market break of March 11—only 386,000 bales have come into the loan. It is thus apparent that more than 5,000,000 bales of the current crop went into consumption with the market above 12.50 cents. The loan, therefore, was not holding the market up except during the period of time in which a large part of the crop was moved, except to the extent that it may be said that the possibility of the loan was a sustaining influence, psychologically valuable. On March 11, after 90 percent of the cotton that ultimately went into the loan had been pledged to Commodity Credit Corporation and when producers had disposed of that portion of their crop which they had not borrowed against, there occurred the drastic decline, and it was then physically demonstrated that the 12-cent loan was not a peg, for the market went down almost to 10 cents in a single day, and since that time has not been back to the 12-cent level except for a very brief period of time, shortly before the decision of the Supreme Court in the "sick chicken" case.

I am of the opinion that the 12-cent loan has made it possible for the producer to market his cotton in an orderly fashion. It has brought about accumulation of the world surplus of American cotton in the hands of producers who are soundly financed, so that this surplus may not be used as a depressing influence on the market. The 12-cent loan has certainly kept the market for spot cotton from suffering the decline which it would have suffered had the 4,450,000 bales of "loan cotton" been forced on the market by the producers during the harvesting season. It is possible that the fact that more than a million producers have received the 12-cent advance has taken from the market certain desirable types, which even at present prices would go on the market and supply mill demand, both in America and abroad, and that to this minor extent the loan may be responsible for some part in the decline in our exports, but this same thing would have been true had the loan been for less than 12 cents. The fact that 90 percent of the cotton which went into the loan did so with the market ranging from 12 to 13½ cents, and averaging 0.1264-cent, is conclusive evidence of the fact that the borrower took advantage of the market, with the hope of seeing cotton go materially higher as the control program progressed, and prompted by this same idea most of these producers would have availed themselves of the loan had the figure been lower.

It is contended that the 12-cent loan set an arbitrary price for American cotton materially above the world price, and that this fact stimulated the consumption of foreign growths to the neglect of American cotton. A study of the market trend in the world markets of American, Indian, Egyptian, and Brazilian cottons leads inevitably to the conclusion that the world market for cotton is the American market; that is to say, is the price at which American cotton sells. Cottons produced in the three other exporting countries follow the American market, the spread or difference between world prices for foreign cotton and those for American cotton remain at substantially a steady ratio through each season. Varying conditions, both economic and applied to production, cause these differences to vary from year to year and from time to time cause fluctuation in the same year. For example, in the early part of the current year and before the Sao Paulo crop from Brazil was ready for the market, it was estimated that that crop would be between 900,000 and 1,000,000 bales. The price for this cotton on the Liverpool market went materially below the American price, and there was much forward selling against the Sao Paulo crop. When actual harvesting began it developed that this crop would probably not exceed 650,000 bales. Immediately the basis for the Brazilian cotton advanced, until recently it has been 15 percent above the basis for the American crop, giving effect to the difference in spinning value. I quote from a market letter issued by one of the largest Liverpool spot-cotton merchants:

"The Egyptian market has naturally felt the full effect of the unsettled and unsettling condition in those of America during the past week and has exhibited weak spots on occasions in sympathy with the sharp declines in the American futures. * * * Despite the disturbing factor mentioned above, and also a decidedly quiet trade in actual cotton, the Egyptian markets have again demonstrated what a healthy undertone exists and what buoyancy underlies the position by responding immediately any signs of steadying here given by American values. * * * At the present moment the uncertainty regarding the United States position renders it impossible to do anything but guess the future course of Egyptian prices."

This same situation obtains with respect to Brazilian cotton. Those who complain that the 12-cent loan maintains an arbitrary price for American cotton will be forced to admit that if American cotton had declined to 10 cents per pound, it is almost certain the cottons from the other three exporting countries would have sustained similar declines, and would still be found selling in world markets in competition with American cotton. Carried to its logical conclusion, if the 12-cent loan is destroying foreign markets for American cotton, any loan, regardless of the amount, would have the same effect until the world price for American cotton reached a figure so low as to undersell the foreign production.

EFFECT OF 12-CENT LOAN ON FOREIGN PRODUCTION

It is my opinion that the 12-cent loan has had no effect upon foreign production. It is certain that in neither Egypt nor India has there been any indication of a purpose to materially increase production of cotton. Neither of these countries is planting as great an acreage as has been planted by them in the past. Brazil's increase and her active development of cotton production antedates the 12-cent loan and results from other causes mentioned below. Both in Russia and China, the other two major cotton-producing countries, efforts have been made for years to increase production. China protects her raw-cotton industry by a tariff. Russia is undertaking to increase her production by "collective" farming by the state. Neither of these countries has been a large importer of American cotton, neither of them is an exporter of cotton, nor is there any indication that they will ever be exporters except to the extent that Japan may develop cotton production in China in order that she may be independent of America, and if this is done, it will not be because of the price but because of

Japan's desire to be economically independent of America. There is some slight increase in production in Africa. For more than a quarter of a century Great Britain has been spending millions of dollars in an effort to develop cotton production in her African colonies. This is a natural desire on her part to develop and to increase the buying power of those who trade with her and who under improved conditions will take more made-in-England manufactures.

CAUSE OF DECLINE IN AMERICAN EXPORTS

The outstanding fundamental factor which is working a serious hardship upon cotton producers of America by reducing exports and destroying foreign markets, is the international commercial or trade situation. Before the war, as a debtor nation, America owed abroad more than a hundred million dollars annually of interest to foreign holders of American bonds. The foreign population in America sent to dependent friends and relatives abroad almost a quarter of a billion dollars annually. These two items alone, without the importation of foreign goods, provided foreign nations with American dollars with which to purchase more than $350,000,000 of American commodities. Immediately following the war, Americans engaged in a perfect orgy of purchasing foreign securities and lending, directly or indirectly, American dollars abroad. This orgy extended to and included 1929. In 1930 we discontinued lending abroad; having ceased to be a debtor and come to be a creditor nation, our remittances against debt obligations ceased; the economic depression materially reduced the amount of beneficient remittances from foreigners residing in America; also, because of the economic depression, our high tariff against European manufactures and the lowering of the value of our dollar, our imports from abroad declined. It has taken approximately 3 years for the full force and effect of this combination of factors to make itself felt to the extent that it now is, and I seriously fear that if these factors continue to operate we have not seen the end of the decline in American cotton exports.

We know that in Germany the reason for the decline is purely inability on the part of German mills to obtain American exchange. During the crop year August 1, 1933, to May 2, 1934, Germany took from America 1,293,184 bales. During the same 9 months of the current crop year Germany has taken 346,971, a decline of 946,213 bales or 73.2 percent. During the same period France took 700,771, against 340,598, a decline of 51.4 percent. During the 9-month period the decline in American exports this year as compared with the preceding year is 2,562,802 bales. Of this 1,306,386 bales represents decline to France and Germany alone. Our exports to Great Britain declined from 1,153,174 last year to 655,602 this year, a decline of 497,572. It cannot be said that the decline in exports to Great Britian has been due to the inability of English mills to obtain dollar exchange. The reason here is directly traceable to our tariff. Great Britain enjoys a favorable trade balance with Brazil, India, Egypt, and Africa. India, Egypt, and Africa are a part of the British Empire and enjoy favorable trade relations under the Ottawa agreement with the mother country. Quite naturally preference is given by English mills to cotton from these countries, and equally naturally these countries are desirous of improving their trade balance by shipping cotton to Great Britain. Brazil is a large buyer of British merchandise. Great Britain has extended credit to Brazil during the current year. Great Britain takes but little of the Brazilian coffee, and, accordingly, Brazil seeks to improve her trade position and protect the milreis by shipment of raw cotton to British mills. Until and unless the American producer is in a position to undersell cotton from Brazil, India, Egypt, and Africa, Great Britain will continue her efforts to promote growth of cotton in these countries, to improve the economic condition, and increase the buying power of the peoples of these countries by encouraging production of, and by purchasing, cotton.

Cotton is regarded as a necessity at this time, for which as yet no satisfactory substitute has been developed. Increased production in India and Egypt will call for enormous capital expenditures, so, for sometime to come Europe will be compelled to take a considerable quantity of American cotton, but will continue her efforts to promote production of cotton in countries with which European nations enjoy more favorable trade relations, and will continue her efforts to improve and increase the production of artificial fibers until and unless America sees fit to make use of her greatest asset, viz, her buying and consuming power. I do not intend to suggest that we should abolish tariffs and expose American industry, both capital and labor, to ruthless competition with cheap foreign labor. Industry in America was doing nicely in 1929, yet in that year American imports were very much greater than they are now, particularly our imports from Italy, France, and Germany. I believe that a careful study of our tariff and the revision of those laws so as to permit the importation of those commodities which are not seriously nor materially competitive with American commodities would permit us to increase our imports, thereby furnishing exchange or dollars without at the same time putting in jeopardy any major American enterprise.

Henry A. Wallace, Secretary of Agriculture, has accurately and fearlessly placed the situation squarely before the American public in his book, America Must Choose. We must, within reason and with proper regard for the major interests of a majority of the people, open our markets to the world or we must recognize that the markets of the world will unquestionably be closed to America.

The so-called "Johnson Act", limiting the freedom of trade with debtor nations, is a factor affecting our exports. Our antidumping and countervailing duties laws are serious factors affecting our exports. Our insistence upon our right to dump and/or to subsidize exports, while at the same time denying this right to other nations is not only inconsistent but unjust, discriminatory, and provokes prejudice against us.

Our insistence that the debtor nations pay their debts, either in gold or dollar exchange, while at the same time making it difficult, in some cases impossible, for them to obtain dollar exchange, is unreasonable and provocative of prejudice against American commodities.

It is urged that debtor nations are spending millions of dollars for armament, the maintenance of armies, while at the same time proclaiming their inability to meet their obligations to America. Those pressing this point ignore the fact that expenditures incident to acquisition of war material and maintenance of armies and navies do not necessarily require gold or dollar exchange. These expenditures are made with currency of the Nation involved, which currency we are unwilling to accept either in discharge of obligations or for purchase of commodities.

Attention has been called to the fact that American exports in 1934 showed an increase over those of 1933 of $500,000,000, and the question has been asked how foreign nations are finding exchange to pay for automobiles, agricultural equipment, machinery, electrical equipment, and other manufactures and at the same time justify a claim that they do not have exchange with which to buy cotton. The answer is obvious: Our increased exports was confined to industrial exports, manufactures, these exports went to agricultural countries, principally South America. The buying power of agricultural countries was raised by improved market level for all agricultural commodities in 1934 as compared with 1933. Our agricultural commodities go to industrial nations, as for example, Germany, France, Italy, England, etc. From these countries our imports have shown a material shrinkage; hence, while Brazil, with the dollar proceeds of her hundreds of tons of coffee, buys hundreds of thousands of dollars of gin machinery, oil-mill machinery, electrical equipment, automobiles, etc., Germany, having no such exports to America, is unable to buy our cotton, but turns to Brazil, from whom she purchases cotton at a higher relative value than we are asking for American cotton, and pays the purchase price for this cotton by shipping to Brazil railway equipment, machinery, etc. In 1934 industrial exports from America to agricultural countries increased hundreds of millions of dollars, while agricultural exports to industrial nations decreased.

EFFECT OF A. A. A. PRODUCTION-CONTROL POLICY

The production control of the A. A. A. has resulted in reducing the carry-over of American cotton from 13,250,000 as of August 1, 1932, to 9,000,000 bales as of August 1, 1935. This reduction in production has had no effect on the world supply of American cotton, since during each of the years there has been on hand, in stock, a surplus ranging from approximately 5,000,000 bales, August 1, 1935, to approximately 9,000,000 bales August 1, 1932, so that during the entire period covered by the control program there has been available to world markets not only an adequate supply but a burdensome surplus of American cotton. The market value has not been raised from the 6-cent level, prevailing in August 1932 to the 12-cent level prevailing now, for the 6-cent level was on a basis of the old-dollar value, while the 12-cent price is on the basis of a 59-cent dollar. The gold price of cotton in the markets of the world has not increased from 6 to 12 cents but from 6 to approximately eight and a half cents, so that in world markets to gold-bloc countries we are selling cotton considerably below the American-markets quotation.

Very naturally Japan is seeking economic independence of America. Cotton is recognized as a necessary war material. Japan is without cotton, oil, and minerals within her own empire, and is making a very natural effort to arrange for these necessary materials closer at home. So long as we continue taking from sixty to a hundred million dollars of Japanese silk annually, Japan will probably take an equivalent amount of American cotton. Their sale to us of silk gives them the necessary exchange, but in the event of trouble between America and Japan, Japan would find it necessary to obtain her cotton elsewhere. During such a time America could do without silk, but Japan would be compelled to have cotton. The inference from this situation is obvious.

So long as America has an adequate supply of cotton with which to fill world needs, the world is not seriously concerned with the quantity of cotton we produce annually. If it is argued that we must continue to produce a surplus, piling up millions of bales to be sold abroad in cutthroat competition with cheap foreign labor, thus further oppressing the cotton producer, lowering his standard of living and lowering his buying power, the answer appears to me that if foreign markets can only be bought with 6-cent cotton, they are too expensive.

SUBSTITUTE FIBERS

Italy, England, and Germany, as well as America, are making distinct strides in the development of synthetic cellulose fiber, offered as a substitute for cotton. Distinct progress was made in America when cotton was selling at 6 cents, when we had a carry-over of more than 13,000,000 bales. Italy has probably made greater advance in the production of synthetic cotton than any other country. Italy protects her synthetic fiber by a tariff of almost 5 cents per pound on the importation of raw cotton. Italy is seeking to develop her synthetic fiber for two primary reasons: First, to give employment to her population, much of her unemployment resulting from her loss of the American silk market; second, to protect the lira by avoiding the necessity for sending out of Italy funds with which to pay for importation of textile

fibers. It is probable that efforts of the chemists and industrialists of the world to improve both the character and quantity of synthetic fiber will be continued. This is a menace that must be faced. The answer is not cheap cotton. The development has had its greatest impetus when cotton was cheapest. It is one of the manifestations of the desire of nations to become more economically independent, the one of the other, and particularly the desire to protect domestic exchange, resulting from depletion of gold reserves in payment for excess imports over exports.

THE ANSWER

It occurs to me that the Department of Agriculture should pursue steadfastly its adopted policy of controlling production so long as it has the enthusiastic support of the producers, and until the carry-over of American cotton is reduced to not more than 5,000,000 bales; that in the meanwhile producers be rewarded for their cooperation in this program by having at their disposal adequate credit facilities to enable them to market their cotton in an orderly manner and through the season; that at the same time America should carefully review her tariff policies, modifying and revising where necessary so to do, in order to bring about a more equitable distribution of commodities between nations of the world without undue hardship to American industry. Every resource of the Nation should be brought to play in an effort to develop both markets and uses for American cotton, and in view of the enormous proportion of the population of America dependent upon the cotton industry, directly and indirectly, every effort that is sound and economic should be made to increase exports.

Yours very truly,

OSCAR JOHNSTON,
Manager Cotton Pool.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from South Carolina [Mr. BYRNES] in the nature of a substitute for the committee amendment on page 45, beginning on line 17.

Mr. BYRNES. Mr. President, yesterday I offered an amendment as a substitute for the committee amendment providing for a tax upon rayon. As I then stated, my purpose was to do what I believed to be fair to the rayon industry. I felt, inasmuch as it was proposed to tax rayon, that there should be placed an equivalent tax on silk.

Senators representing States where the rayon industry has great interests advise me that they are opposed to my amendment. I offered it solely to be helpful and believing that it was fair to the rayon industry. As they are opposed to it, I have no desire to press the amendment. Therefore, I am going to withdraw my amendment and let the vote come on the committee amendment reported by my colleague. I hope that those who hold the views that I hold, that there should be a competition tax upon rayon, will vote for the committee amendment, and, thereby, do justice to the cotton industry.

The VICE PRESIDENT. The amendment offered by the Senator from South Carolina to the amendment reported by the committee is withdrawn.

PROPAGANDA RELATIVE TO INCOME TAX ON LARGE CORPORATIONS

Mr. HASTINGS. Mr. President, a few days ago I had occasion to refer to the message sent to the Congress by the President proposing new taxes. At that time I pointed out that the increased income tax on large corporations would affect millions of small investors. I think the large corporations and their stockholders have a right to protest against any such tax. I think the Members of both Houses of the Congress will be glad to have the honest opinion of the people of the country upon this subject.

But, Mr. President, I hold in my hand exactly 100 typed letters, received yesterday and today, all dated July 16, containing exactly the same language and signed by individuals living in New York City, New Jersey, and the city of Baltimore. They were all addressed to me as a member of the Finance Committee and the envelopes were exactly alike and clearly written on the same typewriter. Such letters, of course, have no effect upon me except to annoy me, but I have no doubt that if I were prejudiced against the large corporations these letters would have the effect of increasing my prejudice.

It is difficult for me to understand how the executives of any large corporations could be so stupid or believe the Members of the Senate to be so stupid as not to see clearly how such letters originate. If the executives of large corporations see fit to notify their stockholders of the effect of proposed legislation upon them, I think no person can complain. I shall not complain if the suggestion is made to the stockholders that if they be sufficiently interested they might write their Representatives in Congress. It is not difficult for any of us to tell whether a letter is genuine or whether it is inspired propaganda. The genuine letter most of us are glad to get. The inspired letter is apt to create resentment.

Mr. President, this statement I make is not inspired by the hot weather or the length of the tedious session, which still continues. I make it only for the purpose of having the RECORD show what I conceive to be a proper conception of the right of the people to petition the Congress, and my resentment of the implication that Members of Congress can be influenced by the method I have described.

Mr. LA FOLLETTE. Mr. President, while I am in complete disagreement with him on most of the issues involved in the tax question, I want to compliment the Senator from Delaware for his forthright statement bringing this matter to the attention of the Senate. I hope he will turn the letters and envelopes over to the lobby committee and let the matter be investigated so we may ascertain who is responsible for this manufactured type of propaganda.

Mr. HASTINGS. I may say to the Senator from Wisconsin that I shall be glad to turn the letters over to the committee, although I doubt whether I have kept the envelops in which they came.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The PRESIDENT pro tempore. The question is on the amendment of the committee, on page 45, beginning in line 17. The amendment will be stated.

The CHIEF CLERK. On page 45, after line 16, it is proposed by the committee to insert the following new section:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such, or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn or the products thereof."

Mr. SMITH. Mr. President, the amendment before us provides for a tax on rayon. Subsequent to the approval of this amendment by the committee and during the discussion, my attention has been drawn to the fact that if this tax shall be imposed on rayon and its competitor, silk, it might have, and doubtless would have, a very disastrous effect upon the exportation of the very commodity which we are seeking to benefit and aid, so far as we can do so. I refer to cotton. We export 55 percent of the cotton we produce in this country. Therefore the price of our exported article and the demand for it abroad determines in large measure not only the size of our crop but its price.

I have been assured by those engaged in the export business, and who understand the condition of the foreign trade, that this tax, if imposed on rayon, would have a very disastrous effect upon the volume of our exports of cotton. It

is contended, and rightfully so, by the rayon interests that if a tax is placed on rayon, a compensatory tax should be placed on silk, especially raw silk. The importation of that article, not only to this country but to other countries, and the price at which it is sold, largely affects the export of our raw material. Therefore, so far as I am concerned as chairman of the committee, I am perfectly willing that the amendment should be rejected.

Mr. WAGNER. Mr. President, I have no objection.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was rejected.

The PRESIDENT pro tempore. The next committee amendment passed over will be stated.

The next committee amendment passed over was, on page 49, after line 18, to insert the following section:

SEC. 19. Section 11 of the Agricultural Adjustment Act, as amended, is amended by striking out the word "flax" and inserting in lieu thereof the word "flaxseed."

Mr. MOORE. Mr. President, yesterday the Senate decided to eliminate flaxseed in the amendment found at the top of page 38. The section just read also should be eliminated to carry out the intent of the Senate. I move to strike out the amendment.

The PRESIDENT pro tempore. The same result will be achieved whether the amendment shall be rejected or stricken out. Therefore, the question is upon the adoption of the committee amendment, being section 19, page 49.

The amendment was rejected.

The PRESIDENT pro tempore. The clerk will state the next amendment passed over.

The next amendment passed over was on page 54, after line 20, to insert:

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(f) No refund, credit, or abatement of the amount of any tax shall be made or allowed under this section, unless, within 60 days after the right to such refund, credit, or abatement accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than $10."

The PRESIDENT pro tempore. This amendment was passed over on the request of the senior Senator from Wyoming [Mr. CAREY].

Mr. CAREY. Mr. President, I should like to offer an amendment to the committee amendment. In line 1 of page 55, I move that "60 days" be changed to "120 days."

Mr. SMITH. Mr. President, after the explanation which has been given, I think that is essential; and, so far as I am concerned, I agree to the amendment.

The PRESIDENT pro tempore. Without objection, the amendment to the amendment is agreed to. The question is on agreeing to the amendment of the committee, as amended.

The amendment, as amended, was agreed to.

Mr. SMITH. Mr. President, the letter "(f)" ought to be changed to "(g)", since we have acted on a previous paragraph. I ask that that change be made in line 24 of page 54.

The PRESIDENT pro tempore. The Chair will suggest to the Senator that the numbers of the various sections may all be changed upon the completion of the bill.

Mr. SMITH. To conform to the amendments? Very well.

Mr. KING. Mr. President, I ask the Senator from South Carolina, for information, what disposition was made of section 23, beginning on page 51 and extending over to page 52?

Mr. SMITH. It has already been agreed to.

Mr. KING. What disposition has been made of section 25?

Mr. SMITH. That has been agreed to.

Mr. KING. And what disposition has been made of the amendment on page 54, line 1, beginning "except as to flour processed from wheat", and so forth?

Mr. SMITH. That was agreed to; and the one beginning on line 21 was agreed to, with an amendment, where "60 days" occurs on page 55, so as to make it read, "120 days."

The PRESIDENT pro tempore. The Chair will state to the Senator from Utah that all those amendments have been adopted.

Mr. KING. Mr. President, I inquire of the chairman of the committee what disposition was made of the amendment commencing on line 16, page 54, with the words "and by", and extending down to and including the word "only", on line 20.

The PRESIDENT pro tempore. The RECORD shows that it was adopted on the first call of the committee amendments on the 10th day of this month. The clerk will state the next amendment passed over.

The next amendment passed over was, on page 57, line 22, after "(a)", to strike out "No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment" and insert "No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof"; on page 58, line 17, after the word "no", to insert "recovery"; and on page 59, after the words "of section 15", to insert a comma and "under paragraph (1) of subsection (e) of section 16"; and in line 2, after "17", to insert "of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930", so as to read:

"SEC. 21. (a) No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recovery, recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed. The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15, under paragraph (1) of subsection (e) of section 16, or under section 17 of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

The PRESIDENT pro tempore. This amendment was passed over at the request of the senior Senator from Idaho [Mr. BORAH].

Mr. BORAH. Mr. President, we have now reached the amendment on page 58, as I understand; that is, the portion stricken out begins on page 57 and the insertion is on page 58. The amendment on page 58 reads as follows:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoup-

ment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

Mr. President, as I understand this amendment, it is broad enough not only to include the prohibition or denial of the right to go into court to test the recovery of a tax on the ground that the tax is or was unconstitutional, but it also denies the right to challenge the illegality of the tax by reason of the malfeasance or misfeasance of an officer. It denies the right of the citizen to avail himself of the courts for any purpose touching the legality of the tax.

I do not feel such a provision ought to be incorporated in this bill or in any bill. We should not deny the citizen the right to go into court to test the legality of a tax which he has paid.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. CONNALLY. The citizen is not denied that right if he cares to resist the collection of the tax; is he?

Mr. BORAH. But this covers the tax which has been paid. This is for past transactions.

Mr. CONNALLY. He could have tested it when he was called upon to pay it, if he so desired, could he not?

Mr. BORAH. That is true; but why should we deny a citizen the right to go into court at any time and test the legality of a tax which has been laid on the part of the Government, and even though it involves the malfeasance or misconduct of the officer?

Mr. President, one argument has been advanced in favor of this proposal which I think has merit; and I desire to refer to that briefly before discussing some other features of the amendment.

It is claimed that in many instances this tax has been passed on; and I have no doubt that in many instances it has been passed on. I should not want the citizen to be given the right to recover for a tax which he had passed on to someone else. But that can all be taken care of, and should be taken care of, by a provision that when the citizen brings his suit the Government shall have the right to prove as a defense that the tax has been passed on. Not only that, but, in my judgment, without any provision whatever in the statute, the Government would have the right to make that showing, and it would be a complete defense to the action. I would be willing to place the burden of proof on the claimant.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. TYDINGS. I agree with what the Senator says; but may I also suggest that in some jurisdictions the taxpayer would not be able to collect the tax where he had passed it on, because he would not be able to show to the court any measure of damages. Nevertheless, if the provision should be written into law, that would make it universal, and show the intent of Congress in the matter.

Mr. BORAH. I have no objection to its being written into the law. In fact, I think perhaps that is a wise thing to do, although I am quite sure that failure to pay the tax would be a defense without any special provision being written into the law.

Mr. WAGNER. Mr. President——

Mr. BORAH. I yield to the Senator from New York.

Mr. WAGNER. Does not the Senator think it would be fairer that the burden should be upon the taxpayer to prove that he himself absorbed the tax, rather than putting upon the Government the duty of proving that the tax was passed on?

Mr. BORAH. I should have no objection whatever to a provision that the burden shall be upon the taxpayer to show that he had paid the tax.

Mr. WAGNER. As I understand this bill, as to future taxes that very thing is provided for.

Mr. BORAH. Yes; although, in my opinion, he would have to show that. We must bear in mind that the taxpayer must first go into the Court of Claims, and secondly he must come to the Congress for his appropriation; and in my judgment there is no possible way by which the claim of a taxpayer could escape scrutiny on the question of whether or not he had paid the tax. All equities would run in favor of the Government. Anyone who has ever brought suit against the Government is familiar with that fact.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. ROBINSON. In every instance the taxpayer pays the tax. He is required to pay the tax. The proposition is that as a result of the payment of the tax he requires the consumer to absorb it.

It would be difficult, if not impossible, to require the Government in all cases to prove that actually the processor paid the tax and then passed it on. We all know that the general rule is that taxes are passed on to consumers. It would seem to me that the fair rule would be to deny the processor the right to recover unless he can prove that he has not passed on the tax.

Mr. BORAH. Let me say to the Senator from Arkansas that I should have no objection to that. What I am objecting to is denying the citizen the right to go into court to test the question of whether he has paid an illegal tax. After he is once in court I care not what rule may be established as to requiring him to show that he actually has suffered a loss by reason of the imposition of the tax.

Mr. LOGAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Kentucky?

Mr. BORAH. I yield.

Mr. LOGAN. I desire to ask the Senator from Idaho if it is not the universal rule in taxing districts of States and municipalities that where a taxpayer voluntarily pays a tax to the government, without serving on the government any notice of protest he is estopped from recovering the tax?

Mr. BORAH. There is a rule, of course, such as that to which the Senator refers; but that arises only after the taxpayer gets into court. This amendment proposes to deny him the right to bring a suit. This amendment closes the courts and denies all right to be heard.

Mr. LOGAN. That ought not to be done, of course. What I mean to say is that I cannot see much occasion for the amendment at all. The citizen has a right to come into court, and the Government has a right to say, "We have had this money; it has been used for governmental purposes without any notice that you were going to seek to reclaim it." That, I think, would generally be a good defense. So I can see no occasion at all for the amendment.

Mr. BORAH. I invite the Senator's attention to the language of the amendment, which is that "no Federal or State court shall have jurisdiction to entertain a suit."

Mr. LOGAN. Could we deny jurisdiction to a Federal court?

Mr. BORAH. I do not think we should take from a citizen the right to go into court to test the question of whether he has suffered by reason of the act either of the Government or of anyone else.

I am aware of the fiction which obtains that there must be consent before one can sue the Government; that is a matter I shall discuss in a few minutes. But where there has been an actual wrong suffered, a wrong sustained, where property has been taken and rights have been denied, I do not believe we can justly or legally deny a citizen the right to go into court. I do not think in all conscience we can deny him the right to bring a suit.

Mr. LOGAN. I agree fully with the Senator that where a man has a cause of action the doors cannot be closed to him, and particularly is that true if we seek to prohibit him from suing a collecting officer or an officer who makes an assessment. There may be some protection against suits as far as the Government is concerned, but there is a clear distinction between agents of the Government and the Government itself.

Mr. BORAH. When we were discussing this matter a few days ago I suggested that I thought some amendment with reference to the procedure after a suit was brought would be quite proper, and I should be perfectly willing, myself, to

support a provision that the taxpayer should be required to disclose that he had suffered injury by paying the tax, and that he had not passed it on. I would put the burden of proof upon him, because the facts are peculiarly within his knowledge. But that is not what we are discussing here. We are discussing the broad proposition that notwithstanding it is admitted that a tax is illegally laid the citizen should be denied the right to go into the courts of this country to test the question of whether he can recover. That is the amendment which is before us, not an amendment which may be drawn for the purpose of providing the procedure after a suit has once been brought.

Mr. LOGAN. Mr. President, will the Senator yield further?

Mr. BORAH. I may say to the Chair that I am speaking on the bill.

The PRESIDENT pro tempore. The Senator has 30 minutes.

Mr. BORAH. I yield to the Senator from Kentucky.

Mr. LOGAN. I should like to ask the Senator if it would be possible to impose a limitation against the right to institute a suit for taxes which have already been paid, although there was no provision of the law providing a limitation on suits. Could we now, by an amendment here, provide that unless suits are brought within 60 days after the enactment of this measure, or any other time, no suit shall be brought to recover?

Mr. BORAH. I think we can pass a statute of limitations with reference to the time of bringing a suit. Sixty days, perhaps, would be rather short; but no doubt a reasonable time could be provided, and perhaps should be provided. Those are matters which, it seems to me, must arise after we have determined the question which is now before us.

Mr. President, the Government should be fair with the citizen. It should be just. In the last analysis, the supreme purpose of government is to administer justice—not alone, I contend, as between the citizens, but also as between the government and the people. The nonsuability of the government by the citizen originated in the most egregious fiction of all history, and that is, that the king can do no wrong. As a matter of fact, at the time this doctrine was first announced, the king did not do anything else but wrong. It was because he was often and continuously in the wrong in the treatment of his subjects that he could not afford to have his acts adjudged by anyone other than by himself. This doctrine can have little place under a government where the people have prescribed in their constitution limits beyond which the government may not go. If these limits thus prescribed by the people are broken and disregarded by the government, and the people are to have no redress, why place limits upon the action of the government at all? Indeed, it becomes at once an absolute government.

Under a system where the people have prescribed by their Constitution limits beyond which the Government may not go, it does not seem to me fair or just to the citizen to disregard those limitations and then say to him that he has no tribunal in which to test the legality of the denial; and that is precisely what is proposed at this time.

The matter of procedure after the suit is brought may be curtailed or limited within reason, but not the right of the citizen to sue to test the legality of the Federal Government or a State, or a citizen of the Government or a State.

If the Government, under cover of law, may enforce from the citizen large sums of money called taxes to which, under the Constitution, the Government is not entitled, and then if the Government may close the courts to the injured citizen, may deny him a right to be heard, that, in my judgment, is the very foundation stone of an absolute government. The citizen is not under these circumstances living under a government of law. He cannot claim that justice be administered without price and without favor. Admitting that for reasons which seem to me unsound, but admitting that the consent of the Government to be sued must be extended, yet I contend that that consent ought to be given with very few and rare exceptions. When the citizen has had his contract broken and the citizen has been unjustly deprived of his property, of his liberty, or his personal rights, when the citizen has been made to pay sums of money which the Government has no lawful right to take, he should be given a hearing in the courts of his country or before some tribunal which may adjust his rights and determine the amount of his recompense.

Justice Brandeis, in a paragraph of an opinion which he wrote sometime ago, used this language:

> Whether acting through its judiciary or through its legislature a State may not deprive a person of all existing remedy for the enforcement of a right which the State has no power to destroy unless there is or was afforded to him some real opportunity to protect his right.

Enlarging upon that, if it be true, as this amendment admits, that the tax was illegally collected—that may not be ultimately determined; I do not know about that, but the amendment proceeds upon the theory that it will be determined that the tax was illegally collected—then we are asked to deny a citizen the right to recover that which it is admitted was illegally taken from him. I do not think we want to incorporate that kind of a principle in the laws of this country.

It is true, as I said a moment ago, that some of this tax has been passed on, doubtless. It has been passed on in large measure by the large companies. However, I have a great number of letters and some telegrams this morning from small, independent companies, which were not in a position to pass the tax on, which could not pass it on, and, by reason of not being able to pass it on, they suffered great loss. If we deny those companies the right to go into court, we will have passed a law under which the large companies, having ability to pass the tax on, have passed it on, and therefore have not suffered; but we will deny to the independent company, the small company, the right to recover, although it was unable to pass the tax on. Viewed from every standpoint, it works an injustice.

I had intended to say something upon the question of the right and the power of the legislature to deny a citizen the right to sue his Government. I have not the time to go into that subject at present, but I do desire to say that while that principle has been embodied in our law it has been embodied there over the views of some of the ablest members of our courts. They have contended that it has no application under our system of government.

I maintain that under our system the highest power is not the State, not the Government, but the people. The people's rights are superior to the rights of the State or to the Government. The State and the Government are simply the agents of the people to preserve and maintain the rights of the people. The people made the Constitution, and when the Constitution is violated those who violate it must answer for its violation to the people. There is no divine right of exemption here in this scheme of government. The Constitution and the laws of the country are binding upon government and people alike.

Admitting, for the sake of the argument, that the fiction does exist, it is my contention that the right to sue should never be denied except in the most rare instances. I can conceive of conditions, during war, or some similar emergency, when it would be proper to deny to a citizen the right to go into court; but where we take away a man's liberty, where we take away his property right, where we deprive him of his money, it is my contention that he should never be denied the right to have a hearing in the tribunals of his country.

We have had experience with that kind of procedure in this country several times. It will be recalled that after the Civil War, when the reconstruction measures were passed, and military establishments were set up in some of the Southern States, men were sent to prison upon the orders of military commissions. It became necessary, in the view of those who were seeking to maintain the reconstruction measures, to avoid litigation upon that question.

A man by the name of McArdle, an editor in the State of Mississippi, was sent to jail under the order of a military

commission. He sued out a writ of habeas corpus, as he had a right to do under the law as it then stood. The Congress a short time before had passed a bill providing for an appeal in such cases. McArdle sued out the writ, the matter was argued in the Supreme Court of the United States, the Court rendered an opinion entertaining jurisdiction of the writ, and then, while the case was still pending, the Congress passed an act denying the right to such parties to go into the courts of the country to test the legality of their imprisonment.

The result of it was the law was passed, the court was denied jurisdiction, and these persons were denied the right to go into the courts of the country and test the legality of their imprisonment; and those persons remained imprisoned under an order of a military tribunal in a constitutional form of government. There are several other instances of that kind. That may be government, but it is not a Government law.

We have now a situation here in which the legality of this tax may become very important, but I contend that under no circumstances should we establish the principle in this country that a man deprived of his rights, his property, his property rights, or his liberty should ever be denied the right to have a hearing in a court or before some tribunal which could determine his equities or his rights.

Mr. WAGNER. Mr. President, I was going to suggest—and I think I am right about it—that this principle which the Senator condemns, in which condemnation I agree with him, was transplanted from a country of kings on the theory that a king could do no wrong. We established a republican form of government here, and yet for some paradoxical reason we accepted this principle that the king could do no wrong. Upon that theory the courts have refused to take jurisdiction in the case where the Government resists.

Mr. BORAH. It is one of the interesting phases of our history with respect to this particular subject as to how it ever got into our jurisprudence at all. It originated, it seemed, from a single sentence in an opinion written by Chief Justice Marshall. There was no argument; there were no reasons stated; but after that time Mr. Justice Miller, while recognizing that precedents had been established, stated, as the Senator from New York has stated, that it had no applicability to our system of government; that we had no king, and we had no inherent sovereignty in this country; that we had none of the attributes of inherent sovereignty in this country; that the Federal Government possessed no sovereignty save that which is given to it by the express terms of the law, and the only basis upon which this can be found is the matter of the inherent sovereignty or the right of the sovereignty to be exempt from question by its citizens. At the same time we profess to be living under a form of government in which not the State, not the Government, is the supreme power, but the people are the supreme power, and the people give to the State or give to the Government whatever power they see fit to choose to give. They have never given to the Federal Government exemption from suits by the citizen who has been wronged. I cannot but believe if this was a new question it would be possible to evict this theory from our constitutional form of government.

Mr. SMITH. Mr. President, I am very much interested in what the Senator says, and I agree with him. Since he has quoted Mr. Justice Brandeis, I will say that I was astounded when I was shown an opinion by Mr. Justice Brandeis, in the case of *Lynch* v. *U. S.* (292 U. S. 571), from which I read the following language:

> Although consent to sue was thus given when the policy issued, Congress retained power to withdraw the consent at any time. For consent to sue the United States is a privilege accorded, not the grant of a property right protected by the fifth amendment. The consent may be withdrawn, although given after much deliberation and for a pecuniary consideration.

Further on in the decision Mr. Justice Brandeis says, after citing cases:

> The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress, and to those arising from some violation of rights conferred upon the citizen by the Constitution.

Justice Brandeis maintains that the sovereign may not be sued except by its consent.

Mr. BORAH. Mr. President, I stated in the beginning that the fiction had been inducted into our law and was now recognized as a fact in our law. I do not deny that. I do say, however, that it has been contested in the opinion of able judges from the case of Georgia against Chisholm to the present day.

Let me read a single sentence from Mr. Justice Miller in a majority opinion, in the case of *United States* v. *Lee* (106 U. S. 206). I think Mr. Justice Miller is regarded as one of the greatest justices who has sat on the Supreme bench. He said:

> As no person in this Government exercises supreme executive power, or performs the public duties of a sovereign, it is difficult to see on what solid foundation of principle the exemption from liability to suit rests.

And I think it is difficult to see. However, I admit that it is here. What I am saying is that though it does exist, yet so strong is the argument against it that the consent should rarely if ever be denied.

Mr. President, more and more the Government is entering the field of private enterprise; more and more the Government is coming in competition with the citizen in his daily concerns. At the same time the Government is constantly demanding sacrifices of the people in the way of increased taxes. Now, it is proposed to add to all this a disregard of the simple principles of justice. A government which is unwilling to open the courts to its wrongdoing as against the citizen is not far from being a government of lawlessness, a government of force.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. ROBINSON. The Senator's last statement has made partially clear the subject matter about which I wished to question him. I understand the Senator concedes that no right to sue the Government exists except by consent, that is, by a statute. Unless a statute be passed or exists authorizing suits, no action can be maintained in any court against the Government unless it be a proceeding in habeas corpus, which cannot be suspended except during time of insurrection or rebellion. Why does the Senator refer to this very fundamental principle as a "fiction"?

Mr. BORAH. What is that?

Mr. ROBINSON. Why does the Senator from Idaho refer to the fundamental principle that no suit or action against the Government can be maintained except by its consent as a "fiction"? Does not the Senator recognize that from the beginning of the Government that principle has been adhered to, that no one can sue the Government unless the Government consents?

Mr. BORAH. I will explain to the Senator.

Mr. ROBINSON. Does not the Senator know that the right to sue now is limited and confined to those cases in which the statute authorizes suits?

Mr. BORAH. Mr. President, I will explain to the Senator. As I said in the beginning, this principle that one could not sue the sovereign originated in the fact that the king could do no wrong. It never had any expression in the laws of England. It never had any statute supporting it in the laws of England at the time it started. It rested entirely upon what I claim is a pure fiction, and that is, that the king can do no wrong.

Mr. ROBINSON. Will the Senator yield for a question?

Mr. BORAH. In just a minute. That came down to us and was accepted. There is not in the Constitution of the United States a line or a letter indicating exemption of the Government from suit by the citizen.

Mr. ROBINSON. Mr. President, does the Senator intend by that declaration to maintain that the right to sue the Government should be unlimited and unrestricted; that there should be no limitation whatever upon actions or proceedings against the Government?

Mr. BORAH. Mr. President, if I had my way about it, that is exactly what I would contend; but I recognize the fact that I am closed on that proposition by the precedents

which exist, but I am not closed on the proposition that universal consent, with very rare exceptions in time of war, should be the policy of the Government of the United States. When a citizen has been wronged, when his liberty has been taken away from him, or his property has been taken from him, I cannot conceive why, under a free government, he should not have a right to be heard. It is a fiction, an egregious fiction, a falsehood and libel upon free government.

Mr. ROBINSON. Mr. President, may I say in the time of the Senator from Idaho that I do not agree with the statement of the Senator from Idaho, and will take occasion in my own time to reply to it?

The PRESIDENT pro tempore. The time of the Senator from Idaho on the bill has expired.

Mr. BORAH. I will reserve my 15 minutes on the amendment.

Mr. LEWIS. Mr. President, I do not know whether I am intruding on anyone's time. If not, I wish in my own time to say a word at this time on the subject raised by the Senator from Idaho.

Mr. ROBINSON. Mr. President, will the Senator from Illinois indulge me just a moment to speak on the amendment, and then he may resume the floor.

Mr. LEWIS. I wish to address myself directly to the subject under discussion, but I yield to the Senator from Arkansas.

Mr. ROBINSON. The Senator has the floor, and I will speak on the subject later.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. LEWIS] has the floor.

Mr. LEWIS. I ask my friend from Idaho, in view of the argument the Senator makes, that the right to sue or the right to withhold the suit is one which he regards as fundamental, whether his attention has been drawn to the opinion of the Supreme Court of the United States in the case of *Monaco* v. *Mississippi* (292 U. S.), in connection with which I take the liberty to ask the Senator's kind attention to the observation of the Supreme Court of the United States, where it quotes Mr. Hamilton as follows:

> Hamilton, in the Federalist, No. 81, made the following emphatic statement of the general principle of immunity:
> "It is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent."

Mr. BORAH. Mr. President, may I interrupt the Senator there?

Mr. LEWIS. Certainly.

Mr. BORAH. Of course, I have read what Mr. Hamilton said. He bases it upon a proposition, which, in my judgment, if I may be so presumptuous as to say so, does not exist in the American system of government; that is, upon inherent sovereignty and inherent attributes of sovereignty. The Supreme Court has said there is no such thing as inherent sovereignty in this country; that we have none of the attributes of inherent sovereignty in this country; and, while Mr. Hamilton thought we had, I cannot bring myself to believe that there are any attributes of inherent sovereignty in the Government of the United States.

Mr. LEWIS. Mr. President, I find no difficulty in differing in principle with my able friend, but recalling that the able Senator from Idaho, as a just champion of the Constitution, prefers to rest the Constitution on its language, I call his attention to this particular matter, that, apart from Mr. Hamilton, the Supreme Court of the United States in this case has occasion to refer to the case of Chisholm against Georgia, in Second Dallas, an opinion by Mr. Justice Iredell, and then, in this late case, to which I ask my able friend to give consideration, after referring to the case of Chisholm against Georgia, uses something of the language of the Senator from Idaho has just used:

> But this decision created such a shock of surprise that the eleventh amendment was at once proposed and adopted. As the amendment did not in terms apply to a suit against a State by its own citizen, the Court had occasion, when that question was presented in *Hans* v. *Louisiana* (supra)—a case alleged to arise under the Constitution of the United States—to give elaborate consideration to the application of the general principle of the immunity of States from suits brought against them without their consent. Mr. Justice Bradley delivered the opinion of the Court and, in view of the importance of the question, we quote at length from that opinion to show the reasoning which led to the decision that the suit could not be maintained. The Court said (134 U. S. pp. 12 et seq.): "Looking back from our present standpoint at the decision in *Chisholm* v. *Georgia*, we do not greatly wonder at the effect which it had upon the country. Any such power as that of authorizing the Federal judiciary to entertain suits by individuals against the States, had been expressly disclaimed, and even resented, by the great defenders of the Constitution, whilst it was on its trial before the American people." After quoting the statements of Hamilton, Madison, and Marshall, the Court continued.
> "It seems to us"—

This is the opinion of the Supreme Court speaking for itself—

> "It seems to us that these views of those great advocates and defenders of the Constitution were most sensible and just; and they apply equally to the present case as to that then under discussion. The letter is appealed to now, as it was then, as a ground for sustaining a suit brought by an individual against a State. The reason against it is as strong in this case as it was in that. It is an attempt to strain the Constitution and the law to a construction never imagined or dreamed of. Can we suppose that, when the eleventh amendment was adopted, it was understood to be left open for citizens of a State to sue their own State in the Federal courts, whilst the idea of suits by citizens of other States or of foreign states was indignantly repelled? Suppose that Congress, when proposing the eleventh amendment, had appended to it a proviso that nothing therein contained should prevent a State from being sued by its own citizens in cases arising under the Constitution or laws of the United States; can we imagine that it would have been adopted by the States? The supposition that it would is almost an absurdity on its face.
>
> The truth is that the cognizance of suits and actions unknown to the law and forbidden by the law was not contemplated by the Constitution when establishing the judicial power of the United States * * *."

I wish to call the attention of the able Senator to this point: That the Supreme Court of the United States finds it agreeable to give the exemption from suit without the consent of the sovereign; and, while my able friend may be right, and undoubtedly is right, upon the basis that it ought not to prevail, nevertheless there are those who are contending just now that, because the present administration desires to give a construction of the Constitution which will carry out the purposes of government and because it does not run according to the letter of the organic law, therefore it is violating the Constitution.

It appears to me, considering the argument of the able Senator from Idaho, that those who believe that the privilege such as is extended of exempting the sovereignty from being sued without its consent must note that the Supreme Court of the United States insists upon the right as a right not only of sovereignty but as a protection of the Government.

So we respectfully insist, since it is adhered to by the Supreme Court as its last declaration, that it is a right; and, while the Senator from Idaho may be correct and I may be correct and we all may be correct in wishing that it were not so, yet since it is declared to be the law, as an essential to the Government itself, why should we not have the right, then, to enforce it in the protection of this administration and the laws of government in the manner that is now admitted by the Supreme Court of the United States is the only proper one they will recognize as obtaining?

I ask my able friend if he will not give attention, at his convenience, to this opinion in the case of Monaco against the United States in 292 United States on page 313?

Mr. BORAH. Mr. President, I have read that opinion, as I have endeavored to read all the opinions on this subject from the case of Chisholm against Georgia in Second Dallas down, and I say to the Senator that, from the beginning, I recognize that this principle has been in our system, and the only question involved here is whether we will give consent. I do not believe in the theory, but I realize that it has been recognized.

Mr. ROBINSON. Mr. President, finding myself not in accord with some of the views expressed by the Senator from Idaho [Mr. BORAH], I wish to point out, first, that the amendment does not deny the right to question the validity of the tax. It is limited to barring suits for recovery of the tax.

One must realize that, in a practical sense, this amendment constitutes a denial of the right of the taxpayer to recover a tax which may be held to have been illegally collected. The language of the amendment is very clear. It reads:

> Nor shall any judgment or decree be entered by any such court (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

It is clear, from a reading of the language, that what is attempted is to prevent the taxpayer from recovering the amount he has paid, even though the Court may hold finally that the tax was wrongfully levied or illegally collected.

The first question that arises under the argument of the Senator from Idaho is whether there exists the power of withdrawal of the right to sue. I understand him to admit that, technically, it is possible, it is constitutional, to adopt this amendment, but that, morally, it is objectionable to do so.

If there be any question as to the power to deny the right to sue, I refer to the cases cited by the Senator from Illinois [Mr. LEWIS], and to every other case decided by any United States court that has ever come to my knowledge. The opportunity has not been afforded of refreshing my memory touching the various cases, but I have come to regard it as a settled principle of law that no sovereign can be sued except with the consent of the sovereign.

The Senator from Idaho assails the moral soundness of that proposition and asserts that in a republic such as ours there ought to be no limitation whatever on the right to sue. We may readily understand that this principle of immunity from suit on the part of the sovereign has been the outgrowth of centuries of experience. If the United States today were subject to suit in every claim or action that might be urged or presented, I ask the Senate to consider what amount of recoveries would be possible in the various jurisdictions that exist?

It is for the very reason that questionable and unfairly augmented claims are often presented that the sovereign retains the right to say in what instances and in what jurisdiction it will submit itself to civil actions. If the question of the immunity of the sovereign from legal suits remains in any measure of doubt, I am unable to know how doubt arises in view of the almost unanimous weight of the authorities. There is a line of cases which addresses itself to my approval, namely, that when a sovereign departs from the exercise of sovereign authority to engage in what normally is private business, it ought to submit itself to the jurisdiction of the courts.

I shall assume, then, that no difficult question arises as to the power of the Congress to adopt the committee amendment, and for a few moments I shall make reference to the merits of the controversy.

The Senator from Idaho [Mr. BORAH] has admitted in his argument that in the large cases—that is, in cases where great amounts of taxes have been paid—the tax has been passed on. There has come to my knowledge no instance in which the tax has not been passed on. It would be improper for me to assert that no such instance exists, but I shall quote the Senator from Idaho himself in several forceful public addresses in which he asserted that the custom is to pass on the processing tax.

Before doing that, however, let me take note of another statement made by the Senator from Idaho, the correctness of which as a principle of law is questioned. He said that the right in the Government to assert and prove that the processing tax in a given case was passed on to the consumer or passed back to the producer, exists independent of statute. We have had thousands of suits or proceedings against the Government for the recovery of taxes illegally collected. I can recall no case, though such a case may exist of which I have no knowledge, in which it was held that the taxpayer's right to recovery was restricted by the issue as to whether he had passed on the tax. Universally, so far as I know, the practice has been, if the tax is illegally paid and the right of action is granted by the sovereign for its recovery, that the question as to what price the taxpayer received for his commodities does not enter into his right of recovery.

If any Senator knows of a contrary rule being asserted by any court in any tax case which has arisen by the authority of the sovereign since the beginning of the Government, I should like to have him point it out now—unless the right was restricted by a statute.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from North Carolina?

Mr. ROBINSON. I yield.

Mr. BAILEY. This is probably the first tax ever imposed by this Government with the intention that it should be passed on.

Mr. LOGAN. Mr. President, what about the various gasoline taxes which have been imposed for many years throughout the country? They are all passed on, and that is the principle which is involved in this case.

Mr. ROBINSON. Yes; and if it is held that the gasoline tax is illegally levied and collected the taxpayer recovers his tax. That is true in the instance of every tax of which I have heard.

Mr. BORAH. Mr. President——

Mr. ROBINSON. I yield to the Senator from Idaho.

Mr. BORAH. The taxpayer could not sue to recover the gasoline tax, because there is no doubt of its legality. The sovereign has never been sued for that reason.

Mr. ROBINSON. I can conceive of a case in which the gasoline tax might be levied and collected when there was no authority of law for it. However, I do not wish to enter into what appears to be a more or less irrelevant discussion.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. WAGNER. I agree with what the Senator has said as to recovery, but the Senator does not question the authority of Congress to provide a procedure; that is, to establish or to provide that the burden of proof shall be upon the taxpayer to show that he did not pass on the tax?

Mr. ROBINSON. Certainly not. If I have not made myself clear on the proposition, let me add that this is the legal principle which I assert:

First, the right to sue the Government does not exist except with the consent of the Government. That consent may be given upon condition or without condition. If condition is imposed, the condition must be observed and enforced.

The right to withdraw consent to be sued follows, in my judgment. The sovereign may at any time withdraw the consent which was given that it might be sued and may deny the right to sue.

Mr. BARKLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Kentucky?

Mr. ROBINSON. I yield.

Mr. BARKLEY. The right to withdraw consent has been exercised by the Government and by the Congress.

Mr. ROBINSON. Oh, yes. This is a proposal to exercise that right now.

Mr. WAGNER. Mr. President, I think the Senator did not understand the point I was trying to make.

Mr. ROBINSON. Oh, yes, I do. The Senator asked me the question, while admitting that the right to sue does not exist without consent, if we provide for a right to sue and put in the statute a condition that the party suing must bear the burden of proof, whether that condition would be valid.

Mr. WAGNER. Exactly; and if we should not provide for the condition but simply granted the right to sue, then the burden would not be upon the taxpayer to establish that he did not pass on the tax.

Mr. ROBINSON. Certainly. I have maintained as clearly as I am able to express myself that the right to offset or defeat a recovery does not exist on the ground that the tax has been passed on unless it be expressly asserted

in the statute. If it be asserted, the burden of proving that it has been passed on may be imposed by statute either on the claimant or on the Government.

Mr. WAGNER. The reason why I asked the Senator the question was to emphasize the point which has been contended here, a rule I never heard of before, that a taxpayer in an action of this kind, where the consent of the Government is given, must also establish not only that he paid a tax which was illegally exacted, but that he did not pass it on to the consumer. I never before heard of that principle.

Mr. ROBINSON. I never did either. I do not believe the principle is sound, and that is why I question the correctness of the statement of the Senator from Idaho.

The PRESIDING OFFICER (Mr. HATCH in the chair). The time of the Senator from Arkansas on the amendment has expired.

Mr. ROBINSON. Then I shall take a little time on the bill, if I may be permitted to do so.

The Senator from Idaho this morning in his remarks recognized that in the cases involving large amounts the tax has been passed on, but he says that in numerous instances that has not been done by small taxpayers.

I do not object to the principle that if one who has paid this tax has actually borne it, and the Supreme Court holds the tax to have been illegally collected, he should be entitled to recover; but I now make the assertion that in almost if not quite in every instance the tax has been passed on, and the persons who paid the tax cannot be identified; and when we give the right of recovery to the taxpayer, in 999 cases out of 1,000 we shall be paying a bonus to someone who is not entitled to it.

Of course, the only theory upon which anyone here or elsewhere can justify the right to sue the Government for the recovery of this tax is that it has been actually borne by the person or corporation paying it; that he did not pass it on. If he did pass it on, I wish someone would clear my mind and conscience on the proposal that he should be permitted to collect it from the persons with whom he trades, from the producers or the consumers, and then be reimbursed for it by the Government of the United States.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield; certainly.

Mr. BARKLEY. Even if the payer of the processing tax were permitted to sue to recover it, and did recover it, and it turned out that he had passed it on, how could the man to whom he passed it on, and who paid it, go into court and prove that in the price of the things he had bought the tax had been passed on to him and that he should be allowed to recover it in turn from the processing-tax payer?

Mr. ROBINSON. The Senator's question is the justification for going straight to the point, as this amendment goes, and denying the right to sue. How could one prove that the price of a commodity had been raised so as to pass on the tax? Let Senators who are lawyers give a little thought to that. Assuming that the burden of proof were on the Government, as the Senator from Idaho suggests——

Mr. BORAH. No; the Senator from Idaho did not suggest that.

Mr. ROBINSON. Then I withdraw the statement. I thought he did suggest it. I am sure the Senator will find, if he will look at the report of his remarks, that he did, at one time in his remarks, suggest that the Government should be required to prove that the tax had not been passed on. Then he also said that he should have no objection to an amendment requiring the burden of proof to be borne by the claimant; but I know the Senator does not wish to quibble about differences in the meaning of language.

Mr. BORAH. If I made the statement, it was in error, because I certainly do not wish to have the Government refund a tax which has not been paid by the one who brings suit.

Mr. ROBINSON. If the Senator will look at the report of his remarks, I think he will find that the proposition was discussed in that way, although I do not think at that time the question had been directly raised as to who should bear the burden of proof. Later it was raised, and the Senator from Idaho accepted the principle that the claimant should carry the burden, as I understood him; so, after all, that is a question which passes out of the debate.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. ROBINSON. Yes; I yield.

Mr. WAGNER. I asked the question because I think it would be a much wiser as well as a fairer policy to provide for a rule of evidence that the burden of proof shall be upon the taxpayer to prove that he did not pass on the tax, but permit him to sue in court. This very bill recognizes the justice of that principle, because, as I understand, as to actions for future taxes collected, it permits the taxpayer to sue and provides that the burden shall be upon him to show that he did not pass on the tax. So in this very bill as to some taxpayers we provide one principle and as to others we absolutely foreclose an action. That seems to me to be a rather inconsistent position.

Mr. ROBINSON. Mr. President, of course, the reason for the distinction grows out of the fact that an inferior court recently held the tax invalid; and, therefore, a distinction is made between those upon whom the tax may be hereafter imposed and those upon whom it has been heretofore imposed.

Mr. WAGNER. Is the Senator accurate about that? I think this amendment was incorporated in the bill by the committee before the Massachusetts case was decided.

Mr. BANKHEAD. Mr. President——

Mr. ROBINSON. I yield to the Senator from Alabama.

Mr. BANKHEAD. May I say, relative to the statement of the Senator from Arkansas, that numerous lower courts had so held.

Mr. ROBINSON. Yes; that is true. My remarks should be amended to take note of the fact that in addition to the decision which I particularly had in mind, and which probably was rendered about the time the amendment was adopted by the committee, or even afterward, there were numerous other cases in other courts in which the question of the validity of the tax had been adversely ruled upon; so that the question arose before the committee as to how the matter should be dealt with.

As a practical proposition, I doubt if it would give the taxpayer any substantial advantage to be accorded the right to sue, and then to have imposed on him the burden to prove he did not pass on the tax. I think if he did prove it, in many cases he would use unreliable testimony. In most cases he has passed on the tax. That was what he was expected to do, and he did it wherever he could, and I doubt if he failed to do it in very many instances. The consumer has paid it. We do not know, and the man who first paid the tax does not know, who the actual consumers were. The product may have passed through the hands of any number of dealers, and the man who finally paid the tax cannot be identified. The processor has been compensated for his loss by passing on the tax, and the man who actually and ultimately paid the tax cannot be identified. That is the sound reason, and, in my judgment, the only sound reason, justifying this amendment.

Mr. WAGNER. Mr. President, will the Senator yield just once more?

Mr. ROBINSON. Yes; I yield.

Mr. WAGNER. I do not wish to disturb the Senator.

Mr. ROBINSON. No; that is all right.

Mr. WAGNER. If that be true, why do we adopt a different principle as to the future taxpayer? Why should there be a discrimination between the two?

Mr. ROBINSON. I have not read the amendment to which the Senator refers; and I do not know that there should be any discrimination between the two.

I wish now to refer to some remarks which have been attributed by the press to the Senator from Idaho [Mr. BORAH], whose position, so far as it was defined heretofore, is that this tax is almost universally passed on.

In a radio speech on March 22, 1934, which he placed in the CONGRESSIONAL RECORD on the following day, and

which appears at page 5218 to page 5220, he said, at page 5219:

> Take our experience with hogs. Pigs were destroyed, the farmer was induced to curtail production, a processing tax was laid. But in the effort of the processor to compel the consumer to take care of this tax it was found that the consumer did not and could not do so. He bought less meat. Therefore the packer passed the tax back to the producer in the form of lower prices for his hogs. There is just so much purchasing power in the country; and when you increase the price prior to increasing the purchasing power, the consumer must deny himself and eat less or eat not at all. When you levy a tax, somebody must pay the tax. The inevitable tendency is to pass the tax to the low man in the economic set-up, and, therefore, the incident of the tax is at last with those who cannot pass it on. First, it is passed to the consumer who refuses to buy, then it is passed to the producer who cannot pass it on and must absorb the tax. He has nobody to whom he can transfer it.

There is a general declaration. True, it was made in connection with a speech about hogs; but the general declaration is that the universal rule is to pass the tax first to the consumer, and, if he cannot and will not pay it, then to pass it back to the producer in the form of reduced prices for his products. Upon what theory, then, should the taxpayer who has already been reimbursed by increased prices for the commodities he has handled be given a bonus at the expense of those who actually paid the tax, and who cannot be identified?

In another speech at St. Anthony, Idaho, on July 24, 1934, at a Mormon pioneer day celebration, as reported in the New York Times of July 25 of that year, the Senator is quoted as saying:

> Is there any livestock man, sheep or cattle raiser, who does not know that the meat packers are constantly manipulating the markets to his ruin? The packers, when they cannot pass the processing tax on to the consumer, pass it back in the way of lower prices to the producers.
>
> I was given a statement the other day by one of the packers; the profits of the last year were very great. I saw another letter from another packer sometime ago in which it was plainly stated that the packers were passing the processing tax back to the producer.

In his radio speech on March 22, as it appears at page 5219 of the RECORD, the Senator stated:

> No better illustration could be had as to the way in which the processing tax reaches the producer and by him must be paid than is found in the jute tax. This processing tax is not being paid by those who sell jute bags, but is being paid by the farmers.

Of course, that did not mean that the tax actually was not in the first instance paid by the handler, or processor. It meant that in the last analysis the consumer was required to pay it.

It would probably merely invite litigation to establish a rule of evidence authorizing the imposition of the burden of proof either on the Government or on the taxpayer. It is doubtful whether honestly that burden of proof could be discharged by either party. As a lawyer, I would not know how to prove my case for either.

Suppose I wished to maintain that the tax had been passed on to the consumer; I would probably be able to prove that the prices of the processor's product had been raised during a period, but he would probably be able to overcome that with proof that the motive for increasing the prices was something different, or at least he might be prompted to attempt to do so.

For the reason that if we embark upon the policy of refunding the processing taxes we will merely succeed in paying a bonus to someone who is not entitled to it, to someone who actually did not bear the tax, mulcting the Government in a very large aggregate sum, and for the other reasons I have stated I believe the committee amendment to be sound.

Mr. HASTINGS. Mr. President, I think it would be a mistake to permit the argument made by the distinguished Senator from Arkansas [Mr. ROBINSON] to remain unchallenged, for those of us who are opposed to the pending amendment are not opposed upon any such grounds as those suggested by the Senator from Arkansas, as was made perfectly clear, it seems to me, by the Senator from Idaho [Mr. BORAH] in his argument a little while ago with respect to the amendment.

The distinguished Senator from Idaho made it perfectly clear that he was as unwilling as any of us to have somebody recover money from the Federal Government who was not entitled to it. He made it perfectly clear, it seems to me, that the one objection he was making and insisting upon was that it was un-American and unjust to prevent persons from going into court when they had a claim against the Federal Government.

Let me see if I can state briefly what my understanding is of those who are urging this amendment. Hurriedly, in what was called "a great emergency", Congress passed the Agricultural Adjustment Act, permitting these processing taxes to be levied. It was done at a time when it was believed the farmers needed great help, when it was believed the country was in the throes of a great depression and needed all the assistance possible in every direction. So these taxes were imposed, and I assume it was true, in many instances I know it was true, that those who paid the taxes did not believe the Federal Government had the right to levy them in the particular way specified. But they were urged by propaganda and otherwise that the country was in a great depression, and that it was unpatriotic to do anything in opposition to this great scheme designed to take us out of the depression.

The Senator from Texas [Mr. CONNALLY] pointed out that, in the first instance, a man could protect himself by refusing to pay the tax, compelling the Government to sue him for the tax, and thereby test the constitutionality of the act, and so on, giving no credit to the man who was trying to do a patriotic duty and follow the leadership of one who was attempting to take us out of the depression. I think it was to the credit of the citizen that he paid the tax voluntarily instead of being sued for it, and having the people all over the Nation call him up to the bar of justice and say, "You are doing something to prevent the country from coming out of the depression."

A citizen pays his tax to the Federal Government, and lo and behold, about this time, a year or two after the payment, the administration reaches the conclusion that there is a great possibility, a probability, a pretty nearly universal opinion, that the act will be declared unconstitutional; but the billion dollars or so which have been collected by the Federal Government must somehow be kept in the Treasury of the Federal Government, or at least the credit of the Federal Government must not be affected by the requirement to repay that money.

Is that a free government or not? Have we reached the point where we admit that through our patriotism, through our desire to help, we may pay a tax, and then find a little later that the act under which it was collected is declared to be unconstitutional, but the Congress has said, "You shall not be permitted to go into court"?

Go into court for what purpose? The distinguished Senator from Idaho has said that he has no idea of permitting anyone to recover any tax which he has not paid, meaning that which he has not ultimately paid. Of course, the processor himself has been taxed, and he has paid the tax, and it is true, I assume, that he has passed it on to the consumer. No more true is it that he has passed it on than that the corporation which paid an income tax has passed it on. They all pass it on if they possibly can. But merely because they pass it on does not mean that we should deny a man the right to go into court and find out whether or not his rights have been taken away from him.

What is the danger in permitting a taxpayer to go into court? The distinguished Senator from Arkansas says, "If you permit him to go into court, you permit him to collect a tax which has been passed on to the consumer, and that would be unfair."

It is perfectly ridiculous to say that we cannot safeguard that sort of a situation. It is perfectly absurd to say that we must deny citizens all rights merely because they have passed the tax on. Of course, the individual who has paid the tax by having it passed on to him cannot come back on the Federal Government under any circumstances, because it is only the person against whom the tax is laid who ought to have any right to sue the Government of the United States. The Senator from Idaho is not so much interested, I take it, in securing to the taxpayer even the loss he has

sustained as he is disturbed, as all of us ought to be disturbed, about taking away from him the right to have his case heard.

Mr. President, those of us who know anything about what the processor has gone through know that as a matter of fact the processor has been greatly damaged. I have in my possession a petition signed by 32 people, presented to me more than a year ago, declaring that if the processing tax continued it would be necessary for them to go out of business, and my understanding is that all but three or four of them have gone out of business because it was not possible for them to pass the tax on. I took that petition sent to me on May 7, 1934, and referred it to the Department of Agriculture. In the letter transmitting it to me, which I desire to read, will be found this language:

Last week was one of the outstanding weeks for the processing tax. Steers have been left alone by the Department and last week they sold for $9.50 per hundredweight in Chicago. That is the highest price they have brought in 2 years. We bought hogs in St. Joseph, Mo., at all-time low for $2.95 per hundredweight. The tax on the hogs will amount to almost as much as the hogs cost. Packers are simply afraid to buy these hogs as each month the tax is due. The tax for this little plant amounted to $30,000 last month. It is doing almost the impossible to take $30,000 cash out of any business.

We note there is another bill now coming up to make Secretary Wallace practically a dictator. If they pass this bill, it will be about time to shut up shop. All these small butchers around here had to stop long ago. A small packer in the lower part of Maryland owes the Department $10,000. He has had to stop doing business, and I suppose the Department will take his factory and machinery, because the man does not have the money and does not know where he can get $10,000.

I sent that letter to the Department of Agriculture. I received a reply, under date of May 12, which I desire the Senator from Idaho particularly to note. I read:

Your letter of May 4, conveying the protest of a group of dealers in pork products in Wilmington, Del., has been received. The Department is grateful for any information that bears on the operation of a processing tax.

As you are aware, changes in the rate of a processing tax are made according to the provisions of paragraph (b), section 9, of the Agricultural Adjustment Act. By the provisions of this paragraph the Department is required to act according to a formula in which the effects of the tax on the consumption of the commodity, the accumulation of surplus stocks, and the farm price of the commodity are all examined.

In weighing this protest, we believe that these dealers should consider carefully whether or not other factors than the processing tax are responsible for the plight in which they now find themselves. Eastern packers in general do not accumulate stocks of pork to any appreciable degree. Middle-western packers do accumulate such stocks. Is it not, therefore, possible that the difficulties of the eastern packers may be due to the competition of stored stocks that are now being disposed of by the large middle-western packers? Some specialists in the Department believe this to be the case.

I replied to that letter, as follows:

I note in your letter that you ask the following question: "Is it not, therefore, possible that the difficulties of the eastern packers may be due to the competition of stored stocks that are now being disposed of by the large middle-western packers?"

I cannot answer that important question; but, if it be true, as some of your specialists in the Department believe to be the case, how does that help those distressed packers in my State? It is the same old story—when you adopt a course of legislation for the relief of a particular class you impose more than a corresponding burden upon some other class.

Mr. President, as late as July 2, I had a letter from the Wilmington Provision Co., of Wilmington, Del., a small packer, in which it was said:

Our business in Delaware has been very seriously affected by the hog tax of $2.25 per hundredweight. This tax has cost us a loss during the past year or more and these losses are increasing each month, and if they continue it will simply mean the closing of this plant.

* * * * * * *

We cannot understand how Mr. Wallace or those in charge of this hog tax can attempt to continue this tax and then put through amendments that are positively putting us, as well as most every other independent packer in the country, out of business. We are the distributors of the hogs from the farms, and if all the little packers are put out of business it should be plain enough to anyone that the price of livestock will have to fall, which in turn will mean less competition for the hogs and a sharp drop in values.

On May 28 of this year I received the following letter from the Beste Provision Co., of Wilmington, Del.:

Since the fall of 1933 when the processing tax was levied on packers and processors we have paid the collector of internal revenue $54,981.23 processing tax. Beginning with the period in which the tax was levied, we began losing money and our losses are getting larger each month, because at times during this period we are unable to sell our products when this tax was added.

Our customers simply would not buy and we were forced to reduce our price on all perishable products and take a loss. Our books are open for inspection to verify this statement.

There are rumors that some of the larger packers are not paying this tax but are allowing it to accumulate. There are also rumors to the effect that a $505,000 processing-tax account was settled for $127,000 at Newark, N. J., and another tax account of $80,000 was settled in Baltimore, Md., for $14,000.

I wish to say in that connection, that I made inquiry about the $505,000 item and the $80,000 item, and I was informed by the Department that the information the writer of the letter gave was correct, but these companies had gone into bankruptcy, and the Federal Government was taking out of them all it could get, which was the reason it made that settlement.

Mr. President, I call attention to the facts contained in those letters for two purposes. One is to show a thing which the Secretary of Agriculture knows to be true, that it is not possible for the processors to pass all of the processing tax on. The difficulty here and the great fear is that if we give the processors the opportunity to sue for the damages they have actually sustained under a law which they believe now to be unconstitutional, it will require the Federal Government to put up a considerable sum of money to reimburse them for such damages.

I am not anxious to take anything from the Federal Treasury for any purpose which is not essential, but I insist that if the Federal Government has invaded the right of any man and has caused him to suffer a damage it has done something which it has no right under our form of government to do, and Congress ought to be ashamed of itself if it were to take away from him the right to sue in the courts of this land to recover from the Federal Government what is actually due.

The fact that this tax was imposed for a specific purpose—the one thing which, in my judgment, makes it unconstitutional—does not relieve the Federal Government at all. It was imposed upon the theory that it was to be used for a public purpose. If it was used for a public purpose, then we can go into the Treasury of the United States and take the public money and return it to the person who has been damaged by an act passed by the Congress which was unconstitutional, under which was collected a tax which the Government had no right to collect.

The PRESIDING OFFICER (Mr. POPE in the chair). The time of the Senator from Delaware has expired.

Mr. BAILEY. Mr. President, I have been very deeply moved by this proposal, and am very much concerned about it. The proposal is to exercise the arbitrary power——

Mr. VANDENBERG. Mr. President, will the Senator yield to me?

Mr. BAILEY. I yield.

Mr. VANDENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Capper	Gerry	McCarran
Ashurst	Caraway	Glass	McGill
Austin	Carey	Gore	McKellar
Bachman	Chavez	Guffey	McNary
Bailey	Clark	Hale	Maloney
Bankhead	Connally	Harrison	Metcalf
Barbour	Coolidge	Hastings	Minton
Barkley	Copeland	Hatch	Moore
Bilbo	Costigan	Hayden	Murphy
Black	Davis	Holt	Murray
Bone	Dickinson	Johnson	Neely
Borah	Dieterich	Keyes	Norbeck
Brown	Donahey	King	Norris
Bulkley	Duffy	La Follette	Nye
Bulow	Fletcher	Lewis	O'Mahoney
Burke	Frazier	Logan	Overton
Byrd	George	Lonergan	Pittman
Byrnes	Gibson	McAdoo	Pope

Radcliffe	Schwellenbach	Townsend	Van Nuys
Reynolds	Shipstead	Trammell	Wagner
Robinson	Smith	Truman	Walsh
Russell	Steiwer	Tydings	Wheeler
Schall	Thomas, Okla.	Vandenberg	White

Mr. CONNALLY. I desire to announce that my colleague the senior Senator from Texas [Mr. SHEPPARD] is detained from the Senate by important business.

The PRESIDING OFFICER. Ninety-two Senators having answered to their names, a quorum is present.

Mr. BAILEY. I was saying, Mr. President, that I am very deeply interested in the pending amendment and have been profoundly moved by the discussion of it.

I believe I can approach just what I wish to say by relating an historical incident, a story of Frederick the Great. When he came to set apart certain lands at Potsdam for his great palace and estate, he sent forth his agents to buy up the land or to take it by the power of tyranny and oppression. The agents became involved in a controversy with a little miller down by a stream, who resisted the officers of the great King. He resisted them all the way up to the throne. When he came before the throne, Frederick the Great said to his agents, "Let the miller keep his mill, in order that it may be known that there is law in Prussia."

So I say, Mr. President, let the American citizen keep his rights to test out the laws of the United States in order that it may be known that there is law in the United States. If the tyrant Frederick the Great could stay the hand of his bureaucratic servants, notwithstanding they were operating in behalf of the acquisition of his palatial grounds, in order that the humble miller might have his mill and that the people ruled by Frederick, with a power far more absolute than any power this Government has ever had or ever will have, might know that law prevailed in Prussia; if that could be the rule decades back in Prussia, I think it very strange that here in this land of liberty and of individual rights the Congress, representing the people of the United States, should be proposing to do that which is proposed in the language which I intend to read, assuming, of course, that every Senator is familiar with it, but considering that it ought to be read over and over again, as follows:

> No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

Mr. President, I am inclined to take the view that we do not have the power under the Constitution to enact such a law as this. We may pass such a statute, but I do not think it will ever be law in America. Assuming, however, that we do have the power, my mind recurs to a line I learned long years ago—

> O it is excellent
> To have a giant's strength; but it is tyrannous
> To use it like a giant.

There is a controversy here about the passing on of the taxes. The argument of my distinguished and very warmly loved friend, our leader here, seems to revolve around the theory that these taxes either were passed on or the question was one so difficult of solution that we would be justified in enacting this arbitrary statute, denying, in a truly tyrannical way, the right of an American citizen to recover against the Government either a tax or a penalty which presumably had been wrongfully taken from him.

Agreeing in the first instance that it was in contemplation that these taxes should be passed on, and agreeing in the second instance that just to what extent they were passed on and whether one litigant passed them on and another did not, is a question, I submit that it is a question not for the arbitrary exercise of our power but for the exercise of justice in the court created by the Constitution and not by the Congress. We are not the judges of that question. We can enact the statute, but we are not the judges of the effect and the consequences of the statute or the rights under the statute.

In the second place, I do not hesitate to assert as a fact, and I could put it in evidence here if the facts were to be tried, that these taxes have not been passed on in all cases. There are 65 cotton mills and knitting mills in my State of North Carolina which are now closed down. Around those silent, closed factories are 35,000 human beings who have no means of livelihood, so long as those factories are closed down, other than the work relief or the other relief provided by the Federal Government. In those 65 cotton mills and knitting mills are goods piled on the shelves unsold. The taxes are collected in the case of the cotton mill at what we call the breaker. That is where the cotton begins to enter into the process of manufacture. The tax has been assessed. In many cases the tax has been paid. But the goods have not been sold. The taxes on those mills have not been passed on, and those are 65 instances in one Commonwealth.

How far that condition prevails I do not know, but I have this to say. Conceding everything the Senator from Arkansas [Mr. ROBINSON] said, so long as there is one individual in our land deprived of his property in the form of taxes or penalties under the operation of an act of Congress, it is tyrannical and it is immoral—immoral, I repeat—to seek to deprive him of his rights simply because we think we have the power to do it.

It has not been long since the Supreme Court of the United States made something in the nature of a suggestion as to the conscience of the sovereign in America, and to that I refer for evidence, that there is such a thing yet remaining in our land as "the conscience of the sovereign." There is a moral tribunal in which it is the duty of every man who recognizes the grandeur of the moral law to resolve this question, in which it is the duty of every government that professes to be a government and which would have the approval of the people whom it serves and the God from which it came, for the powers that be are ordained of God, to resolve its questions not only in terms of justice, but in terms of morals. When we fail to satisfy the moral standard of righteousness in the high places we may not expect anything but the lower order of life amongst the people for whom we undertake to set the great example and the symbols of the Government.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. LEWIS. I should like to have the opinion of the Senator from North Carolina, and I trust the able Senator from Idaho [Mr. BORAH] will hear my views. Having in mind the law which allows the Court of Claims to take jurisdiction of a claim by a citizen, after having it brought to Congress and heard in Congress, reaching to the point of passing an act of Congress, do the able Senators feel that this act, which forbids suits in the Federal courts as suits against the Government, prevents the exercise of the law which allows recovery in the Court of Claims?

Mr. BAILEY. The term "Federal court" embraces the Court of Claims.

Mr. LEWIS. I am carrying in my mind the thought that we are all busy lawyers, that the distinction is made that the Court of Claims is not a constitutional but a statutory court, and I inquire whether or not this bill as it now stands—and I am frankly seeking for information—still authorizes a proceeding by those, as described by the able Senator from North Carolina, who may have paid their taxes and feel them to have been wrongfully collected and whether they may not still bring a proceeding in the form of a bill before the Congress, secure a congressional act, and then to the Court of Claims to collect it, or from the Court of Claims obtain a judgment and from there to the Congress to obtain an appropriation. I inquire if my friend feels this bill deprives the citizen he has described, who has paid the taxes, of his recourse to the Court of Claims for such redress as the Court of Claims has been constituted to grant?

Mr. BAILEY. I have not the slightest doubt about it. That is the intention of the act. The intention of the act

is, 2 years and some months since its enactment, to prevent any citizen who has paid taxes under the act or paid penalty under the act from testing the power of the Government to collect the tax or the penalty; and, further, to prevent the citizen under any circumstances, whether by recoupment, set-off, recovery, refund, credit, or counterclaim, to obtain the return of a dollar he has paid. Unconstitutional or constitutional, lawful or unlawful—

Let him take who has the power,
And let him keep who can.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from New York?

Mr. BAILEY. I yield.

Mr. WAGNER. Does the Senator recognize any distinction, so far as the equal treatment of our citizens is concerned, between those who have already paid a tax and those who will be required to pay the tax after the enactment of this particular bill?

Mr. BAILEY. None whatever. So far as I am concerned, Mr. President, I wish to make this perfectly clear: I shall never live long enough, though I live a million years, to exercise the power which I have here as a trustee of the people—and that is all the power I have, the power of a trustee under the Constitution—to deprive an individual in this land of his right to recover any money unlawfully paid or any property unlawfully taken, or his right to test the constitutionality of any law which is imposed upon him.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAILEY. I will take my time on the bill. I have not finished.

Mr. WAGNER. And yet the very bill we are considering, for a reason which I cannot fathom, makes a distinction between the taxpayer who has already paid the tax and the future taxpayer. In the case of the one who has already paid the tax it shuts the door of a court of justice to him altogether; while, as to the future taxpayer, the Government assents to his going into court and recovering the tax, so long as he proves that he has not passed it on. I do not know why one taxpayer should be treated unjustly and the other justly.

Mr. BAILEY. One is in the past, and the other is in the future. That is the idea.

Mr. President, that may raise a question of some interest to us all. I said here about 2 days ago that I had applied myself with all earnestness to the study of this measure. I had found it extremely involved and intricate and so difficult to understand that I wondered how far the fault was within myself, until I talked to my fellow Senators and found all of them were having the same difficulty. What the Senator from New York has said brings up the question, In whose fertile brain did the conception arise that we should have one law as to the destruction of rights with regard to the old act, and a different one with regard to the new act?

That being the fact, who can deny that if the measure we now propose to pass should go into force, and the taxes be collected unter it, 1 year from now or 2 years from now, suits being entered, and the constitutional question being in the balance—as we all know it is—we should be called upon to pass an act similar to this? I do not think there would be any difficulty about that. Promptly we should, with respect to the then pending litigation, invoke the amendment now before us with respect to the pending bill; the plain purpose and intent being to collect the man's taxes, and to place penalties upon him for not paying the taxes—and they are very heavy penalties—and then say to him, "It is useless for you to appeal to your Government for justice."

This Government has three branches. One is the executive, one is the legislative, and the other is the judicial. One is administration, one is law, the other is justice—in terms of the rights of the individual.

Mr. SMITH. The Senator means that is our theory.

Mr. BAILEY. That is our theory, and that is always going to be our principle. I am not doubtful about that. The rights of individual liberty will not be extinguished in this land.

Mr. President, a great deal has been said here about the origin of this doctrine of the immunity of the sovereign from suit. That was, from its inception, the doctrine of tyrants, and in its very character it is tyrannical. We may invoke it in the name of a free republic, if we please, and we may apply it as representatives of the people, if we please. Nevertheless, when all is said and done, it is precisely the same tyranny which was exercised by the tyrants from whose foul breasts this doctrine arose, and it contains within it the same power of oppression that they exercised by means of it.

The fathers who founded this country were done with kings. They were done with governments for the few. They were done with arbitrariness. They dedicated this Government to liberty—liberty defined in the terms of personal, individual rights. This is a government of laws and not of men; and the doctrine of the immunity of the sovereign from question by his subjects established the doctrine of government by men and not of laws, government by kings and aristocracies and not by the people, government affirming the supreme character of the state and denying the sovereignty of the people. We have lived so long in this Republic, we have gotten so far away from the great ideals that governed the men who made it what it is—I shall not call all their names—that we have lost the sense of the values they established, and we have an idealism which is like the pale light of the moon compared with the bright sun in comparison with the idealism of Washington and Jefferson and Adams and Marshall and Madison and Hamilton and Mason, and all the other noble founders of our Republic.

Mr. President, I stand and make a plea at this hour for the idealism in which this country was born, in which this Republic was created, in which the character of this Government was molded. I will match that idealism against all the moonshine of the modern socialistic so-called "liberal" who breathes in every word he utters the words of reaction, and then complains of men like ourselves as being reactionaries.

The doctrine of the immunity of the sovereign or the state from question—that is what it is; it is not merely immunity from suit, it is immunity from question—is precisely the same order of thinking now proceeding in our land that created the communism in Russia and the fascism in Italy. Of course, I speak respectfully of all foreign countries. What did they do? What is the heart of it? Mussolini says, "Away with liberty! Away with individual rights! The state is supreme." This amendment says the same thing.

What is the standard in Russia? I make no complaint about their communism. They have a perfect right to their form of government. I am speaking of the theory of the root of it. The root of it is that all is for the state, and the state is supreme, and the individual is nothing.

Mr. President, I beg my fellow Senators, regardless of party, to join with me in repudiating this amendment, not because it affects a few taxpayers, not because it relates to a cotton mill here or some other kind of mill somewhere else, but because this amendment strikes down the soul of the American Republic, compromises us in our own eyes, and presents us defenseless before the bar of the moral law.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 1309. An act to amend section 114 of the Judicial Code to provide for terms of District Court for the Western District of Wisconsin to be held at Wausau, Wis., and for other purposes;

S. 2326. An act authorizing the Secretary of War to sell to the Eagle Pass & Piedras Negras Bridge Co. a portion of the Eagle Pass Military Reservation, Tex., and for other purposes; and

S. 2965. An act to amend the Hawaiian Homes Commission Act of 1920.

The message also announced that the House further insisted upon its disagreement to the amendments of the Senate numbered 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and Mr. DOUGHTON, Mr. SAM B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH were appointed managers on the part of the House at the further conference.

ENROLLED BILL SIGNED

The message further announced that the Speaker of the House had affixed his signature to the enrolled bill (S. 2532) to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes, and it was signed by the Vice President.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. NORRIS. Mr. President, I have listened with a great deal of interest to the discussion in the Senate this afternoon pertaining to the right of a citizen to sue his Government. It has been stated that the existing practice comes from the ancient idea of the days of barbarism, when it was said that the king could do no wrong, and that, it is claimed, is the reason why governments do not allow themselves ordinarily to be sued.

In my opinion, the freedom of a government like ours, for instance, from suits begun by its citizens without its consent rests upon an entirely different ground. As I see it, the immunity of the Government from suits by the citizen rests on the fundamental idea of self-preservation.

Deductions could very well be made from some of the arguments which have been presented that a government which will not permit itself to be sued at any time, on any occasion, by anybody who wishes to sue it, is despotic, and that it lacks the fundamental principle of liberty and freedom.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. McKELLAR. Is it not true that virtually every State of the Union has a similar law on its statute books?

Mr. NORRIS. Certainly; every government in the civilized world has a similar law.

Mr. McKELLAR. That is my recollection; but I am quite sure that practically all the States of the Union have laws under which they do not allow themselves to be sued.

Mr. BORAH. Mr. President, will the Senator from Nebraska yield?

Mr. NORRIS. I yield.

Mr. BORAH. It is true that the States have such a rule, but a number of governments do not have that rule.

Mr. NORRIS. A government which does not have that rule must circumscribe the right very completely, must control by some rule or law the right to sue the government, and not have such universal right extended to everybody, or it could not live.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. BAILEY. I suggest to the Senator very respectfully that the question here is not a matter of universal suits.

Mr. NORRIS. I understand that, and I intend to offer an amendment before I conclude which, as I see it, will clear up this difficulty. I do not deny the justice of the position taken by Senators as to the right of a citizen to begin an action where he has not passed on the tax which he has paid to the Government.

Mr. BAILEY. This is a question of a right to test a statute in the courts. In the first place, there is an affirmative act of the Government by way of legislation, and, in the second place, there is a test of the right of the Government under the statute to take taxes and benefits without recourse. That is the question involved here.

Mr. NORRIS. Mr. President, my reference to the argument which has been made was for the purpose of calling to the attention of the Senate what I believe to be a reasonable view, so that Senators will not go off on a tangent and say, "We must repudiate, we must vote down any proposition which limits the right of a citizen to sue the Government."

If there were no limitation on the right of a citizen to commence a suit against the Government, if the courts were open to suits by citizens against the Government as they are open to suits between citizens, I do not see how the Government could exist. I do not believe it could. I think the reason for the rule is not the ancient one, that the king can do no wrong, but in modern times at least it is the rule of self-preservation.

I do not believe the Government ought to refuse to allow itself to be sued under any circumstances. There are many avenues in which we have recognized the right of the individual to sue and to recover money wrongfully obtained by the Government. I am in full sympathy with that, and I believe that in this particular case, instead of deciding the matter on the abstract question of the right of the citizen to sue the Government, we ought to meet the conditions confronting us, and grant such modified right as will prevent injustice, and will give every person who has a legal and a rightful claim a day in court to present his claim and be heard.

Mr. ADAMS. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. ADAMS. I was wondering how the citizen would know he had a right to make a claim if we did not permit him to go into court. That is the very question here.

Mr. NORRIS. I would permit him to go into court under the amendment I intend to offer before I conclude. I shall offer an amendment which will give the citizen the right to do that if he can go in with clean hands.

Mr. ADAMS. May I ask the Senator what would be the type of injury or oppression to the citizen for the redress of which the Senator thinks he ought not to be permitted to go into court?

Mr. NORRIS. I did not understand the Senator's question.

Mr. ADAMS. I was wondering in what type of cases or instances the Senator thinks the citizen should be denied the right to sue the State.

Mr. NORRIS. It is going to appear, when I offer the amendment, just what persons I would allow to sue. I am opposed to throwing down the bars and saying to everybody, "You can sue the Government", because there probably would be millions of suits. It would be profitable to a class of attorneys to bring such suits by the thousands, and if we did such a thing as that I do not believe our Government would last 5 years from the date we allowed it.

Mr. ADAMS. Is not the Senator rather abandoning his usual confidence in the citizenship of the country when he states that he believes that that would be the result of throwing down the bars?

Mr. NORRIS. No. I can cite cases of some instrumentalities of the Government which are thrown open to suit without any limitation—instrumentalities of Government which are being killed by suits brought and lost, yet the losing party makes money. I can give the Senator actual illustrations where millions are involved.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. McKELLAR. As an illustration, there are 350,000 Indians, the wards of our Government, and we have by law allowed a number of those Indians to bring suit. Three billion dollars of claims have been filed against the Government of the United States by the Indians, and they comprise but 350,000 of our citizens.

Mr. NORRIS. That would not be a drop in the bucket. We passed a law about 3 years ago providing for the T. V. A. organization. They organized, and they were met with an injunction where they had an agreement with 14 or 20 municipalities to supply them with electricity, cities and villages which were paying enormous prices for electricity, buying it from the Alabama Power Co. The T. V. A. made contracts, agreed to by the municipalities, agreed to by the owners of the distributing system, agreed to by the T. V. A., for very greatly reduced rates. The T. V. A. had the power going to waste over Wilson Dam, and they made a contract to sell it. But a court issued an injunction which restrained them from selling it, restrained the municipalities from buying it, and the power continues to go to waste; the people continue to pay high rates; the people lose all the money that would have been received for the power that is gone and lost forever; the municipalities have lost millions in additional rates they have had to pay; and if they win the suit in the end, yet they lose millions by it.

It happens, incidentally, that the corporation which gets the benefit of this loss is the Alabama Power Co. It is profitable to them to litigate. It pays them well to do it. The T. V. A. is an instrumentality of the Government of the United States. This is only an illustration where millions of dollars have been lost by the citizens on the one side and the T. V. A. on the other, millions of dollars totally lost, without a possibility of recovery; yet the citizens have won the suit.

Mr. ADAMS. Is not the fault rather with our judicial processes than with the fact that we open the courts to citizens?

Mr. NORRIS. There is an instance of where we let the Government be sued without limitation. I am not trying to change that. I advocated the law when it was passed. But it shows the difficulty the Government would get into if it permitted suits to be brought indiscriminately, without limit against it.

Mr. President, I sympathize entirely with a corporation or an individual who pays a processing tax and has not passed it on, and then finds that it is declared to be illegal, let us say. Such a taxpayer ought to be allowed to recover. But, according to the argument made by the Senator from Delaware just a few moments ago, if we do not limit this right to recovery, there may be a liability on the part of the Government to suits for the recovery of about $2,000,000,000, I understand, which corporations and individuals have paid in the way of processing taxes, which have been passed on to the consumer. The corporations upon which the tax was levied have been repaid by the consumers, and to permit such corporations now to come to the Government and get the money again would be an outrage.

Mr. President, I desire now to offer the amendment to which I have referred.

Mr. ADAMS. Mr. President, will the Senator yield for a question?

Mr. NORRIS. Yes; I yield.

Mr. ADAMS. Does the Senator believe that the court would sustain an action by one who had paid the processing tax but in fact had recouped it?

Mr. NORRIS. The argument is made that that is just what they would do. I do not know whether or not the court would sustain such an action.

Mr. ADAMS. I call the Senator's attention to the recent Supreme Court opinion on the gold clause in Government bonds. In that case the Supreme Court of the United States said that the holder of gold-clause bonds had a perfectly good contract, but unless he could show that he was personally damaged he could not recover, and in the gold-clause cases the Court said the economic situation surrounding the condition at the time the claimant made his demand should be taken into consideration.

Mr. GLASS rose.

Mr. NORRIS. I yield to the Senator from Virginia.

Mr. GLASS. I rise merely to express my satisfaction at hearing it so repeatedly stated on the floor today that the processing taxes have been passed on to the consumers.

Mr. NORRIS. I do not think they have all been passed on.

Mr. GLASS. I express my satisfaction because when the bill was under consideration, and some of us objected to it upon the ground that the processing taxes would be passed on to the consumers, as I recall, the Secretary of Agriculture vehemently denied that any such thing was in contemplation or that any such thing was possible; yet that is just exactly what has been done. No one speaks for the consumer at all.

Mr. NORRIS. I have no doubt that the processing taxes were passed on. I think they always have been passed on, except in cases such as the Senator from North Carolina mentions—and I think there are a good many such cases—where a man has paid a processing tax, as the Senator describes, and the goods are unsold and on the shelf. If the processing tax is held to be illegal, I think in such cases the man ought to have returned to him the money which he paid as a processing tax. That is only fair. If I could, I would compel the Government of the United States to return that money; and I think my amendment will do it, as I see it.

On page 58, line 15, after the first word in the line, the word "amendment", I propose to insert "unless the claimant in the action shall allege and prove that the amount sought to be recovered has not been passed on to any subsequent purchaser."

I offer that amendment to the committee amendment.

Mr. MURPHY. Will the Senator yield for a question?

Mr. NORRIS. I intend now to yield the floor.

Mr. MURPHY. I desire to ask the Senator a question in connection with the amendment. The Senator's amendment assumes the passing on of the tax to a consumer?

Mr. NORRIS. No; to a purchaser. I do not use the word "consumer."

Mr. MURPHY. My question is purely for information. Is the Senator from Nebraska satisfied that his amendment would cover the case of a processor who collected the tax from the producer in the form of a lower price paid to the producer for his commodity?

Let me illustrate what I mean: When the processing tax was imposed on hogs, on the very date the processing tax took effect the price of hogs was lowered by exactly the amount of the tax. Does the Senator consider that his amendment covers such situations as that?

Mr. NORRIS. I do not think it would have any application to that situation. It would have no application in any case unless a processing tax had actually been paid and not passed on.

Mr. MURPHY. Mr. President, may we have the amendment read?

The PRESIDING OFFICER. The amendment will be read.

The LEGISLATIVE CLERK. In the committee amendment, on page 58, line 15, after the word "amendment", it is proposed to insert "unless the claimant in the action shall allege and prove that the amount sought to be recovered has not been passed on to any subsequent purchaser."

Mr. SMITH. Mr. President, I was just about to call the attention of the Senator from Nebraska to the fact that the wording of his amendment ought to be such as to provide for the case where the tax had already been collected by virtue of lowering the price of the commodity the processor bought. The language of the amendment restricts it to the subsequent sale of the product. I desired to call the Senator's attention to that in order that he might modify his amendment so as to make it mandatory upon the claimant to prove that he had not collected the tax either from the consumer or from the one from whom he purchased the raw material.

Mr. GEORGE. Mr. President, the amendment offered by the Senator from Nebraska undoubtedly helps this provision very much. The same purpose he has in mind might well be accomplished by simply providing that the language on page 61 shall read:

> No recovery, refund, or credit shall be made or allowed of any amount of any tax which accrued before or on or after the date of the adoption of this amendment—

Except upon the conditions subsequently stated in the amendment. That language covers all the cases which the Senator from South Carolina has in mind.

Mr. MURPHY. Mr. President, I think that will also cover the point which I made.

Mr. GEORGE. Undoubtedly it will cover the very point which the Senator from Iowa made.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. NORRIS. I have had called to my attention just now by one of the experts the fact that the same object could be accomplished by making a very slight change on page 61.

Mr. GEORGE. That is what I just called attention to.

Mr. NORRIS. Is that what the proposed change is?

Mr. GEORGE. Yes.

Mr. NORRIS. I did not hear the Senator. I was talking just then with the expert.

Mr. GEORGE. I called attention to the fact that the same purpose could be accomplished by inserting certain language on page 61, line 16, so as to read "tax which accrued before or on or after the date of the adoption", and so forth.

Mr. NORRIS. By inserting the words "before or."

Mr. GEORGE. Yes; just inserting the words "before or."

Mr. NORRIS. That might accomplish what we wish to accomplish by the amendment.

Mr. President, on account of the importance of this matter, and the suggestions that are made, and, in view of the fact that we cannot finish the bill today, I am wondering whether it would not be well to go on with other amendments, and take up this amendment later—tomorrow, perhaps. What does the Senator from Georgia think of that suggestion?

Mr. GEORGE. Mr. President, I was about to make the suggestion—in fact, I had made the suggestion—that the amendment I propose might be inserted on page 61, which, so far as I now can see, would cover the situation. Certainly the additional words would be useful there.

Mr. BORAH. Mr. President, then the amendment on page 58 would have to go out.

Mr. GEORGE. Then the entire amendment on page 58 should go out, save as to certain exceptions made on page 58.

Mr. NORRIS. It seems to me we ought to pass over the amendment on page 58 until we take up the subsequent amendment on page 61, and see whether that can be agreed to in such form as to meet the difficulties suggested. Then we can go back and strike out the amendment on page 58 if necessary.

Mr. BORAH. Mr. President, so far as I am concerned, having made the motion I am quite willing that the amendment shall go over until we may get together on it. So far as I see it, there is no difference in the position of the Senator from Nebraska and mine. It is only a question of arriving at the method of accomplishing the desired purpose. As I understand, the Senator from Nebraska concedes the right to sue, but he wants to control—and I think very properly—the matter of procedure; that is to say, where a person has not suffered any loss, of course he should not recover. I have favored that from the beginning.

Mr. STEIWER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. STEIWER. I merely desire to join in the suggestion made by the Senator from Nebraska. I think we are approaching what may be a solution of this matter, but, at first blush it occurs to me that we ought to give a little further thought to our method of procedure. It happens that on page 58 the provision is stated in terms of denial of jurisdiction of the court; and if that should go out the whole thing would stand on the negative effect of subsection (d) on page 61.

It may be that I am slow in comprehending the exact nature of the proposal made, but I should like a little more time to consider it. If that request may be granted it will be very welcome to some of us who are trying to follow this feature of the debate.

Mr. GEORGE. Mr. President, if the Senator will read the provision on page 61 I think he will see that the recovery of credit, and so forth, may be allowed either by the collector of internal revenue or through court procedure. The dual rights of the taxpayers are recognized in that provision. It might be necessary to eliminate other language in the provision on page 61.

Mr. STEIWER. Mr. President, may I interrupt the Senator further?

Mr. GEORGE. I yield to the Senator from Oregon.

Mr. STEIWER. Probably I did not make myself perfectly clear. One thing I had in mind was the language on page 59, which also denies the right to maintain certain kinds of proceedings. I am not yet sure whether the elimination of the language on page 58 will correct the situation if subsection (b) on page 59 shall be retained in the bill.

Mr. GEORGE. Subsection (b) is, of course, not now open to consideration, because it contains only two or three slight committee amendments at the end of the subsection. I think, however, that subsection (b) refers only to equity proceedings, extraordinary remedies, such as injunctions. I do not think it cuts off the right of refund.

The PRESIDING OFFICER. The Chair is advised that the amendment on page 61 was adopted on July 10.

Mr. GEORGE. That being the case, unless we could have unanimous consent to reconsider the vote by which that amendment was agreed to, we would, of course, have to resort to an amendment on page 58.

Mr. SMITH. Mr. President, will the Senator from Georgia yield?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. GEORGE. I yield.

Mr. SMITH. In the hope of expediting consideration, if the Senator from Georgia and other Senators who have discussed this matter, including the Senator from Nebraska [Mr. NORRIS], who has offered an amendment, are agreeable to the suggestion, we might temporarily pass over this amendment and allow them to get together and frame such amendment as they think will cover the situation of those who have already passed the tax on after it has been collected.

Mr. GEORGE. It will be necessary that consent be given to reconsider the vote by which the amendment on page 61 was agreed to, the Chair advising that it has heretofore been agreed to.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Alabama?

Mr. GEORGE. I yield.

Mr. BANKHEAD. So that there may be no misunderstanding, I wish to say that I myself am not going to agree to the proposed amendment. I want to insist upon the principles declared by the sections as reported by the committee. So we will have no unanimous-consent agreement about it.

Mr. BORAH. I did not understand what the Senator from Alabama said.

Mr. BANKHEAD. I said, so that the matter may not be passed over under a misapprehension that we were about to reach a unanimous-consent agreement involving the amendment of the Senator from Nebraska [Mr. NORRIS], I thought it proper to say that I would not be in line with that thought and would not acquiesce in a program along that line. I have no objection if the Senate wishes to pass over the amendment; but, from my standpoint, I do not consent, and will not consent, to conforming the section on page 58, involving taxes heretofore paid, with the subsequent section relating to taxes hereafter to be paid.

Mr. CLARK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK. Is it necessary to have unanimous consent to enable the Senate to insert in this bill the amendment proposed by the Senator from Nebraska or any other amendment?

The PRESIDING OFFICER. Not at all; but the amendment to the section on page 61 has been adopted.

Mr. BANKHEAD. Of course, it is not necessary, but we are talking about passing over the amendment and working out an agreement on it. I wanted to state my position so that there would be no misunderstanding.

Mr. JOHNSON. Mr. President, if the Senator from Alabama makes it perfectly plain that he will not accept the amendment, why not proceed with the amendment pending and vote on it? Why not go right ahead with the proposition, if there is no possibility of an agreement subsequently in reference to the amendment?

Mr. GEORGE. I understand the Senator from Alabama to object to a reconsideration of the vote by which the amendment on page 61 inserting subsection (d) was agreed to on July 10.

Mr. BANKHEAD. I gave notice that I was not in line with the thought here upon the floor of the Senate of abandoning the amendment of the committee on page 58. I have no objection to any orderly procedure upon the proposition. In taking that position I do so because I do not want the amendment to go over under the idea that it would be worked out under an agreement and settled by abandoning the provision on page 58.

Mr. SMITH. Mr. President, will the Senator from Georgia allow me to make a short statement of less than a minute?

Mr. GEORGE. I yield to the Senator from South Carolina.

Mr. SMITH. The provision on page 58 pertains entirely to taxes already levied and collected; the provision on page 61 has reference to those that are subsequently to be levied and collected. The Senator from Nebraska has offered an amendment in reference to the paragraph which pertains to the taxes already collected. As there has been an amendment offered thereto looking toward liberalizing it to some extent, it was suggested by the Senator from Idaho that both features might be combined in one; that is, preserving whatever is deemed advisable in the provision on page 58 and also in the provision which occurs on page 61. I made the suggestion which I did in the interest of clarity and expedition, that the Senators interested get together, but it was not with the intent of abandoning any of the principles incorporated in either provision.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina that the amendment be temporarily laid aside?

Mr. GORE. Mr. President——

The PRESIDING OFFICER. The Senator from Georgia has the floor. Does he yield to the Senator from Oklahoma?

Mr. GORE. I will not ask the Senator to yield now, as I wish to speak in my own right.

Mr. GEORGE. Mr. President, if the amendment is to be temporarily laid aside, I will reserve what I had expected to say on the general principles.

Mr. McKELLAR. Mr. President, will the Senator from Georgia yield ?

Mr. GEORGE. I yield.

Mr. McKELLAR. If the amendment is to be temporarily laid aside, then subsection (d) ought to be reconsidered, so that both provisions may be considered; and I ask unanimous consent that——

The PRESIDING OFFICER. There is one request pending. Is there objection to the request of the Senator from South Carolina?

Mr. McKELLAR. What I want to do is to ask for reconsideration of the vote by which subsection (d) was agreed to, if the Senator from Georgia will permit me.

Mr. GEORGE. On what page is that?

Mr. McKELLAR. Subsection (d) on page 61.

Mr. GEORGE. I had already submitted a similar request.

Mr. McKELLAR. Was it objected to?

Mr. GEORGE. I understood that it was objected to by the Senator from Alabama.

Mr. BANKHEAD. Mr. President, I may have misunderstood the provision to which the Senator from Georgia referred. I simply did not want to agree to anything that would result in abandoning the principle set forth in the committee proposal. I had reference also to the principle involved in the provision on page 58.

Mr. JOHNSON. Mr. President, will the Senator from Alabama speak so that we may hear him, please?

Mr. BANKHEAD. I am trying to find out the basis of the request for reconsideration of subsection (d).

Mr. NORRIS. Has the Senator succeeded in finding out?

Mr. BANKHEAD. I have not.

Mr. SMITH. Mr. President, may I make a statement?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. GEORGE. I yield.

Mr. SMITH. If those who are interested—and we all are agreed, I think, or, at least, a majority of the Senate are agreed, that some modification of the amendment on page 58 ought to be made—if Senators who have been discussing the matter can work out a plan by which the purpose of both amendments may be effectuated, it does not bind anybody here to agree to what they bring back, but it may solve the problem. Then we could reconsider the action on paragraph (d) if they should bring in a provision which would appeal to the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina temporarily to lay aside the amendment on page 58?

Mr. GORE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Oklahoma?

Mr. GEORGE. I yield. I was simply awaiting the order of the Chair as to whether or not the amendment is laid aside.

Mr. GORE. Mr. President, I wish to make a statement on that.

Mr. GEORGE. I yield to the Senator from Oklahoma.

Mr. GORE. Mr. President, I hope the request of the Senator from South Carolina [Mr. SMITH] will be agreed to. I am glad to see this question making some progress toward a composition. I do not believe that the provision of the bill now under discussion should be enacted into law as it now stands. I think some change should be made that would make it more just and reasonable in its purport and in its object and in its probable effect. Looking to that end, I myself have prepared an amendment which I will ask to have read, in order that it may be considered by those who are working out the composition.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The LEGISLATIVE CLERK. On page 59, line 5, it is proposed to strike out the period and insert in lieu thereof a comma and the words " or any taxpayer who alleges under oath or affirmation that he has sustained actual damage or loss."

Mr. GORE. Mr. President, in preparing this amendment I have followed the language used by the Supreme Court of the United States in the gold-clause cases. The Court held that, while the act annulling the gold clause in United States bonds was void, a holder of such bonds or other securities had a claim against the Government but that in most cases he had not suffered actual loss or damage, indicating that only in cases where there had been an actual loss could an aggrieved citizen recover. In the amendment I have adopted the language used by the Supreme Court in that decision. The amendment was prepared, I may say, with the assistance of the legislative draftsmen.

Mr. President, I shall detain the Senate but for a moment, and I shall not embark on the discussion of theoretical questions as to the immunity of a sovereign from suit at the hands of a citizen. Whatever the origin of that doctrine, it is now a principle well established and accepted in our jurisprudence that the sovereign cannot be sued without its consent. It is equally well established, of course, that the sovereign may waive that immunity, and on many occasions it has waived the immunity and has permitted an aggrieved citizen to bring suit against the sovereign. From my present standpoint, the origin of this doctrine of immunity is imma-

terial. It may have had its origin in the ancient and now exploded doctrine that the king can do no wrong, a doctrine that has passed into the debris of history.

This is a Republic where the people are sovereign. But, sir, that does not affect this principle. It has been argued here that the processing tax has been shifted by the taxpayer, in some instances shifted backward to the vendor from whom the taxpayer purchased, in some instances shifted forward to the vendee to whom he has sold his commodity. Undoubtedly that was the theory upon which this entire processing tax was imposed, that the tax would be shifted by the processor, that it would be shifted, I assume, forward to the vendee and not backward to the vendor. I assume that no one in the beginning expected that the tax would be assumed, borne, and paid finally by the processor himself.

Undoubtedly in many cases the tax has been shifted. Undoubtedly in respect to the hog tax it was shifted back to the producer, shifted back to the farmer. I have made some investigation upon that point, and the conclusion is irresistible that in the earlier stages of the policy the processor shifted the tax back and made the producer of the hogs pay the tax. The total number of hog processors in the country has been about 18,000, while there have been some 12,000 corn processors and some 5,000 flour mills and 6,000 tobacco processors. These have all paid processing taxes. I do not have for the moment the number of cotton processors.

Undoubtedly in many instances the tax has been shifted forward. I believe the Senator from Arkansas [Mr. ROBINSON] virtually contended that shifting of the tax was practically universal. If that be true, then it makes my amendment all the more easy to adopt, because if the processor has suffered no actual loss, if he has shifted the tax in every instance, then he has sustained no actual damage and no actual loss. It is a splendid opportunity where we can be honest and safe at one and the same time. We can save our faces and save our purses, and yet seem to be perfectly fair in the premises.

I have no doubt there are instances where the tax has not been shifted, where it has been borne by the processor, where it has been paid and borne by the taxpayer. I read an instance a few days ago of a tobacco concern in New York who had paid a processing tax amounting to more than $200,000 and the tax exceeded the entire amount of its sales. In that case, whatever may happen in the future, at least up to date that concern has not shifted the tax. The probabilities are it will never be able to shift the tax entirely. The newspaper report indicated the concern was teetering on the brink of bankruptcy. In such a case there would be an actual loss sustained at the hands of the Government, the Government obligated to protect the citizen instead of ruining him.

I remember the case of one of the great cotton mills in New Hampshire, the Amoskeag mills. Last year its annual report showed that it had suffered a loss of more than $1,000,000, I believe $1,008,000. I speak from memory. It had paid a processing tax of $1,274,000 and had paid extra wages on account of the code amounting to $1,600,000. Those were expenses incurred at the command of its Government. It seems to me fairly clear that in that case the taxpayer had not been able to pass the tax on either forward or backward, but that it had suffered a loss, had sustained an actual damage in the transaction.

If the privilege had never been granted to taxpayers to bring suit, I should not insist so strenuously that the doors of the courts be opened; but, Mr. President, these taxpayers have enjoyed this right, a statutory privilege which has been vouchsafed to them by the Government.

The Government has imposed this tax. The inferior courts have adjudged the tax to be unconstitutional. I think no lawyer doubts that the Supreme Court will hold the taxes are unconstitutional; that the Government of the United States, great sovereign as it is and as we have boasted this afternoon, has thrust its hands into the pockets of the taxpayers, some of them distressed taxpayers, has taken their money without their consent. And now, sir, since the courts have declared the tax to be unconstitutional and void, the great Government of the United States says, "We will close the doors of the courts and we will not return a tax that was void"; but that this great sovereign, invested with the power of taxation, which is the power to destroy, will impose a burden upon its citizens upon whom it must rely for its revenues and for its existence. Then, when the tax is adjudged to be void, this sovereign will say, "It is just too bad. We will slam the door of the court in your face. We will keep your money. We will not even give you your day in court."

I think the fear suggested by the Senator from Nebraska [Mr. NORRIS] has no foundation. The Senator from Nebraska thinks immunity from taxation is based upon the right of self-preservation and that the universal privilege of being sued would result in the destruction of the Government. When these suits are brought, when and if judgment is recovered, the citizen is even then powerless, the citizen is helpless then, even though it be found he was illegally separated from his money. He can never obtain compensation until the Congress of the United States enacts a law appropriating money to make the payment. There is our last refuge. I realize it would not be desirable to be pestered with thousands and thousands of judgments amounting to billions of dollars, as the Senator suggests. I can appreciate that.

Whenever this Government compels a citizen to part with his money in violation of the Constitution, in violation of the law of the land, and that citizen suffers an actual loss, in my judgment it is to the discredit of the sovereign to say, "You shall not have your day in court."

Mr. WHITE. Mr. President, I desire to say a very brief word about the situation which has arisen. Although my words may be affirmative, I am really asking a question.

The particular language which appears on page 58 relates to a litigant; it undertakes to circumscribe or limit his rights, and it relates also to the jurisdiction of a court of the United States. More than that, it relates to the jurisdiction of a State court.

Passing over the question of our authority over the jurisdiction of a State court, I wish to direct a question as to our control over the jurisdiction in all cases of a United States court.

The Constitution vests the judicial power of the United States in a Supreme Court, and in such courts of inferior jurisdiction as the Congress may create. Then it goes on and provides that this judicial power shall extend, among other things, to all cases arising under the Constitution of the United States.

I wish someone would answer for me the question whether the testing of the constitutionality of a statute of the United States is not a question arising under the Constitution, and whether the authority of a United States court to pass on that question does not rest in the Constitution itself rather than upon a statute of the United States. Assuming that to be true, I next desire to ask whether we can take from one of the courts of the United States its jurisdiction to pass on the constitutionality of a statute of the United States.

Personally, while I think we may do many things—we may limit in many ways, perhaps, the right of action—I have very serious doubt whether we can say to a United States court, the source of its power being in the Constitution,

You shall not have jurisdiction to answer the question whether a statute of the United States is or is not within the purview of the Constitution of the United States."

I am glad this matter is going over, because I think the reference to the jurisdiction of the courts of the United States ought to have some serious consideration.

Mr. GORE. Mr. President, with regard to the question just propounded by the Senator from Maine, I think there is no doubt that even Congress could not close the doors of the courts to any citizen who challenged the constitutionality of an act of Congress. That is not involved in the pending amendment.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. GORE. Yes.

Mr. WHITE. It seems to me it is almost necessarily involved, because I do not know how a person can raise the question of the constitutionality of a statute which lays a tax upon him except by challenging the tax or by suit to recover the tax. I think that necessarily raises the question of the authority of Congress in passing the tax statute.

Mr. GORE. The Senator in one sentence has stated the two horns of this dilemma. A citizen may go into court and challenge the constitutionality of a tax; and if he does so before having paid the tax, and the law is held to be unconstitutional, it protects him by obviating the future payment of a tax. But where the tax has already been paid, and a taxpayer challenges the constitutionality of the tax, if the courts hold that the tax is unconstitutional and void, notwithstanding such a decision Congress may close the doors of the courts when he desires to bring suit to recover the taxes already paid, even though it was an unconstitutional tax.

The PRESIDING OFFICER (Mr. CLARK in the chair). The Senator from South Carolina [Mr. SMITH] asks unanimous consent that the committee amendment on page 58 be temporarily passed over. Is there objection? The Chair hears none, and the amendment will be passed over.

Mr. CONNALLY. Mr. President, I have an amendment pending which I think is next on the list. I should like to call it up.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. GORE] had the floor and undertook to offer an amendment.

Mr. GORE. It was my purpose to have my amendment go over with the committee amendment.

The PRESIDING OFFICER. The Chair will inquire of the Senator from Texas whether his amendment is an amendment to a committee amendment?

Mr. CONNALLY. It is.

Mr. McKELLAR. On what page?

Mr. CONNALLY. Page 66.

The PRESIDING OFFICER. The Senator from Texas offers an amendment to the committee amendment which will be stated.

The LEGISLATIVE CLERK. In lieu of the matter on page 66, lines 15 to 25, inclusive, and on page 67, lines 1 to 22, inclusive, proposed to be stricken out by the committee, it is proposed to insert the following:

SEC. 32. There is authorized to be appropriated for each fiscal year an amount equal to 30 percent of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of such fiscal year. Sums appropriated in pursuance of such authorization shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to: (1) Encourage the exportation of major agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; (3) purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands; and (4) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated in pursuance of this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to eliminate unprofitable agricultural and grazing lands, bring about the utilization of only such lands as can be profitably utilized, increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds authorized to be appropriated by this section shall be expended pursuant to (3) or (4) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds authorized to be appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas to the amendment of the committee.

Mr. LA FOLLETTE. Mr. President, may I ask the Senator from Texas whether his amendment affects the text which begins on page 64, line 20, and runs down to and including line 14 on page 66?

Mr. CONNALLY. It does not. It affects only the section following the language to which the Senator from Wisconsin has referred.

The PRESIDING OFFICER. The Chair will state that the Chair was in error in ordering the amendment of the Senator from Texas stated, because the next amendment in order would be section 30, on page 64.

Mr. LA FOLLETTE. I have an amendment which I desire to offer in lieu of the text proposed to be stricken out by the committee, known as section 30. I do not desire to interfere with the procedure of the Senator from Texas, but I do not wish to lose any right to offer my amendment at the appropriate time.

Mr. ROBINSON. Mr. President, this appears to be an amendment other than a committee amendment.

The PRESIDING OFFICER. The Chair will construe this as a motion to strike out and insert, which would take precedence of the committee amendment to strike out. The Chair understands the purpose of the Senator from Texas to be to insert certain language in lieu of the language proposed to be stricken out by the committee amendment.

Mr. CONNALLY. That is correct.

Mr. ROBINSON. Mr. President, I should like to ask the Senator from Texas a question. Has the amendment been submitted to or considered by any standing committee of the Senate?

Mr. CONNALLY. It is practically a reenactment of the House language, with some modifications. Section 31 of the House text of the bill is substantially the same as the amendment which I have offered, except that some modifications have been made by me in an effort to obtain support for my amendment.

Mr. ROBINSON. But this amendment has not been submitted to the committee?

Mr. CONNALLY. This identical amendment has not, but it is in the bill. If the Senator will look on page 66, he will see that section 31 as contained in the House bill is practically the language of the amendment, with some slight modifications; and I propose to strike out the language in the bill and insert the language contained in my amendment. It has been considered by the committee in the House as well as by the committee in the Senate.

Mr. COSTIGAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Colorado?

Mr. CONNALLY. I yield.

Mr. COSTIGAN. May I ask the Senator from Texas whether there is any other modification of the portion of the House language for which this language is proposed to be substituted except the addition of the last proviso?

Mr. CONNALLY. Yes; there is some slightly different language in the middle of the amendment. I have not marked it, but there is a slight variation in the body of the amendment, though nothing of any substantial importance, I will say to the Senator.

The PRESIDING OFFICER. The Senator from Texas asks unanimous consent that this amendment be next considered, without prejudice to the rights of any Senator to offer an amendment to section 30 of the House bill.

Mr. LA FOLLETTE. In other words, I simply desire to ask for a division of the committee amendment.

Mr. CONNALLY. That was agreed to a day or two ago.

Mr. LA FOLLETTE. I also ask unanimous consent that I shall not lose my right in view of the fact that the Senator from Texas now desires to proceed.

Mr. JOHNSON. Mr. President, I have been called out of the Chamber. I was endeavoring to take part in the writing of a new amendment on the subject which has been discussed here all day, and I could not be present for the moment when the Senator from Texas began. Is the Senate now considering his amendment?

Mr. CONNALLY. It is.

The PRESIDING OFFICER. The Senator from Texas has asked unanimous consent that section 31 be next taken up,

without prejudice to the rights of any Senator as to section 30, which is a different committee amendment.

Mr. JOHNSON. I have no objection at all to that, but I desire to call the Senator's attention to one slight amendment which I should like to see adopted in his amendment; that is, the elimination of the word "major."

Mr. CONNALLY. I will say to the Senator that he may offer an amendment to my amendment striking out the word "major."

Mr. JOHNSON. I am asking the Senator whether he will not accept that amendment.

Mr. CONNALLY. Personally, I have no particular objection to the Senator's amendment, except that I understand that the sentiment of the committee is that this amendment ought to be confined to major agricultural crops; and that is why I drew my amendment in that fashion.

Mr. JOHNSON. When the amendment comes up, I shall offer an amendment striking out the word "major."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas with regard to taking up section 31 at this time? The Chair hears none, and the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment striking out section 31 is before the Senate.

Mr. CONNALLY. Mr. President, this amendment, as already suggested, is in substantial accord with the House language of section 31, beginning on page 66. As the bill came to the Senate, it provided that 30 percent of the tariff revenues were authorized to be appropriated for the use of the Agricultural Adjustment Administration in stimulating exports by way of paying an export debenture—or, as some may call it, an export bounty—on agricultural products.

It is not expected that this particular provision will supplant entirely the processing taxes, but it is proposed that the Agricultural Adjustment Administration, if Congress subsequently makes the appropriation, may employ these funds for the purposes set forth in the amendment. I shall not weary the Senate by reiterating the purposes set out in the amendment. The amendment is printed and is available to Senators and I invite their attention to its particular provisions. In short, the amendment embodies the principle of the export debenture in order to aid the Government in removing from domestic supplies the surpluses and getting them out into world commerce.

If Senators will notice the amendment they will see it does not apply to raw cotton; it is restricted to manufactured cotton. Personally, I favor including all cotton; I think the amendment ought to include raw cotton as well as manufactured cotton; but that idea met so much resistance on the part of members of the Committee on Agriculture and Forestry, and on the part of others who are interested in the question, that I modified the amendment to restrict the employment of these funds to stimulating the exportation of manufactured cotton.

That will be of particular benefit to textile manufacturers. The imposition of the processing tax has no doubt hindered domestic manufacturers of textiles in the export market. Today it is probably more difficult for them to compete in the export market than it was prior to the assessing of the processing tax. So that my amendment offers at least some degree of hope that that burden on the textile manufacturers may be somewhat lessened, and perhaps it may result in the lessening of the processing tax itself.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. VANDENBERG. I have substantial sympathy with the Senator's objective, but I wish to ask him a question in respect to the practical application of the amendment.

Would it be possible under the present tariff bargaining policy and the most-favored-nation treaty conception of that policy to proceed effectually with export bounties? What is the Senator's judgment upon that question?

Mr. CONNALLY. I will say to the Senator that I have not recently inspected any of the tariff agreements or trade treaties, but I do not believe the amendment would offer any difficulty in that regard.

Let me call the Senator's attention to the fact that a great many of the countries of the earth are already employing export bounties. I will cite some of them.

Australia has an export bounty on canned fruit. It aids the states of that dominion in export bounties on sugar, and provides an export bounty on sweet wines.

In Argentina fixed prices are paid for grain exports if world prices go below a certain amount. Argentina has a modified form of export bounty on wheat.

Chile provides export bounties on wheat, flour, oats, barley, malt, hay, wine, and certain fruits and vegetables.

Estonia has a sliding differential subsidy for meat exports, hogs and bacon, derived somewhat like our processing tax, by a tax on slaughter-house processors. There are premiums to exporters of cheese, butter, and eggs.

Finland pays export premiums on butter, cheese, eggs, fowl, and live hogs.

In France the excess wheat production made it necessary to have recourse, among other schemes, to exports. France provides an export bounty on flax. In the case of wheat, since the French domestic price is usually above the world price, export bounties are being granted by the Government.

Mr. VANDENBERG. Mr. President, will the Senator yield further?

Mr. CONNALLY. I yield.

Mr. VANDENBERG. Let me see if I can make my point a little plainer. I apprehend that all of the export bounties to which the Senator refers were created prior to any of the reciprocal tariff treaties, and prior to the new emphasis upon the most-favored-nation treatment. This is my question, Will not the export bounty which the Senator proposes, and which I think has great logic behind it——

Mr. CONNALLY. I thank the Senator.

Mr. VANDENBERG. Will it not be construed abroad as dumping, and therefore is it not necessary, in conjunction with the successful operation of a scheme of this character, that we should have bilateral trade treaties with other countries, without regard to most-favored-nation treaties, so that we may frankly be permitted to operate under this method if adopted, rather than the multilateral most-favored-nation treaty system, which is virtually a barrier against that sort of thing? Does the Senator see what I am driving at?

Mr. CONNALLY. I understand the Senator. I will say, in response to his suggestion, that, of course, those countries which may object to the encouragement of our exports will probably claim that this is a modified system of dumping, but what I was trying to point out was that it is a practice which is employed by a large number of the nations of the earth.

Mr. VANDENBERG. I understand that.

Mr. CONNALLY. My understanding is that the State Department, in negotiating trade agreements, is now adopting the bilateral method rather than the multilateral method.

Mr. VANDENBERG. That is technically true. But it is impossible for the State Department to do anything except in net result write a multilateral treaty so long as it extends the same advantage to all countries with which we have treaties containing the most-favored-nation clause.

Mr. CONNALLY. Let me say to the Senator that, even if his contention were entirely sound, that is no argument why we should not adopt the particular amendment before us, for the very good reason that it can only be employed when and if the Secretary of Agriculture adopts the system and the Congress appropriates the money out of the tariff revenues, and naturally, if the administration should run into the difficulties suggested, and should ascertain that the practice was in violation of some treaty, the President would instruct his minister, the Secretary of Agriculture, not to do it.

Mr. VANDENBERG. Mr. President——

The PRESIDING OFFICER (Mr. RUSSELL in the chair). Does the Senator from Texas yield to the Senator from Michigan?

Mr. CONNALLY. I yield.

Mr. VANDENBERG. I am raising purely the practical question as to whether we can hope to achieve anything by the adoption of the amendment, in view of the fact that it will, if used by the Department of Agriculture, apparently be in direct hostility to the foreign-trade policies now urged by the State Department.

With the Senator's permission, let me amplify that suggestion. The ideas of Mr. George N. Peek, so long as he was foreign-trade adviser to the President, it seems to me were wholly in line with the views now submitted by the Senator from Texas, and certainly entirely in line with the views which I hold; but Mr. Peek's views, being found in fatal collision with Secretary Hull's views, were set to one side, the position of foreign-trade adviser was permitted to lapse, and the Hull policy now entirely covers the foreign compacts. I am wondering how, in the face of that contemplation, there is any real hope that a provision of this character, which obviously would run against the Hull policy, offers any tangible hope.

Mr. CONNALLY. Let me tell the Senator from Michigan what I would do if I entertained the views he entertains—and I do, in a measure. He says he favors this policy and believes it to be sound. If I so believed, I should vote for it, regardless of what Mr. Peek, or Mr. Hull, or Mr. Somebody Else might say about it.

Mr. VANDENBERG. I think that is a fair statement; I am only inquiring whether, after the Senator from Texas and I have voted for it, we have simply indulged in shadow boxing.

Mr. CONNALLY. That may be, but the duty of the Senator from Michigan and the duty of the Senator from Texas is not to hunt up bogies; if we believe in the proposal, it is our duty to do what we can here in this Chamber, where our functions obtain, and then let instrumentalities and agencies outside of this Chamber perform whatever duty they may have to perform. So I think the Senator from Michigan, if he believes in this proposal and thinks it ought to be adopted, ought to vote for it and support it and speak for it, rather than to hunt up imaginary bogies and bugaboos to destroy it in advance.

The PRESIDING OFFICER. The time of the Senator from Texas on the amendment has expired. The Senator from Texas is permitted to speak but once on the bill, and not to exceed 30 minutes.

Mr. CONNALLY. I thought the agreement the other day was that a Senator could speak once on the amendment and once on the bill.

The PRESIDING OFFICER. The Chair is advised that the unanimous-consent agreement permits each Senator to speak once on each amendment and once on the bill.

Mr. ROBINSON. If the Chair will pardon me, the arrangement is that a Senator may speak 15 minutes on an amendment and may divide his time if he chooses to do so, but there is to be only one speech on the bill, which may be 30 minutes in length.

Mr. CONNALLY. In other words, I have 30 minutes on the bill, and when I have used the 30 minutes, I am through, but I may speak on some subsequently offered amendment.

The PRESIDING OFFICER. The Senator from Texas is correct.

Mr. VANDENBERG. If the Senator will permit me, in conclusion let me say that I agree with his analysis fully, and I particularly agree with his use of the word "bogey" as applied to both the Hull trade policy and the Wallace foreign-trade policy.

Mr. CONNALLY. Let me say to the Senator from Michigan that I have not always agreed with him on tariff policies, but I do agree with the Senator when he comes to the view I entertain as to the particular industries and enterprises in the United States which can receive a benefit from a tariff—and I have voted for many of them. If it be sound and if it be just and right for the Government to exert its power to give an artificial benefit to one industry at the expense of all the other industries, it is just as sound for an industry which cannot be protected by a protective tariff to have that tariff turned around and to have the Government exert its power to aid it in exporting its products and selling them in a world-free market in which the industry cannot get a tariff benefit.

Twice in 1929, under the administration of Mr. Hoover, the Senate, by a majority vote, passed the so-called "debenture amendment" as applied to agricultural products.

The Senator from California [Mr. JOHNSON] will remember that struggle. As I now recall, he voted for that amendment, as did the Senator from Nebraska [Mr. NORRIS] and the Senator from Idaho [Mr. BORAH], and, if I mistake not, the Senator from North Dakota [Mr. NYE], and a great number of other Senators, including the Republican leader in this Chamber, the Senator from Oregon [Mr. MCNARY], voted in 1929 for the debenture agricultural amendment. It was killed by the House of Representatives at that time at the dictation of the then President, Mr. Hoover.

The basis of this amendment, Senators, lies in the fact that those engaged in agriculture, the cotton producers, the wheat producers and others, must sell their surplus abroad in the markets of the world, and in so doing must accept the world price without any artificial enhancement, without any device of Government to lift or raise that price. They must in the full and fair markets of the world meet competitors from every clime and every section of the earth; and if they pay the bounty on the various protected articles at home they are entitled to a similar advantage by way of the Government aiding them to export their goods so they may receive something like a fair standard of value in the foreign markets. That is all there is to this amendment.

I regret that necessity has caused me to limit the amendment in the case of cotton, the great product of my section, to manufactured cotton; but, unless I do so I am rather of the opinion that I shall not be able to secure its adoption. The producer of raw cotton is just as much entitled to the export privileges and to the export debenture and to the export bounty as is any other agricultural producer; but the textile manufacurers would oppose an export bounty on raw cotton. They would say it still further increased the burden placed upon them by the processing taxes. So, out of deference to views of members of the Committee on Agriculture and Forestry and other Senators, I have drawn the amendment so as to limit it in the case of cotton to manufactured cotton. Indirectly, of course, that will benefit the producer of raw cotton to a limited extent, because if the textile manufacturers in America receive some benefit from it and are able to compete in the export market they will, of course, consume more domestic cotton.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. GERRY. I should like to ask the Senator a question to ascertain if my understanding of his amendment is correct. Under his amendment he leaves it entirely discretionary, does he not, with the Secretary of Agriculture to determine where the revenue derived is to be expended and how it is to be expended? He simply sets forth four different means by which the revenue may be expended and leaves the authority entirely with the Secretary of Agriculture?

Mr. CONNALLY. Yes; very largely.

Mr. GERRY. Has the Senator figured out what the revenue item would amount to?

Mr. CONNALLY. I do not know just what it would be. It is 30 percent of the customs.

Mr. GERRY. Therefore the Secretary of Agriculture might, if he saw fit, not employ the funds for a bounty on finished commodities, but might use them entirely for any of the other three purposes set forth?

Mr. CONNALLY. He may only use it for purposes (3) and (4), provided he finds it is not needed at all for (1) and (2). In other words, he must give preference to purposes (1) and (2); and if he finds no necessity or occasion for so employing the funds he may employ them for (3) and (4).

Mr. GERRY. I thank the Senator.

Mr. CONNALLY. Mr. President, I shall make just a brief statement and then I shall conclude.

Let me say to the Senator from Michigan [Mr. VANDENBERG] that I did not complete the recitation of foreign countries which use the export-debenture or export-bounty principle. I shall not mention all the commodities upon which it is used, but I cite the nations of Greece, Hungary, Irish Free State, Italy, Latvia, Lithuania, the Netherlands, Poland, Union of South Africa, Uruguay, and Yugoslavia. I may add that Great Britain has heretofore employed, if it does not at the moment employ, the principle of the export debenture or the export bounty.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. BORAH. I wish to ask the Senator a question. As I understand his amendment, it covers corn, wheat, hogs, and so forth.

Mr. CONNALLY. It covers all the major agricultural products.

Mr. BORAH. How would the Senator describe a major product?

Mr. CONNALLY. I understand the bill defines it. Is that true?

Mr. BANKHEAD. The bill specifies the different basic commodities.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. JOHNSON. In reference to the question asked by the Senator from Idaho [Mr. BORAH], I wish to say to him that I shall offer an amendment proposing to strike out the word "major."

Mr. CONNALLY. Mr. President, my assumption was that the bill defines what major commodities are, so my amendment is confined to them, but I have no particular desire to exclude any export product. I ask unanimous consent to delete the word "major" and insert the word "basic."

The PRESIDING OFFICER (Mr. RUSSELL in the chair). The Senator from Texas has a right to modify his own amendment.

Mr. CONNALLY. I ask unanimous consent to strike out the word "major" and to insert in lieu thereof the word "basic." Then the amendment to be offered by the Senator from California will be in order.

Mr. JOHNSON. Mr. President, striking out the word "major" leaves no room for difficulties or troubles hereafter. We are going to have enough troubles with this bill as it is.

Mr. CONNALLY. Have the committee members any objection to striking out the word "major" and inserting the word "basic"?

Mr. JOHNSON. Mr. President, I have had some difficulty in analyzing the amendment; but, analyzing it as I have, I feel highly sympathetic with what it proposes to accomplish.

The amendment differs from the House language, which was stricken out by the Senate committee, in just two particulars. Those particulars are contained in lines 3 to 5 on page 2, and lines 2 to 5 on page 3 of the amendment. The first change is insignificant. The second change proposes to exempt cotton from benefit payments under the 30-percent fund. The provision is substantially the old export-debenture provision which was adopted by the Senate some years ago, and in whose behalf there was a very substantial majority.

We ask that the word "major" be stricken out, to which the Senator from Texas has graciously assented, because the word is indefinite in meaning and would give rise to endless controversy as to what is a major agricultural commodity.

Mr. CONNALLY. I will say to the Senator from California that I personally have no objection to his amendment.

Mr. JOHNSON. That is all I ask. I join with the Senator from Texas in the request that his amendment be adopted. I should like to see tried out this particular plan, which once was adopted by the Senate. I should like to see it tried out even in the limited fashion which is here provided, and I think it might solve in some degree certain of the problems which are presented to us.

The PRESIDING OFFICER. The Chair is in doubt whether or not the Senator from Texas modified his amendment by striking out the word "major."

Mr. CONNALLY. I withdraw the request and will let the amendment stand as it is. The Senator from California [Mr. JOHNSON] will move to strike out the word "major."

Mr. CAREY. Mr. President, will the Senator yield?

Mr. JOHNSON. I yield.

Mr. CAREY. I should like to ask the Senator from Texas if he did not substitute the word "basic" for the word "major"?

Mr. CONNALLY. No; I withdraw that request.

Mr. BORAH. Mr. President, I am very much in favor of this proposal. I think it is one of the unfortunate things in the history of legislation for the interests of agriculture that the debenture proposition was defeated under the last administration. I have been a believer in it and an advocate of it for some years, and I sincerely hope that this amendment will be adopted.

Mr. SMITH. Mr. President, when this matter was before the committee we had a communication from the Treasury Department to the effect that the inclusion by the House of this section in the bill was without any consultation with the Treasury Department, and that if it should become law it would totally upset all the calculations the Treasury has made as to certain expenditures, and would deflect from their calculations the amount herein provided of 30 percent, and that the Department was totally opposed to its inclusion for the reasons set forth.

I have the communication here, but I am giving only the substance of it. It was stated that it would be necessary to find other sources of income for such amount as might be deflected for the purpose herein suggested.

Mr. BORAH. Mr. President, that is precisely the argument which was presented by the Secretary of the Treasury when the proposal was defeated under the former administration, that it might cost the Government $150,000,000 or $200,000,000. Since that time we have spent not only $150,000,000 or $200,000,000 but additional hundreds of millions of dollars to accomplish what, in my judgment, the debenture plan would have accomplished in large measure had it been adopted.

Mr. SMITH. I want the Senate to understand that in calling attention to this I am simply doing what I think it my duty to do—to let the Senate be advised of what a coordinate branch of the Government has indicated.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. SMITH. Certainly.

Mr. VANDENBERG. Did the committee have any communication from the Secretary of Agriculture respecting his attitude toward the export debenture?

Mr. SMITH. I do not believe the Department objected to it.

Mr. VANDENBERG. Is it the Senator's opinion that Secretary Wallace is in favor of this proposal?

Mr. SMITH. I do not know, but, without remembering any definite statement, my impression is that the Department of Agriculture had no objection.

Mr. VANDENBERG. Then, if it is my impression that the Department has violent objection to it, either the Senator's opinion is wrong or my opinion is wrong.

Mr. SMITH. I know the matter came up when several representatives of the Department were present. I do not remember that they expressed themselves one way or the other.

I still maintain—and want it definitely understood here and now—that I think the legislative branch of the Government ought to legislate in the light of its own opinions and convictions. Of course, there will arise occasions when the theories of a department touching some salient point ought to be considered, but I, for one, believe we ought to assume the full duty of drafting the legislation for which, under the Constitution, we are held responsible. It is for us to draft the legislation and enact it, and insist upon the recognition of our exclusive right in the realm of legislation.

Mr. VANDENBERG. Mr. President, will the Senator yield further?

Mr. SMITH. Certainly.

Mr. VANDENBERG. I cordially concur in the Senator's general statement and I applaud his courage in stating these opinions in view of his official position in relation to spokesmanship under the present administration. However, is it not pertinent to inquire the attitude of the Secretary of Agriculture in respect to a matter which we are proposing to leave to his option? For instance, I am interested in knowing whether the option is going to be exercised.

Mr. SMITH. As it is optional, and if the Senate determines it is optional and shall be discretionary on his part, it might be pertinent to know just how he stands in respect to exercising the option we may give him.

I have stated all I care to state about it. The Senate is thoroughly competent to take such action as may be deemed wise and proper.

Mr. CONNALLY. Mr. President, what the Senator from South Carolina [Mr. SMITH] said about the attitude of the Treasury Department has no influence on me whatever. When it does not want a policy adopted the Treasury Department, from the days of Mr. Mellon down, issues a statement and prophecy that if we do such a thing we will ruin the Treasury program. This proposal will, of course, divert a portion of the customs revenues; but those revenues come out of the people by taxation. We are going to have a tax bill during this session and we can take care of any necessities in the tax bill.

I for one resent the attitude of the Cabinet and administrative officers in constantly lecturing the Senate and the Congress about what we should or should not do. They are simply glorified hired men, and if they will attend to their business in the Cabinet and in their departments, we can attend to our business in the Senate and the House of Representatives.

Mr. VANDENBERG. Hear! Hear!

Mr. CONNALLY. I do not care if the Cabinet or the State Department or anybody else advises against this amendment, I am in favor of trying out the export bounty plan. It has been before the country for years. It has been before the Senate on two different occasions. If it will not work, we had better find it out. If it does work, we may then develop it and elaborate it as the exigencies of the times may require.

Mr. BORAH. If it does work, it will far more than take care of any loss to the Treasury.

Mr. CONNALLY. To be sure. The Senator from Idaho is correct that if it does work it will bring more money into the hands of the American producers than would be taken out by the process of taxation.

Mr. President, the Senator from Michigan [Mr. VANDENBERG] spoke about antidumping laws and other nations throwing up their hands and crying out about antidumping laws. There are countries in Europe today that need American farm products, that are hungry for them, and yet are not getting them because of artificial impediments to trade. The tariff is a hindrance to trade. The high tariff is a hurdle over which commerce has to leap. This plan is an encouragement to trade. It would open up the channels of trade. It would remove some of the snags and stimulate the free flow of commerce from America to foreign countries.

In behalf of the producer, the primary producer, the man who sweats and labors in the fields to produce the necessities of life, I believe now is the time for the Congress to assert some of its own views and to adopt this amendment and try out this experiment, if it be desired to call it such, with regard to the debenture or export subsidy system.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY].

Mr. KING. Mr. President, I entered the Chamber a few minutes ago, having been absent for a short time upon official business at the Department of State, and heard only the concluding remarks of the Senator from Texas [Mr. CONNALLY]. I regret not having had an opportunity to hear his entire address, because it is possible I may not fully comprehend his purpose or the object of the amendment which is under discussion. I have hastily glanced at the amendment but have had no opportunity to analyze it, and perhaps do not fully comprehend its scope and implications. However, from the imperfect examination which I have given it, I cannot give it my support.

First, let me briefly refer to the observations made by the Senator respecting the position taken by the Secretary of the Interior. As I understood the Senator, I do not disagree with his position as to the duties resting upon the legislative branch of the Government. Congress, and not the executive department, deals with legislative matters; Congress enacts the laws and the responsibility rests upon the executive department to see that they are executed.

It is quite true that not infrequently the executive branches of the Government are too importunate in seeking legislation, and it cannot be denied that they have sought to influence, as many believe, improperly, the Congress of the United States in connection with proposed legislation under consideration by both branches of Congress. Executive departments, bureaus, and organizations have often drafted and attempted to secure the passage of measures increasing their authority and expanding their jurisdiction. I believe that there has been too much pressure brought by executive departments to secure legislation and to direct policies which the Government should follow—policies the formulation of which rests with the legislative branch of the Government.

However there are obligations resting upon executive departments and agencies of the Government to advise Congress with respect to matters under consideration by it. It is the duty of the Secretary of the Treasury to submit reports from time to time for the consideration of Congress with respect to revenues and the financial affairs of the Government. It is his duty to submit data and information that will aid Congress in enacting revenue and financial measures. As Senators know whenever revenue bills are under consideration the Secretary of the Treasury is called upon to submit his views and to furnish information respecting the fiscal needs of the Government and the condition of the Treasury, in order that needed legislation may be enacted. Only a few days ago the Committee on Ways and Means of the House began the consideration of a revenue measure. The President had recommended that additional revenues be obtained by increasing the taxes upon incomes of individuals and corporations and also by increasing the demands made upon estates, gifts, and so forth.

It was necessary that the Secretary of the Treasury supply information to the committee in order that it might deal wisely with the important questions before it. It is the duty of the Secretary of the Treasury to keep Congress informed as to the financial needs of the Government, the expenditures which are made, and the sources from which revenue may be derived. It has been the practice of the Department of the Treasury for years to prepare and submit estimates of governmental receipts and disbursements and to supply full and detailed information regarding all matters connected with the fiscal affairs of the Government. The Department of the Treasury estimates the receipts which it expects will be derived from import duties, and includes such estimated receipts as a part of the aggregate revenues which will be derived from all sources in order to meet the expenditures of the Government.

My understanding is that the Secretary, in submitting reports required by law, dealing with the fiscal affairs of the Government for the last and present fiscal years, estimated the customs receipts, and included such estimates as a part of the total revenues expected to be derived during each of these years. My recollection is that the President, in the Budget which he submitted to Congress, took cognizance of the report of the Secretary respecting the revenues to be derived from customs, and based his views as to the total revenues and the expenditures, in part at least, upon the proportion of the former which would be derived from import duties.

It was, therefore, in my opinion, entirely proper for the Treasury Department to advise Congress as to the results that would follow the diversion of 30 percent of the customs receipts from the Treasury Department to meet the expenses of the Government, and to transfer them to the Secretary of Agriculture to be expended by him under a broad and latitudinarian discretion for purposes not contemplated by the President when he prepared and submitted to Congress his Budget for the next fiscal year.

The measure before us, if I interpret it correctly, will lay its hands upon the customs receipts and take therefrom 30 percent, which, under the estimates to which I have referred, were to have been paid into the Treasury of the United States for use in meeting the ordinary and extraordinary expenses of the Government.

Senators are familiar with the fact that the Treasury Department has occasionally been criticized for its alleged failure to submit accurate estimates as to receipts and disbursements. I think it should be said, in justice to the Treasury Department, that its officials have been careful in the preparation of their estimates, and have, in the main, discharged their duties with remarkable ability, and certainly with fidelity. The present Secretary of the Treasury, as we all know, is earnestly and intelligently addressing himself to the very heavy responsibilities resting upon him. I am glad that he has called attention to the fact that the diversion of a part of the customs receipts from the Treasury of the United States and their application to other than the meeting of the expenses of the Government would increase the Federal deficit and lead to some confusion in the fiscal affairs of the Government.

Mr. President, a hasty examination of the amendment under consideration shows how indefinite and uncertain are its terms. It is only certain in one thing, namely, that 30 percent of all of the customs receipts are not to be placed in the Treasury, where they belong, but are to be delivered over to the Secretary of Agriculture, to be expended largely as he may see fit, or, at any rate, to be expended without proper limitations and without rational standards or reasonable restrictions.

It is impossible to determine what the total customs receipts for this or the next fiscal year or subsequent years will be. A number of years ago the customs receipts were from $400,000,000 to more than $600,000,000 annually. For 1933 the customs receipts were only $250,000,000. My recollection is that the total customs receipts for the fiscal year ending June 30 of this year were approximately $340,000,000. While it is true that 30 percent of $340,000,000 is not impressive, measured by the total receipts of the Government for the present fiscal year of approximately $3,800,000,000, exclusive of postal receipts, nevertheless it is a factor to be considered in preparing estimates of receipts and disbursements for any given period.

If Congress were disposed to appropriate any considerable sum for the uncertain purposes indicated in the amendment before us, prudence (and if I may be permitted the expression, common sense) would demand a definite appropriation; but the amendment before us calls for an indefinite appropriation and perhaps for an indefinite period. It does not take cognizance of the fact that the customs receipts may be greater or may be less during the future years. It seems to me incredible that Congress would be willing to embark the Government upon an uncharted sea such as the amendment before us contemplates. May I ask in all seriousness, Is it fair to the taxpayers or fair to the Government to make such uncertain commitments as provided in this amendment? I know during the past few years we have been dealing with not millions but hundreds of millions and billions of dollars until I sometimes feel that our vision has become clouded, our judgments distorted, and our appreciation of sound principles of finance and governmental politicies impaired.

The PRESIDING OFFICER (Mr. MINTON in the chair). The time of the Senator from Utah on the amendment has expired. The Senator has 30 minutes on the bill, if the Senator desires to take it.

Mr. KING. I will take part of my time on the bill.

If it is deemed proper to appropriate money by way of bounty or subsidy or whatever name may be given it, for the purchase of submarginal lands or for the purposes indicated in the amendment under consideration, then I respectfully submit it should be done in an open, frank, and courageous manner. If $90,000,000 or $100,000,000 or $200,000,000 are to be appropriated in aid of agriculture then let us frankly avow the purpose to do so and make a direct appropriation from the Treasury of the United States. In that manner the people would know what amount Congress was providing for the purposes indicated in the amendment.

They would know when they read the Treasury report what proportion of the receipts were employed as a subsidy or bounty or grant to agriculture. Indefinite and uncertain appropriations are not only unwise but, I believe, unfair to the taxpayers of the Government, and for that reason, if for none other, the amendment under consideration should be defeated.

Mr. President, we all sympathize with the hardships through which the farmers of the United States have passed and the problems which are now before them. It may be said, in passing, however, that there are millions of American citizens without employment and without homes. Industries have suffered and millions who have been employed in industrial activities have likewise passed through trying days, and even now they are still within the shadows. It is not only those employed in agriculture who have suffered during this depression, but millions of individuals in other walks and activities of life have, as I have stated, had their sorrows and days of distress.

Millions have lost their homes and millions perhaps have never had homes. During the period to which I have referred factories, mills, and mines have been closed, and armies of men and women were deprived of employment. Today there are millions of American citizens who have no jobs and no means of support.

I do not challenge attention to these matters for the purpose of minimizing the hardships of the farmers and the problems with which they are now confronted. It has been said that when any branch of our economic or industrial life suffers its effects are materially manifest in every other avenue of public or private life. We rise or fall together. The advancement of one is the advancement of all. Of course, it is desired that the farmers of our country enjoy prosperity. Indeed, when they are prosperous it may safely be said that the clouds of adversity in every part of the land will be largely dispelled.

Mr. President, conceding for a moment that there should be relief granted to agriculture either through bounties or subsidies, it seems to me that the bill which came from the House and is now under consideration by the Senate should not be employed as a vehicle to accomplish that result. The bill before us contains amendments to the Agricultural Adjustment Act. It is claimed that it is to supplement that act and to clarify some of its provisions and, as I am advised, to possibly relieve it of its imperfections and inequalities, if not provisions unconstitutional in character. There are many who believe the Agricultural Adjustment Act to be unconstitutional and also to rest upon no sound or logical or just foundation, and that it is doomed ultimately, even if found to be free from constitutional taint, to prove so unsatisfactory in its results as to meet an early end.

The Agricultural Adjustment Act was regarded by the friends of agriculture as more than an experiment; indeed, many asserted that it was a panacea for the ills of agriculture and would bring to the farmer a golden age of prosperity. The same geniuses who devised the Agricultural Adjustment Administration Act have administered it and have provided the bill which is now under consideration.

Other policies have been formulated and are being carried into effect by the Agricultural Department to supplement the Agricultural Adjustment Act, and it is claimed to contributed to the advancement of the interests of agriculture. Such important results have been promised by these measures that it would seem highly improper to attach to them the provisions found in the amendment offered by the Sena-

tor from Texas. I can readily understand, notwithstanding the many asservations as to the efficacy of the measures formulated by the Agricultural Department, that there are some who have been protagonists of those measures who have some apprehension as to their virtue and are therefore seeking to discover other ways and means and further devices to promote the interests of agriculture. I repeat, however, that regardless of their misgivings and apprehensions consideration of provisions such as those found in the amendment offered by the Senator from Texas should be deferred pending the results of existing law, supplemented by the new A. A. A. bill reported by the House and now before us. In other words, if the measures which were to accomplish such great results are inadequate and will fail to meet the expectations of those who devised the same and have given them their support, then, when such failure is manifest, it will be time to consider other plans.

Indeed, Mr. President, there are some who believe that some of the experiments which have been introduced into our economic and industrial life of late, and similar experiments which have been introduced into the social and industrial life of other countries, have not, and will not, accomplish the results desired; that many of the efforts to disturb economic and natural laws, instead of accomplishing good, produce evil results.

Mr. President, I have referred to the amendment offered by the Senator from Texas as being uncertain and indefinite in its terms. Permit me to invite attention to some of its provisions in justification for this statement. The amendment declares that the 30 percent of the gross receipts from duties collected under the customs laws of the United States—

> Shall be used by the Secretary of Agriculture to encourage the exportation of major agricultural commodities and products.

I might add in passing that the exportation of agricultural products can be not only successfully encouraged but accomplished if we will pursue a course similar to that followed by our Government for many years. The exports of the United States have reached the stupendous sum of between $7,000,000,000 and $8,000,000,000, and a very large part of these exports consisted of agricultural products. More than 60 percent of the cotton produced in the United States was purchased by foreign countries, and the farmers of the United States found foreign markets for their surplus wheat and corn and dairy and other products. By reason of almost prohibitive tariffs we lost much of our foreign market, and the farmers of the United States were among those who suffered by reason of the loss of foreign markets.

How is the Secretary to encourage exportation of agricultural products? I have indicated what I conceive to be the most certain and effective way to insure the sale in foreign markets of American agricultural commodities. But the amendment suggests that the encouragement is to be brought about by paying benefits, presumably to those who export their commodities. The amendment presupposes losses because of the export of commodities and calls for the payment of indemnities. There is nothing to indicate what commodities will be exported; what losses will be sustained; how the indemnities are to be divided. It is obvious that a vast bureaucratic organization must be set up to gather agricultural products for export, to search for markets abroad; to enter into negotiations perhaps with foreign nations because they undoubtedly will have something to say with respect to what commodities shall be brought into their respective states. It may be charged by them that the United States is dumping its surplus agricultural products in violation of the laws of the countries into which such commodities may be transported. It is certain that any such policy will bring retaliation and repercussions of a serious character. It is also certain that a policy such as suggested would run counter to the provisions of the Reciprocity Act, which is receiving attention at the hands of our State Department.

It is easy to envision a multitude of difficulties and problems that will be encountered in the execution of the uncertain provisions of the amendment under consideration. The amendment further provides that the moneys derived from the 30-percent customs may be used by the Secretary of Agriculture to encourage domestic consumption of commodities or products by diverting them, whatever that means, by the payment of benefits or indemnities or whatever means, from the normal channels of commerce. I cannot conceive of such unlimited and unrestricted authority being given to an Executive agent. There is no necessity of encouraging domestic consumption of commodities. The American people are ready to purchase and use domestic products where needed and if and when they are able to buy the same. But as I understand the amendment, the Secretary can pay benefits or indemnities to induce people to use commodities. At any rate, the Secretary may pay benefits or indemnities or take any steps he may see fit to divert, whatever that may mean, commodities from the normal channels of trade and commerce. One would suppose that it was desirable to have commodities used in the normal channels of trade and commerce and to enlarge such channels, but apparently the channels are to be dammed and efforts made to prevent normal consumption and the usual and proper utilization of the channels through which trade and commerce flow. But that is not all the Secretary is empowered to do.

He is authorized to purchase and lease on behalf of the United States submarginal agricultural and grazing lands. Senators know that there are now several Federal agencies empowered to purchase so-called "submarginal lands", and my understanding is that large tracts of lands have been purchased in many States. Millions of dollars have been expended for this purpose and lands which have been subject to taxation by the States are now the property of the Federal Government. It seems to be the view of some that the Federal Government should become a great landlord; that it should acquire hundreds of millions of acres of land, withdraw the same from taxation, and either permit the land to lie fallow or to attempt all sorts of experiments for its utilization. The Government is not a satisfactory landlord, and I predict that some of these schemes originated by doctrinaires and persons devoid of that realistic conception of the problems and difficulties of life, will meet with utter failure. However, the point I am attempting to make is that there are no limitations upon the authority of the Secretary under this amendment and he could employ the entire annual fund obtained from customs duties for the purchase of so-called "submarginal agricultural and grazing lands."

The amendment further provides that the Secretary may finance adjustments in the quantity planted or produced for market of agricultural commodities.

It seems to me that no more uncertain and ambiguous language could be employed to conceal one or more purposes. What is meant by "adjustments in quantity planted or produced"? Is it meant that the Secretary shall have unlimited power to determine what maladjustments exist in production, and to determine how to adjust the crops as to quantity and character which are to be planted or produced; that he shall have full authority to determine whether the crops planted or produced are for foreign markets or for domestic markets; whether these adjustments shall be made in one State or in many States; whether they shall apply to one group or to many groups?

It is quite likely that if this measure should become law, whoever administered it, with the unrestricted authority given, could say that adjustment is needed in the quantity of oranges produced or planted; that California should only plant or produce 100,000 acres; that the production should be only for domestic consumption and that within a limited number of the States. The official administering the law would have authority to finance the cotton growers or wheat growers of one State and not of another; to determine the amount of wheat which should be planted in one State or in a number of States. Indeed, the provisions of this amendment are so indefinite, so susceptible of a multitude of interpretations as to condemn the scheme though the goal sought to be reached may have merit.

We know that the Secretary of Agriculture has been hostile to the bringing of new lands under cultivation or to in-

creasing the productivity of lands which perhaps for years have been cultivated. This attitude has resulted in the purchase by the Government of millions of acres of lands, as I have before stated; so I repeat, the Secretary, without there being any prohibitions, any restrictions, could utilize the entire annual funds obtained from customs duties to purchase and withdraw from cultivation grazing lands or submarginal lands. Such a course would not aid in the expanding of foreign markets for agricultural commodities.

Mr. President, just a few words in respect to a matter germane to the questions under discussion. As I have heretofore indicated, we have lost a considerable part of our foreign market. I believe that that is largely due to unwise legislation which has been enacted by Congress. Following the Civil War we embarked upon a policy of extreme protection, and succeeding Congresses, until the year 1930, multiplied tariff laws and increased tariff duties. We built perhaps the highest tariff wall that could be found among civilized nations. There were some who believed that we should have what was called "a Chinese wall" around our borders so that all imports might be prevented. We had fierce nationalists, indeed isolationists, who were averse to proper contacts and intercourse with other nations who were so self-centered that they were unwilling, even for cultural and spiritual forces, to have cooperation throughout the world, if the United States was to have any part in developing or promoting such forces.

It is a matter of common knowledge that many of the agricultural States of the United States were the strongest supporters of exclusive tariffs; and it is known of all that some of the States to which I have just referred for many years gave almost undeviating support to the Republican Party and to those elements in the Republican Party whose philosophy was largely founded upon the concept that the tariff was the panacea for all social, political, and economic ills.

I do not desire to be critical, but it cannot be denied that the plight of agriculture has been in part due to the zeal with which many of the agricultural States defended and promoted tariff legislation. It is known that the Republican Party in the agricultural States, as well as in many of the Northern States, has been in the ascendancy largely because of the agricultural votes.

Mr. President, as the result of this tariff legislation and other restrictive and unsound economic policies, we built up a more or less artificial economic and industrial structure, and under the influence of the philosophy which resulted in its establishment, policies were put into effect and legislation enacted that have contributed to the economic debacle through which we have passed, and to the financial disasters which have visited individuals, communities, States, and the Nation itself.

Mr. President, I have hastily and imperfectly discussed the amendment before us. In conclusion, may I say that I do not think it an auspicious occasion to adopt the amendment, and I feel certain that the bill which is before us should not be the organism to which this amendment should be attached.

Mr. ROBINSON. Mr. President, I wish to speak briefly on the amendment.

To the principle underlying the export debenture I do not find myself in opposition. At this time I think it may be confusing and even harmful to attempt to put into effect the provision now under consideration. It authorizes the appropriation of 30 percent of the customs revenues for four purposes; namely, to—

(1) Encourage the exportation of major agricultural commodities and products.

It is proposed to strike out the word "major", so as to leave in the statute no limit on the agricultural products to be promoted in export. The manner in which that is to be accomplished is by the payment of benefits in connection with exportation, or of indemnities for losses incurred in exportation, or by payment to producers in connection with production.

The second purpose is to—

(2) Encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce.

I do not understand what is the process to be employed. How is it proposed to promote domestic consumption by diverting commodities or products from the normal channels of trade? I assume that the language has a well-defined meaning in the mind of its author.

The third purpose is to—

(3) Purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands.

As stated by the Senator from Utah [Mr. KING], we have already made liberal arrangements to that end. It is the opinion, I have heard, of the Secretary of State that the injection of this plan at this time would confuse the problem of increasing our export commerce, and might result in retaliation.

In addition to that, 30 percent of the customs revenues would be so manifestly inadequate for the four purposes stated in the bill that I do not believe it would accomplish a very wholesome result. Assuming that 30 percent of the customs revenues would be $90,000,000, which I think the Secretary of the Treasury stated in a letter to the chairman would approximate the amount, it is perfectly clear that $90,000,000 used for benefit payments in promoting export commerce would be, as we often say, a mere drop in the bucket. It would be so absolutely inadequate that it would fail before it had been very long applied.

Mr. GORE. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. GORE. I was wondering if the Senator would be able to tell us why the amendment provides that one-third of the customs duties shall be set aside for this purpose, instead of carrying in the bill an appropriation of the amount that would come to.

Mr. ROBINSON. I presume the reason in the mind of the author of the amendment is that he is seeking to provide a perennial appropriation or authorization, and that he may also anticipate some increase in the customs revenues, and that it would be easier to pass through the Congress a provision of this nature than it would be to pass a direct appropriation.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. CONNALLY. Is the Senator opposed in principle to this proposal?

Mr. ROBINSON. No, Mr. President; I stated in the beginning that I did not find myself in opposition to the principle underlying the export debenture. I thought I made that clear.

Mr. CONNALLY. I was out of the Chamber. I am sorry I did not hear the Senator state that.

Mr. ROBINSON. But I stated the reasons which prompt me to the conclusion that it is a very doubtful proceeding to incorporate this amendment in the bill. I usually find myself in hearty accord with the Senator from Texas, but I think this is a hopelessly inadequate provision insofar as accomplishing very much in increasing export trade is concerned.

Mr. CONNALLY. Is it the Senator's chief objection that it is inadequate? We might, with his influence, be able to increase it.

Mr. ROBINSON. Mr. President, that is one objection. I think I ought to be entirely frank on that subject. To make the customs revenues available for the purposes set out in this amendment would undoubtedly upset the financial arrangements of the Government. I say, in support of what the Senator from Utah [Mr. KING] has said, that I see no objection to the Secretary of the Treasury expressing his opinion on that subject. In fact, I think it is a wholesome thing for him to do. If we should appropriate $500,000,000, which was the amount carried in the Farm Marketing Act, and which proved wholly ineffective—that act failed, as I think we all agree—we should use the entire customs rev-

enues, and at this time I think we ought to give very careful consideration to a process calculated to accomplish that end.

The PRESIDING OFFICER (Mr. MINTON in the chair). The question is on the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment. [Putting the question.] The ayes seem to have it.

Mr. ROBINSON. I ask for the yeas and nays, Mr. President; and before the request is acted upon I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBINSON. Which amendment is the Senate now voting on?

The PRESIDING OFFICER. On the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment.

Mr. ROBINSON. I withdraw the request for the yeas and nays. Let us vote on that question.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Texas [Mr. CONNALLY], as amended, in the nature of a substitute for the committee amendment.

Mr. ROBINSON. On that question I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. DAVIS (after having voted in the negative). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN]. I transfer that pair to the junior Senator from Vermont [Mr. GIBSON], who is detained in a committee meeting, and allow my vote to stand.

Mr. CONNALLY. I desire to announce that my colleague the senior Senator from Texas [Mr. SHEPPARD] is detained by important business.

Mr. ROBINSON. I desire to announce the unavoidable absence of the Senator from Louisiana [Mr. LONG], the Senator from Texas [Mr. SHEPPARD], and the Senator from Utah [Mr. THOMAS].

I also wish to announce that the Senator from Arizona [Mr. ASHURST], the Senator from Alabama [Mr. BLACK], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Massachusetts [Mr. COOLIDGE], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Wisconsin [Mr. DUFFY], the Senator from Virginia [Mr. GLASS], the Senator from Kentucky [Mr. LOGAN], the Senator from California [Mr. MCADOO], the Senator from New Jersey [Mr. MOORE], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Florida [Mr. TRAMMELL], the Senator from Missouri [Mr. TRUMAN], the Senator from New York [Mr. WAGNER], and the Senator from Montana [Mr. WHEELER] are detained from the Senate on official business.

I wish further to announce that the Senator from New York [Mr. WAGNER] is paired with the Senator from Utah [Mr. THOMAS]. If the Senator from New York were present and voting, he would vote "yea", and the Senator from Utah [Mr. THOMAS] would vote "nay."

I desire also to announce the general pair of the Senator from Texas [Mr. SHEPPARD] with the Senator from Massachusetts [Mr. COOLIDGE].

The result was announced—yeas 34, nays 41, as follows:

YEAS—34

Bailey	Clark	Johnson	Russell
Bankhead	Connally	La Follette	Schall
Bilbo	Copeland	McCarran	Shipstead
Borah	Dickinson	McGill	Thomas, Okla.
Bulow	Fletcher	Murray	Townsend
Byrd	Frazier	Norbeck	Vandenberg
Byrnes	George	Nye	Van Nuys
Capper	Hastings	Overton	
Carey	Hatch	Pope	

NAYS—41

Adams	Davis	Lonergan	Radcliffe
Austin	Donahey	McKellar	Robinson
Bachman	Gerry	McNary	Schwellenbach
Barbour	Gore	Maloney	Smith
Barkley	Guffey	Metcalf	Steiwer
Bone	Hale	Minton	Tydings
Brown	Harrison	Murphy	Walsh
Bulkley	Hayden	Neely	White
Burke	Holt	Norris	
Caraway	Keyes	O'Mahoney	
Costigan	King	Pittman	

NOT VOTING—21

Ashurst	Duffy	McAdoo	Truman
Black	Gibson	Moore	Wagner
Chavez	Glass	Reynolds	Wheeler
Coolidge	Lewis	Sheppard	
Couzens	Logan	Thomas, Utah	
Dieterich	Long	Trammell	

So Mr. CONNALLY's amendment, as amended, to the committee amendment, was rejected.

Mr. CLARK. Mr. President, in connection with the vote taken yesterday on the amendment proposed by the Senator from Texas [Mr. CONNALLY], I ask unanimous consent to insert in the RECORD the roll-call vote taken on the export-debenture scheme on October 19, 1929, appearing on page 4694 of the CONGRESSIONAL RECORD, volume 71, part 5, Seventy-first Congress, first session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The roll-call vote referred to is as follows:

The VICE PRESIDENT. * * * The question is on agreeing to the amendment of the Senator from Nebraska [Mr. NORRIS] [providing for export debentures.]

Mr. Norris and Mr. Heflin demanded the yeas and nays, and they were ordered.

The Chief Clerk proceeded to call the roll.

Mr. BLAINE (when his name was called). I have a pair with the junior Senator from West Virginia [Mr. Hatfield]. If I were permitted to vote, I would vote "yea." I am authorized to announce that if the junior Senator from West Virginia were present and voting he would vote "nay."

Mr. CARAWAY (when his name was called). I have a pair with the senior Senator from Illinois [Mr. Deneen]. I transfer that pair to the senior Senator from Minnesota [Mr. SHIPSTEAD], who, if he were present, would vote as I shall vote. I vote "yea."

Mr. JONES (when the name of Mr. Edge was called). The senior Senator from New Jersey [Mr. Edge] is necessarily absent. He is paired with the senior Senator from Maryland [Mr. TYDINGS]. If the Senator from New Jersey were present, he would vote "nay." I understand that if the senior Senator from Maryland were present he would vote "yea."

Mr. KING (when his name was called). Upon this vote I am paired with the senior Senator from Louisiana [Mr. Ransdell], and, therefore, I withhold my vote.

Mr. SCHALL (when Mr. SHIPSTEAD's name was called). The senior Senator from Minnesota [Mr. SHIPSTEAD], if present, would vote "yea." He has a pair on this vote with the senior Senator from Illinois [Mr. Deneen].

Mr. SIMMONS (when his name was called). I transfer my pair with the junior Senator from Ohio [Mr. Burton] to the senior Senator from New York [Mr. COPELAND]. If the senior Senator from New York were present, he would vote as I intend to vote. I vote "yea."

Mr. SWANSON (when his name was called). On this vote I have a pair with the senior Senator from Ohio [Mr. Fess]. I am unable to obtain a transfer. If the senior Senator from Ohio were present, he would vote "nay", and if I were permitted to vote I would vote "yea."

Mr. WATSON (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. SMITH], which I transfer to the junior Senator from Illinois [Mr. Glenn], and vote. I vote "nay."

The roll call was concluded.

Mr. BLEASE. I have a pair with the senior Senator from West Virginia [Mr. Goff], who is absent. Not knowing how he would vote if he were present, I withhold my vote.

Mr. BINGHAM (after having voted in the negative). I have a general pair with the Senator from Virginia [Mr. GLASS]. In his absence I transfer my pair to the senior Senator from Vermont [Mr. Dale] and permit my vote to stand.

Mr. BROUSSARD. I desire to announce that my colleague [Mr. Ransdell] is necessarily absent on official business. If present, he would vote "nay." His pair has been announced.

Mr. SWANSON. I wish to announce that my colleague [Mr. GLASS] is necessarily absent. If present, he would vote "yea."

The result was announced—yeas 42, nays 34, as follows:

YEAS, 42—Ashurst, Barkley, Black, Borah Bratton, Brock, Brookhart, Broussard, Caraway, Connally, Cutting, Dill, Fletcher, Frazier, George, Harris, Harrison, Hawes, Hayden, Heflin, Howell, Johnson, La Follette, McKellar, McMaster, Norbeck, Norris, Nye, Overman, Pine, Pittman, Robinson of Arkansas, Schall, Sheppard, Simmons, Steck, Stephens, Thomas of Idaho, Thomas of Oklahoma, Trammell, Walsh of Montana, and Wheeler.

NAYS, 34—Allen, Bingham, Capper, Couzens, Gillett, Goldsborough, Gould, Greene, Hale, Hastings, Hebert, Jones, Kean, Kendrick, Keyes, McNary, Metcalf, Moses, Oddie, Patterson, Phipps, Reed, Robinson of Indiana, Sackett, Shortridge, Smoot, Steiwer, Townsend, Vandenberg, Wagner, Walcott, Walsh of Massachusetts, Warren, and Watson.

NOT VOTING, 19—Blaine, Blease, Burton, Copeland, Dale Deneen, Edge, Fess, Glass, Glenn, Goff, Hatfield, King, Ransdell, Shipstead, Smith, Swanson, Tydings, and Waterman.

So Mr. NORRIS' amendment was agreed to.

The VICE PRESIDENT. The question is on agreeing to the committee amendment to strike out section 31.

The amendment was agreed to.

Mr. SMITH. Mr. President, I should like to recur to an amendment on page 58, which was passed over. I think an amendment to the amendment has been prepared.

The VICE PRESIDENT. The Senator from South Carolina asks unanimous consent to recur to page 58 for the purpose of considering an amendment to the committee amendment. Is there objection? The Chair hears none. The clerk will state the amendment.

Mr. SMITH. Mr. President, before the clerk states the amendment, I desire the Senate to understand that the question really involves the amendment on page 58 and the amendment on page 61 so as to bring the elements of both into one amendment. It would be necessary, after the amendment is stated, if we are to consider it, to reconsider the vote by which the amendment on page 61 was adopted.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. ROBINSON. Let us have the amendment reported.

The VICE PRESIDENT. The clerk will report the amendment.

Mr. SMITH. Mr. President, the Senator from Georgia [Mr. GEORGE] has an amendment which he desires to present.

Mr. NORRIS. Mr. President, the chairman of the committee has correctly stated the parliamentary situation. Before the amendment is in order we have to reconsider the vote by which the amendment on page 61 was adopted. I ask unanimous consent——

Mr. ROBINSON. Let the amendment be reported first.

Mr. NORRIS. Very well.

The VICE PRESIDENT. The Chair understands the parliamentary situation to be this. The Senator from South Carolina asked unanimous consent to return to page 58 and consider an amendment which had been passed over. That consent was given. The clerk will state the amendment which was passed over.

The CHIEF CLERK. It is proposed by the committee, on page 57, after line 21, to strike out:

No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment.

And in lieu thereof to insert the following:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

The VICE PRESIDENT. When this amendment was passed over there was pending an amendment offered by the Senator from Nebraska [Mr. NORRIS]. The clerk will state the amendment of the Senator from Nebraska.

Mr. NORRIS. I now withdraw the amendment.

The VICE PRESIDENT. The Senator from Nebraska withdraws his amendment.

Mr. GEORGE. Mr. President, pending the debate it was suggested that perhaps the purpose of the Senator from Nebraska in offering his amendment could be served by amending subsection (d) of the same section on page 61; but in order to consider the amendment to that subsection unanimous consent would have to be given to reconsider the vote by which subsection (d) on page 61 was heretofore adopted.

The VICE PRESIDENT. The ordinary procedure probably would be for the Senate to consider the amendment on page 58, and then reconsider the amendment on page 61 in order to permit the Senator from Georgia to offer his amendment.

Mr. NORRIS. Mr. President, that would be the ordinary procedure; but, as a matter of fact, if the Senate should adopt the amendment agreed upon by those who were in the conference to the committee amendment on page 61, known as subsection (d), it would follow as a matter of course that the committee amendment on page 58 should be rejected. I think I have properly stated the matter.

Mr. SMITH. That is correct.

Mr. NORRIS. So, in order to deal with the subject, before passing on the amendment on page 58 we should have to consider the amendment of the Senator from Georgia in regard to subsection (d) on page 61.

The VICE PRESIDENT. From the statement made by the Senator from Nebraska, it seems to the Chair that the ordinary process would be to reconsider the amendment on page 61, in order to permit the Senator from Georgia to offer his amendment.

Mr. ROBINSON. But, Mr. President, before consent is given to reconsider the action of the Senate in agreeing to the amendment designated as subsection (d), on page 61, I insist on the reading of the amendment which is to be offered as a substitute for it. I wish to know what is in it. I am not going to consent to a reconsideration until I know what is in the substitute amendment.

The VICE PRESIDENT. Without objection, the Senator from Georgia will offer his amendment to the amendment on page 61.

Mr. ROBINSON. No; I object to its being offered until it has been read. I ask that it be read.

The VICE PRESIDENT. It cannot be read until the Senator offers it.

Mr. ROBINSON. Certainly it can.

Mr. LA FOLLETTE. I ask unanimous consent that the Senator from Georgia may offer his amendment for the purpose of having it read for the information of the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. GEORGE. Mr. President, I have sent to the desk the amendment, which has been prepared by one of the clerks assisting the chairman of the committee.

The VICE PRESIDENT. The amendment will be read for the information of the Senate.

The CHIEF CLERK. In lieu of the matter proposed to be inserted on page 61, line 15, to line 12, on page 62, inclusive, it is proposed to insert the following:

(d) No recovery, recoupment, set-off, refund, or credit shall be made or allowed nor shall any counterclaim be allowed for any amount of any tax, penalty, or interest which accrued before or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, or in the case of a judicial proceeding establishes in such proceeding, (1) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, that he has not collected from the vendee any part of such amount, and that the price paid to the producer was not reduced by any part of such amount, or (2) that he has repaid such amount to the ultimate purchaser of the article, or in case the price paid to the producer was reduced by such amount, to such producer; nor shall any judgment or decree be entered by any Federal or State court for damages for the collection thereof, unless the claimant establishes the foregoing facts in (1) or (2) as the case may be, in addition to all other facts required to be established. The provisions of this subsection shall not apply to any refund or credit under subsection (a) or (c) of section 15, section 16, or section 17, of this title, or to any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

Mr. GEORGE. Mr. President, the amendment now offered, or which it is desired to offer if unanimous consent shall be given to reconsider the committee amendment, simply permits recoveries or recoupments or set-offs or credits for a tax or a penalty paid before the passage of the existing act, or on the date of the passage of the new act, or thereafter, upon the conditions stated in the amendment, which, it is submitted, makes it rather difficult, and places the burden upon the taxpayer; but the view taken, I believe, by practically all Members of the Senate is that there should be no recovery in a case where the tax had actually been passed on.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BARKLEY. On page 62, lines 2 and 3 and part of line 4, appear the words—

and that the price paid to the producer was not reduced by such amount.

It occurs to me that probably there ought to be an insertion there of the words "or any part thereof." How does that strike the Senator from Georgia? It seems that in order to avoid a recovery there it might be necessary to show that the claimant had not collected the exact amount of the tax, or had not reduced the price paid to the producer by the exact amount.

Mr. GEORGE. That had occurred to those who entered the conference, not in precisely that connection, but in connection with substantially the same provision on line 2. It was called to our attention by the experts that the provision here is that no recovery of any amount of any tax shall be made, not of any tax, but of any amount of any tax, so that it was the judgment of the experts that no additional words were necessary to carry out the idea.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. O'MAHONEY. I should like to ask the Senator if there is not an error in grammar here, or, at least, whether the clause beginning in line 7 and running through line 10 does not cover more than the Senator desires? If I understand the proposed amendment correctly, it is intended to provide that no recovery may be obtained unless the claimant establishes the facts set forth in clause 1 or in clause 2. When the Senator comes to say that no judgment shall be rendered, he says, "Unless the claimant establishes the foregoing facts." That, of course, refers to both clause 1 and clause 2. Is it not the intent to provide that no judgment shall be rendered unless the claimant establishes the facts set forth in clause 1 or in clause 2?

Mr. GEORGE. While I had nothing to do with the preparation of the bill, I think that language refers entirely to subsection (2) on page 58, "for damages for the collection thereof." I think that was the intent.

Mr. O'MAHONEY. "The foregoing facts" refers to clause 1 or clause 2.

Mr. GEORGE. The first provision is that no recovery, recoupment, or refund of credit shall be had except upon specified conditions, and if we supply all the omitted thought, second, that no judgment shall be entered for damages unless the same facts are made to appear.

I submit the matter to the chairman of the committee, because that part of it is the committee amendment.

Mr. SMITH. I understand the language in reference to judgments refers to clause 1 or clause 2. The purpose is that it shall refer to clause 1 or clause 2.

Mr. O'MAHONEY. That is exactly what I understood, but the language does not say that.

Mr. SMITH. That is the intent and purpose.

Mr. O'MAHONEY. It seems to me that the author of the amendment should modify it so as to make it read "unless the claimant establishes the fact set forth in the foregoing clause 1 or clause 2."

Mr. SMITH. That would be all right, if that appeals to the Senator to be clearer, because that is the purpose of the amendment.

Mr. GEORGE. That is the purpose of the amendment and I will say to the Senator from Wyoming that he is now dealing with the committee amendment and not the part of the amendment we considered.

Mr. O'MAHONEY. I realize that. I make the motion, then, that the perfecting amendment I have suggested be made.

Mr. SMITH. I would suggest the language "in clause (1) or clause (2), as the case may be." Then it would be perfectly clear.

Mr. O'MAHONEY. I move that the amendment be so amended.

The PRESIDENT pro tempore. The amendment to the amendment is not in order until the vote by which the committee amendment was agreed to is reconsidered.

Request has been made that the vote by which the committee amendment on page 61 was agreed to be reconsidered. Is there objection? The Chair hears none, and the vote is reconsidered. The question is now on the committee amendment on page 61.

Mr. GEORGE obtained the floor.

Mr. McCARRAN. Mr. President, will the Senator from Georgia yield to me?

Mr. GEORGE. I yield.

Mr. McCARRAN. I am very much in accord with the views of the Senator from Wyoming [Mr. O'MAHONEY], and I should like to know what effect the amendment just offered would have on the committee amendment on page 58, which, as I view it, takes all jurisdiction away from the courts.

Mr. GEORGE. I will say to the Senator from Nevada that if the amendments which are now suggested by the Senator from Idaho, the Senator from Nebraska, the Senator from California, the Senator from Oklahoma, and the Senator from Georgia should be adopted, all the language on page 58 and down to the end of line 5, on page 59, would be eliminated from the bill. The amendment I have offered would be by way of substitute, or rather it would combine in this section which the committee itself inserted, with reference to taxes imposed under the amended act, provision for the recovery of refunds or of overpayments, assessments, and so forth, under the existing act, as well as under the amended act; so that the language of section 21 (a) would be stricken from the bill.

Mr. McCARRAN. I should like to ask a further question, simply for information and enlightenment. Under the Senator's amendment would the courts still be open to litigants? It seems to me the amendment on page 58 would preclude all litigants from an avenue to the courts.

Mr. GEORGE. That would be stricken out.

Mr. McCARRAN. So that the courts would still be open to an adjustment or an adjudication?

Mr. GEORGE. Yes. It is unnecessary now, but the Senator will notice that, on page 59, subdivision (b), which is not under consideration, is a prohibition against the extraordinary remedy of injunction to restrain the collection of the tax, and, of course, it would follow that the complaining taxpayer would be remitted to his legal remedy under subdivision (d), on page 61.

Mr. NORRIS. Mr. President, I did not hear all the debate between the Senator from Georgia and the Senator from Wyoming, and so that there may be no misunderstanding I may say that the intention of those who agreed on the amendment the Senator from Georgia has offered was that if the amendment were agreed to and subsection (d), on page 61, modified in accordance therewith, then the committee amendment, on page 58, would be rejected or withdrawn, because the object of changing the language on page 61 is to take in everything that was intended to be covered on page 58.

Mr. McCARRAN. Mr. President, I ask the attention of the Senator from Georgia to the amendment on page 61. I also ask the attention of the Senator from Nebraska, and I should like to have the attention of the senior Senator from Idaho. If I read it correctly, the provision on page 58 means that there is no avenue by which those who claim redress may resort to the courts, to put it very briefly and concisely.

If my view as to the committee amendment on page 58 is at all correct, then I take it that the amendment offered by the Senator from Georgia is to remedy that condition. I am merely asking the Senator from Georgia and the Senator from Nebraska, and I ask the concurrence of those who are in accord with my views, as to whether or not there will always be open, under the amendment offered by the Senator from Georgia, an avenue to the courts of this country for a redress of wrongs?

Mr. NORRIS. I would say "yes" to that question. The burden of proof, however, is on the plaintiff who commences the action, and he can recover only under the conditions named in the amendment read by the Senator from Georgia. If he has paid a processing tax, he must first show that he has not passed it on to somebody else. He can only recover for what he shows, by proof, he has not passed on. He must also show that in the original purchase he has not pushed the processing tax over onto the producer.

I think the amendment under discussion will accomplish much more than I sought to accomplish by the amendment which I offered on page 58. Under the conditions named in the amendment—there are many other things that the claimant would have to show—the burden of proof would be on the claimant. The courts and the Internal Revenue Bureau would always be open to the claimant.

Mr. McCARRAN. I thank the Senator from Nebraska, and also the Senator from Idaho.

Mr. STEIWER. Mr. President, it has been repeatedly stated that if the Senate shall agree to the amendment offered by the Senator from Georgia on pages 61 and 62 of the bill, it will then be in order to reject the committee amendment on page 58. I think I am able to follow that proposition so far as it goes, but I am not clear as to the effect of rejecting the committee amendment. If the committee amendment which adds material on page 58 shall be rejected, am I to understand that it is the purpose also to reject the committee amendment striking out the language commencing in line 22 on page 57?

Mr. BORAH. That is all part of one amendment. The amendment which we are proposing to strike out is a substitute for the language which appears on the bottom of page 57 and the top of page 58; so that language under this proposal would go out.

Mr. STEIWER. That had not been made clear, Mr. President, but that answers my question.

Mr. McCARRAN. Mr. President, I regret that we cannot hear the colloquy between the Senator from Oregon and the Senator from Idaho. We should like to hear it.

Mr. BORAH. The understanding of those who drew the amendment was that in case the amendment offered by the Senator from Georgia on page 61 should be adopted the language, beginning with section 21, at the bottom of page 57, and including the language on page 58, would be rejected. If that language should not be rejected, the other language would be considered.

Mr. BARKLEY. In other words, if I understand the Senator, the language in subsection 21 which has been stricken out by the committee would be restored and the Senate committee amendment rejected?

Mr. BORAH. No; not restored. The entire section would go out.

Mr. BARKLEY. The House language and the Senate amendment?

Mr. BORAH. Exactly.

Mr. GEORGE. In effect, subsection (d) would become a substitute for subsection (a), beginning with the language on page 57, line 22, down to line 5, on page 59.

Mr. NORRIS. Mr. President, we have been referring to this amendment as appearing on page 58. As a matter of fact, the amendment commences in line 22, on page 57.

The PRESIDENT pro tempore. In the opinion of the present occupant of the chair, the parliamentary situation is that if the committee amendment on pages 58 and 59 should be rejected, the House language would be reinstated.

Mr. BARKLEY. I raise the parliamentary point that merely rejecting the amendment of the committee would not solve the problem. In addition to that, we should have to reject the original provision in the House bill.

Mr. BORAH. That is understood.

Mr. GEORGE. That is very true.

Mr. BANKHEAD. Mr. President, I regret that I cannot go along with this proposed adjustment of the program. I recognize the motive and spirit of some of the friends of the program in undertaking to adjust it. I have no criticism of anybody. It simply does not meet my views, and I feel that it is my duty so to state.

I am in favor of the committee amendment. It is recognized by every lawyer here who has discussed this question that there exists no right under our system of government for any person to sue the Government unless Congress has given him that right. I think it is recognized by every lawyer in this body that Congress not only has the power to grant that right but it has the power to withhold it, and to withdraw it at any time.

Our entire Federal judicial system, so far as the jurisdiction of the courts is concerned, is based upon and grows out of a grant of jurisdiction by Congress; and unless jurisdiction is granted there is no right in any citizen of this country to bring a suit against the Government in any of the Federal courts.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. BANKHEAD. Mr. President, I have only 15 minutes.

Mr. McCARRAN. I merely wish to make a suggestion which the Senator may use in connection with his discussion. Does the Senator realize that what is involved is not a question of the Government, but a delegation of power that we are now giving to an agency?

Mr. BANKHEAD. Mr. President, I shall proceed with my argument. Let us see whether we are dealing here with highly legalistic ideas, or whether we are dealing with the taxpayers of the country on a basis of fairness and justice to them.

If there is any right of action for the recovery of the processing tax or excise tax, I think practically all of us are in agreement that it is because of the failure of the Congress to make a proper delegation of power to its agents to assess and levy the tax. We undertake to constitute the agent and give the power to levy this tax. There may be some differences about it, but I think the overwhelming judgment is that we had, and now have, the constitutional power to levy this excise tax if it be levied by the Congress, or if the power to levy it be delegated to an agent within proper standards.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. On page 61, the amendment of the committee provides that the claimant must make proof "that he has not included such amount in the price of the article with respect to which it was imposed." Suppose the claimant should say, "No; I did not include it. I sold it at the same price. I would have made that much more if it had been included." How could that question be determined?

Mr. BANKHEAD. There are many ways in which it would absolutely open up the Treasury to all sorts of raids.

Mr. CONNALLY. Of course, Mr. President, if the tax were declared to be unconstitutional I should be in favor of refunding the tax to those who still have their stocks; but where the goods have entered into the channels of commerce and the tax has been passed on, it seems to me it is absolutely impossible to determine the issues which are raised.

Mr. BORAH. Let me say that in such a case the claimant could not recover under this amendment.

Mr. CONNALLY. It would involve the filing of a million claims with the Bureau of Internal Revenue.

Mr. BANKHEAD. Mr. President, we have the power to levy this tax. If we delegated it to an agent in an irregular or an imperfect way, acting under color of power and authority in our delegation, how has the taxpayer been injured in a really substantial way? Suppose we had made the levy, as we unquestionably had the power to do, would the real substantial rights of the taxpayer be any different than they are merely because the levy was made by our agent, forsooth, under an irregular appointment of the

agent? The rights of the taxpayer would be exactly the same as they are today.

We declare in this bill a ratification of the acts of our agent, which every lawyer knows is based upon the elementary principle of ratification by the principal of the acts of his agent, which has been sustained by the Supreme Court of the United States. The claim here is made that the rights, as some Senators believe—and I know they sincerely believe it—of the taxpayer who has absorbed some of his taxes are based upon a pure technicality, upon merely an irregular or imperfect establishment of the power of agency in the matter of defining the delegation of power.

Why should the doors of the Treasury be opened when they would not have been opened if we had levied the tax as we are doing now, as we have the power to do, and as we sought to do in a legal way but failed to accomplish, as possibly may be decided, in an entirely legal way in the matter of the power vested in the agent?

Mr. President, notwithstanding the legalistic theory, notwithstanding the abstract declaration of lawyers here that every citizen should have the right to sue his Government, I say that is not the law of the land. There are many wrongs for which citizens cannot now bring suits against their Government. Even the Court of Claims has a jurisdiction limited to a certain class of claims. The Congress of the United States is open to any citizen who can make a prima facie showing of an injustice or an injury. At every session the committees are passing upon such claims and then referring them by acts of Congress to the Court of Claims. Our doors are not closed. They are open and entered constantly by the people of the country who have grievances against their Government.

But under the proposed program, as I understand, a taxpayer can recover merely because the tax may be unconstitutional, assuming that the act is declared to be unconstitutional, although it was an exercise of constitutional power in an imperfect or an irregular way. Under that program the taxpayer can recover if he did not pass the tax on to the consumer or take it from the producer; in other words, if he did not make a profit out of his business with the tax deducted.

How can that be done? What are we going to do with the packers, the largest class of taxpayers under the law? What are we going to do with their case? There are several hundred millions of dollars involved. They did not pass the tax on. I want to read the testimony of one of their representatives before the Committee on Agriculture and Forestry, a man by the name of Putnam, representing the Institute of American Meat Packers of Chicago. His official position is economist with Swift & Co. I read:

Senator BANKHEAD. Let me ask you a question there for my own information: You state if the processing tax were eliminated that the price of hogs would immediately increase in the same amount?

Mr. PUTNAM. Yes, sir.

Senator BANKHEAD. I infer from that then that the processing tax was not taken out of the price paid the farmer for the hogs.

Senator CAPPER. I don't see how you figure it any other way. If the price jumps up when you take the processing tax off, certainly the farmer now is paying it.

Senator BANKHEAD. You are correct. The point I want to make is this: Then the consumer is not paying any more on account of the processing tax?

Mr. PUTNAM. He is paying more on account of the present reduction program.

Senator BANKHEAD. I understand, but not on account of the processing tax. If your price to the farmer goes up the same amount as the processing tax, then the packer has the same cost with or without the processing tax, isn't that a fact?

Mr. PUTNAM. Will you restate that, please? I am sorry I did not get it first.

Senator BANKHEAD. I say if the price of the hog goes up the same amount as the processing tax, in the event of the elimination of the processing tax, then the cost to the packer is exactly the same whether they have a processing tax or not?

Mr. PUTNAM. That is correct.

Senator BANKHEAD. And the cost to the consumer is the same?

Mr. PUTNAM. Yes, sir.

Senator BANKHEAD. So the processing tax is not involved in the cost to the consumer, but in the reduction program?

Mr. PUTNAM. Yes; there might have been no processing tax at all, but there might have been an instrument enabling the Government to bring about the same reduction.

Senator CAPPER. Mr. Putnam, you claim that the farmer is not paying the processing tax as the system is now working?

Mr. PUTNAM. A lot of that is sent back to him in the form of a benefit payment.

Senator CAPPER. But the price you pay the farmer for his hog today is less the processing tax?

Mr. PUTNAM. It is the value of the hog for meat purposes, less the processing tax. That is the way it works out.

Under the bill they bring a suit. They prove their right of action by decision of the Supreme Court that the act is unconstitutional, and therefore there was no right to collect that tax, although they paid it voluntarily and without protest. They bring suit and make their proof. Then they show by their records, based upon the cost of the hog, that they did not pass the tax on to the consumer. All right. Then they are asked, "What about taking it out of the producer?" How can that be proved, I ask lawyers in this body?

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. BANKHEAD. Certainly.

Mr. GEORGE. I ask the Senator if he is not a member of the Committee on Agriculture and Forestry?

Mr. BANKHEAD. I am, and the Senator from Georgia knows it.

Mr. GEORGE. Let me say to the Senator that the language which he is now criticizing and the provision to which he is making objection are the language and the provision of the committee itself, to which the Senator from Alabama undoubtedly agreed. If it is an impossible condition or an improper condition, Members of the Senate who are not members of the Committee on Agriculture and Forestry are in nowise responsible for it.

Mr. BANKHEAD. I assume the Senator is talking about the suits brought for taxes hereafter to be paid?

Mr. GEORGE. Both heretofore and hereafter.

Mr. BANKHEAD. Not heretofore. The Senator is proposing to amend the bill so as to make it apply to taxes heretofore collected, but it is not in that section of the bill where it is provided that the taxpayer must make the proof which the Senator is now proposing to require. It was not required. It was the object of the amendment to permit suits by those who had heretofore paid the taxes by making the same proof as those who may bring suit because of taxes hereafter paid.

Mr. GEORGE. It is more unfair as to those who have already paid the tax. They are under no greater hardship, so if the Senator and the Senator's committee thought it proper to impose this provision on the taxpayer of the future and give him notice of it so he could meet it, certainly his argument seems not to be very pertinent when he applies it to the taxpayer who has already acted under the existing law.

Mr. BANKHEAD. The difference, I will say to my very able friend from Georgia, is based upon the fact that this bill has been prepared largely to meet anticipated adverse Supreme Court decisions.

Mr. GEORGE. Suppose it turns out that there is another adverse decision.

The PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. BANKHEAD. I will now speak on the bill.

I will say to the Senator from Georgia that we are not assuming that; otherwise we should not be here trying to pass the bill. We are assuming that we have now adjusted and fixed the tax levy so that the same question will not arise, and there will not be a prima facie right to recovery on transactions after the passage of this bill such as existed before the passage of the bill. That is the distinction between the two subjects.

Mr. ADAMS. Mr. President, may I interrupt to ask a question as to the parliamentary status? My understanding is that a request was made, and a necessary request, to reconsider the adoption of the committee amendment on page 61.

Mr. BANKHEAD. Mr. President, I cannot yield for that purpose out of my time. I am not concerned with the parliamentary question.

Mr. ADAMS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. ADAMS. My inquiry is whether or not the committee amendment on page 58 has been adopted.

The PRESIDENT pro tempore. It has not been adopted.

Mr. ADAMS. Inasmuch as it has not been adopted, as I understand, it does not take unanimous consent to consider this amendment, applicable only to circumstances prior to the passage of the bill.

The PRESIDENT pro tempore. That is correct. The amendment was passed over temporarily, and all that is necessary is a vote on the committee amendment on pages 57 and 58.

Mr. BANKHEAD. Mr. President, going back to the meat packers, as I say, there is no way to show that they passed on this tax. They have claimed that they did not do so. If it shall be undertaken to show that they took the tax out of the producer, the burden of proof will be on them; and the question will arise, What would have been the price if the tax had not been imposed?

Mr. BYRNES. Mr. President, will the Senator yield to me for a question?

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from South Carolina?

Mr. BANKHEAD. I do.

Mr. BYRNES. When a gasoline tax is levied there is an advertisement at the filling station stating "gasoline, so much; tax, so much"; and it is plainly shown that the tax is carried on.

When the manufacturer of cotton bills his cotton to the commission merchant in New York he does not segregate the processing tax from the price of the cotton, but merges it, and bills the cotton goods at a price, say of $100 for a bill of goods.

Do I understand that the manufacturer can claim he paid the processing tax, allege that he did not pass it on—and there will be nothing to show that he did—and be able to collect from the taxpayers the amount of the processing tax which he has already actually passed on and collected from the people?

Mr. BANKHEAD. If he can prove that he did not pass it on, of course the Treasury will pay it back to him.

Mr. BYRNES. He can allege that he did not pass it on. He can show that he billed a certain bill of goods for $100. That $100 would include the processing tax, but it would not be segregated. In the cotton trade, certainly, it was argued in the beginning of the processing tax that the manufacturers should itemize it, and state the cost of the goods, plus the processing tax. They did not do that in the great majority of instances; so they could produce bills showing the cost of goods which really included the processing tax, but if they should allege that it was not included how could the Government controvert that statement?

Mr. BANKHEAD. There would be no way in the world to prove it.

Mr. ROBINSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from Arkansas?

Mr. BANKHEAD. I do.

Mr. ROBINSON. It is understood that the Senator from Alabama retains the floor. I am about to move that the Senate proceed to the consideration of executive business.

ANNOUNCEMENT OF SPEECH BY SENATOR LONG

Mr. THOMAS of Oklahoma. Mr. President——

Mr. ROBINSON. I yield to the Senator from Oklahoma.

Mr. THOMAS of Oklahoma. I have just received a telegram from one of our colleagues. Complying with the request made in the telegram, I ask that it be read at the desk.

The PRESIDENT pro tempore. Without objection, the telegram will be read.

The Chief Clerk read as follows:

ATLANTA, GA., *July 18, 1935.*

Senator ELMER THOMAS:

Please announce for me that I will speak as soon as I can get the floor Friday on issues of the day.

HUEY P. LONG.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. CLARK in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER. If there be no further reports of committees, the calendar is in order.

DIPLOMATIC AND FOREIGN SERVICE

The Chief Clerk read the nomination of Hoffman Philip, of New York, to be Ambassador Extraordinary and Plenipotentiary to Chile.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Anthony J. Drexel Biddle, Jr., of Pennsylvania, to be Envoy Extraordinary and Minister Plenipotentiary to Norway.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Lester A. Walton, of New York, to be Envoy Extraordinary and Minister Plenipotentiary to Liberia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Cornelius Van H. Engert, of California, to be consul general.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Edwin Carl Kemp, of Florida, to be consul general.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Addison E. Southard, of Kentucky, to be secretary in the Diplomatic Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Leslie E. Reed, of Minnesota, to be secretary in the Diplomatic Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The Chief Clerk proceeded to read the nominations of sundry postmasters.

Mr. ROBINSON. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 38 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Friday, July 19, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 18 (legislative day of May 13), 1935

BOARD OF TAX APPEALS

William W. Arnold, of Illinois, to be a member of the Board of Tax Appeals for the unexpired portion of a term of 12 years from June 2, 1932, vice Jed C. Adams, deceased.

Arthur J. Mellott, of Kansas, to be a member of the Board of Tax Appeals for the unexpired portion of a term of 10 years from June 2, 1926, vice Edgar J. Goodrich, resigned.

UNITED STATES DISTRICT JUDGE

Edward M. Watson, of Hawaii, to be United States district judge, district of Hawaii, to succeed Edward K. Massee, term expired.

ASSOCIATE JUSTICE SUPREME COURT, TERRITORY OF HAWAII

Emil C. Peters, of Hawaii, to be associate justice, Supreme Court, Territory of Hawaii, vice Charles F. Parsons, term expired.

CIRCUIT JUDGES, TERRITORY OF HAWAII

Albert M. Cristy, of Hawaii, to be second judge, first circuit, Territory of Hawaii. (A reappointment, his term having expired.)

Francis M. Brooks, of Hawaii, to be fourth judge, first circuit, Territory of Hawaii, vice Edward M. Watson, nominated to be United States district judge, District of Hawaii.

Daniel H. Case, of Hawaii, to be circuit judge, second circuit, Territory of Hawaii. (A reappointment, his term having expired.)

INSPECTORS OF LOCOMOTIVE BOILERS

John M. Hall, of the District of Columbia, now assistant chief inspector of locomotive boilers, to be chief inspector of locomotive boilers, vice Alonzo G. Pack.

John Brodie Brown, of Oregon, to be assistant chief inspector of locomotive boilers, vice John M. Hall.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 18 (legislative day of May 13), 1935

DIPLOMATIC AND CONSULAR SERVICE

Hoffman Philip, to be Ambassador Extraordinary and Plenipotentiary to Chile.

Anthony J. Drexel Biddle, Jr., to be Envoy Extraordinary and Minister Plenipotentiary to Norway.

Lester A. Walton to be Envoy Extraordinary and Minister Plenipotentiary to Liberia.

Cornelius Van H. Engert to be a consul general.

Edwin Carl Kemp to be a consul general.

Addison E. Southard to be a secretary in the Diplomatic Service.

Leslie E. Reed to be a secretary in the Diplomatic Service.

POSTMASTERS

PENNSYLVANIA

Ruth R. Dufford, Clintonville.
William H. Molloy, Ivyland.
Marie E. Potteiger, Progress.
Edmund P. Lawlor, Terrace.
Claude E. Minnich, Wiconisco.

HOUSE OF REPRESENTATIVES

THURSDAY, JULY 18, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Spirit of God, Father of our souls, be pleased to continue Thy ministrations unto us; with gratitude we praise Thee. Give us voices to speak, not for profit but for the poor; not for self but for service. More and more make us men of loyalty, unselfishness, and of industry. O write the word of the ages in our hearts: "The steps of a good man are ordered of the Lord, and he delighteth in his way." Hold us firmly to this truth, for where it is violated the social order falls apart. Father in Heaven, may we hear and may we heed: "God shall bring every work into judgment, whether it be good or whether it be evil." We pray in the name of our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) entitled "An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

The message also announced that the Senate further insists upon its amendments numbered 17, 67, 68, 83, and 84 to the foregoing bill, asks a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) entitled "An act to provide for the appointment of additional United States judges."

THE SOCIAL-SECURITY BILL

Mr. SAMUEL B. HILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 7260, the social-security bill, further insist on its disagreement to the amendments of the Senate, and agree to the conference asked for.

The SPEAKER. The Clerk will report the title.

The Clerk read the title, as follows:

H. R. 7260

To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Chair appointed as conferees on the part of the House Mr. DOUGHTON, Mr. SAMUEL B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH.

COMMITTEE ON MILITARY AFFAIRS

Mr. ROGERS of New Hampshire. Mr. Speaker, I ask unanimous consent that the Committee on Military Affairs may be permitted to sit today and tomorrow during the sessions of the House.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent that tomorrow, immediately after the reading of the Journal and the disposition of matters on the Speaker's table, I may be permitted to address the House for 7 minutes.

The SPEAKER. Is there objection?

Mr. SNELL. Reserving the right to object, I should like to ask the Speaker what is to be the order of business tomorrow?

The SPEAKER. The rule making in order the so-called "Flannagan bill" and also the rule relating to the promotion of officers may be called up.

Mr. O'CONNOR. Mr. Speaker, there are three rules—the tobacco bill, which was started yesterday, the Mississippi River set-back bill, and the Army promotion bill, and they will probably be called up in that order.

The SPEAKER. And there is also a conference report that may come up. Is there objection to the request of the gentleman from Indiana?

There was no objection.

EXTENSION OF REMARKS

Mr. HOEPPEL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, and include therein a letter received from a representative of the Disabled Peace Time Veterans, and also to include a short poem of three verses.

The SPEAKER. Is there objection?

Mr. SNELL. The gentleman asked to include a letter from his constituents. I have thousands of those every day. I do not think we should start on that.

Mr. HOEPPEL. Will the gentleman withhold his objection?

Mr. SNELL. Certainly.

Mr. HOEPPEL. This letter recites the different pensions paid to different kinds of veterans, and I think it would be very informative to Members. The members of the Marine Corps are disregarded.

Mr. TABER. Reserving the right to object, I wonder if the majority leader wants to protect the RECORD.

Mr. TAYLOR of Colorado. I feel that I ought to object, I think we ought to eliminate all this correspondence. When we open up the RECORD to correspondence we will have no limitation.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. RICH. Mr. Speaker, I reserve the right to object. As a member of the Committee on Printing I should do something to protect the RECORD, and if the majority leader will not protect it, I will. I object.

HELP! HELP! HELP! A TREASURY RAID IMPENDS

Mr. HOEPPEL. Mr. Speaker, I make the same request.

The SPEAKER. Is there objection?

There was no objection.

Mr. HOEPPEL. Mr. Speaker, in rising today I wish to voice my opposition to S. 1404, the so-called "officers' promotion bill", which, in my opinion, is a distinct raid on the Treasury of the United States and absolutely at variance with the public interest at this time.

When we consider the plight of our unfortunate unemployed citizens we cannot be loyal to our oath of office by voting to add additional burdens to the taxpayers for a class of individuals already adequately provided for.

It should be borne in mind that the most of the officers who are to be promoted under the provisions of this bill are in receipt of a minimum of $379 per month cash, plus free palatial quarters, plus free dental and medical attention, plus unlimited sick leave and 1 month of annual leave, and in addition, they purchase their subsistence and other stores at Army facilities at from 10 to 40 percent below the prices which other citizens must pay for similar supplies.

The Army officer today is "in clover" as compared to the average technical and professional man. He is riding on the crest of the wave of prosperity inasmuch as he has had no diminution in pay but rather a consistent increase in his pay and allowances since the time he was commissioned. To authorize the retirement of 4,500 able-bodied officers, while we, in the Seventy-third Congress voted to take from the retired list an equal number of war-disabled emergency officers, is a travesty on common sense and justice, as there is no reason why an able-bodied officer with 18 years' service only should receive, on the retired list, from $149.50 to $360 per month while the disabled officer receives only $30 per month for a 30-percent disability.

Not only will the so-called "officers' promotion bill" create additional burdens for the taxpayers and further unbalance the Budget but the retirement provided for able-bodied officers in this bill, after 15 years' service only, is highly discriminatory toward disabled enlisted men of the Army, Navy, and Marine Corps.

For the information of the House, I wish to present here certain facts and specific illustrations of the desperate plight of disabled enlisted men. I have in mind, for example, one individual who was wounded on three different occasions in France, the last time most severely. After 23 years of active service, including the Spanish-American War and World War, he was discharged for disability. He is totally disabled and receives only $45 per month pension while, in this bill, we are proposing to provide pensions up to $360 per month for officers who are not disabled and who never saw a battlefield.

Soldiers have never been paid enough so that they could personally assume the hazards of the service. They have always looked to the promises of a pension, if disabled, as a part of the compensation for which they have served. The Government has promised pensions in no uncertain terms and has held these promises before the young men of the country. The Navy, in its recruiting literature, says, "The Navy guarantees a secure future."

Prior to 1933 the enlisted men of the Regular Establishment were pensioned under the old general-pension law enacted in 1862, which, when enacted, covered all soldiers. As time went on and conditions changed, various organized groups of war veterans and of officers secured the enactment of legislation necessary for these groups as times and conditions changed. The Regulars had no organization, and as a result remained behind, not because of any official declaration of inferiority, but simply because they had been left behind in the march of progress. The new deal first affirmatively declared the Regular soldiers to be inferior, and treated them accordingly. This, I maintain, is unjust and unfair and un-American. I speak only for disability pensions and against the discriminations in rates of pensions based on rated degree of disability.

Let me indicate a few of the discriminations. A man totally disabled prior to the Spanish War is entitled to $30 a month, while a man totally disabled subsequent to the Spanish War is entitled to $45 a month. A man injured in the explosion aboard the *Maine* is entitled to but a small fraction of the pension which a man may draw if he incurred a like disability during war-time enlistment.

A Regular officer may stub his toe and as a result draw a pension of about $400 a month for life, while a Regular enlisted man who is totally disabled and flat on his back is only entitled to $45 a month.

A Regular soldier who contracts TB in the service gets but $45 a month while he is totally disabled with it; however, when his TB is arrested, he is entitled to $22 for 5 years, then $13 a month for 5 years, and nothing thereafter. A man who had a few days service during the World War, and who later contracts TB, gets $100 a month while it is active, and $50 a month for life after it is arrested.

The Regular officers who become disabled in the service are retired at three-quarters pay for life, as are also the enlisted men of the Coast Guard, while the Regular enlisted men of the Army, Navy, and Marine Corps are simply discharged, and may apply to the Veterans' Administration for a pension which they may get in the amount of $6 a month if the disability is more than 10 percent or less than 20 percent disabling, and this without regard to the length of the man's service.

Let me mention just a few specific instances of how our old soldiers are treated. John D. McPhail (C–1238030), 26 years and 4 months' service, reduced to $6 a month at the age of 65. Frank Bettencourt (C–1253270) served as a chief petty officer in the Navy from 1895 to 1917, including Battle of Manila Bay, has five good-conduct medals, contracted tuberculosis in service, and in 1933 his pension was reduced from $100 a month to $45 a month, even though he remained totally disabled. Thomas McEvoy, Civilian Conservation Corps camp, Petersburg, Va., discharged for disability after 15 years' service, which disability is not regarded by the Veterans' Administration as sufficiently severe to be even pensionable. This man lost his life career by this discharge. Alex B. Wagner, Blue, Ariz. (C–1137497), served 10 years, including the entire Spanish War, Philippine Insurrection, and Cuban pacification, was getting $30 a month and finally, in despair, committed suicide, willing his pension to

the President. Walter E. Richards (C–2446799), injured in *Maine* explosion in Habana, entitled to $17 a month for 50-percent disability, now gets $30 a month for total disability, nonservice connected.

I could go on indefinitely listing cases, cases which are striking evidence of discrimination and injustice when compared with cases of individuals in other groups who were injured while serving their country. A most flagrant example is that of men of long and faithful service to their country, who, shortly before they would be entitled to retirement, are discharged because of disability, with only a small pension, if any, upon which to live. With old age creeping upon them, their life career gone, and the merest pittance upon which to subsist themselves and families, theirs is indeed a tragic and a desperate plight. That there should be many cases of this type among men of the regular service is, in my opinion, a national disgrace.

Americans who enlist in the regular services at the invitation of their Government are honorable American citizens and are entering upon an honorable career in the service of their Government. There is no reason why they should be so discriminated against when they are disabled while serving their country.

Officers of the Regular Army, Navy, Marine Corps, and Coast Guard, and enlisted men of the Coast Guard are retired at three-quarters pay, regardless of degree of disability, when disabled in the service, and this retirement pay is for life. The enlisted men of the Army, Navy, and Marine Corps do not have this right. Note the rank discrimination among these groups; all are American citizens, and all had honorable service.

The Regular enlisted man is now entitled to a pension about 45 percent of that which a war-period enlisted man is entitled to for a like degree of disability. War-period pensions are not for war service, or for service at the front; they are, purely and simply, pensions based on rated degree of service-incurred disability. Large numbers of men who saw a great deal of fighting are not pensionable because they were not disabled in the service. Large numbers of men who saw no real or actual service are pensionable as war veterans. There are no service pensions for World War men, and no pensions based on service at the front. Pensions for World War veterans are not based on the fighting that the individual did, but upon the disability incurred.

Consider for a moment the figures indicating how the new-deal raise of July 1, 1933, affected the men of the Regular Establishment. The figures quoted are from the Veterans' Bureau. On March 20, 1933, the average monthly pension of the Regulars was $19.65. On February 28, 1935, the average had dropped to $18.42, and in this latter figure there is no count made of the men who had been dropped from the pension roll during that period. In other words, the raise they received was in fact a reduction of $1.23 per month, with a great number stricken from the pension rolls entirely.

In order that some semblance of justice in this connection may be given to the enlisted men of the Army and Navy, I propose to introduce the following bill in the Congress within the next day or two to provide for them benefits comparable to those extended to officers disabled after only 1 day of service.

A bill to provide for payment of retired pay or pension for disability incurred in line of duty in the military or naval service of the United States

Be it enacted, etc., that any person who has been discharged or who may hereafter be discharged from the Army, Navy, or Marine Corps of the United States for disability, not the result of his own misconduct, and who has had, or who shall have had at the time of such discharge, 10 or more years of honorable service, shall, if he so elects, be paid retired pay equal to three-quarters of the pay he is receiving at the time of discharge, in lieu of a pension based on rated degree of disability.

2. The benefits provided in this act shall not be reduced in amount by reason of the employment or residence of a beneficiary.

3. The Administrator of Veterans' Affairs shall administer the benefits provided herein which shall become effective on the first day of the month following the approval of this act.

I have presented these facts at this time so that the Members of Congress, whom I recognize to be fair-minded, will at least know the discrimination which exists today between two groups of American citizens—that is, able-bodied officers who are so outstandingly well provided for in S. 1404 after only 18 years' of service, and disabled enlisted men, with as much as 29 years' service, who receive only a bare pittance in comparison.

Reserve officers and National Guard officers who become disabled in active service with the Army or Navy in time of peace, are treated with the same lack of consideration as is shown to enlisted men. If a Reserve officer, in active service, is training a young graduate from West Point and both are disabled by an accident in the service to an extent of 30 percent, the Reserve officer will receive $13 per month pension only, while the graduate from West Point will receive three-fourths of the pay of his rank for the balance of his life.

In justice to the worthy Reserve officer and National Guard officer, the General Staff, which appears to be so concerned for the welfare of the Reserve officer and the National Guard officer, should approve of legislation granting retirement benefits to those disabled in line of duty equal to those enjoyed by officers of the Regular service—and in my opinion, such consideration should be extended especially to those disabled as a result of aviation accident. These discriminations against the enlisted man, the Reserve officer, and the National Guard officer should be eliminated by legislation and the War Department should be the first to join in requesting such legislation as a basis of equity and American justice.

HAWAIIAN HOMES COMMISSION

Mr. KING. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 2965) to amend the Hawaiian Homes Commission Act of 1920, an identical House bill (H. R. 8246) having been reported by the Committee on the Territories, and being now on the Union Calendar.

The SPEAKER. Is there objection?

Mr. TRUAX. Mr. Speaker, I reserve the right to object in order to ask the gentleman from Hawaii a question. As I understand the bill, it is purely a local matter and involves no Federal funds.

Mr. KING. That is correct. It is a reorganization of the Hawaiian Homes Commission, a local affair, a rehabilitation project, which needs congressional action to reorganize. It does not involve any Federal funds.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That section 202 of an act entitled "Hawaiian Homes Commission Act of 1920", approved July 9, 1921, be amended to read as follows:

"Commission; members, officers, compensation: (a) There is hereby established a Commission to be known as the 'Hawaiian Homes Commission', and to be composed of five members. The members shall be appointed by the Governor and may be removed in the manner provided by section 80 of the act entitled 'An act to provide a Government for the Territory of Hawaii' approved April 30, 1900. All of the members shall have been residents of the Territory of Hawaii at least 3 years prior to their appointment and at least three of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

"(b) Any vacancy in the office of an appointed member shall be filled in the same manner and under the limitations of this act.

"(c) One of the members shall be designated by the Governor as chairman. An executive officer and such clerical assistants as may be necessary shall be appointed by the Commission to serve at its pleasure. The executive officer shall receive an annual salary not to exceed $6,000 and shall reside habitually at the major Hawaiian Homes Settlement. Clerical assistants shall be paid in accordance with territorial practice for such services. The members of the Commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. Of the originally appointed members 1 shall be appointed for a term of 1 year, 1 for a term of 2 years, 1 for a term of 3 years, 1 for a term of 4 years, 1 for a term of 5 years. Their successors shall hold office for terms of 5 years except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. A member

may also be removed by the Governor for cause after due notice and public hearing."

SEC. 2. The Hawaiian Homes Commission Act of 1920 is further amended by adding a new section thereto to read as follows:

"SEC. 224. The Secretary of the Interior shall designate from his Department someone experienced in sanitation, rehabilitation, and reclamation work to reside in the Territory of Hawaii and cooperate with the Commission in carrying out its duties. The salary of such official so designated by the Secretary of the Interior shall be paid by the Hawaiian Homes Commission while he is carrying on his duties in the Territory of Hawaii, which salary, however, shall not exceed the sum of $6,000 per annum."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

A similar House bill, H. R. 8246, was laid on the table.

SALE OF LAND AT EAGLE PASS MILITARY RESERVATION, TEX.

Mr. THOMASON. Mr. Speaker, at the request of the Chairman of the Committee on Military Affairs, I ask unanimous consent for the present consideration of the bill (S. 2326) to authorize the Secretary of War to sell to the Eagle Pass & Piedras Negras Bridge Co. a portion of the Eagle Pass Military Reservation, Tex., and for other purposes, which I send to the desk. The Senate has passed this bill unanimously and the bill has the unanimous endorsement of the House Committee on Military Affairs. It gives to the Secretary of War authority to dispose of a small tract of land in Eagle Pass, Tex., which was once a cantonment, but now is of no further use to the War Department.

Mr. SNELL. Mr. Speaker, I reserve the right to object. How much land is there?

Mr. THOMASON. The part of greatest interest is a tract 100 feet by 300 feet, which is the abutment to an international bridge. The remainder of it is desired by the city of Eagle Pass.

The SPEAKER. Is there objection?

Mr. HOEPPEL. Mr. Speaker, I reserve the right to object to ask the gentleman a question. The gentleman is a member of the distinguished Military Affairs Committee, and I want to know whether he is aware of the fact that the so-called "promotion bill", which comes on the floor tomorrow, provides for retirement of 4,500 officers and it will entail an expense to the taxpayers of over $12,000,000 per annum. Does the gentleman know that fact?

Mr. YOUNG. Mr. Speaker, I make the point of order against that question.

Mr. HOEPPEL. Mr. Speaker, I withdraw my objection.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to sell and convey to the Eagle Pass & Piedras Negras Bridge Co., its successors and assigns, on terms and conditions to be prescribed by the Secretary of War the right, title, and interest of the United States in that portion of the Eagle Pass Military Reservation, Tex., occupied by said company on which its improvements are located.

SEC. 2. That the Secretary of War is hereby further authorized to dispose of the remainder of said reservation in accordance with and under the applicable provisions and conditions of the act approved March 12, 1926 (44 Stat. 203), and may also include in such disposition that portion of the reservation covered by section 1 of this act, if the Eagle Pass & Piedras Negras Bridge Co. shall not elect to acquire said portion or, having made such election, shall not consummate the purchase or accept tender of the deed and pay the consideration within such time as may be fixed by the Secretary of War.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

TERMS OF DISTRICT COURT, WESTERN DISTRICT OF WISCONSIN

Mr. BOILEAU. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 1309) which I send to the desk and ask to have read.

The Clerk reported the title of the bill.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 114 of the Judicial Code (U. S. C., title 28, sec. 195) is hereby amended to read as follows:

"SEC. 114. The State of Wisconsin is divided into two districts, to be known as the eastern and western districts of Wisconsin. The eastern district shall include the territory embraced on the 1st day of July 1910 in the counties of Brown, Calumet, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Kenosha, Kewaunee, Langlade, Manitowoc, Marinette, Marquette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago. Terms of the district court for said district shall be held in Milwaukee on the first Mondays in January and October, at Oshkosh on the second Tuesday in June, and at Green Bay on the first Tuesday in April. The western district shall include the territory embraced on the 1st day of July 1910 in the counties of Adams, Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Columbia, Crawford, Dane, Douglas, Dunn, Eau Claire, Grant, Green, Iowa, Iron, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Lincoln, Marathon, Monroe, Oneida, Pepin, Pierce, Polk, Portage, Price, Richland, Rock, Rusk, St. Croix, Sauk, Sawyer, Taylor, Trempealeau, Vernon, Vilas, Washburn, and Wood. Terms of the district court for said district shall be held at Madison on the first Tuesday in December, at Eau Claire on the first Tuesday in June, at La Crosse on the third Tuesday in September, at Wausau on the second Tuesday in April, and at Superior on the fourth Tuesday in January and the second Tuesday in July. The district court for each of said districts shall be open at all times for the purpose of hearing and deciding causes of admiralty and maritime jurisdiction so far as the same can be done without a jury. The clerk of the court for the western district shall maintain an office in charge of himself or a deputy at Madison, at La Crosse, at Wausau, and at Superior, which shall be kept open at all times for the transactions of the business of the court. The marshal for the western district shall appoint a deputy marshal who shall reside and keep his office at Superior. All writs and other process, except criminal warrants, issued at Superior, may be made returnable at Superior; and the clerk at that place shall keep in his office the original records of all actions, prosecutions, and special proceedings so commenced and pending therein. Criminal warrants may be returned at any place within the district where court is held. Whenever warrants issued at Superior shall be returned at any other place the clerk of the court wherein the warrant is returned shall certify the same under the seal of the court, together with the plea and other proceedings had thereon and the determination of the court upon such plea or proceedings, with all papers and orders filed in reference thereto, to the clerk of the court at Superior; and the clerk at Superior shall enter upon his records a minute of the proceedings had upon the return of said warrant, certified as aforesaid. All causes and proceedings instituted in the court at Superior shall be tried therein, unless by consent of the parties, or upon the order of the court, they are transferred to another place for trial."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

A similar House bill, H. R. 5573, was laid on the table.

PAYMENT OF GOLD-CLAUSE SECURITIES

Mr. O'CONNOR. Mr. Speaker, I call up House Resolution 300, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 300

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House Joint Resolution 348, a joint resolution authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States; withdrawing the right to sue the United States on its bonds and other similar obligations; limiting the use of certain appropriations; and for other purposes. That after general debate which shall be confined to the joint resolution and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Mr. O'CONNOR. Mr. Speaker, I yield 30 minutes to the gentleman from Pennsylvania [Mr. RANSLEY]. All I care to say at this time is that this is a rule for the consideration of the so-called "gold-clause bill." I reserve the remainder of my time and yield 15 minutes to the gentleman from Alabama [Mr. STEAGALL].

Mr. STEAGALL. Mr. Speaker, on June 5, 1933, Congress passed an act to require holders of obligations of all kinds to accept in discharge any lawful or legal tender money of the United States. At that time there were outstanding enor-

mous amounts of obligations, both public and private, payable in gold, according to the contention of the holders of the obligations. There were outstanding over $21,000,000,000 of Government bonds of that type. The Government, of course, was in a very unsatisfactory condition respecting its outstanding obligations and the currency of the country. About half of the outstanding so-called "gold bonds" of the Government have been surrendered and cash or other obligations have been substituted for them. There were outstanding on the 1st of July $10,073,722,250 of these bonds. The validity of the act of 1933 has been questioned in a number of suits that went to the Supreme Court of the United States.

The Supreme Court upheld the validity of that act, insofar as private obligations were involved. There was a suit which involved the validity of the act as it relates to Government obligations. That suit was not sustained, but the Court, in rendering the opinion, rests its decision, at least somewhat, upon the failure of the plaintiffs in action to show that they had been damaged. I think it might be well just at this time to quote from that decision of the Supreme Court. I cannot, in the brief time at my disposal, discuss that decision at length, but I desire to read an extract from the decision referred to.

The Court said:

Plaintiff computes his claim for $16,931.25 by taking the weight of the gold dollar as fixed by the President's proclamation of January 31, 1934, under the act of May 12, 1933 (48 Stat. 52, 53), as amended by the act of January 30, 1934 (48 Stat. 342), that is, at fifteen and five-twenty-firsts grains 0.9 fine, as compared with the weight fixed by the act of March 14, 1900 (31 Stat. 45), or 25.8 grains 0.9 fine. But the change in the weight of the gold dollar did not necessarily cause loss to the plaintiff of the amount claimed. The question of actual loss cannot fairly be determined without considering the economic situation at the time the Government offered to pay him the $10,000, the face of his bond, in legal-tender currency. The case is not the same as if gold coin had remained in circulation. That was the situation at the time of the decisions under the Legal Tender Acts of 1862 and 1863 (*Bronson* v. *Rodes*, 7 Wall. 229, 251; *Trebilcock* v. *Wilson*, 12 Wall. 687, 695; *Thompson* v. *Butler*, 95 U. S. 694, 696, 697).

Before the change in the weight of the gold dollar in 1934 gold coin had been withdrawn from circulation. The Congress had authorized the prohibition of the exportation of gold coin and the placing of restrictions upon transactions in foreign exchange. Acts of March 9, 1933 (48 Stat. 1); January 30, 1934 (48 Stat. 337). Such dealings could be had only for limited purposes and under license. Executive orders of April 20, 1933, August 28, 1933, and January 15, 1934; regulations of the Secretary of the Treasury, January 30 and 31, 1934. That action the Congress was entitled to take by virtue of its authority to deal with gold coin as a medium of exchange; and the restraint thus imposed upon holders of gold coin was incident to the limitations which inhered in their ownership of that coin and gave them no right of action (*Ling Su Fan* v. *United States*, 218 U. S. 302, 310, 311). The Court said in that case:

"Conceding the title of the owner of such coins, yet there is attached to such ownership those limitations which public policy may require by reason of their quality as a legal tender and as a medium of exchange. These limitations are due to the fact that public law gives to such coinage a value which does not attach as a mere consequence of intrinsic value. Their quality as a legal tender is an attribute of law aside from their bullion value. They bear, therefore, the impress of sovereign power which fixes value and authorizes their use and exchange. * * * However unwise a law may be, aimed at the exportation of such coins, in the face of the axioms against obstructing the free flow of commerce, there can be no serious doubt that the power to coin money includes the power to prevent its outflow from the country of its origin."

The same reasoning is applicable to the imposition of restraints upon transactions in foreign exchange. We cannot say, in view of the conditions that existed, that the Congress having this power exercised it arbitrarily or capriciously. And the holder of an obligation or bond of the United States payable in gold coin of the former standard, so far as the restraint upon the right to export gold coin or to engage in transactions in foreign exchange is concerned, was in no better case than the holder of gold coin itself.

In considering what damages, if any, the plaintiff has sustained by the alleged breach of his bond, it is hence inadmissible to assume that he was entitled to obtain gold coin for recourse to foreign markets or for dealings in foreign exchange or for other purposes contrary to the control over gold coin which the Congress had the power to exert and had exerted in its monetary regulation. Plaintiff's damages could not be assessed without regard to the internal economy of the country at the time the alleged breach occurred. The discontinuance of gold payments and the establishment of legal-tender currency on a standard unit of value with which "all forms of money" of the United States were to be "maintained at a parity" had a controlling influence upon the domestic economy. It was adjusted to the new basis. A free domestic market for gold was nonexistent.

Plaintiff demands the "equivalent" in currency of the gold coin promised. But "equivalent" cannot mean more than the amount of money which the promised gold coin would be worth to the bondholder for the purposes for which it could legally be used. That equivalence or worth could not properly be ascertained save in the light of the domestic and restricted market which the Congress had lawfully established. In the domestic transactions to which the plaintiff was limited, in the absence of special license, determination of the value of the gold coin would necessarily have regard to its use as legal tender and as a medium of exchange under a single monetary system with an established parity of all currency and coins. And in view of the control of export and foreign exchange, and the restricted domestic use, the question of value, in relation to transactions legally available to the plaintiff, would require a consideration of the purchasing power of the dollars which the plaintiff has received. Plaintiff has not shown, or attempted to show, that in relation to buying power he has sustained any loss whatever. On the contrary, in view of the adjustment of the internal economy to the single measure of value as established by the legislation of the Congress, and the universal availability and use throughout the country of the legal tender currency in meeting all engagements, the payment to the plaintiff of the amount which he demands would appear to constitute not a recoupment of loss in any proper sense but an unjustified enrichment.

Plaintiff seeks to make his case solely upon the theory that by reason of the change in the weight of the dollar he is entitled to $1.69 in the present currency for every dollar promised by the bond, regardless of any actual loss he has suffered with respect to any transaction in which his dollars may be used. We think that position is untenable.

Mr. Speaker, the principle is universally recognized that the sovereign cannot be sued by the subject without its consent. This right of the sovereign is inherent and cannot be nullified except by the sovereign itself. Any consent is, from a legal standpoint, without binding power. It must always be subject to change or revocation. There is nothing that Congress can do that will bind the Government longer than the representatives of the sovereign people of the Nation see fit to continue the force of such action. The insistence on the part of bondholders who have not surrendered their bonds and who are unwilling to abide by the provisions of the act of 1933, involves not only the question of the right to sue the Government, but would assert a right that would nullify the power of the Government to regulate the value of money and to control its currency. If the claims of these bondholders should be sustained, the Government in all good conscience would be compelled to readjust settlements made with other bondholders who surrendered their obligations for legal tender money and to give to all classes of citizens the benefits claimed by the holders of gold bonds. This would result in nullifying the act of Congress of June 5, 1933, to regulate the value of money and maintain the parity of all legal tender currency. Save alone the right to declare war, there is no right of the Government more essential than that of the exercise of its constitutional power to regulate the value of money. That was the right asserted by the Government in the act of June 5, 1933. It is unthinkable that anyone in a position of official responsibility, or that any patriotic citizen would consider any suggestion to nullify this sovereign power of the Government.

In 1887 the Congress passed an act permitting suits against the Government arising out of contracts, such obligations as are involved in the present legislation before the House. That act is the law now. It permits the holder of an obligation to pursue his right in a court of law, up to a certain amount, or to go to the Court of Claims and have adjudication of his claim. That act was passed in 1887. There was not a gold-payment obligation outstanding in the United States at that time. No such thing had been undertaken. No such thing had been proposed. No such thing had been thought of. It was only after the controversy of the 90's and the passage of the act providing for the maintenance of the gold standard, under which $150,000,000 were set up to provide for the redemption of all currency in gold, that any such thought ever occurred to anybody; but there was no thought of confirming the right to sue the Government when such action would negative the right of the Govern-

ment to control the issuance of currency and to regulate the value of money.

Now, what has happened? Half of these obligations outstanding in 1933 have been surrendered—exchanged for lawful money or other obligations. The remaining holders of gold bonds, if this legislation is not passed—if they succeed in the enforcement of their claims, would collect a premium of approximately $7,000,000,000 on the obligations outstanding, for which that discriminative privilege is demanded. That would not only involve the Government in the expense and annoyance of litigation, and in enormous losses in case of successful litigation on the part of the holders of these obligations, but it would penalize unjustly every citizen of the country who had patriotically submitted to the enforcement of the legislation passed by Congress to regulate the value of money and to control the issuance of currency.

It is said that if this bill passes, the Government will experience embarrassment of its credit. I assert that it is ridiculous to contend that we improve the Government's credit by imposing a burden of $7,000,000,000, for which there is no moral justification, and which, in the case submitted to the Supreme Court, showed no discrimination against the holders of those obligations. Every informed man knows that the gold contracts in this country, whether in Government obligations or imposed upon private citizens, represent the effort of the creditor class to exact payment of their obligations in a particular kind of money, a discriminative favor, which was denied the common citizen of the land whether his obligation rests upon a day's toil or any other kind of debt due him by the Government. [Applause.]

Mr. Speaker, at the very time this legislation was passed in 1933, the situation in which the Government found itself was that there were $21,000,000,000 outstanding, upon which the bondholders claimed the right to require payment in gold, and yet there was not half that much gold in the whole wide world. In fact, there was in this country less than one-fourth the amount of gold necessary to meet those obligations.

Do we hurt the credit of the Government when we surrender obligations which are impossible of fulfillment and substitute obligations which the Government in its sovereign capacity can discharge any day it sees fit to assert its rights by legislative enactment? The contention is ridiculous.

These men, these bondholders, this favored class who have sought to exact discriminative and unfair treatment or to embarrass the Government of their obligations, demand payment in gold or other obligations to the Government; but when called upon to pay taxes they propose to pay in lawful money, like other citizens. [Applause.]

[Here the gavel fell.]

Mr. RANSLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. HOLLISTER].

Mr. HOLLISTER. Mr. Speaker, I have yet to have explained to me why this bill is referred to as the "gold clause" bill, because at the outset it should be called to the attention of everyone that it removes all the rights of any holder of any Government obligation whatsoever, whether containing a gold clause or not, to recover on his obligation or to recover interest thereon in the event the Government fails to pay. It also takes away the right from every holder of Government obligations, mind you, whether direct obligations or indirect ones—that is, guaranteed ones—to have even a judicial interpretation of his contract with the Government of the United States. In other words, the holder of any obligation of the Government, whether it contains a gold clause or not, the holder of any obligation of the Home Owners' Loan Corporation or of the Farm Credit Administration, which obligations are merely guaranteed by the Government, if this legislation is passed may not go into a court of justice and have the court even interpret his contract.

We are granted under this rule but 2 hours to consider whether or not the United States Government will take another step toward repudiation; 2 hours to discuss a question involving basically our national honor and credit; 2 hours to decide whether we will say to all present and future holders of the obligations of the Government, whether direct or contingent, that they not only cannot recover from the Government in the event it fails to pay, but they cannot even have a judicial interpretation of their contracts.

Is this limitation of 2 hours because we have not sufficient time available? We all know that if the President insists on the passing of a tax bill at this session of Congress we shall soon be marking time and adjourning for 3 days at a time pending action on that bill. There is therefore no question but that we could easily allot to this measure a longer period for consideration.

Is the scant allowance of time because of the insignificance of the issue? If the Members of this House were at all alive to the implications of this legislation every Member would be clamoring to speak.

We are sitting as Members of a Congress which will hold the record as the Congress which passed more unconstitutional legislation than any other in history, and with the passage of this bill and the A. A. A. amendments removing certain rights to sue the Government this Congress will have the added honor of having done more to wreck our three-branch system of government, with its time-tested checks and balances, than any Congress in our history.

We sit here day after day and pass legislation which any competent lawyer knows is unconstitutional, and we do it at the urging of the administration, in callous disregard of repeated warnings from the Supreme Court of the United States. We have seen the legislative power usurped by the executive when a subservient Congress passes with little consideration measures written not, as was once the case, in the committee, but bills brought down here already prepared, and then introduced and railroaded through with little chance for consideration. How many of you chairmen of committees here today know who prepared the bills you have introduced in the last 2 years? How many of you even read them before their introduction? And how many of you, when you vote for them, voted your real convictions?

So much for the abolition of the legislative branch, and now comes the assault on the judiciary. Is it necessary for me to recapitulate the history of the conflict between the new deal and the Supreme Court? First came the hot-oil decision, where the Court, by a majority of 8 to 1, held that it was an improper delegation of authority. Next came the gold-clause decision, where the Supreme Court, by a majority of 8 to 1, held that Congress had no constitutional right to abrogate the gold clause in Government obligations. Next came the Frazier-Lemke Act case, where the Supreme Court unanimously held that act unconstitutional as being a deprivation of property without due process of law. Next came the Humphrey case, where the Supreme Court, by unanimous decision, said that the President of the United States could not through mere whim remove the incumbent of a quasi-judicial or quasi-legislative office. Next came the Schechter-N. R. A. case, where the Supreme Court, by unanimous decision, held that not only was the enforcement of codes under the N. R. A. an unconstitutional exercise of the commerce clause but that it was an unconstitutional delegation of authority. So much for the Supreme Court.

Three days ago the circuit court of appeals in my home city held that the Federal Government had no right of condemnation in slum clearance projects. Two days ago the court of appeals in Boston held certain processing taxes unconstitutional and this was followed up yesterday by another similar decision. It is true the morning paper carries a decision of the court of appeals upholding the right of the T. V. A. to sell excess power, but when the score is added up it is manifest that the new deal will go down in history as a bold attempt to override the constitutional protection of the liberties of the individual.

Notwithstanding the past record of this and the previous Congress, the future is even more alarming. The President has stated that the Guffey bill is on his "must" list. Is there any one here who thinks that this bill is constitutional?

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. HOLLISTER. I would rather not yield.

Mr. VINSON of Kentucky. I merely want to say that here is one Member who believes the Guffey bill will be held constitutional.

Mr. HOLLISTER. I am glad the gentleman has gone on record, for some day he will have to answer for it.

Mr. VINSON of Kentucky. If the gentleman would read about three pages of Supreme Court decisions he would believe that way too.

Mr. HOLLISTER. Mr. Speaker, I do not yield further.

Mr. VINSON of Kentucky. The gentleman asked a question. I thought he wanted an answer.

Mr. HOLLISTER. The gentleman has answered me, and I am glad to have his answer.

Is there a good lawyer here who believes that the Wagner bill is constitutional in its application to industry generally? Are there not grave doubts of the social-security bill, and of the utility holding-company bill?

Is not it true that the Attorney General has dodged passing on the Guffey bill, knowing, I suppose, full well that it could not stand up in the courts? Yet the President of the United States, notwithstanding his oath of office to support and defend the Constitution of the United States, has written the gentleman from Washington [Mr. HILL] to urge that no doubt of the constitutionality of that measure should deter the Ways and Means Committee of the House from approving it. What is the Constitution among friends?

Notwithstanding five solemn warnings from the Supreme Court; notwithstanding similar warnings from lower courts, we still pass unconstitutional legislation. And facing the action of the court already taken, and that expected, we now say to the individual, who is always at a disadvantage in fighting for his rights against the overbearing power of government: "We have tried to take away your rights, but we have failed because the Constitution has protected you. We now are going to take away your remedy."

We passed the amendments to the Agricultural Adjustment Act containing provisions taking away the right to sue to recover taxes paid. We are now asked to take away all right to sue on any Government obligation involving the repayment of money, whether with the gold clause, or without it. The Supreme Court held that we could not take away the right, and called it by the ugly name of "repudiation." We now, spurred on by our Chief Executive, who should be leading us in the path of faith and honor, say: "We have failed to take away the right, let us take away the remedy", and 435 members are to be given 2 hours' time to discuss this shameful thing.

From time immemorial governments have provided means by which the claims of their subjects and of others against them might be adjudicated, recognizing that the principle that the sovereign may not be sued without its own consent is not a principle of justice or of equity, but one which is innate in the relationship between the sovereign and the subject. It is a fundamental principle of Anglo-Saxon jurisprudence that a citizen should have some right of redress if his personal or property rights are affected by governmental action, or if his government fails to fulfill a promise to him. If such procedural relief were not granted by the sovereign, no matter how just a claim might be, its value would be a nullity. As Chief Justice Marshall said, in the famous case of Marbury against Madison:

> The Government of the United States has been emphatically termed a "government of laws, and not of men." It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right.

The Court of Claims has been in existence for 80 years, set up for the sole purpose of making it possible to proceed directly on a claim against the Government, and in more recent years concurrent jurisdiction, with certain limitation as to amounts, has been given the United States District Court.

The action of Congress, and various Executive orders in pursuance of such action, resulted in the confiscation of gold and gold certificates and in the devaluation on January 31, 1934, of the gold dollar. As a result various suits were instituted against the Government, and on February 18, 1935, in the case of Perry against the United States, 8 of the 9 justices of the Supreme Court declared the joint resolution of Congress of June 5, 1933, unconstitutional to the extent that it impaired the validity of obligations of the United States, although a bare majority of the Court held that since no damage had been shown in the particular case the plaintiff could not recover.

On June 27, 1935, the President sent a message to Congress, the first paragraph of which reads as follows:

> Before the termination of this session of Congress I believe that it is important that definite action be taken to eliminate any uncertainty with respect to the right of holders of gold-clause bonds of the Government to sue for payment either in gold or else in legal tender with an additional sum of 69 cents on every dollar.

On June 28, 1935, House Joint Resolution 339 was filed by the Chairman of the House Banking and Currency Committee. On July 10 and 11 hearings on this bill were held, at which the Attorney General and several representatives of the Treasury Department testified. At the hearing on July 10 an Assistant Attorney General offered to the committee a substitute bill for House Joint Resolution 339, and on July 12 the present bill—House Joint Resolution 348—was reported by a majority of the committee in exactly the form suggested by the Attorney General's office as a substitute for the original bill.

In other words, the highest court of the land having stated that the right could not constitutionally be taken away, we are now asked to remove the remedy. The Court characterized the action which Congress attempted to take in the joint resolution of June 5, 1933, by the ugly word "repudiation." Are we not today considering the taking of another step in respect to repudiation? This bill has been called the "gold-clause suit bill." It should be called the "repudiation bill."

Mr. Chief Justice Hughes, in his opinion in the Perry case, said:

> If the terms of the Government's bond as to the standard of payment can be repudiated, it inevitably follows that the obligation as to the amount to be paid may also be repudiated. The contention necessarily imports that the Congress can disregard the obligations of the Government at its discretion and that, when the Government borrows money, the credit of the United States is an illusory pledge.
>
> We do not so read the Constitution. * * * In authorizing the Congress to borrow money, the Constitution empowers the Congress to fix the amount to be borrowed and the terms of payment. By virtue of the power to borrow money "on the credit of the United States", the Congress is authorized to pledge that credit as an assurance of payment as stipulated—as the highest assurance the Government can give, its plighted faith. To say that the Congress may withdraw or ignore that pledge is to assume that the Constitution contemplates a vain promise, a pledge having no other sanction than the pleasure and convenience of the pledgor. This Court has given no sanction to such a conception of the obligations of our Government.

He then quoted from the opinion of the Court in the Sinking Fund cases, as follows:

> The United States are as much bound by their contracts as are individuals. If they repudiate their obligations, it is as much repudiation, with all the wrong and reproach that term implies, as it would be if the repudiator had been a State or a municipality or a citizen.

The Chief Justice continued:

> The binding quality of the promise of the United States is of the essence of the credit which is so pledged. Having this power to authorize the issue of definite obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations. The fact that the United States may not be sued without its consent is a matter of procedure which does not affect the legal and binding character of its contracts. While the Congress is under no duty to provide remedies through the courts, the contractual obligation still exists, and, despite infirmities of procedure, remains binding upon the conscience of the sovereign.

If we pass this legislation, we are doing exactly what the Supreme Court condemned. We make the credit of the United States "an illusory pledge." We disregard "the highest assurance the Government can give, its plighted faith." The highest court of the land has said that Congress cannot take away the right. Will Congress now accomplish the same result by taking away the remedy?

Surely if there is anything left of faith, honor, and credit to express this proposition is to answer it.

But there is another reason why this bill should not become law in its present form. There are some who feel that, irrespective of the general principles involved, there is something unfair in permitting the holder of a gold bond to secure damages because his bond or its interest coupons are not payable in gold when the holding of gold has become illegal, or in permitting the holder of such a bond to recover more than its dollar face value, or the dollar face value of its coupons. They feel that this smacks of a kind of unjust enrichment, and this was apparently in the mind of the President when he transmitted to Congress the message above referred to.

If that be the case, why is this legislation not limited to such cases? It would have been simple to draft a bill along these lines, and withdraw merely the right to sue or to counterclaim where there was any assertion of damage from confiscation of gold, or the refusal to pay in gold, or where claim was made for more than the dollar face value of an obligation or its interest coupons. Why is it necessary to withdraw such right in all cases where Government obligations to repay money are involved, for such action leaves the holder of such an obligation, whether it be with or without the gold clause, completely without redress, and entirely subject to whatever action the Treasury may choose to take in honoring, or even in interpreting, the terms of all obligations.

It should be noted that this bill affects not only direct Government obligations, but affects as well Home Owners' Loan Corporation bonds, Farm Credit Administration bonds, or any other obligations on which the Government is a guarantor. The question of guaranty, as every lawyer will realize, raises many interesting legal points. If this bill becomes law no holder of an obligation guaranteed by the Government will be able to enforce it against the Government, except according to such interpretations, rules, or regulations as the Treasury Department may see fit to make or to impose.

If this bill becomes law and a dispute should arise between the Treasury and the holder of an obligation as to whether or not a bond has been properly presented for payment, the holder could not even have such a dispute adjudicated, but would be subject without redress to whatever arbitrary rules or regulations the Secretary of the Treasury might make. Many similar cases involving solely questions of interpretation can be suggested—cases which in all justice and equity should be left to the decision of the court.

It must always be kept in mind that even today when recovery is had against the Government in the Court of Claims or the district court, no payment can be made until Congress makes the proper appropriation. Surely Congress can be relied on to refuse appropriations when a plain case of unjust enrichment is involved. Legislation of this nature is utterly unnecessary to guard against the danger of unjust enrichment.

In the hearings on this bill it was suggested that, if such legislation passes, all future obligations of the Government should have a statement on the face of the obligation that no holder would have any redress in the event that the interest on the bond was not paid or that its face value was not paid at maturity. The Government witnesses who appeared smiled at this suggestion, but if a private corporation were issuing obligations where it was known to the issuer that there was no forum in which the obligation could be enforced, such an issuer would be compelled by the provisions of the Securities Act to place such a statement on the face of the obligation.

The Government witnesses stated that it was unthinkable that the Government would not pay its obligations at maturity, or the proper interest thereon when due. It is a question, however, when the delicate psychological factor of credit is involved, whether the passing of legislation of this nature might not ultimately affect seriously the ability of the Government to continue its proper financing. The credit of States and municipalities which have taken advantage of technicalities to avoid the payment of their obligations is always seriously impaired, and their bonds are difficult to market. How many people will extend credit to an individual who deliberately makes himself judgment proof? Is there any reason to have any greater faith in a government which follows the same course?

This bill should not be passed at all, because it is repugnant to all ideas of governmental honor and credit to remove the remedy when the right is admitted. It should certainly not be passed in this form, because its scope is much broader than is required to prevent the recovery on claims arising out of gold confiscation or dollar devaluation. [Applause.]

Mr. O'CONNOR. Mr. Speaker, I yield 14 minutes to the gentleman from Maryland [Mr. GOLDSBOROUGH].

Mr. GOLDSBOROUGH. Mr. Speaker, it seems to me that those who oppose this legislation have not a correct idea of the issue involved. There is no issue here of repudiation; there is no issue here of any denial of the obligation of a contract made by the Government. The obligation of the Government contract is admitted, it is conceded, and as an evidence that the bond market is thoroughly cognizant of the fact that the Government obligation is conceded, out of the $29,000,000,000 of bonds which the Government owes $20,000,000,000 of them do not contain the gold clause, and of those $20,000,000,000 which have been issued since the 1933 act there has been a constantly heavier oversubscription and a constantly lower rate of interest, until the last bonds were issued at a rate of between 2 and 3 percent.

The issue here is something much broader than the validity of a Government obligation. Those whose conception of money is something which is to be traded in by speculators, whose conception of money is something which can be used for the purpose of a particular class to absorb the wealth of the country by a manipulation of the currency, do not like the bill; to that class, which has never understood that the money of the country is the people's medium of exchange, is the means whereby the people can distribute goods and services, this legislation is unwelcome, because it undertakes to proclaim the doctrine that from now on we will have a currency which is uniform in value. If there was no other justification for the legislation than that, it would be amply justified. And let me say to those of you who have been fed up by the metropolitan press upon the necessity for international stabilization of the currency of the country, that the passage of this bill, insofar as the internal economy of the country is concerned, will go a long way to stabilize the currency.

Who ever heard of a stable government repudiating its obligations? Who can conceive of a Secretary of the Treasury rendering himself certain of impeachment by refusing to pay the Government obligations as he is ordered to do? If your Government is not stable, if your Government is unable to pay its debts, what good is a decision of the courts of that Government that the debt should be paid? It is a mere idle gesture; but the purpose of this legislation is to keep people who are speculating with the people's money out of the Federal courts. The purpose of this legislation is to keep nonproducers from fattening on the production of the producers of this country through applying to the courts. As was said to you by the great chairman of this committee, those who oppose this legislation think it is all right for the bondholder to be enriched an extra 69 cents on every dollar that he has loaned. The amount on this $9,000,000,000 would be, as he said, nearly $7,000,000,000. There is no reason for the opposition to this legislation except that those who have for so long been able to manipulate the money of the country, those who have for so long been able to control the amount of money that should be in circulation, those who for so long have been able to forestall the obligation of the Congress to coin the people's money and regulate its value, see their power slipping away. That is what is the matter, and that is all that is the matter. [Applause.]

Everybody knows, who has any judgment about it at all, that the money issued by the Government of the United States is the best money in the world, and that it makes no difference what it is, whether a piece of paper or a bit of

metal. Money is anything which facilitates the exchange of goods and services. Money is not something which should be made out of a yellow metal or a white metal or some other metal. That is a superstition, a superstition perpetuated by a class whose interest it is to have money as scarce as possible and to cost as much as possible. Whenever anything is undertaken in this House in the interest of the masses of the people, it makes no difference what form the legislation may take, there is always an effort to show some fictitious calamity that will arise from the passage of the proposed legislation. I shall never forget when I was a law student, going into the court of common pleas in Baltimore City one day when Mr. William Walsh, of Cumberland, was trying a very important damage suit against the Baltimore & Ohio Railroad. At that time the chief stockholder of the Baltimore & Ohio Railroad was Robert Garrett, and when the attorney for the railroad company began to argue the railroad company's case he said, "Gentlemen of the jury, let me call your attention to the terrible losses that will accrue to the widows and orphans who own the stock of the Baltimore & Ohio Railroad", when Mr. Walsh, in his high-pitched voice, said, "Robert Garrett is the orphan boy; who is the widow woman?" [Laughter.]

Nobody can suffer, no bondholder, under this legislation, can fail to get dollar for dollar in purchasing power for every dollar he loaned unless this Government of ours is destroyed. This Government of ours will be perpetuated through ages yet unborn as a blessing to all mankind if we can only get back to the understanding that the people's medium of exchange belongs to the people, that it should be uniform in value, and that no class shall control its issuance but that it shall be issued only for the benefit of everybody. [Applause.]

There is one other thing I want to emphasize. In the minority report the statement is made that this legislation may make it difficult to finance the Government, to sell Government bonds. Of course, from my standpoint an argument of that kind is not even entitled to discussion, because it has no validity. The value of Government bonds will not be injured at all. But let me tell you this: Under the present condition the Government, which has everything, borrows money from the banks, which have nothing except the credit they get from the stability of the Government, and then loans the money back to the banks in the shape of deposits and proceeds to pay interest on it. Why and how does money issued by the banks on the Government credit have any more validity or any more value than money issued by the Government itself? The Government of the United States is not dependent upon the banks for its financing. The banks' capital, surplus, and undivided profits amount to only $7,000,000,000. They have loaned much more than that to private interests. They have not got a cent to loan to the Government, except bookkeeping money. We have given them $13,000,000,000 in the last 10 years that has not cost them a single cent except what it costs for some clerk to put the amount on the books.

The SPEAKER. The time of the gentleman from Maryland [Mr. GOLDSBOROUGH] has expired.

Mr. O'CONNOR. Mr. Speaker, I move the previous question.

The previous quesion was ordered.

The SPEAKER. The question is on the adoption of the resolution.

The resolution was agreed to.

Mr. STEAGALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (H. J. Res. 348) authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States, withdrawing the right to sue the United States on its bonds and other similar obligations, limiting the use of certain appropriations, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of House Joint Resolution 348, with Mr. WHITTINGTON in the chair.

The Clerk read the title of the resolution.

Mr. STEAGALL. Mr. Chairman, I ask unanimous consent that the first reading of the resolution be dispensed with.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. STEAGALL. Mr. Chairman, I yield 15 minutes to the gentleman from Texas [Mr. CROSS].

Mr. CROSS of Texas. Mr. Chairman, this is very much the same fight we had here in 1933. You hear much about repudiation. The money of a country is its financial lifeblood, and every government in the world has the sovereign power to regulate its financial lifeblood. There is no government that permits itself to be dictated to in the matter of coining and regulating the value of its money. The act that we are trying to get rid of here today was granted as an act of grace but with no thought its monetary policy would be attempted to be controlled as the result of such act. Those who want to come in and sue the Government, use its courts as a knife to cut a pound of flesh from its heart, are surely not acting as patriots. If there were Communists in this hall, if there were Benedict Arnolds here, they would vote, with glee, against this bill. But if Jefferson were here, if Andrew Jackson were here, if Abe Lincoln were here, if Teddy Roosevelt were here, you would find them lining up back of this bill.

I cannot understand the mental virus that actuates those who fight this measure.

Now, let us look at it for a moment. The Constitution says it is the duty of the Congress to regulate the value of money. Every time the Government issues a bond, the person who buys that bond buys it with the understanding that Congress can come in, under the Constitution, and regulate the value of the money they will receive back. Strange to say, the value of the dollar today, when measured by the true standard, though it contains but 13.7 grains of gold instead of 23.22 grains of gold, will buy more of all the things that go to feed and supply the necessities, comforts, and luxuries of men, than the dollar they put out when it contained 23.22 grains of gold.

That is why the Constitution said the Congress should have the right to regulate the value of the dollar, knowing that conditions would come about when the value of so many grains of gold or silver, as at that time, would fluctuate violently up and down. As a result of the World War and the great crash that followed that war, and the scramble for gold, its purchasing power trebled. Its value therefore trebled. So the Congress, under the Constitution, is called upon to perform its duty and regulate the value of the dollar and bring it down to somewhere near the value that it had before the crash that justice might be done between debtor and creditor. So, in regulating its value we have put 13.7 grains in the dollar in the place of 23.22, and even so, the purchasing power of the dollar is far greater than it was when the dollar contained 23.22 grains of gold.

Oh, they say, "Repudiation!" If this be repudiation, then the Constitution is a constitution of repudiation, because that is where the authority is found and which protects the interests of the people by commanding Congress to regulate the value of the dollar when it skyrockets out of all reason as it did as a result of the world depression.

If this line of argument be correct, the fellow who buys a $10,000 Government bond would have the right, just because the Government acting within its constitutional power reduced the number of grains of gold in the gold dollar by 40 percent, he would have the right to come in and say, after he gets his $10,000 on the present basis of 13.7 grains of gold to the dollar: "I demand $4,000 more." This man who purchased the Government bond knew at the time he purchased it that under the Constitution this Congress has the duty of regulating the value of the dollars he is to get back. The Government does not and cannot make contracts which can rob it of its sovereign power over money.

If you say the holder of this $10,000 Government bond, besides being paid $10,000 in present dollars, can collect $4,000

more, then the holders of private bonds, mortgages, deeds of trust, municipal bonds, school bonds, and road bonds have an equal claim, because there is on the statute books the act passed on March 14, 1900, by Congress which said that the value of the dollar should be 23.22 grains of gold, and that law said that all dollars should have the same value. While this law was on the statute book, every individual who holds a deed of trust can claim that statute as a guaranty to him by the Government that he was to get dollars containing 23.22 grains of gold. If he can assert this claim, it means that the Government must pay an additional 40 percent; that he has the right to sue the Government and get 40 percent over and above what he collects from the mortgagors.

I just communicated with the Treasury Department. They advised me that there are outstanding in private bonds, deeds of trust, and similar obligations about $100,000,000,000. Some seem to want to see a situation whereby those men could get judgment against the Government for $40,000,000,000, because they would point to the statute and say: "Here is what you said: 'That all dollars had to be equal, each worth 23.22 grains of gold. You have given it to the man who held the Government bond. I stand in equally as good a position.'" No court could stand against that line of reasoning and argument, and you would have forced on this Nation an additional debt of $40,000,000,000. The $10,000,000,000 of gold-clause bonds yet outstanding would mean an additional $4,000,000,000; so $44,000,000,000 would be added to the present debt of $30,000,000,000 and make the total debt $74,000,000,000, and that would wreck your country. That is what the Benedict Arnolds would have done; that is what Communists would like to see done; but that is not what patriots would like to see done.

England devalued her pound when she was on the gold standard; she devalued her pound time and time again until finally it got down to where it contained only 113 grains of gold when she went off the gold standard, but whoever heard of any person going into a court of England and daring to sue the sovereign power of England on a claim that they had been damaged as a result of such devaluation? Every civilized country in Europe has devalued its money. France about 80 percent, Belgium about 90 percent, Italy about 75 percent; yet who ever heard of anybody attempting to sue the sovereign of any of these countries? No; old England is a land of patriots; no Englishman would dare attempt such a thing.

The dollar today is greater in value, the 13.7-grain dollar will buy more land, more houses, more of everything that goes to feed, clothe, and supply the necessities and luxuries of life than would the dollar originally given by the present holders of bonds, mortgages, and deeds of trust. It is a Shylock proposition. Not only does he want to cut off the pound of flesh, but he wants to plunge the dagger in and take out the heart. I could never let partisanship carry me away on a question where patriotism is so greatly needed. Why, I know what is going to be the result on the roll call. Lots of my friends over here on the Republican side are going to vote right; some of them will not. You know I sometimes get puzzled. Some of the dearest friends I have are right over here. I love you boys, and off this floor you are wonderful, but when you come here and get on this side of the aisle immediately you begin to look like that almost extinct animal called the elephant, you begin to have a long snout, an ivory head, and little beady eyes, and all your reason seems to evaporate, and I become so vexed I would kick you, but with two tails swinging around I cannot tell which end to kick. [Laughter and applause.]

[Here the gavel fell.]

Mr. HOLLISTER. Mr. Chairman, I yield 10 minutes to the gentleman from New Jersey [Mr. CAVICCHIA].

Mr. CAVICCHIA. Mr. Chairman, the new-deal doctors are offering us a sugar-coated pill which hides bitterness and disappointment. The ingredients of the pill are iniquity, repudiation, and shamelessness; and the whole has been labeled "The public interest."

The world was shocked in 1914 when the Imperial German Chancellor said that the treaty to respect Belgium neutrality was a mere scrap of paper. For years the American sense of justice has been outraged by the failure of our debtor nations to meet their obligations to the United States Government. The resolution before us, if passed, will entitle Uncle Sam to a membership card in the international union of debt dodgers; and what American will dare criticize the defaulting debtor nations after this resolution is passed?

The distinguished chairman of this committee in his speech this morning said that a loss to the Government of $7,000,000,000 will occur unless we assert our sovereign right and pass this bill.

The chairman also said before the committee that the question of morality did not disturb him in view of the treatment we have received from other countries. (See p. 6 of the hearings.)

This makes for the contention that two wrongs make one right. I for one will not subscribe to any such doctrine.

The Attorney General says it is within the sovereign power to undo any contract with its citizens in the public interest. Senators GLASS and MCADOO both disagree with the Attorney General, and these gentlemen disagree as to what Chief Justice Hughes meant in the gold-clause case. I wish I could find it as easy as the Attorney General does to say that this is a just law. The Chief Justice said:

> The Constitution empowers the Congress to fix the amount to be borrowed and the terms of payment. The Congress is authorized to pledge that credit as an assurance of payment as stipulated as the highest assurance the Government can give its plighted faith. To say that Congress may withdraw or ignore that pledge is to assure that the Constitution contemplates a vain promise.

That is what the Chief Justice of the United States Supreme Court said.

If the Attorney General can find comfort in those words, he is welcome to it.

A few weeks ago a bill urged for passage by the Secretary of the Treasury was before the House empowering the Treasurer to pay the Philippine Islands on $20,000,000 deposited in this country the difference between the old and the new dollar, clearly recognizing the fact that injustice would result if the $20,000,000 was paid in new coins or in devalued dollars. The Republic of Panama is insisting on being paid $250,000 due it under the treaty in former gold dollars, and the Attorney General says it is a just claim on the part of Panama, because the treaty calls for payment in gold of certain weight and fineness. (See p. 5 of the hearings.)

The gold bonds of the United States Government promise to pay in gold of certain weight and fineness; yet we are told that we may welch on this promise to save the American taxpayer. In other words, the Attorney General, in effect, says that it is perfectly ethical to make fish of some and fowl of others.

Is it worth $7,000,000,000 to you to repudiate the solemn promise of the American Government? To me the honor of America has no limit as far as money is concerned. I am for the Constitution and for the payment as promised, and I want the right left to the courts to hear any citizen who feels he is unjustly treated. I for one am satisfied with a democracy such as we have today and do not want a dictatorship.

The Constitution says that "Congress shall regulate", but does not say "it may repudiate."

The gentleman from Texas [Mr. CROSS] said that Communists and Benedict Arnold would vote with those who are opposed to this measure, and that Lincoln and Theodore Roosevelt would vote with those who favor its passage. I am sorry that the delightful gentleman from Texas did not give his authority for his statement, unless he is a spiritualist and has been in touch with Lincoln and Theodore Roosevelt.

If it is treason for me to urge that we, as a Nation, keep our plighted word, let it be treason and let them make the best of it.

Mr. Chairman, if the Congress heretofore has made a mistake in promising to pay in gold of a certain weight and fineness, correct that mistake by making no more promises of that kind, but for heaven's sake keep the promise that we have made. [Applause.]

Mr. STEAGALL. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. SPENCE].

Mr. SPENCE. Mr. Chairman, questions of a moral nature usually produce much feeling. However, in my opinion, there is no moral question involved in this bill. It is merely a question of what should be the jurisdiction of the Court of Claims.

One of the attributes of sovereignty is immunity from suit. The power to regulate the value of money is a governmental power of the highest character. The moral question is behind us when the gold dollar was devalued. That is an assured fact. It was done in the exercise of a governmental function. The only question now presented is whether some men may become enriched because of the action of the Government in the attempt to preserve its institutions and for the protection of its people. After all, in the last analysis, what is the Government of the United States? The Government of the United States is the people of the United States. If you give an undue privilege or an undue advantage to one class of people, you impose a burden on the other classes not so favored.

Mr. Chairman, what is the jurisdiction of the Court of Claims? Why was it established and what is its purpose? The Court of Claims has jurisdiction, first, of all claims—except for pensions—founded upon the Constitution of the United States or any law of Congress, upon any regulation of an executive department, upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity or admiralty if the United States were suable. Provided, however, that nothing in this section shall be construed as giving to the said court jurisdiction to hear and determine claims growing out of the late Civil War, and commonly known as "war claims."

The Republican Party did not think there was any moral obligation involved in refusing the right to sue for claims growing out of the Civil War.

Then there is the authorization with reference to set-offs and the provision with reference to disbursing officers.

There is another provision which has reference to the functions of the Court of Claims:

Whenever any bill, except for a pension, is pending in either House of Congress providing for the payment of a claim against the United States, legal, or equitable, or for a grant, gift, or bounty to any person, the House in which such bill is pending, may, for the investigation and determination of facts, refer the same to the Court of Claims, which shall proceed with the same in accordance with such rules as it may adopt and report to such House the facts in the case, and the amount, where the same can be liquidated, including any facts bearing upon the question whether there has been delay or laches in presenting such claim or applying for such grant, gift, or bounty, and any facts bearing upon the question whether the bar of any statute of limitations should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy, together with such conclusions as shall be sufficient to inform Congress of the nature and character of the demand, either as a claim, legal or equitable, or as a gratuity against the United States, and the amount, if any, legally or equitably due from the United States to the claimant. If it shall appear to the satisfaction of the court upon the facts established, that under existing laws or the provisions of this chapter, the subject matter of the bill is such that it has jurisdiction to render judgment or decree thereon, it shall proceed to do so, giving to either party such further opportunity for hearing as in its judgment justice shall require, and it shall report its proceedings therein to the House of Congress by which the same was referred to said court.

How are the judgments of the Court of Claims enforced? The judgments of the Court of Claims are not enforced by execution. When you get a judgment in the Court of Claims you are not entitled to execution upon the capital of the Nation or the Treasury Department of the United States.

All the Court of Claims does is to report to the Congress of the United States and it is then within the bounty and conscience of the Congress whether the claims will be paid.

The failure to pass this bill would be but another delegation of the legislative power of the Congress to establish a monetary policy and transfer that power to the Court of Claims.

What judicial question is involved here? What facts would they try? What issues would be presented to the Court of Claims? Do we not know the indisputable facts as well as the Court of Claims could possibly ever know them? Are we not in possession of all the facts in reference to the issue of the public negotiable instruments of the Government of the United States?

What fact will the Court of Claims try? The Court of Claims would merely try a political question. They would merely render a judgment upon a policy of the United States, a policy that we can act upon or not, as we deem advisable.

What is the procedure after you get a judgment in the Court of Claims? They report the claims to the Congress under the section which provides:

Reports of the Court of Claims to Congress, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress, until the same shall be finally acted upon.

Section 248, Judicial Code, title 28, provides:

On the first day of every regular session of Congress the clerk of the Court of Claims shall transmit to Congress a full and complete statement of all the judgments rendered by the Court during the previous year, stating the amounts thereof and the parties in whose favor they were rendered.

Mr. CHRISTIANSON. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield.

Mr. CHRISTIANSON. I presume the gentleman would grant that the ascertainment of the question whether the complainant had suffered a loss would be one of a judicial nature which might be determined by a court, such as the Court of Claims, but one which the Congress of the United States would not be qualified to determine.

Mr. SPENCE. I do not think so at all, because it would not be based upon facts of a private nature. The facts are of a public nature and peculiarly in the possession of Congress.

Mr. CHRISTIANSON. I think it would be dependent on the facts in each case as to whether or not the person had suffered a loss.

Mr. SPENCE. I think not. The facts would be the same in all the cases. It would decide a question of public policy.

Mr. CHRISTIANSON. And, furthermore, is not the fact that the Congress would have to make an appropriation to pay the loss, if any loss were found, a sufficient protection to the taxpayers of the United States against the possibility that someone would assert his rights for purposes of self-enrichment?

Mr. SPENCE. I concede that the gentleman's position would be perfectly sound if the facts upon which the cases were founded were facts of a private nature and were not publicly known.

Mr. CHRISTIANSON. If the gentleman please, the Supreme Court said in its decision that in order to recover the plaintiff would have to show his own peculiar damage, which he certainly could not do before the Congress of the United States.

Mr. SPENCE. But his own peculiar damage is the damage of a class. His own peculiar damage would be the damage of every man so situated in the United States.

Mr. CHRISTIANSON. Not necessarily so. This Congress has already recognized the fact that the people of the Philippines and Panama and our representatives in foreign countries are suffering a peculiar damage which a citizen of the United States does not suffer.

Mr. SPENCE. I do not yield further, but I understand that the Philippine funds were owned by the Philippine government and deposited in banks of the United States to the credit of the Philippine government and that they were the owners of that distinctly earmarked fund.

I have here a decision of the Court of Claims, cited with approval by the Supreme Court of the United States, which states:

The Court of Claims was established to relieve Congress, to protect the Government by regular investigation, and to benefit claimants by affording them a certain mode of examining and adjudicating on their claims, and the court must hear and determine claims founded on any law of Congress, on any regulation of an executive department, or on any contract, express or implied, with the Government.

It is my contention it would be a futile thing to submit to the Court of Claims a case where the facts are as well known to every Member of the Congress as they would be to the Court of Claims and to allow the Court of Claims, by its judgment, to say what shall be the monetary policy of the United States, a matter entirely within the discretion of the Congress. [Applause.]

In Perry against The United States, the Supreme Court, speaking of the gold clause, said:

This obligation must be fairly construed. The "present standard of value" stood in contradistinction to a lower standard of value. The promise obviously was intended to afford protection against loss. That protection was sought to be secured by setting up a standard or measure of the Government's obligation. We think that the reasonable import of the promise is that it was intended to assure one who lent his money to the Government and took its bond that he would not suffer loss through depreciation in the medium of payment.

The Government states in its brief that the total unmatured interest-bearing obligations of the United States outstanding on May 31, 1933, which it is understood contained a "gold clause" substantially the same as that of the bond in suit, amounted to about $21,000,000,000. From statements at the bar it appears that this amount has been reduced to approximately twelve billions at the present time, and that during the intervening period the public debt of the United States has risen some seven billions, making a total of approximately twenty-eight billion five hundred million, by the issue of some $16,500,000,000 of "non-gold-clause obligations."

And further along the Court said:

The question of damages. In this view of the binding quality of the Government's obligations, we come to the question as to the plaintiff's right to recover damages. That is a distinct question. Because the Government is not at liberty to alter or repudiate its obligations, it does not follow that the claim advanced by the plaintiff should be sustained. The action is for breach of contract. As a remedy for breach, plaintiff can recover no more than the loss he has suffered and of which he may rightfully complain. He is not entitled to be enriched. Plaintiff seeks judgment for $16,931.25, in present legal-tender currency, on his bond for $10,000. The question is whether he has shown damage to that extent, or any actual damage, as the Court of Claims has no authority to entertain an action for nominal damages.

It was decided in this action that the plaintiff was not entitled to $1.69 for every dollar promised by his bond regardless of actual loss, and this suit is a fair indication of the character of suits the Government will be compelled to defend and the manner in which it will be harassed should the holders of Government securities be permitted to sue in the Court of Claims.

Mr. WOLCOTT. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts [Mr. GIFFORD].

Mr. GIFFORD. Mr. Chairman, 2 years ago, May 29, 1933, I was suffering from illness and was not present during the debate. I read the debate carefully and have reread it this morning. After more than 2 long years I should like to have more than 10 minutes to comment on its effect; and, Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. GIFFORD. It was declared to be a new declaration of independence on the other side. They prophesied that business would immediately improve greatly. Many Members on this side declared that the opposite would happen.

I leave it to the judgment of the Members of this House whether the act of repudiation at that time has brought about confidence and great improvement in business.

Many object to have a bill presented with a lot of "whereases" in it. I claim that these "whereases" are more apologetic than explanatory, attempting to tell the Supreme Court, perhaps, the reason why they think the bill is constitutional.

You have probably read these many "whereases", but I want to talk about this particular one:

Whereas no holder of any of the money or securities of the United States has suffered any damage because of the measures heretofore taken to maintain such security and equality of advantage—

That is false—

and any speculative holding of or dealing in the money or securities of the United States to take advantage of the Government's fixed policy to continue such certain and uniform treatment is incompatible with the public interest.

They are trying to bolster this act by this plainly inaccurate statement. The Supreme Court has something to say about that. Mr. Chairman, I wish to read the Court's reference to this matter. My words will have little or no effect, but the words of the Supreme Court will go ringing down for years to come. I quote:

These bonds are held by men and women in many parts of the world; they have relied upon our honor. Thousands of our own citizens of every degree, not doubting the good faith of their sovereign, have purchased them. It will not be easy for this multitude to appraise the form of words which establishes that they have suffered no appreciable damage; but perhaps no more difficult for them than for us. And their difficulty will not be assuaged when they reflect that ready calculation of the exact loss suffered by the Philippine government moved Congress to satisfy it by appropriating, in June 1934, $23,862,750.78 to be paid out of the Treasury of the United States.

You can try to explain that no losses to individuals obtain; you can attempt to explain the Panama Canal business; you may try to explain the recoupment by the Philippine Islands; but go back home and try and convince the people at home that we are in as favorable a position as are the foreign countries in this matter if you can.

Glance at the hearings on pages 28 and 29, where I interrogated the witnesses, and see how they attempted to explain this item relating to loss in particular cases.

The intent was that when we devalued the dollar, prices would go up 49 percent, practically immediately. It could not be done any more than if you cut the yardstick and the pound 40 percent; the people would get more yards or pounds, because the effects of devaluation would not be immediate. There will be men on the floor here today who will be glad to confess that the result was not what they anticipated. How foolish to say no individuals met any loss by the devaluation. I have suggested, although it is controverted, that raw cotton selling at 6 cents, went almost immediately to 11 cents, causing losses to many. If a manufacturer of cotton had agreed to deliver cotton goods at a certain price he might have lost considerable money by being forced to pay 11 cents, having based sale on a cost of 6 cents. Of course, he had a loss of the amount between 6 and 11 cents.

Did not the foreigner owning a bond suffer a loss? Their answer was that he would not if he came over here and used the money. He should not be obliged to come over here and use the money. Did not we pass a law here to recoup our own officials who suffered such hardships because of the depreciation of our dollars in foreign countries? They could not buy as much within 49 percent as they did before we passed the act relieving them. I repeat that particular "whereas" is false and should be stricken from the act.

I shall preserve for my scrapbook, together with other cherished literature of the happenings this year, certain portions of the Supreme Court's decision which I will now quote.

Mr. SPENCE. Mr. Chairman, will the gentleman yield?

Mr. GIFFORD. Not now. The Supreme Court said:

The United States are as much bound by their contracts as are individuals. If they repudiate their obligations, it is as much repudiation, with all the wrong and reproach that term implies, as it would be if the repudiator had been a State or a municipality or a citizen.

If an individual should undertake to annul or lessen his obligation by secreting or manipulating his assets with the intent to place them beyond the reach of creditors, the attempt would be denounced as fraudulent, wholly ineffective.

Under the challenged statutes it is said the United States have realized profits amounting to $2,800,000,000. But this assumes that gain may be generated by legislative fiat. To such counterfeit profits there would be no limit; with each new debasement of the dollar they would expand. Two billions might be ballooned indefinitely—to 20, 30, or what you will.

Loss of reputation for honorable dealing will bring us unending humiliation; the impending legal and moral chaos is appalling.

This condition may be brought about by an act of the Government, yes; but we have a minority report signed by all the members on the minority side of the committee. There will be few Republicans who will vote for this repudiation in spite of what the gentleman just said. No; we may not call it an act of a government, but we may call it a law of this administration, and let you bear the full responsibility for it.

The minority will be augmented later, when more conscientious policies will be followed, and when the word "repudiation" will not be thrown in our faces.

Let us talk of England for a moment. Mr. Beck, of Pennsylvania, told you when this act was passed on May 29, 1933, that that act of repudiation was the last straw, and that England, who prided herself on her honor relating to financial transactions, would when next June came around repudiate, while up to that time she had paid. That prophecy came true. Repudiation was a word which the majority and the witnesses before the committee tried to avoid, but the Supreme Court had used the term in their opinion. They fairly cursed the transaction; and no matter what we may say, their words will remain.

Mr. Chairman, I suggest that everyone interested should read the arguments made for and against this act on May 29, 1933, and note the prophecies made and determine whether the Democratic side of the House or this side of the House prophesied correctly. Gentlemen on this side will be proud to read their record vote at that time. [Applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. WOLCOTT. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, some Members on the majority side have seen fit to inject partisanship into the discussion of this resolution. It is true that the minority members of the Banking and Currency Committee have signed a unanimous minority report against the resolution, believing that it amounts to repudiation; but at the outset of my remarks I want to call attention to the fact that two former Democratic Secretaries of the Treasury—Mr. GLASS and Mr. McADOO—have also stated in the public press that this withdrawal of the right of an American citizen to file a suit for damages in the Court of Claims is repudiation.

I do not believe that any Democrat on the majority side wants to read out of their party these two distinguished former Secretaries of the Treasury, who ought to know at least as much about the pending resolution as some of the speakers on the Democratic side today. Both of these former Democratic Secretaries of the Treasury ought to know from actual experience more about the gold clause, and particularly about the justification of the Government to withdraw the right of bondholders to sue the Government for damages, than any single Member of the House of Representatives. Partisanship or no partisanship, I prefer to take their opinion as to what constitutes repudiation than several of the gentlemen who have just expatiated with so much vehemence.

This is not a partisan issue. It is either repudiation or it is not repudiation. We believe it is repudiation. Furthermore, we believe that this resolution constitutes a very improper proceeding, a very dangerous one, because it is likely to impair the credit of the United States. It does not merely apply to what has gone on in the past. That is bad enough. That is repudiation in itself, but it says in any future issues of securities the holder cannot sue. It means that he has no rights; that future Government securities are merely scraps of paper that can be repudiated and violated at will by the Government. Therefore I say why should anyone buy Government bonds, when they can be deliberately repudiated as the gold clause has been, but much more easily because there will be no gold clause or any other restraining provision.

In the future, Government securities will be mere scraps of paper, open to immediate repudiation, not by act of Congress, which is at least a restraining influence, but they will be subject to repudiation by the Secretary of the Treasury. In my humble opinion, the resolution amounts to legalized financial immorality, financial rape, and financial robbery. Its very purpose is to legalize an immoral act of Congress. It deliberately goes a step further than the repudiation of the gold clause. What did the Supreme Court say in the case of the gold clause? Eight of the nine judges said that the act of Congress, Public Resolution No. 10, of June 5, 1933, "is unconscionable and immoral." That is what 8 of the 9 judges said, but by a vote of 5 to 4 they held it is legal unless the bondholder could show damages. In order to prove damages the bondholder must have the right to go to court and sue the Government.

Now, you come into Congress to take away this inherent right of an American citizen to sue the Government. Up to 1855 the Congress settled claims against the Government, but there was so much graft and dissatisfaction that the Congress itself relinquished that right and established the Court of Claims. Ever since 1855 American citizens could go with their cases before the court and sue the Government. That has been the customary practice for 80 years in the United States, and all other civilized nations permit their citizens to sue their governments. The Congress, after decisions are handed down by the Court of Claims has invariably appropriated the money. Now, you come here and deliberately add repudiation to repudiation. Not only has the gold clause been thrown out of the window but now the right to sue, an almost sacred right, is taken away from American citizens who cannot even go into the Court of Claims and sue for damages.

Let me answer the statement of a Democratic member of our committee. I love them all. I may disagree with them at times, but the gentleman said on the floor of this House that Communists would advocate the position taken by the minority opposition. I have heard something about Communists myself. [Laughter and applause.] I know a little something about Communists. The one thing for which Communists stand more than anything else is repudiation. [Applause.] Lenin, who is the leader of communistic thought all over the world, a great intellectual and a very shrewd man, always said the way to bring about communism in the world, in civilized and capitalistic countries, is to depreciate the value of money, to impair credit, and to repudiate all money values. That is exactly what this bill tends to do.

It is carrying out the principles laid down by Lenin himself to impair credit, to depreciate money, to take away the rights of the people to sue, and, above all, to bring about repudiation. That is the essence of communism—to destroy financial credit and currency—and the method is repudiation. This is just another link in the chain of state socialism, making the Government the master of the people and placing complete control of money in the hands of a dictatorial government. This resolution amounts to repudiation; it is repudiation. I do not say that on my own account or on the account of my colleagues on the Republican side. The elimination of the gold clause was repudiation, and held by the Supreme Court of the United States to be an immoral act. This is doubly immoral, because it takes away the right of the people to sue the Government in defense of their own rights and of their own liberties.

Above all and beyond everything else, the reason I am opposed to this bill is that it destroys public confidence in America and further impairs the public credit. That is the main objection to it. What we need is inflation of confidence, not inflation of credit. What we need is confidence, more confidence, and still more confidence, and what we get is repudiation, more repudiation, and still more repudiation. There is fear and dread overhanging the land today like a dark cloud, all because confidence has been destroyed. Why has it been destroyed? Because this new-deal administration has, from the very outset repudiated its contracts, and for the first time in history—and I will challenge anyone to deny it—including the administrations of Grover Cleveland, Woodrow Wilson, and all the rest, Republican

and Democratic alike, no administration since the formation of the Republic has ever dared to violate or repudiate sacred binding obligations of the Government to the people as the new-deal administration has done in depreciating the value of the dollar, repudiating the gold clause, and preventing its citizens to sue for damages. [Applause.]

The CHAIRMAN. The time of the gentleman from New York [Mr. FISH] has expired.

Mr. STEAGALL. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. FORD].

Mr. FORD of California. Mr. Chairman, for the last hour we have been listening to very learned legal lights on the Republican side of the aisle expatiating at great length on that mouth-filling phrase "repudiation." So vehement have these gentlemen become that the ordinary person would be led to believe that the credit of the country was on the verge of going over a precipice into nothingness.

Now, what those distinguished gentlemen are contending for is a special privilege for a certain class of people in the United States. These individuals or corporations, at the instance and request of their Government, purchased up to $20,000,000,000 worth of a certain type of security. These particular securities carried an agreement calling for payment in gold of a certain weight and fineness. A situation arose in the United States where Congress found it would be impossible for the United States Government to fulfill those contracts to the letter, even if they had wanted to, for the simple reason that in all the world there was not the amount of gold that was called for in those contracts.

Plain, ordinary common sense, therefore, dictated that since it is the province of the sovereign to state what value its money shall have, to coin money, and regulate the value thereof, the content of the gold dollar was changed and the gold clause was eliminated from Government obligations. In doing this the Government was entirely within its sovereign, governmental rights. In taking this step, Mr. Chairman, who was the Government protecting? It was protecting the people of the United States against a very limited and powerful class—the holders of bonds carrying the gold clause.

One of the Members this afternoon adverted to taking the gold clause out of the bonds as financial rape and robbery. I say that if this question were allowed to be taken to the courts—and nobody knows what a court will do, it has the last guess—and the holders of these bonds be given 69 percent more than the face value of their bonds, this would be financial rape and legalized robbery of the Treasury of the United States and of the people of the United States, and to the unjust and unwarranted enrichment of a small class.

I do not believe the people of the United States have the slightest fear as to the solvency of its obligations or that the bonds they hold will not be paid. They will not be paid in gold, but they will be paid in lawful money of the United States, dollar for dollar.

Reference has been made to parity, the statement being that our moneys were not all on parity, because some of them carried different dates of maturity and different rates of interest. That has no relation at all to parity. The parity of an obligation is the fact that it will be paid at the face value printed on the obligation in the number of dollars nominated in the bond; and that is the way we expect to pay our obligations.

They talk about this bill affecting the credit of the United States. All right, suppose the holder of a gold-clause Government bond got judgment against the Government and the United States Treasury were forced to pay, not $10,000,000,000 but $16,000,000,000—there are but $10,000,000,000 of these outstanding—in order to make good the difference between the face of the bond and the amount sued for. Would that affect the credit of the Government at this critical time? We would get by with it, it is true, but the taxpayers of the country would be faced with an increase in the national debt of $6,000,000,000 or $7,000,000,000, which increase would go to a very small group of people in the community.

Now, that is the converse of what they call repudiation. It is what I call legalized robbery. But no repudiation or charge of repudiation can lie where the Federal Government stands ready to pay dollar for dollar the number of dollars nominated in the outstanding bonds. I am aware of the fact that many people say we should pay the bond not only according to the amount stipulated but according to the content stipulated. We are, however, no longer paying bonds in gold. Half the obligations that were outstanding at the time the gold content of the dollar was changed and the gold clause was removed from the bonds, have been exchanged for new bonds. Talking about injustice, you would be doing this group a grave injustice if you gave the other group which held onto their bonds the right to get an additional $6,000,000,000. Talk about the equities of the case—there they are.

But there is one other point I want to make; when the holders of these gold-clause bonds purchased them they paid the lawful money prevalent at that period. Let us take the year 1920 for an example. One thousand dollars at that time would have purchased about 750 bushels of wheat, probably less, at the price of wheat at that time. It would have purchased cotton at about 18 or 20 cents a pound. It would have purchased corn at anywhere from 80 cents to $1.20 a bushel. It would have purchased copper at 16 to 19 cents a pound. Today $1,000 in lawful money of the United States would buy, in some instances, twice the amount of any one of these commodities the 1920 dollar would have bought. How, I ask, is the man who takes this new dollar in any wise hurt financially? I cannot for the life of me see how a man could go into court with a case of this kind knowing that if he succeeded the Government of the United States would be mulcted of $6,000,000,000 or $7,000,000,000. I cannot see in all conscience how that man can justify his action as a patriotic one, for in doing this he would be endangering the credit of the United States for his own selfish interest and personal enrichment. No matter what argument you may build up on the decision of the Supreme Court in the gold-clause cases, after all, the Supreme Court did say that no damage was shown; and it is reasonable to believe that in another case the Court would say the same thing.

When you talk about injuring the credit of the United States, what could be more dangerous to the credit of the United States than to have a thousand lawsuits filed, every one of them demanding for each $1,000 bond $1,690?

[Here the gavel fell.]

Mr. STEAGALL. Mr. Chairman, I yield 5 additional minutes to the gentleman from California.

Mr. FORD of California. Let me reiterate this proposition, Mr. Chairman. It is true that two former Secretaries of the Treasury have said that the passage of this resolution would impair the credit of the United States on the theory, I presume, that it is repudiation; but I wonder whether, with all these threatened suits and the possibility of the Government being mulcted for an additional $6,000,000,000 or $7,000,000,000, the credit of the United States would not be endangered? I want to ask whether or not in your judgment as sane, patriotic citizens of the United States, you think it is a moral thing or a patriotic thing for any citizen to ask the right to go into court and for personal enrichment undermine the credit of his country?

Why do they say this will undermine the credit of the United States? One school of thought says it will bring on inflation if $10,000,000 of bonds were taken to the Treasury and the money was requested immediately. It is argued that the Government, not being able to refinance itself quick enough, would have to issue direct obligations of the Government in the form of notes and that that would result in inflation. Of course, I do not think anything of that kind would happen. Just as fast as those obligations were presented for payment, the holders would be given the option of taking new bonds or somebody else would be given the privilege of buying bonds. These bonds would be purchased rapidly enough so that payment would be made in the form of the money we have today and our financial standing would not be affected one iota.

Of course, it grieves me to hear Members of Congress accuse the Government of high crimes and misdemeanors, as has been charged on the floor of this House today.

Let me ask this question in connection with the repudiation matter: Has anybody in his research been able to find a single instance where the English Government was sued on its obligations when it devalued the pound?

Mr. GOLDSBOROUGH. Will the gentleman yield?

Mr. FORD of California. I yield to the gentleman from Maryland.

Mr. GOLDSBOROUGH. In England, if it is desired to sue the Crown, it is necessary to file a petition and make the request, which has to be granted.

Mr. FORD of California. Yes; the gentleman is correct.

Mr. HOLLISTER. Will the gentleman yield?

Mr. FORD of California. I yield to the gentleman from Ohio.

Mr. HOLLISTER. The gentleman knows that the petition never fails being granted. It is always granted as a matter of course in England.

Mr. FORD of California. But I insist there is no such case on record.

Mr. SPENCE. May I ask this question? In the first case involving this subject that was filed against the United States the Court said:

> In this view of the binding quality of the Government's obligations we come to the question as to the plaintiff's right to recover damages. That is a distinct question. Because the Government is not at liberty to alter or repudiate its obligations, it does not follow that the claim advanced by the plaintiff should be sustained. The action is for breach of contract. As a remedy for breach, plaintiff can recover no more than the loss he has suffered, and of which he may rightfully complain. He is not entitled to be enriched. Plaintiff seeks judgment for $16,931.25, in present legal-tender currency, on his bond for $10,000. The question is whether he has shown damage to that extent, or any actual damage, as the Court of Claims has no authority to entertain an action for nominal damages.

I would like to know who was on the moral side of that question, the Government or the litigant?

Mr. GOLDSBOROUGH. Will the gentleman yield?

Mr. FORD of California. I yield to the gentleman from Maryland.

Mr. GOLDSBOROUGH. I want to observe that in neither France nor England, since devaluation has taken place, has any citizen sued the Government to recover an amount greater than the actual value of the currency of the country at the time of the decision.

Mr. FORD of California. I know of no such case, nor do I know of any country whose government would countenance such a suit.

[Here the gavel fell.]

Mr. HOLLISTER. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. DIRKSEN].

Mr. DIRKSEN. Mr. Chairman, I had presumed that on broad grounds there was no fundamental difference between the majority and the minority with respect to the pending bill. But the more I listen to the discussion the more bewildered I become, and the only reason I am taking this time is not to persuade anybody to a course of action when the time comes to vote, but rather to clarify my own mental processes and be reasonably sure of my own conclusions.

We might very well take a lesson from the book of Thomas Payne, who wrote that 50-page pamphlet during colonial days called "Common Sense", and who was characterized by George Washington as the greatest single individual who precipitated the change of opinion that brought about independence for this country. It was all contained in a single sentence that Thomas Payne said:

> How can one of the American colonists profess loyalty to the King on the one hand and fight him on the other?

That phrased the issue in a nutshell.

It seems to me we have not joined the issue on this matter as yet, so far as its practical implications are concerned. I have to get things down to simple little packages. I sometimes confess my inability to understand some of these abstruse arguments. For my own immediate purpose, let me say that after we got through passing a few congressional enactments, and after a number of Presidential proclamations had been issued pursuant thereto, the net result was that we impounded and hoarded the gold of the country. We took the country off the gold standard and put it on a gold-bullion standard. In January 1934, the President by proclamation devalued the dollar. Obviously the thought was that if you took some of the gold out of the dollar and depressed its gold content to 15 and a fraction grains, prices would go up. Coupled with the speculations of the Secretary of the Treasury, the result was that gold went from $20.67 an ounce to somewhere in the neighborhood of $35 an ounce. In the very nature of human selfishness it was only normal that some citizens should ultimately come before the Supreme Court and try to collect the extra five or six hundred dollars on a thousand-dollar bond. That is simply an attribute of human selfishness.

The Supreme Court decided that the act was unconstitutional by a vote of 9 to 8; then it indicated that the plaintiff in the case could not recover because he had not lost anything. I, for one, do not quarrel with that broad proposition. I am opposed to anyone getting an extra five or six hundred dollars when he only paid on the basis of $20.67 an ounce for the bonds that he holds. So I can readily join with the Members on the majority side in refusing to stand idly by and seeing someone unjustly enriched, on the ground he had not actualy lost anything, and I will gladly join with the brethren of the majority on that broad ground.

Secondly, if within the purview of the decision of the Supreme Court they say that no damages have been shown, why obviously it would be quite puerile for this Congress to stand idly by and let thousands of litigants rush into the Federal courts and congest the machinery of our judiciary in order to collect. I can stand by that proposition, as a matter of fact. In that respect we are right in line with the message of the President that was delivered on the 27th of June. But this bill goes just a little further, and my complaint is based on 12 words in section 2 of this bill. Those words are, with respect to withdrawing consent to be sued, that such consent is withdrawn "in any proceeding of any nature whatsoever heretofore or hereafter commenced."

The Attorney General came before our committee and intimated that sooner or later the gold clause would be removed from all Federal obligations. So this means that sometime next year, perhaps, there will be no bonds, after the refunding operations are concluded, that will contain any kind of gold clause and then this controversy will not exist and will not be raised so far as any action on future bonds is concerned.

It occurs to me, then, if we pass this bill, we are taking away from the citizens of this country the right to go in and sue even when the gold issue is not involved.

Now, perhaps, Mr. Chairman, I am all wrong, but that is the way I interpret the bill, and if that is the case, I would be rather reluctant to add my vote to taking away from the citizenry of this country the right to go into the Federal courts and there have a judicial determination of their grievance with the sovereign.

There has been much said about the sovereign power having the right to withdraw the grace and privilege of being sued. I think this is absolutely true. Once upon a time kings ruled by alleged divine right under the slogan that "the king could do no wrong." If he could do no wrong, there was no use of the subject suing him, because it was alleged he could do no wrong; but if my memory of English constitutional history serves me correctly, hundreds of years ago they established the Court of Kings Bench in England for the very purpose of giving the subject the right to sue the sovereign; and if now, in this year of our Lord 1935, in a representative democracy, we are going back on that traditional constitutional development and say to our citizenry that on the basis of the obligations of the United States the privilege to go into a court and sue the sovereign is withdrawn, it looks to me like a step backward.

Obviously we can achieve what the President has in mind by adding an amendment to section 2 of this bill; and if

such an amendment is added I shall be pleased to vote for this measure. It seems to me that a very proper limitation in section 2 can be inserted in the bill so as to limit the cases where the consent of the sovereign to be sued is withdrawn and to limit the cases in which a citizen is denied the right to sue to those cases that involve the gold clause and the gold principle. Does not this state the whole case? Does not this preclude people from unjust enrichment? Does not this preclude the possibility of a multiplicity of suits in the Federal courts? And, if it does, then it serves the very substance of the message of the President, and it is not necessary for this Congress to go any further. If I am right in this premise, and if it is not rebutted by anybody, I shall feel constrained to vote against this bill on that ground.

I think the minority stated the whole case in the last paragraph of their minority views when they said that this bill goes too far. Fundamentally, we have no quarrel with those who do not want to see some citizens and speculators unjustly enriched. We have no quarrel with those who want to stop multiplicity of legal actions in the courts.

I think the nub of the controversy is simply that you are going entirely too far and taking a step backward, and when we do take this step, the next autocratic step of denying the citizen the right to sue for any cause under any circumstances in Federal courts is much easier taken.

On the basis of the representations that have been made this afternoon, and on the basis of my own excursions into the substance of this bill, there is nothing else for me to do but to vote against the bill unless section 2 is amended so as to make it a little more palatable and get away from what I think is a most vicious feature and one which will constitute a step backward in this enlightened age in a representative democracy.

Mr. COLDEN. Mr. Chairman, will the gentleman yield?

Mr. DIRKSEN. I yield to the gentleman from Colorado.

Mr. COLDEN. Assuming that a citizen might bring suit and the court awards the difference that he might claim, would not that be depriving the Congress of the power to coin money and regulate the value thereof?

Mr. DIRKSEN. I doubt it very much, and I also doubt whether a dissertation upon that broad subject would be particularly germane to the substance of this bill.

[Here the gavel fell.]

Mr. HOLLISTER. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Chairman, the Democratic Party in its platform of 1932 said:

> We believe that a party platform is a covenant with the people to be faithfully kept by the party when intrusted with power, and that the people are entitled to know in plain words the terms of the contract to which they are asked to subscribe.
>
> We hereby declare this to be the platform of the Democratic Party.
>
> * * * * * * *
>
> We advocate a sound currency to be preserved at all hazards.

Franklin D. Roosevelt, in his address of acceptance before the Democratic National Convention at Chicago, on July 2, 1932, said:

> That admirable document, the platform, which you have adopted is clear. I accept it 100 percent.

Throughout the Presidential campaign of 1932, Franklin D. Roosevelt in his speeches assured and reassured the citizens that a sound currency would be preserved, and that to even suggest going off the gold standard was a libel upon the credit of the United States Government.

The violation and repudiation of the pledges so made by the Democratic Party and by the President are responsible for the dishonorable legislative proposal presented here today. It arises out of a series of piratical executive and legislative acts which were wicked in conception, unjust in purpose, tyrannical in execution, and cruel in their results.

This administration has attempted by legislation and by Executive orders to repudiate contractual obligations entered into by the Government with its citizens. The purpose of the obligations was to enable the Government to meet a great national extremity by means of loans obtained from patriotic citizens.

The issue between the Government and one defrauded citizen has been presented to and decided by the Supreme Court of the United States. The Court has held that—

> The Constitution gives to the Congress the power to borrow money on the credit of the United States.

That—

> Having this power to authorize the issue of definite obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations.

The President now ignores the legal and moral aspects of the issue involved in the decision and instead seizes with avidity upon a scheme of sharp practice by which with the aid of Congress he hopes to achieve repudiation in fact, a result he failed to accomplish by legislation.

The Supreme Court, in the opinion in the gold-clause case, said:

> The fact that the United States may not be sued without its consent is a matter of procedure which does not affect the legal and binding character of its contracts.

Continuing, the Court, in its opinion, pointed out:

> While the Congress is under no duty to provide remedies through the courts, the contractual obligations still exist and, despite the infirmities of procedure, remain binding upon the conscience of the sovereign.

The President in his message to the Congress under date of June 27, 1935, urges the Congress to take legislative action the avowed purpose of which is to deprive American citizens the right of access to the courts to recover any damage they may have suffered or may suffer in the future from the illegal acts of the Congress.

> "Before the termination of this session of the Congress", said President Roosevelt, "I believe that it is important that definite action be taken to eliminate any uncertainty with respect to the right of holders of gold-clause bonds of the Government to sue for repayment either in gold or else in legal tender with an additional sum of 69 cents on every dollar."

The joint resolution to consummate this fraud upon American citizens, as requested by the President in his message, is now before the Congress. The proposal is dishonorable, and ordinarily such a request would reflect upon the integrity of this legislative body. The President, however, having previously tested the moral fiber of the Congress and having found it weak, he is now emboldened to ask that the Congress venture beyond the domain of national honor, and trifle with our national safety.

The Congress is asked to impair the basis of our national credit, "a power" which the Supreme Court points out is "vital to the Government—upon which, in an extremity, its very life may depend."

Is the Congress prepared to vote to destroy or even impair a power upon which the very life of the Nation may depend?

Let me quote from the opinion of the Supreme Court on this point:

> The Constitution—
>
> Says Chief Justice Hughes—
>
> gives to the Congress the power to borrow money on the credit of the United States, an unqualified power, a power vital to the Government—upon which in an extremity its very life may depend.

Mr. Chairman, no nation can meet a grave national extremity without the use of national credit. National credit is based upon the confidence which the citizens have in the honor and integrity of their government. Confidence in the integrity of government is neither the child of repudiation nor of confiscation. It has been said:

> That which raises a country, that which strengthens a country, and that which dignifies a country—that which spreads her power, creates her moral influence, and makes her respected * * * is character.

It ought to be the aspiration of every Member of the Congress to contribute to the honor, the dignity, and the prestige of his Government—not to cast his vote for legisla-

tion that will destroy these cherished attributes of sovereignty. [Applause.]

The Chief Executive ought never to have asked the Congress to commit the first illegal act, upon which the present dishonorable demand is predicated. It can be justified upon neither moral nor legal grounds.

A demand from the President addressed to the Congress to destroy a power vital to the very life of the Nation is not consonant with his oath of office.

The borrowing power of the Government is under a terrific strain. Repudiation has already shattered the confidence of the investing public in the ultimate redemption of Government obligations. The Government, unable to sell to the public, has forced the banks to absorb the ever-increasing issues of its obligations made necessary by constantly mounting expenditures. This program, if continued, must of necessity lead to a national extremity. The wild and reckless squandering of public funds for the promotion of communistic and socialistic experiments has proceeded so far that already national disintegration has set in. What are the symptoms of national disintegration? They have been summarized by a keen student and diagnostician of socialism and communism. I quote:

> Dislike of any kind of constraint; continued lowering of the prestige of law and government; general hatred of superiority, whether of fortune or intelligence; absence of solidarity between the various social strata and class struggles; utter contempt for the old ideals of liberty and fraternity; progress of the extremist doctrines preaching the destruction of the established social order, no matter what that order may be; and substitution of autocratic collective powers for old forms of government. Such symptoms, especially the distaste for constraint and the undisciplined contempt for law, necessarily lead to the development of a revolutionary spirit, with its inseparable companions, violence and hatred.

The program of state socialism which, with slight variations, has been launched by this administration here, has been carried to consummation in Russia, Germany, Austria, and Italy, and the final result in each of the unfortunate countries has been a loss of individual liberty and rule by a dictator.

Mr. Chairman, there are other passages in the President's message which should not go unchallenged.

> • • • the interests of our entire people—

Said President Roosevelt—

> require that the Government of the United States make it clear that it cannot and will not consent to the use of its courts in aid of efforts to sabotage the operations of Government or in aid of private speculation.

Who does the President accuse of an attempt to "sabotage" the operations of Government? Who are they? Of what act have they been guilty that they should be deprived of access to the courts of the United States to seek redress for wrongs suffered by them at the hands of a tyrannical Executive and a rubber-stamp Congress? I shall tell you who some of them are.

When the World War was in progress the United States Government had to have money. It had to have money with which to buy airplanes, cannon, rifles, machine guns, horses, food, ships, and clothing for the soldiers. Not only millions but billions of dollars had to be spent to equip our soldiers for war. Where did the Government get this money? It borrowed it from the people. Great sales forces were organized by the Government to sell bonds to patriotic citizens. Even children were persuaded to buy savings stamps, until from their small earnings they could accumulate enough to buy a United States bond. The great Government sales organization swept across the country into every State, county, city, village, and hamlet appealing to every man, woman, and child in the name of patriotism to buy bonds to help win the war. The soldiers fighting at the front and the soldiers behind the lines were urged to buy Government bonds. They did buy bonds. They bought them until "it hurt." The people were told that the bonds would be redeemed in gold. It was a Democratic administration that issued these obligations, and across the face of each one was printed a promise to pay the bond in gold.

The President urged the Congress to repudiate the promise made by the Government to its citizens. The Congress attempted to repudiate the obligations of the Government even though the fourteenth amendment, in its fourth section, declares that:

> The validity of the public debt of the United States, authorized by law • • • shall not be questioned.

Now the Congress is told by the President that the people who bought these bonds are guilty of "sabotage"; that they seek "to harass and embarrass sovereign action by the Government."

Once it was said of a foreign usurper who, I assume, had a psychopathic mania for power:

> He was witty and sanguine. His supreme assurance inspired for a time universal confidence. He fascinated and seduced the Court, he smiled away their fears, and with promises dispelled all doubts.

Mr. Chairman, the period of fascination and seduction in this country has passed. The fears of the people cannot be smiled away, and promises have ceased to dispel their doubts. The citizens of this Nation expect the Congress to display honesty, intelligence, independence, and judgment in the conduct of its legislative functions. This national crisis can be met in no other way.

Mr. Chairman, this is not the first crisis this Nation has had to face and to surmount. There have been several crises. Let me single out one of them.

When Hon. William McKinley was elected President of the United States, what was the condition of the Nation? The country was impoverished, the Treasury overdrawn, and there was a rapidly mounting public debt. There was bitterness, class hatred, hunger, and unemployment. William McKinley was inaugurated March 4, 1897. What was his program? Did he demand dictatorial Executive powers? Did he attempt to destroy industry? Did he advise repudiation of Government bonds? Did he demand personal access to the public purse and the right to squander the public funds? Did he ask for the adoption of un-American laws demanded by alien enemies within our gates? William McKinley demanded none of these powers. His program is revealed in his inaugural address. I quote:

> The credit of the Government, the integrity of the currency, and inviolability of its obligations must be preserved.

In that same address he said:

> Economy is demanded in every branch of the Government at all times, but especially in periods like the present, of depression in business and distress among the people. The severest economy must be observed in all public expenditures, and extravagance stopped wherever in the future it may be developed.

He further said:

> Our naturalization and immigration laws should be further improved, to the constant promotion of a safer, a better, and a higher citizenship. A grave peril to the Republic would be a citizenship too ignorant to understand or too vicious to appreciate the great value and beneficence of our institutions and laws, and against all who come here to make war upon them, our gates must be promptly and tightly closed.

And what were his closing words—not a request for dictatorial power, but instead this was his appeal to his fellow countrymen:

> Let me again repeat the words of the oath administered by the Chief Justice, which in their respective spheres, so far as applicable, I would have all of my countrymen observe:
>
> "I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States."
>
> This is the obligation I have reverently taken before the Lord Most High. To keep it will be my single purpose, my constant prayer; and I shall confidently rely upon the forbearance and assistance of all the people in the discharge of my solemn responsibilities.

That was the program; that was the appeal of William McKinley.

What was the condition of the country when he left it?

Prosperous, furnaces blazing, mills running, exports multiplying, labor abundant, wages unprecedented, good will prevailed, and our national credit sound.

This Nation, under the righteous leadership of William McKinley, emerged from the crisis with a sound currency, with its national honor unstained, and with the Constitution unimpaired.

The legislation which the Congress has before it today, if enacted into law, will impair our national credit and place a stain on our national honor.

The dishonorable course which the Congress is asked to pursue, if complied with, will not bring prosperity to the people of this Nation. Instead, compliance with bring only shame and dishonor.

Let us not forget that—

A state to prosper must be built on foundations of a moral character, and this character is the principal element of its strength and the only guaranty of its permanence and prosperity.

[Applause.]

During the delivery of Mr. REED's remarks the following occurred:

Mr. McFARLANE. Mr. Chairman, I ask that the gentleman's words be taken down. He says that the moral fiber of Congress has gone. I challenge that statement.

Mr. CHURCH. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois makes the point of order that no quorum is present. The Chair will count. [After counting.] One hundred and thirty-two Members are present, a quorum.

Mr. SNELL. Mr. Chairman, I make the point of order that the demand of the gentleman from Texas comes too late. The gentleman from New York [Mr. REED] had read several paragraphs after the words complained of.

Mr. McFARLANE. The gentleman from New York was reading his speech, which he had no right to do without permission of the House.

The CHAIRMAN. The Clerk will report the words complained of.

The Clerk read as follows:

The President, however, having previously tested the moral fiber of the Congress, and having found it weak, he is now emboldened to ask that the Congress venture beyond the domain of national honor and trifle with our national safety.

The CHAIRMAN. On the point of order made by the gentleman from New York [Mr. SNELL] that the demand of the gentleman from Texas comes too late, the point of order is sustained. The gentleman from New York [Mr. REED] will proceed.

Mr. McFARLANE. Mr. Chairman, I raise the further point of order. The gentleman is reading his speech, and I want the House to pass on whether we have got to listen to such remarks.

Mr. SNELL. I make the point of order that that question was raised several days ago, and the House made the decision itself.

The CHAIRMAN. The gentleman from Texas objects to the gentleman from New York reading his speech. The gentleman from New York [Mr. SNELL] makes the point that the House passed on this very question. The Chair is of the opinion that the House, on the occasion referred to, passed on a specific case and not generally. The question is, Will the Committee permit the gentleman from New York to continue reading his speech?

The question was taken; and the Committee decided to allow the gentleman from New York [Mr. REED] to proceed.

Thereupon Mr. REED completed his speech, and was given permission to revise and extend his remarks.

Mr. LUCKEY rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. LUCKEY. Mr. Chairman, I rise to ask unanimous consent that the gentleman be granted another minute so that I may ask him a question.

The CHAIRMAN. The time is under the control of the gentleman from Ohio and the gentleman from Alabama.

Mr. HOLLISTER. Mr. Chairman, I yield to the gentleman from Minnesota [Mr. CHRISTIANSON] such time as he may desire.

Mr. CHRISTIANSON. Mr. Chairman, the gentleman from Wisconsin [Mr. REILLY] has just told us that the conditions of today are as different from those which existed in 1893 as conditions in 1893 were different from those which prevailed when George Washington was President. I agree with the gentleman that there have been great social, technological, and economic changes, but I want to call to his attention the fact that there are some things that have not changed, will not change, and cannot change, among which are the rules of honor between man and man [applause] and the inviolability of obligations. [Applause.]

We may violate these rules from time to time, we may shirk our obligations for a while, but always we return to them, for it is the experience of mankind that an orderly human society cannot exist except upon the basis of mutual respect and confidence. In 1858 the people of Minnesota authorized a $5,000,000 loan of credit to aid in the building of railroads. Two years later at a referendum they repudiated the obligation and directed the legislature to levy no tax for the payment of either principal or interest. For a quarter of a century the default lay as a stain on the escutcheon of the State, but in 1882, spurred on by John S. Pillsbury, an honest and fearless chief executive, who would rather be right than Governor, the voters of Minnesota, by a vote of 31,011 to 13,589, erased the stigma from the State's shield, and today the memory of Governor Pillsbury is revered by all the people. So I predict that whatever we do today eventually there will come a time when the Congress of the United States will recognize that a nation's honor is the most precious of its possessions.

The debate has disclosed that there is a misconception concerning what this bill provides and what the consequences will be if we do not pass it. It has been charged that a vote against this measure is a vote to permit the holders of $10,000,000,000 in Government bonds to enrich themselves unjustly to the extent of $7,000,000,000, and to place upon the taxpayers of the country a burden of $7,000,000,000 in additional debt. Those who have made this charge assume that because the gold value of the dollar has been reduced from 100 cents to 59, the holders of gold bonds would be able to recover as many 59-cent dollars as would equal in gold value the 100-cent dollars with which they parted when they purchased the obligations. As an eminent Democrat is wont to say, "Let's look at the record." There was nothing in the recent Supreme Court decision to justify the assumption. What the Court said was, in effect, that a failure to pay in gold constituted a breach of contract, and that a holder bringing suit against the Government would be required to prove his damages. He could not compel specific performance, but must be satisfied with reimbursement for the loss he had actually sustained.

It should be apparent that unless the dollar were further devalued, he would be unable to show any damage, for the purchasing power of the present dollar is greater than that of the dollar with which he parted when the bonds were issued. The very fact that this legislation is sought indicates strongly that the administration contemplates a further devaluation, or that it has plans for future expenditures that will still more unbalance the Budget and bring on an inflation of the currency. If the dollar should depreciate to the extent the German mark did during the post-war period, the holders of Government bonds would, of course, have little difficulty in establishing a loss which they cannot now prove. It would appear, therefore, that no more effective way could be found to halt the administration in its reckless financial operations than to refuse to pass this bill.

I reiterate that proof of actual damage sustained by reason of the purely theoretical devaluation of the dollar that has thus far been accomplished would be difficult and, indeed, practically impossible. It would not be sufficient to show that there has been a rise in the price level, for there is no unanimity of opinion among economists that the devaluation of the dollar has affected any prices. Even if it were assumed that devaluation has influenced the price level, it would be exceedingly difficult for any individual claimant to prove the extent to which devaluation has been a factor. Presumably a devastating and wide-spread drought has had a much greater effect than the reduction in the number of grains in a gold dollar buried in the vaults of the Treasury,

which nobody sees, which nobody is permitted to possess, and which nobody uses in any business transaction.

I shall not attempt to prove either that devaluation reduced the value of the dollar or that it did not. If it did not, the gold-bond holder suffered no loss. If it did, and the holder could prove it—which he could not—it is reasonable to assume that the taxpayer's income, reflecting the same changes in the price level as those which furnished the basis for the bondholder's claim, would have increased to the same extent as the value of the bondholder's paper had been reduced. In that event the bondholder's recovery would leave both him and the taxpayer in the same relative situation in which they were before the devaluation took place.

I do not care which horn of the dilemma the administration chooses to accept, for in either event it is answered by its own argument.

Furthermore, it should be remembered that if it happened that a court gave to any claimant a judgment that would result in his unjust enrichment, Congress would not be without power to correct the error. A mere judgment would not give to any bondholder a single dollar of reimbursement; Congress would have to appropriate the money to pay the judgment and its failure to do so would make the judgment, in practical effect, a nullity.

I have no patience with the attempt that has been made this afternoon to justify the present measure on the ground that there is no inherent right to sue the State and that therefore the action we are taking does not constitute repudiation. That that argument should be advanced is additional proof that the present administration is reactionary and not in any sense liberal. I had not expected the spokesman of the present regime to acknowledge that it bases its policies on the philosophy of the Middle Ages.

The principle that the sovereign cannot be sued without his consent goes back to the time of the divine right of kings. It is based upon the assumption that the king can do no wrong. The American Revolution was a definite repudiation of that philosophy. With us the rule that the state cannot be sued without its consent is merely a vestigial remnant—a vermiform appendix which bears evidence of our lowly origin. As the implications of a newer and more realistic conception of the relation between the Government and the citizen have become more and more clearly understood, we have removed one by one the restrictions and inhibitions which formerly deprived the people of the opportunity to have their grievances heard and considered.

I hold no brief for any bondholder or for the gold clause. By my vote I helped to banish the gold clause, and I regret that the present administration saw fit to issue gold bonds at a time when it must have anticipated its decision to repudiate them.

But, despite my aversion to the gold clause, I cannot by my vote sanction a measure which denies to any citizen his day in court, which refuses restitution for any actual damage that can be proved, and which definitely alines the United States with the defaulting nations of the world.

Mr. HOLLISTER. Mr. Chairman, I yield the remainder of my time, 3 minutes, to the gentleman from Ohio [Mr. FIESINGER].

Mr. FIESINGER. Mr. Chairman, several times upon this floor today I heard the statement made that England devalued the pound. England did not devalue the pound, in the sense that we devalued the dollar, by cutting down the gold content. She merely went off gold and let the pound fall where it would.

There have been harsh words used here today. The word "repudiation" has been used. I do not believe the situation warrants the use of the word "repudiation." When the agitation was going on for devaluing the dollar, I do not believe that the President of the United States was personally in favor of that course.

There was a tremendous agitation in this country, and it was participated in not alone by Democrats but it was participated in by the Republicans. Many men in Congress on the Republican side voted for that proposition. Many of the industrialists who were Republicans expressed themselves favorably upon that proposition. I think it came about through force of circumstance. Personally I never was in favor of the proposal, and said at the time instead of devaluing the dollar we should take the inflated and high purchasing power out of what the dollar is made of—gold. I offered a proposal to take the high purchasing power out of gold, and that would not only have relieved the producing classes in America but everywhere in the world. As I have said so many times before on the floor of the House, I am in favor of having a dollar with purchasing power and debt-paying power as of the time these obligations were incurred; and this would be somewhere along about 1926. No man on this floor is more against the unjust enrichment of these bondholders than I am. These bonds and the interest thereon will have to be paid out of the labor of the producers of America, and, Lord knows, I would not add to their burdens any more than is just and fair.

I think we misunderstand the fundamentals underlying money. In the few minutes I have I shall not be able to go into this question, but I want to quote a couple of paragraphs from the Georgetown Law Journal of March 1935, from an article written by Mr. Phanor J. Eder on the Gold Clause cases in the light of history. Mr. Eder says:

> Does money belong to the citizen or does it belong to the State?
>
> An answer to this question is fundamental. If money belongs to the State and is allocated to the citizen only as a convenient instrument to facilitate the interchange of goods and services, as a medium of exchange, as a "ticket" for goods", then obviously the State can do what it pleaseth with money in order to facilitate exchanges, distribute goods, improve trade, and promote prosperity. If it belongs to the individual possessor in fee, so to say, if it is more than a mere medium of exchange, if it constitutes a "store of value", a proper instrument for effecting savings and investment, then the State under older views of law cannot deliberately impair its value or take it from him, in whole or in part, for the good of the community any more than it can take his home for a public use without just compensation. To hold otherwise, as the Supreme Court now does, is to subordinate private rights and private law to newer concepts, revived from medieval times, of the supremacy of public rights and public law. This is in line with tendencies clearly manifested abroad in recent years, but which the common law has heretofore restricted.
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> The common law has consistently regarded money as the property of the individual, not of the State. Our law of money springs from two sources, the precedents of the King's courts and the law merchant. The debt of the law merchant to the Roman and continental law is well recognized. Our researches have convinced us that, as to money, the debt of the old English law is no less striking. It is therefore necessary to examine these foreign sources. In addition, European doctrines and practices have had, and still have, a continuous, if indirect, influence on our monetary evolution.

I believe we shall eventually see the wisdom of common-law doctrine, that money belongs to the people rather than to the sovereign. That principle was worked out as a result of long struggle between the sovereign and the people, and finally became a fixed and crystallized principle of the common law, which was never violated until after the World War.

When we devalued the dollar we violated that principle, and it was not done, as I said, by Democrats alone but by Republicans as well, and it is my honest judgment that President Roosevelt, if he were acting alone and had not had the pressure of Congress and certain elements of the country, would not have done so. Today we are asked to vote for a proposal to further violate that principle of the common law by taking away the right of a citizen to be heard in the courts for the violation of his rights evolved through the experiences of mankind and expressed in the light of the common law. This is wrong no. 2, and two wrongs never make a right:

Devaluation of the dollar, in my judgment, has not done the country any good. It has only added to monetary confusion. I am satisfied that the President and the Congress did the right thing in going off gold redemption. In view of the peculiar psychology of the American people, it was wise to retreat from gold redemption, and that had salutary effect. Wheat and cotton, as a result of that action, sold for about or above the price before devaluation, and after we went off gold redemption, than those products are selling for today with devaluation.

Mr. Chairman, what we should have done was to regulate the value or purchasing power of gold, for our troubles have come as a result of low world gold price levels, which govern when we sell our products abroad, and I refer particularly to prime commodities of which we produce an exportable surplus. Devaluing the dollar did not help world gold price levels, and hence the troubles of wheat, cotton, copper, and all other prime commodities we sell abroad. Let us take the case of cotton.

I have watched with great interest the troubles of cotton, and what is true of cotton is likewise true of other commodities of which we produce and sell an exportable surplus. The average crop of cotton is around 10,000,000 bales, of which we export about 50 percent. Gold is the measure of value of cotton exported. We are prone to think in terms of the farmer selling cotton, but the object of his transaction is to acquire gold, so would it not be more accurate to think that what he is really doing is buying gold? So if the cotton farmer is in effect buying gold, is there not some way we could regulate the purchasing power of gold? Domestically we have attempted to regulate the purchasing power of the dollar, but we have never attempted to regulate the purchasing power of gold, so the cotton farmer is at the mercy of the unregulated purchasing power of gold or the thing he is buying with his cotton.

But that is not the worst of it. He is at the mercy of his own Government, for as a gold buyer he is in direct competition with his own Government, skimming the world of its gold and then sterilizing it. What he gets, of course, for his gold is paper dollars which give him a 40-percent differential, but his Government keeps the world gold price of cotton in a vice by its competition with him for gold, and that keeps his dollar price down.

Even with the 40-percent differential it fails to give him a profit, and this in turn produces all manner of economic ills that we are seeking to cure by a national policy of subsidies and benefits. Gold competition also affects cotton producers everywhere in the world and starves their purchasing power, which in turn causes stagnation of trade that we might have if this were not so. Said competition causes a condition which might be illustrated as follows:

Suppose a thousand people were lost in a desert, their water supply having been exhausted, and they were parched with thirst, and it were announced to all that an oasis was near, but it contained only half enough water to satisfy the requirements of all; can you imagine the ensuing struggle and complaint and dissatisfaction after the water had all been consumed?

The image here may be extended to the gold situation. Through hoarding and sterilization, the world gold oasis contains a little more than half enough to satisfy and the struggle thereby engendered expresses itself in the world commodity price level, of which our cotton farmer, our wheat farmer, and all others producing prime commodities for export are the victims.

If one accepts this view the depression is a world problem and has a common cause, as the same phenomena exists everywhere. Its cause is depressed world gold-price levels. It has been treated thus far as a local problem, its mainfestations on unemployment and stagnation of world trade. This bears heavily upon the producers of price commodities, and in turn upon manufactured commodities. The latter is secondary, the first is primary because it is from this source, and only this source, that gives stimulus to manufactured commodities.

Without contradiction competent economists have claimed an appreciation of the value of gold in terms of commodities of as much as 65 percent, and possibly 75 percent, since the year 1926. The orthodox economists claim the value of gold cannot be regulated. That may be so, but if it could be regulated, the purchasing power of cotton could be increased, if the purchasing power of gold were decreased. It is not difficult to visualize what would happen if the purchasing power of cotton was increased by 25 percent or 30 percent of, say, 50 percent. It would greatly stimulate consumption of manufactured goods, increase employment, land values would increase and encourage investment in durable goods, cotton States would take on new life and prosperity.

What would be done for the South would likewise be done for the Central West and West and, for that matter, the industrial East in stimulating manufacture and decreasing unemployment.

As I say, the professional economists claim you cannot operate upon the purchasing power of gold. If they are wrong, it would not be the first time almost universal professional opinion was wrong. I am reminded in this connection by what I recently heard. A certain Congressman had cataracts; all the doctors consulted advised he would have to wait until the cataracts ripened, maybe a period of 10 years; in the meantime he would become progressively blind. An eye specialist of renown assured him he could ripen the cataracts in 2 weeks and restore his failing sight by an operation almost immediately. And again all the doctors in the world had been telling their patients that angina pectoris was incurable. The other day a surgeon in Cleveland refuted all this by an operation; so it is possible the orthodox economists may be wrong. Let us see. In operating on the purchasing power of gold, of course, you have to operate upon the supply and demand ratio of gold. Bring the supply and demand of gold in equilibrium. To satisfy the demand for gold, use a gold equivalent.

Silver has a world-recognized market value and for centuries has been used as a monetary metal. Give silver legal tender qualities for its world-accepted gold value. It is thus a gold equivalent. Make silver a means of payment at its equivalent gold value. The more silver is used for this purpose, the less the requirement for gold to be used for the same purpose. Thus the demand for gold is relieved, and its power over commodities is lessened, lessened to that degree required, say to average of 1921–29 price level, and when this is reached, stabilize gold at that point, or any desired point. When gold is stabilized, it becomes an unvarying standard of measurement and that standard of measurement must be so gaged so as to do justice between debtor and creditor, producer and consumer.

There is no question but what the nub of the bonus vote, the Goldsborough amendment, was to raise price levels by artificial means. The struggle is not new, it has been going on more than 3 years, and each time the House has voted, the issue to raise price levels has shown tremendous strength, showing the temper of the country on this subject. If the issue is not met and controlled with sound money, and in the above only sound money is provided, the dams that are holding back this sentiment will break open and we shall have a period of fiat money, if not a total collapse of our monetary system. The trick, however, is to raise price levels everywhere in the world and not locally only. [Applause.]

Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to include therein these excerpts.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. STEAGALL. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman and Members of the Committee, this resolution simply withdraws the consent of the United States to be sued upon any of its obligations for the repayment of money or upon any coin or currency of the United States or upon any claim arising out of the surrender or acquisition of such coin or currency. The need for this legislation grew out of the decisions recently rendered by the Supreme Court in what are known as the "gold clause" cases. Those decisions decided the constitutionality of various legislation passed by the Seventy-third Congress relative to obligations containing a provision for payment in gold and relative to the value and control of our currency and coin. This legislation, in connection with the Executive orders issued in pursuance thereof, was designed to establish a definite internal economy or domestic policy relating to the currency and provided:

First. That any obligation which purported to give the obligee a right to require payment in gold shall be discharged

upon the payment, dollar for dollar, in any coin or currency which is legal tender.

Second. That all holders of gold or gold certificates shall be required to deliver such holdings to the United States Treasury.

Third. That no one could lawfully possess gold and that it could no longer remain in circulation.

Fourth. That certain restrictions shall be placed upon the use of gold in foreign exchange.

Fifth. That the exportation of gold shall be prohibited.

Sixth. That all forms of money shall be placed upon a parity dollar for dollar and all shall be legal tender.

Seventh. That the gold content of the dollar shall be decreased.

These series of measures and orders regarding the currency had fixed a positive domestic policy and it was to test this legislation that a number of suits reached the United States Supreme Court. These may be divided into three classes. Two were to test the validity of the act of Congress providing that an obligation calling for payment in gold shall be discharged upon payment, dollar for dollar, in any legal tender money: (a) As applied to obligations of the Government itself; (b) as to all other obligations.

The other was a suit on gold certificates claiming the face value in gold or its equivalent. The Supreme Court held all these acts and orders within the powers of Congress under the Constitution except that part of the resolution which provided that the obligations of the Government containing the gold clause shall be discharged upon payment in any legal tender. The Court held that this resolution went beyond the constitutional power so far as it applied to obligations of the United States, but the same opinion held that the holder of an obligation containing the gold clause was not damaged because of the resolution and acts of Congress denying his right to demand payment in gold.

In the course of these opinions the Court said that the plaintiff could recover the loss he had suffered, but "he is not entitled to be enriched."

The question of actual loss cannot be fairly determined without considering the economic situation at the time the Government offered to pay him (plaintiff) the $10,000, the face of his bond, in legal-tender currency. The case is not the same as if gold coin had remained in circulation.

Plaintiff's damages could not be assessed without regard to the internal economy of the country at the time the alleged breach occurred. The discontinuance of gold payments and the establishment of legal-tender currency on a standard unit of value with which "all forms of money" of the United States were to be "maintained at parity" had a controlling influence upon the domestic economy. It was adjusted to the new basis. A free domestic market for gold was nonexistent.

And in view of the control of export and foreign exchange and the restricted domestic use, the question of value, in relation to transactions legally available to the plaintiff, would require a consideration of the purchasing power of the dollars which the plaintiff has received. Plaintiff has not shown, or attempted to show, that in relation to buying power he has sustained any loss whatever. On the contrary, in view of the adjustment of the "internal economy" to the single measure of value as established by the legislation of the Congress and the universal availability and use throughout the country of the legal-tender currency in meeting all engagements, the payment to the plaintiff of the amount which he demands would appear to constitute not a recoupment of loss in any proper sense but an unjustified enrichment.

The devaluation of the gold dollar placed the "domestic economy" upon a new basis. In the currency as thus provided, States and municipalities must receive their taxes, railroads their rates and fares, and public utilities their charges for services. The income out of which they must meet their obligation is determined by the new standard.

Their receipts should not be determined by one standard and the payment of their obligations by another.

What do these terms, "internal economy", "economic situation", and "domestic economy", as used in this opinion, mean? Do they mean if the price of commodities rise and the cost of living increases that the holder of a gold certificate or a gold-clause bond has been damaged, and for that reason he should be paid $1.69 on the dollar? I suppose no thinking man would contend that. The terms refer to the systematic management or adjustment of our monetary system. Not that prices may rise or fall, but that the Government had adopted a constitutional domestic or internal monetary policy, and the question is whether the holders of gold obligations were damaged by reason of that economic policy.

In the case of an obligation of the Government to pay money to the individual, he cannot be damaged by reason of the recent monetary legislation and policy of this administration. This is true because he cannot possess gold or place it in circulation; because he cannot export it or use it in international exchange; and because all money is on a parity, dollar for dollar. Under this domestic or internal economy as the Court calls it, there can be no damage to the individual in failing to receive gold. That is why the Court said, "in view of the adjustment of the internal economy to the single measure of value", and the placing of all money upon a parity and making it all available as legal tender, the holder of a gold-clause bond could not be damaged if he did not receive the gold or its equivalent in value. If there can be no damage, then why permit suits to annoy and bedevil the Government.

Under this resolution no one who holds an obligation of the Government of any kind for the repayment of money shall be permitted to sue the United States on its promise to pay. This resolution does not bar suits on any other cause of action that may arise. It does not deprive its citizens of the right to sue in any other case. It is a universal principle that the sovereign power cannot be sued without its consent. No action can be brought against it unless permission has been granted by law. It may be conceded if the Government, in its administrative capacity, inflicts a wrong upon an individual resulting in his damage that he should be given the right of redress in court. But no government should be sued by reason of the exercise of its sovereign power. No government on earth, except the United States, permits its nationals to sue it on account of its promise to pay money. The establishment and maintenance of a monetary policy is a sovereign power, and no government should be sued on account of it.

To say that an individual should be permitted to sue the Government, because in the exercise of its sovereign right it passes legislation or adopts a policy that may result in some inconvenience or pecuniary loss to him, is the very apex of absurdity and the height of folly. Congress may declare war, resulting in serious damage to individuals. It may pass a tariff law causing an increase in the cost of commodities. It may pass bankruptcy laws permitting debtors to wipe out their obligations to creditors. It may pass income-tax legislation which some people may think is a burden upon them. But to contend that because of this legislation and, perhaps, of hardships upon and loss to some individuals that they should have a right to sue the Government is to enter the realm of the ridiculous. It is equally fallacious to permit the individual to sue the Government because a certain monetary system or internal policy has been established by Congress under the Constitution which he does not like, even if it should result in damage to him, which it does not and cannot do. [Applause.]

Mr. STEAGALL. Mr. Chairman, the gentleman from New York referred to the present issue of Government securities as "scraps of paper", involving loss of confidence in the Government. The answer to this is that the Treasury has recently floated securities at an interest rate as low as one-tenth of 1 percent, the lowest interest ever paid in the history of this Government. [Applause.] The gold-clause bonds are now selling at a premium since the act of 1933; and the highest interest rate recently paid on long-time securities by the Treasury is only 2⅞ percent, whereas the old bonds that are now under discussion bear a rate of 4¼ percent.

Government credit has reached high tide under the present administration [applause], and this has happened since the enactment of the act of June 5, 1933; and the condition has been sustained since the country at large, and the bondholders in particular, have learned that the proposal now under consideration is going to become a law. [Applause.]

The gentleman from Ohio talked at length about the decision of the Supreme Court involving the constitutionality of laws passed by this Congress, but he declined to yield for a question, and I imagine it was because he knew I was going to ask him if he contends for a minute that the measure now before the House is unconstitutional or that its constitutionality is doubted by anybody. The sovereign has always been recognized as exempt from suit at the hands of its subjects; only by permission may it be sued; and there is nothing in this resolution that will deny a future Congress the power to give the opportunity to any citizen of the country to adjudicate any damage sustained and have it repaired by the Government. But just as the gentleman from Minnesota declared, no damage can be proven by any of the holders of these bonds.

That being the case, I ask why in the name of common sense should the Government submit itself to harassment, annoyance, and expense at the hands of litigants who have no claims that could stand up in any court? The plain fact is that this sovereign right of the Government to exemption from suit cannot be contracted away. It is not within the power of the Congress to destroy that right of the Government. The very fact that we are here now, offering to repeal a former enactment permitting suits, is answer to any argument that such enactment can be binding upon a subsequent Congress. If we gave the permission and the damages could be shown, the sovereign right would still repose in the people of this country to decline to pay the damages adjudicated unless through their representatives the people of the Nation decided to recognize the obligation. The truth is every effort by this favored class to exact payment by the Government at the expense of less favored classes or to enforce the collection of a debt in gold in contravention of the sovereign right of the Government to regulate the value of money is unjust, unfair, vicious as against sound public policy, and inherently immoral. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. All time has expired. The resolution under consideration contains a preamble, which the Clerk will read. The Committee, however, will consider the body of the resolution first and then return to the preamble.

The Clerk read as follows:

Resolved, etc., That the lawful holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies which may be lawfully acquired and are legal tender for public and private debts; and that the owners of the gold-clause securities of the United States shall be, at their election, entitled to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity or to prior redemption date, whichever is earlier. The Secretary of the Treasury is authorized and directed to make such exchanges and payments upon presentation hereunder in the manner provided in regulations prescribed by him. The period within which the owners of gold-clause securities shall be entitled hereunder to receive payment prior to maturity shall expire September 1, 1935, or on such later date, not after January 1, 1936, as may be fixed by the Secretary of the Treasury.

Mr. WOLCOTT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I think one of the most interesting points of discussion in respect to this bill was brought out by the gentleman from Alabama when he attempted to justify this bill in the light of the national credit. I am not going to take too much of my 5 minutes to answer that, except to say that there is one very good reason why the credit of the United States is good today. That is because these banks whose sides are literally bulging with money, with no place to put it otherwise, are investing in short-term Government securities. Within the next fiscal year it is going to be necessary for the Government to issue and market something like $9,000,000,000 of its obligations, which includes a refunding operation of about $5,000,000,000 and new obligations to the extent of about $4,000,000,000. That will be the test as to whether this act is peculiarly conducive to confidence.

Mr. Chairman, I challenge anyone on this floor to deny the fact that we are entering an era whereby it will become necessary for the Federal Government to use every particle of power which will be given it under the Banking Act of 1935 and under this act to maintain the credit of the United States. Banks are buying these short-term Government bonds so they can unload them quickly and get into the industrial market when there is a market for industrial securities. The only reason why they are investing in Government securities today is because they have no demand for their money by legitimate business. That is why our Government credit is good.

Why is it necessary to write into the Banking Act of 1935 the policy whereby the President of the United States, acting through his Federal Reserve Board, may compel the banks to take a large number of Federal securities? Why is it necessary to set up in this bill a stipulation that under no circumstances involving any question whatsoever shall these banks or individuals whose money is invested in Government obligations have the right to test the validity of such obligations? Take the Banking Act of 1935 and this bill together, the Secretary of the Treasury, acting through the Federal Reserve Board, the open-market committee, or whatever form it takes when it comes back from the Senate, may compel the banks of this Nation to subscribe to these $9,000,000,000 of obligations without an aye, yes, or no as to the validity of them. Is that conducive to confidence?

Mr. Chairman, the test is going to come when an industry goes to its bank and says, "We want to borrow some money" and the banks says to the industry, "We cannot lend you any money because the Federal Reserve Board, at the dictation of the President of the United States, the dictator of all finance and economics in the United States, has decreed that we buy Government obligations instead of lending the money to industry in order to put men back to work."

[Here the gavel fell.]

Mr. FORD of California. Mr. Chairman, I move to strike out the last three words. Mr. Chairman, I am going to make a very brief statement. I want the House to consider this one fact. Time and again the Republican opposition, on the other side of the aisle, have wailed to high heaven and asked us to stop expending money. When the $5,000,000,000 work-relief bill was up they fought it tooth and nail. But, of course, it was for the relief of all the people.

Now, when we come in with a measure which will prevent a selfish group of owners of bonds who never did a day's work, who want to get from the Government six or seven billion dollars for nothing, the Republicans savagely fight it. Why? Because they represent that bondholding gang, and they are going to stand by them all the time. [Applause.]

Mr. CAVICCHIA. Will the gentleman yield?

Mr. FORD of California. No; I refuse to yield. Here is where the line is drawn in this House. Whenever you want to appropriate a dollar to help all the people of the United States, the Republicans are against you. Whenever you want to do anything that will keep the little crowd of bondholders they represent from looting the Treasury and robbing the people, they stand for that crowd. [Applause.]

That has been their philosophy ever since I came to this House, and as I have studied Congress for years I know that that has been their philosophy ever since the Republican Party came into power. [Applause.]

Their philosophy might be summed up by paraphrasing a famous slogan, "Millions for the special interests, not one cent for the common people."

Mr. MILLARD. Mr. Chairman, I move to strike out the last four words. Mr. Chairman, I am not a member of this great Banking and Currency Committee, but I have been a Member of the House for three terms, and I was here when the vote was taken on the devaluation of the dollar. I listened to the distiguished gentleman from Wisconsin making his speech, in which he said that most of the Republicans voted for it. I know that I did not and that very few Republicans did. I said that it was repudiation. I have sent for the RECORD, and here it is. As a great Democrat once said, "Let's look at the record." There were 98 votes cast against it and 80 were Republicans. We argued that it

was unconstitutional, un-American, and revolutionary at the time of its passage.

I am against the present resolution because it is repudiation.

Mr. WILLIAMS. Will the gentleman yield, I want to ask him one question?

Mr. MILLARD. I yield.

Mr. WILLIAMS. Does not the gentleman know that the Supreme Court has declared that it is constitutional?

Mr. MILLARD. I do not know any such thing. I will leave it to the Members of the House as to what the decision of the Supreme Court was.

Mr. WILLIAMS. Does not the gentleman know that that was the decision?

Mr. MILLARD. I do not know any such thing.

Mr. REILLY. Mr. Chairman, will the gentleman yield?

Mr. MILLARD. Yes.

Mr. REILLY. Has the gentleman the record of the votes on the N. I. R. A. and the A. A. A.?

Mr. MILLARD. I have not.

Mr. HOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. MILLARD. Yes.

Mr. HOLLISTER. That is the vote on the A. A. A. It was title III of the Agricultural Adjustment Act. That is the title that included the devaluation of the dollar clause. The gentleman is quoting from the vote on the final passage of the Agricultural Adjustment Act.

Mr. MILLARD. Yes. That is all I wanted to bring to the attention of the House, to correct the statement made by the gentleman from Wisconsin.

Mr. HARLAN. Mr. Chairman, I move to strike out the last four words. The argument on the minority side this afternoon impresses me as simply being a continuation of a manifest effort to continue to persuade the country that this administration and its financial policy is attempting to send the country to damnation. It is essentially a repetition of a chain letter that is being sent over the country now, apparently pushed by those interested in this policy.

Mr. CAVICCHIA. Mr. Chairman, will the gentleman yield?

Mr. HARLAN. I cannot yield. That chain letter calls attention to the fact that during the last 4 years it is alleged that this administration has spent as much money as was spent in 124 years from 1789 to 1913. The figures amount to $24,000,000,000 in each case. I have not checked up definitely the first 124 years, but the figures as to the last 4 years, to the best of my knowledge, are about two and a half billion dollars in exaggeration of the actual expenditures.

This exaggeration is explained by the fact that the total estimate contains an estimate of eight and one-half billion dollars for 1935, which we now know to be one billion two hundred million in excess. It also contains eight and one-half billion dollars as the Budget for 1936. We know that the actual expenditures for 1936 will not be as great as they were for 1935, so that the surplus of these two estimates over the actual expenditures will be between two and one-half and three billion dollars.

This $24,000,000,000 also contains one and one-half billions for "debt retirement." When it is recalled that $20,000,000,000 of the national debt was incurred before the Roosevelt administration, certainly Roosevelt ought not be charged with that retirement. It contains interest on that debt amounting to two and one-half billion dollars. It contains one billion eight hundred million expenditures for World War veterans. This administration was not responsible for the World War. It also contains an expenditure of two billion three hundred million for loans and investments in bank stocks. These loans represent an actual present value of one hundred cents on the dollar and ought not be charged against running expenses of the Government. Thus the twenty-four billion, after being reduced to twenty-two billion, to approximate the facts, contains over eight billion more for which this administration ought not be charged as expenditures and leaves approximately $14,000,000,000 as the expenditures of the administration during its first 3 years.

One factor this canard leaves out is that from 1913 up until 1933 this Government expended $95,000,000,000. In other words, in those 20 years, covering three Republican and one Democratic Presidents, the Government spent four times as much money as we had expended in the prior 124 years.

In 1913 we stepped into a new era. Thirty-three billion dollars of the ninety-five billion dollars which this canard leaves out was due to the World War. The other sixty-two billion was due to the cost of government. If you divide the $62,000,000,000 spent from 1913 to 1933 and compare that with the operating expenditures of the Government in the Roosevelt administration, there is nothing to get very much excited about. Remember also that the public-works expenditures of this administration represent an increase in value of governmental property; and when you take all that into consideration, such propaganda reduces mostly to a lot of bunk.

In this canard also there are some statements accusing the President of insincerity because during the campaign he criticized the Republicans for extravagance. It includes clippings of speeches which President Roosevelt made during the campaign of 1932. This campaign had been made at the close of a year in which the Federal Government without spending a penny for human rehabilitation or relief, without advancing a dime to save home owners from losing their homes, in short, without doing anything other than merely conducting government, paying out subsidies to the air mail carriers, salaries to hosts of needless Federal employees, and expenses of bureau and commissions which did nothing progressive. President Roosevelt, in criticizing this kind of government, said that such extravagance must stop.

In fact, the Democratic platform criticized this kind of governmental expenditures for this type of government, and it promised to reduce such expenditures 25 percent, which it did during the first year of the Roosevelt administration.

However, the Democratic platform also promised:

First, the extension of Federal credit to the States to provide unemployment relief.

Second, the expansion of the Federal program of necessary and useful construction.

Third, a recognition of responsibility of Government for human welfare, especially for the protection of children.

These were all new ideas to those who had administered Government before, and it was in this new field that the additional expenditures of the Roosevelt administration have been placed. This was the field that so far as it had been cultivated at all was cared for by funds out of community-chest contributions and local and State charities. With the advent of the Roosevelt administration such sources of relief had become exhausted and it was a proposition either of discontinuing this work completely, turning people out to starve, turning young men into vagabonds, and permitting foreclosures and bankruptcies everywhere, or the Federal Government had to assume the responsibility which the Democratic platform promised to assume.

This the Roosevelt administration did, and there is not the slightest difference between the statements that the President made prior to his election, criticizing a condition that existed then, and the action of his administration after his election in carrying out the promises of the Democratic platform.

If a man of limited income spends a thousand dollars supplying himself with luxuries in his everyday life, he is guilty of extravagance; but if he spends many times that amount in looking after sickness in his family, in repairing his property after a fire, or in extending charity to those in need, he cannot be charged with extravagance. That illustration sets forth the difference between the Hoover and the Roosevelt administrations.

The first administration was squandering the Federal funds in an inefficient, drifting government, helpless to handle the problems before it because it had no vision and no courage. The latter type of expenditures represents the Roosevelt administration—meeting this world depression

with courage and hope and willing to take unlimited risks to protect our people from want and despair.

It is going to take more than the dissemination of a lot of chain letters with no signatures, with their appeal to the ignorant and superstitious, to undermine the affection which the people have in their hearts for this man who is our President, who is not superhuman and who possibly and probably has made mistakes, but who is the world's greatest leader at the present time.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. RICH. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. MICHENER. Mr. Chairman, before the gentleman begins, will he yield for a question?

Mr. RICH. Yes.

Mr. MICHENER. I ask the gentleman to yield in order that I might remind the gentleman from Ohio [Mr. HARLAN], who referred to the chain letter, that inasmuch as the House is not familiar with all of the details of the chain letter, he should include it as a part of his extension of remarks, so that the speech will be complete and we will all understand it.

Mr. HARLAN. I might do that. I will help the gentleman out in his publicity.

Mr. STEAGALL. Mr. Chairman, I ask unanimous consent that all debate upon this section and all amendments thereto be closed in 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RICH. Mr. Chairman, if the gentleman from Ohio [Mr. HARLAN], who just left the floor, will look at the Treasury statement of July 15 and notice the statement of the Treasury 3 years ago, he will not make the statement he made on the floor just now, that the Government has only gone into the red two billion and a half dollars. It is an erroneous statement. All he needs to do is to refer to the statement issued by the United States Treasury Department; these he receives at his office each day.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. RICH. Yes.

Mr. SNELL. How much has the Government gone behind in the last 3 years, according to that statement? How much has the national debt increased?

Mr. RICH. It was $16,000,000,000, and it is shown on the statement here that on July 15, 1935, it amounts to $29,177,786,318.78.

But when the Democrats devalued the dollar, they charged off $2,000,000,000, which makes it over $31,000,000,000, the greatest debt of any nation in the history of the world, and the past 2 years at the greatest rate of indebtedness in the history of the Nation in peace time. So you see the gentleman from Ohio was in error.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RICH] has expired.

The pro forma amendments were withdrawn.

The Clerk read as follows:

SEC. 2. Any consent which the United States may have given to the assertion against it of any right, privilege, or power whether by way of suit, counterclaim, set-off, recoupment, or other affirmative action or defense in its own name or in the name of any of its officers, agents, agencies, or instrumentalities in any proceeding of any nature whatsoever heretofore or hereafter commenced, upon any bond, note, certificate of indebtedness, Treasury bill, or other similar obligation for the repayment of money or for interest thereon made, issued, or guaranteed by the United States or upon any coin or currency of the United States or upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any such coin or currency or of any gold or silver, is withdrawn.

Mr. HOLLISTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLLISTER: Page 3, line 24, strike out the period and add the following: "where in any such suit, counterclaim, set-off, or recoupment, or other affirmative action or defense, the holder of any such obligation demands the payment of gold, or bases a claim on the failure to pay gold on such obligation, or on the interest thereon, or claims to have been damaged because of any such surrender, requisition, seizure or acquisition, or claims that the value of any such obligation, or of any interest coupon thereon, exceeds its face value in dollars."

Mr. HOLLISTER. Mr. Chairman, I have tried to make this amendment as simple as possible. I have tried to use the language which is in section 2, to which it is an amendment, so that it would not involve the complete redrafting of the section.

Section 2, in its present form, withdraws the consent that the Government has given to be sued, or to set up any counterclaim which might be asserted against the Government, on any obligation of the Government for the repayment of money, whether a direct or an indirect one. This amendment restricts the withdrawal of such consent to those cases where there is a claim of damage for the failure to pay gold, or a claim of lack of consideration for the failure to pay gold, or a question of damage for confiscation of gold. I have tried in this amendment, and I think I have covered it, to raise directly before the committee, the issue of whether this committee wants to withdraw the right of any holder of any obligation to sue the Government on that obligation, whether it contain a gold clause or not, or whether the committee solely wishes in this legislation to cover the question of so-called "unjust enrichment", because of a claim for an additional amount of money over and above the par value of bonds, or because of some claim for damage for the confiscation of gold. I have tried to raise that issue directly, because I cannot understand how it is that sane people will present a bill in this form, when there is no necessity of going as far as this bill has gone.

I am putting behind me now the question of whether or not any taking away of jurisdiction is or is not a wise thing to do. That, of course, will come up on the question of final passage of the bill. What I am accentuating now to the members of the committee is the issue, "What are you trying to do in this legislation?" Are you trying to see that no one can take advantage of the fact that the dollar has been devalued or that gold has been confiscated, to make a profit out of the Government, or do you actually mean to say that, irrespective of the question of the gold clause, no one may hereafter have his contract with the Government interpreted or have his contract adjudicated in a court of law?

If the committee wishes to go that far, my amendment should be voted down. If the committee solely wishes to cover the question of devaluation or confiscation which every Member on the Democratic side has discussed today, then my amendment should be accepted. I have listened intently to every single speaker on the Democratic side of the House today, hoping against hope that someone would explain to me why it is that this bill goes beyond the question of the necessities of the so-called "gold-clause case." Everybody has made impassioned pleas against undermining the credit of the Government and against asking for $1,600 when you are only entitled to $1,000. Everybody has talked about what an unconscionable thing it is to sue the Government under such circumstances. This amendment covers that. Nobody on the Democratic side has explained why it is we are asked now to withdraw all right in a holder of, say a Home Owners' Loan Corporation bond, for instance, which does not have the gold clause, to have the Government guaranty enforced sometime in the future. Why should we take away the right of that person to go into court and enforce that obligation, merely for the face value of the bond or for the interest on the bond?

This amendment raises that question directly, and if you agree that that is the issue, you should vote for this amendment. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio [Mr. HOLLISTER] has expired.

Mr. AMLIE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, 3 years ago I had occasion to advise a client, a woman who had been left a widow, and whose estate consisted of about $5,000, which was deposited in three local banks. Practically all of her investments in bonds and securities had become worthless, and she had no further desire to invest in paper of any kind. This was when the Republicans were still in power, and it was legal to advise a client to simply invest her money in gold, which I did. [Applause.] The bankers told her that I was crazy,

but she thought perhaps she had better take my advice in part, so she did put $1,000 in gold in a safety box. She had the balance of her money in three banks. They all failed.

Mr. BIERMANN. Will the gentleman yield?

Mr. AMLIE. I do not have time.

Mr. BIERMANN. Those failures were under the Republicans, too.

Mr. AMLIE. That is true.

She has no alternative now but to turn in this gold and accept currency on the basis of a devaluation of these gold dollars to 59 cents on the dollar. I arranged by stipulation to have her case continued, until certain other cases involving the same question should have been decided by the United States Supreme Court. I could have taken her case up on appeal, but I had no desire to embarrass the administration, because I was essentially in sympathy with what the administration was trying to do.

I realize now that I did not give this woman the best kind of advice 3 years ago. I, of course, knew at that time that Hoover would be defeated and that Roosevelt would be elected as the next President of the United States. But I did not realize at that time that if he were elected that his administration would follow a course that would confiscate a part of the holdings of a small investor and protect the holdings of the large investors. I should have advised her to have invested her money in the common stock of the Homestake Mining Co. of South Dakota, the largest gold-mining company in the United States.

At the time that this woman converted $1,000 into gold currency she had a perfect right to do so. Gold was a commodity, and she had as much right to convert it into gold as into brass, copper, silver, or anything else. And when this gold dollar came to be worth $1.69 the Government of the United States ordered her to turn this gold dollar and accept $1 of United States currency, or be prosecuted as a criminal.

But supposing this woman had invested her money in Mr. William Randolph Hearst's Homestake gold-mine stock, her investment would have gone up 435 percent as against the peak price of 1929. But, then, it was hard for any mere lawyer in 1932, listening to the campaign speeches of the Democratic candidate for the Presidency, to realize that laws would be enacted by that group when elevated to power that would reduce a widow's investment of $1,000 in gold by 41 percent and would increase Mr. Hearst's investment of $1,000 in a gold-mining company by 435 percent as against the peak of 1929.

It is contended by the majority leaders that it is not confiscation to require this woman to turn in this $1,000 in gold and accept $1,000 in currency devalued to 59 cents on the dollar. They argue that this current dollar is legal tender and that it has a purchasing power as great as a gold dollar had before the depression. Very well! Why not pass a law confiscating 75 percent of the stock of the Homestake gold mine? The remaining 25 percent of the stock will be worth more than the whole was worth in 1929. Mr. Hearst would still be better off than he was in 1929.

But the fallacy of this line of argument is exposed by Secretary of the Treasury Morganthau when he states that the United States Treasury has realized a profit of two and one-half billion dollars as the result of gold devaluation on the part of the Federal Government. If the Federal Treasury has realized a profit of $2,500,000 by devaluation to 59 cents on the dollar, why not devaluate to a few cents on the dollar and make a profit of a hundred billion dollars for the United States Treasury? If this is accomplished at the expense of no one, not even the one compelled to turn in his gold, surely this is the solution for our economic difficulties that we have all been looking for. It is the pholosopher's stone. It is perpetual motion.

As I see it, the Government has the right to call in all the gold in the country. The sovereign has the right to call in anything that the safety of the sovereign may require. But under the Constitution of the United States the sovereign can commandeer what the sovereign may require for its safety, be it brass, copper, silver, gold, or what have you, only by paying the full market value for it. If the Congress of the United States in its infinite wisdom should require that in order to appease the gods of depression that all the empty beer bottles in the land be gathered together and stored under the dome of the National Capitol, then the Congress of the United States would be the sole judge of the wisdom of this requirement; but under the Constitution of the United States the Congress would have no right to require that the owners of these beer bottles turn them over without being compensated for their reasonable market value.

A great deal has been said this afternoon about the subject of repudiation. This is a matter of policy to be determined by the Congress of the United States. The Congress has the power to refuse petitioners the right to sue the Government of the United States. But as far as any prospective litigants are concerned we are not doing them any disfavor by refusing them permission to bring suit. Under present economic conditions, neither this Congress nor any succeeding Congress would authorize and provide for the payment of any judgment that might be rendered against the United States on any of these gold obligations.

But when we come to the taking away from a woman of $1,000 in gold and paying her for this gold at a price that is 59 percent of the world price for gold; and at a price that is 59 percent of what the Homestake gold mine is paid for its gold, then there is no question but that this is confiscation within the clear meaning of the Constitution of the United States.

Mention has been made on the floor of the gold-clause decision of the Supreme Court, but then I think that we are all agreed that this situation was fully summed up by Mr. O. W. Sprague, one time adviser to the United States Treasury, when he stated many months before that decision was rendered, that—

> If there had been only one or two hundred million dollars involved the Supreme Court would find the gold-clause law unconstitutional, but since there is $100,000,000,000 involved the Supreme Court would not dare do so.

I intend to support this measure, but I feel that we ought to do away with the sophistry and the intellectual dishonesty that has characterized the arguments that have been given in support of this measure. I am willing to go along on a measure that would take away from a widow 41 percent of her thousand dollars in gold and deny to her the right to bring suit; because after all what is the right of any individual to bring suit against the sovereign for 41 percent of a thousand dollars in gold but a meaningless gesture.

I am willing to go along on this measure, because I recognize that we are setting the precedent for the disallowance of the absentee ownership of the 2 percent of our population who own 70 percent of the Nation's total wealth.

I am willing to go along on this measure, because we are setting a precedent that will stand the rank and file of the common people in good stead at some time in the not distant future. Our next step must be the revision of the Constitution in such a manner as to make it possible for the elected representatives of the people to make the will of the majority the law of the land.

[Here the gavel fell.]

Mr. STEAGALL. Mr. Chairman, the purpose of the act of June 5, 1933, was to establish a monetary policy in this country which it was hoped would prevent the confiscation of the homes, the farms, and the property of the citizens of this country by undue and unjust exactions on the part of bondholders and others composing the creditor class of the Nation.

The pending bill is necessary if the act of June 5, 1933, is to become effective; and, for one, I do not hesitate to say that as a Member of this House, had I opposed the act of June 5, 1933, I would support this measure in view of the effort to embarrass the Government and to nullify that law.

Not a Member here will contend that we ought to remove all restrictions and permit suits by everybody against the Government. Time and time again bills have been introduced in Congress to permit recourse to the Court of Claims to recover damages growing out of the Civil War; but all such bills have been repudiated in the Congress just as they

would be repudiated this afternoon by gentlemen opposing this measure were they under consideration by the House and without any regard to the moralities of any case that might be involved.

It is contended that this proposal should be limited to obligations payable in gold. Why invite annoyance, expense, and harassment to the Government by one class of its citizens? Where is the necessity for having any obligations of the Government for the repayment of money passed upon by the courts when all the bonds of the Government are written documents which disclose definitely the amount of the obligation of the Government? Why invite suits at law or in the Court of Claims which can only annoy and harass the Government?

Mr. Chairman, I move that all debate on this section——

Mr. WOLCOTT. Mr. Chairman, if the gentleman will yield, I am sure he does not want to cut us off completely.

Mr. STEAGALL. How much time does the gentleman want?

Mr. WOLCOTT. I should like 5 minutes.

Mr. STEAGALL. Mr. Chairman, I move that all debate on this section and all amendments thereto close in 5 minutes.

The motion was agreed to.

Mr. WOLCOTT. Mr. Chairman, the purpose of this amendment is to prevent unjust enrichment, if you want to denominate it "unjust enrichment", from the devaluation of gold. It prevents the holders of gold-clause bonds from suing and collecting the difference between the old value of the bond and the present value of the bond. It does exactly what the President said he wanted done in his message of June 27. When that message was read to the House every one of us thought a bill would be introduced for the purpose of preventing suits for the difference between the present and the old values of the gold-clause bonds. The press thought that was what the President wanted; and the people of this Nation, not only because of the press reports, not only because of the President's message, but also because of speeches on this floor today, have a right to believe that all this bill does is to prevent unjust, unnecessary, and unwarranted suits by these people who might want to enrich themselves at the expense of others.

I am taking your word for that. This amendment does all of that. It goes no farther. It leaves us in a situation where if there is any question concerning a Home Owners' Loan Corporation bond, a Farm Credit Administration bond, a T. V. A. bond, or a nongold bond, we can go into court and get an interpretation. Understand that with industrial bonds the conditions under which the bond is given are printed in very plain language upon the face of each bond. In Government securities the conditions are set forth by reference only. In other words, on the face of a Government security you will find reference to a large number of statutes. You have to go to the law in order to find out what the conditions of that obligation are.

It is not fair. It is not just. It is not American. It is not maintaining the three distinct branches of government, which keep a check and balance on one another, to deprive the holders of those bonds of the opportunity to secure a judicial interpretation of what the law is behind those obligations. It is not democratic. It is not in accordance with the policy of the Democratic Party of checks and balances in government. It is not fair. I do not think this House wants to do anything that is undemocratic and which will tend to break down the system of checks and balances, recognized and put into operation by the great forebear of the Democratic Party. We over here do not believe so, and we agree with Thomas Jefferson in that respect, and hope you on the other side will follow the doctrine advocated by Thomas Jefferson, that the judiciary should always be in a position where it may interpret the acts passed by the legislative branch of the Government. All we want to do here is to maintain that system of checks and balances.

[Here the gavel fell.]

The pro forma amendment was withdrawn.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. HOLLISTER].

The question was taken; and on a division (demanded by Mr. HOLLISTER) there were—ayes 59, noes 96.

So the amendment was rejected.

The Clerk read as follows:

SEC. 3. No sums, whether heretofore or hereafter appropriated or authorized to be expended, shall be available for, or expended in, payment upon securities, coins, or currencies of the United States except on an equal and uniform dollar for dollar basis.

SEC. 4. As used in this resolution the phrase "gold clause" means a provision contained in or made with respect to an obligation payable in money of the United States which purports to give the obligee a right to require payment in gold, or in a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, declared to be against public policy by Public Resolution No. 10 of June 5, 1933; and the phrase "securities of the United States" means the domestic public debt obligations of the United States, including bonds, notes, certificates of indebtedness, and Treasury bills.

The CHAIRMAN. The Clerk will read the preamble.

The Clerk read as follows:

Whereas in order to maintain the uniform value of all coins and currencies of the United States, Public Resolution No. 10 of June 5, 1933, declared provisions known as "gold clauses" to be against public policy, prohibited their use in obligations thereafter incurred, and provided that money of the United States legal tender for obligations generally was legal tender for all obligations with or without gold clauses; and

Whereas the unmatured security issues of the United States are domestic issues offered to the people of the United States, payable only in the United States and in the money of the United States, and underlie our national monetary system and credit structure, with the result that disparity in these security issues or in our coins and currencies would undermine that system and structure; and

Whereas the United States has paid and will continue to pay to the holders of all its securities their principal and interest, dollar for dollar, in money of the United States; has maintained and will continue to maintain the parity of all forms of such money; and has thus afforded and will continue to afford full security and strict equality of advantage to all holders of its money and securities; and

Whereas no holder of any of the money or securities of the United States has suffered any damage because of the measures heretofore taken to maintain such security and equality of advantage; and any speculative holding of or dealing in the money or securities of the United States to take advantage of the Government's fixed policy to continue such certain and uniform treatment is incompatible with the public interest: Now, therefore, be it.

Mr. HOLLISTER. Mr. Chairman, I offer an amendment to the preamble, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. HOLLISTER: Strike out the preamble and insert in lieu thereof the following:

"Whereas because of the devaluation of the United States dollar by executive order of January 31, 1934, and because of the surrender, requisition, seizure, or acquisition of gold and gold certificates by various other executive orders, certain holders of "gold clause" obligations of the United States, as hereinafter defined, have instituted or threatened to institute damage suits against the United States Government based on such devaluation or confiscation, or are attempting or threatening to attempt to assert by way of counterclaim, set-off, or recoupment claims for damages against the United States Government based on such devaluation or such surrender, requisition, seizure, or acquisition."

Mr. HOLLISTER. Mr. Chairman, in this amendment I am merely trying to save the committee from doing a vain and foolish thing. The committee has determined on the form of the resolution. I am merely trying to change the preamble so that the resolution and the preamble will be more or less coordinated.

The preamble contains a great many things which do not belong in the resolution and have no connection therewith. In the amendment I am offering to strike out the preamble and insert in lieu thereof the language which the Clerk has just read, I refer to the fact that suits have been instituted, and that suits are threatened, that they are based on devaluation, confiscation, and so forth. That preliminary statement is sufficient to cover the resolution.

The preamble as it reads now, as I stated previously this afternoon, bases its first paragraph on a resolution of the Congress which was held unconstitutional by 8 of the 9 Members of the Supreme Court. In the second paragraph it refers to how disparity in security issues undermines na-

tional credit, which does not mean anything at all, because we have disparity in our security issues at the present time, such as disparity in the interest rate, disparity in maturity, disparity in tax exemptions, and disparity in perhaps other things.

The third paragraph contains a number of statements about what the United States is doing and will continue to do, which nobody in the world can possibly predict at the present time, particularly when this kind of legislation is being enacted. The last paragraph states that nobody has suffered a loss because of any monetary action which the Government has taken. Whether that is so or not cannot be ascertained if no one can go into court and prove it. If we are taking away that right by the enactment of this bill, what is the use of making a statement that nobody has suffered a loss? As a matter of fact, there was a fear that somebody would suffer a loss, otherwise we would not be faced with this measure. Someone feared that bondholders would go into court and prove that they had suffered loss.

Mr. Chairman, I merely ask that this stump speech, which expresses a lot of pious hopes, and which states a great many things not true, and which is further based on an unconstitutional statute to begin with, be stricken out and a simple preamble accepted covering the case a great deal better than the one now contained in the bill.

Mr. MICHENER. Mr. Chairman, I offer an amendment to the Hollister amendment, striking out all after the words "strike out the preamble" in the Hollister amendment, so that my amendment will read "strike out the preamble."

The Clerk read as follows:

Amendment offered by Mr. MICHENER: Strike out the preamble.

The CHAIRMAN. The amendment offered by the gentleman from Michigan should properly come after there has been a disposition of the pending amendment offered by the gentleman from Ohio.

Mr. MICHENER. It was my thought the preamble could be amended in this way, or that I could offer it as a substitute for the amendment offered by the gentleman from Ohio.

The CHAIRMAN. No; there is a substitute pending offered by the gentleman from Ohio for the preamble contained in the resolution.

Mr. SNELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SNELL. I thought that a motion to amend or strike out the preamble should come after the consideration of the bill had been completed and the bill engrossed.

The CHAIRMAN. Under the rules the preamble is read for amendment and the title of the resolution remains and will be considered.

Mr. SNELL. It was my thought after the bill was engrossed the preamble was stricken.

The CHAIRMAN. That is true where there is a title and a preamble.

Mr. SNELL. Is not that the situation here?

The CHAIRMAN. The Chair thinks not; at any rate, we have begun the consideration of the preamble and an amendment is pending.

The question is on the amendment of the gentleman from Ohio.

Mr. MICHENER. Mr. Chairman, as I understand, I do not lose my right to offer an amendment striking out the entire preamble.

The CHAIRMAN. The Chair thinks not.

The question was taken; and on a division (demanded by Mr. HOLLISTER) there were—ayes 55, noes 104.

So the amendment was rejected.

Mr. MICHENER. Mr. Chairman I move to strike out the preamble.

The Clerk read as follows:

Mr. MICHENER moves to strike out the preamble.

Mr. MICHENER. Mr. Chairman, I offer this motion for a number of reasons. In the first place, the preamble is no part of the law. It has no probative force or effect. There is nothing in a statute which has any such effect before the resolving clause.

It has been held time and again that a preamble preceding a law is, in plain language, nothing more or less than a stump speech giving the reasons and the arguments for that which might be considered unusual, unprecedented, and extraordinary.

I concede that the legislation enacted during the last few months has been unusual, unprecedented, and hard to explain and that, possibly, it might have been advisable to have inserted a stump speech or preamble as a part of the legislation enacted, to give it any justification whatever, but I contend that this Congress should not clutter up the statutes with stump speeches of this kind. What would be the result if we inserted a preamble before every law enacted?

I think we all understand what this legislation is. Of course, I am not going to vote for it, because I do not believe we should take from the courts the right to interpret any contract made between individuals or between the Government and its citizens. In the attempted reformation of our Government under the present administration we have been gradually taking away from the individual citizen the rights which he has always cherished as being secured to him by a republican form of government.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I do not yield.

It has been said that the king can do no wrong. In a democracy the individual is presumed to have rights different than in an autocracy. It is a fundamental principle of our jurisprudence that the citizen should have some right of redress if his property rights are affected by governmental action or if the Government fails to fulfill an obligation for which it is legally liable. To repeat, if a citizen has a right, and that right has been violated, the laws of this country have heretofore and should continue to afford him a remedy. Why should we compel individuals to live up to their contracts but exempt the Government?

One of our courts has said, in substance, that the very essence of civil liberty consists in the right of every individual to claim the protection of the law whenever he receives an injury. We have always adhered to the policy and the principle that one of the first duties of government is to afford that protection.

Under Supreme Court holdings those whose rights are taken away in this proposed legislation admittedly have legal rights, but this bill boldly and brazenly deprives them of any method whereby they may enforce those rights. Possibly we have the power, but it is un-American to use it.

To pass this legislation makes the credit of the United States a mockery. If this is not repudiation, then what is it? What you are going to do when you pass this bill is to say to these individuals, "We recognize you have a claim, but we deny you the right to submit that claim."

Shame on any Government that repudiates its own obligations, and shame on all Government officials, and those charged with responsibility, who are a party to bringing about a condition where any citizen is denied his day in court. We say that a man's word is as good as his bond. If this bill becomes a law, what shall we say of the word or the bond of our own Government?

During the recent past, Congress has been setting up innumerable boards and bureaus. We have been delegating power heretofore undreamed of to the Executive and to these boards and bureaus. The Executive and, in many cases, these board and bureau chiefs hold in the hollow of their hands the liberty and property rights of many of our citizens. Humble though he be, I still insist that every person owing allegiance to our flag is entitled to a square deal from his Government and not the kind of a new deal sought in this measure.

Do you realize that in many instances these boards and bureaus are able to make rules and regulations having the force of law? Some of them are able to issue bonds pledging the credit of their own authority plus the credit of the United States itself. Yet, anyone dealing with the author-

ity pledging this credit will be denied the right to legal interpretation of their agreements in any court of law. This is bureaucracy gone wild. It is dictatorship unrestrained.

Some have had the hardihood to urge that the word "repudiation" has no place in connection with this legislation. They say that there is no question of morals involved. To make a promise and then to refuse to keep that promise, just because one cannot be compelled to fulfill is bad morals.

In the sinking-fund cases the Court said:

The United States are as much bound by their contracts as are individuals. If they repudiate their obligations, it is as much repudiation, with all the wrong and reproach that term implies, as it would be if the repudiator had been a State or a municipality or a citizen.

It has been argued here that it was unthinkable that the Government would not pay its obligations when due. Not many months ago we could have asserted with reasonable assurance that this Government would never have repudiated the gold clause in its bonds, and that this Government would never have denied the citizen with a gold certificate the right to go to the Treasury and get the gold to which he was entitled under the law. Things are different today. Quite evidently those in authority do not have the same respect for contracts and obligations made by our Government as has been wont to obtain with those in authority down through the years. It is unfair and cannot be too strongly condemned.

If this bill becomes a law and if we want to be candid, every security, bond, or obligation issued by the Government or any of its agencies in the future should contain a clause providing that the holder under no condition will have any redress in the event that the interest on the obligation is not paid, or that its face value is not paid at maturity. This will be the truth, and why should our Government not print the truth, especially on its financial obligations?

This bill is misnamed, and a better title would be "A validation of repudiation." The administration insists on this legislation. There are sufficient followers in this body to grant the request, but the time will come when the country will regret this action. The time has arrived now when we should stop, look, and listen. We can protest against the holders of gold-clause bonds making profits without this far-reaching action. The Hollister amendment, which was voted down, would have taken care of that. It is too bad that this body is still willing to pass bills prefaced by the departments, and is still willing to accept the mandate that no changes must be made in the bills.

[Here the gavel fell.]

Mr. STEAGALL. Mr. Chairman, I move that all debate on the preamble and all amendments thereto do now close.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the preamble.

Mr. BLANTON. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Michigan.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. McCORMACK].

Mr. STEAGALL. Mr. Chairman, I move that all debate on the preamble and all amendments thereto do now close.

Mr. McCORMACK. Mr. Chairman, I have been recognized, but I will yield to the gentleman from Alabama to move to close debate in 5 minutes.

Mr. STEAGALL. Mr. Chairman, I move that all debate on the preamble and all amendments thereto close in 5 minutes.

The motion was agreed to.

Mr. McCORMACK. Mr. Chairman, the gentleman from Michigan [Mr. MICHENER] has made a charge of repudiation, and my purpose in rising is to answer the gentleman, that the withdrawal of the right to sue by a sovereign does not involve repudiation.

When the gentleman makes the charge of repudiation under such circumstances, he ignores a long line of court decisions, decisions of the Supreme Court coming down to Lynch against United States, reported in Two Hundred and Ninety-second United States Reports. In this case the Court, in passing upon this question, said:

It is fundamental in the law of the land that the Government cannot be sued without its permission, and it is equally fundamental that the sovereign body, the Government, if it grants permission to sue, grants a privilege which it can withdraw at any time.

I am going to insert a long line of decisions and a discussion going back to the Constitutional Convention, showing that the question was discussed in that great body, and the broad principle that the sovereign cannot be sued without its consent, and that the sovereign can withdraw it without its being considered repudiation.

In *Lynch* v. *United States* (292 U. S. 571) the Court says:

Although consent to sue is thus given when the policy issued, Congress retains power to withdraw the consent at any time. For consent to sue the United States is a privilege accorded; not the grant of a property right protected by the fifth amendment. The consent may be withdrawn, although given after much deliberation and for a pecuniary consideration (*De Groot* v. *United States* (5 Wall, 419, 432)). Compare *Darrington* v. *State Bank* (13 How. 12, 17), *Beers* v. *Arkansas* (20 How. 527–529), *Gordon* v. *United States* (7 Wall. 188, 195), *Railroad Co.* v. *Tennessee* (101 U. S. 337), *Railroad Co.* v. *Alabama* (101 U. S. 832), *In re Ayers* (123 U. S. 443, 505), *Hans* v. *Louisiana* (134 U. S. 1, 17), *Baltzer* v. *North Carolina* (161 U. S. 240), *Baltzer & Taaks* v. *North Carolina* (161 U. S. 246). The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress (*De Groot* v. *United States* (5 Wall. 419, 431), *United States* v. *Babcock* (250 U. S. 328, 331)), and to those arising from some violation of rights conferred upon the citizens by the Constitution (*Schillinger* v. *United States* (155 U. S. 163, 166, 168)). The character of the cause of action—the fact that it is in contract as distinguished from tort—may be important in determining (as under the Tucker Act) whether consent to sue was given. Otherwise, it is of no significance. For immunity from suit is an attribute of sovereignty which may not be bartered away.

Mere withdrawal of consent to sue on policies for yearly renewable term insurance would not imply repudiation. When the United States creates rights in individuals against itself, it is under no obligation to provide a remedy through the courts (*United States* v. *Babcock* (250 U. S. 328, 331)). It may limit the individual to administrative remedies (*Tutun* v. *United States* (270 U. S. 568, 576)). And withdrawal of all remedy, administrative as well as legal, would not necessarily imply repudiation. So long as the contractual obligation is recognized, Congress may direct its fulfillment without the interposition of either a court or an administrative tribunal.

That is what the Supreme Court said in this case. The substance of the decision is that the right to sue a sovereign body, a government, is a privilege granted by the government. If we were to have any other course, that right could be used to impair the effectiveness of government itself. Where government has given a right to sue, which is a privilege, the Government can withdraw that privilege without its action being construed as a repudiation. Whatever other arguments may be made against this resolution, and with which I am not in agreement, they cannot be predicated upon the ground of repudiation. [Applause.]

In laying this matter before Congress the President in the title referred to a joint resolution authorizing the exchange of certain securities, coins, and currencies of the United States; withdrawing the right to sue the United States on its bonds and other similar obligations. Section 2 of the same bill reads:

Any consent which the United States may have given to the assertion against it of any right, privilege, or power, whether by way of suit, counterclaim, set-off, recoupment, or other affirmative action or defense * * * is withdrawn.

There are always men in every community who devote themselves to harsh criticism of the administration in power. Nothing ever goes right with these men; everything is wrong. Recently one of this class has made a virulent attack upon the President because of his advocacy that the United States would withdraw its consent to be sued in certain cases. On the other hand, we have a man of the same type, who is loudly complaining about the law's delay, particularly in our Court of Claims.

The law's delay is an austere matter of comment in every State in the Union, having served as a chronic cause of criticism for centuries. Shakespeare puts the law's delay in the same class with "the oppressor's wrong, the proud man's

contumely, the pangs of despised love, * * * the insolence of office."

It is difficult to reconcile critics, whether of fear or of unreasoning opposition, both illogical.

On the one hand a man complains about the President withdrawing the right to sue, at the same time unable to understand that such action will prevent congestion of litigation in our courts; and the other man, who complains of congestion and paralysis in the Court of Claims, unwilling to recognize that delays in that court may be accounted for by the unwillingness or inability of the plaintiff to proceed rather than failure of the Government to respond.

It is universally recognized as the law of nations that a sovereign may not be sued without its consent. The principle is based upon that well-understood agreement among all States to respect the absolute authority of every sovereign. On June 8, 1788, George Mason, in the Virginia State convention, said:

> It would be ludicrous to say you could put a State's body in jail. How is the judgment then to be enforced? A power which cannot be executed ought not to be granted.

In the celebrated case of Chisholm against Georgia, reported in Second Dallas, 478, in 1793, Chief Justice John Jay said:

> I may suggest an important difference between suing a State and suing the United States. It is this: In all cases of actions against States or individual citizens the national courts are supported in all their legal and constitutional proceedings by the arm of the Executive power of the United States, but in cases against the United States itself, there is no power which the courts can call to their aid.

Perhaps the most important case reported in our Court on this subject is that of the schooner *Exchange* (7 Cranch, 116 (1812)). When this case was reported, Chief Justice Marshall had no precedents to follow, but by the application of a vigorous mtellect unsurpassed in the history of the law and by the analysis of principles he arrived at a decision which has stood the test of a century and a quarter. Marshall said, among many other things, representing wisdom in perfected form:

> The jurisdiction of the Nation within its own territory is necessarily exclusive and absolute. Any restriction upon it deriving validity from an external source would imply a diminution of its sovereignty to the extent of that restriction.

In January 1834, *United States* v. *Clarke* (8 Peters 443), Marshall said:

> As the United States are not suable of common right, the party who institutes such suit must bring his case within the authority of some act of Congress or the Court cannot exercise jurisdiction over it.

Fifty years later the Supreme Court of Massachusetts decided the case of *Briggs* v. *Light-Boats* (11 Allen 157 (1865)). An attempt was made to place a lien upon some light-boats being built for the United States Government in a Massachusetts shipyard, when process was halted by the court, saying:

> A sovereign cannot be sued in his own courts without his consent, not because a sovereign cannot always control, but because he must always be free to attend to government business, and the property of the government must always be understood to be intended and used for public purposes.

This ruling has been quoted with approval in the highest courts of England as well as in our own Supreme Court.

Just about 100 years ago, in the Jackson administration, a suit came on to be heard which is worthy of being recalled, not that it touches upon the principle of sovereign immunity, but because it emphasizes what George Mason said in 1788.

In the case of Worcester against Georgia, reported in Sixth Peters, page 515, some missionaries were living among the Cherokee Indians on their reservation in Georgia in violation of a statute made by that State.

The offenders were indicted, tried, convicted of violating the statute, and were sentenced to 4 years in the penitentiary.

By writ of error they got their case before the Supreme Court of the United States, and Judge Marshall decided in their favor, declaring that the Georgia laws were null and void so far as this question was concerned and ruling that the men should be released.

It is the desire of every Government official that all the decisions of our Supreme Court be respected and enforced. The jurisdiction of the Supreme Court is clearly defined by the Constitution. The jurisdiction of all subordinate courts is distinctly set forth by acts of Congress. This matter of immunity from suit has been considered by the ablest minds who have participated in legislative halls and adorned our Supreme Court.

The doctrine illustrates and explains sound reasons of public policy; confusion and danger would follow the adoption of any other rule.

Less than 20 years after Briggs against Light-Boats, supra, the Supreme Court did take jurisdiction of a case, which was the cause of intense feeling in the Court and throughout the country, resulting in a 5-to-4 decision. *United States* v. *Lee* (106 U. S. 196 (1882)) involved the title to the estate known as "Arlington." The property had been taken by the United States Government under its war powers, through act of Congress, in 1864. Action was brought by devisees of the original owners to recover the property. Objection was made to the jurisdiction of the Court by the Attorney General of the United States, who insisted that the property was that of the sovereign and employed for public purposes. The Court overruled the Attorney General and decided to hear the merits of the case. The four dissenting judges are generally believed to have exhibited the better reasoning. They brought up, by implication, the same situation that existed in the case of Jackson and the missionaries. The dissenters pointed out that the Court had no authority to render a judgment on which it had no power to issue execution, because to issue execution would be to issue an execution against the United States, to turn the United States out of possession of land held under claim of title and color of right for public purposes, and to maintain a suit with such an object and result is to violate the fundamental principle that the sovereign cannot be sued without its consent, and to encroach upon the powers intrusted by the Constitution to the legislative and executive departments of the Government. Two of the Justices comprising the majority had vigorously asserted in earlier years the doctrine of immunity, but changed their minds on this case.

United States against Lee stands alone as a departure from an unbroken line of correct precedent and later opinions down to the recent opinion of Lynch against United States. A writer in the American Law Review, commenting on this opinion, said:

> Reflect for a moment upon the significance of this ruling. If an action of ejectment were brought for the possession of the White House, the President could not plead in bar to the jurisdiction, possession of the United States; but must, like a private person, defend upon the merits; and in case of adverse judgment must enforce the writ in his own name as President of the United States against himself—to eject himself from possession as President.

By a division of 5 to 4 the Court upheld such a ruling. The minority reasoning was invincible. The sovereign cannot hold property except through agents. To maintain an action to recover property held by its agents is to maintain an action against the sovereign and to invade such possession of the agent by execution is to invade possession of sovereignty and to disregard the fundamental maxim that a sovereign cannot be sued without its consent.

In a California case, *People* v. *Miles* (56 Calif. 401 (July 1880)), the Court said decisively:

> The State cannot be sued directly or indirectly as by setting up a counterclaim or set-off, nor can any judgment be entered against the State except when the same is permitted by statute.

Judge Holmes, of revered memory, said (205 U. S. 349):

> A sovereign is exempt from suit, not because of any formal conception or absolute theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.

At the October term in 1933, in the case of *Monaco* v. *Mississippi* (292 U. S. 320), Chief Justice Hughes discussed the question whether this court has jurisdiction to entertain

a suit brought by a foreign state against a State without its consent. That question, he said, not hitherto determined, is now definitely presented.

There is no express provision that the United States may not be sued in the absence of consent.

The contracts between a nation and individuals are only binding on the conscience of the sovereign and have no pretensions to a compulsive force. They confer no right of action independent of the sovereign will. To what purpose would it be to authorize suits against States for the debts they owe? How could recoveries be enforced?

Mr. Chief Justice Hughes, speaking of this immunity of suit, said in *Missouri* v. *Fiske* (290 U. S. 18 (1933)):

However important that power (judicial), it cannot extend into the forbidden sphere. Consideration of convenience opens no avenue of escape from the restriction.

He then quoted the emphatic language used in *Ex parte New York* (256 U. S. 49):

The entire judicial power granted by the Constitution does not embrace authority to entertain a suit brought by private parties against a State without consent given.

Such a suit cannot be entertained upon the ground that the controversy arises under the Constitution or laws of the United States.

Chief Justice White said in *Duhne* v. *New Jersey* (251 U. S. 311):

But it has long been settled that the whole sum of the judicial power granted by the Constitution to the United States does not embrace the authority to entertain a suit brought by a citizen against his own State without its consent. (October term, 1919.)

The long lines of Supreme Court opinions clearly show that the charge of "repudiation" is inconsistent with the law. [Applause.]

Mr. STEAGALL. Mr. Chairman, I move that all debate upon the preamble and all amendments thereto close in 2 minutes.

The motion was agreed to.

Mr. HOLLISTER. Mr. Chairman, I move to strike out the last word, merely to state to the Committee that I expect to offer a motion to recommit, which will include the amendment to change the preamble, which has already been presented to the Committee, and the motion which I offered earlier today to add to section 2 so as to limit the withdrawal of the right to sue to a case where the claimant has a gold bond on which he claims damages, or because he claims to be damaged by the confiscation of gold. That will be the motion to recommit which I shall present, and I am explaining it now because the language is somewhat involved.

I withdraw the pro forma amendment.

The CHAIRMAN. The question is on the motion of the gentleman from Michigan to strike out the preamble.

The question was taken and the motion was rejected.

The CHAIRMAN. Under the rule the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WHITTINGTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee had had under consideration House Joint Resolution 348, and, pursuant to House Resolution 300, he reported the joint resolution back to the House.

The SPEAKER. Under the rule, the previous question is ordered. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

Mr. HOLLISTER. Mr. Speaker, I offer the following motion to recommit, which I send to the desk and ask to have read.

The Clerk read as follows:

Mr. HOLLISTER offers the following motion to recommit: Strike out the preamble and insert in lieu thereof the following:

"Whereas because of the devaluation of the United States dollar by Executive order of January 31, 1934, and because of surrender, requisition, seizure, or acquisition of gold and gold certificates by various other Executive orders, certain holders of 'gold clause' obligations of the United States, as hereinafter defined, have instituted or threaten to institute damage suits against the United States Government based on such devaluation or confiscation, or are attempting or threatening to attempt to assert by way of counterclaim, set-off, or recoupment claims for damages against the United States Government based on such devaluation or such surrender, requisition, seizure, or acquisition."

And at end of section 2, page 3, line 24, strike out the period and add the following: "where in any such suit, counterclaim, set-off, or recoupment, or other affirmative action or defense, the holder of any such obligation demands the payment of gold, or bases a claim on the failure to pay gold on such obligation, or on the interest thereon, or claims to have been damaged because of any such surrender, requisition, seizure, or acquisition, or claims that the value of any such obligation, or of any interest coupon thereon, exceeds its face value in dollars."

Mr. STEAGALL. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

Mr. SNELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 252, not voting 85, as follows:

[Roll No. 135]

YEAS—92

Allen	Duffy, N. Y.	Kahn	Rich
Andresen	Ekwall	Kennedy, N. Y.	Robsion, Ky.
Andrew, Mass.	Engel	Kinzer	Rogers, Mass.
Arends	Englebright	Knutson	Russell
Bacharach	Fenerty	Lanham	Seger
Bacon	Fiesinger	Lehlbach	Short
Biermann	Fish	Lord	Snell
Blackney	Focht	McLeod	Somers, N. Y.
Bolton	Gearhart	Mapes	Stefan
Brewster	Gifford	Marshall	Taber
Buckbee	Gilchrist	Martin, Mass.	Taylor, Tenn.
Carlson	Goodwin	Merritt, Conn.	Thomas
Cavicchia	Guyer	Michener	Thurston
Christianson	Gwynne	Millard	Tinkham
Church	Halleck	Mott	Treadway
Claiborne	Hancock, N. Y.	O'Neal	Turpin
Cole, N. Y.	Hartley	Pittenger	Welch
Crawford	Hess	Plumley	Wigglesworth
Crowther	Hoffman	Powers	Wilson, Pa.
Darrow	Hollister	Ransley	Wolcott
Dirksen	Holmes	Reece	Wolfenden
Ditter	Hope	Reed, Ill.	Wolverton
Dondero	Jenkins, Ohio	Reed, N. Y.	Woodruff

NAYS—252

Adair	Deen	Harlan	Mansfield
Amlie	Delaney	Hart	Marcantonio
Arnold	Dempsey	Harter	Martin, Colo.
Ashbrook	Dies	Healey	Mason
Ayers	Dietrich	Higgins, Mass.	Massingale
Barden	Dingell	Hildebrandt	May
Beiter	Disney	Hill, Ala.	Mead
Bell	Dobbins	Hill, Knute	Meeks
Binderup	Dockweiler	Hill, Samuel B.	Merritt, N. Y.
Bland	Dorsey	Hobbs	Miller
Blanton	Doughton	Hoeppel	Mitchell, Ill.
Boehne	Doxey	Hook	Mitchell, Tenn.
Boileau	Drewry	Houston	Monaghan
Boland	Driscoll	Huddleston	Moran
Boylan	Driver	Hull	Moritz
Brooks	Duffey, Ohio	Imhoff	Nelson
Brown, Ga.	Duncan	Jacobsen	Norton
Brunner	Dunn, Miss.	Jenckes, Ind.	O'Brien
Buchanan	Dunn, Pa.	Johnson, Okla.	O'Connor
Buck	Eagle	Johnson, Tex.	O'Day
Buckler, Minn.	Eckert	Johnson, W. Va.	O'Leary
Burdick	Edmiston	Jones	O'Malley
Caldwell	Ellenbogen	Kee	Owen
Cannon, Mo.	Evans	Keller	Palmisano
Cannon, Wis.	Faddis	Kenney	Parks
Carmichael	Farley	Kerr	Parsons
Carpenter	Ferguson	Kloeb	Patman
Cartwright	Fletcher	Kniffin	Patterson
Castellow	Ford, Calif.	Kocialkowski	Patton
Celler	Ford, Miss.	Kopplemann	Pearson
Chandler	Frey	Kramer	Peterson, Fla.
Chapman	Fuller	Kvale	Peterson, Ga.
Citron	Fulmer	Lambeth	Pettengill
Clark, Idaho	Gambrill	Larrabee	Pfeifer
Clark, N. C.	Gassaway	Lea, Calif.	Pierce
Coffee	Gavagan	Lee, Okla.	Polk
Colden	Gehrmann	Lemke	Rabaut
Cole, Md.	Gildea	Lesinski	Ramsay
Colmer	Gingery	Lewis, Colo.	Ramspeck
Connery	Goldsborough	Lewis, Md.	Randolph
Cooper, Tenn.	Granfield	Luckey	Rayburn
Costello	Gray, Ind.	Ludlow	Reilly
Cox	Gray, Pa.	Lundeen	Robertson
Cravens	Green	McAndrews	Robinson, Utah
Crosby	Greenway	McClellan	Rogers, N. H.
Cross, Tex.	Greenwood	McCormack	Rogers, Okla.
Crosser, Ohio	Greever	McFarlane	Romjue
Crowe	Gregory	McKeough	Rudd
Cullen	Griswold	McLaughlin	Sabath
Cummings	Haines	McReynolds	Sanders, La.
Daly	Hamlin	McSwain	Sanders, Tex.
Dear	Hancock, N. C.	Mahon	Sauthoff

Schaefer	Steagall	Tonry	West
Secrest	Stubbs	Truax	Whelchel
Sirovich	Sumners, Tex.	Turner	White
Sisson	Tarver	Umstead	Whittington
Smith, Conn.	Taylor, Colo.	Utterback	Wilcox
Smith, Va.	Taylor, S. C.	Vinson, Ga.	Williams
Smith, Wash.	Terry	Wallgren	Wilson, La.
Smith, W. Va.	Thom	Walter	Wood
Snyder	Thomason	Warren	Young
South	Thompson	Wearin	Zimmerman
Spence	Tolan	Weaver	Zioncheck

NOT VOTING—85

Andrews, N. Y.	Dickstein	McLean	Schulte
Bankhead	Doutrich	McMillan	Scott
Beam	Eaton	Maas	Scrugham
Berlin	Eicher	Maloney	Sears
Bloom	Fernandez	Maverick	Shanley
Brennan	Fitzpatrick	Montague	Shannon
Brown, Mich.	Flannagan	Montet	Stack
Buckley, N. Y.	Gasque	Murdock	Starnes
Bulwinkle	Gillette	Nichols	Stewart
Burch	Hennings	O'Connell	Sullivan
Burnham	Higgins, Conn.	Oliver	Sutphin
Carter	Kelly	Perkins	Sweeney
Cary	Kennedy, Md.	Peyser	Tobey
Casey	Kimball	Quinn	Underwood
Cochran	Kleberg	Rankin	Vinson, Ky.
Collins	Lambertson	Richards	Wadsworth
Cooley	Lamneck	Richardson	Werner
Cooper, Ohio	Lloyd	Ryan	Withrow
Corning	Lucas	Sadowski	Woodrum
Culkin	McGehee	Sandlin	
Darden	McGrath	Schneider	
DeRouen	McGroarty	Schuetz	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Corning (for) with Mr. Starnes (against).
Mr. Maas (for) with Mr. Sears (against).
Mr. Andrews of New York (for) with Mr. Fitzpatrick (against).
Mr. McLean (for) with Mr. Maverick (against).
Mr. Lamneck (for) with Mr. Lambertson (against).
Mr. Culkin (for) with Mr. Flannagan (against).
Mr. Stewart (for) with Mr. Richards (against).
Mr. Eaton (for) with Mr. Sullivan (against).
Mr. Perkins (for) with Mr. Sandlin (against).
Mr. Montague (for) with Mr. Withrow (against).
Mr. Wadsworth (for) with Mr. Bloom (against).
Mr. Tobey (for) with Mr. Schneider (against).
Mr. Doutrich (for) with Mr. Dickstein (against).

General pairs:

Mr. Rankin with Mr. Collins.
Mr. Cochran with Mr. Carter.
Mr. Scrugham with Mr. Burnham.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Bankhead with Mr. Brennan.
Mr. McMillan with Mr. Ryan.
Mr. Cary with Mr. Murdock.
Mr. Oliver with Mr. Cooley.
Mr. Bulwinkle with Mr. McGrath.
Mr. Burch with Mr. Lloyd.
Mr. Peyser with Mr. Berlin.
Mr. Darden with Mr. Buckley of New York.
Mr. Woodrum with Mr. Quinn.
Mr. Kelly with Mr. Stack.
Mr. Vinson of Kentucky with Mr. Gillette.
Mr. Werner with Mr. Hennings.
Mr. Kleberg with Mr. Sweeney.
Mr. Kennedy of Maryland with Mr. Underwood.
Mr. Gasque with Mr. Shanley.
Mr. Fernandez with Mr. Schuetz.
Mr. Eicher with Mr. Maloney.
Mr. Casey with Mr. Beam.
Mr. Brown of Michigan with Mr. McGehee.
Mr. Lucas with Mr. McGroarty.
Mr. Montet with Mr. O'Connell.
Mr. DeRouen with Mr. Richardson.
Mr. Schulte with Mr. Scott.
Mr. Sadowski with Mr. Nichols.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the House joint resolution.

Mr. STEAGALL and Mr. SNELL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 259, nays 87, not voting 83, as follows:

[Roll Call No. 136]

YEAS—259

Adair	Biermann	Boylan	Caldwell
Amlie	Binderup	Brooks	Cannon, Mo.
Arnold	Bland	Brown, Ga.	Cannon, Wis.
Ashbrook	Blanton	Brunner	Carmichael
Ayers	Bloom	Buchanan	Carpenter
Barden	Boehne	Buck	Cartwright
Beiter	Boileau	Buckler, Minn.	Celler
Bell	Boland	Burdick	Chandler
Chapman	Gavagan	Luckey	Rogers, Okla.
Citron	Gehrmann	Ludlow	Romjue
Clark, Idaho	Gilchrist	Lundeen	Rudd
Clark, N. C.	Gildea	McAndrews	Sabath
Coffee	Gingery	McClellan	Sanders, La.
Colden	Goldsborough	McCormack	Sanders, Tex.
Cole, Md.	Granfield	McFarlane	Sandlin
Colmer	Gray, Ind.	McKeough	Sauthoff
Connery	Gray, Pa.	McLaughlin	Schaefer
Cooley	Green	McReynolds	Secrest
Cooper, Tenn.	Greenway	McSwain	Sirovich
Costello	Greenwood	Mahon	Sisson
Cox	Greever	Mansfield	Smith, Conn.
Cravens	Gregory	Marcantonio	Smith, Va.
Crosby	Griswold	Martin, Colo.	Smith, Wash.
Cross, Tex.	Haines	Mason	Smith, W. Va.
Crosser, Ohio	Hamlin	Massingale	Snyder
Crowe	Hancock, N. C.	May	Somers, N. Y.
Cullen	Harlan	Mead	South
Daly	Hart	Meeks	Spence
Dear	Harter	Merritt, N. Y.	Steagall
Deen	Healey	Miller	Stefan
Delaney	Higgins, Mass.	Mitchell, Ill.	Stubbs
Dempsey	Hildebrandt	Mitchell, Tenn.	Sumners, Tex.
Dies	Hill, Ala.	Monaghan	Tarver
Dietrich	Hill, Knute	Moran	Taylor, Colo.
Dingell	Hill, Samuel B.	Moritz	Taylor, S. C.
Disney	Hobbs	Murdock	Terry
Dobbins	Hoeppel	Nelson	Thom
Dockweiler	Hook	Norton	Thomason
Dorsey	Houston	O'Brien	Thompson
Doughton	Hull	O'Connor	Tolan
Doxey	Imhoff	O'Day	Tonry
Drewry	Jacobsen	O'Leary	Truax
Driscoll	Jenckes, Ind.	O'Malley	Turner
Driver	Johnson, Okla.	O'Neal	Umstead
Duffey, Ohio	Johnson, Tex.	Owen	Utterback
Duffy, N. Y.	Johnson, W. Va.	Parks	Vinson, Ga.
Duncan	Jones	Parsons	Vinson, Ky.
Dunn, Miss.	Kee	Patman	Wallgren
Dunn, Pa.	Keller	Patterson	Walter
Eagle	Kenney	Pearson	Warren
Eckert	Kloeb	Peterson, Fla.	Wearin
Edmiston	Kniffin	Peterson, Ga.	Weaver
Ellenbogen	Kocialkowski	Pfeifer	Werner
Evans	Kopplemann	Pierce	West
Faddis	Kramer	Polk	Whelchel
Farley	Kvale	Quinn	White
Ferguson	Lambeth	Rabaut	Whittington
Fletcher	Lanham	Ramsay	Wilcox
Ford, Calif.	Larrabee	Ramspeck	Williams
Ford, Miss.	Lea, Calif.	Randolph	Wilson, La.
Frey	Lee, Okla.	Rayburn	Wood
Fuller	Lemke	Reilly	Young
Fulmer	Lesinski	Robertson	Zimmerman
Gambrill	Lewis, Colo.	Robinson, Utah	Zioncheck
Gassaway	Lewis, Md.	Rogers, N. H.	

NAYS—87

Allen	Dondero	Jenkins, Ohio	Reed, N. Y.
Andresen	Ekwall	Kahn	Rich
Andrew, Mass.	Engel	Kennedy, N. Y.	Robsion, Ky.
Arends	Englebright	Kinzer	Rogers, Mass.
Bacharach	Fenerty	Knutson	Russell
Bacon	Fiesinger	Lehlbach	Seger
Blackney	Fish	Lord	Short
Bolton	Focht	McLeod	Snell
Brewster	Gearhart	Mapes	Taber
Buckbee	Gifford	Marshall	Taylor, Tenn.
Carlson	Goodwin	Martin, Mass.	Thomas
Castellow	Guyer	Merritt, Conn.	Thurston
Cavicchia	Gwynne	Michener	Tinkham
Christianson	Halleck	Millard	Treadway
Church	Hancock, N. Y.	Mott	Turpin
Claiborne	Hartley	Pettengill	Wigglesworth
Cole, N. Y.	Hess	Pittenger	Wilson, Pa.
Crawford	Hoffman	Plumley	Wolcott
Crowther	Hollister	Powers	Wolfenden
Darrow	Holmes	Ransley	Wolverton
Dirksen	Hope	Reece	Woodruff
Ditter	Huddleston	Reed, Ill.	

NOT VOTING—83

Andrews, N. Y.	Dickstein	McGrath	Schneider
Bankhead	Doutrich	McGroarty	Schuetz
Beam	Eaton	McLean	Schulte
Berlin	Eicher	McMillan	Scott
Brennan	Fernandez	Maas	Scrugham
Brown, Mich.	Fitzpatrick	Maloney	Sears
Buckley, N. Y.	Flannagan	Maverick	Shanley
Bulwinkle	Gasque	Montague	Shannon
Burch	Gillette	Montet	Stack
Burnham	Hennings	Nichols	Starnes
Carter	Higgins, Conn.	O'Connell	Stewart
Cary	Kelly	Oliver	Sullivan
Casey	Kennedy, Md.	Palmisano	Sutphin
Cochran	Kerr	Patton	Sweeney
Collins	Kimball	Perkins	Tobey
Cooper, Ohio	Kleberg	Peyser	Underwood
Corning	Lambertson	Rankin	Wadsworth
Culkin	Lamneck	Richards	Welch
Cummings	Lloyd	Richardson	Withrow
Darden	Lucas	Ryan	Woodrum
DeRouen	McGehee	Sadowski	

So the House joint resolution was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Starnes (for) with Mr. Corning (against).
Mr. Sears (for) with Mr. Maas (against).
Mr. Fitzpatrick (for) with Mr. Andrews of New York (against).
Mr. Maverick (for) with Mr. McLean (against).
Mr. Lambertson (for) with Mr. Lamneck (against).
Mr. Flannagan (for) with Mr. Culkin (against).
Mr. Richards (for) with Mr. Stewart (against).
Mr. Sullivan (for) with Mr. Eaton (against).
Mr. Withrow (for) with Mr. Montague (against).
Mr. Schneider (for) with Mr. Tobey (against).
Mr. Dickstein (for) with Mr. Doutrich (against).
Mr. Kerr (for) with Mr. Cooper of Ohio (against).
Mr. Ryan (for) with Mr. Wadsworth (against).
Mr. McMillan (for) with Mr. Perkins (against).

Until further notice:

Mr. Rankin with Mr. Collins.
Mr. Scrugham with Mr. Burnham.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Woodrum with Mr. Welch.
Mr. Oliver with Mr. Kimball.
Mr. Cary with Mr. Gillette
Mr. Cummings with Mr. Hennings.
Mr. Bankhead with Mr. Brennan.
Mr. Bulwinkle with Mr. McGrath.
Mr. Burch with Mr. Lloyd.
Mr. Darden with Mr. Berlin.
Mr. Kelly with Mr. Stack.
Mr. Kleberg with Mr. Sweeney.
Mr. Kennedy of Maryland with Mr. Underwood.
Mr. Gasque with Mr. Shanley.
Mr. Fernandez with Mr. Schuetz.
Mr. Eicher with Mr. Maloney.
Mr. Casey with Mr. Beam.
Mr. Brown of Michigan with Mr. McGrath.
Mr. Lucas with Mr. McGroarty.
Mr. Montet with Mr. O'Connell.
Mr. DeRouen with Mr. Richardson.
Mr. Schulte with Mr. Scott.
Mr. Sadowski with Mr. Nichols.
Mr. Palmisano with Mr. Buckley of New York.

Mr. DELANEY. Mr. Speaker, my colleague, the gentleman from Pennsylvania, Mr. BERLIN, is unavoidably absent. If present, he would have voted "yea."

Mr. EKWALL. Mr. Speaker, at the request of the gentleman from Delaware, Mr. STEWART, I wish to state that if he were present he would have voted "yea" on the motion to recommit and "nay" on final passage of the bill.

The result of the vote was announced as above recorded.

On motion of Mr. STEAGALL, a motion to reconsider the vote whereby the House joint resolution was passed was laid on the table.

Mr. STEAGALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

EXTENSION OF REMARKS—H. J. RES. 348

Mr. PLUMLEY. Mr. Speaker, I have some pretty well defined and positive notions with respect to the pending measure and all proposed legislation of similar type and purpose, and I propose to go on record as to the same. I regret that a measure of so great importance and involving, as it does, some governmental economic and ethical principles above which even Members of Congress cannot rise, cannot be discussed on the floor of this House or at such length as the importance of the matter with all of it ramifications, stripped of partisan politics, demands and deserves.

I am not so dumb as to fail to realize that from a partisan standpoint this measure will receive sufficient support from the majority as to insure its passage, but my respect for and confidence in the judgment of many of my Democratic friends is such as to warrant the assertion on my part that were sufficient time given for them, as well as others, to outline their objections and the fundamental reasons which motivate them, the vote in favor of this and similar measures would in numbers be considerably reduced.

It is true that the will of the majority will prevail, but it has been well said that laws must be justified by something more than the will of the majority. They must rest on the eternal foundation of righteousness.

The measure under consideration is unrighteous. It undertakes to take away from the individual citizen a right guaranteed to him by law, and is not justified by reason of the fact that a majority sees fit to undertake to deprive them of that right. I am practical minded and old-fashioned, I know; furthermore, the doctrines for which I stand may not be popular with the intellectuals of this day and generation, who think so little of fundamentals and the principles which underlie, but upon which our civilization rests, so also rests the progress which has been made, which progress by the way, compared with what is to be is as a drop of water to the sea.

This legislation is offensive to my sense of fair play and justice. It not only impugns the patriotism of the average citizen but destroys his confidence in his Government. It closes the door to those citizens who might desire to exercise the right to seek to recover through the courts any damage they may have sustained as the result of the devaluation of the dollar and the repudiation of the gold clause in the bonds issued by our Government. It does this, or attempts to do it, notwithstanding that the Supreme Court has held that the Government had exceeded its authority in abrogating the gold clause in its bonds and that the contractual obligation still exists and remains binding upon the conscience of the sovereign.

The proposed legislation attempts to make legal an unconscionable act of "the sovereign" seeking to disregard the elementary principles of fair dealing, to avoid criticism therefor by reliance upon the doctrine that "the king may do no wrong", asking for protection of the Government from the consequences of its own mistaken policies, a doctrine of repudiation and expediency which, if permitted to be established, will forever remain as a blot upon our escutcheon, and one of the most dishonorable acts ever perpetrated upon the American citizens by a bureaucratic, autocratic, and tyrannical group temporarily vested with the power to so oppress.

One cannot help remembering at such a time as this the attitude with which our forbears approached somewhat similar situations involving the honor and integrity of our country. I am reminded of that which Edward Livingstone said as he closed the debate against the so-called "Alien bill," almost 140 years ago. It is worth repeating I believe. Said he:

> If we are ready to violate the Constitution will the people submit to our unauthorized acts? Sir, they ought not to submit—they would deserve the chains that these measures are forging for them * * *. Do not let us be told like the arch traitors we cry "Hail Columbia" at the moment we are betraying her to destruction; that we sing "Happy land" when we are plunging it in ruin and disgrace; that we are absurd enough to call ourselves free and enlightened while we advocate principles that would have disgraced the age of Gothic barbarity.

I believe in the sanctity of a legal contract voluntarily entered into by the parties thereto, and no amount of argument and no fallacious reasoning can change my attitude with respect thereto. The contract is performed or it is repudiated or broken. Its inviolability, based on a meeting of the minds of the parties, is its very essence, and the real reason for its being.

It is axiomatic that the obligation of a contract includes the duty to perform a contract, and the duty to pay damages in case it is not performed. So those of us who remember our law-student days recall that it was impressed upon our minds that the obligations of a valid contract cannot be impaired by any subsequent legislative act. The parties to a contract are entitled to and guaranteed the right of the precise fulfillment of all of its obligations according to their terms. These principles are too well established to permit successful contradiction, and are involved in the controversy with respect to the proposed legislation. We hear much about the sovereignty of the State and the right of the Government to protect itself from suits by citizens. The doctrine of the immunity of the sovereign is invoked to protect the Government against the exercise of a contractual right by those citizens who have entered into a contract with the Government, which contract the Government would now repudiate and set aside on the ground of expediency. Such an attitude and state of mind is incomprehensible; but it is the

attitude and state of mind which has motivated this Government of ours with respect to many other contracts which it has made with its citizens. It has been so many times made evident that it has had a deleterious and undermining effect upon the morals of the younger generation to whom today, by reason of the example set by their Government, a contract in writing over their signatures means no more than any other scrap of paper.

The policy the Government has pursued with respect to carrying out its contracts made with citizens is reprehensible, and responsible for more ills which trouble the body politic than any other one thing of which I can now think. Is there no such thing as sancity of a contract now? The inescapable conclusion is that there is none, so far as the Government is concerned, and this proposed legislation is further proof of the fact.

In a democracy sovereignty inheres in the people. Such powers or sovereignty as are possessed by the Federal Government are subordinated to law. As it derives its existence through the law of nature from the eternal law, the immutable principles of reason and justice which call it into being impose upon it certain rules of action which it cannot disregard without its own destruction. It is a well-established principle of law that certain fundamental principles and express provisions define and regulate the powers that may be exercised by the Federal Government in its reliance upon its sovereignty. Obedience to such law may be enforced by the people either by nullifying its action through the courts, or in extraordinary cases by employing means not so pleasant to contemplate.

The philosophy of government responsible for the theory of the divine right of kings was effectively, and as I supposed, permanently relegated, long ago, to that realm of innocuous desuetude to which President Cleveland will be remembered to have referred. Certainly it is un-American, and was unquestionably so decided in 1776.

I am unalterably opposed to this bill. "Sovereignty, it is our belief", said Calvin Coolidge, "is vested in the individual, and we are going to protect the right of the individual."

WORK-RELIEF REGULATIONS

Mr. STEFAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. STEFAN. Mr. Speaker, this morning I received the following telegram from the chairman of the County Board of Antelope County, Nebr.:

> No Antelope County men working on shelter-belt project in this county. Outside help hired claim on account of our not having Federal relief. We have 400 unemployed men wanting work. Situation is serious. Can you help us?

Upon receipt of the telegram, I telephoned to Mr. Paul H. Roberts, acting director of the plains shelter-belt project, and complained of this situation. Mr. Roberts explained that since the beginning of the new fiscal year, to wit, July 1, 1935, funds for the shelter-belt project had been allotted from the Emergency Works appropriation under regulations requiring the employees of the project to be selected from certified relief rolls. Now, what is the effect of this arrangement in Antelope County, Nebr.? Antelope County is one of a very few counties in the State and in the United States that has displayed the commendable spirit of self-reliance to the point of abandoning Federal relief and making the effort to take care of itself. This does not mean that Antelope County has no relief problem. It does not mean that Antelope County has no unemployment problem. It means that the people of the county are making a man's effort to carry their own load. Instead of receiving commendation and encouragement in this effort, they are now told that the county has no relief roll and that they must witness the importation of nonresidents to take the jobs on Federal projects within the county while 400 of their own unemployed must sit idly by. For all practical purposes, this amounts to the holding forth of an inducement to the counties of the United States to remain charity charges of the Federal Government, and it amounts to the assessment of a direct penalty upon the occasional self-reliant and courageous county that is willing to make the effort to resume independence. We will never clear the Federal relief rolls in this country that way.

Perhaps existing regulations afford no other alternative to what is now being experienced in Antelope County, Nebr. If that be true, it obviously follows that those regulations should be changed so that they shall no longer continue to defeat legitimate and desired purposes. There is no reason, except it be purely arbitrary and artificial, why the unemployed men in Antelope County, Nebr., should not be employed on that part of the shelter-belt project lying within the county in absolute preference to any and all nonresidents.

I apprehend that other Members may have been, or may be, confronted with a similar situation in their districts. I call upon them to join with me in a concerted effort to force due recognition of the rights of local citizens and an administration of public-relief funds that will encourage and foster self-reliance rather than to place an indefinite premium upon the practice of local governmental subdivisions clinging to Federal relief through fear of making independent effort. Such local assumption ought to be stimulated and encouraged, not penalized.

I have taken this matter up with Harry Hopkins, the Relief Administrator, and he has told me that he will look into this matter right away. I know the great problem with which Mr. Hopkins is faced, and I realize that certain regulations must be followed in the administration of a $5,000,000,000 relief fund. But no regulation which penalizes a county which is so patriotic in this hour of our Nation's distress by taking care of its own relief problems is a good regulation. Four hundred unemployed in one county looking for a job in order to take care of their families do not feel very well when they find their Government bringing into that county workers from other counties to take jobs for which they themselves have been searching and to which they are entitled. I am not criticizing Harry Hopkins. I have the greatest respect for him and feel that he has been giving all of his time and energy toward solving a problem through which we are endeavoring to put three and a half million people back to work.

Knowing Mr. Hopkins as I do and learning more about him by personal contacts during the past few months, I have gained much admiration for him. I hope that he will find it possible to eliminate this objectionable regulation over which people in Antelope County are so distressed and which has distressed me as their Representative. Paul Roberts, acting director of the plains shelter-belt project, realizes the unfairness of this regulation. In my conversation with Mr. Roberts he indicated he is helpless to do anything about it. He has similar problems in other States. So I take this opportunity of bringing up this matter to the attention of the Representatives. I feel that it is my duty to tell my colleagues about it. You are entitled to know what is being done in my State, because you undoubtedly have similar problems in your districts, and we as Representatives of the people should do everything in our power to help our people, and by so doing we can bring these matters to the attention of those officials who have the responsibility of administering these vast sums of taxpayers' money.

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to extend my remarks and to include therein certain excerpts from the case of Perry against the United States, one of the gold-clause cases decided by the Supreme Court.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

NEW YORK STATE FLOOD

Mr. BEITER. Mr. Speaker, I ask unanimous consent to call up House Resolution 298, authorizing the appointment of a committee to investigate waterway conditions in central New York.

The Clerk read the title of the House resolution.

Mr. LORD. Mr. Speaker, reserving the right to object, a great part of the flooded area covered by this resolution is

in my district; practically all of it is in my district and in the district of the gentleman from New York [Mr. COLE].

Mr. Speaker, 2 weeks ago next Sunday night we had the most terrible flood that has ever visited our area. Houses were washed away, families were washed away, barns were destroyed, cattle were washed away, crops were destroyed and washed away, and the whole country round about was devastated.

It has been estimated that it will cost $27,000,000 to restore the damage done this section. Immediately on being notified of this damage I got the Red Cross to go to that section in planes and got the F. E. R. A., the C. W. A., and the P. W. A. interested and to give such relief as they could. The C. C. C. boys have done a good work there in helping clean up the area, but what we are most in need of in restoring the locality to a normal condition is funds. We are getting what we can from the various governmental agencies, but we must have direct grants to restore our bridges and highways, which are damaged far beyond any amount the localities can contribute.

Mr. O'MALLEY. Mr. Speaker, will the gentleman yield?

Mr. LORD. I yield.

Mr. O'MALLEY. I merely wanted to make the comment that I think the Democrats ought to be very happy that when a Republican district gets in trouble it calls on Democratic alphabetic agencies for help and compliments them for it.

Mr. LORD. Certainly we call on Democratic agencies, and they ought to be as free to help as the Republicans would be. I ask the gentleman if only Democrats are to be aided by Democratic agencies?

Mr. BACON. Does the gentleman contend this is not a national administration?

Mr. MARTIN of Massachusetts. Does the gentleman think those organizations are for Democrats only?

Mr. LORD. Mr. Speaker, Mr. COLE of New York introduced a bill requesting the Army engineers to make a survey of this section, to estimate the cost and advisability of building dams to control the waters so that such a flood may not occur again. They have made this preliminary survey. Now we need money to rebuild our homes, highways, bridges, restore our farms, and feed and care for the people until they again get located. This help we need and must have it quickly to save them from severe suffering and loss.

Mr. WARREN. Mr. Speaker, reserving the right to object, this is the most unusual investigating resolution I can recall ever having been presented to the House. We all know that flood-control projects are examined by the Secretary of War. Never before in my recollection has a special congressional committee been appointed in reference to flood control. There are approximately 1,500 or 2,000 flood-control projects pending. If we set this precedent today, any Member interested in a similar project could come in and ask for a congressional investigation.

If the gentleman from New York, the author of the resolution, will plainly state that he will withdraw his companion resolution asking funds to pay the expenses of this trip up there, then I shall not object, although I think it is a bad precedent.

If this means the expenditure of one penny, then I shall have to object.

Mr. O'CONNOR. Will the gentleman yield?

Mr. WARREN. I yield to the gentleman from New York.

Mr. O'CONNOR. When the gentleman states that this is a flood-control project, I do not know that he is correctly stating the matter. Of course, this involves upstate New York, but, as I understand, the purpose of sending this congressional committee of six with the Army engineers is to get first-hand information within a very few days so that the Congress may be informed as to any relief it might be asked to give. As the gentleman knows, in the case of every flood heretofore we have voted relief, as in the case of Arkansas, Oklahoma, and other States which I do not recall for the moment. These Members will go up there and get first-hand information. Right now there is pending a bill—which it is hoped might be brought up Monday—authorizing the Reconstruction Finance Corporation to lend to the political entities up there sufficient money to meet this situation, which all the newspapers and everyone else says is very desperate.

Mr. WARREN. Let us be very frank about this matter. In this particular case the district engineer has already gone up there. He has already made his report and the report has been filed with the National Emergency Council. If they see fit, they may send men in there and remedy the situation tomorrow.

Mr. O'CONNOR. I do not understand that is so. The gentleman from New York [Mr. BLOOM] received a wire, which referred to myself. Unfortunately I did not think this matter was coming up until tomorrow. I understand the Army engineers are on the job and Mr. Walker has sent his people up there. The C. C. C. people are up there. The American Legion and the Boy Scouts are on the ground now. I am surprised there has been any report made.

Mr. WARREN. The district engineer has already made his report, which has been transmitted to Mr. Frank Walker. I am just thinking about the precedent that we will establish here in passing this resolution, because I have looked into the question and I never heard of this being done before. If that is true, every Member of the House may come in here and ask for a special congressional investigating committee, headed by himself, on every little pet flood-control project that might come up.

Mr. O'CONNOR. The committee members can go up there Saturday and they ought to be back here Monday morning. I cannot see how the whole thing will cost over $500.

Mr. MEAD. Will the gentleman yield?

Mr. WARREN. I yield to the gentleman from New York.

Mr. MEAD. It is my understanding that resolutions adopted by the Rivers and Harbors Committee have the weight and effect of law and authority, so far as the Army Engineers are concerned. The Army Engineers are anxious that some congressional action be taken supplementing their work. They are anxious that the proper committee go up there with them. They are anxious to know that when they return here they will have the approval of a congressional committee. I regret that this resolution has caused such a controversy, particularly when it affects New York State, that has poured out millions of dollars very liberally, and now when it asks for a few paltry hundred dollars to take care of the most devastating situation in the history of the southern tier of New York there is objection.

Mr. WARREN. Of course, the gentleman from New York knows that I am not talking about that phase of the matter. I am talking about the precedent we will establish here in the House. I have a certain responsibility for the time being as Chairman of the Committee on Accounts. This means there will be literally hundreds of similar resolutions introduced. Therefore, if this is going to cost one penny, then I object.

Mr. TABER. Will the gentleman yield?

Mr. WARREN. I yield to the gentleman from New York.

Mr. TABER. I understand two minority Members are provided for in the resolution, or it is suggested that they be included. The understanding I have is that the gentleman from New York, Mr. LLOYD, and the gentleman from New York, Mr. COLE, will be suggested. I further understand from them that they are prepared to pay their own expenses up there and do not expect reimbursement.

Mr. O'CONNOR. May I make this suggestion in that connection? Let this resolution pass and then we can take care of the matter of accounts when it comes up later. In my opinion the suggestion just made by the gentleman from New York will be followed by these other Members, who will pay their own expenses.

Mr. WARREN. If the gentleman will state he does not expect the appropiration of one cent for this trip, then, of course, I withdraw my objection; otherwise, I shall object.

Mr. BEITER. As far as I am personally concerned, I will pay my own expenses, and I hope this will serve as a precedent for the other Members.

Mr. WARREN. And the gentleman will withdraw his companion resolution?

Mr. BEITER. I will withdraw my companion resolution.

Mr. SNELL. Will the gentleman yield?

Mr. WARREN. I yield to the gentleman from New York.

Mr. SNELL. Will the gentleman take that position on other propositions that come up from time to time from various parts of the country? There have been some investigations previously made that are just as foolish as the gentleman thinks this is, and I notice he has always brought in an appropriation with which to pay the expenses. If he is going right straight through with it, I have no objection. If he makes the objection to this resolution, I want him to object in the future.

Mr. WARREN. I have brought in appropriations after the House had acted and commanded me to bring them in, as the gentleman from New York well knows. I do not care whether it is in my district or anywhere else, I am going to oppose establishing a precedent like this, and shall object to every one, no matter what section of the country it comes from. The gentleman already knew that was my position, and he did not have to even ask it.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. COLE of New York. I think it should be definitely understood that this investigation will not in any way impair or interfere with the activities of Federal agencies now in force up there, because they are doing a splendid job. We do not want them to hesitate in their efforts by waiting to see what this investigating committee will do. May I say for myself that if I serve on this committee I should be happy to do so without compensation.

What we really need up there is action and not investigation. There are hundreds and hundreds of miles of town roads and bridges that are washed out. The farmers are unable to get their crops to the market. Milk is being poured upon the ground.

This afternoon I have introduced a measure appropriating $7,500,000 for the reconstruction of town and county roads and bridges and dikes in this community. If you really want to do something worth while you will see that this appropriation is given immediate attention and favorable action.

Mr. LORD. Mr. Speaker, with respect to the remarks of the gentleman from New York [Mr. COLE], who has just spoken with regard to expenses, I may say that I do not want any expenses for going up in the district.

Mr. GOODWIN. Mr. Speaker, I simply want to register the fact, without going into detail, that the same flood conditions exist in the Twenty-seventh Congressional District. This district is closely connected with the districts of the gentlemen from New York, Mr. COLE and Mr. LORD, and may I ask if the resolution will cover investigating conditions in the Twenty-seventh District through the county superintendents of highways?

Mr. REED of New York. Mr. Speaker, I should like to have the language of the resolution broad enough to cover that portion of the Forty-third District of New York which has been affected by the floods.

The SPEAKER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Clerk read the resolution, as follows:

Whereas there exists in the State of New York a condition which is likely to result in a serious epidemic and health menace to thousands of its citizens, caused by floods and torrential rains; and

Whereas flood waters from Cayuga and Seneca Lakes, and the Chenango, Susquehanna, Chemung, and Cannestea Rivers have caused extensive property damage in middle central New York; and

Whereas roads have been destroyed, bridges washed out, dams carried away, and homes razed in this flood-ravaged district; and

Whereas the flood damage is largely due to lack of river improvement and flood control along said rivers and lakes; and

Whereas it is essential in the preparation of any permanent river improvement and flood-control program that a proper plan be perfected with the aid and cooperation of the United States Board of Army Engineers and other agencies of the Federal Government: Now, therefore, be it

Resolved, That the Speaker of the House of Representatives be, and he is hereby, authorized and directed to appoint a committee of six Members of the House, including the Chairmen of the Rivers and Harbors and the Flood Control Committees, and two additional members of each of the above-named committees, who are authorized and directed, when appointed, to make an investigation of the conditions existing in said middle central New York.

For the purpose of this resolution the committee is hereby authorized to have sittings and hearings in regard to said matter at such time and place as it deems proper and necessary, in the city of Washington, in the District of Columbia, and/or at such place or places in the State of New York as said committee may deem advisable to a full and complete investigation of conditions existing in and about said rivers and lakes.

Mr. TURPIN. Mr. Speaker, as the author of the resolution knows, the Susquehanna River rises in New York and, of course, the farther it goes, the greater becomes the volume. All the waters from the Susquehanna in New York go down through our district, augmented by several tributaries feeding the stream below the New York State line and in one little valley alone our farmers have lost over $600,000 in crops. The total property damage was great, with loss of several lives.

I know the Army Engineers and the special committee, if they do any investigating at all, will want to investigate conditions along the entire length of the river and not simply one small section.

The author of the resolution has very willingly agreed we should add the words "and Pennsylvania" after the words "New York", and I offer an amendment to that effect.

The Clerk read as follows:

Amendment offered by Mr. TURPIN: Page 2, line 8, after the words "New York", insert "and Pennsylvania", and in line 14, after the words "New York", insert "and Pennsylvania."

The amendment was agreed to.

Mr. BEITER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEITER: Page 1, in the second "Whereas", after the word "Cayuga", insert "Keuka", and after the word "Chemung" strike out the word "and", and after the word "Rivers" insert "and their tributaries."

On page 2, line 3, after the word "a", insert the word "special", and strike out all of line 4 and the words "Control Committees, and".

In line 5, after the word "two", strike out the word "additional", and at the end of the line strike out the word "of", and in line 6, strike out the word "above named" and insert "Rivers and Harbors and Flood Control."

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

The Chair appointed the following committee: Mr. WILSON of Louisiana, Mr. GAVAGAN, Mr. WHITTINGTON, Mr. BEITER, Mr. LORD, and Mr. COLE of New York.

TO STANDARDIZE SICK LEAVE

Mr. SMITH, from the Committee on Rules, submitted the following resolution, which was referred to the House Calendar and ordered to be printed:

House Resolution 302

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 8459, a bill to standardize sick leave and to extend it to all civilian employees. That after general debate which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto, to final passage without intervening motion except one motion to recommit, with or without instructions.

VACATIONS FOR GOVERNMENT EMPLOYEES

Mr. SMITH of Virginia, from the Committee on Rules, submitted the following resolution, which was referred to the House Calendar and ordered printed:

House Resolution 303

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 8458, a bill to provide for vacations to Government employees, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on the Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

UNIFORM SYSTEM OF BANKRUPTCY

Mr. O'CONNOR, from the Committee on Rules, submitted the following resolution, which was referred to the House Calendar and ordered printed:

House Resolution 304

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 8587, a bill to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

CENTRAL STATISTICAL COMMITTEE

Mr. WHITTINGTON. Mr. Speaker, on behalf of the Acting Chairman and by direction of the Committee on Expenditures in the Executive Departments, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7590) to create a Central Statistical Committee and a Central Statistical Board, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments. This course is agreeable to the members of the committee and to Members with whom I have conferred on the other side.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to take from the Speaker's table the bill H. R. 7590, with Senate amendments thereto, and concur in the Senate amendments. The Clerk will report the Senate amendments.

The Clerk read as follows:

Page 2, line 1, after "of", insert "the Secretary of the Treasury."
Page 2, line 5, after "President", insert "with the advice and consent of the Senate."
Page 5, line 10, after "Committee", insert "and to the President for transmittal to Congress."
Page 5, line 18, strike out "competitive."

The SPEAKER. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

ADJOURNMENT OVER

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection?

Mr. ROGERS of Oklahoma. Mr. Speaker, I reserve the right to object, though I shall not object. I think it is a fine thing that we can adjourn over until Monday, but I hope in the future we will be able to arrange our business so that we will not have to eliminate the business in order on Calendar Wednesday. I have just about come to the conclusion that if we should adjourn before Christmas and should continue to eliminate Calendar Wednesday, a number of committees will not be reached during this session of Congress. The committee of which I am chairman has a number of bills that we would like to have considered during this session of Congress. There are committees ahead of it, and I hope that our committee will be reached before Congress adjourns.

The SPEAKER. Is there objection?

Mr. BIERMANN. Mr. Speaker, reserving the right to object, I would like to ask the majority leader what the program is going to be with regard to the Private Calendar?

Mr. TAYLOR of Colorado. That will come up the week after next.

Mr. BIERMANN. Is there not going to be some special arrangement to have the Private Calendar called on some special day?

Mr. TAYLOR of Colorado. I think we will be able to handle all of the bills on the Private Calendar, but I cannot say definitely. It will be subject to the will of the House whether we take it up out of order.

Mr. BIERMANN. Does the majority leader expect to ask unanimous consent to that effect? There are something like 400 bills on the Private Calendar, and we have passed over on three separate times the omnibus bills. We have had only one-half day on the omnibus bills. Those are small bills comparatively, but they are of great importance to the people involved. Instead of adjourning over week ends right along we ought to have the Private Calendar considered.

Mr. O'CONNOR. Let me say to the gentleman that I believe every effort will be made to take care of the Private Calendar before we adjourn. Personally, I will do all I can.

Mr. BIERMANN. Including the omnibus bills?

Mr. O'CONNOR. Including the omnibus bills; and if necessary, by some special arrangement.

Mr. BIERMANN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado [Mr. TAYLOR]?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. SHANLEY (at the request of Mr. SMITH of Connecticut), for 3 days, on account of important business.

THE SPEAKER'S BIRTHDAY

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to proceed for 7 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. LUDLOW. Mr. Speaker, the speech I shall deliver today would have been delivered day after tomorrow, if the House were to be in session then.

Associated with these ancient halls of legislation are some customs that are perfectly eloquent in sentiment and beauty, and among the best and finest of these is the time-honored tradition which on special occasions prompts us to pause in our busy routine and pay our tributes of respect and homage to someone whom we all love and who has served the House and the Nation faithfully and well.

As an observer since the beginning of the century from yonder press gallery and from the floor, I have witnessed many such occasions in this House when worth was recognized and genius was extolled, and always I have felt the thrill of inspiration as I witnessed the House, by a singular transformation, pass instantaneously from the turbulence of acrimonious and stormy debate into an atmosphere of beautiful concord, when members of all political parties, with politics adjourned, would vie with each other in expressing appreciation of one of their fellows and in placing their garlands at his feet. Nothing the House, with its innumerable variations of moods and expressions, does is more human and at the same time more godlike than this. These overflows of good-fellowship drown all that is base and dross in our natures, while they freshen and vitalize the springs of friendship.

Mr. Speaker, I think it is meet and proper that we should tarry a little while today to pay our respects to a Member

from Tennessee who on day after tomorrow will pass another milestone in his very useful life. This Member is distinctly one of us, though he sits in majesty over us. He would modestly claim to be one of the least of us, though we all know he is one of the greatest of the many illustrious men who have served with dignity and distinction in the office second in importance in the American Nation—the Speakership of the House of Representatives.

There is one word in the English language that best describes this man in his relationship with the Membership of this House It is a fine old word that connotes frendship, loyalty, truth, and sincerity. It is the word "comrade." The Speaker is a comrade of all of us. Often when we contemplate the power and awe of the Speakership and the position which the office occupies in the annals of history we are prone to think of a Speaker as a person who is austere, brusque, and repellant; but however truly that description may have fit some of the Speakers of the yesteryear, it does not apply to the present occupant of the Chair. His manner is kindliness personified. His passion for service shines so radiantly that all who need his counsel know that to seek it is to find it. Every Member of this House may go to him with an individual problem at any time with the certainty of sympathetic counsel. The portals of his heart are open always to the members of the minority, as well as to those of his own party faith. To him, "A man's a man for a' that", be he a Republican or a Democrat, a Progressive, a Non-Partisan, or a Farmer-Laborite. While he is a militant fighter for his party, he is a stanch defender of the rights of the minorities. By his lovable personality he grips us to him with hoops of steel. To know him is to love him. Such a man is our Speaker. He is one of America's biggest assets. From the opening day of the Seventy-fourth Congress he has filled the office with dignity and ability befitting a great man and a great office. Like Jefferson and Jackson and Lincoln, he is singularly blessed with the human touch and his heart keeps rhythm with the heartbeats of 125,000,000 people. In him the elements are so well mixed that Nature might stand up and say to all the world, "This is a man."

Day after tomorrow, ladies and gentlemen of the House, will be the sixty-sixth birthday anniversary of one of America's greatest statesmen, our friend and comrade, JOSEPH W. BYRNS. I know that I express what is in the hearts of all of us and that I voice the sentiment of the Nation he serves so devotedly and so well when I extend congratulations and wish for him many more years of health and happiness. [Applause, the Members rising.]

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent that the Speaker may proceed for 40 minutes.

The SPEAKER. The gentleman is distinctly out of order. [Laughter.]

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2811. An act to authorize and adopt certain public-works projects for controlling floods, improving navigation, regulating the flow of certain streams of the United States, and for other purposes; to the Committee on Flood Control.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2532. An act to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p. m.) the House, pursuant to its order heretofore entered, adjourned until Monday, July 22, 1935, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. LANHAM: Committee on Public Buildings and Grounds. H. R. 8667. A bill to provide for the disposition, control, and use of surplus real property acquired by Federal agencies, and for other purposes; with amendment (Rept. No. 1547). Referred to the Committee of the Whole House on the state of the Union.

Mr. HAINES: Committee on the Post Office and Post Roads. H. R. 4450. A bill to provide for the purchase of the pneumatic mail tube systems in New York and Boston; with amendment (Rept. No. 1548). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. House Joint Resolution 351. Joint resolution authorizing the use of public parks, reservations, and other public spaces in the District of Columbia; and the use of tents, cots, hospital appliances, flags, and other decorations, property of the United States, by Washington (D. C.) 1935 Improved, Benevolent, and Protective Order of Elks of the World, and for other purposes; without amendment (Rept. No. 1549). Referred to the Committee of the Whole House on the state of the Union.

Mr. CONNERY: Committee on Labor. H. R. 7198. A bill to prevent the shipment in interstate commerce of certain articles and commodities, in connection with which persons are employed more than 5 days per week or 6 hours per day, and prescribing certain conditions with respect to purchases and loans by the United States, and codes, agreements, and licenses under the National Industrial Recovery Act; with amendment (Rept. No. 1550). Referred to the Committee of the Whole House on the state of the Union.

Mr. MILLER: Committee on the Judiciary. H. R. 8122. A bill to reenact section 463 of the act of Congress entitled "An act to define and punish crime in the District of Alaska and to provide a code of criminal procedure for said District", approved March 3, 1899, and for other purposes; with amendment (Rept. No. 1551). Referred to the House Calendar.

Mr. SMITH of Virginia: Committee on Rules. House Resolution 302. Resolution providing for the consideration of H. R. 8459; without amendment (Rept. No. 1552). Referred to House Calendar.

Mr. SMITH of Virginia: Committee on Rules. House Resolution 303. Resolution providing for the consideration of H. R. 8458; without amendment (Rept. No. 1553). Referred to the House Calendar.

Mr. O'CONNOR: Committee on Rules. House Resolution 304. Resolution providing for the consideration of H. R. 8587; without amendment (Rept. No. 1554). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DIMOND: A bill (H. R. 8900) providing old-age pensions for Indian citizens of the United States; to the Committee on Indian Affairs.

By Mr. GEHRMANN: A bill (H. R. 8901) to provide for the establishment of a Coast Guard station at or near Apostle Islands, Wis.; to the Committee on Merchant Marine and Fisheries.

By Mr. COLE of New York: A bill (H. R. 8902) to provide relief to counties, towns, and municipalities of New York State, on account of damage caused by the flood of July 1935; to the Committee on Appropriations.

By Mr. CROWTHER: A bill (H. R. 8903) to terminate certain foreign-trade agreements and to terminate the authority to enter into them; to the Committee on Ways and Means.

By Mr. SISSON: A bill (H. R. 8905) to amend the act entitled "An act authorizing the Reconstruction Finance Corporation to make loans to nonprofit corporations for the repair of damages caused by floods or other catastrophes,

and for other purposes", approved April 13, 1934; to the Committee on Banking and Currency.

By Mr. SMITH of Virginia: A bill (H. R. 8906) to authorize and direct the deportation of criminal aliens; to the Committee on Immigration and Naturalization.

By Mr. BEITER: Resolution (H. Res. 301) authorizing the appointment of a committee to investigate waterway conditions in central New York; to the Committee on Rules.

By Mr. SMITH of Virginia: Resolution (H. Res. 302) for the consideration of H. R. 8459; to the Committee on Rules.

Also, resolution (H. Res. 303) for the consideration of H. R. 8458; to the Committee on Rules.

By Mr. O'CONNOR: Resolution (H. Res. 304) for the consideration of H. R. 8587; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DISNEY: A bill (H. R. 8904) authorizing the Delaware Tribe of Indians in the State of Oklahoma to sue in the Court of Claims; to the Committee on Indian Affairs.

By Mr. LUNDEEN: A bill (H. R. 8907) for the relief of George A. Posey; to the Committee on Claims.

Also, a bill (H. R. 8908) for the relief of Kenneth A. Bixler; to the Committee on Naval Affairs.

By Mr. CLARK of Idaho: A bill (H. R. 8909) for the relief of Ned Williams; to the Committee on Naval Affairs.

By Mr. CROWE: A bill (H. R. 8910) for the relief of the legal representatives of Gallus Kerchner, deceased; to the Committee on Claims.

By Mr. McFARLANE: A bill (H. R. 8911) granting a pension to Mrs. Henrietta M. Holden; to the Committee on Pensions.

By Mr. JOHNSON of Oklahoma: A bill (H. R. 8912) for the relief of W. H. Humphreys; to the Committee on Claims.

By Mr. McLAUGHLIN: A bill (H. R. 8913) granting an annuity to George J. Kleffner; to the Committee on the Civil Service.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9161. By Mr. GOODWIN: Petition of members of Patroon Grange, Accord, Ulster County, N. Y., urging that Public Works relief funds and normal Federal-aid allotments be spent on real farm roads off State highway and farm-to-market roads located on present rural free delivery routes; to the Committee on Appropriations.

9162. By Mr. KRAMER: Petition of the National Inventors Congress, relative to establishing an inventors' loan fund, etc.; to the Committee on Appropriations.

9163. By the SPEAKER: Petition of the city of Portland, Oreg.; to the Committee on Military Affairs.

SENATE

FRIDAY, JULY 19, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, July 18, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I note the absence of a quorum, and ask for a roll call.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	King	Pope
Ashurst	Copeland	La Follette	Radcliffe
Austin	Costigan	Lewis	Reynolds
Bachman	Davis	Logan	Robinson
Bailey	Dickinson	Lonergan	Russell
Bankhead	Donahey	Long	Schall
Barbour	Duffy	McAdoo	Schwellenbach
Barkley	Fletcher	McCarran	Shipstead
Bilbo	Frazier	McGill	Smith
Black	George	McKellar	Stelwer
Bone	Gerry	McNary	Thomas, Okla.
Borah	Gibson	Maloney	Townsend
Brown	Glass	Metcalf	Trammell
Bulkley	Gore	Minton	Truman
Bulow	Guffey	Moore	Tydings
Burke	Hale	Murphy	Vandenberg
Byrd	Harrison	Murray	Van Nuys
Capper	Hastings	Neely	Wagner
Caraway	Hatch	Norbeck	Walsh
Carey	Hayden	Norris	Wheeler
Chavez	Holt	Nye	White
Clark	Johnson	Overton	
Connally	Keyes	Pittman	

Mr. LEWIS. I announce the absence of the Senator from Utah [Mr. THOMAS], the Senator from South Carolina [Mr. BYRNES], the junior Senator from Illinois [Mr. DIETERICH], and the Senator from Wyoming [Mr. O'MAHONEY], who have been called away on important business.

Mr. CONNALLY. I desire to announce that my colleague the senior Senator from Texas [Mr. SHEPPARD] is detained from the Senate by important business.

Mr. VANDENBERG. I repeat the announcement concerning the absence of my colleague the senior Senator from Michigan [Mr. COUZENS], on account of illness.

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 7590) to create a Central Statistical Committee and a Central Statistical Board, and for other purposes.

The message also announced that the House had passed a joint resolution (H. J. Res. 348) authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States; withdrawing the right to sue the United States on its bonds and other similar obligations; limiting the use of certain appropriations; and for other purposes, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS

Mr. COPELAND presented a resolution adopted by the Board of Trustees of the village of Warsaw, N. Y., protesting against the enactment of legislation to remove income-tax exemption from municipal securities, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Brooklyn local, New York State Branch of the Catholic Central-Verein of America, Brooklyn, N. Y., favoring the enactment of legislation providing for the issuance of a special postage stamp to commemorate the one hundred and fiftieth anniversary of the termination of the services in the Navy of Commodore John Barry, which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES

Mr. TOWNSEND, from the Committee on Claims, to which was referred the bill (S. 2166) for the relief of Ludwig Larson, reported it with an amendment and submitted a report (No. 1135) thereon.

Mr. CAPPER, from the Committee on Claims, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

S. 1483. A bill for the relief of William E. Williams (Rept. No. 1136); and

S. 2618. A bill for the relief of James M. Montgomery (Rept. No. 1137).

Mr. GIBSON, from the Committee on Claims, to which was referred the bill (S. 1124) for the relief of Anna Carroll Taussig, reported it with amendments and submitted a report (No. 1138) thereon.

Mr. LOGAN, from the Committee on Claims, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

S. 2719. A bill for the relief of Capt. Guy L. Hartman (Rept. No. 1139); and

H. R. 3149. A bill to confer jurisdiction upon the United States District Court for the Southern District of Texas, Corpus Christi Division, to determine the claim of Mrs. L. B. Gentry (Rept. No. 1140).

Mr. LOGAN also, from the Committee on Military Affairs, to which was referred the bill (S. 3145) authorizing the President of the United States to appoint Sgt. Samuel Woodfill a captain in the United States Army and then place him on the retired list, reported it without amendment and submitted a report (No. 1142) thereon.

Mr. WALSH, from the Committee on Education and Labor, to which was referred the joint resolution (S. J. Res. 163) to authorize the acceptance of bids for Government contracts made subject to codes of fair competition, reported it without amendment and submitted a report (No. 1141) thereon.

Mr. NEELY, from the Committee on the Judiciary, to which was referred the bill (S. 2456) to provide for the appointment of an additional district judge for the northern and southern districts of West Virginia, reported it without amendment.

MANIPULATION OF COTTON MARKETS AND PRICES

Mr. SMITH, from the Committee on Agriculture and Forestry, to which was referred the resolution (S. Res. 172) to investigate the causes of the decline of cotton prices on, prior, and subsequent to March 11, 1935, and activities of persons connected with the cotton business, reported it with an amendment; and, under the rule, the resolution was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 17th instant that committee presented to the President of the United States the following enrolled bills:

S. 156. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the city of Perth Amboy, N. J.;

S. 884. An act for the relief of Lt. Comdr. G. C. Manning;

S. 2904. An act to prohibit the interstate transportation of prison-made products in certain cases; and

S. 3038. An act to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration facility, Alexandria, La.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TYDINGS:

A bill (S. 3283) for the relief of the Baker-Whitely Coal Co.; to the Committee on Claims.

By Mr. COPELAND:

A bill (S. 3284) to provide for the issuance of a license to practice the healing art in the District of Columbia to Dr. Dexter P. Reynolds; to the Committee on the District of Columbia.

A bill (S. 3285) fixing the liability of owners of vessels; to the Committee on Commerce.

(Mr. WALSH introduced Senate bills nos. 3286 and 3287, which were referred to the Committee on Finance, and appear under a separate heading.)

By Mr. McKELLAR:

A bill (S. 3288) consolidating certain forestry branches and other divisions and services in a separate bureau of the Department of Agriculture to be known as the "Bureau of Forestry"; to the Committee on Agriculture and Forestry.

By Mr. CONNALLY:

A bill (S. 3289) to authorize the attendance of the Marine Band at the United Confederate Veterans' 1935 Reunion at Amarillo, Tex.; to the Committee on Naval Affairs.

By Mr. OVERTON:

A bill (S. 3291) to revive and reenact the act entitled "An act granting the consent of Congress to the Louisiana Highway Commission to construct, maintain, and operate a bridge across the Ouachita River at or near Monroe, La.", approved January 26, 1925; and

A bill (S. 3291) to revive and reenact the act entitled "An act granting the consent of Congress to the Louisiana Highway Commission to construct, maintain, and operate a free highway bridge across the Red River at or near Alexandria, La.", approved January 15, 1931; to the Committee on Commerce.

By Mr. THOMAS of Oklahoma:

A bill (S. 3292) to provide for the impounding, conserving, and making use of the unappropriated waters of the eastern slope of the Rocky Mountains, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. NORBECK:

A bill (S. 3293) providing old-age pensions for Indians of the United States; to the Committee on Indian Affairs.

By Mr. TYDINGS:

A joint resolution (S. J. Res. 164) to authorize the selection of a site and the erection thereon of a suitable monument indicating the historical significance of the first entrance into the city of Washington of a steam railroad, and for other purposes; to the Committee on the Library.

By Mr. BARKLEY:

A joint resolution (S. J. Res. 165) directing the Architect of the Capitol to accept a copy of the painting Liev Eiriksson Discovers America; to the Committee on the Library.

OATHS OF CUSTOMS AND INTERNAL-REVENUE EMPLOYEES—WATCH SMUGGLING BILL

Mr. WALSH. Mr. President, I ask permission to introduce two bills for appropriate reference, and also ask leave that statements explaining the bills may be printed in the RECORD.

The VICE PRESIDENT. Without objection, the bills will be received and appropriately referred and the accompanying statements, presented by the Senator from Massachusetts, will be printed in the RECORD.

The bill (S. 3286) to abolish the oath required of customs and internal-revenue employees prior to the receipt of compensation, and for other purposes (with an accompanying paper), was read twice by its title and referred to the Committee on Finance.

The statement presented by Mr. WALSH to accompany Senate bill 3286 is as follows:

The bill is designed—

1. To repeal certain sections of existing law requiring oaths from customs and internal-revenue employees (that they have not received any gratuity for any acts performed in connection with the performance of their duties) before they may receive compensation.

2. To amend section 516 (b) of the Tariff Act of 1930, which relates to protests by domestic manufacturers, producers, or wholesalers against the classification or rate of duty imposed on imported merchandise of the same character as that manufactured, produced, or sold by them. Under the existing law the liquidation of entries of merchandise, the classification or duty rate of which has been protested, is suspended pending the decision of the United States Customs Court. The present proposed amendment is designed to remove the period of uncertainty under existing law, during which importers do not know what duties they may be required to pay, by making the result of successful domestic protest apply only to importation subsequent to a judicial ruling sustaining the protest, and not, as at present, to importations made in some cases many months prior to such a ruling. The period of uncertainty under present law is a great hardship to responsible importers, who, unlike irresponsible importers, cannot continue importing the goods in question on the chance that the courts will uphold the lower duty rate. Since they must anticipate the possibility of an adverse decision, this results in a virtual embargo on importations by them pending disposition of the protestant's case. Less responsible importers, on the other hand, continue their importations of such merchandise, gambling on the probability that the courts will sustain the lower duty rate so that they will not have to make provisions for an adverse decision, and knowing well that if they are ever called upon to pay the additional duty they will not be able to do so. In some instances worthless corporations are organized to take advantage of this situation.

3. To amend section 641 of the Tariff Act of 1930 (which relates to the issuance, suspension, and revocation of licenses as customhouse brokers) so as to make the procedure of revoking or suspending customhouse broker licenses conform with the procedure of suspending or disbarring agents, attorneys, or other persons representing claimants before the Treasury Department, as set out in the act of July 7, 1884 (23 Stat. 236 at 258, 259).

The bill (S. 3287) to provide for the licensing of importers of watches, watch movements, and watch parts, to protect the revenue, and for other purposes (with an accompanying paper), was read twice by its title and referred to the Committee on Finance.

The statement presented by Mr. WALSH, to accompany Senate bill 3287, is as follows:

EXPLANATION OF THE WATCH SMUGGLING BILL

Section 1, the definition section, defines the terms "person", "license", "licensee", "watches, watch movements, and watch parts", and "United States" for the purposes of the act.

The only provision of this section of more than formal importance is subsection (c), which defines "watches, watch movements, and watch parts" to mean watches, watch movements, and watch parts as described in the watch duty provisions of the Tariff Act of 1930, subsections (a) and (c) of paragraph 367 of schedule 3. This is done because of the difficulty which would arise if a less specific definition were employed as to what constitutes a watch and what a clock. It is not desired to include clocks in this act since there is no organized smuggling traffic in them. Subsection (c) also contains a proviso exempting from inclusion in the term, watches which are admitted free of duty into the United States under any provision of the free list. This will have principal application to paragraph 1798 of schedule 16 of the Tariff Act of 1930, which grants $100 duty exemption on personal effects of persons coming from abroad. It is not thought desirable, however, to extend this exemption to watch movements and watch parts, since it is feared that if it were so extended an organized racket in connection with the nominally noncommercial importation of such merchandise might grow up.

Section 2 (a) provides that after 90 days after the enactment of the bill no person shall import watches, watch movements, or watch parts unless he is either licensed for that purpose by the Secretary of the Treasury or has been granted a special permit by a collector of customs, subject to conditions to be prescribed by the Secretary of the Treasury. The licensing provision will cover regular importers and the special permit is designed to cover noncommercial importations which are not on the free list, but which are not of the character intended to be covered by this act. An example of this would be an instance where a returning traveler brought two or three fine watches of several hundred dollars' value into the United States. Under paragraph 1798 he would only have a $100 exemption and would have to pay duty on the excess, but there would be no logical reason why he should have to comply with the licensing and marking provision of this act. Each licensee shall pay for his license the amount deemed necessary by the Secretary of the Treasury to cover the administrative cost of issuing the license, but not more than $100. Watches, watch movements, and watch parts must be entered at ports of entry designated by the Secretary, as in the case of antique furniture under section 489 of the Tariff Act of 1930. The Secretary is required to furnish current lists of licensees, together with the mark or symbol awarded each licensee, to collectors at these designated ports.

Section 2 (b) provides that a license is not transferable and is good for 1 year unless the Secretary suspends or revokes it prior to that time.

Section 3 prescribes qualifications for obtaining and holding licenses. No license is to be issued to any person who has been convicted of, or is under indictment for, violation of the customs laws, or who fails to comply with the provisions of this act or regulations issued under this act, or who fails to file the voluntary inventory provided for by section 7 of this act. This inventory, which will be explained in more detail below, is to cover imported watches, etc., already in this country when this act goes into effect. The Secretary may suspend or revoke licenses of licensees failing to comply with the act, and shall suspend the license of a licensee under indictment for violation of the customs laws, and revoke the same after conviction for such an offense. It is made unlawful for persons prohibited from obtaining or holding a license to employ or to be employed by a licensee. This provision is directed against the set-up of a straw man by persons who, by reason of their unlawful activities, are unable to get licenses.

Section 4 provides that after the effective date of the act (90 days after enactment) all watches and watch movements having more than one jewel, or having one jewel and one or more bouchons or bushings, and all separately imported pillar plates and top bridges, which are imported into this country must, in addition to the markings at present required by law, be marked with a distinguishing mark or symbol in the country of manufacture, unless admitted under the special permit authorized by section 2 (a). The Secretary of the Treasury is to designate separate symbols for each licensee. Since the purpose of the present bill is to provide an effective check on watch smuggling with a minimum interference with legitimate commerce, it is not felt desirable to subject unjeweled or single-jeweled watches to these marking provisions. Watches with one jewel or with none are treated alike for duty purposes under the Tariff Act of 1930, and as they are of slight value there is no organized smuggling traffic in them. The importance of the reference to watches and movements having bouchons or bushings is derived from the fact that our courts have held that these metal parts inserted in lieu of jewels are not technically jewels or substitutes for jewels within the meaning of the tariff act, and hence, if a watch with one jewel and a number of bouchons or bushings (the terms being use synonymously) were brought in, the duty would be paid only at the rate prescribed for single-jeweled watches. In view of these facts, the common practice, therefore, is to bring in watches with one jewel and a number of bouchons (the duty rate on single-jeweled watches is the same as nonjeweled watches) and after entry and payment of duty, punch out the bouchons and replace them with jewels. To permit watches of this character, the jeweling of which is stepped up after they reach this country, to go unmarked, would provide a convenient avenue for smuggling, since smugglers, in that event, could claim that all unmarked watches found in their possession had been jeweled after they arrived in this country and, therefore, were not required to be marked. The importance of extending the marking provisions to pillar plates and top bridges, if imported separately, comes from the fact that it is on these parts that the mark or symbol prescribed by this act will have to be placed, and if they were permitted to be imported separately without marks they could be assembled in this country, and the watches of which they became a part would contain no mark or symbol by which they could be traced or subjected to the supervisory features of this act.

Section 5 is modeled along the lines of section 511 of the Tariff Act of 1930. It is designed to permit inspection at the request of the Secretary of the Treasury or a collector of customs of the stock, books, records, etc., of persons importing or dealing in imported watches, etc., or purchasing them at governmental sales. Appropriate penalties are provided for failure to permit inspection.

Section 6 subjects to forfeiture watches imported in violation of this act.

Section 7 provides for a voluntary inventory of imported watches already in this country when the act goes into effect. Under this section any importer, wholesaler, or retailer of watches, etc., may, within 150 days after enactment of this act, voluntarily file with the collector of customs of the district in which he is doing business, an inventory of all imported watches, movements, and parts subject to the marking provisions of this act, which were imported into the United States prior to the effective date of the act (90 days after enactment). If any such watch, etc., is not marked pursuant to section 4 of this act, and if, with respect to such watch, etc., no voluntary inventory is filed under this section, this will raise a prima facie presumption in any proceeding looking to the forfeiture of such watch, etc., that it was unlawfully imported into the United States. The burden will then be on the claimant to rebut this presumption. It is believed that this presumption will be very helpful to the Government in sustaining its case in watch forfeiture proceedings.

Section 8 authorizes the Secretary of the Treasury to make necessary regulations.

Section 9 is the separability clause.

Section 10 gives a short title to the act "The Watch Smuggling Act."

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H. J. Res. 348) authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States, withdrawing the right to sue the United States on its bonds and other similar obligations, limiting the use of certain appropriations, and for other purposes, was read twice by its title and referred to the Committee on Banking and Currency.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

THE WAR DEBTS—ARTICLE BY CLIFFORD L. WEBSTER

Mr. TYDINGS. Mr. President, I ask to have printed in the RECORD an article by Mr. Clifford L. Webster, of 18 Locust Avenue, Port Washington, N. Y., entitled "The War Debts Are Collectible." It is a very thoughtful article and, I think, worthy of reading.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Can the United States collect the loans it made to European nations during and immediately after the World War? Yes, it can; if it is willing to accept payment in the forms in which payment can be made. This we as a nation have steadfastly refused to do. Why should we do so anomalous a thing as to refuse payment of debts which we insist on collecting? It is because the idea of "money" has befogged our thinking on this subject, as it has on so many others. Let us draw aside this veil of money and examine the underlying realities.

As a start we will do well to note a few basic facts of international trade. There being no international money, this trade is

essentially a matter of barter. One nation exchanges a portion of the commodities it produces and the services it can render for a portion of the goods and services of another nation. That this exchange is not always direct, and may involve other nations, does not materially alter the situation.

If, starting all even, one nation supplies the rest of the world with more goods and services than it receives in return, that nation must loan the other nations an amount equal to the difference. There is no other way of balancing the books. The other nations, now being in debt to the first, must henceforth supply it with a volume of goods and services equal to that they receive plus the amount of the interest on this debt, or else go further into debt. If they are to pay off the debt, their excess volume of exports must be greater still.

Gold, sometimes erroneously thought of as international money, may seem to be left out of this statement, but it is not. Despite the mysticism which has grown up about it, it is still just a yellow metal, produced from natural resources by labor, as other commodities are produced. It is traded internationally by the ounce and not as coin. As it is generally held as nonconsumable goods, it may be shipped back and forth a number of times in settling minor trade balances, but the net amount shipped in any period is properly included with other goods in figuring the international balance.

We see, then, that a nation can become a creditor only by exporting more than it imports. It follows that it can receive payment of the principal and interest of its loans only by taking back more goods and services than it continues to supply. This the United States has consistently refused to do since it became a creditor nation. So, of necessity, foreign indebtedness to us has continued to pile up.

The war debts arose because for 3½ years following our entrance into the World War we furnished European nations with a large volume of goods produced in this country. Priced in the dollar of that time the goods and services we supplied exceeded those we received by about $10,000,000,000. To cover this amount the various foreign governments gave the United States Treasury their notes. The Treasury in turn paid the American producers of these goods with American money raised by the sale of Liberty bonds.

It is important to remember that the Treasury loaned the foreign governments credit, not money, and that what we sent to Europe was not gold or American dollars, but steel and copper, cotton and wheat, food and clothing, guns and munitions. Had we sent gold and currency across the Atlantic, we could expect to receive dollars or gold in return. But what we actually supplied was goods and the service of transporting them. If we are ever to get payment, we must take it in similar form; that is, goods and services, although, of course, these need not be of an identical nature.

So far the only form of excess goods we have been willing to receive has been gold, but the amount of this metal in the world is quite inadequate for the purpose. We now have more than our share of it, and to take a great deal more would disrupt the already shaky financial structure of the world. Between 1920 and 1931 we received a net amount of a billion and a half dollars' worth of gold. During the same period our "favorable" trade balance on all other goods and services was $2,000,000,000. So we had to take notes for half a billion more, besides reloaning the $7,000,000,000 that came due as interest or principal payments. It is then quite obvious that as a nation we received no repayment, and that whatever the Treasury received on account eventually came out of the pockets of American investors in foreign securities.

The reason we have refused to accept payment in kind may be summed up in the phrase "economic nationalism." We have felt that to take more than we gave would injure our agriculture, industry, and merchant marine, would cause unemployment, and weaken our national defense. Although I do not approve this policy, believing it largely responsible for the world-wide depression, I fear it is likely to persist for some time.

How, then, are we to collect the war debts if payment can only be made in goods and services and we are unwilling to accept such an excess of these in the usual course of trade? We can do it by finding acceptable goods and services outside this usual international commerce, things which can be supplied direct to the American people without the intervention of "business", and which will not interfere with our own industrial system. I can suggest three such extra services. They are public works, free travel, and foreign scholarships.

Before taking these up in detail let us consider that well-known phrase "capacity to pay." If in 3½ years, while we were putting out a tremendous war effort of our own, we were able to supply Europe with an excess of goods amounting to $10,000,000,000, is it not absurd to say that Europe, with its millions of unemployed, its many idle factories, its empty hotels, and its rusting steamships, cannot supply us with an equal excess of goods or services in 50 years, 20 years, or even 10 years? The answer is that Europe can make practically unlimited payment if we will stop talking money and let them "work it out." Such payment would have the same beneficial results to their business and employment as a program of local public works, since the money would be spent by the several governments in payments to their own citizens. If the American Government can spend over $3,000,000,000 in 2 years to get these results, surely the combined debtor governments can afford to spend a quarter billion or even a billion a year for them, and at the same time get their debts paid off.

While I believe these war debts are properly due us and should be collected, it is probable that the debtors are entitled to a readjustment of our claims. The goods they received were priced at the exceedingly high war levels. Prices have since been drastically deflated. Even with the apparently generous funding arrangements which were made, this means that we are asking some of them to pay us back a much greater volume of goods than we loaned. The whole transaction should be figured in a commodity unit of value, so that regardless of past or future changes in the price level, we should receive a quantity of goods and services equal to that we loaned. We should be willing to accept a very low interest rate. This is because the great bulk of the supplies we sent were used in fighting the war, were economically nonproductive, and so were unable to "earn their keep."

Now let us consider some of the ways in which real payments may be received. First, there are public works, to be built by foreign governments, using their own labor, engineering supervision, and materials, and feeding their laborers from their own country or from countries where they have credit balances. The American Government should furnish such land as would be needed for construction camps and should admit their supplies duty free.

The projects should, in the main, be such as we do not feel we can afford to build for ourselves at present. They could be most easily handled at our seaports, on our borders, or on foreign soil. For instance, we might have all our large cities equipped with sewage- and garbage-disposal plants. In my opinion, no people can consider itself truly civilized while it continues to pollute its rivers and harbors. Or these cities might be given huge municipal swimming pools. Ancient Rome had magnificent public baths for its citizens; could we not do likewise? Great Britain could well build our share of the Great Lakes-St. Lawrence waterway for us. While there is considerable question whether the economic advantages of this project warrant the necessary expenditure of American capital, it would be a very desirable asset if it could be obtained without any appreciable new outlays by the Treasury. Should it be thought desirable to supplement the Panama Canal by one through Nicaragua, for which we have already acquired the right-of-way, it could be built entirely by the debtor nations without any further cost to us. You can readily think of many other projects, for there are an infinite number of ways in which public works can make this a better world to live in. No matter how much we let foreign nations do for us, there will always be plenty left for us to do ourselves.

Let me make it very clear that these foreign-built projects would be in addition to our own public-works program, would not curtail it in the least, and so would deprive no American workman of a job. In fact, when completed and put in operation, they would create a number of new jobs. It should also be clear that while we might be able to build such works cheaper ourselves, we can much better afford to credit our debtors with 20 or 30 percent extra than to spend our own money, meanwhile forcing cancelation or default of the debts. If thought desirable, some of these projects could be put on a partially "self-liquidating" basis, thus bringing the Treasury some revenue.

A second extra service, and one which greatly appeals to me, is free foreign travel for American citizens. I believe, as a matter of justice, this should be distributed among the income-tax payers as a sort of refund, for they are the ones who will have to supply the money to retire the Liberty bonds which financed the loans. Of course, the Government collects many taxes besides those on income, but the income-tax payers contribute their full share of these also.

In 1932 there were about a million and a half income-tax payers, but judging by the past, this number should treble, due to the lowering of exemptions and the return of a reasonable degree of prosperity. Under present funding arrangements we are supposed to receive about $255,000,000 annually on the war-debt account. If We place the unit of distribution at $340, which will pay for a minimum rate, all-expense, 30-day trip to Europe, or give 2 people a very nice 2 weeks' vacation in Canada, Bermuda, or the Bahamas, we could care for three-quarters of a million taxpayers a year. Each could be assured of a free cruise about once in 6 years. Or more luxurious cruises could be distributed at longer intervals.

Under this plan the debtor governments would make their payments to the United States Treasury in the form of credits, to be used for travel accommodations in their own countries or on their own steamships. The foreign governments would, of course, reimburse the private owners of steamships, hotels, and other facilities for the services each rendered in carrying out this plan. The Treasury would then distribute three-quarters of a million free travel certificates to the income-tax payers. They, in turn, could transform these into such travel accommodations as they wished at travel agencies.

That this should be as largely as possible an extra service, these certificates should be nontransferable, except within the immediate family of the recipient. If he, or the Treasury, were allowed to sell them, they would simply go back into the usual balance of trade, and so defeat any real payment. Even so, some of them would go to those who would have traveled abroad anyway. But this would be partly offset by the fact that many tourists would use these certificates in addition to, rather than instead of, the dollars they would usually spend on travel, and should be more than made up by the foreign spending of the great number who could not otherwise have gone abroad.

As a method of distribution, I would suggest that as income-tax returns are filed the names of all those who pay a tax be listed alphabetically, that letters then be drawn, and the number of names included under each letter drawn be subtracted from the number of certificates available, until these are exhausted. The recipient of a certificate would not be entitled to be listed again until all income-tax payers had been cared for. However, all letters would be included in each year's drawing, in order to care for new tax-

payers. In any year in which a taxpayer could not use a travel certificate his name should, upon request, be omitted from the drawing list. This system of drawing is simple. It would have the great advantage that where more than one member of a family paid income taxes, and would therefore be entitled to a certificate, such members of a family would receive their trips at the same time. To allow planning ahead certificates should be good for 15 months.

Of course, variations of this method are possible. If you think more of equity than of equality, you would divide the taxpayers into several classes by the amount they pay, and give certificates of greater value to those who pay much than to those who pay little. If you do not blink at admitting that the human race loves to gamble, you might add zest to the affair by giving every tenth person on the list a certificate of double value and every hundredth person a quadruple one. Because of its educational value, some of this travel might well be given to school teachers. As their salaries are exempt from income tax, very few of them would be on the Treasury's list.

The third method of receiving payment was put forward by John Crowe Ransom. It is that we take some 5,000 foreign scholarships a year. These would be distributed free to the high-school graduates throughout the country who would be most likely to profit from them. I think this is an excellent idea. It could be used in conjunction with either of the foregoing plans.

Perhaps you can think up other acceptable extra services. For instance, I could suggest that the debtor nations take some millions of our unemployed to feed and clothe in their own countries until we needed them again. However, I think that plan would appeal to very few; it certainly does not appeal to me.

Some selfish persons will claim that one or another of these plans would be detrimental to their business, but I believe that if any of them were carefully worked out, it would be found that the injuries to American interests would be extremely small in comparison to the benefits derived. The babbitt type of mind will label the whole idea impractical, because it calls for no cash payments. But to me it seems much more practical to take something of real value in return for these debts than to force them into default or cancelation by demanding the impossible.

The real war loans were products of American natural resources and American toil. Until we get back an equal amount of the products of foreign natural resources and foreign labor we shall have received no real payment.

THE GUFFEY COAL BILL

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Gen. Hugh S. Johnson, appearing in the Washington Daily News of July 18, 1935, relative to the so-called "Guffey coal bill."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE MAN'S OPINION

By Hugh S. Johnson

"There is every reason in economics, government, and humanity to pass the Guffey bill promptly. The argument for not passing it is a desire to preserve an unregulated zone of license."

Great pother is made about the administration urging to pass the Guffey bill, on the following arguments:

The bill is unconstitutional. To ask for its passage is to violate the oath of the urger to support and defend the Constitution, and to suborn a violation of his oath by every legislator who is urged.

To support this dictum the argument is that the Guffey bill purports to regulate mining within a State, that the Supreme Court in the "sick chicken" case decided that the Federal Government could not, under the Constitution, regulate mining within a State, and therefore that a vote for the Guffey bill is a vote to violate the Constitution.

"The Constitution is what the Supreme Court says it is"—so asserted the outstanding legal luminary of the law.

It is not what Congress says or what any legislator may think it is. If a bill was proposed to restore slavery, a man would be impeached if he voted for such a clear-cut violation.

But in the vague and cloudy air of the extent of Federal power under the commerce clause, nobody but the Supreme Court knows the answer.

The Supreme Court has never said that the Federal Government may not regulate coal mining in a State. In fact, coal mining within a State has been regulated under the commerce clause and the Supreme Court has upheld the regulation—not once but several times.

The Court in the "sick chicken" case did not decide that Congress cannot regulate the bituminous-coal industry. It only decided that it cannot regulate wages of a shochtim butcher who kills a chicken in Brooklyn for sale in that city—which is a very long way from saying that a great national natural resource industry, which is dying for want of regulation, and which no State can possibly regulate, must go on and die, to the acute distress of millions of people, because there is no power in our system—either in any State or in the United States—to protect it from suicidal abuses.

In argument in the "sick chicken" case, the court quoted language from another case in which it was said that mining was too remote from interstate commerce to bring it within the Sherman Act, and it probably was shown to be exactly that remote in the circumstances of that quoted case.

But, on the very same day that it decided the "sick chicken" case, the court warned that such language so quoted from another case does not make the law or confine its decision in a subsequent case.

The disclosures of N. R. A. prove that, unless the Federal Government can regulate these great national industries, there is no power in this country that can regulate them. The court cannot, and will not, in a case clearly presenting this outstanding fact, decide that in this Government alone, of all the governments on the globe, there exists any such vast zone of economic anarchy.

N. R. A. can't be brought up again to present that problem. The Guffey bill, if enacted and promptly brought before the court, would present it. It must be presented and presented quickly, for if we have any such insane blind spot as that in our Constitution (which is an absurd idea), then we must amend the Constitution and do it quickly.

There is every reason in economics, government, and humanity to pass the Guffey bill promptly. The argument for not passing it is the urging of those who would like to preserve exactly the unregulated zone of license which any uncertainty on this fundamental point permits.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. BANKHEAD. Mr. President, as I understand the parliamentary situation, the pending question is the adoption of the committee amendment to section 21 (a). Is that correct?

The VICE PRESIDENT. The Chair decides that the parliamentary situation is this: To the committee amendment on page 61, beginning in line 15, the Chair understands the Senator from Georgia [Mr. GEORGE] has offered an amendment in the nature of a substitute, and that is the pending amendment.

Mr. BANKHEAD. What has become of the committee amendment to section 21 (a)? That is the question I am discussing.

Mr. GEORGE. It was passed over temporarily.

The VICE PRESIDENT. The parliamentary clerk advises the Chair that that amendment was passed over.

Mr. BANKHEAD. I ask to have it taken up now.

The VICE PRESIDENT. The amendment of the Senator from Georgia to the committee amendment on page 61, line 15, is now pending. The amendment to which the Senator from Alabama refers can only be taken up at this time by unanimous consent.

Mr. BANKHEAD. I think what I have suggested would be the orderly way in which to proceed, because if section 21 (a), the committee amendment, should be eliminated, then there would be no controversy about the amendment of the Senator from Georgia.

The VICE PRESIDENT. The Chair is not sufficiently familiar with the legislation to know what it is best to do. He will put the request for unanimous consent if the Senator from Alabama so desires.

Mr. GEORGE. Mr. President, I will say to the Senator from Alabama that the only purpose in the world in offering this particular amendment to subsection (d) on page 61 was that in the event of its adoption it would simply prevent duplication, because it is desired by the Senator from Nebraska [Mr. NORRIS], who has suggested an amendment, that substantially the same provision be inserted in section 21 (a), on page 58, and we were simply endeavoring to prevent a duplication of language.

Mr. BANKHEAD. I understand the purpose of the Senator, but I submit to him the orderly way would be to consider first section 21 (a). If that committee amendment shall be adopted, there will be no necessity for the compromise amendment; if it shall not be adopted, I will favor the compromise amendment. So the real test is on the adoption first of the amendment as to foreclosure from the courts.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield; but we are dealing with a parliamentary question now, and I hope this discussion will not be taken out of my time.

The VICE PRESIDENT. The Senator is yielding.

Mr. NORRIS. I will not ask the Senator to yield.

Mr. BANKHEAD. I ask unanimous consent that section 21 (a) be now considered.

Mr. GEORGE. I shall have to object to that, because, in the interest of preventing a duplication, the bill should be dealt with in the way in which we are now proceeding.

The VICE PRESIDENT. Objection is made.

Mr. BANKHEAD. The real test involved is whether the committee amendment contained on pages 57, 58, and part of page 59 shall be eliminated from the bill or retained. If that amendment should be retained, then, of course, there would be no occasion for the compromise amendment, because no suits could be brought on account of transactions which took place under the present act. If that committee amendment should not be retained, then I quite agree that the compromise amendment should be adopted, because it would apply then to past transactions the same rule that it is proposed to apply to future transactions under the bill.

Mr. President, how much time have I?

The PRESIDENT pro tempore. The Senator's time will expire at 12:30 o'clock.

Mr. BANKHEAD. I am addressing myself now to the proposition which I have just stated and to the importance of retaining section 21 (a) in the bill. That is the provision which would foreclose suits for the recovery of taxes under the existing law.

I desire to point out to Members of the Senate in the beginning that in a few days we are going to have this very same question before the Senate in another bill. Yesterday the House passed the bill known as the "gold-bond bill." Doubtless it will be before the Senate in a few days. That bill adopts the same policy that is contained in the committee amendment to the pending bill, namely, to foreclose the bringing of suits in the courts as the result of the act of Congress in devaluating the gold dollar. It involves the same questions that claimants are injecting here, namely, that they have a right to show they have been damaged by that action. It is proposed by that bill—and I am in favor of the bill—to do exactly the same thing we are proposing to do in this bill.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. NORRIS. I agree with the Senator as to being in favor of the other bill, but I do not agree with him when he says that it is proposing to do just the same thing as we are now trying to do here.

Mr. BANKHEAD. I say the same principle is involved.

Mr. NORRIS. I do not like to take the Senator's time.

Mr. BANKHEAD. I say the same principle is involved, foreclosing the courts to that kind of claim.

This is not a new proposition. There is a precedent power for it in legislation and in a decision by the Supreme Court of the United States in what we call the Philippine tariff case. Following the war with Spain the President levied tariffs for the Philippines after we obtained possession of the islands. Later, after the ratification of the peace treaty, those tariffs were continued. The Supreme Court held that before the ratification of the treaty the President had the power, as the commander in chief of the colony, to levy the tax, but after the ratification of peace he did not have that power. The tariffs, however, were continued and payments were made under the order of the President. Suit was brought in a case known as *United States* v. *Heinszen & Co.* (206 U. S. —). After the decision of the Supreme Court that the tariff collections were illegal after the ratification of the treaty, Congress then passed an act providing as follows:

That the tariff duties, both import and export, imposed by the authorities of the United States or of the provisional military government thereof in the Philippine Islands prior to March 8, 1902, at all ports and places in said islands, upon all goods, wares, and merchandise imported into said islands from the United States, or from foreign countries, or exported from said islands, are hereby legalized and ratified, and the collection of all such duties prior to March 8, 1902, is hereby legalized and ratified and confirmed as fully to all intents and purposes as if the same had by prior act of Congress been specifically authorized and directed.

My time is so limited that I shall not have time to read the portions of the opinion which I should like to present to the Senate, but the Court held:

That where an agent, without precedent authority, has exercised in the name of a principal a power which the principal had the capacity to bestow, the principal may ratify and affirm the unauthorized act, and thus retroactively give it validity when rights of third persons have not intervened, is so elementary as to need but statement. That the power of ratification as to matters within their authority may be exercised by Congress, State governments, or municipal corporations is also elementary.

Then the Court proceeded to a discussion in which it pointed out and held that, although there was no authority for collection of the taxes sued for, yet by the act of ratification the taxpayer was foreclosed from sustaining a suit for a refund of taxes.

I submit that the question has not only received the attention of the Congress of the United States for the avowed purpose of cutting off and foreclosing recovery of taxes which might have been authorized by Congress, but which had not been legally authorized in a constitutional way, but the Congress then fully ratified and confirmed the levy and collection of the taxes in an irregular and unauthorized way under color of authority and by an order of the President which he had no power to execute. The Supreme Court fully sustained it.

There we have the precedent, both by Congress and by the highest court of our country, for foreclosing suits of this character upon claims which have grown out of the collection of taxes under color of authority in cases where the Congress did have the power, but had not properly executed it.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BANKHEAD. I cannot yield. I have only a few minutes. Please permit me to finish my legal argument.

Mr. President, why be so technical in preserving the rights of the processors who are involved in this program? If the taxes have been passed on, I hear of no effort to protect the rights of the consumers who have paid the illegal taxes. If the taxes have been taken from the producers and there is a sacred right to have a refund of such taxes, I hear of no efforts to protect the producers in the recovery of taxes which have been illegally taken from them when the tax was deducted from the sale price.

If we are ratifying, as we are, the collection of the taxes levied by an agent of Congress, then I ask why we should strain at a legalistic view, why we should go so far as we are probably about to go to give a right of action to refund taxes to those who have voluntarily paid them?

There are, of course, many difficulties involved in this program. Here confessedly, I submit, under the authority of the Supreme Court in the case I have cited, there is no cause of action on the part of the processors who have paid this tax. Then why not meet the issue squarely? Why not, in ratifying the action of our agent, close up the whole question, and not leave it to the judgment and views of different district court Federal judges throughout the country?

We have a section in the code which expressly prohibits injunctions on the collection of taxes; yet, notwithstanding that express prohibition in the law, Federal judges all over the country are ignoring and violating it and issuing injunctions day after day on flimsy excuses or justification for ignoring that law. In Pennsylvania, day before yesterday, a Federal judge with a series of these injunction applications before him, in order to avoid this section, issued a declaratory judgment in each of 16 cases and notified the collector that if he attempted to collect the tax he would not give him a certificate of probable cause, and therefore he would be personally responsible for his action.

So that is the situation with which we are dealing here. If we are going to ratify this matter, let us close it up. Let us not leave it to the uncertainty involved in the determination of who passed on the tax or who took it out of the producer, a subject most difficult of ascertainment, and one on which different judges—and this is a question for the judges and not for the jury—would establish different formulas for reaching conclusions.

A processor comes in and says, "I did not pass on this tax." How is that positive statement in testimony to be

overcome? Can the fact be ascertained by whether or not he has made a profit in his business? Are we going to establish the doctrine that the man who is inefficient in his business operations—inefficient as a result of obsolete machinery, bad management, inefficient sales management, and so forth—simply because he does not show a profit in his sales, because he does not show a sales price in excess of his other costs, not including this tax, is entitled to have this tax returned? Are we going into what is a reasonable cost, what salaries are paid to officials, what improper management exists all through the operations of the business; or are we going to establish whether or not various processors got the same price for their goods? If they did, of course, it would be conclusive evidence that they did pass on the tax, or else that none passed it on, unless the loss which is claimed to be absorbed is a result of inefficiency in operation.

So I submit that under this program we are simply going to open the courts to all sorts of claims all over the country, to be submitted to all sorts of judges all over the country. If we had the power—and I think few, if any, in this Chamber doubt it—to levy this excise tax; if we vested that power in an agent; if we executed a power of attorney to the Secretary of Agriculture, but the execution was faulty, the acknowledgment may not have been correct, some strict requirements of the law with reference to the terms and provisions of that power of attorney may not have met the legal requirements, why should we not ratify and confirm what was done?

That is what our situation is here. We did execute that power of attorney to our agent. We had the right to levy this tax ourselves. If we had done it either directly or, under proper standards, under a proper power of attorney, there would be no cause of action here. If we are going to ratify, as we are proposing to do in this bill, the acts of our agent, I submit to the Senate that no injustice will be done anyone, no harm will be done any taxpayer, by simply wiping out the whole transaction, and then looking to the future under the new bill which we have pending here.

If we ourselves had levied the tax there would be no claim of any kind; there would be no cause of action by those who have been operating under it, and who absorbed all or part of the tax. The only contention here is that some did absorb it. If we had prescribed in the law the exact amount of the tax, they would have absorbed it just the same, without any right of action. Simply because we levied the tax through an agent, in an indirect way, it is now claimed here that there is merit in making a distinction between an irregular and imperfect levy and one which we could have made regular and perfect.

I submit that such a distinction is technical, is without merit, and that we are about to vote a contingent liability against the Treasury of the United States of nearly a billion dollars already collected, and five or six or seven hundred million dollars to which the Government is committed for next year.

The PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. GEORGE. Mr. President, I am much astonished that my very good friend the distinguished Senator from Alabama [Mr. BANKHEAD] should be so exercised about this matter. If his sympathies were exercised on the other side of the question I might be able to understand it. He concludes his argument with the admonition that we are about to involve the Treasury in a liability of a billion dollars already paid, and yet we have been constantly reminded that all processing taxes have been passed on to the consumer; and under the amendment which is offered by way of substitute and solely for the purpose of preventing duplication in language, no taxpayer who has passed on the tax can recover a dime from the Treasury of the United States.

The Senator also—and that seems to have been the burden of some other speeches made—is greatly disturbed because the processors are likely to come in and have a recovery of taxes paid. I am wondering whether he would be willing to apply the same logic to the farmers who have directly and expressly absorbed the processing tax on all the hogs they have sold and on other commodities.

In virtually every case where hogs were sold in my State since the passage of the A. A. A. Act the market price was reduced by exactly the amount of the tax. I have sold hogs myself, and in every instance but one I have had to take the market price less the processing tax. I have done that repeatedly, and everyone else who sells hogs must do the same thing; so the producer, not the processor, has absorbed the tax, and not even the ultimate consumer has absorbed it.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. GEORGE. I shall be glad to yield, but the Senator knows I am under limitation of time.

Mr. BARKLEY. Under the language which has been agreed upon, or under the language before there was any change, the farmer who absorbed the tax has no right to sue the Government, because he has not actually paid it into the Treasury, has he?

Mr. GEORGE. I understand; that possibly may be true, because I am going to say frankly to the Senator that this amendment does not altogether suit me. I should rather stand squarely and say to the Government, "If you wish to impose a tax that you have no authority to impose, and make some of our citizens pay it, while others of them are escaping it, you will have to take the consequences." That, however, is not the view of the Senate; so this amendment does not permit anyone who has not paid the tax to recover it.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. ROBINSON. Does the Senator mean by that statement to imply that he would be in favor of permitting the taxpayer to recover the processing tax even though he had passed it on?

Mr. GEQRGE. In the long run it would be better for the Government to do it rather than to deny the citizen a right to go into the courts. In the long run we should have more careful legislation. In the long run we should have juster and fairer laws, and I am not prepared to say that in the long run it would not be better simply to face the issue as it is; and, for myself, I regret that a Democratic administration has even advanced this proposal.

Mr. President, we allow the man who distills liquor and the man who sells liquor to go into court and say, "I do not owe this tax", and we give him his day in court. We give every income-tax payer in this Nation his day in court. So far as I know, we have never imposed a tax upon the American cititzen without giving him his day in court.

The very men who on July 4, 1776, issued a famous declaration complained of taxation without representation and the closing of the courts to the citizens of these free States, and we are asked to do that against which they were protesting.

I would not open the Government to every possible cause of action. I would not say that any court—and certainly not all courts—should have jurisdiction of all claims arising in contract or sounding in tort, and so forth. Certainly we would stop the orderly processes of government if we did that. But when the Government runs its hand down into the pocket of an American taxpayer and then says to him, "You cannot have your day in court", it is dishonest; it is not only dishonest but it is undemocratic; and I will go further and say no free government can last if once that policy has been adopted.

I can understand why the Government does not want suits against it, and I can understand why it is necessary to say frequently, whether it altogether accords with our theory of government, that the Government can do no wrong, or at least that it does not consent to be sued; but when it comes to taking the money of the citizen out of his pocket under an invalid tax act, then I do not understand how anyone, Democrat or Republican, can defend it.

Search the tax acts from beginning to end and it will be found that the most miserable barroom dealer in this Nation,

under all of the revenue acts, has his right to a day in court. Yet we are asked to say now that our manufacturers and our farmers who have absorbed this tax, or who have paid it—because many farmers have sold their own products—shall have no rights whatever.

I do not deny the power of the Government to say that it will not be sued even for the recovery of taxes, but I do deny that any government can remain a free government which denies that right to its citizens. It is more than a fiction to say that the power to tax is the power to destroy. It is the power to destroy men; it is the power to destroy property; it is the power to destroy human liberty.

Then, when we are exercising that extraordinary power, the power to destroy the citizen, to run the hand of the tax gatherer into the pockets of our citizens and say, "You shall never be heard in any court", is to destroy our country; is to destroy free government. It necessarily follows that there can be nothing left of a free government which does not permit its citizens to say whether taxes are being illegally exacted or wrongfully exacted or fraudulently exacted of the taxpaying citizen.

Mr. President, this particular matter has not any direct relation even to the so-called "gold-clause case", to which the distinguished Senator from Alabama adverted, or the resolution which yesterday was considered by the House of Representatives. This is a tax bill. This is a bill under which the Government will levy a tax and take the property of the citizen, and the citizen justly says, and always can say, and always will say in the United States, "I have a right to my day in court." We do not have to give him the right before we take the money from him. If subsequently we give him full right to go into court, we satisfy not only our doctrine but even our constitutional provisions themselves.

We may properly say that we will not let the citizen resort to the extraordinary remedy of injunction to stay the hand of the Government in the quick and often necessary collection of revenues which must be had to support the Government; but in the case of a piece of legislation dealing with the question of taxation of the citizen and say, "With respect to all taxes paid you shall not be heard, and are wholly without remedy in all the courts of this country, both State and Federal", is a proposition to which I could not for one moment give my assent.

In the bill before us, with respect to all taxes paid hereafter; that is, after the adoption of the pending amendment, the citizen, under conditions which, for the sake of this matter, we say are reasonable and which we accept, would be given his right to go into the courts. Here is an act of the Congress, and up to the date we amend it, it provides, "No citizen shall be heard, no citizen shall have his day in court." From the date when we amend it we will say, "The citizen may come into court and may be heard on these same questions." If we do not so amend it, it will destroy the whole theory of equality before the law, for which our entire system of Government certainly stands. The citizen who paid yesterday is without relief, the citizen who will pay tomorrow, after we shall pass this bill as amended, will be entitled to relief. That is the situation.

We are not asking that the bars be let down and the Government and its officers harassed. The bill provides that there may not be extraordinary remedies against them; they may not be stayed by injunction. The bill provides that only after the wrong is done may the citizen come in and have his hearing in court. It is a right which has been universally accorded from the beginning of the Government to this hour in all matters of direct taxation of the citizen for the support of his Government.

Our friends make much ado about the language which provides, in substance, that if the taxpayer who claims against the Government has passed on the tax, or if he has placed the tax upon the consumer by forcing him to pay it, he can have no recovery, and it is asserted that it would be a hopeless and a useless and a futile task to open up the inquiry at the hands of an aggrieved citizen. That may be. But we have taken that provision from the bill itself, from the very language of the Committee on Agriculture. We have taken the very language of those who now complain against the amendment which we offer, and we have said, "If under the conditions which you state the taxpayer, after the amendment of the law, may be heard, we simply insist that the taxpayer who paid his money before the amendment to the law may also be heard."

Mr. President, it is unnecessary to do so, and I do so only for the sake of entering in the RECORD my own position upon the question, but I wish to say that I think this provision would be held to be wholly nugatory——

The PRESIDENT pro tempore. The Senator's time on the amendment has expired.

Mr. GEORGE. I will take 5 minutes on the bill, if I may split my time.

Mr. NORRIS. Mr. President, if the Senator takes 5 minutes on the bill he cannot speak again on the bill. I merely mention this in order that the Senator may have warning of it.

Mr. GEORGE. I did not understand the Senator's suggestion.

Mr. NORRIS. The unanimous-consent agreement provides that only one speech may be made on the bill by any Senator.

Mr. CONNALLY. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CONNALLY. Could not the Senator from Georgia count the 15 minutes he has already consumed as having been used on the bill, and then speak 15 minutes more on the bill if he desired?

The PRESIDENT pro tempore. There can be but one speech on the bill by any one Senator.

Mr. GEORGE. I shall speak on the bill in my time. I am not opposed to the bill. I have some serious doubts about certain provisions of the measure, but I have desired to support the bill. I do desire to have it in reasonably good shape in order that I may be able to support it.

Mr. President, not for the purpose of raising any additional argument, because I think the argument out of place at this point, but in order to make my own position entirely clear I wish to repeat the statement I made before the Chair reminded me that my time on the amendment had expired, and that is, that the provision in this bill to be found on page 58, in my opinion, would be held by the court to be void if the court should decide against the power of the Congress to levy the particular tax and for the particular purpose originally authorized in the Agricultural Adjustment Act. In other words, Mr. President, the provision in question is not precisely nor exactly a denial of consent to be sued, but it is rather the denial of the jurisdiction of the court to entertain the suit. In the same section there is a provision which takes certain specified cases out from under the language contained in the committee amendment.

For myself I am fully convinced that if the Supreme Court should finally hold that the power delegated by the original Agricultural Adjustment Act to levy the particular tax—not to levy an excise tax, because that is not in dispute—but to levy a particular tax and for the particular purpose specified in that act is wholly wanting, then this provision in the bill would likewise be entirely void.

Mr. President, for some of the reasons which have been stated by others much better than myself, and for some of the reasons which I have tried feebly to indicate, I do not wish to be a party to the passage of any tax bill which exacts such payments from the citizen, be he the farmer who is raising hogs and selling them on the market and himself paying the processing tax or the processor who processes any of the commodities on which the tax is imposed.

For the benefit of the distinguished Senator from Kentucky [Mr. BARKLEY], who earlier directed the inquiry to me raising the question whether the farmer who had absorbed the tax could have any redress under this bill as drawn, I may say to him that in my judgment, if the bill shall be properly and liberally construed in favor of the taxpayer, he might have redress, for, if in lieu of paying the tax himself he creates the purchaser his agent to pay the tax for him, and hands

him over the money, or says, "Take it out of the price of my hogs", he is the payer of that tax.

Mr. ASHURST. Mr. President, I was called from the Chamber and have not heard all of the speech of the able Senator from Georgia. I agree in toto with that portion of the speech which I have heard. I wonder if the Senator will distinguish—or has he done so during my absence—between the instant case and the bill to bar suits on Government bonds? They are not comparable at all. There is no similarity. Has the Senator made that argument?

Mr. GEORGE. I made that statement, but without argument.

Mr. ASHURST. I did not hear it.

Mr. GEORGE. I did not care to go into it at length. There is no similarity between them whatever.

Mr. ASHURST. I agree with the Senator.

Mr. GEORGE. The Senator is correct. One would hardly afford any support to the other on principle or even in sound morality.

Mr. ASHURST. I did not hear that statement. I am glad to know that it is in the RECORD.

Mr. GEORGE. Yes, Mr. President; I made that statement.

I have spoken a brief period beyond the 15 minutes allotted me, and at the same time I have finished all I desire to say on this amendment. It seems to me that the Senate should be glad to accept this amendment, and until the Senate acts to the contrary I cannot believe that it will not do so.

Mr. NORRIS. Mr. President, let me say, to begin with, that I agree fully with the Senator from Alabama [Mr. BANKHEAD] that the Senate has the right to adopt the amendment on page 58. I am not bothered about our right to do so. I think we have a perfect constitutional right to do that. Of course, if the whole law should be declared to be unconstitutional that amendment, if agreed to, would go down with the rest of it. If the pending amendment should be defeated I should vote against striking out the committee amendment on page 58, though I should dislike to see that amendment, unmodified, go into the law.

The provision on page 58 of the bill denies to certain taxpayers any right to go into court and takes away the jurisdiction of the courts. On page 61, with respect to the same taxpayers who have paid on a different date, the right is given them to go before the Internal Revenue Bureau and also to go into court in an effort to recover payment of a tax which under the bill they are given the right to recover.

The amendment on page 61, if agreed to, would put all the taxpayers in the same class. Those who have paid a tax before the passage of this bill and those who may pay a tax after the passage of the bill are all put together in the same class. That is the effect of this amendment. It seems to me it provides a fair solution of the difficulty. It seems to me it ought not to be objected to by anyone.

I am not one who claims that the Government ought to throw down the bars and let everyone sue it. I tried to make my position plain on that question yesterday. For its own preservation, the Government must, as a rule, deny to the citizen the right to sue it unless the Government consents to be sued.

I think in every State of the Union there is a provision or a method adopted by law for the recovery of taxes which may be found, after collection, to have been illegally or wrongfully collected. All the States do not provide the same remedy. They provide different methods. I think the right to recover taxes illegally or wrongfully collected is given to the citizens in every State of the Union and is given by the Federal Government, so far as I know. If the income-tax payer is compelled to pay too much or is wrongfully or illegally compelled to pay, we provide by law a method for him to recover those taxes which have been wrongfully collected. That is fair and right, is it not? Would it be fair to deny the citizen that right? To deny him that right would be unfair and unjust, would it not?

The only thing this amendment does is to give the proper remedy to recover to the citizen who claims his taxes were wrongfully or illegally collected, or who claims to have paid too much.

In one section of the bill the right is given to him to sue to recover if he shall pay the tax after the passage of this bill, but denies it to him if he has paid the tax prior to the passage of this bill.

What must the citizen now show with reference to the processing tax? If he has paid a processing tax and is trying to recover it, the burden of proof is on him to show that he has not passed it on to somebody else. He must show that he has not taken it out of the man from whom he purchased the product. He must show several other things, all of which I think are necessary, all of which are fair. The burden is placed entirely upon him. It that not right? Is there anything unfair about that? Is there anything unjust in it? If he has paid in any given case $10, we will say, whereas the law provides that he should only pay $5, should he not get back the $5? Will the Government of the United States deny him that right? No citizen, no business man, if he is honest, would deny it to his neighbor or to his fellow citizen. If he has paid a processing tax and passed it on to the consumer, then he ought not to recover, and this amendment will not permit him to recover. If he paid a processing tax, and when he bought the article upon which the tax is levied from a producer deducted it from the price he paid the producer, he could not, under this amendment, recover that tax, and, of course, he should not.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. CONNALLY. From a practical standpoint, suppose a processor says, "No; I did not take this tax out of the producer, and I did not pass it on. I just figured it in my cost." There are a great many elements of cost. How is the Government going to contest that claim? How is it going to disprove that statement?

Mr. NORRIS. In the first place, the processor has got to prove the fact; he has got to prove that he did not deduct the tax or pass it on. Suppose he bought a hog of me and the market price was so-and-so, as the Senator from Georgia has already described; suppose that the price of the hog at the place of sale was 5 cents a pound, and he deducted from that 5 cents a pound, the amount of the processing tax. There is a transaction that could easily be shown by proof; and when he comes to make his proof he would run right up against that snag; he could not prove it, because it is not true, and he would not be entitled to recover.

Mr. CONNALLY. Suppose the next man who bought a hog there did not take out the processing tax?

Mr. GEORGE. Mr. President, if I may be permitted to answer that question, the processor has got to pay the tax; and he either pays it out of his own pocket or out of the price.

Mr. CONNALLY. Exactly. The point I was trying to make is that the processor will come along and say, "No; I did not take it out. I simply would have made more profit if I had not been compelled to pay the tax." How is the Government going to come back at him?

Mr. GEORGE. The market price on the given date is a matter of record.

Mr. NORRIS. It would be very susceptible of proof; the markets every day of the year are known in every place in the United States, and it is not for the Government to prove that he did not deduct or pass on the tax; he himself has got to prove that he did. He must make the proof; the Government does not have to make it. There would be, as there always is in every litigation, some difficulty, it is true; but I do not know why we should deny an honest man the privilege of getting back what has been illegally collected from him just because there might be some difficulty on account of the dishonest man. The whole fabric of government is burdened with the dishonest man; that is true in every line of business. If we had no burglars or thieves or men who commit other crimes, if there were no men of that kind, it would lessen the burden of the honest taxpayer who obeys the law and never disobeys it.

His burden is increased; it might be in this case. I can imagine that someone might go into court and allege that he had not passed the tax on; that he had not taken it out

of the producer, and perhaps prove it; and I can imagine that he would probably have to offer perjured testimony in order to do it. He might be so cute about it that he could not be discovered. That is true of all litigation; we run that risk everywhere.

Mr. BANKHEAD and Mr. RUSSELL addressed the Chair.

The PRESIDING OFFICER (Mr. CHAVEZ in the chair). Does the Senator from Nebraska yield; and if so, to whom?

Mr. NORRIS. I yield first to the Senator from Alabama.

Mr. BANKHEAD. The Senator made a statement which I hardly think is accurate; that if a man had paid $10 when he should only have paid $5 he would be denied the right to recover. I call the Senator's attention to the fact that suits of that character are not barred by this section, as the Senator will see if he will examine the provision at the bottom of page 58. I ask him to note this provision:

> The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15.

Mr. NORRIS. Of course, the case I gave probably never would happen; it was only given as an illustration.

Mr. BANKHEAD. I wanted to point out to the Senator that provision.

Mr. NORRIS. If we concede now, as I think we ought to concede and will have to concede, that there may be cases where a processor has paid a processing tax and has neither passed it on nor taken it out of the producer and still has unsold the goods on which the tax was paid, in that kind of case, who will say that he should not recover a tax wrongfully paid?

Mr. BANKHEAD. Mr. President, I will say to the Senator that the whole object of this provision is to prevent the refunding of a tax on account of invalidity that may result from a decision that this is an unconstitutional delegation of power.

Mr. RUSSELL. Mr. President——

Mr. NORRIS. I do not know how much time I have left, and I should dislike my time to be taken up by questions; but I do not wish to be discourteous to the Senator, and I yield.

Mr. RUSSELL. I merely wish to inquire of the Senator from Nebraska if there is any general statute of limitations on the time within which a suit may be filed for the recovery of taxes illegally collected?

Mr. NORRIS. I do not think there is in this bill.

Mr. RUSSELL. It occurs to me there certainly should be some definite time limit fixed.

Mr. NORRIS. There is the general statute of limitations.

Mr. GEORGE. Mr. President, there is such a provision in the original act, to which the pending bill is merely an amendment.

Mr. NORRIS. A man pays a wrongful tax today; we pass this bill tomorrow; and the next day his neighbor pays a wrongful tax. We deny one the right to recover and we accord the right to the other. I do not know how anybody can defend that discrimination.

Moreover, I will say to the Senator, I have no doubt that if the original amendment on page 58 had gone to a vote it would have been overwhelmingly defeated, and I was anxious to save the situation. I am a friend of this bill; I believe in it; and I am startled and amazed at some of the objections that are urged against it. I realize it is very difficult to understand it all; perhaps no man, unless it be the administrator of the law, can understand all its ramifications; but this bill is a sincere, honest effort to help the producer, to give the farmer some recompense for his toil, and I should very much dislike to have it contain an injustice which might drive votes away from it. I am seeking to help pass the bill; I want it enacted into law; I am grasping at it almost as a drowning man grasps at a straw; but it seems to me that when we put into the measure something that is admittedly unjust we will drive votes away from it and perhaps defeat it entirely.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

LOUISIANA'S RIGHTS

Mr. LONG. Mr. President, yesterday I was away from the city when I read an announcement in the public press, sent out by the news agencies, confirming what had been sent out the day before while I was in the city of New Orleans. The announcement was to the effect that President Roosevelt and his Secretary of the Interior, Mr. Ickes, had sent me word that I would have nothing to do with spending any P. W. A. money in Louisiana. I do not know just how the President sent me word. According to the newspaper headlines, this is my official notice. I do not know why the Secretary of the Interior should continue to address me in communications through these circumlocutious routes, but, nevertheless, that is their privilege apparently. I have no direct diplomatic contact with the gentleman, and I am not seeking any, and, therefore, since, apparently, these pronouncements are intended for the public, I will undertake to respond in kind.

The way the President talks to me and the Secretary of the Interior talks to me reminds me of a mother-in-law and a son-in-law who lived together in Shreveport, La., and who did not speak to each other. Quite often the daughter of the mother-in-law, the wife of the son-in-law, would go out of town, and there would be no one there except the mother-in-law and son-in-law, and they would have to eat together.

They had a means by which they would communicate one with the other by talking to the cat. The mother-in-law would address her remarks to the cat and the son-in-law would respond by addressing his remarks to the cat, and then the mother-in-law would reply by telling the cat something else. Apparently such a practice has grown up in the city of Washington, because I constantly read of various and sundry ultimatums addressed to me by the President, but I never see the handwriting of the President, I never hear his voice, and no direct communication comes to me. I am merely advised through the front pages of the newspapers that the President has told me something I can do, or something I cannot do, or something that he will not do, or something that he will not let anybody else in the United States do. So I must, in view of the circumstances, undertake to make some answer to what has been said by the only means that is left to me. I will not, however, take a great deal of the time of the Senate, because the National Broadcasting Co. has very agreeably given me from 8 until 8:30 o'clock tonight to speak over its Nation-wide system, and so I will not have to belabor the Senate; I will take my time addressing the American people over the radio; and the remarks which I now undertake to deliver will be addressed to my colleagues of the Senate.

The State of Louisiana, Mr. President, does not bow low, particularly, in order to get funds distributed by the Government; and I do not see why the President continues to make these announcements; I do not see why Mr. Ickes continues to make them. Several weeks ago on the floor of the Senate I made answer to one such pronouncement. It has already been stated that I have nothing to do with the funds they spend in Louisiana, that they will not spend any money in Louisiana, and that various and sundry dire consequences will be visited upon the people of Louisiana unless something is done, I presume to me or somebody else down there.

Now, as we approach the period of only 5 months before an election, we receive the statement that the State of Louisiana is to have none of the P. W. A. funds. That is not a gracious answer or gesture to the generous attitude we took last year, when we allowed five of our eight Representatives in the other branch of Congress to come back, on the ground that they had deserted me and had hooked up with Mr. Roosevelt. We allowed those gentlemen to come back under the understanding that, inasmuch as they were avowedly anti-Long and pro-Roosevelt, they could get money from the Public Treasury which otherwise would not be available to Louisiana.

Now, he has announced that these five deserters, unlike Judas Iscariot and Benedict Arnold, are not to get their 30 pieces of silver, and, therefore, we will have to remove the five of them from public office unless he changes his attitude between now and election day. It is very unkind. Judas

Iscariot was paid; Arnold was paid; I have received nothing about which I can complain; but my colleagues in the other House, who have deserted on the ground that they were going to come back with the loaves and fishes, lo and behold, on the very eve of the election, appear with their hands empty and their faces blank, and with nothing to give their constituents as a reward for their infidelity to the party that elected them to the office they now hold. They have my sincere sympathy but will not have my help in the political campaign, and a lack of votes will be the answer for having trusted the gentleman whom I myself trusted once too often.

Our State, however, has had more things than this to stand. We do not need the help of the Government to borrow money. The P. W. A. would only let Louisiana and the municipalities in Louisiana have money on bonds issued by the State. We do not need the United States to borrow money for the State of Louisiana. If the State of Louisiana wants to borrow any money it can borrow without having to sell bonds to the United States. It has better credit than the United States. The only way the United States can sell a bond is to make a bank take it. The State of Louisiana sells its bonds at a premium without having to compel any bank to take them, because our revenues exceed our expenditures. We have money in the bank. We have money in the treasury, millions of dollars of it. I almost feel affluent when I come back here from the State of Louisiana, knowing the condition of our treasury as compared to the one in this citadel.

However, yesterday the State of Louisiana sold some bonds. They sold for $103.80, $3.80 above par, so I do not suppose we are afflicted. As to the money we spend, we receive a dollar in value for each dollar of expenditure. We are not going to come to Washington, D. C., and put up our bonds, which the whole world is crying for an opportunity to buy, and then have the Federal Government go down there and supervise the expenditure of the money and get about 3 cents' worth of value for each dollar of money expended, like the Federal Government is getting elsewhere.

We do not want the leaves swept from one side of the street to the other, and then swept back again from the other side of the street to where they were in the first place. We do not want any dirt removed from one side of the railroad track to a hole on the other side, and then have the hole dug out and the dirt moved back to the first side. Whenever we spend a dollar of money for which the State of Louisiana has given a bond, or for which a subdivision of the State has given a bond, it will be spent in a sane way for something the State needs, and the State will have a dollar there with which to pay off the obligation it has incurred for a public improvement.

Let these gentlemen discontinue for a while their statements that Louisiana has been cut off the credit list of the Federal Government. We are very sorry we ever had anything to do with them—I mean in connection with their loan program. A while back we sold them $7,000,000 of Louisiana highway bonds, which today sell on the public market at 104. They have taken those $7,000,000 of bonds every time we have started to float a public issue of bonds, and let the word go out that they were just about to put those bonds on the market, to try to suppress and depress the price of Louisiana bonds. Let them go out and sell their $7,000,000 of Louisiana highway bonds. There is a market for them. They paid us $1 and the world is bidding $1.04. We have a good financial condition, we can get along financially without them, and we shall be glad to wait until the coming fall of 1936, when they will be glad to do business again with Louisiana.

The public press reports that only the doubtful States are to be favored by the Federal Government. Our State is not a doubtful State. Louisiana could not be put in the Roosevelt column with $5,000,000,000. The State of Louisiana will never vote to send Franklin Delano Roosevelt back to the Presidency of the United States. I make that statement 4 months from the eve of my campaign for reelection in the State of Louisiana, and I am not yet opposed. Let them get out an opponent for me down there if they want to find out how Louisiana stands, and we will put the issue up away in advance as to whether Louisiana under any circumstances will stand for the tyrannical and unconstitutional form of arbitrary, ransacking government which has been foisted on the people by this administration. Try it out in advance, I say to those who want to try it. Louisiana is not a doubtful State.

Mr. President, I undertook to give the administration very good advice. I gave it good advice. I advised the administration on banking. Later on they saw fit to take some of my advice. I advised the administration on the McCarran amendment. It was voted down. Today I picked up a newspaper clipping and remarked to my friend the Senator from Nevada [Mr. McCARRAN] that I find the administration has concluded that we who fought here for the prevailing wage on public employment have now been sustained by the same administration which used the force of its power to try to vote us down in the United States Senate, which even caused gentlemen in this body to switch their votes from one side to the other in support of the administration, who now come out and announce their belief in the principle of this kind of a program. To the junior Senator from Nevada, who carried the brunt of the great fight for the prevailing wage, to his courage and foresight, belongs the credit for the victory now accomplished through the belated act of the President. The toilers of this country may well give credit to Senator McCARRAN if in the future the wage structure of this country is maintained and American labor is kept out of peonage. I am happy that I joined with the junior Senator from Nevada in his progressive fight.

I referred once before on the floor of the Senate to the tea party held in Boston. This country has observed its results ever since. One was that those paying the taxes should receive their share of the taxes. No tax that is not to some extent justified by the representation of the country should be levied. Louisiana pays, in one little item, a tax of $24,000,000 a year into the Federal Treasury. I understand that in income taxes alone $24,000,000 last year was paid in Louisiana.

Does the administration in Washington mean to say it is going to use the State of Louisiana as a tax-gathering ground and that it is going to deny the State of Louisiana the benefit of the expenditures of those taxes in that State? I say that will not be the case. Not only do I say this administration will not be permitted to do it; but, if it is necessary that we wait until another administration—the State of Louisiana can afford to wait. We are so much better off than the supposed-to-be favored States—those that are supposed to have remained in the good graces of the present administration—that we feel well enough alone without having to ingratiate ourselves to this particular administration at this time.

Fall is coming when the Supreme Court will reassemble. I have been advised by the authorities of our State that Louisiana will file a suit in the Supreme Court of the United States, where we will test—and successfully, without any question in my mind—the right of the Federal Government to go into a State and set up boards and bureaus to carry on business not authorized by the Federal Constitution. They have set up an educational board in the State of Louisiana far apart from our State board of education.

They have not only set up an educational board but they have set up this board and that board and some other kind of a board. They have every kind of a board in that State, none of which is authorized by the Constitution of this country. We are going into the Supreme Court of the United States when October shall have reached us and there, as a sovereign State, ask that Court for its permission to file a suit to enjoin this usurpation of State functions.

Louisiana has done a great deal to preserve the integrity of this country and to preserve the integrity of the other States. In 1803, or soon thereafter, we were the ground of the Burr conspiracy. Many of our citizens and their families

have been condemned for nearly a century because of the efforts they made for what was the American country at that time.

In 1815, when the British Army was in charge of Washington, D. C., and when it had whipped the whole United States, it did not have anything but Louisiana left to fight. Our envoys were in Belgium negotiating for surrender, and the peace treaty of Ghent was no more nor less than a surrender.

The PRESIDING OFFICER. The time of the Senator from Louisiana on the amendment has expired.

Mr. LONG. I shall take my time on the bill.

It was the army of General Pakenham, which had been led by the Duke of Wellington in the Peninsular campaign, which came to America for the purpose of taking charge of the United States when the peace treaty was made. The peace treaty was made so that they would take the United States with the exception of the 13 little States which were in existence at that time. It was the army which Wellington had in the Peninsular campaign that met the Louisianians and two companies of Tennesseeans under Jackson at New Orleans. They repulsed that army, veterans of the Peninsular campaign, and it left the State of Louisiana, but it still was able to go back to England, and it whipped Napoleon at Waterloo. It was the army which Jackson whipped at New Orleans with Louisianians that whipped Napoleon at Waterloo. It was the same army that had defeated the French in the Peninsular campaign. Little has been said of that.

Back in 1860 Louisiana undertook to prevent the secession of the Southern States. If it had not been for the fact that Texas on one side, Mississippi on another side, and Arkansas on the top, seceded from the confederation of the United States, there never would have been any secession by the State of Louisiana.

Before that, in 1836, when the Mexicans had been successful over the Texan troops in battle after battle, Sam Houston came to New Orleans and raised an army which went through the old road by Fort Jessup and went by the old route through Galveston and up to San Jacinto, and it was largely the Louisianans who whipped the Mexicans at the Battle of San Jacinto, reenforced by soldiers and stragglers from Texas and other States. [Laughter.]

Some of those things are not mentioned. Nevertheless, that State stood for the preservation of the individual rights of States. It stood for the preservation of the Constitution of the United States as long as it could. It stands today, with all these ravages, practically united. There is hardly a voice of political opposition in the entire State of Louisiana that can be heard, there is hardly a whisper that can be heard today in defense of the kind of outrages that we hear hurled at us from Washington, D. C. A lone, solitary character undertakes to draw a salary, the mayor of the city of New Orleans. He will be there until the next recall election, perhaps; and what is heard from that discredited source is the only thing that sounds a single whisper in Louisiana in defense of the ultimatums that are hurled from the President's chair and from that of the Secretary of the Interior, if the newspaper accounts correctly report what they say. As to those I have no means of verification. I must accept them as they come repeatedly, and there never has been any denial of them in the past.

Now, gentlemen of the Senate, this little case has recently happened: Louisiana State University was promised a loan by the Reconstruction Finance Corporation. I want Senators to listen to this little statement of fact so that they may glorify themselves and their stand with or against this administration.

Louisiana State University applied to the Reconstruction Finance Corporation for a loan. They came back the other day and said, "We have been given the loan. It has all been signed, sealed, and delivered. The engineer is with us here. We are fixing to begin the work."

I said, "Hold on. Have you got the money yet?"

"No; but they told us the money is ours. They sent the engineer with us. We are letting the contract tomorrow, and we are going ahead."

I said, "Just a moment. When are you going to get the money?"

They said, "All we have to do is to send our bonds up there to get the money."

I said, "Well, I should like to advise with you and the Governor for just a few minutes. Let me tell you something: Do not announce that you have that money. Do not announce that you are going to do that work. I know those men. I know this administration. I have had their word. Do not think you are going to get that money until you have every dollar of it here."

"Oh, no; we can go ahead."

I said, "You had better not." I said, "Do not announce it." Finally they were persuaded by the Governor and myself not to announce that they had the money; but the Reconstruction Finance Corporation itself announced that it had completed the lending of $1,700,000 to Louisiana State University for needed improvements at Louisiana State University. Still I said to them, "Do not turn a shovel of that $1,700,000 of work. I know that outfit up there. You will never get a dollar of the money."

They thought those men would go out and let the contracts, and the State would be embarrassed; but, oh, no; they did not do any such thing. Lo and behold, on yesterday the Reconstruction Finance Corporation called up and said "there was a little something about it that they had to look into for a little while." [Laughter.]

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. LONG. Yes; I yield.

Mr. CONNALLY. The Senator is attacking the Reconstruction Finance Corporation. Is it not true that the Reconstruction Finance Corporation made a loan to Louisiana in the amount of fifteen or twenty million dollars for building a bridge across the river, and is not that bridge now under construction?

Mr. LONG. No; that is not so. They bought $7,000,000 of our bonds at par, which can be sold today at $1.04 on the dollar, and they have been using those bonds to depress our market.

Mr. CONNALLY. Just a minute.

Mr. LONG. They will not sell them, and they wait, every time, until we start to sell bonds, and act as though they are going to shove these bonds out to keep people from buying Louisiana bonds.

Mr. CONNALLY. Let me ask the Senator whether he did not personally request and urge and secure from the Reconstruction Finance Corporation the purchase by it of those bonds?

Mr. LONG. Yes.

Mr. CONNALLY. Then, what is the Senator complaining about?

Mr. LONG. I am not complaining.

Mr. CONNALLY. The Senator says the Reconstruction Finance Corporation bought the bonds, and so forth, and it did not do the State any good; but the Senator admits that it was through his agency that the Reconstruction Finance Corporation bought those bonds, and the purpose of buying them was to build a bridge across the Mississippi River. That is true, is it not?

Mr. LONG. It is not all true; no.

Mr. CONNALLY. What is the error about it?

Mr. LONG. I will answer the Senator's question when he shall have finished it.

Mr. CONNALLY. What was the $7,000,000 for?

Mr. LONG. I will answer the question.

We built that bridge across the Mississippi River. By the way, it is known as the "Huey P. Long Bridge", as almost all other good things are known down there. [Laughter in the galleries.] The Reconstruction Finance Corporation wanted a railroad bridge built. They tried to finance it through the railroads, and could not do it. Then they had to call on us to do it.

Mr. CONNALLY. Let me ask the Senator——

Mr. LONG. Just a moment until I get through.

Mr. CONNALLY. Mr. President——

Mr. LONG. Just a minute, now.

Mr. CONNALLY. I think the Senator is unfair if he does not yield.

Mr. LONG. No; I am not. I will yield as soon as I get through answering the Senator's last question.

Mr. CONNALLY. If the Senator chooses not to yield, of course, his statement cannot be corrected.

Mr. LONG. I will yield as soon as I finish answering the Senator's last question. Let me finish it first.

So we agreed to put up $7,000,000 worth of Louisiana highway bonds that the Reconstruction Finance Corporation would buy to build a bridge, and we did. Now, that is all right. I have no complaint about that. That was done under Hoover. [Laughter.]

The PRESIDING OFFICER. Let there be order in the galleries.

Mr. CONNALLY. Mr. President, I rise to a point of order on the conduct of the occupants of the galleries. The Chair knows his duty, and I hope he will perform it. I know he wishes to perform it. This is not a vaudeville show, though it may seem to be; and the occupants of the galleries are supposed to preserve order. I insist that the Chair either make them be quiet or put them out.

The PRESIDING OFFICER. The occupants of the galleries will keep quiet.

Mr. CONNALLY. They are not doing it.

The PRESIDING OFFICER. Let there be order.

Mr. LONG. If the Senator from Texas will not interfere with the occupants of the galleries, I am satisfied they will not laugh so much.

The PRESIDING OFFICER. The Senator from Louisiana will pardon the Chair just one moment. The occupants of the galleries are the guests of the Senate. The Chair hopes they will comply with the rules of the Senate and will maintain order.

Mr. LONG. The Senator from Texas did not hear the rest of my statement. The Hoover administration, therefore, bought $7,000,000 of our bonds, because there was no general or public bond market at the time. I thanked Mr. Hoover for it, if that will do any good.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CONNALLY. Why is the Senator talking about Mr. Hoover? He started out on the Reconstruction Finance Corporation. He got his money through the Reconstruction Finance Corporation. He asked for it, and begged them to give it to him, and they gave it to him.

Mr. LONG. No; I do not beg anybody to do anything.

Mr. CONNALLY. The Senator said a minute ago that the Reconstruction Finance Corporation wanted to build a bridge across the Mississippi. I should like to ask him if the Reconstruction Finance Corporation initiated the bridge, or if the people of Louisiana and the Senator from Louisiana did not initiate it and go to the Reconstruction Finance Corporation and ask them for the money.

Mr. LONG. All right. Now, if the Senator will sit down, I will answer his question.

Mr. CONNALLY. The Senator will sit down when he chooses.

Mr. LONG. I mean, if he is through. I would just as soon see the Senator stand as sit down. He is one of the most handsome men in this body.

Mr. CONNALLY. Mr. President, I rise to a point of order. It is against the rules of the Senate to make personal allusions to Senators.

Mr. LONG. All right.

Mr. CONNALLY. And I do not care for allusions of that kind from the Senator from Louisiana.

Mr. LONG. I am complimenting the Senator. I do not mean to reflect on the Senator.

Mr. CONNALLY. I know; but I desire to say right now that the Senator from Louisiana need not get funny with me, either on the floor of the Senate or elsewhere.

Mr. LONG. Let the Senator stay out of my time, then.

The PRESIDING OFFICER. The Senator will proceed in order.

Mr. CONNALLY. The Senator does not have to yield if he does not wish to yield.

Mr. LONG. Then, I will not yield.

Mr. CONNALLY. If the Senator gets up here and makes statements that are not justified against the Reconstruction Finance Corporation and other agencies, so long as I have the right to stand on this floor I am going to try to see that he sticks within the facts.

Mr. LONG. Mr. President, the Senator has already taken about 10 minutes of my time, and I did not have much left. I do not yet know what he has asked, but I will answer what I think he should have asked me.

The Louisiana bridge has been built. They took $7,000,000 of our bonds. They have been paid interest on those bonds up to date, and they can be sold at 104 today; and we do not owe anything to anybody except the Hoover administration for that.

Now, coming back to what I was about to say—I have forgotten what I was talking about when the Senator interrupted me—the Louisiana State University was told by the Reconstruction Finance Corporation—of course, I know who tells the Reconstruction Finance Corporation what to do—to go ahead and spend the money. They did not do it, and they did not announce the loan, either; but the Reconstruction Finance Corporation insisted on announcing that they had appropriated $1,700,000 to Louisiana State University. Now they come out—they have not done it yet, but they did what I told the president of the university they would do. I warned him about the kind of government we have up here. I know them. I have had dealings with them; and our authorities in Louisiana saved themselves from that humiliation by reason of the fact that I told them when they came back, and when the Reconstruction Finance Corporation published this statement, to pay no attention to it; that they would find some kind of a way of pulling their usual trick, and they did. They have not done it yet; they will do it today or tomorrow, after having made their own announcement to the public press.

The people of the United States are entitled to know with whom they are dealing. That is the kind of government with which they are dealing. That is the kind of faith they can have in the Government; and we are not going to mingle and mess ourselves up with that kind of a flimflamming outfit which calls itself a government. Louisiana will run the affairs of Louisiana. The 2,300,000 people of that sovereign State, one of the 48 stars of the flag, will run the affairs of the State of Louisiana through the elected representatives of that State. It will not be subjected to the domination of autocrats or bureaucrats. It will not stand for the fiats that come from Washington. It will not be run over by the agents of sabotage and plunder, nor will it allow itself to be enslaved and put under financial obligations for money to be wasted wantonly, as the funds that they have spent in that State have been wasted in the days recently past.

As far as Mr. Roosevelt's announcements and Mr. Ickes' announcements are concerned, I suggest to those gentlemen, if they have any messages to deliver to me, that they send them to me in person. If they have any ultimatums to deliver to me, let them send them to me through the regular channels. I always write them letters when I wish to tell them anything; and usually, in order that the letters may reach them, give the letters out at the desk of the Senate in order that they may not fail to reach the hands of those for whom they are intended. Thus do I attract their notice.

I will say this to them: I am not afraid of them in any political campaign of any kind or character. Louisiana has set an example to the other States. I ask the other 47 States and the politicians of the other 47 States to take notice. I ask them to follow us. Defy this kind of autocracy! Defy this kind of tyranny! If you want to be politically powerful, so much that they cannot even oppose you in your own State, then I say to every politician in the United States, follow the example we have set. Tell that gang of scuttlers that your State runs the business of the State and that the politicians of your State will have nothing to do

with the untrustworthy characters who are placed in charge of the dispensation of funds, who undertake to give their pledge one day and to withdraw it the next day, and to keep everyone suspended in a state of uncertainty so that their ravages and their plunder may menace the welfare of the citizen who most of all would expect the Federal Government to be stable and trustworthy, at least believable.

Mr. President, how much time have I left?

The PRESIDING OFFICER. The Senator has 16 minutes more.

Mr. LONG. I will not take 16 minutes; I will not have to take that long. Now, I can talk a little politics. Mr. Roosevelt will remember one thing to his dying day; he will remember to his dying day that he was warned along certain lines by men who were absolutely sincere in the Democratic Party. Among those lines was the principle that he could not enter upon a bureaucratic system of running the American Government on the Hoover order without wrecking the Democratic Party and without wrecking himself in doing it.

Mr. President, I am a citizen of the United States Republic first and a follower of Almighty God, who allowed its creation. To them I owe my first allegiance, to my people next, and last to my party.

The party which undertakes to shield this kind of a situation commits itself to the bowwows for eternity. The party that raises the flag of waste, destruction, bureaucracy and autocracy, the party which allows to be seated in its high councils men who defy investigation, and about whom there dare not be an investigation, men who allow millions and billions of dollars of funds to be pilfered willfully through the advertised pronouncements of agents in these States that it is done only for the sake of political monstrosities—the party which rears itself behind that sort of thing; the party which rears itself behind an organization which has spent more money to bring this country to where it is now than was spent by the Government from the day of Washington up to the day of Woodrow Wilson; the party which sees a $28,000,000,000 deficit grow and grow and grow, which undertakes to take a Nation, a union of States, and bond them for all the millions and billions of bonds now issued by the Government, and then send their "heelers" and others to misuse and squander and waste that money—the party that raises that emblem invites destruction, it invites wreck, it invites ruin, and I am for the wreckage of that party before I will be for the wreckage of the United States.

Mr. President, what kind of a party have we, which I contend we ought to save from ruin? Who is it that now says that the United States Supreme Court ought to be censured for its rulings? I understand from the public press—I have no other means of acquiring my information—that the Court is roundly condemned for its rulings on N. R. A. and other high courts for their rulings on A. A. A. If courts say that A. A. A. is unconstitutional and un-American, the courts are condemned.

But who was it who first said that this system of restricting production of agricultural commodities through any kind of process other than the Sabbatical law was un-American? The President of the United States stood on the front steps of the capitol at Topeka, Kans., and he is the man who sounded the warning to the United States that everything that is contained in the A. A. A. is un-American and void on principle. Yet, if the Supreme Court and the inferior courts of the United States set at naught these very things that were condemned in the course of a political campaign, it is urged that these be the basis of a campaign for recognition in order that the Court may be repudiated for having decided against such a law.

Let me give this warning: When you go before the people of the South, the North, the East, and the West, pointing up the spearhead of this Democratic fiction and amalgamated fiction of government, with the Blue Eagles and screaming emblems of all kinds and characters that are supposed to haul down the Stars and Stripes and the Constitution, you are going to find out that the people will uphold the Constitution of the United States before they recognize such emblems of any party.

Louisiana is going to take that stand. Louisiana is willing to lead in maintaining that position. That is where Louisiana will be found, and it is not within the power of all the finances that a Government can bring into a State, or all the Presidential power that can be exerted, to change the votes of the people of Louisiana to the surrender of State sovereignty.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Georgia.

Mr. GEORGE. Mr. President, before the vote is taken, I desire to send to the desk the original amendment in the nature of a substitute, which contains the correct punctuation. There is no change in the substance. It is a mere matter of punctuation of the original text.

The PRESIDING OFFICER (Mr. CLARK in the chair). The Senator from Georgia sends to the desk a modification of the punctuation in the amendment.

Mr. BORAH. Mr. President, may I ask the Senator from Georgia whether we are voting upon the amendment as a whole? There are several distinct parts of the amendment, and I thought we had unanimous consent that we would vote on it as an entirety.

Mr. GEORGE. I so understood, and I am offering it as a substitute for subsection (d), which starts on page 61 and goes down to line 12 on page 62.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia, as modified, in the nature of a substitute for the committee amendment.

Mr. BANKHEAD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	King	Pope
Ashurst	Copeland	La Follette	Radcliffe
Austin	Costigan	Lewis	Reynolds
Bachman	Davis	Logan	Robinson
Bailey	Dickinson	Lonergan	Russell
Bankhead	Donahey	Long	Schall
Barbour	Duffy	McAdoo	Schwellenbach
Barkley	Fletcher	McCarran	Shipstead
Bilbo	Frazier	McGill	Smith
Black	George	McKellar	Steiwer
Bone	Gerry	McNary	Thomas, Okla.
Borah	Gibson	Maloney	Townsend
Brown	Glass	Metcalf	Trammell
Bulkley	Gore	Minton	Truman
Bulow	Guffey	Moore	Tydings
Burke	Hale	Murphy	Vandenberg
Byrd	Harrison	Murray	Van Nuys
Capper	Hastings	Neely	Wagner
Caraway	Hatch	Norbeck	Walsh
Carey	Hayden	Norris	Wheeler
Chavez	Holt	Nye	White
Clark	Johnson	Overton	
Connally	Keyes	Pittman	

The PRESIDING OFFICER (Mr. BARKLEY in the chair). Ninety Senators have answered to their names. A quorum is present.

The question is on the amendment of the Senator from Georgia [Mr. GEORGE], as modified, in the nature of a substitute for the committee amendment.

Mr. McNARY. On that question I ask for the yeas and nays.

Mr. MURPHY. Mr. President, yesterday the able Senator from Oklahoma [Mr. GORE] made the statement which I now quote:

> I have no doubt there are instances where the tax has not been shifted, where it has been borne by the processor, where it has been paid and borne by the taxpayer. I read an instance a few days ago of a tobacco concern in New York who had paid a processing tax amounting to more than $200,000 and the tax exceeded the entire amount of its sales. In that case, whatever may happen in the future, at least up to date that concern has not shifted the tax. The probabilities are it will never be able to shift the tax entirely. The newspaper report indicated the concern was teetering on the brink of bankruptcy. In such a case there would be an actual loss sustained at the hands of the Government, the Government obligated to protect the citizen instead of ruining him.

With no thought of reflecting upon the sincerity of the Senator from Oklahoma, whose statement is based upon a newspaper report, I do not accept the statement as true that any tobacco concern paid a processing tax "amounting to

more than $200,000 and (that) the tax exceeded the entire amount of its sales." No concern engaged in the usual processes of business would have a condition such as that. I can conceive of no circumstances that would pile up enough processed-tax tobacco in inventory on which the tax would be $200,000 and the sales less than the amount of the tax. Such a concern would not merely be teetering on the edge of bankruptcy; it would be bankrupt unless it had an astounding liquid capital and boundless credit.

The Senator from Oklahoma cited the case of one of the great cotton mills of New Hampshire, the Amoskeag Mills. He said:

> Last year its annual report showed that it had suffered a loss of more than $1,000,000, I believe $1,008,000. I speak from memory. It had paid a processing tax of $1,274,000 and had paid extra wages on account of the code amounting to $1,600,000. Those were expenses incurred at the command of its Government. It seems to me fairly clear that in that case the taxpayer had not been able to pass the tax on either forward or backward, but that it had suffered a loss, had sustained an actual damage in the transaction.

I do not accept the conclusion of the Senator from Oklahoma. I have taken pains to inquire into the financial statements of the Amoskeag Co. I find that for the year 1928 it operated at a profit of $960,698, and for 1929 at a profit of $1,065,534. When practically all other businesses began to suffer from depression, Amoskeag suffered in common with them. For 3 years it had operating losses—for the year 1930, a loss of $1,345,389; for 1931, $782,667; for 1932, a loss of $1,210,226. In 1933 the processing tax on cotton became effective as of August 1, 1933—the Amoskeag mills operated at a profit, the profit being $31,444. As for 1934 its operating loss was $1,008,458. I found that it treated the processing tax as a cost of business. Recovery of tax shows in sales figures. The balance sheet does not separate the item of processing taxes, either as expense or income.

With what consistency may the Senator from Oklahoma attribute the loss suffered by Amoskeag in 1934 to the processing tax, when for the 3 years 1930, 1931, and 1932, years of no processing tax, it operated at a loss?

The able Senator from North Carolina [Mr. BAILEY], whose intellectuality has impressed itself upon this body, asserted here yesterday that he did not "hesitate to assert as a fact, and I could put it in evidence here if the facts were to be tried, that these taxes have not been passed on in all cases." He continued with the statement that—

> There are 65 cotton mills and knitting mills in my State of North Carolina which are now closed down. * * * In those 65 cotton mills and knitting mills are goods piled on the shelves unsold. The taxes are collected in the case of the cotton mill at what we call the breaker. That is where the cotton begins to enter into the process of manufacture. The tax has been assessed. In many cases the tax has been paid. But the goods have not been sold. The taxes on those mills have not been passed on, and those are 65 instances in one Commonwealth.

What do the facts recited by the Senator prove? Do they prove an injustice to the taxpayer? Do they prove damage to him? Is there a scintilla of proof that when the goods shall be sold the tax will not be passed on?

What the Senator states as a conclusion is a fact yet in suspense.

What shall constitute proof that a processor has not passed on the processing tax?

Shall it be accepted as proof that he himself absorbed the tax if he operated his business at a loss? That appears to be the accepted view of those who argue against the adoption of the committee amendment.

The evidence I have submitted in the case of Amoskeag establishes that in the years when there was no processing tax, no less than in 1934 when there was such a tax, the company operated at a loss.

Shall it be viewed as proof that the processor absorbs the tax if his factory is shut down and his shelves laden with unsold goods? There can be no proof that the tax will not be passed on when those goods shall be disposed of.

Suppose, when disposed of, they shall be sold at a loss. Carry the supposition further and assume the loss to be exactly equal to the amount of the processing tax paid. Will that establish that the tax was not passed on? The processing tax is but one element in the increased price of cotton goods. Higher wages to labor, attributable to N. R. A., account for 50 percent of the increase. If we are to reimburse the processor on the theory that his loss attests that he did not pass on the tax, why not pursue the principle further and enable him to sue because he operated at a loss under N. R. A. wages, the N. R. A. having been nullified as unconstitutional?

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. MURPHY. I yield.

Mr. GEORGE. What has the Senator to say about those cases where the mills have become bankrupt and are in the hands of receivers and still have unsold goods on their shelves?

Mr. MURPHY. I shall deal with that. I thought I had answered that question in part, but I shall deal with it further on.

Mr. GEORGE. Certainly the taxpayer has paid the tax in such cases and he will never have the tax refunded to him.

Mr. MURPHY. There is not any proof, I submit to the Senator from Georgia, that he will not have it refunded.

Mr. GEORGE. The processor is bankrupt already, and his stock of goods is in the hands of the receiver. What will the Senator have to say to innumerable cases where the tax has not been paid, where it is now in litigation, or because of the insolvency or lack of ready cash mills cannot pay the tax?

Mr. MURPHY. I will say to the Senator that he has no right and the Congress has no right to indulge the presumption because a concern which has paid taxes on its goods is bankrupt that the processing tax is the explanation of its bankruptcy and that it shall repay the taxes.

Mr. GEORGE. I did not say that. I referred to cases where the processors have paid the tax and cannot recoup it. I merely give the Senator those instances. I doubt seriously if the Senator knows the condition of the cotton-textile business in the South, because, if he did, he would understand that there are large amounts of uncollected taxes, and to allow those who have not paid to escape and to exclude the mill that has willingly and voluntarily complied with the law from even an opportunity to go into court and show that it had not passed on its tax would be a type of discrimination between citizens I believe the Senator would not approve.

Mr. BANKHEAD. Mr. President, I should like to ask the Senator why does he conclude that those who have not paid will be excused from paying?

Mr. GEORGE. Suppose the law should be held to be unconstitutional?

Mr. BANKHEAD. We are ratifying the old law by this bill.

Mr. GEORGE. Then, suppose that the original act should be held to be unconstitutional?

Mr. BANKHEAD. Of course, if we just assume that we have no valid bill here, that presents a different situation.

Mr. GEORGE. Of course, if the tax should be held not to be illegal or invalid or unfair or unjust, nobody could ever recover it.

Mr. MURPHY. Mr. President, I should like to make this observation in reply to the Senator from Georgia: That industries have paid the higher wages imposed by the N. R. A., and the fact that a processor has paid the processing tax imposed by another act of Congress is not any reason why we should permit a recovery of the processing taxes or their abatement.

Is the demand for suit on this ground withheld because the processing tax is an easier mark to shoot at than are wages or because there are less involvments in attacking the processing tax than in attacking wages paid labor?

The senior Senator from South Carolina the other day said that Japan buys our cotton here, pays the freight around the world to her factories, where it is converted into cotton goods, and sells those goods with return freight, compensatory processing tax and tariff added, in American markets at less than the price for which goods of American manufacture are sold. Surely that cannot be viewed as proof that the

processing tax is responsible for the condition of the textile industry, because Japan pays not only the processing tax but the tariff on the goods she exports to us.

Cotton has a competitor in rayon, and rayon is competing with Japanese silk. Has the competition of rayon anything to do with the plight of the textile mills? It would appear that it has, because cotton textile manufacturers are in many instances turning their plants to the manufacture of rayon. In order to be consistent with the principle advanced here, the alleged equitable principle that taxpayers shall be permitted to recover damages, are we not obligated to reimburse the cotton textile processors as damages suffered in the amount of the capital outlay needed for the conversion of their plants into plants for the manufacture of rayon?

The cotton mills of New England pay freight on the raw cotton of the South transported to them. Many of them have moved to the South so as to avoid that item of cost. At one time we had much the same condition in Iowa. The Iowa processor of pork had a 50-cent advantage over the Chicago packer because he sent the hog dressed to market, whereas the Chicago packer brought the hog from the point of production on the hoof. The necessities of the situation compelled Chicago packers to buy or build plants in Iowa in order to equalize the competition, and they did so. That is the way progressive business meets many situations. As a case in point, recently the Tobin Packing Co., of New York, established a hog-killing plant in Fort Dodge, Iowa.

It is asserted that some pork-packing plants have been forced out of business by the processing tax. I think investigation of these plants would disclose that, processing tax or no processing tax, they would have been compelled to go out of business. Today we have this situation, that the big packers are absorbing the little fellows; buying them up. They are doing this in order to be rid of competition, to assure themselves a supply of hogs, and possibly for reasons related to the import quota fixed by England.

The PRESIDING OFFICER. The time of the Senator from Iowa on the amendment has expired.

Mr. MURPHY. Then, I will speak on the bill.

The PRESIDING OFFICER. The Senator has 30 minutes on the bill.

Mr. MURPHY. The processing tax paid on hogs finances, dollar for dollar, the corn-hog benefits paid the producers of hogs. There is no drain on the Federal Treasury from this tax. A glance at the financial statements of the big packers for last year discloses that they made very much money. They do not pass on the processing tax. It is my conclusion, stated on the floor here long ago, that in the first instance the processing tax on hogs was taken out of the producer. That view was expressed also by the Senator from Idaho [Mr. BORAH] and by my colleague from Iowa [Mr. DICKINSON]. On April 2, 1934, my colleague said this:

> With reference to the Iowa situation, the processing tax has been imposed upon hogs. What has happened to the price of hogs? It went down just as fast as the processing tax was put on.

One year later, 1935, my Iowa colleague said:

> I think there is no question but that both (producer and consumer) are contributing to the processing tax. I do not believe there is any yardstick by which to measure accurately the relative proportions. I think originally the producer paid more than he is now paying because as this matter has been gradually adjusted, more of the tax has been reflected in the price charged the consumer. I think for that reason we find a decline in the price paid the producer and the tremendous advance in the price paid by the consumer.

It was clearly the thought of my Iowa colleague, as indicated by these quoted utterances, that so much of the processing tax on hogs as was not taken from the hog raiser in the lower price paid him for his hogs was taken from the consumer.

The meat packers do not absorb the processing tax, neither the big packers nor the little ones. They do not absorb it because it would be an impossibility for them to pay it. The total of processing taxes paid on hogs to the end of May 1935 was $254,315,586.89. For them to pay that tax would have resulted long ago in the bankruptcy of the meat-packing industry. They could not pay it and survive. I am stating facts of very general knowledge. I do not see how I could face my people, who know well that when they have not paid the tax as producers the consumer has paid it, with a record of having voted against this committee amendment and thereby to have opened the door to the meat packers and extended an invitation to them to use their fertile minds in an effort to get back for themselves processing taxes paid by them as agents of the producer and consumer. If I should go back to my people with a record such as that, with a record of having opened the door to a raid on the Treasury, a raid in defiance of and in contempt of all principles of justice and equity, they would relegate me to the oblivion which I should so richly deserve.

The Senator from Idaho not only said that the processing tax on hogs was not paid by the processor but was collected from the producer, but he also said that the man who bought the jute bag, not the manufacturer of that bag, paid the processing tax on jute.

What about the tax on wheat?

I have here a photostatic copy of a clipping from the Food Field Reporter, issue of July 15, 1935, which carries a statement by Henry Stude, president of the American Bakers Association. I invite special attention to the third and fourth sentences in paragraph 2, reading as follows:

> Therefore the baker should not refuse to pay the tax to the miller. If he declines to pay, the miller is fully justified in refusing to ship.

So here is a statement from the president of the American Bakers Association stating flatly, without any qualifications whatever, that the flour millers, who are now suing for recovery of taxes, are paid these taxes by the bakers. Moreover, the statement advises the bakers to keep right on paying the tax to the millers, regardless of the tax suits. The bakers, of course, pass the tax along to the consumers of bread.

I assert, Mr. President, that when Congress was considering the subject of processing taxes, it was very well understood that such taxes would be passed on to the consumer. The only element of surprise is that, in the case of perishable meat products, the processing taxes were taken out of the producer until such time as the demand for the products overtook supply, since which time the tax has been passed on to the consumer.

Every processor in this country was given notice that the tax would be imposed and that it was expected of him and viewed as entirely ethical of him to pass that tax on to the consumer.

I assert that the processor who did not pass on the tax in the goods he sold is an incompetent business man and a menace to his competitors.

I assert further, Mr. President, that when and if processing taxes shall ever be recovered by any of the industries which paid them, their difficulties still will remain.

It is not in controversy that since the founding of our Government the principle of the Government's immunity to suit has been maintained. The discussion here of that old principle of law, a principle as old as Anglo-Saxon jurisprudence, has occupied 4 or 5 hours of limited debate. The question of the reversal of that principle impends.

My mind is a layman's mind, and I have no skill in law. The discussion leaves me without adequate information. There has been no reference here to the doctrine of the citizen being estopped from instituting suit for damages against a political division of the Government, because he is a part of that Government. Permission granted to institute such suit, I have been advised, would end in the destruction of the Government. I should like to have heard discussion of that matter at length by the lawyers.

After consideration occupying only a few hours, this body is about to throw aside a doctrine as old, as I have said, as our Government.

This Chamber, which has echoed with counsel not to disregard the warnings of the fathers of the country and of the

other great men who have preceded us here, and with appeals to weigh long and deliberately every proposal of departure from old principles, has rung in the debate with no such voice. I have not once heard the name of Washington, Jefferson, and Jackson, of Webster, Calhoun, or Clay, as advocates of the doctrine of the opponents of the committee amendment. None of them advocated abandonment of the principle which will be rejected if the amendment offered by the Senator from Georgia shall be adopted.

Mr. BAILEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. MURPHY. I yield.

Mr. BAILEY. I think the Senator is under some misapprehension about our position as a national policy. The Government has provided in a great many cases and in a very broad field the means whereby citizens may sue and recover. Let me invite his attention to the fact that in all cases of taxation the citizen has the right to file a claim for refund, and, after waiting 6 months, if the claim is refused he has the right to sue.

In cases of claims against the United States we have a fixed policy, as evidenced by the establishment of the Court of Claims; and in the Congress of the United States rarely does a week pass but that we recognize the moral obligation of granting the right to sue and recover. That is done through the Committee on Claims in the form of bill after bill, jurisdictional bills.

So the argument that we are advocating abandonment of the policy cannot stand at all in the light of the facts.

Mr. BANKHEAD. Mr. President, will the Senator from Iowa yield?

Mr. MURPHY. I yield.

Mr. BANKHEAD. I suggest to my colleague on the committee, the Senator from Iowa, in answer to the statement by the Senator from North Carolina, that the right to sue the Government is a limited one. The argument made here that it should at all times prevail has never prevailed and does not now prevail.

Mr. BAILEY. Will the Senator tell me wherein it has been limited with respect to the recovery of taxes paid?

Mr. BANKHEAD. I did not say it had been limited with respect to taxes.

Mr. BAILEY. That is what we are talking about.

Mr. BANKHEAD. Yes; but there is no reason, because it has been granted uniformly on one subject, to say it is a violation of a proper system of government to limit it on others. I point out to my friend that Congress must delegate that power, must grant the power and the right to sue the Government in any instance before the right exists, and also it has at all times the right to withdraw any such jurisdiction of the court.

Mr. BAILEY. The Senator just conceded that it is and long has been the fixed policy of the Government to allow a taxpayer, having paid his taxes, to go into the courts and test the righteousness of the tax, its amount, its validity, and every other aspect of it. The committee amendment negatives that right, and the substitute merely accords with the fixed policy with regard to taxes.

Mr. MURPHY. Mr. President, I gather from the debate to which I have listened, and from such information as I have been able to gain otherwise, that the principle of the Government's immunity to suits is well established and that the only circumstances under which that right is now sought to be waived is a claimed circumstance that the tax was paid by the processor. I have been at some pains to establish from the facts submitted that not one scintilla of proof has been submitted here that any taxpayer has himself absorbed the tax. I am not in favor now, on a showing of that kind, of opening the doors to suits for recovery.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. MURPHY. May I inquire how much time I have?

The PRESIDENT pro tempore. The Senator has 17 minutes remaining.

Mr. MURPHY. I have ample time, so I yield to the Senator from New York.

Mr. WAGNER. What is difficult for me to understand, in view of the argument of the Senator from Iowa, is that this very bill seems to recognize a distinction which I cannot comprehend between the taxpayer who has paid the tax and the taxpayer who may be required to pay the tax under the pending bill.

Mr. MURPHY. I will say to the Senator in reply to his query that as to the tax already paid we are in the position of validating the act of our agents. As to the tax to be imposed in the future, we are extending the right to recover.

Mr. WAGNER. But in simple language, whatever technical distinction the Senator may make, it simply means that the taxpayer who has paid the tax under the original act, even though eventually that act may be declared to be unconstitutional and the tax held to be illegally exacted, has no remedy at all to recover even though he may be able to establish to the satisfaction of the court that he himself absorbed the tax. Yet the taxpayer who may pay the tax under the pending bill, if it should become a law, and later should be declared to be unconstitutional, is told that he is going to be treated as a favored taxpayer; that he may go into court, and, if he can show that he absorbed the tax himself, he may have the right to recover. It is a distinction I cannot comprehend, and I believe it is an injustice to the taxpayer of the past. I should like an explanation of that distinction.

Mr. MURPHY. The revenues in the form of processing taxes have been collected, as we contend and as few deny, from either the consumers or the producers of the goods. There is no recognition in my mind of any equitable claim on the part of the processor to recover such taxes.

Mr. WAGNER. Mr. President, will the Senator from Iowa yield to me and take it out of my time?

The PRESIDENT pro tempore. The Chair will say to the Senator from New York that he cannot yield his time in that way.

Mr. WAGNER. Very well; I shall not take the time of the Senator from Iowa.

Mr. MURPHY. Mr. President, I am impressed that we are proceeding in unseemly haste, without that due deliberation and debate which those of our people who cherish our past as safeguarding justice and conserving national morality would enjoin upon us were they informed regarding what it is we meditate.

It appears to me, Mr. President, that the courts should not be opened to question the raising of money or its appropriation by Congress except upon the constitutional ground that the tax is not uniform. That objection has not been raised here. Throughout the history of this country it has been the view of statesmen and the Supreme Court itself that Congress and the Executive are the sole judges of the necessity for a tax and the purposes for which it should be expended.

Mr. BAILEY. Mr. President, will the Senator permit a question at that point?

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. MURPHY. I yield.

Mr. BAILEY. Then the Senator is prepared to contend that the power of Congress to tax should never be challenged in any court, but that we should exercise unlimited power regardless of the Constitution?

Mr. MURPHY. I shall quote on that subject something from President Monroe, whose utterances may be considered as carrying much more weight than mine.

Mr. GORE. Mr. President, will the Senator yield?

Mr. MURPHY. I yield.

Mr. GORE. The Senator said that the tax ought not to be challenged except on the ground of uniformity. The newspapers report the decision of the United States circuit court of appeals in Boston a few days ago, stating that the court held that if the processing tax be a direct tax, then it is void

because it is not based on the rule of apportionment; if the processing tax be an indirect tax, be an excise tax, then it is void because it does not observe the rule of uniformity. Taking either horn of the dilemma, the tax is a void tax. Would the Senator close the courts against that sort of contention?

Mr. MURPHY. Lest I may not finish before the expiration of my time, if the Senator will indulge me, I should like to proceed with this statement from President Monroe. I am asserting that throughout the history of the country it has been the view of statesmen and of the Supreme Court itself that Congress and the Executive are the sole judges of the necessity for a tax and the purposes for which it should be expended.

President Monroe said, in his message to the Seventeenth Congress:

> It was evidently impossible to have subjected this grant, in either branch, to such restriction, without exposing the Government to very serious embarrassment. * * * Had the Supreme Court been authorized, or should any other tribunal, distinct from the Government be authorized, to impose its veto, and to say that more money had been raised under either branch of this power, that is, by taxes, duties, imposts, or excises, than was necessary; that such a tax or duty was useless; that the appropriation to this or that purpose was constitutional—the movement might have been suspended, and the whole system disorganized. It was impossible to have created a power within the Government, or any other power, distinct from Congress and the Executive, which should control the movement of the Government in this respect and not destroy it.

Mr. President, I am impressed that the attack on this committee amendment is an attack on the processing tax itself. To my mind, the effect of this attack is to discredit the Agricultural Adjustment Act. As I view it, we would be more frank if we should refuse altogether to adopt these amendments than to attack the whole program by an indirect method.

The effort here is to make the Federal Treasury bail out an inefficient and overexpanded industry, the cotton-textile industry. Moreover, we are in the attitude of urging the processors to sue the Government, and commending the plaintiffs to the favorable consideration of the courts. We are throwing open the doors of the Treasury to the processors, with an invitation to raid it. We are saying to these special interests, "Here is the $900,000,000 you paid; come and get it."

Mr. President, possibly I am too sophisticated; possibly I am too cynical; but I have had to find my way around, and so far I have escaped being run down by the cars. When the lawyers and the accountants whom the processors engage for the job begin to operate, the income-tax refunds made in the Harding administration will look like 30 cents.

Mr. ROBINSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Arkansas?

Mr. MURPHY. I yield.

Mr. ROBINSON. Has the Senator any means of estimating the number of lawsuits this so-called "compromise amendment" will invite and provoke?

Mr. MURPHY. I made an effort to ascertain how many there could be, but I was unable, in the very limited time given me, to ascertain; but it is a stupendous number, I think.

Mr. BAILEY. Mr. President, may I undertake to throw a little light on that inquiry?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. MURPHY. I do.

Mr. BAILEY. The very fact that this proposed legislation makes a distinction between past taxes and future taxes has probably notified everyone in America to enter his suit; and I think the number, as stated in the newspapers, is about 300. I think that is a fair estimate of the number.

Mr. ROBINSON. Mr. President, I think the Senator from North Carolina has greatly underestimated the number. If the Senator from Iowa will permit me just a brief statement——

Mr. MURPHY. Certainly; I yield.

Mr. ROBINSON. The vice in the compromise amendment is not in its form. In theory it is fair, but in practical result it will invite everyone who has paid the processing tax to enter proceedings against the Government for its recovery; and those who actually have passed it on, particularly including the large taxpayers, may be in the best position to establish their claim. If they should swear that they had not passed on the tax, it would be difficult for any lawyer to establish the contrary or to overcome the presumption which would arise from the simple assertion of the fact that the tax had not been passed on.

Mr. BANKHEAD. Mr. President, let me say to the Senator——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Alabama?

Mr. MURPHY. I decline to yield for the moment until the Senator from Arkansas shall have concluded.

Mr. ROBINSON. It will be found that all the big claimants will attempt to recover their claims, and the little claimants will not be able to establish their claims. The big claimants have already passed the tax on to the consumer or turned it back to the producer. As I showed yesterday, that was admitted in a number of public addresses by the Senator from Idaho [Mr. BORAH]. No Senator has been able to show where the original payer of the tax has not passed it on to the consumer.

Mr. MURPHY. Before the Senator from Arkansas takes his seat I will say that my office has just transmitted to me the information he sought to elicit from me. There were 900,000 floor-stock-tax payers and 49,000 processing-tax payers. The invitation is to all of them—a total of 949,000—to "come in and get it."

Mr. ROBINSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa further yield to the Senator from Arkansas?

Mr. MURPHY. I do.

Mr. ROBINSON. I thank the Senator.

The adoption of this amendment, then, will hail the dawn of a glorious day for the lawyers. It will probably induce thousands of lawsuits.

Mr. BORAH. Mr. President——

Mr. MURPHY. I yield to the Senator from Idaho.

Mr. BORAH. As I understand, this amendment as it is now proposed——

Mr. MURPHY. Will the Senator indulge me for a moment, until I inquire how much time I have left?

The PRESIDING OFFICER. The Senator has 5 minutes left.

Mr. BORAH. Then I will not interrupt the Senator.

Mr. MURPHY. I yield to the Senator from Idaho.

Mr. BORAH. I will not interrupt.

Mr. MURPHY. I am very happy to have the Senator interrupt, because it will require only a sentence or two to complete my remarks.

Mr. BORAH. I was about to say that with the safeguards thrown about this amendment as it is now proposed it would be impossible for those to recover who some Senators are afraid may recover. The burden is upon them to prove that they have not passed on the tax or that they have not sent it back to the producer.

Mr. ROBINSON. Mr. President, will the Senator from Iowa permit a further interruption?

Mr. MURPHY. I yield to the Senator from Arkansas.

Mr. ROBINSON. When a claimant swears that he has not passed on the tax, how will it be possible to establish the contrary? And if he asserts a claim, he will be certain to give that evidence.

Mr. BORAH. Of course, if the opposition to this amendment is based upon the assumption that taxpayers will go into court and commit perjury——

Mr. ROBINSON. Mr. President, I have not the slightest doubt that as a result of the adoption of this amendment there will be many instances in which fraudulent or bogus claims will be presented.

Mr. BORAH. And with all the power and all the agents and all the capacity of the Government to uncover that

class of men, they would land in the penitentiary instead of getting a judgment.

Mr. MURPHY. I will say to the Senator from Idaho that I have great respect for the human mind, and its fertile resources can hardly be imagined.

Mr. BORAH. If that argument be good, we should close the courts entirely.

Mr. MURPHY. I will say to the Senator from Idaho that the reference is not to the courts.

In conclusion, permit me to state——

Mr. WAGNER. Mr. President, will the Senator yield just once more?

Mr. MURPHY. I yield.

Mr. WAGNER. I desire to reiterate that the Senator from Iowa does not express the same apprehension about the taxpayer who is going to pay taxes in the future. He is quite willing to take the chance that he is not to recover unless he shows that he absorbed the tax; but there seems to be something about the past which differentiates it from the future in that respect.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Alabama?

Mr. MURPHY. I must decline to yield, Mr. President. I desire to conclude my statement.

We ought clearly to understand what we are doing here. We are attacking the A. A. A. from the rear, stabbing it in the back, wrecking the agricultural program which has raised prices to producers in fulfillment of a promise made them when we sought their votes. We ought to understand that we are doing this to make special interests the beneficiaries of our act.

Mr. ASHURST. Mr. President, during the address of the able Senator from Georgia [Mr. GEORGE], with his permission, I interrupted to say that I did not see any decided similarity between the instant case and the so-called "gold-clause securities bill." Subsequently thereto, the able Senator from Ohio [Mr. BULKLEY] called my attention to the fact that if I should examine further, he thought I would be convinced that there is some similarity.

I undoubtedly overspoke myself when I said that there is no similarity, because there is some. What I intended to say was that, in my opinion, there is no unconstitutional feature about the so-called "gold-clause bill"; but I think now, and always have thought, that the processing tax was void, and that the courts would so hold. That makes a distinction. I am asked to vote for a tax which I believe to be beyond the power of Congress to lay or collect, and then I am asked to vote to prohibit the courts from inquiring into that which I believe to be unconstitutional. Sir, I cannot do it.

I am not assaulting the processing tax of the A. A. A. from the rear, but from the front.

Mr. BULKLEY. Mr. President, I desire to remind the Senator that the Supreme Court has held that it was unconstitutional for us to revalue the dollar insofar as it affected the Government's obligation in the gold-clause bonds.

Mr. ASHURST. I am aware of that. I have listened to almost every word of this debate. This is a debate worthy of the Senate.

The reason why I have not participated in it to the extent I should have liked to do is that I have not the learning or the capacity to debate the question as would be becoming here, as I am not a member of the committee. I have listened with patience and with instruction to the speeches made; the speech of the able Senator from Alabama [Mr. BANKHEAD] and the brilliant address which the able Senator from Iowa [Mr. MURPHY] has just concluded.

I am not what may be denominated "a man searching with a microscope to find unconstitutionalities" and ways of avoiding laws which Congress wishes to pass. This is one of the few times when I have been invited to walk up and vote for a tax beyond the power of Congress to lay.

Mr. BAILEY. Mr. President, I shall not detain the Senate long. I am very much astonished that my good friend the Senator from Iowa [Mr. MURPHY] should make remarks here calculated to reflect upon the motives of his colleagues and equals. The suggestion that, because men are earnestly advocating that a taxpayer shall have the right to test the constitutionality of a tax imposed upon him, they are representing special interest does not require answer, and it is not worthy of condemnation.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. MURPHY. I should be far from imputing any unworthy motives to the Senator from North Carolina, for whom I have great respect. I thought I made clear that the effect of the action that might be taken here would be what I suggested.

Mr. GEORGE. Mr. President, may I ask the Senator if he desires to except only the Senator from North Carolina?

Mr. MURPHY. By no means. I extend the remark whole-heartedly also to the Senator from Georgia.

Mr. GEORGE. I thank the Senator.

Mr. BAILEY. Mr. President, I think the sentiment of the Senator from Iowa should be extended to every Senator here.

Mr. BARKLEY. Mr. President, if this is to be an experience meeting, I want to get in on it. [Laughter.]

Mr. BAILEY. If the Senator wishes to treat this with humor, I will suggest that if he wishes to get in on the experience meeting, the proper thing for him to do is to come to the mourner's bench and confess his sins.

Mr. BARKLEY. There are no sins to confess and I have done nothing for which I am in mourning.

Mr. BAILEY. Mr. President, I am incapable of disavowing things of the sort mentioned by the Senator from Iowa. If men wish to charge me with bad motives, they can charge me with bad motives, and I am not going to defend myself. I never have done so. When I reach the point in the Senate of the United States when I have to testify to my character, I will get out.

The Senator did not hesitate to say that those of us who advocated the right of taxpayers to test the constitutionality of a tax imposed upon them were attacking the A. A. A. bill from the rear. Of course, that is special pleading; that has nothing to do with the merits of the question. Why should he pass that judgment upon me?

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

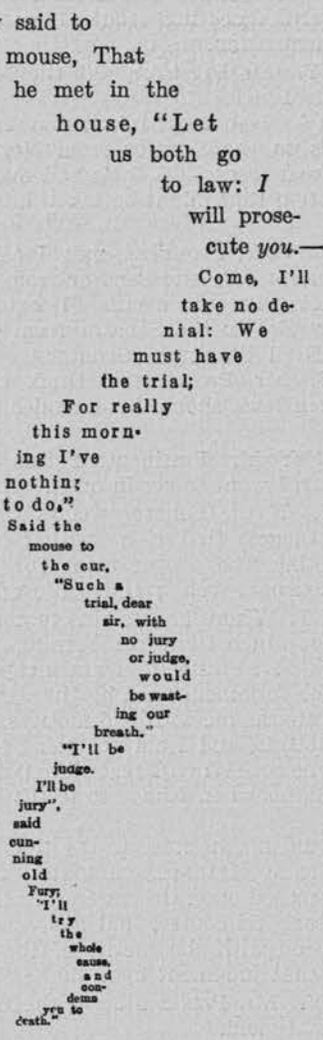
Mr. MURPHY. I have in mind that within the last few weeks, if the Senator please, some 140 suits have been instituted, almost simultaneously, attacking the constitutionality of the A. A. A. Act. It was that I had in mind, not any conspiracy on the part of the Senator from North Carolina, the Senator from Georgia, or other Members of this body.

Mr. BAILEY. I accept very freely what the Senator says. I shall not get into any quarrel with him; I have not the slightest idea of doing anything of that sort. But if he had said that, it would have relieved me of something of a sense of necessity of doing a thing rather disagreeable. He just said that he interpreted these court proceedings as attacks. I think we might have understood that; but, even so, I question whether a man in the Senate of the United States has the right to use this arena to pillory the humblest man who ever lived when he undertakes to assert his rights in a court of law.

There is no superiority here, and I abhor, I hate, I despise, a course of procedure which uses this arena to call in question the character of the President of the United States, as has been repeatedly done. But, defending the President against that sort of thing, I will equally defend the humblest Negro in North Carolina against that sort of thing. This is a country of equals. There is no class, there is no office or official station.

Mr. President, all I have done—and I shall continue to do it—is to urge that the constitutional rights of human beings in the United States shall be preserved and shall be respected.

I listened to the speech of the Senator with a very great deal of interest, and it brought to my mind Alice in Wonderland. I think I will read a little, entitled "The Mouse's Tail", from page 50 of Alice in Wonderland. It is a sufficient commentary on his argument:



The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia, as modified, to the amendment of the committee.

The amendment to the amendment will be stated.

The CHIEF CLERK. In lieu of the matter proposed to be inserted on page 61, line 15, to line 12, page 62, it is proposed to insert the following:

(d) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counterclaim be allowed for any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, or in the case of a judicial proceeding establishes in such proceeding (1) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, that he has not collected from the vendee any part of such amount, and that the price paid to the producer was not reduced by any part of such amount, or (2) that he has repaid such amount to the ultimate purchaser of the article, or in case the price paid to the producer was reduced by such amount, to such producer; nor shall any judgment or decree be entered by any Federal or State court for damages for the collection thereof, unless the claimant establishes the foregoing facts, in (1) or (2) as the case may be, in addition to all other facts required to be established. The provisions of this subsection shall not apply to any refund or credit under subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

Mr. GEORGE. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. CONNALLY. I desire to announce that my colleague [Mr. SHEPPARD] is detained by important business. I should like this announcement to stand for all votes today.

Mr. ROBINSON. I wish to announce that the Senator from South Carolina [Mr. BYRNES], the Senator from Colorado [Mr. COSTIGAN], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Texas [Mr. SHEPPARD], and the Senator from Utah [Mr. THOMAS] are unavoidably detained from the Senate.

I wish further to announce that the Senator from West Virginia [Mr. NEELY] and the Senator from Arizona [Mr. HAYDEN] are detained in committee meetings. I am informed that the Senator from Arizona would vote "nay" if he were present.

I wish also to announce that the Senator from Massachusetts [Mr. COOLIDGE] is detained on departmental matters. I am advised that if present he would vote "yea."

Mr. AUSTIN. I announce the necessary absence of the Senator from Delaware [Mr. HASTINGS], who is paired with the Senator from Texas [Mr. SHEPPARD] on this question. If present, the Senator from Delaware [Mr. HASTINGS] would vote "yea", and the Senator from Texas [Mr. SHEPPARD] would vote "nay."

The result was announced—yeas 61, nays 23, as follows:

YEAS—61

Adams	Davis	Lonergan	Schwellenbach
Ashurst	Dickinson	Long	Shipstead
Austin	Donahey	McAdoo	Smith
Bachman	Duffy	McCarran	Steiwer
Bailey	Fletcher	McNary	Townsend
Barbour	George	Maloney	Trammell
Barkley	Gerry	Metcalf	Tydings
Bone	Gibson	Minton	Vandenberg
Borah	Glass	Norris	Van Nuys
Bulkley	Gore	Nye	Wagner
Byrd	Hale	Overton	Walsh
Capper	Johnson	Pittman	Wheeler
Carey	Keyes	Pope	White
Chavez	King	Radcliffe	
Clark	La Follette	Reynolds	
Copeland	Logan	Schall	

NAYS—23

Bankhead	Caraway	Holt	Norbeck
Bilbo	Connally	McGill	Robinson
Black	Frazier	McKellar	Russell
Brown	Guffey	Moore	Thomas, Okla.
Bulow	Harrison	Murphy	Truman
Burke	Hatch	Murray	

NOT VOTING—12

Byrnes	Couzens	Hayden	O'Mahoney
Coolidge	Dieterich	Lewis	Sheppard
Costigan	Hastings	Neely	Thomas, Utah

So Mr. GEORGE's amendment, as modified, to the committee amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the committee amendment as amended.

Mr. BANKHEAD. Mr. President, what subsection is that?

The PRESIDING OFFICER. The Chair will state that the amendment just agreed to was the one beginning in line 15, on page 61.

Mr. BORAH. Mr. President, has the amendment on page 61 been finally disposed of?

The PRESIDING OFFICER. The Chair's understanding is that the amendment which previously had been adopted was reconsidered by unanimous consent for the purpose of allowing the Senator from Georgia [Mr. GEORGE] to offer an amendment to it. The amendment of the Senator from Georgia to the committee amendment has just been agreed to. The question now recurs on the committee amendment as amended.

Mr. GEORGE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GEORGE. Was the vote by which the committee amendment was agreed to restricted to subsection (d)?

The PRESIDING OFFICER. The entire amendment, beginning in line 21, on page 60, was reconsidered.

Mr. GEORGE. The entire amendment was reconsidered?

The PRESIDING OFFICER. The entire amendment was reconsidered by unanimous consent.

Mr. GEORGE. Mr. President, before the final vote is taken may I call the Senate's attention to subsection (f) on page 63?

The PRESIDING OFFICER. The Chair will state to the Senator from Georgia that subsection (f) is not included in the committee amendment. The committee amendment is from line 21, on page 60, through line 12, on page 62.

Mr. GEORGE. The Chair is entirely correct, but subsection (f) is also a part of this same general section, and if the vote by which the entire section was agreed to was reconsidered, then this subsection (f) necessarily was included.

The PRESIDING OFFICER. The Chair will state to the Senator from Georgia that, as the Chair understands, the reconsideration applies to the committee amendment beginning in line 21, page 60, and extending through line 12, on page 62.

Mr. GEORGE. Mr. President, I do not think there will be any controversy about it. Section (f) contains language which is slightly inconsistent with the language which has now been inserted; that is to say, the language in parentheses in subsection (f) on page 63, beginning in line 14—

(and, in case any part or application of subsection (a) of this section is held invalid, which may have heretofore accrued)—

That makes applicable section 3226 of the Revised Statutes, which, among other things, contains limitation upon the time within which any refund may be claimed, and since now the right of recovery is given to the taxpayer under the existing law and that right will be given the taxpayer who may be affected by the amendatory act after its passage, I am sure the author of the bill will agree that this language ought to be modified, and nothing is necessary except to strike out the language in parentheses beginning in line 14, on page 63—

(and, in case any part or application of subsection (a) of this section is held invalid, which may have heretofore accrued)——

Mr. NORRIS. Mr. President, the Senate has not completed action on this amendment.

Mr. GEORGE. That is true. The Senator is entirely correct in that statement.

Mr. NORRIS. We ought to vote on the committee amendment, as amended.

Mr. GEORGE. My first inquiry related to just how far the unanimous consent to reconsider extended, and if it extended to and included subsection (f) I was going to move an amendment.

Mr. NORRIS. That would be all right, but if we are to proceed in orderly fashion it seems to me we ought to vote now on the amendment, as amended.

Mr. GEORGE. The Senator is entirely correct.

The PRESIDING OFFICER. The question is on the committee amendment, as amended.

Mr. BARKLEY. Mr. President, did the Senator from Georgia insert the language to which I called attention yesterday?

Mr. GEORGE. Yes, Mr. President; that is inserted in the amendment.

The PRESIDING OFFICER. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. GEORGE. Mr. President, while I know the parliamentary situation is not clear, I ask unanimous consent that the language which I have read, beginning with the parenthesis on page 63, line 14—

(and, in case any part or application of subsection (a) of this section is held invalid, which may have heretofore accrued)—

be stricken out so that the same statutory period of limitation will apply to those who claim any refund, both under the existing law and under the act, as amended.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. NORRIS. I am in accord with what the Senator is trying to do, but it seems to me that before we vote to strike out that language we ought to dispose of the committee amendment, on pages 57 and 58. The amendment begins on page 57 and ends on page 58. Having adopted the amendment on page 61, as amended, to be consistent, we ought now to dispose of the amendment on page 58, and, in order to be consistent, the committee amendment should be disagreed to.

Mr. SMITH. Yes. That would begin in line 22, page 57.

The PRESIDING OFFICER. That amendment was passed over by unanimous consent, and any time any Senator demands the regular order, that amendment is the regular order.

Mr. SMITH. I demand the regular order.

The PRESIDING OFFICER. The question is on the committee amendment, beginning in line 22, page 57, to and including line 5 on page 59.

Mr. BANKHEAD. Mr. President, while the vote just taken did not directly involve the provisions in this section, I still recognize that indirectly it was involved. I think the Senate vote is decisive on the issue, and I have no purpose of making further insistence by way of argument on this committee amendment. I shall ask for the yeas and nays on the committee amendment.

Mr. PITTMAN. Mr. President, it seems to me that that amendment should be divided in some way. The committee amendment strikes out the permission to bring suit and then adds other language. If we agree to the committee amendment, then we strike out the permission to bring suit. If we disagree to the committee amendment, then we put into force and effect the House language prohibiting the bringing of suit.

Mr. BORAH. The two go together.

Mr. PITTMAN. That amendment must be separated in some way.

Mr. BARKLEY. To reject the committee amendment will restore the language of the House bill stricken out by the committee. It will then be necessary, if that language is to be eliminated, to move to strike it out, because merely to reject the committee amendment restores the language adopted by the House.

Mr. NORRIS. According to the procedure under which we are operating, that question will come after the disposition of the committee amendments.

Mr. BARKLEY. Yes; that is true.

Mr. NORRIS. A motion will very likely be made by the chairman of the committee to strike out the House language commencing on line 22, which would be restored, it is true, if the Senate rejects the committee amendment. I do not see any other parliamentary way to accomplish that end.

Mr. BORAH. The first step to take would be to reject the committee amendment on page 58.

Mr. NORRIS. That is correct. But the committee amendment on page 58 strikes out the House language and inserts new language. The rejection of that amendment would have the effect of striking out the language of the committee amendment, but it would likewise have the effect of restoring the House language which we desire to strike out, and that would have to be done, when we get through the committee amendments, by striking out the House text.

Mr. CONNALLY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CONNALLY. Is not the question to strike out and insert divisible?

The PRESIDING OFFICER. The Chair will state to the Senator from Texas that the understanding of the Chair is that if the committee amendment beginning on line 3, page 58, and running to line 15, on page 61, be rejected, it would have the effect of restoring the language of the House bill.

Mr. CONNALLY. The point I make is that the motion to strike out and insert is divisible.

The PRESIDING OFFICER. The Chair will state that, under the Senate rules, a motion to strike out and insert is not divisible, a specific exemption being made.

Mr. LA FOLLETTE. Mr. President, it may be done by unanimous consent, and I ask unanimous consent that the committee amendment may be divided so that a vote may first be taken on the amendment of the committee to strike out the language beginning in line 22, page 57, and ending

with a period on line 3, page 58, and that then a vote may be taken upon the text which the committee proposes to insert.

Mr. GEORGE. I should like to call attention to the fact that if the committee amendment beginning on line 22, page 57, down to the beginning of the italics in line 3, page 58, shall be disagreed to, we will have agreed substantially to the same language that is in italics.

Mr. LA FOLLETTE. The Senator misunderstood my request. I simply asked that the Senate have a right to vote upon the amendment of the committee in two parts; first, on the committee amendment to strike out, and then take a vote on the amendment to insert that portion of the amendment which is printed in italics. If the Senate will permit that to be done, then we may vote for the amendment of the committee to strike out the language, and we may vote to reject the portion which the committee have moved to insert, and the matter will be settled.

The PRESIDING OFFICER. The Senator from Wisconsin asks unanimous consent that a vote first be taken on the motion to strike out the language beginning in line 22, page 57, and extending through line 3, on page 58, and that thereafter a vote be taken on the committee amendment to insert. Is there objection? The Chair hears none. The question is on the amendment to strike out the language of the House bill beginning on line 22, page 57.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the committee amendment beginning in line 3, page 58, and extending through line 15.

Mr. BANKHEAD. I ask for the yeas and nays.

The PRESIDING OFFICER. On that question the Senator from Alabama demands the yeas and nays. Is there a second?

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was rejected.

Mr. GEORGE. Mr. President, there is another amendment in this subsection which, I believe, begins in line 1, page 59, but it is a part of the same subsection.

The PRESIDING OFFICER. The Senator's statement is correct.

Mr. GEORGE. We are simply proceeding here by piecemeal. That identical provision has been incorporated in the amendment which has already been adopted.

Mr. SMITH. To what does the Senator from Georgia refer?

Mr. GEORGE. To the Senate committee amendment at the top of page 59 in subsection (a).

Mr. SMITH. May I call the attention of the Senate to the fact that, beginning with line 16, page 58, the compromise amendment which has been adopted in lieu of the committee amendment involves all the House text, and also the amendment to which the Senator refers?

Mr. GEORGE. The Senator from South Carolina is entirely correct; and in order to carry out really what the Senate has done there ought to be unanimous consent now asked and given by the chairman, it seems to me, to consider all of subsection (a), so that we may dispose of it while we are on it.

Mr. SMITH. Mr. President, I ask unanimous consent that in section 21 (a), which we have modified by the action just taken down to line 15, inclusive, on page 58, the Senate now vote on that part of the section beginning in line 16, page 58, down to line 5, on page 59, inclusive.

Mr. GEORGE. The Senator from South Carolina, I understand, asks unanimous consent that the Senate may now vote upon that?

Mr. SMITH. That the Senate may now vote upon that.

Mr. GEORGE. Then, Mr. President, I move that that be stricken, because it is covered already by the substitute amendment which has been adopted.

The PRESIDING OFFICER. The Senator from South Carolina asks unanimous consent that the language beginning with line 16, page 58, and extending to line 5, page 59, be treated as one matter. Is there objection? The Chair hears none, and it is so ordered. The question now is on the amendment of the Senator from Georgia to strike out the language as mentioned embraced within the lines and pages stated.

The amendment was agreed to.

Mr. TRUMAN obtained the floor.

Mr. BORAH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. TRUMAN. I yield.

Mr. BORAH. There is matter on page 60 which will have to be reconsidered; but, in view of the fact that it is not a committee amendment, I presume it will come later when individual amendments may be offered.

The PRESIDING OFFICER. Under the unanimous-consent agreement individual amendments will not be in order until after committee amendments shall have been disposed of.

Mr. TRUMAN. I move to reconsider the vote by which the amendment offered by the Senator from Pennsylvania [Mr. GUFFEY], proposing to strike out the word "barley" from the committee amendment on page 38, line 4, was rejected.

The PRESIDING OFFICER. The Chair will state to the Senator from Missouri that before there can be a reconsideration of the vote by which the amendment of the Senator from Pennsylvania was rejected it will be necessary to make a motion to reconsider the vote by which the committee amendment was adopted.

Mr. TRUMAN. Very well; I make that motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri to reconsider the vote by which the amendment at the top of page 38, as amended, was adopted.

Mr. FRAZIER. Mr. President, the motion of the Senator from Pennsylvania [Mr. GUFFEY] was discussed briefly prior to a vote being taken on it a day or two ago. The only excuse for striking barley from the bill is in the interest of the brewers of the country. Of course, it is true that quite a percentage of barley goes into the manufacture of beer. I made the statement on the floor that, according to the figures given to me by a man who claimed to know what he was talking about, that only 5 pounds of barley are used in the making of a barrel of 31 gallons of beer.

Five pounds of barley at the present price would be worth less than 5 cents, about 2½ cents, and if a 25-cent processing tax should be placed on barley it would be worth about a cent a pound. That would make 5 cents' worth of barley in a barrel of beer. So, Mr. President, there is little excuse for striking barley from the provisions of the bill.

If barley should remain in the bill, and the Secretary of Agriculture should see fit to carry out the provision and apply the processing tax, it would mean that the farmers who grow barley will get a part of the processing tax of 25 cents per bushel on the quantity that is used in the brewing of beer or ground into flour. Only a very small portion of the barley is ground into flour, but quite a large percentage goes into the manufacture of beer. The farmers would get the benefit from the processing tax. The benefit would not amount to 25 cents a bushel to the farmer, but only a portion of that; I do not know exactly how much, but probably 10 or 15 cents. However, what little benefit would accrue to the farmer would help him that much. An increase of 5 cents on a barrel of beer would amount to little in the wholesale price of the beer and amount to less to the consumer who buys beer by the bottle or glass.

It seems to me a rather small proposition, in order to benefit brewers 5 cents on a barrel of beer, to strike out barley, the inclusion of which is designed for the benefit of the farmers who produce barley in this country and who are selling it below cost of production, the price being down to 25 cents a bushel at the present time. If the Senate wants to vote that way, of course, it is entitled to do so.

Mr. President, there have been some votes taken on this measure which seem to me to indicate that a majority of the

Senate are not in favor of doing anything for the farmers or trying to do anything for the farmers, but do want to do something for the wholesalers and manufacturers, and now for the brewers of beer. In the case of a 31-gallon barrel of beer, the barley for which costs them less than 5 cents, they want to prevent a small processing tax being placed on barley for fear that there might be an increase of a cent or two more on a barrel of beer.

Mr. NORRIS. Mr. President, I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NORRIS. I do not know who made the motion to reconsider, and I am asking the Chair if the motion to reconsider was made by a Senator who is qualified under the rule to make it?

The PRESIDING OFFICER. The Chair will state that the motion was made by the Senator from Missouri [Mr. TRUMAN].

Mr. TRUMAN. Mr. President, I will say that I voted against the amendment of the Senator from Pennsylvania to the amendment of the committee, and that I voted for the committee amendment, as amended.

The PRESIDING OFFICER. The Senator from Missouri states that he voted for the committee amendment, as amended, and against the amendment of the Senator from Pennsylvania, which was rejected.

Mr. SHIPSTEAD. Mr. President, I wish to call the attention of the Senate to the purpose of this bill. The purpose of the bill is to remove the handicap placed upon producers of farm products. The special privilege which industry has enjoyed since the Civil War in the protective tariff has undoubtedly had as much to do with the concentration of wealth in the hands of a few, and with monopolistic practices and monopolistic prices, as has any policy pursued by the American Government. That is a special-privilege policy which is un-American. Every political party of the country in fine phrases has protested against such special privileges and pledged a guaranty of his full rights to every citizen.

The purpose of the bill is to give to the farmer a sufficient equalizing privilege with industrial life of America to remove the handicaps placed upon him.

The Paint Trust of the United States was able to take the flax farmer out of the bill for the benefit of industry. And now the brewing industry, an industry which has enjoyed not only prosperity but great privileges, is endeavoring to make the farmer furnish the raw material for less than cost of production. Such a proposal is antagonistic to every purpose of the agricultural policy upon which the bill is founded. If we are going to give protection to every farmer of the country, why discriminate against the barley farmer and the flax farmer? We have already taken the flax farmer out of the bill. Are we going to take the barley farmer out of the bill for the benefit of the industry which uses the raw material?

Mr. NORRIS. Mr. President, I want to say just a word about the parliamentary situation as I see it. This is a motion to reconsider the vote by which the amendment in lines 1 to 13, page 38, of the bill was adopted. That is the amendment which includes barley and other commodities. If the motion prevails and we reconsider the vote by which we adopted the amendment, it will immediately be followed by a motion to reconsider the vote by which barley was retained in the amendment. If that motion shall be carried, then we will vote on a motion to strike out barley. If we are opposed to striking out barley we can settle the whole question now by voting against reconsideration of the vote by which the amendment was adopted.

That is the parliamentary situation, and the real test before the Senate is whether we want barley in or whether we want barley out. Believing as I do that barley ought to stay in the bill I am opposed to the motion to reconsider.

While I do not want to reargue the question of barley, yet when we come to settle the question of leaving barley in or taking barley out, we have, on the one hand, the interest of the barley farmers, who number many and who want to get a higher price for their barley, and, on the other hand, we have the brewer who uses most of the barley and who wants to buy his barley as cheaply as he can in order that the rest of us may pay a little less for our beer if he passes the saving on to us.

Mr. LONG. Mr. President, will the Senator yield?

Mr. NORRIS. Yes; I yield.

Mr. LONG. Has the Senator no sympathy for the poor beer drinker? [Laughter.]

Mr. NORRIS. Yes; I have great sympathy in this weather for the poor beer drinker, but the beer drinker ought to be able, it seems to me, to pay a price for his beer that would enable the farmer, who produces the barley, to obtain a reasonable price for his barley.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. NORRIS. Certainly.

Mr. ROBINSON. How much more would he have to pay for a glass of beer if barley were kept in the bill than if it were taken out? The Senator from Nebraska is a recognized expert on this question! [Laughter.]

Mr. NORRIS. Yes; and I heard it said all around the Chamber the other day, when we voted on the barley amendment, that if we wanted 5-cent beer we would have to take barley out of the bill. I do not know enough about it to know how much real profit is in a glass of beer, or whether it would have that effect, but the contest now is, as I see it, between the farmer who produces barley and the brewer who makes the beer.

Mr. GLASS. Mr. President, what has the existing state of the weather to do with that proposition? [Laughter.]

Mr. NORRIS. I have understood from talking with a great many men, like the Senator from Virginia, of very wide experience, that they drink more beer in hot weather than they do in cold weather. [Laughter.]

Mr. GLASS. I, who never drank it in either hot or cold weather, have always noted that in hot weather they drink it to get cool and in cold weather they drink it to get hot. [Laughter.]

The PRESIDING OFFICER (Mr. POPE in the chair). The question is on the motion of the Senator from Missouri [Mr. TRUMAN] to reconsider the vote by which the committee amendment, as amended, on page 38, lines 1 to 13, was adopted.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMITH. The question is whether we shall reconsider?

The PRESIDING OFFICER. The question is whether the Senate will reconsider the vote by which it adopted the committee amendment, as amended, on page 38, lines 1 to 13, both inclusive.

Mr. FRAZIER. Let us have the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. McKELLAR (after having voted in the negative). I have a pair with the junior Senator from Delaware [Mr. TOWNSEND]. I transfer that pair to the junior Senator from Utah [Mr. THOMAS], and will allow my vote to stand.

Mr. AUSTIN. I announce the necessary absence of the Senator from Delaware [Mr. HASTINGS] and the Senator from South Carolina [Mr. BYRNES], who are paired on this question. If present, the Senator from Delaware would vote "yea", and the Senator from South Carolina would vote "nay."

Mr. CONNALLY. I desire to announce that my colleague [Mr. SHEPPARD] is detained by important business. I should like this announcement to stand for all votes today.

Mr. LEWIS. I announce the absence for the day of my colleague [Mr. DIETERICH].

I also wish to announce that the Senator from Virginia [Mr. BYRD], the Senator from Wisconsin [Mr. DUFFY], and the Senator from Utah [Mr. KING] are detained in an important committee meeting.

I wish further to announce that the Senator from Wyoming [Mr. O'MAHONEY] and the Senator from Utah [Mr. THOMAS] are unavoidably detained from the Senate.

The result was announced—yeas 33, nays 52, as follows:

YEAS—33

Ashurst	Copeland	Lonergan	Truman
Bachman	Davis	Long	Vandenberg
Barbour	Dickinson	Maloney	Van Nuys
Bulkley	Donahey	McCarran	Wagner
Burke	Gerry	Metcalf	Walsh
Carey	Gore	Moore	White
Chavez	Guffey	Radcliffe	
Clark	Hale	Steiwer	
Coolidge	Keyes	Trammell	

NAYS—52

Adams	Connally	Lewis	Overton
Austin	Costigan	Logan	Pittman
Bailey	Fletcher	McAdoo	Pope
Bankhead	Frazier	McGill	Reynolds
Barkley	George	McKellar	Robinson
Bilbo	Gibson	McNary	Russell
Black	Glass	Minton	Schall
Bone	Harrison	Murphy	Schwellenbach
Borah	Hatch	Murray	Shipstead
Brown	Hayden	Neely	Smith
Bulow	Holt	Norbeck	Thomas, Okla.
Capper	Johnson	Norris	Tydings
Caraway	La Follette	Nye	Wheeler

NOT VOTING—11

Byrd	Dieterich	King	Thomas, Utah
Byrnes	Duffy	O'Mahoney	Townsend
Couzens	Hastings	Sheppard	

So Mr. TRUMAN'S motion to reconsider was rejected.

Mr. SMITH. Mr. President, in accordance with the amendments already adopted there should be inserted in line 13, page 63, after the word "accrued", the word "before" to make the amendment conform to the action of the Senate in other sections.

Also, in order to conform to the action of the Senate, we should strike out all between the parentheses in line 14, page 63, beginning after the word "amendment", and going down to and including the word "accrued", in line 16.

I ask that the amendment on page 63 be amended by inserting, after the word "accrued", in line 13, the word "before."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SMITH. Then I ask that all between the parentheses on the lines indicated—lines 14, 15, and 16—be also eliminated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. COPELAND. Mr. President, I am under compulsion to leave the Chamber within a few minutes in order to keep an imperative engagement which will prevent me from being here tomorrow. Therefore I am about to ask for the adoption of two amendments which I think are in order because of the fact that we have held over the matter of milk.

On page 19, line 18, I think it was agreed that after the word "agencies" there should be inserted the words "(which, in the case of milk, shall be a market administrator)." I think that was agreed to as being a proper amendment to be offered at the right time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Mr. SMITH. What line is that?

Mr. COPELAND. Line 18, page 19, after the word "agencies."

Mr. MCNARY. Mr. President, I think we should have an audible discussion of this proposal. What is it all about?

Mr. COPELAND. I will say to the Senator from Oregon that the other day when we discussed the matter of milk I apparently obtained the approval of those in charge of the bill that at the right time, after the word "agencies", on line 18, page 19, there might be inserted the words "(which, in the case of milk, shall be a market administrator)." That is, if there were several cooperatives, the idea is that some rival cooperative should not be the administrator, but that there should be a market administrator, as provided for in other parts of the bill.

I think that was agreed to by those in charge of the bill as a reasonable request.

Mr. SMITH. The suggestion has been made, to carry out the purpose the Senator has in view, to insert, after the word "agencies", the words "(which, in the case of milk, shall not be a cooperative)."

Mr. COPELAND. That is all right. Is that better?

Mr. SMITH. Yes; because that specifically names the thing the Senator is trying to avoid.

Mr. COPELAND. Very well.

Mr. MCNARY. Mr. President, it is impossible to hear what is being said.

Mr. SMITH. Mr. President, the amendment which the Senator from New York proposes is on page 19, line 18, after the word "agencies", to insert the words "(which, in the case of milk, shall not be a cooperative)."

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. JOHNSON. Will the Senator explain what that means? I am unable to follow the purpose of the amendment.

Mr. SMITH. As I understand—the Senator from New York can explain the amendment, perhaps, better than can I—it simply means that a cooperative shall not be the agency for distributing milk within that territory.

Mr. JOHNSON. Will the Senator tell me why not?

Mr. COPELAND. Mr. President, in the section where I live, for example, in a given area there are several cooperatives, and it does not seem fair to the other cooperatives for one particular cooperative to be the administrator of this provision.

The suggestion which I first made was that after the word "agencies" there should be inserted the words "which in the case of milk shall be a market administrator", but now the chairman of the committee suggests that instead of saying that, it shall be provided that the agency shall not be a cooperative. That is entirely satisfactory to me, and I think it would be to every cooperative in my State. The idea is that one cooperative should not have advantage over the other cooperatives in the same field by being made administrator.

Mr. FRAZIER. Mr. President, it seems to me this is just another move by the present handlers to control the market of milk. Of course, they do not want the cooperatives to have anything to do with its handling and selling. The pending bill is for the benefit of the producers of milk and not for the benefit of the handlers. The handlers make enough money at the present time. They make more money in handling the milk than the farmers do in producing it. Some of the dairy companies right here in Washington are owned by a holding company in New York, and the holding companies in New York get too much for handling milk now. Let the cooperatives have a chance.

Mr. COPELAND. Mr. President, I know that the Senator is very sincere about this matter, but let me say that the people about whom I am talking, the people who are interested in this matter, are the farmers themselves—the producers. There are a number of rival cooperatives in my State, and sometimes when the farmers are forced into one or the other they feel that advantage is taken of them.

My first choice was not to have one of the cooperative establishments at all chosen, but to have a market administrator appointed by the Secretary of Agriculture.

Mr. FRAZIER. Mr. President, if any of the farmers around New York are so old-fashioned that they cannot cooperate one with the other, I have not much sympathy with them.

Mr. COPELAND. The trouble with them is that they cooperate so much that they have half a dozen cooperatives. They are so sensible that they have many cooperatives.

The PRESIDING OFFICER. The clerk will report the amendment proposed by the Senator from New York.

The CHIEF CLERK. It is proposed after the word "agencies", in line 18 on page 19, to insert in parentheses the words "which in the case of milk shall not be a cooperative."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. SHIPSTEAD. Mr. President, would that bar cooperatives?

Mr. COPELAND. If the Senator will observe the language of the entire section, beginning on line 16, he will find that it reads, "Providing for the appointment or selection by the Secretary of Agriculture of a method for the appointment or selection, of an agency or agencies, and defining their powers and duties", and so forth.

I have tried to make clear that in my section of the country there are so many cooperatives, which sometimes are bitter rivals, that they are protesting, because there is provision made in other parts of the bill that the Secretary of Agriculture shall appoint a market administrator. The chairman of the committee suggests that instead of doing as I first suggested, make the agency a market administrator, it should be provided that it shall not be a cooperative, meaning that some neutral body outside of the several cooperatives should be chosen.

Mr. SHIPSTEAD. The Senator does not mean that a rival milk distributor, a corporation, a noncooperative corporation, could be appointed administrator?

Mr. COPELAND. There are a great many producer-distributors in our section. We have a number of cooperatives, and they are distressed over the idea of having one of those cooperatives made the administrator. I still believe that my original plan is a better one, not to say that it should not be a cooperative, because there might be a section where a cooperative would be the best choice, but that it should be left to the Secretary of Agriculture in choosing an agency so that he might appoint a market administrator. I still believe my first suggestion was better, that in the case of milk the agency should be a market administrator appointed by the Secretary of Agriculture.

Mr. BONE. Mr. President, may we have the amendment stated? I did not hear it, in the confusion.

Mr. SMITH. Mr. President, certain language was left out of the proposed amendment about cooperatives, and I should like to have the clerk read it as it was intended to be offered.

The PRESIDING OFFICER. The clerk will state the proposed amendment.

The CHIEF CLERK. It is proposed, on page 19, line 18, after the word "agencies", to insert in parentheses the words "which in the case of milk shall not be a cooperative association of producers."

Mr. MURPHY. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. MURPHY. The words "market administrator" might prevent the Secretary, if he saw fit, from appointing a committee to control. That is the objection to the term "market administrator." The suggestion that a cooperative shall not be the administrator meets the objection the Senator advanced to cooperatives, or other agencies not cooperatives, and leaves the way open for the selection of a committee, if the Secretary should desire to appoint a committee. I see no objection to the amendment last suggested by the Senator.

Mr. COPELAND. I modify my amendment accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York, as modified.

Mr. SHIPSTEAD. Mr. President, would any other distributor be barred from acting as administrator?

Mr. COPELAND. The language is: "shall not be a cooperative association of producers", as the chairman has presented the matter.

Mr. MURPHY. I will say to the Senator from Minnesota that the Secretary could appoint a member of a cooperative, but he could not appoint the cooperative itself as the agency.

Mr. SHIPSTEAD. That is another matter.

Mr. MURPHY. He could appoint a member of a cooperative as a member of a committee which should administer the provision.

Mr. SHIPSTEAD. That is a different matter.

Mr. McNARY. Mr. President, what is the final draft of the proposal?

The PRESIDING OFFICER. The clerk will report the proposed amendment.

The CHIEF CLERK. On page 19, line 18, after the word "agencies", it is proposed to insert in parenthesis the words "which in the case of milk shall not be a cooperative association of producers."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York [Mr. COPELAND] as modified.

The amendment as modified was agreed to.

Mr. COPELAND. Mr. President, there is one other matter I desire to bring up, if I may be permitted, relating to the provision on page 40, line 18. I suppose every Senator has received letters from his constituents stating that the greatest thing this country needs is a 5-cent cigar, and that that is endangered by the wording of the proposed law, because, according to the testimony of the manufacturers, the 5-cent cigar and other cigars are really made of assembled tobacco produced in different States and different sections. In most States and most sections the price of tobacco is now above parity, and under the bill as it is written it is feared there would be a still further tax upon tobacco, which is quite unnecessary, in view of the fact that it is already 35 percent above parity in comparison with an index number of 100.

I am proposing that on page 40, line 18, after the word "exceeds", there shall be deleted the words "by 20 percent or less"; at the end of line 19, that there shall be deleted the words "rate of such"; in line 20, that the word "reduced" be changed to "abolished" and the comma stricken out; that a period be placed in line 21 after the word "year", and that the remainder of the language on that page and two lines on page 41 be deleted, so that it would read:

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection, during the 2 months immediately preceding and the first 10 months of any marketing year—

(i) is equal to, or exceeds the fair exchange value thereof, the tax shall be abolished, at the beginning of the next succeeding marketing year.

I think that language is in accord with that suggested by the experts and others who have knowledge of the matter.

The PRESIDING OFFICER. The Senator's amendment is to a committee amendment, which has been agreed to, and the vote will have to be reconsidered before the amendment to the amendment may be considered.

Mr. COPELAND. Mr. President, at the time the tobacco matter was before the Senate I raised the question about tobacco, speaking particularly about the amendments to the present tobacco act in connection with the proposed amendments, and was assured that this matter could be brought up at the proper time. I am asking that it may be done now for the reason that I made a reservation in regard to it at the time, and for the reason also that I must leave the Senate Chamber within 12 minutes.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent that the vote by which the amendment appearing on page 40, line 18, and going through line 2 on page 41, be reconsidered. Is there objection?

Mr. FRAZIER. This is a very important provision of the bill, and one which the Department insisted on; and I object.

Mr. MURPHY. Mr. President, has unanimous consent been obtained to reconsider the vote by which the committee amendment was adopted?

The PRESIDING OFFICER (Mr. POPE in the chair). Objection was heard.

Mr. LA FOLLETTE. I ask for the regular order.

Mr. KING. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KING. My recollection is, as was stated by the Senator from New York [Mr. COPELAND], that when this particular provision was under consideration the amendment was agreed to, with the understanding at the time that the adoption of the amendment would not preclude a motion to reconsider, because the Senator from New York intended to make that motion, as he has just indicated. So the amendment was agreed upon pro forma, with the understanding that there was a restriction; and the Senator is insisting, as

I understand, upon carrying out the understanding which was entered into.

Mr. LA FOLLETTE. I insist upon the regular order.

The PRESIDING OFFICER. The regular order has been asked for. The RECORD shows no agreement to reconsider the vote by which the Senate agreed to the amendment.

Mr. COPELAND. I appeal to the Senator from Wisconsin to——

Mr. LA FOLLETTE. Mr. President, I desire to accommodate the Senator from New York, but the Senator from North Dakota [Mr. FRAZIER] has objected to the Senator's request for unanimous consent. We have spent 10 or 15 minutes on this matter, and if unanimous consent cannot be obtained, I desire to proceed. I have been waiting here for 3 days for an opportunity to offer an amendment to the bill.

Mr. COPELAND. Let me say to the Senator from Wisconsin that I do not think it is necessary to ask unanimous consent, because the RECORD will show that when this provision as to tobacco was up I asked that I might have the opportunity to offer this amendment. That request is in the RECORD. The Senator from Idaho nods his head in approval.

Mr. LA FOLLETTE. The Chair has just ruled that there is nothing in the Senate's action to show that to be so, and from that, I take it, that the Chair holds that unanimous consent is necessary.

I wish to say to the Senator that the only reason why I asked for the regular order was that we should not, as we so often do in the Senate after some Senator has objected and the parliamentary situation is closed, proceed for an hour discussing a subject which under the rules may not be acted upon by the Senate.

If the Senator from New York can get unanimous consent and can proceed, I shall not demand the regular order; but I desire to have the Senate proceed with the regular order if the Senator from New York is estopped.

Mr. COPELAND. Then I appeal to the Senator from North Dakota [Mr. FRAZIER]. I do not know whether or not the chairman of the committee is willing to accept my amendment. Will not the Senator from North Dakota withhold his objection for a moment until I can find out the attitude of the committee?

Mr. SMITH. Mr. President, I think this language has been worked out in conjunction with the buyers of tobacco in the sections to which the provision will apply. They have gone over it carefully. I think I can truthfully state that of all the provisions of the bill the ones relating to tobacco have been the most satisfactory to the buyers and the producers. I understand that together they have worked out this program, looking ultimately to the removal of the processing tax. I should not like the present set-up to be disturbed.

Mr. LA FOLLETTE. Mr. President, may I call the attention of the Senator from South Carolina to the fact that as I read this language it applies to all commodities. It is not confined to tobacco.

Mr. SMITH. I understand that, but this proposal was made by reason of the fact that tobacco is one commodity which has gone beyond parity.

Mr. LA FOLLETTE. I understand that; but I wish to be clear about this matter. As I understand the amendment of the Senator from New York, the effect of it would be that the moment any commodity should reach parity the processing tax would at once be cut off.

Mr. SMITH. That is correct.

Mr. BARKLEY. It would be cut off at the beginning of the next season, although at the beginning of the next season the price might go below parity. If the price had already reached parity in the previous season, the tax could be cut off at the beginning of the next season, although the price might subsequently go below parity and the tax would not automatically be restored.

In addition to that, if the Senator will indulge me for just a moment, I will say that this committee amendment was agreed to, and then later, at my request, it was reconsidered; and I then offered an amendment which was accepted, providing that where the fair exchange value reaches a point 10 percent or less below the parity price the tax may be reduced. So that 10 percent below parity price is involved in this question, and not simply 20 percent above parity.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. McKELLAR. Is it not true that the present law provides that when an article reaches parity, as provided for in the act, the processing tax is to be cut off?

Mr. BARKLEY. No; that is not the law. I do not so understand.

Mr. McKELLAR. That is my understanding.

Mr. MURPHY. I think the Senator's understanding is in error. The object sought is not merely a fair exchange price, but also the maintenance of that price.

Mr. McKELLAR. As I remember, the theory of the law was that whenever the price should reach parity the tax would not be imposed.

Mr. BARKLEY. That is not my understanding of the present law; and, as a matter of fact, in the case of some commodities, including tobacco, where the parity price has been approached, the tax is collected. In the case of burley tobacco the tax is 6 cents a pound, which puts the price the farmer gets above the parity. In order to adjust that situation, we inserted an amendment providing that where the price is within 10 percent but not more than 10 percent below parity, the tax may be reduced.

Mr. McKELLAR. I understand the Senator's amendment, and I approve it; but the present law must make such a provision. Otherwise it would be necessary to make a change in the present law. The committee amendment provides that the price has to reach 20 percent above parity before the processing tax may be reduced.

Mr. BARKLEY. I wish to say that I am not going to object to the reconsideration of this committee amendment, but I certainly shall strenuously oppose the amendment of the Senator from New York if I have an opportunity to do so. I do not think it ought to be adopted. The language of the amendment, together with the amendment which I offered, was worked out by tobacco interests in conjunction with the head of the tobacco section of the A. A. A. and with Mr. Chester Davis, who is the Administrator of the Agricultural Adjustment Administration. The provision was worked out and agreed to, and the officials of the A. A. A. take the position that even with the 10-percent reduction below the parity price they could reduce the tax and still carry on their program.

Mr. LA FOLLETTE. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. LA FOLLETTE. I appeal to the Senator to ascertain whether it is possible for him to obtain unanimous consent to reconsider the vote. We have now been talking for 15 minutes on this matter. We do not know whether his request is ever going to be granted.

Mr. COPELAND. So far as I am concerned, I am not going to ask further for unanimous consent, because I feel that I had the right to have it in the first place. I am now going to take some time on the bill. I suppose my time on the amendment has expired.

Mr. CONNALLY. Mr. President, if the Senator will yield, I will ask unanimous consent that the amendment be reconsidered. I have no interest in it, but I think the Senator from New York is entitled to have a reconsideration of the vote by which the amendment was adopted.

The PRESIDING OFFICER. Request has been made for unanimous consent to reconsider the vote by which the amendment beginning on page 40, line 18, and extending to and including line 2, on page 41, was adopted. Is there objection?

Mr. FRAZIER. Mr. President, I feel that this is a very important provision. I have no particular reason to object to reconsideration of the vote, but I certainly think the measure should not be changed. I do not think the amendment which the Senator from New York has offered is at all

helpful to the producers, and I think it should not be adopted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none; and the vote by which the amendment was adopted is reconsidered.

Mr. McKELLAR. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. McKELLAR. This provision in the committee amendment is 20 percent. Has the Senator thought of suggesting a lower figure, say, 10 percent?

Mr. COPELAND. I wish I might have the advice of members of the committee who are informed on the subject.

The PRESIDING OFFICER. The Clerk will state the amendment proposed by the Senator from New York.

The CHIEF CLERK. On page 40, line 18, after the word "exceeds", it is proposed to strike out the words "by 20 percent or less"; in line 19, it is proposed to strike out the words "rate of such"; in line 20, it is proposed to strike out the word "reduced" and to insert in lieu thereof the word "abolished"; and in line 21, after the word "year", it is proposed to strike out the comma and insert a period, and to strike out the language following, down to and including line 2, on page 41.

Mr. COPELAND. May I ask the Senator from Kentucky what was the significance of his amendment?

Mr. BARKLEY. The amendment which I offered, and which was agreed to, provided a leeway, running from 90 percent of parity to 20 percent above it, within which the tax could be reduced. The bill, as originally written, provided that if the average farm price exceeds by not more than 20 percent the fair exchange value, the rate of tax shall be reduced at the beginning of the next succeeding marketing year to such rate as equals 20 percent of the fair exchange value thereof.

In other words, the tax would be 20 percent of the fair-exchange value if it were reduced upon reaching anywhere within 20 percent more than the fair exchange value in actual price. My amendment would permit that reduction, although the price does not reach parity or within 10 percent of parity, providing that the department shall then reduce the tax to a point where it shall not exceed 20 percent of the fair exchange value of the product. Of course, that applies to everything as well as tobacco; but I was especially interested in it because of tobacco. The effect is that the tax could be reduced, although the fair exchange price would not be equal to parity.

Mr. COPELAND. Suppose the price should become 35 percent above parity, as is the case with tobacco?

Mr. BARKLEY. There may be some types of tobacco the price of which has reached 35 percent above parity, but on large quantities of it, it has not reached parity.

Mr. COPELAND. But suppose it did reach 35 percent above parity, what would happen under the Senator's amendment?

Mr. BARKLEY. The amendment which I offered would not be effective if it went above 35 percent above parity, but the language of the bill would be effective to enable a reduction in the tax to where it would not be more than 20 percent of the fair exchange value of the commodity.

Mr. FLETCHER. Mr. President, may I ask the Senator from Kentucky what the effect of his amendment would be on the manufacturer of cigars?

Mr. COPELAND. I yield to the Senator from Kentucky to answer the Senator from Florida.

Mr. BARKLEY. It would have the effect of reducing the tax to the processor, whether he was a manufacturer of cigars or chewing tobacco or snuff or anything else. That reduction would not have to wait until the fair exchange price the farmer receives would equal parity, but it would be reduced if it got within 10 percent.

Mr. BAILEY. Mr. President, will the Senator from New York yield?

Mr. COPELAND. Certainly.

Mr. BAILEY. I wish to answer the question of the Senator from New York as to what would be the effect of the language in the event tobacco should reach 35 percent above parity.

Mr. COPELAND. That was my question, and I shall be glad to have the Senator answer it.

Mr. BAILEY. If the Senator will read the language at the bottom of page 40, in subparagraph (ii), he will see that the tax would then be 10 percent of the fair exchange value. The fair exchange value of, say, flue-cured tobacco, according to the estimate of the Department of Agriculture, is around 20 cents. What it will be this year has not been fixed, but, assuming that the fair exchange value is to be fixed at 20 cents—I have had some intimation the Department is going to fix it at 19 cents—the calculation is that the processing tax would be 1.9 cents per pound as against 4.2 cents a pound at the present time.

Mr. BARKLEY. In other words, if the fair exchange value price goes above 20 percent, then the tax is reduced to 10 percent of the fair exchange price. If it is under 10 percent, then the tax may be reduced to 20 percent.

Mr. BAILEY. With reference to the so-called "Barkley amendment", "or is less than the fair exchange value at not more than 10 percent", that means 90 percent of the parity price should be brought into the market. Then we would have 20 percent of the fair exchange value. The consequence would be that 90 percent plus 20 percent of the fair exchange value would bring the farmer, with his price in the market plus his processing tax, to a small fraction above parity.

Mr. COPELAND. There would be some advantage to the cigarmaker under the Barkley amendment over the present language?

Mr. BARKLEY. Yes; there would be an advantage.

Mr. BAILEY. It brings about a reduction in the processing tax above the point 90, but it becomes 20 percent, and 90 percent plus 20 percent is 110 percent.

Mr. BARKLEY. The 20 percent would be levied on the price at 90, which would be not quite 10 percent in addition to that figure.

Replying to the Senator from New York, the amendment would give an advantage not only to cigar makers but to all processors of tobacco through the possibility of having the tax reduced, although the price itself had not arrived at parity.

Mr. BAILEY. At the same time it would tend to bring the farmer something a little better than parity.

Mr. COPELAND. Mr. President, I ask that there be read in my time a letter from Mr. Joseph F. Cullman, of New York, a manufacturer of cigars for 50 years, and I invite especial attention to the argument he submits.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The legislative clerk read as follows:

CULLMAN BROS., INC.,
New York, July 2, 1935.

Senator ROYAL S. COPELAND,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: Howard has discussed with me the proposed new Agricultural Adjustment Administration bill, which I believe is before the Senate committee, and has shown me copies of the wires sent to you, as well as to Chester Davis under even date.

It is not my purpose, directly or indirectly, to in any way attempt to influence the administration as to what they may consider proper and appropriate steps to be taken to alleviate the farmers' plight, but it seems no more than fair and appropriate that after over half a century's experience in the tobacco industry, I should point out to you, both as a Senator from New York as well as a good friend of mine, certain unworkable provisions, insofar as cigar leaf tobacco is concerned, in the proposed bill.

Cigars are manufactured in the United States, with the exception of a very limited amount of clear Havana cigars, from tobaccos from various States. The four main tobacco-growing sections in this country are the New England States—embracing Connecticut and Massachusetts; Wisconsin, Ohio, and Pennsylvania, with a limited amount of wrapper tobacco grown in Florida, and, of course, Puerto Rico, which is used entirely for filler purposes.

It is the custom, particularly with 92 percent of the present product manufactured in the United States retailing at 5 cents and under, for cigars to be made with raw material from three different States. In other words, the filler from Puerto Rico, Ohio,

or Pennsylvania, the binder from New England or Wisconsin, and the wrapper from Connecticut or Florida. In fact, I believe the normal formula for 92 percent of the present product would be tobaccos coming from at least three different cigar-tobacco growing States or Puerto Rico.

The proposed bill, if my interpretation is correct, reads: "That when prevailing farm prices surpassed parity prices by 20 percent, the processing tax would be at the rate of 20 percent of the parity level. Should the prevailing price go to more than 20 percent above parity, the processing tax would be cut to 10 percent."

Now, let us take a perfectly possible and hypothetical case of the average American cigar manufacturer making cigars with a Pennsylvania or Ohio filler, a Wisconsin binder and a Connecticut shade wrapper. It is quite conceivable, with acreage curtailments, as well as unfavorable growing conditions in Pennsylvania, that due to the law of supply and demand, Pennsylvania tobaccos will be considerably above parity.

Wisconsin has lately become an unpopular tobacco for cigar manufacturing requirements and the technical position in that State is that a cooperative organization still holds a very substantial quantity—many millions of pounds. Tobacco in Wisconsin on the whole is selling considerably under parity in average.

Let me further assume that Connecticut tobacco is selling at about parity.

The manufacturer, who really runs an assembling plant in putting these three types together from three different States to make a cigar, will then be confronted with the proposition of either studying trigonometry or higher calculus to try to figure out the proper amount of each type of tobacco he uses in the cigar; or what would happen—for we have chiselers also in the tobacco industry—he might falsify and claim to use mainly tobacco in his product on which there is a processing tax in the lower brackets.

It is absolutely not workable on a cross section unless you charge the highest processing tax on all tobaccos for the States that need it, which would be unfair.

The situation is very different in cigarette tobaccos, where Kentucky or burley tobacco is the base for most of our American cigarettes, and which, with certain types from other States, is used for blending purposes. In fact, they have been successful in having different schedules of crop benefits in these States by a uniform processing tax on manufacturing for all cigarette manufacturers.

It seems that if the cigar industry should have a fair and due opportunity to present the whole case clearly and concisely without prejudice before the proper authorities, some ways and means might be devised to eliminate racketeers and protect honest manufacturers, who, of course, would live up to the administration's policy rigorously and not open the door to subterfuge and evasion, which would follow if the proposed law is enacted.

It seems more than strange that to date there has been a persistent refusal to hold any hearings. The suggestion of a hearing is not in any way to block any progressive legislation but simply to try to be helpful to the administration in projecting legislation that is both fair and workable.

I am sure we can count on your good offices in an endeavor to arrange a hearing in order to assist us in trying to assist the Government to work out a plan that not only will follow the principles they have in mind but will also be practicable and workable.

This is the spirit in which this letter is written—not on a destructive basis but on one of helpfulness; and after many years of experience in this industry I know the many pitfalls that would occur if the door were left open to the possibility of evasion and subterfuge, which I believe, insofar as the cigar-leaf types of tobacco are concerned, would be the case under the proposed amendment.

Sincerely yours,

JOS. F. CULLMAN.

During the reading of the letter—

Mr. SMITH. Mr. President, a parliamentary inquiry. Under the limitation of debate, may a Senator send up to the desk and have read certain literature, the reading of which takes more than the time allotted to him?

The PRESIDING OFFICER. This is counted in the Senator's time, and he is now regarded as speaking on the bill.

Mr. SMITH. Very well.

After the conclusion of the reading of the letter—

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New York [Mr. COPELAND].

Mr. WAGNER. Mr. President, is there any objection to reconsideration? I desire to support the motion made by my colleague [Mr. COPELAND], which, as I understand, is to reconsider the vote.

Mr. SMITH. That has been done. The amendment is now before the body, which, I hope, will promptly vote it down.

Mr. WAGNER. Mr. President, there is nothing I can add to what my colleague has said, except that I desire to make this observation: I supported the Agricultural Adjustment Act last year. As I understand, the philosophy of the legislation was that we were to impose a processing tax so as to provide a parity of prices, which, I believe, was a reasonable proposition to aid the farmers of our country; and I readily and enthusiastically supported that proposition, although I knew that my State would pay a large share of the processing tax. I also knew that the people of my State were quite willing to pay it if, by that means, there would be a rehabilitation of the condition of agriculture.

I have only one other word to add. It seems to me this bill breaks faith with that policy; and we are now asked to provide by law not merely that a tax may be imposed so as to secure parity of prices but that a tax may be imposed so as to provide a 20 percent increase above parity. If the Senate is prepared to go that far, of course, it absolutely repudiates the assertion and the pleas made last year when the legislation was under consideration.

Mr. GERRY. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Rhode Island?

Mr. WAGNER. I do.

Mr. GERRY. What this bill does is to continue the processing tax, no matter whether the price is 20 percent above parity or not; it always continues it at the rate of at least 10 percent.

Mr. WAGNER. Yes.

Mr. TYDINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Maryland?

Mr. WAGNER. I yield.

Mr. TYDINGS. I am very much interested in what the Senator from New York is saying. I can find no justification whatever for taxing the American people after the producer of the product gets a parity price.

Mr. WAGNER. Exactly.

Mr. TYDINGS. I should feel that that would be carrying the philosophy of this proposal away beyond all reason. It would simply produce a lack of parity on the part of the consumer to go above parity to the producer.

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Tennessee?

Mr. WAGNER. I do.

Mr. McKELLAR. As I understand, the present law provides that the processing taxes shall be removed whenever parity is reached.

Mr. WAGNER. Exactly.

Mr. McKELLAR. The proposal now is to amend that by providing that the processing taxes shall not be removed until 20 percent above parity is reached.

Mr. WAGNER. That is as I understand the proposal. If that is not so, then I misunderstand the provisions of the bill.

Mr. GERRY. And when 20 percent above parity is reached the tax goes to 10 percent.

Mr. McKELLAR. Mr. President, I hope the chairman of the committee will explain the bill in that regard.

Mr. SMITH. Mr. President, if the Senator will read the entire text, he will see that it says:

(A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection on the processing of any commodity, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity.

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection, during the 2 months immediately preceding and the first 10 months of any marketing year—

(i) is equal to, or exceeds by 20 percent or less, the fair exchange value thereof, the rate of such tax shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 20 percent of the fair exchange value thereof.

(ii) exceeds by more than 20 percent the fair exchange value thereof, the rate of such tax shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 10 percent of the fair exchange value thereof.

(C) Any rate of tax which has been decreased pursuant to this paragraph (6) shall remain at such decreased rate until further decreased pursuant to this paragraph (6), or until increased pursuant to this paragraph (6) or paragraph (1) of this subsection.

Mr. CONNALLY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. SMITH. Yes.

Mr. CONNALLY. Is it not the purpose of the amendment to accumulate, as it were, a fund to take care of the payments and to maintain parity, because the tax cannot be instantaneously regulated by the fluctuations of the market?

Mr. SMITH. That is partly the object. In addition to that, in case during any marketing period there should be a drop below parity, without any organization the farmer would be absolutely helpless.

Mr. CONNALLY. In other words, the tax cannot automatically respond to every fluctuation of the market.

Mr. SMITH. It cannot.

Mr. CONNALLY. And in order to have a fund to take care of a possible decrease in the parity price, it is necessary to impose a small tax when the price goes above parity.

Mr. McKELLAR. Mr. President, under the present law, if the price were below parity, then the Secretary of Agriculture would at once impose the processing tax, in order to bring about parity.

Mr. CONNALLY. Does the Senator from Tennessee think that the Secretary can pick up the market report every morning and jack up the tax?

Mr. McKELLAR. No; there ought to be a reasonable regulation, and it is left to his discretion. He has the power to make regulations under the present law, and it does not seem to me that the present law ought to be changed.

Mr. WAGNER. Mr. President, I do not clearly understand the language. On page 41 it reads, "to such rate as equals 10 percent of the fair exchange value." Does not that mean that the tax must remain at 10 percent above the parity price?

Mr. SMITH. That is in case the condition described preceding that obtains. Then it may be reduced to zero, if in the opinion of the Department conditions are such that the market will remain at parity.

Let me call the Senator's attention to what was done a short time ago with reference to the nuisance taxes. It was stated that if we did not pass a law providing for the nuisance taxes, during the time elapsing between the date when they expired by limitation and the time when we could pass a new law the Government could not impose a tax on what was sold.

Let us suppose that the tax was entirely removed, the tobacco sold during the 6 or 8 days which would elapse before the machinery could be set up to reinstate the tax would be gone, and those who had sold it would be the losers. The Department, in order to be perfectly fair, were willing to reduce it to almost the vanishing point, to 10 or 20 percent of the previous tax, and then, within the period of 2 months before and 10 months after, if they considered that the condition was such that the fair exchange value could be obtained, they would have the right to reduce it to zero.

Mr. WAGNER. I wish to ask the Senator a candid question. Is not the purpose really to validate some of the things which have been done by the Department contrary to the purposes expressed in the act which became effective, which was before us for consideration last year? I am told that in the tobacco industry the producers are today receiving 35 percent above parity.

Mr. BARKLEY. That is not accurate. In many grades——

Mr. WAGNER. I am speaking of merely some grades of tobacco.

Mr. BARKLEY. For many grades of tobacco they are not receiving parity prices.

Mr. LA FOLLETTE. Mr. President, I insist on the enforcement of the rule. Senators are gathered in a little huddle on the other side, and we are not able to hear what is going on.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WAGNER. Mr. President, in a number of types of tobacco the producer now is receiving 35 cents above parity, yet the Department has done nothing to reduce the processing tax so as to bring the price down to parity.

Mr. McKELLAR. Mr. President, let us consider the peculiar brand of tobacco known as "dark fired" tobacco, which is raised partly in my State and partly in the State of the Senator from Kentucky. The present processing tax is 2.9 cents, and under an amendment offered by the Senator from Kentucky and adopted, that tax will be reduced after October 1 to 2.2 cents, which reduction is considerable, and if the present law prevailed, when it reached a parity price the tax would be taken off altogether. But under the proposed law it would be quite different. Even though the price of that peculiar kind of tobacco should go to between 15 and 20 percent above parity, though it should go up to 19½ percent above parity, the tax of 2.2 would still remain. In other words, it is really a proposal for a different plan of taxation.

I am very much in favor of the A. A. A. law. I think it has done more good for the farmers than any other law Congress has ever passed. I am earnestly in favor of it.

Mr. WAGNER. It has certainly done more than anything that has been passed in recent years.

Mr. McKELLAR. It has done the farmers more good than any other law enacted in all the years. Look up the history, and it will be found that this is the only really successful law for the benefit of farmers that was ever passed. All one has to do is to look at the prices of all farm products, and he will be convinced beyond the shadow of doubt that the law has been a great farmer's measure, and I am for it. But I want to be fair about it. Our purpose was to bring the prices of farm products back to parity, which was arranged for in the present law, and when the price reached parity, under authority given to the Secretary of Agriculture, he was to reduce the tax until it became zero. I think that plan ought to be followed; but under the proposed law it would have to be 20 percent above, as I read the law, before the Secretary would be authorized to reduce the tax.

Mr. WAGNER. I want to say to the Senator, coming from a large industrial State, that I recognize the claim of the agricultural interests that they should have a price parity, and therefore I supported the legislation.

Mr. McKELLAR. I recall that.

Mr. WAGNER. It was openly stated here that the moment parity was reached the tax would be removed. Now we are going beyond that philosophy, which I think was just. It is now proposed to impose a processing tax upon the processor which will support a price above parity.

Mr. GERRY. And there is no provision for termination of the tax, as I understand.

Mr. WAGNER. I think we ought to adhere to the purpose of the act as expressed in the present law.

Mr. McKELLAR. Mr. President, will the Senator from New York yield?

Mr. WAGNER. I yield.

Mr. McKELLAR. I am afraid I was in error a moment ago when I stated that the proposed law provided for a 20-percent increase before the tax could be eliminated. The wording of the bill is "20 percent or less." I do not know what that means. I think it would take a Philadelphia lawyer, and a member of the "brain trust" in addition, to determine what it means.

Mr. BARKLEY. Mr. President, will the Senator from New York yield?

Mr. WAGNER. The present system and formula is a very simple one, it seems to me. Why modify it?

Mr. MURPHY. Mr. President, will the Senator from New York yield?

Mr. WAGNER. I yield.

Mr. MURPHY. The original act, in section 2, provides:

It is hereby declared to be the policy of Congress—

(1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such

marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period.

Mr. WAGNER. Yes.

Mr. MURPHY. That is the declared purpose, not only to attain that price but to maintain it. The seasonal crops cannot be turned off the moment the price reaches the fair-exchange value. We cannot turn them off the same as we turn off an electric light.

Mr. McKELLAR. I entirely agree with that; but it is left to the discretion of the Secretary of Agriculture, and he has the power of reducing or raising the tax in order to maintain the parity after it is reached. I think it is vitally necessary that he be given that power and that discretion.

Mr. BARKLEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The time of the Senator from New York [Mr. WAGNER] has expired.

Mr. WAGNER. I shall speak on the bill if I need additional time. I have concluded my remarks. I yield to the Senator from Kentucky.

Mr. BARKLEY. Let us understand the distinction between the present law and the pending bill, together with the amendment offered by the Senator from New York.

It is true that under the present law the Secretary of Agriculture is authorized to levy a tax which represents the difference between the actual price of the farmer's product to him during the marketing season and the fair exchange value, which we call parity, as determined over a period of years. Under the statute as it now exists it is provided that—

The rate of tax shall conform to the requirements of subsection (b).

Those requirements appear on the following page.

Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such interval as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that rental or benefit payments are to be discontinued with respect to such commodity.

So under the present law the tax is not terminated until the Secretary of Agriculture declares that at the end of the current marketing year no further benefit or rental payments will be paid to the grower.

Under the bill now pending, and as this amendment has been agreed to, the tax which is provided in the bill is to be reduced by the Secretary of Agriculture if the actual price to the farmer reaches 90 percent or higher of the fair exchange value or parity, or does not exceed 20 percent above the actual exchange value. The Secretary can reduce it to a point where the tax will amount to not more than 20 percent of the actual exchange value. If the price goes above 20 percent over parity, the tax is reduced to 10 percent of the actual fair exchange value. But under the amendment offered by the Senator from New York, at any time, on any day when parity might be reached by any commodity, the tax would automatically be eliminated at that time, and the law as it would be written would give no one any authority to restore it after it had automatically ceased.

Mr. WAGNER. That is not the purpose of the amendment.

Mr. BARKLEY. As the Senator from South Carolina has stated, the Secretary of Agriculture cannot jack up this tax or reduce it every day as the market goes up or down on corn, wheat, cotton, or tobacco. The tax must be levied in view of the fair marketing season for the crop. There is no other way to levy it. If in any week the price of cotton should go up to parity, and automatically the tax should be eliminated and terminated, and if the next week it should go down below parity, it certainly would be unfair if the Secretary of Agriculture could do nothing about it when that time arrived. Yet that is what would be done by the proposed amendment.

I will say to the Senator that these provisions, together with the amendment I offered making it possible to reduce the tax if the price is within 90 percent of parity, were worked out carefully by the Department of Agriculture in conference not only with growers but with processors, who were satisfied with that arrangement.

Mr. WAGNER. I will ask the Senator whether any of the processors from the State of New York were represented at the conference?

Mr. BARKLEY. There was no town meeting held about it, but I know there were present important manufacturers of the products of tobacco, especially cigarettes and chewing tobaccos, and I think some cigar manufacturers; but I do not know who they were.

Mr. WAGNER. Mr. President, I have received some communications and protests from tobacco manufacturers in my State, in which they call my attention to the present plight of the industry. It is not a profitable industry at this time, and now the proposal is further to increase their burden, although they say that they are already paying a processing tax which is giving the producer a 35-percent increase over parity.

Mr. BARKLEY. I realize that protests have come here. The Senator from Utah [Mr. KING] has just shown me two telegrams, one from Utah and one from New York City, signed by some cigar-manufacturing concerns, in which they announce that they will be put out of business by this bill. It seems to me we cannot legislate wisely if we offer amendments here which will disrupt the whole arrangement of the bill merely on the receipt of a telegram from somebody from any State.

Mr. WAGNER. The action now proposed, however, means that we are changing the policy of the A. A. A. as originally proposed, and probably, at least so far as some of the manufacturers are concerned, we are increasing the burden. There is a point beyond which manufacturers cannot pay taxes and still exist.

Mr. BARKLEY. I will say to the Senator that the proposal does to some extent change the present law, but it is necessary to do it in order to create a sort of backlog out of which the parity price may be maintained over the entire marketing season.

Mr. TYDINGS. Mr. President, in the time of the Senator from New York, I should like to ask a question of the Senator from Kentucky, because both of us are trying to get at the same thing, and I think we can clear up the situation.

If, under this bill as written, the average price for an entire year on a commodity such as tobacco or any other commodity should be 10 percent above parity, and the Government should collect the tax on 10 percent above parity for a whole year, would that particular commodity next year sell at 10 percent below parity, and would the grower be satisfied to have it sell at 10 percent below parity?

Mr. BARKLEY. I do not know whether it would sell at 10 percent below parity or not; but the part of the bill under discussion deals with the tax, and it is intended by the amendment I offer to make it possible to reduce the tax, although the price realized is not equal to parity.

Mr. TYDINGS. Mr. President, I should like to continue my interrogation of the Senator from Kentucky, because he has studied the matter and I have not. Subsection (i) on page 40 of the bill is as follows:

(i) Is equal to, or exceeds by 20 percent or less, the fair exchange value thereof, the rate of such tax shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 20 percent of the fair exchange value thereof.

As I interpret that language, assuming that the price was above parity for the 2 months preceding and the 10 months following an agricultural year, when the new year came around would the Agricultural Adjustment Administration officials establish the price at the amount below parity which the product had brought above parity for the succeeding years?

Mr. BARKLEY. Not necessarily. The language in subsection (i) provides that if at any time the actual price received by the farmer—we must differentiate between the actual price received and what is called the "fair exchange value", which we call "parity"—if at any time the price of the prod-

uct to the farmer rises above parity by not more than 20 percent, the tax shall be reduced to a point where it will be no more than 20 percent of the fair exchange value; not what the farmer is getting but parity. That is what that would mean—if it reaches within 90 percent of parity.

Mr. TYDINGS. I understand that; but the Senator from Kentucky a moment ago said—and I understand why he said it, and I agree with him—that these taxes cannot be varied from day to day. I am assuming, therefore, that we could go along for some period of time above parity—perhaps for a 10-month period—so that the farmer would not only be getting parity but he might be getting 10 or 20 percent above parity for 10 months or a year. When we come to establishing the price for the next year, as I read this section, it says that the rate "shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 20 percent of the fair exchange value thereof."

Mr. BARKLEY. The tax shall be reduced at the beginning of the next marketing year to a point where it will not be more than 20 percent of the fair exchange value, which is the parity, which is a fixed price, and does not fluctuate.

Mr. TYDINGS. That observation leads to another question. Let us suppose the price is 20 percent above parity for a year with the tax retained for a year, and the next year the entire tax is taken off and the price drops to 20 percent less than parity. The farmer has had the benefit of the price for 1 year with a tax of 20 percent above parity. I want to know if he will take a price of 20 percent less than parity without the tax for the following year?

Mr. BARKLEY. There is no way to answer that question. I do not know what the farmer would take.

Mr. TYDINGS. I mean how would the law be applied in that situation?

Mr. BARKLEY. Let us assume that for any season, whether for tobacco or cotton, the price has been 20 percent above parity.

Mr. TYDINGS. With the tax.

Mr. BARKLEY. Yes; the price to the farmer has been 20 percent above parity with the tax, so the tax has been levied on that basis and has been collected. It might be, though I do not know, that a fund would have been created which would make it possible for the Department of Agriculture to guarantee parity by the use of this backlog, as I call it, plus the actual price to the farmer, which might be 20 percent or 10 percent below parity. To say the farmer would be satisfied with that price would be to indulge in prophecy, an ability which I do not claim for myself. It would certainly enable the Secretary of Agriculture to reduce the tax for the next season below what it was for the previous season.

Mr. TYDINGS. Let us assume parity is the ideal condition and something we want to obtain for the farmer. He ought to be satisfied, it seems to me, when he gets parity. He should not then want the tax to go on so a backlog would be built up. The tax, in my judgment, ought to be applied only in order to bring the price up to parity, and the minute it reaches parity, theoretically, the tax should cease. I think it is unfair to tax the American people, when the farmer is 20 percent above parity, to build up a fund for his future benefit. When he gets into difficulty, then is the time to lay the tax, and when he gets out of it the tax ought to be stopped.

Mr. CONNALLY. But that cannot be done until the following year. In the meantime he has sold his whole year's crop at a loss.

Mr. TYDINGS. That is why I asked, if he got 20 percent above parity with the tax for 1 year, whether he should not get 20 percent below parity without the tax for the next year, and no Senator thinks the law is going to be applied in that way. I predict if he gets 20 percent above parity for 1 year with the tax, he will not be willing to take less than parity the next year, notwithstanding, at the expense of the consumer, he got 20 percent above his fair price for the preceding year. I do not believe the bill ought to be written so that the consumer will have to pay 20 percent above parity for 1 year and parity the next year.

Mr. BARKLEY. Of course, parity is an arbitrary figure determined by calculation over a period of years, which we fix in the law. As a matter of fact, there are still some agricultural commodities in the country as to which even parity does not represent cost of production, but we have accepted that as a standard for this bill. That does not mean parity is to be maintained for a week. The object of the bill is not to maintain parity for a week or a month, but to maintain it on an even keel over a period, I would say as long as the act is in operation, so that the farmer may receive not less than parity for his products.

Mr. TYDINGS. I am not taking issue with that observation. Let me say to those who are familiar with the bill that perhaps they can correct my understanding of it. Perhaps I have not expressed clearly what I have in mind, and I will cite a situation which may evolve. Let us suppose a year goes by and the price of an agricultural commodity is 20 percent above parity with the tax; that one whole crop is harvested and marketed at 20 percent above parity, with the tax included. It seems to me if the farmer, with the tax included, gets 20 percent above parity for one whole year's crop, the next year, in fairness, he should get 20 percent less than parity, so the average of the 2 years would be parity.

It does not seem to me to be fair to permit the farmer on one whole crop for 1 year to get 20 percent above parity at the expense of the consumer, and then be permitted to get parity the next year at all.

That is the question I have been asking of those who are familiar with the amendment. I made the observation that the farmer would not be willing the second year to sell his crop at 20 percent less than parity simply because he got 20 percent above parity the preceding year.

Under the bill, as I see it, the farmer would not only get 20 percent above parity at the expense of the consumers who paid the 20 percent in taxes but the succeeding year he would want parity, tax or no tax, so that he would have gotten 20 percent of the consumers' money. That is the question which the Senator from New York [Mr. WAGNER] raised and which I think is a proper one. I believe if the words "or exceeds 20 percent or less" were stricken out, so when the farmer got parity value the tax would stop, it would be fair not only to the farmer but to the consumer.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. TYDINGS. Certainly.

Mr. CONNALLY. A Senator said he did not understand about "20 percent or less." That is water on the Senator's wheel, because if it is only 2 percent or 4 percent above parity, then it would apply. It does not have to go to 20 percent.

Mr. TYDINGS. The Senator and I are thinking alike on the application of this bill, namely, that when the price goes over parity there ought to be an adjustment so the consumer may come out even.

Mr. CONNALLY. On the other hand, it seems to me this new amendment is in a measure a limitation on the authority of the Secretary of Agriculture. We are saying when it reaches that point it has to be reduced whether the consumer wants it or not. Under the old law the Secretary did not have to do it. He could maintain it for the current year without any change at all. With this amendment adopted the Secretary must do it if it attains 20 percent or less above the parity price. It seems to me, in a measure, it is a benefit to the consumer to have that limitation placed on the Secretary of Agriculture.

Mr. TYDINGS. I do not know that I can improve on the wording of the bill, but I think it is just as well that we have had this discussion. As I understand the various interpretations of the bill, they are these:

That the purpose of the bill is to get parity for the farmer; that if he gets more than parity in any one year, the tax is to be correspondingly reduced the next year, notwithstanding his price may not then be the parity price. That is the interpretation placed on it, but of course the wording of the bill does not say that. If in 1 year he gets 20 percent above parity, certainly he is not entitled to get parity the next year. I should like to ask the chairman of the committee about that.

Mr. WAGNER. I, too, should like to ask the chairman of the committee. Though the tax may be, say, 20 percent above parity for a whole year, the following year it is nevertheless the duty of the Secretary of Agriculture under this bill to impose a tax which will preserve parity. Am I not right about that?

Mr. SMITH. Yes.

Mr. WAGNER. Even though he got 20 percent more than parity?

Mr. SMITH. Oh, yes. We are confusing the operation of the tax with the operation of the law of supply and demand. A tax may be imposed, and circumstances may develop during a marketing year which will put the commodity above parity, not dependent upon the tax.

The PRESIDING OFFICER (Mr. LEWIS in the chair). The Chair must inform the Senator from Maryland that his time on the amendment has expired.

Mr. TYDINGS. Then I shall speak on the bill, Mr. President.

The PRESIDING OFFICER. The Senator is so recognized.

Mr. SMITH. Mr. President——

Mr. TYDINGS. I yield to the Senator from South Carolina.

Mr. SMITH. Under the present arrangement the tax would apply during that year. It may happen, even under the amendment of the Senator from Kentucky [Mr. BARKLEY], that in the next year the price will drop to 90 percent of parity, and even there, if it is 90 percent or above, the officials are authorized to decrease the tax.

Mr. BARKLEY. They are not only authorized but compelled to do so.

Mr. TYDINGS. But the farmer would still get parity.

Mr. SMITH. The farmer would get parity, but the tax would be reduced as the price approached parity, even down to not exceeding 10 percent.

I wish to make an observation here and now. The Secretary of Agriculture has worked out this scheme with the object in view of maintaining the parity price wherever it has been reached, and trying to bring up the price of other commodities. Since we have placed the burden of that responsibility upon the Secretary and his agents, I do not feel disposed, here and now, to offer or support amendments to the bill which would subject us to the charge of having interfered with his program in such a way that the markets, which are to open within 2 or 3 weeks, may open disastrously to those producing the products sold on those markets.

Mr. TYDINGS. Mr. President, will the Senator, in my time, allow me to ask him another question? As I understand, the Senator says that the Secretary of Agriculture, in administering this measure, will attempt to administer it so that over a period of years the farmer will get the parity price; and he says, inferentially, that if in any one year the consumer shall pay in taxes an amount sufficient to bring the price above parity, the consumer will be later relieved of a like amount of taxes so as to even it up over a period of time.

Mr. SMITH. Yes.

Mr. TYDINGS. The amendment itself, however, does not say that. I am bringing out this discussion simply because I take it that nobody wishes to have the farmer over a period of years get any more or any less than parity, nor does anybody wish the consumer to pay any more than is necessary to bring the farmer up to parity. If that is the way the measure is to be administered, and if it will actually be administered in that way, the particular language is not of so much consequence.

Mr. NORRIS. Mr. President——

Mr. TYDINGS. I yield to the Senator from Nebraska.

Mr. NORRIS. I think it is pretty well understood that it is a practical impossibility to say in advance, just to the cent, how much a certain processing tax will affect the parity price; so the Secretary is going into a field of considerable uncertainty.

Mr. TYDINGS. Mr. President, will the Senator allow me to interrupt him for a moment?

Mr. NORRIS. Yes.

Mr. TYDINGS. Suppose a farmer got 20 percent above parity in a given year, with the tax; how much would he ask for the next year?

Mr. NORRIS. I could not say what he would ask for; but the idea is, all the time, to keep the price at parity. When the price goes up to a certain point in any year, the Secretary will not change it during the marketing season. Of course, that he cannot do.

Mr. TYDINGS. That is true.

Mr. NORRIS. But at the end of the year, if the price is at a certain point above parity, he will reduce the processing tax for the next year.

Mr. TYDINGS. That is true. In other words—let me state the matter and see if the Senator agrees with my statement:

Those who are going to support this bill have two duties here. The first is to give the farmer the fair parity price of what he produces. The second duty is not to charge the consumer more for the goods than is necessary to give the farmer that price.

Mr. NORRIS. That is correct.

Mr. TYDINGS. Therefore, if by virtue of a tax the farmer gets a higher price than parity at the expense of the taxpaying consumer, it strikes me that in justice the next year the taxpaying consumer ought to have that hump taken out, and the line straightened out.

Mr. NORRIS. I do not agree with the Senator in this particular; I do not think the Secretary will administer the law in such a way that if the farmer gets 20 percent above parity one year, he will try to reduce the tax so that the farmer will get only 80 percent of parity the next year. The object is to keep the price at parity.

Mr. TYDINGS. I understand that.

Mr. NORRIS. When the Secretary levies a tax, if it should not produce parity, but the price should be going up toward parity, and the indications were that in a short time it would become parity, the tax should be retained. If the price should go too high, the Secretary would take off the tax, not with the idea of putting the price a certain percentage below parity but of putting it down to parity. If he should take off too much, and the price should go below parity, the tax ought to be increased again so as to get it up to parity. That would be the theoretical level, but, of course, as a matter of practice it probably would never be right on that level. It would be a little below it or a little above it, with the idea of trying to keep it on that parity level.

Mr. TYDINGS. May I interrupt the Senator again?

Mr. NORRIS. Yes.

Mr. TYDINGS. As I understand the philosophy of this bill, it is to give the farmer parity.

Mr. NORRIS. That is true.

Mr. TYDINGS. And the bill is to be administered in such a way that the consumer, either in a good year or in a bad year, shall not pay any more or any less than is necessary to give that parity.

Mr. NORRIS. To carry out in good faith the purpose of the bill.

Mr. TYDINGS. That is correct. So that at all times, as soon as it is feasible, the tax is supposed to be raised or lowered so that the consumer, on the one hand, will not be getting the product at less than parity, nor, on the other hand, will the consumer be paying a tax which will give the farmer more than parity.

Mr. NORRIS. That is true; remembering all the time, however, that as a practical proposition it probably will never be possible, no matter what we do, to keep the price exactly at parity, though the object will be to keep it there. The price may go up a little, or it may go down a little.

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. TYDINGS. I yield to the Senator from Tennessee, and then I will yield the floor.

Mr. McKELLAR. I desire to ask the Senator from Nebraska to answer this very practical question:

I agree with the Senator in all he has said about the purpose of the bill. He has just stated what the bill means. Can such parity as he has been talking about be preserved under the proposed new law just as well as under the existing law?

Mr. NORRIS. I think so.

Mr. McKELLAR. The Senator thinks it can?

Mr. NORRIS. I do.

Mr. McKELLAR. Does the Senator from Maryland think so?

Mr. TYDINGS. The only fear I have, in conclusion, is this: Assuming that parity is attained, and the consumer is taxed 20 percent, and the price rises 20 percent above parity on a whole crop for a whole year, or perhaps for two succeeding years, I doubt very much whether the farmer would want to break even with the consumer on the third or the fourth year, and to take less than parity in those years, notwithstanding he got above parity for 1 or 2 years.

Mr. NORRIS. It would be the object of the law to give parity, although if it were proposed to have the farmer take 20 percent less than parity in 1 year because he got 20 percent above parity in another year I should not agree to that, because necessarily there must be those variations, or at least some variations, in order to keep the price at parity. In the case I have put, where the tax resulted in the price going too high, it would be reduced with the object of bringing the price down to parity.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield to the Senator from Texas. I desire to yield the floor as soon as I shall have yielded to those who wish to interrupt me.

Mr. CONNALLY. I desire to ask the Senator from Nebraska whether it is not true that if the price should go substantially above parity it would be because there were factors forcing it to that point other than the processing tax?

Mr. NORRIS. Probably.

Mr. CONNALLY. The processing tax is based upon the theory of bringing the price to parity. There might be weather conditions or crop conditions or other things which of themselves would force the price above parity.

Mr. NORRIS. And in deciding about raising or reducing the processing tax, the Secretary would take all those things into consideration.

Mr. CONNALLY. To be sure.

If I may have further permission to interrupt——

Mr. TYDINGS. I yield to the Senator from Texas.

Mr. CONNALLY. Under the existing law, when the Secretary determines upon a processing tax, he puts it into effect at the beginning of the next marketing year.

Mr. NORRIS. That is correct.

Mr. CONNALLY. It is computed by marketing years, because we would not want to take off the tax in the middle of a marketing season.

Mr. NORRIS. It would be impracticable to do that. The whole thing would fall.

Mr. CONNALLY. If 2 months before the beginning of a year and 10 months after, which makes a year, the price has gone up as much as 20 percent or less, to 102 or 105, let us assume, then under the amendment for the next marketing year the Secretary must reduce the tax.

Mr. NORRIS. Yes.

Mr. CONNALLY. He has no option. So I say it is really a limitation. He has to reduce it 20 percent or 10 percent, as the case may be.

Mr. TYDINGS. Suppose, then, the price dropped to less than parity.

Mr. CONNALLY. Then he would use part of the tax he had accumulated the year before in paying the benefits to bring up the price the succeeding year to parity, and that is the reason why it is necessary to maintain some point. He could not collect a processing tax in an isolated case and pay it to the farmer. It is all in one mass, and that is why, as I see it, it is necessary to maintain the processing tax at some figure in order to have a fund with which to pay the farmers when the price goes below parity. I think the amendment is an improvement over the existing law.

Mr. BORAH. Mr. President, does not the Senator think the Einstein theory would be better than the amendment?

Mr. GORE. Yes.

Mr. CONNALLY. If the Senator will first explain to me the Einstein theory, then I will explain the amendment.

Mr. BORAH. I think that is a good answer.

Mr. GORE. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. GORE. I had the same understanding of the law when it was first enacted as that expressed by the Senator from Maryland. I thought the purpose was to restore the prices of agricultural products to parity, and to maintain them at parity. I did not understand that if other factors raised the price above and beyond parity, the tax was to be continued, no matter how high the price might go.

I wish to ask someone what the parity price of tobacco is. My understanding is that it is 17 cents a pound.

Mr. TYDINGS. The Senator will have to define the particular grade of tobacco.

Mr. GORE. I am not familiar with different grades, but I will say flue cured.

Mr. SMITH. Mr. President, if the Senator will allow me, certain years were taken in the effort to determine what the relation between the producer's price and the price of what he has to buy should be. The Senator recognizes that if the things the farmer buys go up 10 percent, then the parity price of the farmer ought to go up 10 percent. There could be no fixed parity price except in general terms.

For instance, if at the beginning of this year the things the farmer had to buy had increased 25 percent above what they were during the years taken as the basic years, that 25-percent increase over the price of the basic years would call for a 25-percent increase in the parity price of the farmer. The years taken as the basic years are the years of comparison.

Mr. GORE. From 1909 to 1913.

Mr. SMITH. Yes.

Mr. GORE. And the purchasing power of farm products then as related to the commodities and articles the farmer had to buy.

Mr. SMITH. Yes.

Mr. GORE. Then the processing tax is imposed now in order to raise the price of the farmer's products so that it will purchase an equivalent amount, a corresponding amount, of other products.

Mr. SMITH. That is correct.

Mr. GORE. I saw a statement a few days ago to the effect that the price of tobacco, I assume including the processing tax, was 17 cents last year.

Mr. SMITH. Mr. President, as the Senator from Idaho has observed, this is a question of relativity, involving the Einstein theory.

Mr. GORE. That is the most pertinent argument I have heard.

Mr. SMITH. Suppose we should fix the price at 17 cents.

Mr. GORE. If the Senator will pardon me, this is the point I have in mind. What is the present price of tobacco? I have recently seen the statement that the basic price of tobacco, the parity price, was 17 cents.

Mr. SMITH. That is for a certain grade.

Mr. GORE. And that tobacco was selling at that time at 27 cents. That is what I am coming to. Yet the processing tax was continued, notwithstanding the market price was much above the parity price. That is the point. Why should that be, if the objective of this bill is to establish and maintain parity prices, and no more?

Mr. SMITH. The pending amendments are intended to take care of that situation.

Mr. GORE. I understand.

Mr. LA FOLLETTE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LA FOLLETTE. Who has the floor?

Mr. TYDINGS. I have the floor, Mr. President, and I have yielded to the Senator from Oklahoma.

Mr. VANDENBERG. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. VANDENBERG. When will Einstein's time expire? [Laughter.]

The PRESIDING OFFICER. The inquiry is more or less relative. [Laughter.] The Chair recognizes the Senator from Maryland.

Mr. GORE. The Einstein theory is the simplest problem we have to solve in connection with this measure.

Mr. BARKLEY. What is the solution of Einstein's theory?

Mr. GORE. Ask the "Kingfish." I heard him explain it to "Andy" once.

Mr. SMITH. I object to the use of the term "Kingfish" without specifying which "Kingfish" is referred to.

Mr. GORE. There are kingfishes and kingfishes.

Mr. SMITH. To which one did the Senator refer?

Mr. GORE. To the original. [Laughter.]

Mr. TYDINGS. Mr. President, I surrender the floor.

Mr. SMITH. May we have a vote on the amendment offered by the Senator from Kentucky?

Mr. GORE. Mr. President, I desire to conclude the remark I was making a moment ago.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. GORE. If the market price rises above and remains above the parity price under this act the processing tax will be continued, notwithstanding that fact. To me that does not seem consistent with the original philosophy, assuming that we have had a philosophy for the original plan and program embodied in the legislation.

For my part, I am not surprised that the philosophy has changed. When we embarked upon this unprecedented program, "experiment", as the President called it, it was to solve the problem of farm surpluses. It was the surplus that was killing the farmer, bankrupting the farmer, and it was a serious problem. It was a tragic problem, pleading, if I may say, like angels, trumpet-tongued for a solution.

We enacted the law in order to solve that problem. We undertook to treat a surplus that did exist as if it did not exist. So this measure was originally designed to solve the problem of the surplus crops, such as cotton, wheat, pork, and lard. It was not long before it was applied to deficiency crops, as well as surplus crops.

We do not produce anything like the amount of wool that we require or that we consume—I believe one-third or one-half of the amount, or some such matter—and yet this measure, designed as a solution of the surplus problem, was applied to wool, a deficiency crop.

Not only that, we raise only a small percentage of the amount of sugar consumed by the American people. Yet sugar has been included within the range of this legislation as if it were a surplus crop.

My point is that there must be something else than the establishment and maintenance of a parity price, just as we shift from a surplus crop to a deficiency crop. I think this measure is going beyond its original limit, and it probably will react upon the sponsors of the measure in the long run. Like vaulting ambition, it may overleap itself and fall upon the other side.

Mr. KING. Mr. President, I desire to read into the RECORD a telegram which I have received from my home town, under date of July 10. It is signed by J. F. Whittaker Cigar Co. I know Mr. Whittaker and members of his company. They are men of integrity, and I am sure they would not send a telegram of this character unless they recited the facts. I read:

> We earnestly solicit your opposition to bill H. R. 8492. If enacted it will be ruinous to the already suffering cigar manufacturing industry. Farmers now receive parity for cigar-leaf tobacco. Surpluses have been absorbed. Shortage ahead. Processing tax, if continued, will eliminate many small manufacturers who have cheerfully cooperated with the administration requirements. We should at least have a public hearing and be given an opportunity to present facts. The best interests of cigar-leaf farmers, cigar-factory employees, and cigar manufacturers cannot be served by bill H. R. 8492. Please use efforts to have the bill referred back to the subcommittee for fair discussion and for a public hearing.

It is signed, as I stated, by J. F. Whittaker Cigar Co.

Mr. President, I shall just add a few words to the telegram which I have read. I agree with the statement just made by the able Senator from Oklahoma [Mr. GORE].

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. FLETCHER. I desire to suggest that a few days ago I placed in the RECORD two letters from large cigar manufacturers in Florida agreeing fully with the telegram just read.

Mr. KING. Mr. President, when the A. A. A. was under discussion I remember reading the statements which were made by some of the leading proponents of the measure, including, as I recall, Secretary Wallace, that the measure was for the purpose of dealing with surpluses, just as stated by the Senator from Oklahoma. Now, when we have gotten rid of surpluses in many instances, we are to continue this tax. Obviously, if that plan is continued, there will be a reaction against this so-called "parity price" and against the policy of the Agricultural Adjustment Act and of this proposed legislation.

Mr. President, it seems to me that when the parity price is reached, then, under the theory of the A. A. A., the benefits should cease and the taxes should not be collected, but now the plan is to continue indefinitely, for that is what this means, the taxes and the benefits, and one excuse after another will be suggested as the days go by for continuing these so-called "processing taxes" and these benefits until the whole system, if it has not already broken down, will arouse such antagonism on the part of the consumers of the country that they will demand the repeal of the A. A. A. as well as the pending measure, if it shall be enacted into law.

It seems to me we are perverting or attempting to pervert the purpose of the A. A. A. and deviating entirely from the plan which was suggested when the A. A. A. was under consideration.

Mr. BAILEY. Mr. President, my apology for detaining the Senate after this long and illuminating discussion is the fact that the State of North Carolina produces from 400,000,000 to 550,000,000 pounds of flue-cured bright tobacco each year and that the production of the State as a whole of that type is nearly five-sevenths of the total production in this country. The people whom I represent, I am sure, will expect me to have some part in the discussion of legislation so directly affecting so large a number of the people.

The bright tobacco is produced in North Carolina in 57 counties, and we produce the burley tobacco in a half a dozen counties in the west. Last year our farmers received $122,000,000 for their tobacco crop, compared with something like $30,000,000 in 1932. Of course, they were tremendously pleased, and, of course, the whole of the Commonwealth was very greatly helped, helped far more than it could possibly have been helped by the pouring out of borrowed public money. That has made a great appeal to the farmers of North Carolina. They have repeatedly taken votes in the State on the A. A. A. control policy, and with respect to peanuts, cotton, and tobacco it is a safe statement that the farmers as a whole—I hesitate to give the percentage, but somewhere between 85 percent and 90 percent of the farmers voting—have voted an attachment to what is known as the "agricultural adjustment program."

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. BARKLEY. From the newspapers within the last few days I have obtained the information that the referendum taken in the tobacco region on the continuation of this program resulted in a 20-to-1 vote in favor of its continuance.

Mr. BAILEY. Mr. President, I move now from that to another remark. Under the policy of the Government since 1933 the Department of Agriculture has assumed responsibility for prices to farmers in America. It has assumed responsibility for the condition of the tenants. It has taken

over the farm problem. And I rather think that the inclination of the farmer is to keep that responsibility just where it is. That is my inclination.

I know that within 3 weeks the tobacco market in the flue-cured, the bright tobacco fields, will be opened. It will open first in the State of the Senators from South Carolina and in the State of the Senators from Georgia. September 1 it will open in my State. Whether this bill will tend to depress the price or tend to elevate it is a question of debate in the State.

I confess that I do not know how to estimate prices in advance. The crop is estimated by the Department now at 660,000,000 pounds—that is, the flue-cured bright tobacco—but I cannot tell what prices will be, and I have no way to assume the responsibility by way of lending money as the Government has. The responsibility has been taken by the Department, and it asks for this legislation by way of further assuming this responsibility.

I think the farmers of my State desire that I shall support this legislation. I think that they, probably without having examined the details of this system of raising and lowering the taxes, would rather that I should support it.

There has been a great deal of confusion, but the system can be simply stated. There are processing taxes to account for the difference between the market price and the fair exchange value. That is fundamental. There is provision for the reduction of the taxes to naught whenever the Secretary of Agriculture is persuaded or finds for one reason or another than the processing taxes are tending to reduce consumption of the finished product and therefore to accumulate surpluses.

Then, there is a further provision for fixing the tax for the ensuing year upon a range of price from 90 percent of parity to 120 percent in a preceding year, and, in that event, the tax is fixed at 20 percent of the fair exchange value. And finally, the tax is provided to be 10 percent of the fair exchange value when for the period of a marketing year the price gets up above 120 percent of parity.

Those are the four provisions of the bill and they are intended to provide a certain amount of elasticity, I think, with a view to undertaking to maintain something around parity—from 90 percent of parity to more than 120 percent of parity. Whether those provisions will work is a question, but they are reported to us by the committee. They are approved by the Department, and the Department has assumed a responsibility which no one of us here can undertake to assume.

Again, Mr. President, the Secretary of Agriculture and the head of the tobacco division were in my State early in this year and stood face to face with some 4,000 tobacco farmers, every one of whom was grateful to the Government for the fine prices they had received in 1934. They informed those farmers that their prices were too high. That was very disagreeable to a great many of the farmers. These gentlemen even said they intended to pursue a policy calculated to reduce those prices. And this was very disagreeable.

I am going on record. I do not want the prices of tobacco reduced in North Carolina. If I thought that was going to be brought about by the bill I should vote against it. I have no way on earth to determine in advance about that. I cannot foretell prices. I am here charged with the notice that in all probability there is a disposition in the Department of Agriculture to bring down the price of tobacco. Of course, I do not want to be a party to that.

Mr. President, there were provisions which made it very difficult for me to consider voting for this legislation, but many of them have been eliminated.

In view of all the circumstances and rather valuable amendments which have been made, and especially in view of the fact that this policy is a national policy now relating to all manner of crops, and further in view of the fact that the farmers of North Carolina after a fair trial have voted in overwhelming numbers for this policy, and in view of the further fact that they have not received fair prices at hardly any time in all the history of their operations and are receiving today only 10 percent of the national income whereas they constitute 27 percent of the population, and in view of the fact that I know of no other course to pursue—and there is no other measure proposed—except to continue the policy until it proves itself to their satisfaction, I am going to vote for the bill when we come to the final vote. The responsibility has been taken by the Department of Agriculture; the farmers have approved that responsibility. I am willing that that responsibility shall remain where it is, if, for no other reason, to give the system a fair trial under an administration that has asked for it.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York to eliminate from the committee amendment on page 40, lines 18 and 19, the words " by 20 percent or less."

The amendment to the amendment was rejected.

Mr. BAILEY. Mr. President, several days ago I gave notice that I should offer an amendment upon the reconsideration of this committee amendment. My amendment to the committee amendment is intended only to apply to the language in lines 15 and 16, on page 40, to define the language " during the 2 months immediately preceding and the first 10 months of any marketing year ", so as to make it definite that it is intended to be a year of 12 months. There is some debate as to the character of the year.

The Chairman of the Committee on Agriculture and Forestry has agreed to accept the amendment, and I may say I have consulted with the Department of Agriculture, and they approve it.

Accordingly, I move, in the committee amendment, on page 40, line 15, after the words " during the ", to insert the words " 12 months' period consisting of the."

The PRESIDING OFFICER. The amendment to the committee amendment will be stated for the information of the Senate.

The CHIEF CLERK. It is proposed in the committee amendment, on page 40, line 15, after the words " during the ", to insert the words " 12 months' period consisting of the ", so as to make the sentence read:

> If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraphs (2), (3), (4), or (5) of this subsection, during the 12 months' period consisting of the 2 months immediately preceding and the first 10 months of any marketing year.

Mr. SMITH. As the Senator stated, that is agreeable to the chairman of the committee and also to the Department.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. SMITH. Mr. President, may we now have a vote on the committee amendment as amended?

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The amendment, as amended, was agreed to.

Mr. RUSSELL. Mr. President, I desire to move a reconsideration of the vote by which the Senate rejected the committee amendment on page 45, commencing in line 17. That amendment was rejected 2 days ago. Unless the motion is made at this time, the time within which it can be made will expire.

The PRESIDING OFFICER. Does the Senator from Georgia give notice, or does he make the motion?

Mr. RUSSELL. I submit the motion. I move that the Senate reconsider its action in rejecting the committee amendment on page 45, commencing in line 17, designated as " Sec. 15 ", imposing a compensatory tax on rayon.

Mr. BORAH. Mr. President, does that have anything to do with the imposition of a tax on jute?

Mr. RUSSELL. Nothing whatever; but I may say that before consideration of the bill shall finally be concluded I intend to submit an amendment in relation to jute.

Mr. BORAH. That is what I have been watching for.

Mr. WAGNER subsequently said: Mr. President, I understand that the junior Senator from Georgia [Mr. RUSSELL] has entered a motion to reconsider the vote by which the so-called " rayon amendment " was rejected by the Senate.

The PRESIDING OFFICER. The Chair so understands.

Mr. WAGNER. Is that motion to be considered tomorrow?

The PRESIDING OFFICER. The Chair has no information on that subject.

Mr. KING. Undoubtedly it will be.

The PRESIDING OFFICER. In the nature of things the motion could be called up tomorrow. The Chair understands it is to go over today.

Mr. BARBOUR. Mr. President, as a matter of fact, will not that motion be the first order of business tomorrow?

The PRESIDING OFFICER. The Chair does not so understand; but it could be so called up.

Mr. RUSSELL entered the Chamber.

Mr. WAGNER. The Senator from Georgia is now present. I was about to ask the Senator whether it is his purpose to bring up the motion tomorrow.

Mr. RUSSELL. Mr. President, as I understand the rules, it will be necessary for the motion to be considered tomorrow, it being the pending question. I have no objection to its being postponed to some later date if the Senator from New York desires.

Mr. WAGNER. No; I intended not to be here tomorrow, but under the circumstances I shall have to forego the pleasure of a day in New York.

Mr. RUSSELL. I understand that the motion is the pending question.

Mr. WAGNER. Very well.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. LEWIS in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. BARKLEY, from the Committee on the Library, reported favorably the nominations of the following-named persons for appointment in The National Archives:

Dorsey W. Hyde, Jr., of the District of Columbia, to be Director of Archival Service;

Solon J. Buck, of Pennsylvania, to be Director of Publications;

Thaddeus S. Page, of North Carolina, to be Administrative Secretary; and

Collas G. Harris, of Virginia, to be Executive Officer.

Mr. NEELY, from the Committee on the Judiciary, reported favorably the nomination of Albert M. Rowe, of West Virginia, to be United States marshal, northern district of West Virginia, vice Harry A. Weiss, whose resignation is effective August 31, 1935.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

WORKS PROGRESS ADMINISTRATION

Mr. McKELLAR. From the Committee on Appropriations I report back favorably three nominations.

The first is that of Robert J. Dunham to be State administrator for Illinois in the Work Progress Administration. I call the attention of the present Presiding Officer, the senior Senator from Illinois [Mr. LEWIS], to that nomination.

The PRESIDING OFFICER. The Senator from Illinois, now presiding in the chair, adopts the suggestion, and desires to request the present consideration of the nomination. He would, however, have to leave the chair in order to do so.

Mr. ROBINSON. On behalf of the occupant of the chair, I ask unanimous consent for the present consideration of the nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The nomination will be read.

The legislative clerk read the nomination of Robert J. Dunham to be State administrator for Illinois in the Works Progress Administration.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. McKELLAR. I also report back favorably, from the Committee on Appropriations, the nomination of Darrell J. Greenwell to be State administrator for Utah.

Mr. KING. I ask unanimous consent for the present consideration of that nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The nomination will be read.

The legislative clerk read the nomination of Darrell J. Greenwell to be State administrator for Utah in the Works Progress Administration.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

PUBLIC WORKS ADMINISTRATION

Mr. McKELLAR. I also report back favorably, from the Committee on Appropriations, the nomination of Robert A. Radford to be State engineer for the Public Works Administration in Minnesota. I ask unanimous consent for its immediate consideration, inasmuch as the Senators from that State are not present.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the nomination? The Chair hears none. The clerk will read the nomination.

The legislative clerk read the nomination of Robert A. Radford, of Minnesota, to be State engineer for the Public Works Administration in Minnesota.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

THE CALENDAR

The PRESIDING OFFICER. The calendar is in order.

POSTMASTERS

The legislative clerk proceeded to read the nominations of sundry postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 35 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Saturday, July 20, 1935, at 10 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate July 19 (legislative day of May 13), 1935

APPOINTMENT IN THE REGULAR ARMY

MEDICAL CORPS

To be first lieutenant with rank from August 1, 1935

First Lt. Robert White DuPriest, Medical Corps Reserve.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

TO ADJUTANT GENERAL'S DEPARTMENT

Capt. William Edward Bergin, Infantry (detailed in Adjutant General's Department), with rank from July 1, 1920.

TO CAVALRY

Second Lt. David Wagstaff, Jr., Infantry, with rank from June 13, 1933, effective September 15, 1935.

PUBLIC HEALTH SERVICE

The following-named assistant pharmacists to be passed assistant pharmacists in the United States Public Health Service, to rank as such from the dates set opposite their names:

Edgar B. Scott, July 23, 1935.

Edwin M. Holt, July 23, 1935.

POSTMASTERS

ALABAMA

Lynn Sanderson Bruner to be postmaster at Fort Deposit, Ala., in place of A. H. Smith. Incumbent's commission expired February 14, 1935.

Ernest W. Thompson to be postmaster at Tuskegee, Ala., in place of A. M. Wallace, removed.

James B. Washington to be postmaster at Tuskegee Institute, Ala., in place of J. B. Washington. Incumbent's commission expired March 18, 1934.

ARKANSAS

Samuel B. McCall to be postmaster at El Dorado, Ark., in place of R. M. Deason, removed.

Elizabeth B. Dabney to be postmaster at Lake Village, Ark., in place of J. F. Hudson. Incumbent's commission expired February 25, 1935.

Edward H. Dunning to be postmaster at Wilmot, Ark., in place of William Smith. Incumbent's commission expired December 16, 1934.

CALIFORNIA

Ica C. Adams to be postmaster at Brawley, Calif., in place of A. W. Jeffus. Incumbent's commission expired December 16, 1934.

Roy L. Terrell, Jr., to be postmaster at Grass Valley, Calif., in place of J. C. Tyrrell. Incumbent's commission expired February 14, 1935.

William J. Flowers to be postmaster at Ferndale, Calif., in place of J. A. Givins. Incumbent's commission expired May 29, 1934.

Denny J. McChristy to be postmaster at Imperial, Calif., in place of N. A. Mackey. Incumbent's commission expired December 18, 1934.

Oliver G. Miller to be postmaster at Maricopa, Calif., in place of L. P. Russell. Incumbent's commission expired December 16, 1934.

Joseph Scherrer to be postmaster at Placerville, Calif., in place of E. Y. Gray, removed.

Ray O. Caukin to be postmaster at Sierra Madre, Calif., in place of J. H. Wright. Incumbent's commission expired January 22, 1935.

Alva A. Wilson to be postmaster at Willits, Calif., in place of C. C. Darrow, removed.

Ernest J. Craghill to be postmaster at Corcoran, Calif., in place of J. R. Willoughby. Incumbent's commission expired February 4, 1935.

Harry E. Cranshaw to be postmaster at Escondido, Calif., in place of G. F. Bartley. Incumbent's commission expired January 28, 1935.

Philip T. Hill to be postmaster at Santa Monica, Calif., in place of G. E. Tooker, retired.

COLORADO

Zebulon M. Pike to be postmaster at Golden, Colo., in place of F. E. Stewart. Incumbent's commission expired February 14, 1935.

Esther M. Stanley to be postmaster at Gypsum, Colo., in place of Theodore Stremme. Incumbent's commission expired February 6, 1935.

CONNECTICUT

Francis A. Gagnon to be postmaster at Danielson, Conn., in place of E. H. Keach. Incumbent's commission expired February 21, 1935.

Charle E. Batayte to be postmaster at Granby, Conn., in place of W. K. Avery. Incumbent's commission expired December 18, 1934.

Joseph H. Fahey to be postmaster at Springdale, Conn., in place of Hector Langevin, resigned.

George H. Tetreault, Jr., to be postmaster at Versailles, Conn., in place of L. B. Brand. Incumbent's commission expired December 16, 1933.

John P. Bridgett to be postmaster at Wallingford, Conn., in place of W. F. Smith. Incumbent's commission expired January 13, 1935.

Samuel Berkman to be postmaster at Yantic, Conn., in place of S. H. Bishop. Incumbent's commission expired December 16, 1933.

Thomas W. Dwyer to be postmaster at Middlebury, Conn., in place of J. H. Delaney, resigned.

Thomas S. White to be postmaster at New Milford, Conn., in place of W. G. Mock. Incumbent's commission expired January 22, 1935.

FLORIDA

Lewis S. Andrews to be postmaster at Cocoa, Fla., in place of E. N. Winslow, removed.

John A. Russell to be postmaster at Islamorada, Fla. Office became Presidential July 1, 1935.

Howard W. Harrison to be postmaster at Jay, Fla. Office became Presidential July 1, 1935.

Rubye C. Farmer to be postmaster at Holly Hill, Fla., in place of B. S. Bass. Incumbent's commission expired February 14, 1935.

Charlie B. Goodman to be postmaster at Shamrock, Fla., in place of E. P. Summitt. Incumbent's commission expired June 9, 1934.

John H. Dutill to be postmaster at Umatilla, Fla., in place of B. F. Hargis. Incumbent's commission expired January 22, 1935.

GEORGIA

Doddridge K. Houser to be postmaster at Shannon, Ga., in place of A. F. West, resigned.

Ralph Waldo Harris to be postmaster at Wrens, Ga., in place of E. B. Smith. Incumbent's commission expired April 28, 1934.

James Paul Williams to be postmaster at Chipley, Ga., in place of O. F. Anderson. Incumbent's commission expired February 25, 1935.

William Peyton Cravey to be postmaster at Milan, Ga., in place of Gertrude McCranie. Incumbent's commission expired February 25, 1935.

IDAHO

Ralph R. Fluharty to be postmaster at Eagle, Idaho, in place of W. J. Selby. Incumbent's commission expired February 25, 1935.

Henry W. Thomas to be postmaster at Malad City, Idaho, in place of Clyde Hanson. Incumbent's commission expired February 4, 1935.

ILLINOIS

Joseph A. Roesler to be postmaster at Ashton, Ill., in place of E. H. Chadwick. Incumbent's commission expired December 18, 1934.

John C. Kolb to be postmaster at Benson, Ill., in place of F. E. Learned, deceased.

Arthur H. Schuler to be postmaster at Forest Park, Ill., in place of W. C. Yunker. Incumbent's commission expired February 25, 1935.

Nellie Sutter to be postmaster at Lisle, Ill., in place of M. J. Riedy. Incumbent's commission expired June 24, 1934.

Irwin Knudson to be postmaster at Newark, Ill., in place of E. W. Perkins. Incumbent's commission expired April 2, 1934.

Henry R. Morrow to be postmaster at Seneca, Ill., in place of D. B. Comegys. Incumbent's commission expired December 18, 1934.

Philip F. Althoff to be postmaster at Valmeyer, Ill., in place of E. G. Meyer. Incumbent's commission expired December 18, 1934.

Elmer J. Freund to be postmaster at West McHenry, Ill., in place of E. E. Bassett, retired.

James H. Elliott to be postmaster at Danville, Ill., in place of W. C. Lewman, deceased.

James M. Ryan to be postmaster at East Moline, Ill., in place of W. D. Chambers. Incumbent's commission expired February 14, 1935.

Everett L. Cameron to be postmaster at Gillespie, Ill., in place of Evan Harris. Incumbent's commission expired February 4, 1935.

Byron L. McDow to be postmaster at Jerseyville, Ill., in place of W. A. Leigh, removed.

William K. Lyon to be postmaster at Niles Center, Ill., in place of Herman Meyer. Incumbent's commission expired February 25, 1935.

Herbert H. Cox to be postmaster at Palmyra, Ill., in place of O. A. Robison. Incumbent's commission expired January 28, 1935.

Edward J. Hathaway to be postmaster at Rossville, Ill., in place of Russell Young. Incumbent's commission expired February 25, 1935.

Carl Reeser to be postmaster at Weldon, Ill. Office became Presidential July 1, 1935.

Robert L. Cooper to be postmaster at Williamsville, Ill., in place of N. S. Doty, Jr., removed.

INDIANA

Bayard F. Russell to be postmaster at Laurel, Ind., in place of Nell Manley. Incumbent's commission expired December 18, 1934.

Jesse M. Trinkle to be postmaster at Paoli, Ind., in place of E. O. Whitmire. Incumbent's commission expired January 22, 1935.

Ellis G. Ashabraner to be postmaster at Pekin, Ind., in place of E. R. Hoyt. Incumbent's commission expired February 4, 1935.

Hazel H. Applegate to be postmaster at Carmel, Ind., in place of J. C. Davis, removed.

Orval E. Monahan to be postmaster at Jonesboro, Ind., in place of H. M. Craw. Incumbent's commission expired January 22, 1935.

Thomas J. Conley to be postmaster at Rome City, Ind., in place of S. D. Johnston. Incumbent's commission expired January 28, 1935.

IOWA

Carl O. Roe to be postmaster at Garner, Iowa, in place of C. A. Frisbee, resigned.

William W. Sullivan to be postmaster at Algona, Iowa, in place of J. A. McDonald, deceased.

Julia E. Dean to be postmaster at Blanchard, Iowa, in place of E. K. Holt. Incumbent's commission expired January 22, 1934.

George L. Lorton to be postmaster at Bonaparte, Iowa, in place of C. E. Meek. Incumbent's commission expired December 20, 1934.

George A. Crane to be postmaster at Dexter, Iowa, in place of W. W. Andrew. Incumbent's commission expired December 20, 1934.

John O. Bussard to be postmaster at Essex, Iowa, in place of F. P. Rotton. Incumbent's commission expired February 25, 1935.

Anna C. Lundvick to be postmaster at Gowrie, Iowa, in place of A. F. Patton. Incumbent's commission expired April 2, 1934.

Alice F. Fogarty to be postmaster at Irwin, Iowa. Office became Presidential July 1, 1935.

James A. Phelan to be postmaster at Larchwood, Iowa. Office became Presidential July 1, 1935.

Avis Monette Fox to be postmaster at Little Sioux, Iowa, in place of L. L. Reynolds. Incumbent's commission expired June 20, 1934.

Cleveland J. Long to be postmaster at Stanwood, Iowa, in place of G. W. Sisler, resigned.

KANSAS

Harriet M. Mayo to be postmaster at Claflin, Kans., in place of Ruth Herthel. Incumbent's commission expired February 20, 1935.

Rolen C. Barrett to be postmaster at Frankfort, Kans., in place of H. F. Heleker. Incumbent's commission expired February 20, 1935.

Raymond E. Stotts to be postmaster at Garden City, Kans., in place of C. I. Zirkle. Incumbent's commission expired March 2, 1935.

William F. Varvel to be postmaster at Gridley, Kans., in place of H. W. Mudge. Incumbent's commission expired December 18, 1934.

Victor T. Pickrel to be postmaster at Kanorado, Kans., in place of O. N. Taylor. Incumbent's commission expired February 20, 1935.

Leslie Eugene Harvey to be postmaster at Minneapolis, Kans., in place of F. E. Chapin. Incumbent's commission expired February 25, 1935.

Raymond Artas to be postmaster at Russell, Kans., in place of H. A. Fink, resigned.

George I. Althouse to be postmaster at Sabetha, Kans., in place of C. S. Brumbaugh, deceased.

Michael Joseph Baier to be postmaster at Shawnee, Kans., in place of T. W. Davis. Incumbent's commission expired February 20, 1935.

Harold B. Iliff to be postmaster at Strong, Kans., in place of B. W. Brennan, resigned.

Robert E. Berner to be postmaster at Waterville, Kans., in place of F. S. Adams. Incumbent's commission expired February 14, 1935.

Verne A. Miller to be postmaster at Weir, Kans., in place of Lee Mobley. Incumbent's commission expired January 22, 1935.

Lester W. Stewart to be postmaster at White City, Kans., in place of P. S. Williams. Incumbent's commission expired July 3, 1934.

Zenobia A. Kissinger to be postmaster at Bennington, Kans. Office became Presidential July 1, 1935.

Os Love to be postmaster at Bronson, Kans., in place of J. L. Ritter. Incumbent's commission expired December 20, 1934.

Ivan Leo Farris to be postmaster at Cheney, Kans., in place of Hester Spurrier. Incumbent's commission expired January 23, 1935.

John McGrath to be postmaster at Greenleaf, Kans., in place of M. F. Gardner. Incumbent's commission expired February 5, 1935.

Albert W. Balzer to be postmaster at Inman, Kans., in place of Wiley Caves. Incumbent's commission expired December 18, 1934.

Pauline McCann to be postmaster at Hardtner, Kans. Office became Presidential July 1, 1935.

Harry T. Lindquist to be postmaster at Lindsborg, Kans., in place of C. O. Lincoln. Incumbent's commission expired January 23, 1935.

William Westling to be postmaster at Marquette, Kans., in place of R. R. Norris. Incumbent's commission expired February 5, 1935.

Albert Cameron to be postmaster at Mulberry, Kans., in place of C. H. Kurtz. Incumbent's commission expired February 4, 1935.

Charles A. Mardick to be postmaster at Richmond, Kans., in place of William Dancaster. Incumbent's commission expired February 20, 1935.

James A. Wiley to postmaster at Sedgwick, Kans., in place of J. A. Coffman, removed.

Harry E. Blevins to be postmaster at Stafford, Kans., in place of R. E. Martin. Incumbent's commission expired March 2, 1935.

KENTUCKY

Susannah Elizabeth Forston to be postmaster at Lyndon, Ky., in place of L. M. Thompson. Incumbent's commission expired December 10, 1932.

Howard L. Cummins to be postmaster at Falmouth, Ky., in place of H. W. Bishop, removed.

Rolla M. Chafin to be postmaster at Weeksbury, Ky. Office became Presidential July 1, 1935.

MAINE

Albert G. Mahar to be postmaster at Dennysville, Maine, in place of J. B. Crosby. Incumbent's commission expired January 28, 1935.

William W. Eustis to be postmaster at Dixfield, Maine, in place of J. A. Babb. Incumbent's commission expired February 5, 1935.

Arthur E. Herrick to be postmaster at Bethel, Maine, in place of C. A. Russell. Incumbent's commission expired December 20, 1934.

Clarence M. Staples to be postmaster at North Berwick, Maine, in place of L. O. Meader. Incumbent's commission expired December 20, 1934.

MARYLAND

Herbert C. Estep to be postmaster at Glen Burnie, Md., in place of L. J. DeAlba. Incumbent's commission expired January 9, 1933.

Millard H. Weer to be postmaster at Sykesville, Md., in place of William Melville. Incumbent's commission expired January 28, 1935.

Edward F. Cavey to be postmaster at Woodstock, Md., in place of H. B. Noll. Incumbent's commission expired January 28, 1935.

James Causten Shriver to be postmaster at Cumberland, Md., in place of G. G. Young, resigned.

Cecil E. Trinkaus to be postmaster at Oella, Md. Office became Presidential July 1, 1935.

MASSACHUSETTS

Paul E. Haley to be postmaster at Chester, Mass., in place of J. B. Rose. Incumbent's commission expired January 22, 1935.

Bartholomew C. Downing to be postmaster at Hanover, Mass., in place of H. T. Downes. Incumbent's commission expired February 4, 1935.

James J. Dowd to be postmaster at Holyoke, Mass., in place of H. D. Prentiss, retired.

Edward Thomas Murphy to be postmaster at Hyannis, Mass., in place of N. P. Coleman. Incumbent's commission expired February 27, 1935.

Mary E. Healy to be postmaster at Littleton, Mass., in place of A. D. Robbins. Incumbent's commission expired February 25, 1935.

James L. Ivory to be postmaster at Millbury, Mass., in place of H. T. Maxwell, deceased.

Mary E. Glispin to be postmaster at North Grafton, Mass., in place of Thomas Smith. Incumbent's commission expired January 23, 1935.

Dennis P. Sweeney to be postmaster at Pittsfield, Mass., in place of J. H. Butler, transferred.

James F. Desmond to be postmaster at Reading, Mass., in place of E. O. Dewey. Incumbent's commission expired February 25, 1935.

Franklin F. Collins to be postmaster at South Yarmouth, Mass., in place of H. M. Crowell. Incumbent's commission expired December 9, 1934.

Hugh L. Lyons to be postmaster at West Medway, Mass., in place of E. S. Woodman. Incumbent's commission expired December 18, 1934.

MICHIGAN

John A. Yagley to be postmaster at Dearborn, Mich., in place of G. H. Neisler, removed.

Francis W. Jewell to be postmaster at Elberta, Mich., in place of Minnie McGuineas. Incumbent's commission expired December 20, 1934.

John A. Campbell to be postmaster at Ewen, Mich., in place of D. A. Kooker. Incumbent's commission expired February 25, 1935.

Bert A. Onsted to be postmaster at Onsted, Mich., in place of R. G. Turner. Incumbent's commission expired January 28, 1934.

MINNESOTA

Rose C. McFarland to be postmaster at Bena, Minn. Office became Presidential July 1, 1935.

Frank J. Mason to be postmaster at Excelsior, Minn., in place of A. P. Olson, removed.

Miles L. Sweeney to be postmaster at Jeffers, Minn., in place of L. J. Dewey. Incumbent's commission expired April 2, 1934.

Allan B. Roth to be postmaster at Kasson, Minn., in place of K. S. Keller. Incumbent's commission expired February 27, 1935.

Theodore J. Roemer to be postmaster at Madison Lake, Minn. Office became Presidential July 1, 1935.

Frank J. Mack to be postmaster at Plummer, Minn., in place of G. A. Krueger. Incumbent's commission expired May 20, 1934.

Alfred Gilbertson to be postmaster at Audubon, Minn., in place of O. W. Peterson. Incumbent's commission expired January 7, 1935.

John G. Johnson to be postmaster at Barrett, Minn., in place of A. F. Johnson. Incumbent's commission expired February 20, 1935.

Marie B. Diekmann to be postmaster at Collegeville, Minn., in place of C. K. Taylor, resigned.

Lloyd C. Waag to be postmaster at Roseau, Minn., in place of J. P. Grothe. Incumbent's commission expired February 20, 1935.

MISSISSIPPI

Marie J. McDavid to be postmaster at Parchman, Miss., in place of E. H. Byrd. Incumbent's commission expired January 22, 1935.

Blanche M. Sledge to be postmaster at Sunflower, Miss., in place of G. W. Sledge, deceased.

William Frank Irving to be postmaster at Ackerman, Miss., in place of H. L. Rhodes, retired.

Charlie J. Moore, Jr., to be postmaster at Bentonia, Miss., in place of C. F. Harris. Incumbent's commission expired March 8, 1934.

Hezekiah Logan to be postmaster at Bruce, Miss., in place of W. H. Ellard. Incumbent's commission expired July 3, 1934.

George D. Myers to be postmaster at Byhalia, Miss., in place of J. R. Burks. Incumbent's commission expired December 16, 1934.

Vivian Bass to be postmaster at Hazlehurst, Miss., in place of Burnell Shelton, transferred.

Minnie L. Beall to be postmaster at Lexington, Miss., in place of W. O. Thompson, removed.

Joseph Davenport to be postmaster at Port Gibson, Miss., in place of Enfield Wharton. Incumbent's commission expired June 20, 1934.

Ruby W. Bacon to be postmaster at Schlater, Miss. Office became Presidential July 1, 1935.

Curtis E. Morgan to be postmaster at University, Miss., in place of L. N. Oldham. Incumbent's commission expired February 21, 1935.

Henry H. Mackey to be postmaster at Vicksburg, Miss., in place of M. J. Mulvihill, Jr., transferred.

MISSOURI

William B. Nivert to be postmaster at Glasgow, Mo., in place of R. W. Raines. Incumbent's commission expired February 4, 1935.

Orville L. Davis to be postmaster at Keytesville, Mo., in place of J. G. Harms, resigned.

Robert Irving Caldwell to be postmaster at Lutesville, Mo., in place of Melvin Lutes. Incumbent's commission expired February 25, 1935.

William H. Nanney to be postmaster at Marble Hill, Mo., in place of L. L. Hahn. Incumbent's commission expired January 22, 1935.

J. Boulton Settle to be postmaster at New Franklin, Mo., in place of D. S. Weise. Incumbent's commission expired February 25, 1935.

Albert O. Allen to be postmaster at New Madrid, Mo., in place of C. F. Kerr, removed.

Roy Cooper to be postmaster at Puxico, Mo., in place of J. W. Steinmeier. Incumbent's commission expired December 20, 1934.

Rowena M. Abney to be postmaster at Blackwater, Mo., in place of H. K. Harris. Incumbent's commission expired April 8, 1934.

James E. Thomson to be postmaster at Craig, Mo., in place of E. L. Gaffney. Incumbent's commission expired December 20, 1934.

Henry F. Stapel to be postmaster at Rockport, Mo., in place of F. A. Stiles. Incumbent's commission expired January 22, 1935.

MONTANA

Joseph W. Campbell to be postmaster at Absarokee, Mont., in place of L. M. Turco. Incumbent's commission expired April 2, 1934.

Franklin B. Lee to be postmaster at Big Sandy, Mont., in place of C. C. Mills. Incumbent's commission expired February 27, 1935.

Charles C. Nicholson to be postmaster at Bigtimber, Mont., in place of R. A. Bray. Incumbent's commission expired February 27, 1935.

Howard H. Harrison to be postmaster at Bridger, Mont., in place of J. M. Bever, resigned.

Peter P. Brandenthaler to be postmaster at Terry, Mont., in place of F. N. Weed. Incumbent's commission expired February 27, 1935.

NEBRASKA

Argyle M. Knapp to be postmaster at Ansley, Nebr., in place of W. B. Alexander. Incumbent's commission expired February 21, 1935.

R. Elmer Harmon to be postmaster at Auburn, Nebr., in place of P. R. Lorance. Incumbent's commission expired February 21, 1935.

John L. Delong to be postmaster at Bushnell, Nebr. Office became Presidential July 1, 1935.

William P. Cowan to be postmaster at Stanton, Nebr., in place of John Becker. Incumbent's commission expired February 21, 1935.

Halford J. Mayes to be postmaster at Rushville, Nebr., in place of R. J. Ward. Incumbent's commission expired February 25, 1935.

NEW HAMPSHIRE

Walter F. Hanrahan to be postmaster at West Swanzey, N. H., in place of E. C. Emery. Incumbent's commission expired February 4, 1935.

NEW JERSEY

Mary Balsama to be postmaster at Atco, N. J., in place of C. C. Hurry. Incumbent's commission expired December 20, 1934.

Remsen Howard to be postmaster at Gladstone, N. J., in place of F. P. Crater, deceased.

Carlisle C. Cahill to be postmaster at Short Hills, N. J., in place of E. J. Tidaback, deceased.

Marie Pisecco to be postmaster at Woodbury Heights, N. J., in place of D. D. Marvell. Incumbent's commission expired January 8, 1934.

Harry M. Riddle to be postmaster at Asbury, N. J., in place of H. M. Riddle. Incumbent's commission expired May 29, 1934.

Arthur F. Jordan, Sr., to be postmaster at Riverdale, N. J. Office became Presidential July 1, 1935.

NEW MEXICO

Margaret I. Daniels to be postmaster at Cloudcroft, N. Mex., in place of W. E. Pittman. Incumbent's commission expired February 28, 1935.

NEW YORK

Curtis Van Valkenburgh to be postmaster at Arkville, N. Y., in place of H. D. Todd. Incumbent's commission expired February 4, 1935.

Edwin G. Champlin to be postmaster at Cherry Creek, N. Y., in place of F. C. Buell, Jr. Incumbent's commission expired January 23, 1935.

Jeremiah J. Reagan to be postmaster at Clymer, N. Y., in place of W. L. Schruers. Incumbent's commission expired April 8, 1934.

Edward J. O'Mara to be postmaster at Cornwall, N. Y., in place of Henry Gibson. Incumbent's commission expired January 13, 1935.

Evenor A. Andre to be postmaster at Croghan, N. Y., in place of M. E. Monroe. Incumbent's commission expired January 13, 1935.

Jacob Tolosky to be postmaster at Dannemora, N. Y., in place of K. L. Whipple. Incumbent's commission expired December 18, 1934.

Leon J. Rider to be postmaster at Falconer, N. Y., in place of A. N. Johnson. Incumbent's commission expired January 23, 1935.

Edward J. Kelleher to be postmaster at Fort Edward, N. Y., in place of W. L. Bibbey. Incumbent's commission expired February 20, 1935.

James H. Mulligan to be postmaster at Hillburn, N. Y., in place of J. L. Mahalish. Incumbent's commission expired January 22, 1935.

Carson C. Faulkner to be postmaster at Margaretville, N. Y., in place of Emery Jenkins, resigned.

Eugene M. Gailey to be postmaster at Montour Falls, N. Y., in place of C. W. Fletcher, resigned.

Thomas J. Conmy to be postmaster at Port Jervis, N. Y., in place of A. P. Altemeier. Incumbent's commission expired March 2, 1935.

Frederick M. Jones to be postmaster at Red Creek, N. Y., in place of F. M. Douglass. Incumbent's commission expired February 20, 1935.

Martha A. Poole to be postmaster at Richland, N. Y., in place on Hobert Lester. Incumbent's commission expired December 18, 1934.

Leo B. Bennett to be postmaster at Schenevus, N. Y., in place of H. S. Bulson. Incumbent's commission expired December 20, 1934.

Henry H. Fisher to be postmaster at Spencer, N. Y., in place of H. E. Johnston. Incumbent's commission expired February 5, 1935.

Harry Averill to be postmaster at Adams Center, N. Y., in place of E. C. Smith. Incumbent's commission expired January 23, 1935.

Anthony R. Maletta to be postmaster at Bellport, N. Y., in place of J. H. Corwin, removed.

John Hartigan to be postmaster at Chatham, N. Y., in place of W B. Drumm, resigned.

Lee M. Meldrim to be postmaster at Edwards, N. Y., in place of M. M. Ferry. Incumbent's commission expired April 28, 1934.

Herbert H. Rockwell to be postmaster at Esperance, N. Y., in place of A. N. Fero. Incumbent's commission expired December 8, 1934.

Sam Rosenberg to be postmaster at Fallsburgh, N. Y., in place of J. W. Mullins. Incumbent's commission expired December 20, 1934.

John V. Kelly to be postmaster at Friendship, N. Y., in place of H. C. Almy. Incumbent's commission expired December 18, 1934.

Sister Mary Valeria Desmond to be postmaster at Gabriels, N. Y., in place of Sister M. M. McCue, deceased.

David J. Fitzgerald, Jr., to be postmaster at Glens Falls, N. Y., in place of G. D. Nolan, not commissioned.

Marguerite F. Grady to be postmaster at Goldenbridge, N. Y. Office became Presidential July 1, 1935.

Frank Leo Brady to be postmaster at Harriman, N. Y., in place of E. E. Thompson. Incumbent's commission expired December 16, 1933.

James A. Wigg to be postmaster at Hyde Park, N. Y., in place of Frederick Traudt. Incumbent's commission expired December 16, 1933.

Thomas R. Morris to be postmaster at Ilion, N. Y., in place of R. H. Whiter, deceased.

John Joseph Fox to be postmaster at King Ferry, N. Y., in place of J. N. Atwater. Incumbent's commission expired December 8, 1934.

Lee H. Starr to be postmaster at Morris, N. Y., in place of S. E. Gage. Incumbent's commission expired January 22, 1935.

Frederick W. Colligan to be postmaster at Nanuet, N. Y., in place of W. V. Wagner. Incumbent's commission expired December 18, 1934.

Mae J. Pessenar to be postmaster at Pine Hill, N. Y., in place of G. C. Smith. Incumbent's commission expired December 8, 1934.

Frank P. Bakutis to be postmaster at Quogue, N. Y., in place of B. R. Griffin, resigned.

George L. O'Marra to be postmaster at Romulus, N. Y., in place of G. E. Clark. Incumbent's commission expired December 18, 1934.

George W. Kelly to be postmaster at Sodus, N. Y., in place of G. F. Hendricks. Incumbent's commission expired January 22, 1935.

Frederick N. Brown to be postmaster at Stephentown, N. Y. Office became Presidential July 1, 1935.

Charles M. Stanton to be postmaster at Wellsburg, N. Y., in place of M. E. Stanton. Incumbent's commission expired March 8, 1934.

William T. Burns to be postmaster at Whitehall, N. Y., in place of Henry Neddo. Incumbent's commission expired January 23, 1935.

NORTH CAROLINA

Leonard T. Yaskell to be postmaster at Southport, N. C., in place of S. W. Watts. Incumbent's commission expired February 25, 1935.

Frank H. Stinson to be postmaster at Banners Elk, N. C., in place of J. F. Barlow, resigned.

Clendenon D. Mallonee to be postmaster at Candler, N. C., in place of R. W. King. Incumbent's commission expired January 22, 1935.

James F. Seagle to be postmaster at Lincolnton, N. C., in place of G. B. Goodson. Incumbent's commission expired February 25, 1935.

Earl P. Tatham to be postmaster at Robbinsville, N. C., in place of Frank Colvard, resigned.

NORTH DAKOTA

Charles E. Fleck to be postmaster at Arnegard, N. Dak., in place of I. L. Walla. Incumbent's commission expired February 21, 1935.

Paul Kietzke to be postmaster at Streeter, N. Dak., in place of A. T. Graf, resigned.

Nils H. Koppang to be postmaster at Adams, N. Dak., in place of F. W. Lovestrom. Incumbent's commission expired January 22, 1935.

Mary M. Farrell to be postmaster at Casselton, N. Dak., in place of Chapin Hayford. Incumbent's commission expired March 2, 1935.

John J. Behles to be postmaster at Garrison, N. Dak., in place of A. A. Allers. Incumbent's commission expired February 21, 1935.

OHIO

Charles C. Reynolds to be postmaster at Blanchester, Ohio, in place of E. C. Anderson. Incumbent's commission expired February 4, 1935.

Glenn D. Keeney to be postmaster at Rock Creek, Ohio, in place of Georgiana Pifer. Incumbent's commission expired February 20, 1935.

Leroy Brown to be postmaster at St. Paris, Ohio, in place of W. W. Wiant. Incumbent's commission expired February 4, 1935.

Dwight C. Banbury to be postmaster at Danville, Ohio, in place of H. E. Whitney. Incumbent's commission expired February 4, 1935.

Burl A. Lauderbaugh to be postmaster at Gambier, Ohio, in place of W. M. Carlisle. Incumbent's commission expired February 4, 1935.

OKLAHOMA

Roy Jessie McCormick to be postmaster at Alva, Okla., in place of H. F. Hall, removed.

Brown King to be postmaster at Britton, Okla., in place of O. T. Robinson. Incumbent's commission expired May 29, 1934.

Patsy Greenan, Jr., to be postmaster at Coalgate, Okla., in place of J. E. T. Clark. Incumbent's commission expired May 16, 1934.

Dean Penn to be postmaster at Gotebo, Okla., in place of J. G. Chappelear. Incumbent's commission expired May 16, 1934.

Earl M. Light to be postmaster at Pondcreek, Okla., in place of W. H. McKinley. Incumbent's commission expired January 22, 1935.

Loula Merry to be postmaster at Valliant, Okla., in place of Mary Moore. Incumbent's commission expired December 18, 1934.

Ben Cox to be postmaster at Boise City, Okla., in place of R. F. Hall, removed.

Edgar L. Jacks to be postmaster at Boynton, Okla., in place of O. S. Allred, removed.

Thomas H. Denyer to be postmaster at Chandler, Okla., in place of J. J. Gayman. Incumbent's commission expired December 13, 1932.

Otis J. Walker to be postmaster Checotah, Okla., in place of J. P. Gaulding, removed.

William H. Mouser to be postmaster at Cheyenne, Okla., in place of R. O. Conrad. Incumbent's commission expired June 30, 1934.

Ralph M. Peach to be postmaster at Foss, Okla., in place of Curtis Murphy. Incumbent's commission expired January 20, 1934.

Dennie D. Jones to be postmaster at Hulbert, Okla. Office became Presidential July 1, 1935.

Mike Craig to be postmaster at McCurtain, Okla. Office became Presidential July 1, 1935.

Robert H. Walton to be postmaster at Muldrow, Okla. Office became Presidential July 1, 1935.

Joseph L. Pryor to be postmaster at Olustee, Okla., in place of L. R. Johnson, resigned.

Robert F. Rind to be postmaster at Pine Valley, Okla. Office became Presidential July 1, 1935.

Theodore H. Henderson to be postmaster at Wapanucka, Okla., in place of T. O. Stewart, deceased.

John E. Jennings to be postmaster at Wynne Wood, Okla., in place of T. B. Fessenger. Incumbent's commission expired January 22, 1935.

OREGON

Ernest E. Puddy to be postmaster at Bonanza, Oreg. Office became Presidential July 1, 1935.

William P. Fisk to be postmaster at Sherwood, Oreg., in place of L. S. McConnell. Incumbent's commission expired December 18, 1934.

Harry D. Force to be postmaster at Gold Hill, Oreg., in place of N. G. Reed. Incumbent's commission expired March 2, 1935.

Charles L. Pinkerton to be postmaster at Weston, Oreg., in place of L. W. Lundell. Incumbent's commission expired March 18, 1934.

PENNSYLVANIA

Joseph P. Duffy to be postmaster at Bristol, Pa., in place of C. G. Young. Incumbent's commission expired January 19, 1933.

Mary Brumbaugh to be postmaster at Brockway, Pa., in place of E. J. Durbin, resigned.

Harold B. Dill to be postmaster at Finleyville, Pa., in place of H. C. Boyd. Incumbent's commission expired December 18, 1933.

Adam D. Swartz to be postmaster at New Freedom, Pa., in place of J. I. Decker. Incumbent's commission expired February 25, 1935.

George L. Corrigan to be postmaster at New Hope, Pa., in place of E. N. Dubs. Incumbent's commission expired April 30, 1934.

Marion S. Schoch to be postmaster at Selinsgrove, Pa., in place of J. M. Burns. Incumbent's commission expired January 28, 1935.

John L. Considine to be postmaster at Sharon, Pa., in place of J. L. Roberts. Incumbent's commission expired February 14, 1935.

Merton G. Minner to be postmaster at Wampum, Pa., in place of S. B. Coulter. Incumbent's commission expired January 28, 1935.

Morrissey C. Miller to be postmaster at Beech Creek, Pa. Office became Presidential July 1, 1935.

Clarence J. Weary to be postmaster at Carlisle, Pa., in place of W. Z. Mahon. Incumbent's commission expired February 25, 1935.

Harry P. Shreiner to be postmaster at Columbia, Pa., in place of C. E. Taylor. Incumbent's commission expired February 25, 1935.

Edna M. Jacobs to be postmaster at East Berlin, Pa., in place of M. R. Himes. Incumbent's commission expired February 14, 1935.

George M. Neely to be postmaster at Fairfield, Pa., in place of H. L. Harbaugh. Incumbent's commission expired February 20, 1935.

Katherine A. T. Shearer to be postmaster at Herminie, Pa., in place of R. D. Mitchell. Incumbent's commission expired December 18, 1933.

Charles H. Held to be postmaster at Loganton, Pa. Office became Presidential July 1, 1935.

Sarah J. Stimmel to be postmaster at Starjunction, Pa. Office became Presidential July 1, 1935.

Austin L. Moredock to be postmaster at Waynesburg, Pa., in place of J. W. Munnell. Incumbent's commission expired February 25, 1935.

Harry Coulson Reece to be postmaster at West Grove, Pa., in place of William Evans. Incumbent's commission expired February 14, 1935.

SOUTH DAKOTA

Joseph H. Coughlin to be postmaster at Carthage, S. Dak., in place of L. J. Walker, deceased.

Harry E. Henegar to be postmaster at Chamberlain, S. Dak., in place of G. E. Conrick. Incumbent's commission expired February 4, 1935.

James F. Bateman to be postmaster at Cottonwood, S. Dak., in place of F. B. Sherwood, removed.

TENNESSEE

Frank Rickman to be postmaster at Chapel Hill, Tenn. Office became Presidential July 1, 1935.

William E. McAdams to be postmaster at Greenfield, Tenn., in place of A. M. Stout. Incumbent's commission expired January 28, 1935.

Otis K. Martin to be postmaster at McKenzie, Tenn., in place of E. T. Sparks, resigned.

Hugh L. Hicks to be postmaster at Rockwood, Tenn., in place of R. H. Thompson. Incumbent's commission expired January 13, 1935.

Jesse C. Elrod to be postmaster at Murfreesboro, Tenn., in place of B. O. Hughes, removed.

TEXAS

Richard W. Taylor to be postmaster at Asherton, Tex., in place of C. H. Risley. Incumbent's commission expired February 14, 1935.

Sue De Ford to be postmaster at Gordon, Tex., in place of E. A. Rice. Incumbent's commission expired June 19, 1933.

Willie H. Roberson to be postmaster at Grand Saline, Tex., in place of J. S. Carter, removed.

Tom B. O'Bryan to be postmaster at Henrietta, Tex., in place of P. W. Henry. Incumbent's commission expired February 25, 1935.

Charles C. Canuteson to be postmaster at Moody, Tex., in place of A. A. McNiel. Incumbent's commission expired February 13, 1935.

Jesse B. Coffey to be postmaster at Richland Springs, Tex., in place of J. A. Carter, resigned.

Harvey O. Jones to be postmaster at Winters, Tex., in place of T. D. Coupland. Incumbent's commission expired January 13, 1935.

Edgar W. Burkett to be postmaster at Andrews, Tex. Office made Presidential July 1, 1935.

Troy L. Ikard to be postmaster at Archer City, Tex., in place of R. M. Hatcher. Incumbent's commission expired December 20, 1934.

William F. Robinson to be postmaster at Bowie, Tex., in place of E. B. Green. Incumbent's commission expired February 5, 1935.

Roy Leonard Doak to be postmaster at Cleburne, Tex., in place of C. A. Dickson. Incumbent's commission expired February 20, 1935.

Raymond C. Clemer to be postmaster at Clyde, Tex., in place of J. W. Robbins. Incumbent's commission expired December 20, 1934.

Harry G. Hubert to be postmaster at Junction, Tex., in place of E. D. Tracy. Incumbent's commission expired December 20, 1934.

William R. Seale to be postmaster at Karnes City, Tex., in place of M. S. Fenner. Incumbent's commission expired May 29, 1934.

Ralph W. Ford to be postmaster at Linden, Tex., in place of Bobbie Kluge. Incumbent's commission expired February 20, 1935.

Lucian Everett Wilhite to be postmaster at Lueders, Tex., in place of J. H. Sharbutt. Incumbent's commission expired March 18, 1934.

John L. Box to be postmaster at Lyford, Tex. Office became Presidential July 1, 1935.

Mary N. Winder to be postmaster at Morton, Tex. Office became Presidential July 1, 1935.

Floyd Lee Haymes to be postmaster at Munday, Tex., in place of J. B. Reneau. Incumbent's commission expired March 2, 1935.

Crecy Longmire to be postmaster at Newgulf, Tex., in place of Crecy Longmire. Incumbent's commission expired December 20, 1934.

Mary S. Henry to be postmaster at Rocksprings, Tex., in place of Fannie Stieber. Incumbent's commission expired January 13, 1935.

William R. Baker to be postmaster at Strawn, Tex., in place of C. E. Binnings, resigned.

Andy A. Baker to be postmaster at Tolar, Tex., in place of Mamie Dyer. Incumbent's commission expired December 8, 1934.

Emmett R. Cunningham to be postmaster at Van, Tex., in place of J. P. Williams. Incumbent's commission expired December 20, 1934.

VERMONT

George N. Clark to be postmaster at Groton, Vt., in place of G. H. Millis, resigned.

Robert H. Royce to be postmaster at Johnson, Vt., in place of P. U. Mudgett. Incumbent's commission expired February 4, 1935.

William Harbutt to be postmaster at Putney, Vt., in place of H. L. Bailey. Incumbent's commission expired February 4, 1935.

VIRGINIA

Bernard M. Anderson to be postmaster at Dublin, Va., in place of E. P. Smith. Incumbent's commission expired January 13, 1935.

Ernest E. Sine to be postmaster at Woodstock, Va., in place of E. C. Geary. Incumbent's commission expired February 4, 1935.

Oneda H. Carbaugh to be postmaster at Bluemont, Va., in place of T. A. Best. Incumbent's commission expired December 20, 1934.

John Owen Lynch to be postmaster at Alexandria, Va., in place of F. C. Knight. Incumbent's commission expired January 7, 1935.

William J. Story to be postmaster at Courtland, Va., in place of L. M. Manry, removed.

Samuel H. Dawson to be postmaster at Crozet, Va., in place of B. M. E. Harris. Incumbent's commission expired February 25, 1935.

Alvis T. Davidson to be postmaster at Faber, Va. Office became Presidential July 1, 1935.

Philip Ransom Cosby to be postmaster at Grottoes, Va., in place of W. I. Harnsberger. Incumbent's commission expired December 20, 1934.

Frank R. Henderson to be postmaster at Nathalie, Va. Office became Presidential July 1, 1935.

Gladys L. Robinson to be postmaster at Pound, Va. Office became Presidential July 1, 1935.

Grace H. Jenkins to be postmaster at Powhatan, Va., in place of G. H. Jenkins. Incumbent's commission expired February 14, 1935.

Florence T. Beans to be postmaster at Round Hill, Va., in place of W. H. Moatz. Incumbent's commission expired February 4, 1935.

Florence E. Priest to be postmaster at Scottsburg, Va. Office became Presidential July 1, 1935.

Jesse F. Reynolds, Jr., to be postmaster at Stuart, Va., in place of C. E. Neal, removed.

VIRGIN ISLANDS

Adele Berg to be postmaster at Frederiksted, V. I., in place of H. V. Berg, removed.

WASHINGTON

William W. Woodward to be postmaster at Darrington, Wash. Office became Presidential July 1, 1935.

John P. Simpson to be postmaster at Ephrata, Wash., in place of L. H. Niles. Incumbent's commission expired February 25, 1935.

Dorothy M. Henson to be postmaster at Fort Steilacoom, Wash. Office became Presidential July 1, 1935.

Joseph A. Wolf to be postmaster at Roy, Wash. Office became Presidential July 1, 1935.

Dorothy H. Lynch to be postmaster at Soap Lake, Wash., in place of A. G. Thomas. Incumbent's commission expired January 22, 1935.

Will H. Lamm to be postmaster at Stevenson, Wash., in place of H. A. Miller, resigned.

James C. Weatherford to be postmaster at Dayton, Wash., in place of W. L. Cadman. Incumbent's commission expired February 4, 1935.

Charles G. Gehres to be postmaster at Richland, Wash., in place of Sydney Relton. Incumbent's commission expired February 25, 1935.

WEST VIRGINIA

Lillie R. Frazier to be postmaster at Buffalo, W. Va. Office became Presidential July 1, 1935.

Claude Anderson to be postmaster at East Rainelle, W. Va., in place of C. E. Davis. Incumbent's commission expired January 13, 1935.

Gertie Post Rector to be postmaster at Lost Creek, W. Va., in place of Homer Fogg. Incumbent's commission expired January 13, 1935.

Marguerite E. Whiting to be postmaster at Glenville, W. Va., in place of N. V. Roberts. Incumbent's commission expired January 13, 1935.

Usher A. Cobb to be postmaster at Kimberly, W. Va. Office became Presidential July 1, 1935.

Hugh Dunn to be postmaster at Richwood, W. Va., in place of G. E. Hurd, removed.

WISCONSIN

Harley L. Newman to be postmaster at Bagley, Wis. Office became Presidential July 1, 1935.

Fred Krier to be postmaster at Belgium, Wis., in place of Nicholas Hubing. Incumbent's commission expired February 25, 1935.

Frank A. Buettner to be postmaster at Bowler, Wis. Office became Presidential July 1, 1935.

Joseph M. Keuper to be postmaster at Genoa City, Wis., in place of C. H. Prouty. Incumbent's commission expired March 18, 1934.

William A. Christians, Jr., to be postmaster at Johnson Creek, Wis., in place of G. J. Grell. Incumbent's commission expired January 22, 1935.

Roy C. Graham to be postmaster at Owen, Wis., in place of L. W. Cattanach, retired.

Frank E. O'Rourke to be postmaster at Reeseville, Wis., in place of E. H. O. Klentz. Incumbent's commission expired January 22, 1935.

Louis F. Reuschlein to be postmaster at Burlington, Wis., in place of H. R. Pruemers, retired.

William F. Dahmen to be postmaster at Cross Plains, Wis. Office became Presidential July 1, 1935.

Arthur C. Smith to be postmaster at Durand, Wis., in place of J. W. Carlisle, deceased.

Harris Gilbert Hanson to be postmaster at Iola, Wis., in place of E. E. Weinmann. Incumbent's commission expired March 8, 1934.

Mary E. Lazers to be postmaster at Marshall, Wis., in place of R. J. Harland. Incumbent's commission expired February 25, 1935.

Charles J. McAfee to be postmaster at Montello, Wis., in place of C. R. Roskie. Incumbent's commission expired January 22, 1935.

Arthur F. Boles to be postmaster at Nekoosa, Wis., in place of J. E. Brazeau. Incumbent's commission expired December 20, 1934.

Otto J. Petraske to be postmaster at Verona, Wis., in place of J. F. Matts. Incumbent's commission expired February 25, 1935.

John Michels to be postmaster at Waunakee, Wis., in place of M. F. Adler. Incumbent's commission expired February 25, 1935.

WYOMING

Cecil R. Willhite to be postmaster at Yoder, Wyo., in place of E. C. Mann. Incumbent's commission expired February 14, 1933.

Christian M. Shott to be postmaster at Monarch, Wyo. Office became Presidential July 1, 1935.

Robert W. Hale to be postmaster at Thermopolis, Wyo., in place of C. M. Hett, transferred.

Vernie O. Gose to be postmaster at Upton, Wyo., in place of W. O. Braley. Incumbent's commission expired January 13, 1935.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 19 (legislative day of May 13), 1935

PUBLIC WORKS ADMINISTRATION

Robert A. Radford to be State engineer for the Public Works Administration in Minnesota.

WORKS PROGRESS ADMINISTRATION

STATE ADMINISTRATORS

Darrell J. Greenwell to be State administrator for Utah.
Robert J. Dunham to be State administrator for Illinois.

POSTMASTERS

CALIFORNIA

Ada McIntire, Azusa.
Alfred A. True, Barstow.
Ruby M. Podva, Danville.
Max Lynn Green, Glendale.
Ernest Martin, San Bernardino.
Mat Alfred Schaeffer, Vernalis.
Ollye Beard, Yorba Linda.

NEBRASKA

Carl S. Carrell, Bassett.
Ralph L. Ferris, Boelus.
David A. Rose, Brunswick.
Gladys G. Rockhold, Comstock.
Cecil Brundige, Litchfield.
Archer E. Ovenden, Pawnee City.

NEW YORK

Andrew D. Peloubet, Athens.
William H. Dummeyer, Atlantic Beach.
Theodore Thomas Smith, Camden.
Ellen Longpre, Copiague.
Harrie J. Millspaugh, Corning.
Helen S. Peck, Crown Point.
James F. Stott, Elsmere.
Sylvia F. Kenney, Long Eddy.
Frank S. Tracey, Middleport.
Joseph A. Strodel, Minoa.
George H. Bogardus, Morristown.
Joseph F. Hubert, Northport.
Harold E. Bollier, North Tonawanda.
Harry Ray Phelps, Painted Post.
George Arata, Sea Cliff.
Charles S. Donnelly, Utica.
John W. Gurnett, Watkins Glen.
Walter J. Reynolds, Woodhull.

OKLAHOMA

Arthur A. Westbrook, Idabel.
Ernest R. Unger, Sapulpa.
Ethel N. Anderson, Waurika.

SOUTH CAROLINA

James R. Thompson, Andrews.

TEXAS

Ewell Nalle, Austin.

SENATE

SATURDAY, JULY 20, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 10 o'clock a. m., on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, July 19, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Pope
Ashurst	Coolidge	La Follette	Radcliffe
Austin	Costigan	Lewis	Reynolds
Bachman	Davis	Logan	Robinson
Bailey	Dickinson	Lonergan	Russell
Bankhead	Duffy	McAdoo	Schall
Barbour	Fletcher	McCarran	Schwellenbach
Barkley	Frazier	McGill	Shipstead
Bilbo	George	McKellar	Smith
Black	Gerry	McNary	Steiwer
Bone	Gibson	Maloney	Thomas, Okla.
Borah	Glass	Metcalf	Trammell
Brown	Gore	Minton	Truman
Bulkley	Guffey	Murphy	Tydings
Bulow	Hale	Murray	Vandenberg
Burke	Harrison	Neely	Van Nuys
Byrd	Hatch	Norbeck	Wagner
Capper	Hayden	Norris	Walsh
Caraway	Holt	Nye	Wheeler
Carey	Johnson	Overton	White
Chavez	Keyes	Pittman	

Mr. ROBINSON. I wish to announce that the Senator from South Carolina [Mr. BYRNES], the Senator from Missouri [Mr. CLARK], the Senator from New York [Mr. COPELAND], the Senator from Illinois [Mr. DIETERICH], the Senator from New Jersey [Mr. MOORE], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Utah [Mr. THOMAS] are necessarily detained from the Senate.

Mr. CONNALLY. I desire to announce that my colleague the senior Senator from Texas [Mr. SHEPPARD] is absent from the Senate on important business.

Mr. VANDENBERG. I repeat the announcement that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent because of illness.

Mr. BULKLEY. I wish to announce that my colleague the junior Senator from Ohio [Mr. DONAHEY] is unavoidably detained from the Senate.

The VICE PRESIDENT. Eighty-three Senators have answered to their names. A quorum is present.

ELECTRIC-RATE SURVEYS

The VICE PRESIDENT laid before the Senate a letter from the Vice Chairman of the Federal Power Commission, transmitting, pursuant to law, compilations completed through the electric-rate survey of the domestic and residential rates in effect on January 1, 1935, in the States of Missouri, Nebraska, and Oklahoma, which, with the accompanying papers, was referred to the Committee on Interstate Commerce.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by the Council of the City of Portland, Oreg., favoring the location of an Army air base in the State of Oregon, which was referred to the Committee on Military Affairs.

He also laid before the Senate a resolution adopted by a meeting of the American Shore and Beach Preservation Association, Ocean City, N. J., protesting against the enactment of legislation to transfer river and harbor work from the War Department under the supervision of the Corps of Engineers, which was ordered to lie on the table.

Mr. KEYES presented petitions of sundry citizens of the State of New Hampshire, praying for the repeal of the Federal tax on gasoline, which were referred to the Committee on Finance.

Mr. CAPPER presented petitions of sundry citizens of Dexter, Fort Scott, Moran, and Parker, all in the State of Kansas, praying for the enactment of legislation establishing a retirement system for railroad employees, which were ordered to lie on the table.

Mr. WALSH presented a resolution adopted by the Board of Aldermen of the City of Chelsea, Mass., opposing recently promulgated regulations regarding the personnel of the C. C. C. requiring applicants therefor to be members of families on the relief rolls, which was referred to the Committee on Appropriations.

He also presented a paper in the nature of a petition from the executive committee of the Massachusetts State Federation of Federal Employees Unions, praying for the enactment of pending legislation granting 30 days annual leave and 15 days sick leave to Federal employees, which was referred to the Committee on Civil Service.

He also presented a resolution adopted by the New Bedford (Mass.) Board of Commerce, favoring the enactment of House bill 8603, known as the "antidumping bill", which was referred to the Committee on Finance.

He also presented letters and papers in the nature of petitions from several charitable, community-welfare, and other organizations in the State of Massachusetts, favoring the enactment of legislation amending the income-tax law, so as to deduct from gross income charitable and other contributions, which were referred to the Committee on Finance.

He also presented a resolution adopted by Ladies Auxiliary No. 2, Ancient Order of Hibernians in America, Holyoke, Mass., protesting against alleged religious persecutions in the Republic of Mexico, which was referred to the Committee on Foreign Relations.

He also presented a letter in the nature of a memorial from E. L. Hefron, secretary of the New England Traffic League, Boston, Mass., on behalf of that league, remonstrating against the enactment of Senate bill 2573, relative to the Government ownership of railroads, which was referred to the Committee on Interstate Commerce.

He also presented a resolution adopted by the mayor and board of aldermen of the city of Somerville, Mass., praying for the enactment of legislation providing for the issuance of a special postage stamp to commemorate the one hundred and fiftieth anniversary of the termination of the services in the Navy of Commodore John Barry, which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution adopted by Branch No. 34, National Association of Letter Carriers, of Boston, Mass., favoring the enactment of legislation providing a 40-hour week in the Postal Service, which was ordered to lie on the table.

He also presented a paper in the nature of a petition from Branch No. 9, National Association of Post Office and Railway Mail Service Laborers, Boston, Mass., praying for the enactment of House bills 6990, 7688, and 7709, for the benefit of employees and laborers in the Postal and Railway Mail Service, which was ordered to lie on the table.

He also presented a letter in the nature of a petition from Thomas F. Neal, general chairman, Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, on behalf of the employees of the Boston & Albany Railroad system, praying for the enactment of pending legislation establishing a retirement system for railroad employees, which was ordered to lie on the table.

He also presented a paper in the nature of a memorial from A. H. Ferguson, chairman executive committee, New England Traffic League, on behalf of that league, remonstrating against the enactment of the bill (S. 2944) to prevent and make unlawful the practice of law before Government departments, bureaus, commissions, and their agencies by those other than duly licensed attorneys at law, which was ordered to lie on the table.

He also presented the petition of members of the Railroad Employees and Tax Payers Association of Massachusetts, praying for the enactment of the bill (S. 1632) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property

by water carriers operating in interstate and foreign commerce, and for other purposes, which was ordered to lie on the table.

NEEDS OF THE OLDER YOUTH GROUP

Mr. WALSH presented a letter from Frank W. Barber, of Springfield, Mass., with an accompanying outline relative to the needs of the older youth group, which, with the accompanying paper, was referred to the Committee on Education and Labor and ordered to be printed in the RECORD, as follows:

FEDERAL EMERGENCY RELIEF ADMINISTRATION,
Washington, D. C., July 17, 1935.

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SENATOR WALSH: Enclosed is a brief outline concerning the needs of the older youth group, about which I spoke with you briefly on last Thursday. Something must be done for this group of most distressed young people.

Very sincerely,

FRANK W. BARBER.

THE LOST GENERATION—WHAT CAN BE DONE ABOUT IT?

The age group 25 to 29 is in serious danger and may represent the gravest danger to the country. This group normally represents enthusiasm, determination, vision, and power. Here are found those highly trained, prepared people with daring, courage, and untiring industry. Here is laid the foundation of home and success.

With opportunity removed, vision is lost, courage slips, enthusiasm turns to cynicism, power is wasted, homes are broken; doubt, disgust, fear, and "don't care" are mixed and mingled until life becomes an impossible tangle. This cannot go on. Something must be done, and that quickly, if this group is to be saved for America.

Statistics show this age group next to the highest in unemployment, the highest being age 21 to 24.

A study in two States shows:

Unemployed

In Massachusetts:	
Age 20 to 24	80,444
Age 25 to 29	48,725
Age 30 to 34	37,263
In Pennsylvania:	
Age 20 to 24	197,838
Age 25 to 29	106,150

The new Youth Administration aims to reach the age group 20 to 24, while perhaps a more distressed group is left with no plan.

It is not enough to say that these people will be reached through regular channels of relief. The problem is a specific one and demands specific attention. These young people must not be forced to accept welfare, dole, nor mere relief work. They must have experience and opportunities that are real. Many must be rehabilitated, retrained, brought back into right relationships with home and community. They must be counselled, guided, readjusted, and set straight.

A PROPOSAL

Organize a supplementary youth service to go hand in hand with the National Youth Administration. This service might be an extension of the National Youth Administration, to include ages up to 30, with a program adapted to the needs of the older group.

The program should include:

1. Occupational guidance and vocational adjustment.
2. Opportunities for retraining and additional training.
3. Rehabilitation and resettlement opportunities to enable them to take part in actual production. This might include—

Industrial rehabilitation.
Agricultural production.
Housing.

New communities might be built up, and broken-down communities, both industrial and agricultural, rehabilitated.

4. Public Works Administration projects devised, especially to provide experience, training, and production opportunities.
5. Opportunities for leadership in connection with the National Youth Administration.

In every case opportunities should include sufficient income possibilities to enable those in the program to carry their obligations and to live satisfactorily with a challenge calling for best effort and normal expectation of success.

The national resettlement might carry this program for industrial centers as well as for the rural areas.

The present generation, ready to take its place in the life of the Nation, must not be lost. It must be rehabilitated. Youth will not wait. It must use its power or it will break.

FRANK W. BARBER,
Springfield, Mass.

REPORTS OF COMMITTEES

Mr. LONERGAN, from the Committee on Finance, to which was referred the bill (S. 2044) for the refund of income and profits taxes erroneously collected, reported it with an amendment and submitted a report (No. 1143) thereon.

Mr. POPE, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 3183) to amend the Agricultural Adjustment Act to make all varieties of potatoes included in the species Solanum tuberosum a basic agricultural commodity, to raise revenue by imposing a tax on the first sale of such potatoes, and for other purposes, reported it without amendment and submitted a report (No. 1144) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SCHALL:

A bill (S. 3294) to amend the World War Adjusted Compensation Act, as amended, to permit payments to the estates of veterans in certain cases; to the Committee on Finance.

By Mr. McKELLAR:

A bill (S. 3295) to amend sections 181 and 186 of the Criminal Code; to the Committee on Post Offices and Post Roads.

By Mr. MINTON:

A bill (S. 3296) to provide for the payment to the American War Mothers of interest on the fund known as the "Recreation Fund, Army"; to the Committee on Military Affairs.

By Mr. TRUMAN:

A bill (S. 3297) to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near St. Charles, Mo.; and

A bill (S. 3298) to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Arrow Rock, Mo.; to the Committee on Commerce.

By Mr. WALSH:

A bill (S. 3299) to authorize the construction of a bridge as a memorial to Calvin Coolidge; to the Committee on the Library.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—AMENDMENT

Mr. McCARRAN submitted an amendment intended to be proposed by him to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which was ordered to lie on the table and to be printed.

ASSISTANT CLERK TO IMMIGRATION COMMITTEE

Mr. COOLIDGE submitted the following resolution (S. Res. 173), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Immigration hereby is authorized to employ for the remainder of the present session an assistant clerk to be paid from the contingent fund of the Senate at the rate of $2,400 per annum.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the motion of the Senator from Georgia [Mr. RUSSELL] to reconsider the vote whereby section 15, beginning on line 17, page 45, was stricken from the bill.

Mr. RUSSELL. Mr. President, the original act creating the Agricultural Adjustment Administration vested in the Secretary of Agriculture power to levy what are known as "compensatory taxes" on fabrics or vegetable fibers which come in competition with cotton.

It was recognized that in adopting the program of drastic reduction in the amount of cotton produced in this country it was wholly probable, if not inevitable, considering that the processing tax of 4.2 cents a pound is passed on to the consumer of cotton fabrics, that there would be a shifting to the consumption of other fabrics or fibers which were less expensive than cotton. The committee adopted an amendment which provided for the imposition of a compensatory tax on rayon, but when the matter was pending before the Senate the committee amendment was voted down.

Mr. President, the cotton-mill operators and the operatives in the mills, those who toil at the looms, and the cotton producers of my State are firmly convinced that the processing tax on cotton has caused an increased consumption of rayon in this country, and therefore it is necessary,

if the cotton industry is not to be permanently injured, that this compensatory tax be levied upon rayon.

I have received a great number of communications from citizens of my State on this subject. It is not my intention to clutter up the RECORD by offering all these communications as part of my remarks, but, as representative of all the letters which have been received from the cotton-mill operators of my State, I wish to read some extracts from a letter written to me by Mr. Julian K. Morrison, president of the Southern Brighton Mills, located at Shannon, Ga. Mr. Morrison states in this letter:

SOUTHERN BRIGHTON MILLS,
MANUFACTURERS OF COTTON AND SPECIAL FABRICS,
Shannon, Ga., July 5, 1935.

Hon. R. B. RUSSELL, JR.,
United States Senate, Washington, D. C.

DEAR SENATOR RUSSELL: I am writing to urge your cooperation in the matter of securing protection to the cotton textile industry by fixing in the proposed A. A. A. amendments adequate compensatory taxes on silk, rayon, jute, and certain paper products. If the cotton textile industry is to be expected to continue to carry the terrific burdens which have been placed on it through the processing tax on cotton, it certainly seems only reasonable to demand and expect to receive adequate protection which could be afforded by the fixing of compensatory taxes on its principal competitors.

No doubt you are well informed as to the present deplorable state of the textile industry. It would be difficult to conceive of a more horrible condition than that which now exists in this industry. For instance, in our own plant, which had established an enviable record for continuous operation prior to the last 2 years, we are at present operating at less than 50 percent of capacity, and we have during recent weeks faced the tragic necessity of laying off scores of our employees, some of whom have been employed by this company for many years. Our individual situation is but a duplicate of that which exists practically throughout the industry.

I ask, Mr. President, that the remainder of the letter be incorporated in my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The remainder of the letter is as follows:

There seems little which can be hoped for in the way of relief as a result of the many investigations which have recently been conducted through Federal agencies. It is significant to note that no report has been made as to the result of the recent investigation by the Cabinet committee, and it seems safe to conclude that the industry may expect no relief from the many unfortunate and unfavorable conditions which were disclosed during those hearings.

It would seem, therefore, that the industry could reasonably expect to receive at least that amount of protection which would be afforded through the fixing of compensatory taxes on the products of its chief competitors.

It is my own candid opinion that this industry is facing complete annihilation unless some relief is granted it. Certainly it is a fact that present conditions cannot continue indefinitely if the complete collapse of the industry is to be avoided.

I certainly hope, therefore, that you will be willing to lend your efforts in this matter which affects so vitally an industry which constitutes the principal industrial activity of this State and on which tens of thousands of its citizens are dependent for their sole means of employment and support.

Very truly yours,

JULIAN K. MORRISON, *President.*

Mr. RUSSELL. Mr. President, this is one case where the interests of the cotton farmer, the interests of the cotton-mill owner, and the interests of those who toil in the cotton mills are common, where they have a common cause and are entitled to mutual protection against a shift of consumption to this competing fabric known as "rayon."

It is true cotton linters in large part enter into the manufacture of rayon, but, as I understand, the processing tax is not even levied and assessed on the cotton that goes into the manufacture of rayon, the article which is in competition with the cotton product, on which the processing tax has been paid.

I think the cotton farmers and the cotton manufacturers are entitled to the protection of this tax. The farmers of Georgia and of the South generally are in favor of the Agricultural Adjustment program, but the fact remains that when we analyze the program in all its details the cotton farmer of the South is receiving less benefit from the program than is the producer of any other basic commodity included in the bill. For this reason the cotton farmer is entitled to the protection this amendment will afford.

The average benefit payments made to the cotton farmers of my State who have signed contracts with the Agricultural Adjustment Administration amount to but $77.65 per farmer. In our sister State of South Carolina the average payment to the holder of the cotton contract with the Agricultural Adjustment Administration amounts to only $80.97 per farmer. The great State of Texas is the leading State of the Union in the production of cotton. The producers of cotton in Texas receive the highest average benefit payment of any cotton producers in the country, and yet the average payment made to cotton producers in the State of Texas amounts to only $109.02.

The cotton farmer is required to make a reduction in the amount of his products for this year amounting to 35 percent of his total production. In addition to that cotton is the only great basic necessary commodity where the farmer has imposed upon him a compulsory restrictive program which limits the amount he might produce.

On the other hand, when we see the benefits paid to producers of other commodities it makes all the more clear and all the more glaring the proof of the statement that the cotton farmer is not receiving an equal share in the benefits distributed by the Government through its agricultural program.

In the State of Kansas, the great wheat-producing State, the average payment to the average wheat farmer under this program in 1934 amounted to $323.16. There is no compulsory restrictive program in wheat and only a 10-percent reduction in production is required of contract signers. In the State of Montana——

Mr. McGILL. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Kansas?

Mr. RUSSELL. I am glad to yield.

Mr. McGILL. I am in sympathy with the Senator's proposal, but is it not true that the number of cotton farmers is greatly in excess of the number of wheat farmers?

Mr. RUSSELL. That statement might be true; but it so happens that in the case of Kansas, with less than 2,000,000 people, there were 94,000 contract signers of wheat contracts. In the State of Georgia, with approximately 3,000,000 people, there are only 105,000 contract signers of cotton contracts with the Agricultural Adjustment Administration.

Mr. McGILL. Is it not true, however, that the wheat farmer cultivated a much larger acreage than did the cotton farmer?

Mr. RUSSELL. I am not informed as to that; but I do not think the total acreage planted to wheat in Kansas, as compared with the total acreage planted to cotton in Georgia, will anywhere near justify the disparity in these figures. Understand, I am not complaining of the payments made to the wheat farmers of Kansas or the corn farmers of the West. I am happy to see the farmer receive large benefit payments, whatever he may be producing, anywhere in the United States.

But I am seeking justice for the cotton farmer and equality for him with the other producers of the country. Why should the producers of cotton receive only the crumbs? Under the corn-hog program the average amount paid to 172,728 contract signers in the State of Iowa was $228.18 to each contract signer. Iowa has less than two and one-half million people, yet payments by the Government in that State totaled nearly $40,000,000 in 1934.

What I am doing is insisting on giving the cotton farmer something approximating a fair share of the profits derived from the program. When we take into consideration the total amount paid the discrepancy is all the more glaring. In the State of Georgia, with 105,000 contract signers under the cotton program, the total payments were $8,153,000. In the State of Kansas, with a million people less than live in Georgia, the total payments made to the wheat farmers in 1934 amounted to $30,377,000.

Mr. McGILL. I recognize all the Senator has said as being quite accurate; and as I stated in the beginning, I am in sympathy with his proposal.

Mr. RUSSELL. I appreciate the fair attitude on the part of the Senator from Kansas.

Mr. McGILL. However, is it not true that more money has been paid in the entire country in benefit payments on cotton to the cotton farmers than has been paid in benefit payments on wheat to the wheat farmers?

Mr. RUSSELL. I am not in a position either to deny or affirm that statement because I have not compared the figures.

Mr. McGILL. I think the Senator will find that the processing tax on cotton has yielded more than has the processing tax on wheat, and that the cotton farmers as a whole have received more money in benefit payments than the wheat farmers have received. Nevertheless, I do not want to interfere with the Senator's argument and shall support his motion.

Mr. RUSSELL. I appreciate the support of the Senator from Kansas.

Mr. WAGNER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from New York?

Mr. RUSSELL. I yield.

Mr. WAGNER. Which of the amendments that have already been disposed of by the Senate does the Senator from Georgia advocate, the committee amendment or the amendment offered and afterwards withdrawn by the junior Senator from South Carolina [Mr. BYRNES]?

Mr. RUSSELL. I shall advocate the adoption of the committee amendment in the event the Senate sees fit to reconsider the vote by which it rejected the committee amendment.

Mr. WAGNER. The Senator appreciates, no doubt, that those affected by the processing tax in the rayon industry have never had a chance to be heard before the Committee on Agriculture and Forestry upon the subject of the imposition of this tax upon their industry.

Mr. RUSSELL. I am not responsible for that. The chairman of the committee is opposed to any tax on rayon. I am not a member of the committee.

Mr. WAGNER. Knowing that we have no information on the subject because the industry has never had a chance to present its side of the question and to show the effect this tax would have on their industry, does the Senator think the Senate ought blindly to vote for the imposition of this definite tax, despite the fact that the Agricultural Adjustment Administration today has the power to impose the tax if it determines that the competitive conditions justify it, and despite the further fact, if the Senator will indulge me, that the Agricultural Adjustment Administration had hearings upon the subject over a period of a year——

Mr. RUSSELL. More than a year.

Mr. WAGNER. Yes; longer than a year, to ascertain whether or not there is anything to the contention of the cotton growers that rayon competes with cotton to the extent that this processing tax or this compensatory tax ought to be imposed? It seems to me to be quite an unreasonable request to make of the Senate under the circumstances.

Mr. RUSSELL. The mere fact the Agricultural Adjustment Administration after these prolonged hearings has made no report and taken no action whatever in the matter is to my mind the strongest evidence of the necessity for the Senate of the United States going into it. Evidently there is in the Department of Agriculture no person in a position of authority who is familiar with the economy of the cotton farmer. For that reason, in my judgment, the cotton farmer has been neglected and there is this glaring disparity in the benefits he has received and also in the protection which should have been afforded him with these competing fabrics.

I am using the only means at my command. I cannot operate the Agricultural Adjustment Administration. For a period of more than 12 months I have complained time after time to the Secretary of Agriculture and those to whom he delegated the right to hold these hearings that this compensatory tax should be levied, that some decision one way or the other should be rendered, giving his reasons therefor. The only place where I can make my voice heard in behalf of the cotton farmers and the cotton-mill operatives of the South in on the floor of the Senate, and I am utilizing the only means at my command.

Mr. CONNALLY. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Texas?

Mr. RUSSELL. I yield.

Mr. CONNALLY. In answer to the Senator's statement that no one in a position of authority in the Department is familiar with this matter, I may say that I understand that Mr. Cobb, the Cotton Administrator, is strongly in favor of this tax; but, of course, he does not dominate the whole Department.

Mr. RUSSELL. Unfortunately, he has merely a small administrative position in handling the contracts which are in his hands under the cotton program.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield first to my colleague from Idaho [Mr. POPE], who desires to ask a question.

Mr. POPE. Mr. President, the representatives of the rayon industry have repeatedly said there is no real competition between the products of cotton and rayon. They estimate that there is not over 6 percent of real competition; that the real competition comes between rayon products and silk products. Has the Senator any information as to the extent, if any, to which there is competition between rayon products and cotton products?

Mr. RUSSELL. I have just as good information as that furnished the Senator from Idaho by the manufacturers of rayon. Of course, when the rayon manufacturers have known for a long time about the provision in this bill permitting the levying of a tax on rayon if it comes into competition with cotton, the last thing on earth we could expect would be that the rayon manufacturers would come in and say, "We are in competition with cotton." They would deny it to the last to escape this tax. I have here, and have had put in the RECORD, and could fill the RECORD with similar letters, letters from cotton-mill operators who say that rayon is directly in competition with cotton, and that it is reducing the consumption of cotton on account of the fact that the processing tax is levied on the material that goes into cotton goods. It is as reliable as the information furnished by the rayon manufacturer.

The PRESIDENT pro tempore. The Senator's time on the motion has expired.

Mr. RUSSELL. I do not desire to use my time on the bill at this time, as I have another amendment which I may find it necessary to offer. I hope that the Senate will reconsider the vote by which this amendment was rejected, in order that we may fix a tax on rayon adequate to protect the cotton farmer and the cotton textile industry.

I ask unanimous consent that the text of the committee which was rejected may be printed in the RECORD at this point.

There being no objection the amendment as reported by the committee was ordered to be printed in the RECORD, as follows:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such, or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn, or the products thereof."

Mr. SMITH. Mr. President, I do not think my colleagues in the Senate will accuse me of not looking out for the interests of cotton. I admit that at first blush I thought perhaps this was a very fair amendment; but I hope the Senate will not reconsider the vote by which we eliminated this provision, because, upon investigation, I find that the cotton growers of the country will stand to suffer a great deal more through the imposition of this tax on rayon than they would if it were left out. Fifty-five percent of our production is sold abroad, and the purchase of this proportion of the crop is largely financed by the sale of the products of certain countries which import our cotton; and such a provision would render them unable to take our stuff.

I do not care to go into details. It is not necessary. I want my friends here who believe that I have been sincere in my efforts, and somewhat successful, to vote down this motion. I started a while ago to move to lay the motion on the table; but I am content to let the Senate take a vote as to whether or not it will reconsider its action in this matter.

Mr. WALSH. Mr. President, I send to the desk a telegram in connection with this subject which I ask to have read and which I hope will contribute some arguments against reconsideration.

The PRESIDENT pro tempore. Without objection, the telegram will be read.

The legislative clerk read as follows:

[Telegram]

JULY 3, 1935.

Senator DAVID I. WALSH:

Have heard that the Senate Agricultural Committee has attached a rider on H. R. 8492 calling for processing tax on rayon of 5¼ cents per pound. If this thing goes through it is just another factor that will contribute great confusion to the textile industry, with the resultant unfortunate effects. It certainly has never been established as a fact that rayon has reduced cotton consumption, and, if anything, it is competitive with silk. These taxes are unnecessary, but if they had to be applied should be applied in proper proportion with silk. How on earth can Congress suddenly decide to tax rayon without giving the industry an opportunity to be fully heard, and without making a thorough investigation of the business situation? If anybody looked into this thing at all, they would find that rayon competes with silk, and that it is used as a decorative fiber instead of silk in woolen goods, and that a compensatory tax on rayon is absolutely unjust.

SHAWMUT WOOLEN MILLS,
R. H. WYNER, *President*.

Mr. WALSH. I ask permission to have inserted in the RECORD certain letters and telegrams in connection with the same subject, and which reflect my views on the subject of a processing tax on rayon.

The PRESIDENT pro tempore. Without objection, the letters and telegrams will be printed in the RECORD.

The letters and telegrams are as follows:

HATHAWAY MANUFACTURING CO.,
New Bedford, Mass., July 2, 1935.

Hon. DAVID I. WALSH,
The Senate, Washington, D. C.

DEAR SENATOR: We have wired you today as follows:

"Senate amendment to H. R. 8492 just reported provides an excise tax of 5¼ cents per pound on rayon, including floor stocks and stock in process. No provision made for equivalent tax on silk. Tax on rayon will not help cotton consumption. Real competition is between silk and rayon. Taxing rayon will not increase cotton consumption but taxing rayon without taxing silk is discrimination against American-made product in favor of foreign product. If tax on rayon cannot be blocked, must have equivalent tax of 10½ cents per pound on silk. Letter follows."

The question of a compensatory tax on rayon has been gone over in detail by the National Rayon Weavers' Association, representing approximately 43,000 looms out of a total of slightly over 50,000 engaged in weaving rayon, with Secretary Wallace and the Agriculture Department and the fact has been definitely established to the Secretary's satisfaction that there has been no shift from cotton to rayon due to the processing tax on cotton. Rayon is a popular product owing to style, not price, since the price of a rayon fabric is very much higher than the price of the equivalent construction made with cotton, including the cotton processing tax.

The two most popular sizes of rayon are 150 denier, which is equivalent to 35/1 combed cotton yarn, and 100 denier, equivalent to 53/1 combed cotton yarn. Prices on these numbers compare as follows:

On cones or parallel tubes

	Cents
150 denier rayon	55
35/1 combed peeler cotton yarn	42
100 denier rayon	77
53/1 combed peeler cotton yarn	52

The production of rayon in the United States during 1934 amounted to 210,330,000 pounds. From a 500-pound bale of cotton the average mill gets from 380 to 400 pounds of yarn. Converting the total rayon production to cotton yarn on this basis gives a figure of approximately 525,000 bales.

Obviously if no rayon at all were used and if the 1934 production of rayon were entirely replaced by cotton the increase in consumption of cotton would have been only 525,000 bales for the 12 months ending December 31, 1934, or slightly less than 44,000 bales per month.

The only actual competition between cotton yarn and rayon from a price standpoint is in the mercerized cotton yarn business, most of which is used by hosiery manufacturers. The writer has not the actual figures of mercerized cotton yarn production over a period of years, but they can easily be obtained. The poundage is so small in bales of cotton that it should be considered negligible as a factor.

Competition between cotton and rayon is one of style entirely, as is also proven by the fact that the shift from cotton to rayon began in volume in 1928 and 1929, long before a processing tax was even heard of, as statistics will show.

Competition between silk and rayon is largely a matter of price, since the appearance of rayon fabrics in many instances very closely approximates the appearance of silk fabrics. With rayon at its present level when the silk market drops below $1.30 per pound, the consumption of silk immediately cuts into the consumption of rayon. If a processing tax were placed upon rayon, with no compensating tax upon silk, the rayon industry would suffer tremendously, as a definite switch from rayon to silk would immediately follow.

This would constitute discrimination against an American-made product and in favor of a foreign-made importation, and would be grossly unjust from every point of view.

The working capital required by a weaving mill running rayon is far greater than that required by a cotton mill operating only on cotton. A tax of 5¼ cents on rayon, which is approximately 10 percent of the price of rayon yarn, would increase the working capital required by the rayon-weaving mills, so that large numbers would have great difficulty continuing in operation.

Irrespective of the justice of taxing cotton mills for the benefit of the cotton farmer, there is certainly no justice in taxing rayon mills for the benefit of the cotton farmer, who has never had anything to do with rayon, and never will have.

Information and statistics with regard to this matter are on file in the Department of Agriculture and can be obtained from the National Rayon Weavers' Association, 40 Worth Street, New York, N. Y.

Congressmen and Senators obviously cannot be familiar with these details and should take no action without allowing the rayon industry to present their case, which must be sound, or the Secretary of Agriculture would have placed a compensatory tax on rayon long ago under the original Agricultural Adjustment Act.

The Hathaway Manufacturing Co., which the writer represents, operates one-half of its plant on the spinning and weaving of cotton and the other half on the weaving of rayon fabrics and is, therefore, in a position to speak authoritatively and from experience with regard to this matter.

Yours truly,

SEABURY STANTON, *Treasurer*.

NEWMARKET MANUFACTURING CO.,
Lowell, Mass., July 2, 1935.

Hon. DAVID I. WALSH,
Senator from Massachusetts, Washington, D. C.

DEAR SIR: Referring to amendment by Senate to H. R. 8492 imposing an excise tax on rayon of 5¼ cents per pound, including floor stock and stock in process:

I desire to call to your attention the fact that this tax on rayon will be of little, if any, benefit to the manufacturers of cotton cloth as the field in which the two fabrics compete is very limited, if it exists at all. The true injury which the processing tax on cotton does to the cotton industry is the raising of the price of the cloth to the consumer, thereby discouraging purchases and limiting the number of yards they can purchase for a given sum of money. Purchasers have a definite amount of money they can spend for a certain purpose. If the price of any commodity increases, they do not spend more money on it—they purchase smaller quantities. Customers, generally speaking, on account of difference in price, do not shift their purchases from cotton to rayon; they limit the total number of yards of cotton they buy.

This tax on rayon will place a heavy burden on the finances of many rayon mills and will, undoubtedly, force some of them out of business, thereby decreasing employment.

There is competition between rayon and silk in a broad way. If any tax is to be imposed on rayon, an equivalent tax should also be imposed on silk. I am advised that this equivalent should be 10½ cents per pound.

This tax, as it stands, burdens a domestic industry for the benefit of foreigners. It does no American industry any material good

and merely tends to bring the rayon industry down to the same distressing state of depression that the cotton industry now is in.

We protest against this tax and urge you to do all in your power to prevent it from becoming law. If you cannot accomplish this, at least see that it is so changed that it does not discriminate against American workmen in favor of foreigners.

Yours truly,

CHARLES WALCOTT, *Treasurer.*

FRANKLIN RAYON CORPORATION,
Providence, R. I., July 3, 1935.

Hon. DAVID WALSH,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR WALSH: Confirming telephone conversation of this morning, the writer will call at your office Monday, July 8, at 10 o'clock eastern standard time.

So that you may have the background of the case under discussion in advance, the following facts are pertinent:

1. The original A. A. A. bill authorized the Secretary of Agriculture to apply compensating taxes on products competing with basic agricultural commodities on which processing taxes were placed in the act.

2. The Department of Agriculture held hearings on July 31, 1933, and November 10, 1933, to develop factual evidence regarding the alleged competition of rayon with cotton. As the findings apparently did not justify a compensating tax on rayon no further action has been taken by the Secretary of Agriculture during this 2-year period.

3. In H. R. 8492 carrying the A. A. A. amendments requested by the Department of Agriculture the House passed this bill with no reference being made to a rayon tax.

4. This week in the Senate's Agricultural and Forestry Committee we understand that a rider has been added to H. R. 8492 proposing a processing tax of 5¼ cents per pound on rayon. We further understand that this bill may be reported to the Senate and voted upon on Monday, July 8.

5. If such a bill were to be railroaded through the Senate it would constitute a special assessment of $12,500,000 annually against one industry to be used for the benefit of other interests without giving the rayon industry due notice or a public hearing before passage.

6. Before the final passage of the original A. A. A. bill every industry affected by its provisions was given the opportunity of a public hearing. Why should the rayon industry be discriminated against?

7. Should the Senate decide to place a processing tax on rayon, it would be grossly unjust to American industry and American labor to do so unless at least 15 cents per pound processing tax or import duty is simultaneously applied to raw silk and manufactured silk yarns and goods. It is obvious to any impartial observer that rayon and silk are highly competitive compared with rayon and cotton. We feel certain that an American legislative body will hesitate to crucify a young but growing American industry with its 200,000 associated employees for the benefit of Japanese capital and cheap labor. Japanese manufactured goods are already pouring into this country, and a processing tax on rayon would greatly increase the volume of Japanese silk yarns and cloth sold in the United States.

Due to the unfair method used in slipping a rayon processing tax rider into H. R. 8492, it will probably be necessary to take forceful action on the floor of the Senate Monday, July 8, against this measure. May we count on your valued support?

Besides representing the Franklin Rayon Corporation, the writer is the president of the National Rayon Yarn Processors Association, composed of 70 small concerns engaged in the dyeing and converting of rayon yarns in every textile-producing State in the Union.

Yours very truly,

ROYAL LITTLE.

HOLYOKE, MASS., *July 3, 1935.*

Hon. DAVID I. WALSH:

Excise tax on rayon is another blow to Massachusetts, and is entirely unjustified. Tax on rayon will not help cotton. But were it justified there should be an equivalent tax on silk. Grossly unfair to discriminate against a product made in the United States in favor of a foreign product.

FARR ALPACA CO.

LEWISTON, MAINE, *July 3, 1935.*

Senator DAVID I. WALSH:

Strongly urge your opposing rayon tax rider on A. A. A. bill. If passed, will cause untold harm.

N. M. MITCHELL.

PROVIDENCE, R. I., *July 3, 1935.*

Hon. DAVID I. WALSH,
Senate Building:

Understand there is a possibility of a 5¼-cent processing tax on rayon, as per amendment to bill H. R. 8492. Apparently no similar tax is proposed for real silk, with which rayon competes. Urgently request you act to prevent passage of this bill, at least until the rayon industry has an opportunity to be heard. This bill places a very great burden on the rayon industry and not on others with which it competes.

L. R. BUCKNER.

NEW BEDFORD, MASS., *July 3, 1935.*

Hon. DAVID I. WALSH:

Senate amendment to H. R. 8492 provides an excise tax of 5¼ cents per pound on rayon, including floor stock and stock in process. There is virtually no competition between rayon and cotton, so a tax on rayon will not increase cotton consumption. As a manufacturer who uses both cotton and rayon, we protest this as unjust unless an equivalent tax of 10½ cents per pound is put on silk.

BOOTH MANUFACTURING CO.

BOSTON, MASS., *July 3, 1935.*

Hon. Senator DAVID I. WALSH:

If tax placed on rayon, strongly urge similar tax on commodities, jute, paper, etc., competing with cotton; also on silk competing with rayon, although rayon tax entirely improper. If enacted, should be placed on silk to maintain fair basis between these fibers and protect domestic rayon from foreign silk.

CABOT MANUFACTURING CO.,
NATHANIEL F. AYER, *Treasurer.*

Mr. CONNALLY. Mr. President, as I understand, the pending motion is to reconsider the vote by which the Senate refused to incorporate in the bill the proposed tax on rayon, contained in what is known as "section 15."

The PRESIDENT pro tempore. The Senator is correct.

Mr. CONNALLY. I wish to urge the Senate to reconsider its action, which really had little consideration the other day, because the Senator from South Carolina [Mr. BYRNES] withdrew his proposed amendment, which included a tax on rayon and on silk.

Mr. President, so long as a processing tax is levied on cotton, unless a similar tax is levied on rayon, which is a highly competitive product, it amounts to levying a tax for the benefit of rayon. When there are two competing commodities in the same market, and we put a tax on one of them and refrain from putting a tax on the other, we are giving a tremendous advantage to the commodity which is not taxed.

It is immaterial to the Senator from Texas whether this tax is put in the general fund or what is done with it. I do not wish to penalize rayon for the benefit of cotton, as was suggested by one Senator, who said we should be taxing rayon for the benefit of cotton. Take the rayon tax and put it in the general fund, if that be desired; but it is not fair to cotton to put a processing tax on it, make it cost the manufacturer more, make it more difficult for the manufacturer to sell it in the market, and permit rayon to go ahead without any processing tax, and thereby receive a premium in the competitive market, where the cotton producers have to contest for the business.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. CONNALLY. Just a moment.

The bill is supposed to be for the benefit of agricultural producers.

Mr. TYDINGS and Mr. WAGNER addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Texas yield; and if so, to whom?

Mr. CONNALLY. In a moment I shall be glad to yield to the two Senators.

This bill is supposed to be for the benefit of agricultural producers; and yet, by the action which has been taken here, it is a bill in behalf of rayon manufacturers.

Where do rayon materials come from? Wood pulp, principally wood pulp from Canada. How does it help the American farmer to make it cheaper to sell Canadian wood pulp in the American market in competition with the cotton producer?

Mr. RUSSELL. Mr. President——

Mr. CONNALLY. I yield to the Senator from Georgia.

Mr. RUSSELL. I am sure the Senator from Texas shares with me my great esteem for the Senator from South Carolina [Mr. SMITH] as the champion of the cotton farmer in this body; but I desire to ask the Senator from Texas if he sees how it would be remotely possible for a domestic tax—a tax levied only on rayon manufactured and sold in this country—to affect the export of cotton?

Mr. CONNALLY. I do not follow the Senator from South Carolina.

Mr. SMITH. Mr. President, if necessary——

Mr. CONNALLY. I yield to the Senator briefly. I have only 15 minutes.

Mr. SMITH. I would rather answer that at some other time.

Mr. CONNALLY. I do not understand, though, how the Senator from South Carolina, when his own bill contained this amendment, and when his own State is a cotton-producing State, can stand on the floor of the Senate and fight this amendment.

Mr. SMITH. And the Senator from South Carolina himself put in that amendment; but subsequent facts convinced me that it would be of greater benefit to the cotton grower of my section of the country to have the export market untrammeled, and that he would derive a greater benefit by exporting 2,000,000 bales of cotton, than by risking the doubtful benefit that would come from putting a tax on rayon.

Mr. CONNALLY. Mr. President——

Mr. SMITH. I notice that the Senator from Texas was not listening to me. At the proper time I will tell him about this matter.

Mr. CONNALLY. I hope the Senator will. The Senator will have 15 minutes, and I hope he will explain how leaving a tax off rayon is going to expand our cotton markets.

Mr. SMITH. Yes; it will—oh, yes!

Mr. WAGNER and Mr. TYDINGS addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Texas yield; and if so, to whom?

Mr. CONNALLY. I yield to the Senator from New York.

Mr. WAGNER. Mr. President, the Senator's whole argument is based on the assumption that rayon competes with cotton.

Mr. CONNALLY. Yes, sir.

Mr. WAGNER. Well, Mr. President——

Mr. CONNALLY. I cannot yield except for a question, I will say to the Senator. I am glad to yield to him, but I cannot have my 15 minutes taken up by interruptions. The Senator will have 15 minutes.

Mr. WAGNER. I was about to ask the Senator a simple question.

Mr. CONNALLY. Very well, if the Senator will ask it.

Mr. WAGNER. The question is whether it would not have been a fair procedure and a usual procedure to have those who would be affected by this tax, which they regard as destructive of their industry, afforded an opportunity to present their side to the committee before it took that action.

Mr. CONNALLY. I will answer the Senator.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. CONNALLY. Just a moment.

The Senator from South Carolina brings before the Senate this bill containing an amendment providing a tax on rayon, after he is supposed to have had hearings, after he is supposed to have known what he was doing about it; and yet he now says that on further consideration, in order to help the export market, he takes it out.

Mr. TYDINGS. Mr. President——

Mr. CONNALLY. I yield to the Senator from Maryland.

Mr. TYDINGS. I should like to ask the Senator from Texas, inasmuch as many people are so poor that they cannot buy woolen garments, if he intends also to offer an amendment to put a processing-tax on wool, as that competes with the clothing of the poor, which is cotton?

Mr. CONNALLY. Oh, no; the Senator from Maryland does not think I am going to do that. Wool has already been stricken out of this bill. It is not in the bill.

Now, let me say to the Senator from New York that he is talking about rayon manufacturers having a hearing. When the tariff bill was here, the rayon manufacturers had a hearing. They reached the committees; they went before them; and what did we do for the rayon manufacturers? We gave them, on page 69 of the tariff act, a high tariff on rayon to protect American manufacturers, to give them a bounty.

We put a tax not on rayon but on everyone who buys rayon. In order to help rayon and in order to lift its market here at home, we put a tax on every purchaser of rayon. The Senator from New York says that has nothing to do with it. There was a hearing and they got the bounty; they got the advantage. The cotton producer cannot enjoy a tariff on cotton, because we produce more of it than we consume. Yet when we have before us a bill for the benefit not of the cotton manufacturer but for the benefit of the cotton farmer, who produces the commodity from the earth, Senators rise and say we must not put a tax on rayon, which competes with cotton, because it would hurt the manufacturer of rayon, who is enjoying a tariff of 45 cents a pound on some of it. Let me read the law:

Provided, That none of the foregoing filaments shall be subject to a less duty than 40 cents per pound, and none of the foregoing yarns shall be subject to a less duty than 45 cents per pound.

Senators quibble about a few cents on cotton in the form of a processing tax, and yet they are taking out of the consumers of the United States 40 and 45 cents a pound on rayon, which is an article competitive with cotton. Then, when we say that cotton and rayon, so far as this bill is concerned, ought to be put on the same competitive basis, they say, "Oh, no; you must not put a processing tax on rayon." If we do not put a processing tax on rayon, we are giving rayon still another advantage, we are making it harder for cotton to compete with it, we are adding to it another artificial device; to enrich whom? Those who own the rayon factories in the United States. Who owns them?

Mr. RUSSELL. Mr. President, I wish to point out that a great many of the rayon factories in the United States are owned abroad. There are some in my State which are owned in Italy, and they have the advantage of a tariff protection here but are unwilling to pay this tax.

Mr. CONNALLY. Certainly. I wanted to call that to the attention of the Senate. I have not at hand the detailed information, but I know that a great many of the rayon factories in the United States are owned not by American citizens but by citizens living abroad, in Italy, and perhaps in Germany. I do not know the details, but it is my information that the rayon interests in the United States are owned abroad.

In a contest between foreign-owned corporations in the United States, manufacturing an article competitive with cotton and American cotton manufacturers and American cotton producers, I want the Senate to say whether it is standing by the American farmer and the American cotton textile manufacturer, or whether it is going to give another bounty, another advantage, another artificial profit, to the rayon manufacturers, who I understand have already made tremendous profits, and take that money out of the cotton farmer and the cotton textile manufacturer.

Mr. President, that is the issue. Gentlemen may camouflage it all they please, they may varnish it over with their oratory and with their logical deductions and their abstractions, but the issue is whether we are to tax one competitive article and leave the other competitive article free of a tax, and thereby give it an advantage which it should not possess.

I submit that the Senate is not going to do that sort of thing. Give us a chance to have this issue reconsidered, in order that the Senate may have an opportunity for a record vote on the question.

Mr. SMITH. Mr. President, I should like to state that I am informed by the Department of Agriculture that they have looked into this matter and have found that there is not enough competition between cotton articles and rayon articles to justify them, under the law, in imposing the tax. The Department of State, however, has called my attention to the fact that perhaps the largest purchasers of American cotton depend largely on the sale of certain forms of silk for the wherewith to purchase an enormous amount of American cotton, and that in all justice to the rayon business, if this tax is imposed, as a matter of course there should be a compensatory tax placed on silk in all its forms where it enters into competition with rayon.

Therefore, in order to keep our export market at the tide at which it is now, comprising some 2,000,000 bales of cotton, which is certainly a very decisive factor in sustaining the

price, I prefer to get the greater benefit for those whom I represent in the form of exportations than to commit myself to the doubtful advantage of the small competition between rayon and cotton. So I hope the Senate will reject the motion.

Mr. TYDINGS. Mr. President, a while ago I asked the Senator from Texas [Mr. CONNALLY] if he did not think it would be perfectly logical for us to have a compensatory tax upon wool. Every Senator who remembers the tariff debates recalls particularly the charge that shoddy quite often is sold for wool, shoddy being a combination of cotton and wool, and that that is the clothing of the poor. Shoddy has more cotton in it than has rayon.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. If the Senator will let me finish, I will yield later on. I will yield now for a question.

Mr. BARKLEY. I wish to ask the Senator if he is sure that he is right in saying that shoddy is a mixture of wool and cotton. My understanding is that shoddy is reworked wool. It has no cotton in it, unless some cotton is added in the reworking.

Mr. TYDINGS. Let us assume it is reworked wool. It certainly is the clothing of the poor, who cannot afford to buy pure wool. Therefore it strikes me that unless we tax shoddy we are going to throw an unfair burden on cotton, because here is cotton, which is the clothing of the poor, taxed on the one hand, and here is shoddy, which is cheap clothing, not taxed. Therefore people are going to buy more shoddy, and the only way to correct that situation, in my judgment, would be by putting a compensatory tax on shoddy.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. BARKLEY. Does not the Senator recall, however, that we produce only a fraction of as much wool as we consume, and that there is already a very high protective tariff on wool, and there is nothing necessary to be done to help wool, which is already getting its maximum benefit?

Mr. TYDINGS. If we produce only a little of it, then that is all the more reason why we ought to protect the home industry.

Mr. BARKLEY. It is protected; it carries a high tariff of 30 cents a pound.

Mr. TYDINGS. Why do we not put a tax on shoddy and freeze it out? The idea of taxing cotton, which is raised in this country, and rayon, which is produced in this country, and letting shoddy, which is produced in other countries, come in and escape the tax.

Mr. BARKLEY. It does not escape it.

Mr. TYDINGS. And that in the name of America. The very idea!

Mr. BARKLEY. I do not wish to irritate the Senator, but shoddy does not come in free of duty. It bears a tariff tax.

Mr. TYDINGS. That is all the more reason why there ought to be a compensatory tax. It is not produced in the United States, except in a small quantity. It is produced abroad; and here we are taxing rayon and cotton, which are produced in our own country, and allowing shoddy to come in with no compensatory tax on it whatsoever.

Is there anyone ready to offer an amendment to tax shoddy?

Mr. BARKLEY. I think it is a "shoddy" argument the Senator is making on that proposition. [Laughter.]

Mr. TYDINGS. It would be in the eyes of the Senator from Kentucky, because his discernment is so wrapped up in this kind of novel legislation that he would not know wool from shoddy in the form of an argument.

Mr. BARKLEY. There is no difference between wool and shoddy; shoddy is wool.

Mr. TYDINGS. I have not yielded. The Senator has a way of always making speeches in another Senator's time without even bothering the chair to obtain recognition.

Mr. BARKLEY. Mr. President——

Mr. TYDINGS. And that is the "shoddiest" thing I know of. [Laughter.]

Mr. BARKLEY. Mr. President——

Mr. TYDINGS. If I may proceed to eliminate this shoddy argument from my very pertinent and pointed and proper remarks, let me go on in the 12 or 13 minutes that are left.

Everyone concedes that there is very little if any cotton in rayon, but it is pointed out here that rayon companies are owned by foreigners. Yet, forsooth, those who hold that out as bait to put this compensatory tax on rayon, rise the next moment to say there should be no tax on shoddy, notwithstanding the fact that most of it is not only owned but is produced and manufactured outside of the United States. They stand indicted by their own argument. They are not consistent. They want to protect the cotton farmer, yes; but they want to protect the cotton farmer at the expense of every laboring man who works in a rayon plant.

There is no more justification for putting a tax upon rayon than there is for putting a tax upon cellophane, because we have now reached the era of cellophane bathing suits, and I think there ought to be a compensatory tax put on cellophane so that Senators who make these "shoddy" arguments will not have to wear glasses in the future when viewing the beauties on the bathing beaches. [Laughter.]

Mr. BARKLEY. The Senator is talking about something concerning which he is an expert. [Laughter.]

Mr. TYDINGS. I claim that is a very good observation, the only good one the Senator from Kentucky has made so far in this whole argument.

Mr. President, the farmer for a long while has been the victim of compensatory duties. The Senator from South Carolina on many occasions has pointed out the great financial burden put on agriculture by compensatory duties. Were he now to favor a compensatory duty on something remote from cotton he would violate all the philosophy and logic and the worth of all the argument he has made when tariff matters have been before this body.

Rayon is something entirely different from cotton. It is a competitive product, yes; but, following the logic now indulged in, when we come to a discussion of coal and put a tax upon coal for the benefit of the miners, let us also put a tax upon wood and oil and all the other products which compete with coal.

Mr. President, if this philosophy shall be ever written into the fundamental law of our land, Senators will be dizzy from the prospect of the number of commodities which compete with every commodity used in human activities. The day may come when the so-called "Guffey coal bill" will be used as a vehicle for a somewhat similar philosophy. Then we shall have to tax oil and coal, cordwood and briquettes, and every other sort of product in order to take care of the coal industry.

In other words, this is a proposal to hit a blow at one man's business which has no relation to the commodity, cotton, which we are discussing. It is a proposal to strike that business down financially, to make it impossible for him to do business, so that another class of people may receive a particular benefit at his expense.

If Senators desire a tax on cotton in order to bring it up to parity price, that is one thing. That philosophy may be maintained. There is good argument which can be offered to support that view. However, there is no favorable argument, and no justice, and no righteousness in taxing an article utterly removed from cotton for the benefit of cotton alone.

Do the taxes levied on rayon go back to the rayon producers? Of course, they do not. Where do they go? We tax rayon and give the resultant funds to the cotton producer. Senators might justify the competitive tax on rayon were that tax husbanded and sent back to those who produce rayon, as is done in the case of cotton; but what justification can there be for taxing the workers in the rayon

plants—for that is what it means—for taxing the owners of the rayon plants—for that is what it means—and taking that tax, not for the purpose of running the Government but for the purpose of giving it entirely to another class of citizens?

If this tax were to go into the Federal Treasury for general purposes, that would be one thing; but it is not to go there, except to reside there temporarily, and then it is to go back to the cotton farmer. Well, let us tax all the lawyers for the benefit of the doctors, and let us tax all the railroad workers for the benefit of the steamship workers. That would be the natural logic were this proposed plan pursued.

There is not a Senator who will detach himself from the fleshpots of his own State—the protection of the industries and growth of his own State—who will not then say that there can be no justification for taxing one industry and taking the proceeds of that tax, not for government, but for the benefit of those employed in other industries. The refusal of Senators to tax shoddy, which competes with cotton, is on a par with the whole philosophy and justice back of this amendment.

I hope the action by which the amendment was rejected the other day will be maintained and that Senators will vote not to put this tax on an industry which has nothing to do with cotton, the proceeds of which tax would be used to take care of those engaged in cotton. In my judgment, that would be a manifest and ridiculous injustice.

Mr. GLASS. Mr. President, without desiring to prolong the discussion of this question unreasonably, let me say that today is the first time I have heard it charged—perhaps it has been charged without my hearing it—that the Department of Agriculture in Washington has shown any disposition whatsoever to neglect the interests of the cotton producers. On the contrary, the Department of Agriculture has levied the processing tax against which the textile manufacturers have been protesting since it was levied, and in every other conceivable, reasonable way has sought to promote the interests of the cotton grower, even at the expense of 130,000,000 people who have to use cotton, from the baby in the crib just born to the corpse in the grave.

The very fact, as stated by the Senator from New York, that the Department of Agriculture has for a long time been authorized to levy a tax on rayon, and has not done it, seems to me conclusive of the repeated assertion here that rayon is not a competitor of cotton goods. It is only a competitor of silk, and that by reason of the fact that silk is much more costly than rayon, which has the appearance of silk.

It has been suggested that rayon is protected in the tariff act and that cotton is not. If the distinguished Senator from Texas [Mr. CONNALLY], who had the tariff act before him, and from whose desk I have abstracted this document without his knowledge or consent, will look at the tariff act he will see that there are 36 provisions of the existing tariff law levying a tax on every conceivable species of cotton goods.

Mr. CONNALLY. The Senator from Texas did not say that there was not any duty on manufactured cotton. He said that there was no tariff on raw cotton.

Mr. GLASS. What is the duty on manufactured cotton intended to do? Is it intended to protect only the manufacturer, or the manufacturer and the producer? The Senator from Texas knows perfectly well it is meant to protect the producer of the raw material as well as the producer of the manufactured material, because coincidentally it is obliged to protect the producer if it protects the manufacturer.

I read from the tariff act:

PAR. 901. (a) Cotton yarn, including warps, in any form, not bleached, dyed, colored, combed, or plied. * * *

(b) Cotton yarn, including warps, in any form, bleached, dyed, colored, combed, or plied. * * *

Cotton cloth of almost every description.

(d) Plain gauge or leno woven cotton nets or nettings. * * *

PAR. 904. (c) Cotton cloth, printed, dyed, or colored. * * *

(e) Tire fabric or fabric for use in pneumatic tires, including cord fabric. * * *

PAR. 905. Cloth, in chief value of cotton, containing silk or rayon. * * *

PAR. 906. Cloth, in chief value of cotton, containing wool. * * *

I have not read the percentages all the way through.

PAR. 908. Tapestries and other jacquard-figured upholstery cloths. * * *

PAR. 909. Pile fabrics. * * *

PAR. 911. (a) Quilts or bedspreads. * * *

(b) Sheets and pillowcases. * * *

Diapers and shrouds and everything else are included. Everybody knows that the Congress and the Department of Agriculture have gone to extremes in looking after the cotton interests.

I do not know whence comes the suggestion that the rayon factories are all owned by foreigners. That is not true in Virginia, which produces nearly if not quite one-half the rayon manufactured in this country. One factory alone gives employment to 5,000 persons, which, counting their dependents, means that 20,000 people are dependent upon that factory alone. Yet, without one word of hearing, the Senator from Georgia precipitates this proposal to tax out of existence a great industry, yet in its infancy. It is about the only industry in the United States which is not hoary with age. Yet the Senator would tax it out of existence without a word of hearing by the committee, without any opportunity to present the facts.

We even had to plead here in order to secure postponement of consideration of the amendment for 1 day, when there was not one sentence in the report of the committee or in the hearings of the committee to indicate that this great infant industry had been given any chance whatsoever to demonstrate what the best-informed of them confidently assert, that rayon is not in competition with cotton but only with silk; and the Senator from Georgia has avowed that he is not even in favor of giving us a compensatory tax in order to protect the rayon industry from the silk industry.

I hope the Senate will determine to maintain its position. Whoever heard of Ed Smith being against the cotton interests? Why, he is known as "Cotton Ed." [Laughter.] Virginia does not produce a great deal of cotton, I think some 60,000 bales, but, whether it produces much or little of cotton or anything else, every industry should be given a fair show in a bill of this kind.

Mr. WAGNER. Mr. President, I do not desire to prolong the discussion unduly; and even the few words I have to say may be in the nature of repetition. But the discussion on the part of the movers of the pending motion has drifted away from the subject before the Senate for consideration. It seems to me that the questions as to whether there is a duty levied upon imported rayon and whether rayon factories are owned by foreigners are not relevant to the point at issue. I may state, however, that so far as New York rayon manufacturers are concerned, they are American citizens.

Two years ago, when we passed the Agricultural Adjustment Administration Act, we constituted the Secretary of Agriculture as a quasi-judicial officer to determine, after hearings and in accordance with standards fixed by Congress, whether or not there should be imposed compensatory taxes upon those commodities in competition with the basic commodities set forth in the act. We intrusted this power to the Secretary of Agriculture, because we recognized that we were in no position as a legislative body to determine the detailed facts as to the extent of the competition and as to the proper amount of the compensatory tax.

Cotton was placed in the same position as the other basic commodities. If there were other outside commodities competing with cotton, it was the duty of those who contended that such competition existed to appear before the quasi-judicial officer, to present all the facts showing the excessive shift from one commodity to the other, and to indicate that injury had ensued because of the tax imposed upon the cotton processors.

In accord with this procedure, the litigants, or complainants, went before the Secretary of Agriculture and presented their case, contending that there ought to be a compensatory tax imposed upon rayon. The hearings, the trial, in

other words, lasted for over a year; both sides presented the facts; and, as a result of that trial, the properly constituted judge refused to impose a compensatory tax on rayon.

Now, what are we asked to do? Like a court of appeals, but without any record before us, without giving an opportunity for a hearing to the industry which says that if this tax is imposed it will be destroyed, without a scintilla of evidence, we are asked blindly, without knowledge of cause or effect, to vote in favor of a compensatory tax fixed by us.

To me it is inconceivable that this body, the greatest legislative body in the world, and, if I may, except myself, containing the most distinguished citizens of the country, will deliberately and blindly vote a tax when it has no information whatsoever.

May I refer briefly to the protection of the rayon industry that has been complained of? I cannot understand the relevancy of that argument. If I were a judge and heard the Senator from Texas, I would inquire what the imposition of a duty upon rayon has to do with the question before the Senate. As a matter of fact, the duty we imposed has been very salutary; the rayon industry has grown in this country, until today it represents an investment of over $250,000,000 and employs nearly 200,000 men and women.

Rayon competes not with cotton but with silk. Of the annual value of fiber consumption in the United States, rayon represented 2.5 percent in 1920 and 13.9 percent in 1934.

During the same period silk fell from 15.6 percent to 9.4 percent.

But the position occupied by cotton in the United States remained practically stable, in 1920 being 54 percent and in 1934 a little over 53 percent. It is obvious from these figures—and that is the reason why the Secretary of Agriculture could not see his way clear to impose a compensatory tax upon rayon—that rayon broke into the silk field and took away a good deal of the silk business, but did not substantially affect cotton.

Mr. BARKLEY. Mr. President, if the Senator will yield, let me ask him what do the percentages represent? I did not understand them.

Mr. WAGNER. The percentage of the consumption of fibers in the United States occupied by rayon, silk, and cotton, respectively.

Mr. BARKLEY. Among all the fibers consumed, then, rayon in 1920 represented the percentage the Senator has given?

Mr. WAGNER. Yes.

Mr. BARKLEY. And in the last year given it had increased while silk had gone down?

Mr. WAGNER. Exactly. In other words, as rayon went up silk went down. That is where the competition is. The consumption of cotton remained practically the same.

I have some communications from representatives of the rayon industry in my State in which they say that the tax we are proposing to impose upon them will deliver the business which they have won through protection and through their own efficiency into the hands of the silk industry. The prices of silk and rayon are now practically the same, but rayon has a slight advantage. If this tax is imposed, that advantage will fade and it will be possible to sell silk in this country cheaper than rayon. In that event, of course, the market for rayon will disappear.

Are we prepared to destroy an industry which has grown as these figures indicate during the last 14 years, to destroy it overnight, without knowing anything about whether the particular tax imposed is fair or not?

That, Mr. President, is all I care to say. I merely wished to present the figures for the consideration of the Senate.

Mr. McKELLAR. Mr. President, the present law gives the right to the Secretary of Agriculture, after an examination, to impose this tax if he sees proper and the facts warrant it. Hearings have been held on that law, but the Secretary has never imposed the tax. Without having information additional to that which the Secretary had when he held the hearings, it seems to me to be rather unusual, to say the least, for us now to impose the proposed tax.

At first blush I thought there was a good deal of competition between cotton and rayon. Upon a more careful examination I find that the competition is with silk rather than rayon. We have no tariff on silk. If we were to impose a compensatory tax on silk, what would be the difficulty? The difficulty would be just this.

Last year, 1933–34, we sold abroad 7,524,000 bales of cotton. This year we sold 2,000,000 bales less. In other words, it is unfortunate for the cotton producers that our foreign market has been greatly lessened. While that is true, while Great Britain has greatly reduced her purchases in this country and while Italy and Germany have greatly reduced their purchases of cotton in this country, Japan has greatly increased her purchases and during the past year bought 1,468,000 bales of cotton from the United States. In other words, she has bought this year practically as much cotton from the United States as have Great Britain, Italy, and Germany combined.

So it would be very improper, it seems to me, for those of us who are interested in cotton to impose this tax. All Americans are interested in cotton, one of our greatest products. It would be manifestly unfair to impose a compensatory tax on silk when our best customer for cotton is Japan.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. CONNALLY. As I understood the Senator, he said he first thought that cotton and rayon were competitive, but upon further investigation he finds they are not. Is rayon a competitor of silk?

Mr. McKELLAR. Yes; it is a competitor of silk.

Mr. CONNALLY. It is a competitor of silk because it is an imitation and a deception and a fraud, making some people think it is silk.

Mr. McKELLAR. I think the Senator is entirely mistaken about its being a fraud or a deception. It is manufactured silk, as we all know. There is no fraud about it.

Mr. CONNALLY. Is it a silk?

Mr. McKELLAR. It is a silk.

Mr. CONNALLY. There is not a bit of silk in it. Why does the Senator say it is silk when there is not a strand of silk in it?

Mr. McKELLAR. I will tell the Senator why I say that. Some geniuses in the world have adopted the methods of the silkworm and devised machinery to that end. The cotton producers sell to the rayon mills 75,000,000 pounds of linters every year, and the price of linters has increased from one-half cent per pound to something like 5 cents per pound, which is beneficial to the cotton interests. For that reason we ought to be very careful about imposing a tax on the consumer of cotton and the purchaser of cotton, because linters are a part of cotton. They are taken into consideration in our stocks of cotton. For that reason, in my judgment, we ought not to impose this tax.

Mr. CONNALLY. Mr. President, will the Senator yield further?

Mr. McKELLAR. Certainly.

Mr. CONNALLY. Is it not true that on all the linters the rayon factories buy they do not pay a cent of processing tax? They get the linters free of the processing tax, whereas competing cotton pays the processing tax.

Mr. McKELLAR. I think that is true; but that is immaterial in this argument, as it seems to me.

Mr. GLASS. Mr. President——

Mr. McKELLAR. I yield to the Senator from Virginia.

Mr. GLASS. The Senator from Texas [Mr. CONNALLY] denounced rayon as a fraud and a deception.

Mr. McKELLAR. The Senator from Texas is mistaken about it.

Mr. GLASS. He denounced rayon as a fraud and a deception because rayon looks like silk. I should like to ask him why he should have charged those Senators who are speaking for rayon with advocating a fraud and a deception upon the public?

Mr. CONNALLY. The Senator from Virginia knows the Senator from Texas did not say a word about any Senator's advocating anything of the kind.

Mr. GLASS. The implication could not be escaped. We are speaking of rayon, and the Senator rose and denounced it as a fraud and a deception.

Mr. CONNALLY. Unfortunately I have no more time, and I cannot make reply to these statements.

Mr. McKELLAR. Unfortunately or fortunately, however it may be viewed, I do not concede that rayon is fraudulent or a deception. I think it is a perfectly legitimate industry, which is doing a wonderful work for our people. It allows many of our people to clothe themselves in a better way than ever before. I think it is exceedingly fortunate for this country that we have rayon mills, and it is likewise exceedingly fortunate for the cotton industry and cotton production.

Mr. President, I think we ought not to impose a tax on silk against our best cotton customer, who buys more cotton from this country than the three nations of Great Britain, Italy, and Germany put together. Under these circumstances we ought not to impose the tax. A further reason for not imposing the tax is because rayon, in my opinion, is not at all in competition with cotton.

Mr. BARBOUR. Mr. President, I do not wish to prolong the discussion, because I think practically everything has been said that might well be said on this subject. But, while I do not care to join in the colloquy between Senators in relation to rayon being a fraudulent imitation, permit me to say it would be just as unfair to suggest that mercerized cotton is fraudulent because it attempts to imitate silk as to say that rayon is intended to deceive in this same respect.

I am glad the distinguished Senator from New York [Mr. WAGNER] gave us the figures and statistics he did a while ago as to the output and consumption of the various commodities and fibers of rayon, silk, and cotton. Senators will remember that I contended yesterday—and was the first Senator to do so—that rayon competes with silk and not with cotton.

It seems to me this proposal brings very clearly to the fore the fallacy of the whole general philosophy of the processing taxes. Here it is proposed to now put a processing tax on rayon so as to help cotton. Just as inevitably as that is done, and it was attempted yesterday, a movement will again be made to put a compensating tax on silk so as to help the other two products; next jute will be involved, and so on, ad infinitum.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BARBOUR. Certainly. I am very glad to yield to my good friend the distinguished Senator from New York.

Mr. WAGNER. I am asking this question because I know the Senator's intimate knowledge of the whole subject. Is it the Senator's opinion that if this tax is imposed on the rayon industry it may mean a surrender of the rayon market to silk?

Mr. BARBOUR. I think the Senator is entirely correct. I want to point out further, however, in fairness to the silk industry, that it should be added also that inevitably a processing tax would then in turn be put upon silk. This is obvious; and the silk industry, I can assure the Senate from my own experience, though I have no personal monetary interest in the silk industry directly or indirectly, cannot stand the tax which was suggested heretofore in respect to this phase of this legislation and which was rejected, but will be suggested again if this processing tax is put on rayon.

Mr. FRAZIER and Mr. McKELLAR addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from New Jersey yield; and, if so, to whom?

Mr. BARBOUR. I yield first to the Senator from North Dakota. I think he was the first of the two Senators to ask me to yield.

Mr. FRAZIER. Mr. President, as this amendment was explained to the committee, it does not provide any tax whatever on silk and provides for a tax on rayon only as it comes in competition with cotton and not in competition with silk. If rayon comes in competition with cotton, it seems to me under the act it should be taxed; but there is no tax on silk and no tax on the rayon which is in competition with silk, as I understand, as the amendment was explained to the committee.

Mr. BARBOUR. The Senator is perfectly correct. The Senator will recall, however, that when this matter was to the fore before, silk was drawn into the picture; and my contention is that just as surely as a compensatory tax which the Senator suggests is put on rayon, inevitably, as I have said several times before, a similar tax will follow upon silk, and silk cannot stand it.

Mr. McKELLAR. And, Mr. President, in addition to that, we should probably offend our best cotton customer.

Mr. BARBOUR. We might very well in time lose this important customer. Of course, that would not happen all at once; but if this course is to be pursued, involving first one fiber and then another, I think in time we will not only offend our best cotton customer, but possibly in time lose him.

Now, there is no quarrel that I wish to engender in respect to the processing tax on cotton. That particular processing tax seems to be inevitable. It is there now and probably will remain in the law. I do not believe, however, this whole philosophy is sound; but the point I am trying to make is that I am as sincere as any a man can be when I say that to extend these processing taxes to these other fibers will be simply to start a veritable ring-around-the-rosy which can end only in disaster in time, not only to all the fiber and textile interests, but to the producers of the raw materials and those who use these raw materials in industry.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BARBOUR. I yield, gladly.

Mr. BARKLEY. I notice that the amendment as to rayon which was rejected, and of which the Senator from Georgia has now moved reconsideration, provides that the tax shall be 125 percent of the processing tax levied upon cotton. Can the Senator from New Jersey explain why the tax should be 125 percent of the tax levied on cotton, even if we levy a tax at all?

Mr. BARBOUR. I do not think there is a person in the whole world who can explain it. Certainly I cannot. It is an arbitrary figure and, as the Senator from New York said, has been set without the rayon industry having any voice in the proceedings. Certainly by the same token, only far more so, when silk was brought into the picture the other day, there was not a single silk manufacturer in the United States who knew anything about it or who had been consulted or given a chance to be heard.

I hope very much indeed—and I say this with all due respect to my friend, the junior Senator from Georgia [Mr. RUSSELL]—that his motion to open up this whole unfortunate subject again will not prevail, because, in my judgment, if his motion carries, it will be a great mistake and will be harmful to the whole textile industry, cotton as well as all the rest of the fibers that have been mentioned, or certainly will be mentioned if we again open up this subject.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Georgia [Mr. RUSSELL] to reconsider the vote by which the Senate rejected the committee amendment on page 45, beginning in line 17, designated as section 15.

Mr. RUSSELL. I call for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. FLETCHER (when his name was called). On this question I have a pair with the Senator from New Jersey [Mr. MOORE] and therefore withhold my vote. If the Senator from New Jersey were present, he would vote "nay", and I should vote "yea."

Mr. REYNOLDS (when his name was called). I am paired on this question with the senior Senator from Missouri [Mr. CLARK]. If I were at liberty to vote I should vote "yea", and I understand that if he were present he would vote "nay." I withhold my vote.

The roll call was concluded.

Mr. WAGNER. My colleague [Mr. COPELAND] is unavoidably absent. If he were present he would vote "nay" on this question.

Mr. CONNALLY. I desire to announce the unavoidable absence of my colleague [Mr. SHEPPARD].

Mr. AUSTIN. I announce the necessary absence of the Senator from Delaware [Mr. HASTINGS] and the Senator from Texas [Mr. SHEPPARD], who are paired on this question. If present, the Senator from Delaware would vote "nay", and the Senator from Texas would vote "yea."

Mr. McKELLAR (after having voted in the negative). Has the Senator from Delaware [Mr. TOWNSEND] voted?

The PRESIDING OFFICER. That Senator has not voted.

Mr. McKELLAR. I have a general pair with the Senator from Delaware, but I understand that if he were present he would vote as I have voted; so I shall allow my vote to stand.

Mr. BARBOUR. I do not know whether or not any Senator on the other side of the aisle is going to make any announcement as to the absentees or how they would vote. I wish to say that my colleague the junior Senator from New Jersey [Mr. MOORE] is paired, and, if present, would vote "nay."

Mr. TYDINGS. My colleague [Mr. RADCLIFFE] is unavoidably detained. If present, he would vote "nay."

Mr. ROBINSON. I desire to announce the necessary absence from the Senate of the Senator from Mississippi [Mr. BILBO], the Senator from South Carolina [Mr. BYRNES], the Senator from Missouri [Mr. CLARK], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Louisiana [Mr. LONG], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Utah [Mr. THOMAS], and the Senator from Montana [Mr. WHEELER].

Mr. BULKLEY. I desire to announce the unavoidable absence of my colleague [Mr. DONAHEY].

The result was announced—yeas 15, nays 62, as follows:

YEAS—15

Bankhead	Duffy	Norbeck	Russell
Black	Frazier	Nye	Shipstead
Bulow	George	Overton	Trammell
Connally	McGill	Pittman	

NAYS—62

Adams	Chavez	Keyes	Pope
Ashurst	Coolidge	King	Robinson
Austin	Costigan	La Follette	Schall
Bachman	Davis	Logan	Schwellenbach
Bailey	Dickinson	Lonergan	Smith
Barbour	Gerry	McAdoo	Steiwer
Barkley	Gibson	McCarran	Thomas, Okla.
Bone	Glass	McKellar	Truman
Borah	Gore	McNary	Tydings
Brown	Guffey	Maloney	Vandenberg
Bulkley	Hale	Metcalf	Van Nuys
Burke	Harrison	Minton	Wagner
Byrd	Hatch	Murphy	Walsh
Capper	Hayden	Murray	White
Caraway	Holt	Neely	
Carey	Johnson	Norris	

NOT VOTING—19

Bilbo	Dieterich	Long	Sheppard
Byrnes	Donahey	Moore	Thomas, Utah
Clark	Fletcher	O'Mahoney	Townsend
Copeland	Hastings	Radcliffe	Wheeler
Couzens	Lewis	Reynolds	

So Mr. RUSSELL's motion to reconsider was rejected.

Mr. LONERGAN. Mr. President, have all the committee amendments been disposed of?

The PRESIDENT pro tempore. They have not been. The question is on the committee amendment on page 64, which was passed over.

Mr. LA FOLLETTE. Mr. President, if we may now recur to the committee amendment on page 64, I desire to offer an amendment in the nature of a substitute for the language proposed to be stricken out by the committee.

The PRESIDENT pro tempore. Let the Chair suggest to the Senator from Wisconsin that the substitute he is offering, as the Chair understands it, will be to section 30.

Mr. LA FOLLETTE. That is correct.

The PRESIDENT pro tempore. The committee amendment just preceding that, to strike out subdivision (g), section 29, has not been acted on.

Mr. LA FOLLETTE. My amendment does not relate to that.

The PRESIDENT pro tempore. The question then is on agreeing to the first committee amendment on page 64, which the clerk will state.

The CHIEF CLERK. On page 64 it is proposed by the Committee on Agriculture and Forestry to strike out lines 1 to 19, inclusive, as follows:

(g) Whenever in this title a refund of any tax is authorized to be made to any person other than the person required to pay the tax with respect to which an application for refund is made, upon statement under oath by the applicant for refund that he has no knowledge, information, or belief that such tax has not in fact been paid, then for the purpose of such refund to said applicant such tax shall be deemed to have been due from any paid by the person liable therefor. Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of the tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue. Whoever makes any false statement under oath in connection with applying for or securing such refund of any tax shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment not exceeding 6 months, or both.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The amendment of the Senator from Wisconsin in the nature of a substitute is now in order, and the amendment will be stated by the clerk.

The CHIEF CLERK. In lieu of the language proposed to be stricken out on page 64, line 20, and extending through line 14, page 66, being section 30, it is proposed to insert the following:

SEC. 33. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigation under this section to determine such facts. Such investigations shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 75 percent of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

"(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until 15 days after the date of such proclamation, revocation, suspension, or modification.

"(d) Any decision of the President as to facts under this section shall be final.

"(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

Mr. LA FOLLETTE. Mr. President, I think that to most Senators in this body my attitude toward the question of the tariff is well known. In 1930, when the last general revision was under consideration, I labored as effectively as I could with the so-called "coalition" which attempted to mitigate and reduce some of the extremities of protection provided in the measure then before us.

Nevertheless, we are now confronted with facts, and not theories. We have embarked upon a program of endeavoring, by the Agricultural Adjustment Act, to lift the domestic

prices of certain agricultural commodities named therein to the parity price, or fair-exchange-value price.

Mr. President, having adopted that policy, it would be not only futile but inconsistent for us to permit imports to be brought into this country to break the prices of the commodities which are affected by the Agricultural Adjustment Act, and which we are endeavoring to lift to the fair-exchange value or the parity price.

Every Senator in this Chamber who has given any consideration to the problems affecting agriculture must be aware of the enormous increase, especially in recent months, in imports of agricultural commodities into the United States. Those who are familiar with the reply made by the Secretary of the Treasury to Senate Resolution 111, offered by the Senator from Michigan [Mr. VANDENBERG], which I hold in my hand, have had brought to their attention in a graphic and startling manner the increase in the imports of agricultural commodities affected by the pending bill.

I shall not take the time of the Senate, nor shall I consume my own time, which is very limited, in trying to cite all of the instances where these imports are coming in at such an alarming rate of increase. We know the facts, the case is on the record, and it is simply a question, as I see it, of whether the Senate and the Congress desire to place in the discretion of the President of the United States a power, after thorough investigation and finding of facts by the Tariff Commission, to remedy this situation and to protect the program which we are endeavoring to accomplish under the Agricultural Adjustment Act, to lift the prices of certain agricultural commodities in the United States.

Mr. President, it is my information that there were some members of the Committee on Agriculture who felt that, as the bill came from the House, the delegation of power endeavored to be made by the House text of the bill was so sweeping that it would fall under some of the interdicted doctrines which the Supreme Court has already enunciated in certain cases dealing with the question of the delegation of power. Senators perusing my amendment will see that I have endeavored, and I believe successfully, to bring this delegation of power within the doctrine laid down in the Hampton case with respect to the flexible tariff sections of our existing law.

It is perfectly clear from a reading of the amendment that, in the first place, the President shall only act whenever he "has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken under this title."

Then, only after a thorough investigation by the Tariff Commission and a finding that such facts do exist, would the President be empowered to issue a proclamation establishing import quotas, and in issuing his proclamation he must declare that the proclamation is issued upon the basis of the facts found by the Commission.

Furthermore, there is a limitation provided for the exercise of his power even after the facts are found, if they be adduced by the Commission and the proclamation is issued by the President, and that limitation is—

> That no limitation shall be imposed on the total quality of any article which may be imported from any country which reduces such permissible total quantity to less than 75 percent of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933.

Mr. President, unless some such amendment as this is adopted and written into the law, it seems to me perfectly obvious that on the one hand we will be endeavoring to lift the domestic prices of agricultural commodities under the Agricultural Adjustment Act and with the other hand we will be permitting imports to come into this country to such a degree as to destroy and defeat our entire efforts to give the farmer a parity price for his commodities. Therefore I hope that a majority of the Senate will find that this amendment appeals to their logic under all the circumstances. I reserve the balance of my time on the amendment.

Mr. BAILEY. Mr. President, I presented an amendment similar to the one now presented by the Senator from Wisconsin, with the intention of offering it.

Mr. LA FOLLETTE. Mr. President, I am sorry I did not know that. I would have been very glad to have the Senator present it, and would have supported his amendment, if it has the same objective.

Mr. BAILEY. In making my statement I did not have in mind suggesting that I desired to offer the amendment. I wish to know just why the Senator insists on the proviso on page 2, which he has just read, as follows:

> No limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 75 percent of the average annual quantity of such article.

Mr. LA FOLLETTE. Mr. President, my object in placing that provision in the amendment was to meet the criticism of certain members of the Committee on Agriculture and Forestry of the Senate, as I understood, who contended that the House language did not contain a sufficient limitation on the delegation of power, and did not set up such standards for the operation and exercise of that power as would bring it under the doctrine laid down in the Hampton case. It was my endeavor, in including this limitation on the exercise of the power, to meet in that regard one of the criticisms against the House language.

Mr. BAILEY. The effect of the proviso would be that any country which reduced its exports into this country by 75 percent over the period stated in the proviso would be altogether exempted from the effect of this amendment. I do not see why we should undertake to give them the benefit of any exception. We are lifting the domestic price in the interest of our own farmers. At the same time we are trying to take care of our own products of manufacture.

I do not get the effect and the force of the provision of the 75-percent limitation here. I would rather have it so that under any circumstances the American producers and the American manufacturers would be safe from the adverse influences by way of foreign competition of the entire legislation.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. LA FOLLETTE. I can only repeat what I stated before, that only after consultation with others who are interested in this amendment, and who have given great consideration to the legal and constitutional aspects of the problem, did I suggest this proviso, and place in the amendment this limitation on the exercise of the power.

Mr. BAILEY. I may be wrong, but I do not think the proviso aids the constitutionality of the amendment. I will say to the Senator that I desire to support the amendment, but I believe it would be better policy to strike out the proviso, and I will offer an amendment to strike out the proviso in section 22, paragraph (b). However, if it shall not be stricken out I shall not oppose the amendment. I shall support the amendment as offered, because I am sure it is constructive and moving in the right direction.

I shall now submit to the Senate that amendment to the amendment, if it is in order.

The PRESIDENT pro tempore. The Senator from North Carolina moves to strike out the proviso beginning on page 2, line 16, of the amendment of the Senator from Wisconsin, and running through line 25.

Mr. LA FOLLETTE. Mr. President, if the Senator will further yield, I will say that so far as the objectives which are sought to be met by this amendment are concerned, the Senator and I are at one in what we are trying to do; but if the Senator remembers the decision in the Hampton case, while the Court did not rest heavily upon the proposition, it did mention the fact that Congress had restricted the exercise of the flexible power to 50 percent above or below the existing rate. Therefore, I feel that we are perhaps upon safer constitutional ground to provide a percentage of limitation with respect to the imposition of imports.

I have great confidence in the legal ability of the Senator from North Carolina [Mr. BAILEY], and if he thinks I have erred on the side of being overcautious, I should be willing either to accept the amendment or to accept a reduction in the percentage. As I say, upon this constitutional question, I simply took the advice of others in whom I have great confidence.

Mr. BAILEY. Will the Senator from Wisconsin accept an amendment to strike out the figures "75" and to insert in lieu thereof the figure "50", on page 2, line 19, of his amendment?

Mr. LA FOLLETTE. I so modify my amendment, Mr. President.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Wisconsin, as modified, to the committee amendment.

Mr. KING. Mr. President, I do not know that I understand the Senator's amendment. If I understand the amendment, and the philosophy behind it, and the position of the Senator from North Carolina [Mr. BAILEY], it seems to me they should go a little further and place a complete embargo upon any imports. Why not enact a tariff act here and place an embargo, or prescribe tariff duties so high as completely to interdict importation?

Mr. BAILEY. I am very glad to have the Senator ask me that question. I can answer it in perfect candor.

We are engaged in a process of imposing domestic taxes tending to elevate the prices of our manufactured products, the primary objective not only being to elevate the price of the raw material but to pass on to the consumer the tax that elevates the price. We are engaged in that process here. It would be fatal to us if, pursuing that process, we should leave the door open to manufacturers or producers of raw material in other countries who pay no processing taxes to come in under the special legislation under which we are operating. That is not protective tariff. That is compensating American nationals as against our own operations.

It is only for that reason that I support this sort of legislation. It is not analogous to the ordinary doctrine of protection. We are protecting our people against our own acts; and I do not see how we can avoid going the limit in doing that. Otherwise, we shall defeat our own acts.

I should now like to hear from my friend the chairman of the committee.

Mr. KING. May I ask the Senator one other question? As I understand the Senator, he thinks we ought to have legislation to protect the American people against our own folly.

Mr. BAILEY. I did not say folly. I am glad the Senator asked me that question.

Mr. President, I do not think it is in any wise folly for the Congress to seek by some means to elevate the prices of American farm products. That is not folly. That is fundamental wisdom. We may go about it in the wrong way; but so long as the prices to the farmers are below the cost of production, so long as the farmers, constituting 27 percent of the American population, receive only 10 percent of the national income, we are justified in invoking artificial measures to bring up the price to the farmers; and when we do, nobody is going to suffer. The price to the farmers will improve conditions throughout the country.

Just a word about my State. By some means, probably by means of the Agricultural Adjustment Act, the lending policy on cotton, the control program, and the devaluation of the dollar in gold, farm prices were elevated in North Carolina in 1933, and still more in 1934, and there has been a restoration of better conditions there—an improvement so great that I should not hesitate to cite it to the Senate as an illustration of the benefits of legislation with a view to increasing prices to the farmers.

Mr. BAILEY subsequently said: Mr. President, I send to the desk and ask unanimous consent to have printed in connection with my remarks three statistical tables showing the imports, exports, and consumption of American cotton.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Imports for consumption of cotton cloth into the United States from Japan

[In thousands]

	Unbleached		Bleached		Printed, dyed, or colored		Total	
	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars
1934								
January			4	(1)	26	2	30	2
February			73	4	14	2	86	5
March			266	11	67	6	334	17
April			482	18	55	6	537	24
May			642	24	182	18	824	42
June			180	7	132	14	312	21
6 months' total			1,647	64	476	48	2,124	111
July			296	13	91	8	387	21
August			332	12	56	5	389	18
September			589	24	94	10	683	33
October			372	15	195	16	567	31
November			813	36	115	8	927	44
December			1,995	89	215	16	2,210	105
Year's total			6,044	253	1,243	111	7,287	363
1935								
January			2,633	113	708	44	3,341	157
February			4,348	205	507	36	4,855	241
March			3,854	193	721	51	4,575	244
April			2,318	98	851	61	3,170	160
May			2,461	102	725	47	3,186	148
5 months' total			15,614	711	3,512	239	19,127	950

[1] Only $242.

United States "general imports" of cotton piece goods from Japan

	Unbleached		Bleached		Printed, dyed, or colored		Total	
	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars
1933								
January			4,979	196	40,846	2,820	45,825	3,016
February			386	51	40,332	2,626	40,718	2,677
March			15,731	664	44,075	3,150	59,806	3,814
April			1,144	57	83,572	5,958	84,716	6,015
May			145	5	116,470	8,186	116,615	8,191
June			450	58	67,220	5,111	67,670	5,169
6 months			22,835	1,031	392,515	27,851	415,350	28,882
July			38,265	1,759	82,968	6,160	121,233	7,919
August			86,220	4,024	66,735	5,765	152,955	9,789
September			492	33	50,765	4,053	51,257	4,086
October			28,744	1,448	124,130	10,328	152,874	11,776
November			1,368	83	92,176	8,041	93,544	8,124
December			78,700	3,806	49,890	4,126	128,590	7,932
Year's total			256,624	12,184	[1] 859,089	66,324	[1] 1,115,713	78,508

[1] Adds plus 90 owing to some minor revision not made in monthly figures.

Cotton exports from the United States (running bales)

[In 1,000 bales]

	Total	United Kingdom	Germany[1]	France	Italy	Japan	Europe (including Great Britain)	European Continent
1925–26	8,051	2,257	1,642	903	745	1,125		
1926–27	10,927	2,529	2,738	999	779	1,616		
1927–28	7,542	1,411	1,988	865	687	959	6,170	4,758
1928–29	8,044	1,831	1,797	775	717	1,309	6,212	4,381
1929–30	6,690	1,256	1,687	812	652	1,020	5,240	3,984
1930–31	6,760	1,054	1,640	914	477	1,228	4,793	3,790
1931–32	8,708	1,344	1,570	463	649	2,294	4,864	3,520
1932–33	8,419	1,492	1,849	864	804	1,743	6,078	4,586
1933–34	7,534	1,278	1,318	709	649	1,846	4,986	3,708
10 months (August to May):								
1933–34	6,769	1,170	1,228	692	602	1,637	4,626	3,456
1934–35	4,175	660	287	333	413	1,375	2,436	1,776

[1] Only about two-thirds of our exports to Germany are consumed in that country, the rest being reexported from Germany to other European countries.

Mr. VANDENBERG. Mr. President, it seems to me the question now is not whether the general A. A. A. program and its philosophy of scarcity is good, bad, or indifferent. The question is whether, having embarked upon a program for increasing by artificial means the price to the American farmers, we shall consistently pursue that philosophy to a completely logical end. It seems to me the available figures make it perfectly obvious that unless the administration shall be armed with some such authority as the Senator from Wisconsin proposes, it may become utterly impossible to reach the objective which is proposed by this scheme of things according to the theory of its own authors.

I desire to point out a fact which is a salient one, Mr. President, to any Senator as he contemplates this amendment and the program to which it relates.

The value in dollars of the imports into this country of basic agricultural commodities for the first quarter of 1935 is $72,000,000, which is an importation at the rate of nearly $300,000,000 a year of basic commodities upon which we are taxing our citizens for the purpose of creating a parity price. Our own citizens pay five hundred millions in taxes to create better farm prices. Then we allow aliens to take three hundred millions of the benefits.

How much are we raising by way of taxation upon our people in order to achieve this parity objective for the American farmer? I repeat the challenge: Something like four hundred or five hundred million dollars. We are admitting competitive foreign products in the same basic commodity brackets to a degree almost equal to the taxes we are taking out of our citizens in order to pretend to achieve the parity prices. If there is any logic on the face of the earth in taxing the American people four or five hundred million dollars in order to achieve parity prices in behalf of certain specific basic farm commodities at the same time that we are admitting over the tariff wall $300,000,000 of competing foreign commodities in precisely the same brackets, then I do not know what logic is.

Mr. President, it is immediately asked, "What is the percentage of these imports in respect to the total production or the total consumption?" That is a thoroughly pertinent question, and it is a question which ordinarily deserves to weigh heavily in respect to an equation of this character. This I freely admit, particularly in an ordinary tariff argument. But this is not the ordinary tariff argument. This is solely a question whether this parity price scheme can work—and I do not pass upon that in final result—whether it can work at all if, as, and when these imports trends provably interfere.

In the present instance it is the direction rather than the length of the step we confront which is of vital importance. This is what I mean: In the contemplation of whether this scheme is going to continue to work, Senators had better take to their consciences the enormous increase of these imports during the first quarter of the present year. In other words, the constant and persistent trend in the direction of an increase in the amount of the imports of these basic commodities constitutes a challenge to the continued operation of the plan which has been adopted. Let me give just a few examples.

Cottonseed cake and meal, of which we imported but 187,000 pounds during the first quarter of 1931, have been imported to the extent of 35,000,000 pounds in the first quarter of the present year.

Corn, which was imported only to the extent of 112,000 bushels in the first quarter of 1932 has been imported to the extent of 7,000,000 bushels during the first quarter of the present year.

Mr. KING. Mr. President, will the Senator from Michigan yield to me?

Mr. VANDENBERG. I am sorry I cannot yield, because I only have a limited time.

Mr. GORE. Mr. President, will the Senator from Michigan insert the percentages as well as the total amounts?

Mr. VANDENBERG. I have just spoken of the percentages. I have indicated why they are less important than normally. I do not have the percentages at hand. I realize that the percentages are pertinent in respect to a general consideration, but I am showing the relative increase, which is now at almost fever speed as the imports of basic commodities flow over our tariff wall. I do not see how we can ignore the fact that if this rate of increase continues, no matter what the percentages may be, the system which has been adopted cannot work in producing parity prices. We must clothe these public authorities with adequate weapons with which to meet the new hazard and exposure, if we are to rely at all upon artificial instrumentalities.

Of wheat, of which only 11,000 bushels were imported in the first quarter of 1931, 3,500,000 bushels were imported in the first quarter of 1935.

Of canned meats, 2,600,000 pounds were imported in the first quarter of 1931, while 16,000,000 pounds were imported in the first quarter of 1935.

And so it goes all down the line.

Of rice flour and rice meal, and so forth, 118,000 pounds were imported in the first quarter of 1931, while 20,000,000 pounds were imported during the first quarter of 1935.

I submit, as a matter of elementary mathematics and elementary logic, that if we are going to rely upon an artificial effort to create parity prices for the American farmer by the process and method to which this legislation is dedicated, we must also be prepared to give the American farmer the full control of his own domestic market or the whole scheme is going to break down. I submit that on the face of the trend of these imports the scheme will break down unless we clothe these authorities with the power to cope with such a situation if, as, and when the facts demonstrate that an answer is necessary. If the use of this added power is not necessary, its mere latent existence can do no harm. If it becomes necessary, its absence might be fatal.

All in the world the amendment of the Senator from Wisconsin proposes to do is to provide, by a method which I understand is brought within the constitutional rule, if, as, and when this flow of imports continues, and it is demonstrated that it threatens to break down and does break down the parity price which we are trying to create by taxes upon the American people, that there shall be an authority that can meet the situation, cope with it, rise above it, and protect the net result we are supposed to achieve.

Mr. President, I again say it seems to me that that is just as simple a contemplation in plain elementary mathematics and logic as could be imagined. I hope the amendment of the Senator from Wisconsin will be adopted. Even an opponent to this whole A. A. A. philosophy should wish the program to be adequately implemented if it shall persist.

Mr. SMITH. Mr. President, when the committee had this bill under consideration I think all the facts which have been referred to were gone over. The Senator from North Carolina [Mr. BAILEY] has drawn a distinction between what is proposed by this amendment and the protective-tariff idea, alleging that, as we have embarked upon a process by which we are to aid the American farmer, it is then necessary for us to have some such provision as is included in this proposed amendment.

We all understood that the price of American agricultural products had in major part gone so disastrously low, so far below even the cost of production, as to threaten to destroy, and in some cases actually to destroy, the holdings of the farmers, namely, their personal possessions and their land. As I take it, we had a condition which was intolerable; and we have attempted to bring about a parity price so that the purchasing power of the farmer's dollar would be equal to that of those from whom he bought.

We had long ago embarked upon a policy which has inevitably led to this very condition. Whatever else may be said, this amendment is tantamount to admitting that the Smoot-Hawley Tariff Act, with all its enormous duties, is not sufficient to raise the price of American products to a point where foreign products cannot come over the wall and undersell American products.

Are we now to admit that with the absurd, ridiculous, and disgusting tariff act, with its antidumping clause, and with the act which in a way, forbids trading with any country that owes us money, we must give somebody the power to prohibit imports from other nations which, in spite of the

tariff wall, can pay the duty and undersell the American producers?

I think the suggestion made by the Senator from Utah is very pertinent. If the amendment now proposed is to be adopted we ought now to declare that we are going to put around this country an absolute embargo and forbid any other nation to trade with us at all. Yet the Senate knows that if we hope to have a revival of American production and industry we must invite the cooperation of the nations of the earth and allow them to trade with us.

The conditions existing have largely been brought about by the fact that the purchasing power of the world outside of America has been paralyzed. We and the other nations of the earth were forced to enter a new realm of financing; nations went off the gold standard; and the United States owns a very large part of the great basic metal which has been used as a standard of value for innumerable years. The world today is in chaos as to the basis upon which there may be trade and commerce, and yet, instead of addressing ourselves to the question of an adequate circulating medium in this country, we are approaching the subject from the other end, and are saying we are going to reduce production in order to accommodate it, with a reasonable price to the scarcity of money. That is the condition that now confronts us. Rather than increase the supply of money, we will decrease the supply of products and then pile Pelion on Ossa in order to protect us in that respect.

The Senator from Michigan mentioned several basic agricultural commodities. I do not know what is the tariff rate, either specific or ad valorem, on the articles to which he referred; but the logic of the argument is, if we have embarked upon a program of raising farm prices, it is our duty to protect that program. All of us must admit that that is logical, but back of it is the objective of increasing prices by the system which it is proposed to extend.

It is not sufficient to say that we are confronted with increased importations. Some of the articles the Senator from Michigan mentioned were forced here by grim necessity. In some instances the commodity was so scarce here that it was a question of whether or not we should import it in order to sustain life in this country or whether we should deny its importation and subject people to necessities of a scarcity which both our system and Providence have brought about.

Mr. President, I believed that it was the Government's duty to create an organization with resources and powers, so far as the Constitution would allow, which would stand for the farmers and see that they got for their contribution to organized society an amount that would justify them in the work they were doing and would return to them a reasonable amount of the profits that should inhere in their production.

But, Mr. President, I shall not vote for recognition of the principle of protection involved in this amendment. It does not suffice for it to be said that we have embarked upon the principle of aiding the farmer and then, when that high protective wall has been erected, say that we will see to it that another layer shall be loaded upon him.

Mr. BAILEY. Mr. President, may I ask the Senator a question?

Mr. SMITH. Certainly.

Mr. BAILEY. What would the Senator do, if he should not vote for legislation of this sort, to arrest the imports in connection with cloth which comes from Japan, it appearing that the total for the month of January 1934, bleached square yards, was only 4,000, while in January 1935 the imports of bleached square yards were 2,633,000?

Mr. SMITH. I am glad the Senator asked that question. The question of percentage enters into the question, but I waive that and I am going now to answer him in terms of actual facts.

Mr. BAILEY. Will the Senator let me get one or two more figures in the RECORD?

Mr. SMITH. I think that is sufficient, because I want to answer it as he has referred to cotton.

Mr. BAILEY. Here is the year's total for 1934: Printed side colored cotton goods imported into this country from Japan, 7,287,000 yards; for the 5 months' total in 1935 the figures are 19,127,000 yards.

Mr. SMITH. Mr. President, I have not yet spoken on the bill; but as the Senator has touched the very heart of the matter I am glad to answer him.

Japan bought cotton in America, paid exactly the same price the American manufacturer paid, shipped it clear around the globe, converted it into a certain kind of cloth, shipped it back around the world, paid the tariff, and undersold the American manufacturer. If that be true, it is an indictment of the American manufacturer as being a knave or a fool.

Mr. BAILEY. Mr. President, will the Senator permit me to remind him that Japan did not have to pay the processing tax?

Mr. SMITH. Precisely; Japan did not have to pay the processing tax, but she paid in effect the very same amount the American manufacturer paid, shipped it around the globe twice, paid the tariff, and undersold the American manufacturer.

Let me call the Senator's attention to another thing. America makes 55 percent of all the cotton produced in the world. We consume 6,000,000 bales out of an average crop of about 14,500,000 bales up to the time of the crash. In other words, we export 55 percent of our cotton. It is a coincidence that the two figures as to our production in relation to world production and the amount we export are alike. We produce 55 percent of all the cotton in the world and 82 percent of all of the spinnable fiber in the finer counts. Out of 167,000,000 spindles in the world, America has 30,000,000. With cotton growing right up to our mill doors, with hydroelectric power and other power sufficient to spin and to convert every fiber into finished cloth, we have only 30,000,000 spindles out of a total of 167,000,000.

Great Britain alone, that does not raise a bale of cotton, has 67,000,000 spindles and is dependent upon American cotton. Why has not America enough spindles to convert our raw material right at our door? It is because we will only convert that which is taken care of by a protective tariff. The producers of cotton sell it in the open market of the world, and I do not complain of that because the price of American cotton fixes the price of all the cotton in the world, and fixes it instantly. Therefore we have nothing to fear so far as needing any protection of American cotton is concerned. On March 11, 1935, when cotton broke $10 a bale, Argentine cotton, Egyptian cotton, and Russian cotton all broke $10 a bale.

The PRESIDENT pro tempore. The time of the Senator from South Carolina on the amendment has expired.

Mr. WALSH. Mr. President, in my time I desire to ask the Senator from Wisconsin [Mr. LA FOLLETTE] a few questions. We are discussing this proposition as if it were a new proposal. Is it not a fact that when we passed the N. R. A. Act we recognized there would be an increase in the cost of production and that a similar provision was embodied in the act to protect American industries against losing the domestic market by importations from foreign countries of commodities that would undersell those produced in this country at the increased price the law necessitated?

Mr. LA FOLLETTE. Mr. President, there is no question about that. It was adopted in committee and agreed to without any debate or controversy on the floor of the Senate, as I remember.

Mr. WALSH. Is it not a fact that under the provisions of that law the President has actually limited the importation of some commodities from foreign countries into this country?

Mr. LA FOLLETTE. I do not know to what extent the power conferred under the Industrial Recovery Act has been exercised, but I do know the power was conferred, and that it was generally conceded by all concerned, when the N. R. A. Act was under consideration, that if we proposed by shortening hours and establishing minimum wages and eliminating child labor to lift the cost of industrial production in the

United States, it would be not only futile but folly not to arm the executive branch of the Government with power to meet the situation created, so far as the importations were concerned. But now, when we are proposing to confer the same powers, so far as agricultural commodities are concerned, we are met with a general argument upon the theory of the protective tariff.

In that connection I should like to say that if it is proposed by the Democratic Party, which has control of both Houses of Congress, to revise the tariff, so far as I am concerned, I shall be glad to join in an effort to revise it. However, the Democrats have had control for 2 years and have not proposed such revision, and we are still confronted with the situation created by the Smoot-Hawley Tariff Act, which, as I said at the beginning of this debate, I fought on the floor of the Senate for 8 months and against which I voted on its final passage. We are confronted with facts, not theories; and unless we are willing to extend the protection, in view of the alarming increase in the importation of agricultural commodities, we can kiss "good-bye" the Agricultural Act and any benefits thereunder to the farmer.

Mr. WALSH. How can we justify under any circumstances enacting a domestic law which increases the cost of production and thereby leaves the door open for foreign goods to come into this country to close up our industries and to add to the line of the unemployed throughout the country?

Mr. LA FOLLETTE. So far as I am concerned, I cannot see any logic in taking the position that, on the one hand, we are going to tax the American consumer for the purpose of raising the domestic price of agricultural commodities, and then in the same program, with an alarming increase of imports threatening to undermine and destroy us, we are not willing to grant discretionary power to the President of the United States and the Tariff Commission to take the same action to protect the program which we are willing to afford to American industry under the Industrial Recovery Act. I say there is no logic in it; I say there is no justice in it; and I say, besides that, it is folly, unless we propose to repeal the Agricultural Adjustment Act and abandon the program.

Mr. WALSH. Mr. President, I desire to refer to one industry which, as the Senator from North Carolina [Mr. BAILEY] knows, has been tremendously affected; and I am astonished that the Senator from South Carolina [Mr. SMITH] takes the position that he does. I refer to the cotton-textile industry. That industry has been very seriously depressed. One of the most pathetic sights one can witness in this country is seen upon a visit to the cotton-textile industrial centers throughout the North and throughout the South. The number of closed mills and abandoned communities is astounding. I have information that within 2 months the largest cotton-textile establishment in the world, employing 12,000 people, will be closed. I refer to an establishment in a neighboring State to my own. The reason for this condition primarily is that the processing tax, and the N. I. R. A., and general taxation have increased the price of cotton cloth 100 percent within 2 years.

Mr. BANKHEAD. Mr. President, may I ask the Senator whether part of that increase is included in the labor cost?

Mr. WALSH. There is no doubt about it. The N. I. R. A. brought increased wages.

Mr. BANKHEAD. Why does not the Senator include it, then?

Mr. WALSH. As I say, the price has increased nearly 100 percent, which has caused an abandonment of the purchase of cotton cloth, and people have turned to rayon and to silk and to other substitutes. Not only that, but, as the Senator from North Carolina points out, there has been a steady and constant increase in importations; and the Senator from North Carolina and every Senator from a textile State, North and South, have appealed to this administration to use the power which it could exercise under similar provisions of the N. I. R. A. to that now proposed.

Mr. BAILEY. Mr. President——

Mr. WALSH. I yield to the Senator from North Carolina.

Mr. BAILEY. I thank the Senator. My time upon the amendment has expired, and therefore I am under the necessity of presenting my argument by asking questions of those which have time.

I will ask this question: Unless we enact legislation of the character which the Senator from Wisconsin has submitted, is there not a very grave and instant danger that the processing tax will be taken out of the pay envelopes of the workers in the cotton mills?

Mr. WALSH. There is no doubt about it.

Mr. SMITH. Mr. President——

Mr. WALSH. I have the floor, please.

It seems to me the height of folly. I do not see how anybody can justify passing domestic laws which increase the cost of production and not taking any steps to put up any barriers against foreign competition. It seems to me the simplest of propositions that if we pass legislation increasing the cost of manufacturing in this country, it is our duty to put up a barrier so as not to annihilate our industries, after we have done that, by leaving the door open for importations of all kinds and descriptions.

Mr. BARKLEY. Mr. President——

Mr. WALSH. I yield to the Senator from Kentucky.

Mr. BARKLEY. I appreciate the force of what the Senator says, and I am in profound sympathy with the textile industry of this country. My question is solely for the purpose of eliciting information. It is impossible, I suppose, to allocate to any one condition the total responsibility for this situation. It is a combination of circumstances.

Mr. WALSH. Of course; but certain things are definite enough. It is definitely known that the processing tax added 20 percent to the cost of cotton cloth, and we know that the reduction of the hours of labor and the minimum wage and other provisions of the N. I. R. A. also materially increased the cost. Many of these requirements, I think, we all agree were desirable.

Mr. BARKLEY. All of which presupposes that this increase by the processing tax and other methods that increased the cost of raw materials to the manufacturer of them was passed on to the public, and has been paid; but, while there has been a considerable increase in the importation of cotton-textile goods from Japan over the past 6 or 8 months, has that importation yet arrived at a point where it even approaches as much as 1 percent of our consumption?

Mr. WALSH. It is a small percentage of our total consumption. The Senator is right.

Mr. BARKLEY. It is much below 1 percent.

Mr. WALSH. But, as pointed out by the Senator from Michigan [Mr. VANDENBERG], it has so rapidly increased during the early months of this year that it has the possibility of amounting to a good deal more than 1 percent in the near future. Furthermore, 1 percent is a large volume, and, if these goods were produced here, would employ many persons.

I did not rise, however, to point out that matter. My thought was that we already have adopted this policy when we passed the domestic law increasing the cost of production under the N. I. R. A. We are now dealing with another law which is increasing the cost of production; and I repeat we ought to adopt the same policy that we adopted under the N. I. R. A., and incorporate in it an amendment of this kind.

Mr. TYDINGS. Mr. President, will the Senator yield for a question?

Mr. WALSH. I yield.

Mr. TYDINGS. Does the Senator feel that if these agricultural prices are increased, it will be necessary for labor to have increased wages?

Mr. WALSH. I certainly think it will be necessary.

Mr. TYDINGS. I do, too.

Mr. WALSH. Of course, as the Senator knows, I am opposed to the whole A. A. A. legislation.

Mr. TYDINGS. Will not that, in turn, make the man who works in the textile mills even less able to carry on than he is now, when the Senator says that most of these plants are closed?

Mr. WALSH. Yes; he will be less able to carry on, because his domestic market will be reduced; but if this amendment shall be adopted he will be at least protected against cheap foreign labor competing with his own output.

Mr. TYDINGS. Yes; but the textile worker will have less money with which to buy the products of agriculture.

Mr. WALSH. That is self-evident.

Mr. TYDINGS. So we meet ourselves coming back again.

Mr. BORAH. Mr. President——

Mr. WALSH. I yield to the Senator from Idaho.

Mr. BORAH. Something has been said about the small percentage of increase in the case of some of these importations. They seem to me to be very considerable, and increasing rapidly; but this is a discretionary power which is to be granted. If the increase of importations is not sufficient to justify action, undoubtedly action will not be taken. So it does not seem to me that the question of percentage is important, in view of the fact that the importations are coming in, and we leave with the Executive the power to determine at what point they shall be stopped from coming in.

Mr. WALSH. The Senator is absolutely correct; and it was pointed out in the hearings of protest by the cotton textile industry that were this small percentage of imports from Japan eliminated, many thousands of Americans would be put to work in the textile mills, even if the percentage of our total consumption is small.

Mr. VANDENBERG. Mr. President, let me give the Senator just one further significant figure from the table by saying that the imports of cotton semimanufactures for the first quarter of 1933 were 1,288,000 pounds. For the comparable quarter of 1935 the imports were 21,000,000 pounds. I insist that it is the trend, it is the direction of the movement, which is so challenging; and we cannot be blind to it if we have the slightest interest in the preservation of American industry and agriculture.

Mr. WALSH. And I will say to the Senator, confirming what he said, that when some figures of increased imports were called to the attention of the President, he actually entered into an agreement with the authorities in Japan to limit and restrict a certain commodity, limiting the importations to the average amount which was imported in previous years.

Mr. WHITE. Mr. President——

Mr. WALSH. I yield to the Senator from Maine.

Mr. WHITE. As bearing on the question of the imports of cotton cloth, I have before me figures which indicate that in the first 5 months of this year, as compared with the first 5 months of last year, the imports rose from 22,806,000 square yards to more than 32,000,000 square yards—an increase of approximately 50 percent.

Mr. WALSH. Yes; I think similar figures were presented by the Senator from North Carolina [Mr. BAILEY] earlier in the debate. The Senator from Maine [Mr. WHITE] and myself repeatedly introduced figures on the subject earlier in the session.

Mr. BARKLEY. Mr. President, will the Senator yield again?

Mr. WALSH. I yield to the Senator from Kentucky.

Mr. BARKLEY. While it is true that there has been a considerable increase in cotton-textile imports from Japan——

Mr. WALSH. I am not now complaining about that. I am citing it is an illustration of the need of some protection.

Mr. BARKLEY. The debate has centered around that as an illustration; but, as a matter of fact, taking imports of that sort from the entire world, there has been a decrease from 1928 to 1934 from more than 61,000,000 square yards to about 41,000,000 square yards. The imports from Japan increased from 1,710,000 square yards in 1928 to 7,287,000 square yards in 1934. But there has been a constant decrease over a period of the past 7 years in cotton-textile imports into the United States from the world, which, it seems to me, would indicate that the trouble in the cotton-textile industry is not due to an increase in importations from outside the United States but is due to other conditions which are entirely different from that.

What is the Senator's reaction to that?

Mr. WALSH. It is my opinion that the Japanese importations are a contributing cause, but a minor cause, of the condition of the cotton-textile industry; but it is a situation which is threatening and needs attention. Let me add that I know that the administration has been very, very much concerned and very much troubled about the rapid increase in the importation of cotton textiles of all sorts from Japan.

Mr. BARKLEY. I appreciate that.

Mr. WALSH. And negotiations have been considered for the purpose of seeing if an arrangement could not be made between the two countries which would limit these importations.

Did the Senator from Kentucky see the exhibit of importations from Japan which was displayed in this building a few months ago?

Mr. BARKLEY. No; I am sorry to say I did not. I was busy at the time, and did not go to see it.

The PRESIDING OFFICER (Mr. DUFFY in the chair). The time of the Senator from Massachusetts on the amendment has expired.

Mr. TYDINGS. Mr. President, I do not want to delay the Senate; I only wish to make my own position clear.

I shall not support the pending amendment. In making that statement, I find no fault with those who do so, because it is a very logical step, with this farm program, to restrict imports, so as not to undermine the philosophy of the A. A. A. set-up.

I feel, however, that no sooner will this amendment be adopted than in the next session of the Congress it will be further necessary to impose an additional restriction by increasing the tariffs on agricultural products, particularly those to which the Senator from Michigan has referred. And as we place restrictions and embargoes and quotas on other agricultural commodities in the United States, of course other countries will place like restrictions upon the commodities which we are selling to them.

We must not lose sight of the fact that somehow or other trade ultimately has to balance. We cannot sell unless we buy. We would drain all the currency of the nations of the world to this country were we to continue to sell everything we could to them and buy nothing in return, because the payments would have to be made in money.

I am going to ask those who are interested in my observations to take heed of the fact that in 1928 prices generally, not only of agricultural products but generally, were the highest they had been for some time. That was before the last tariff act was passed. At that time our exports were, roughly, around five and a half billion dollars a year and our imports were about four and a half billion dollars a year. In other words, we were then selling a greater quantity of goods than we had ever before sold to the world in times of peace; but we were importing a greater quantity of goods than we had ever before imported in times of peace.

Obviously, we could not have sold that volume of goods to the world if we had not bought that volume of goods from the world, because the world used the money it received from selling those goods to us to pay for the goods which we were selling to them, and when we attempted to restrict that situation, regardless of the merit of the method—and I do not wish to argue the philosophy of the tariff at all—when we attempted that, within 14 months, 54 countries of the world adopted similar measures against American goods.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. BORAH. Is it not a fact that the highest point ever reached in exportations from this country was when we had a very high tariff?

Mr. TYDINGS. I cannot recall to what year the Senator refers.

Mr. GORE. The highest point in exports was under the Simmons-Underwood law.

Mr. BORAH. I do not so understand. I understand that our exports in 1929 were greater than at any other time in our history.

Mr. KING. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. KING. The Senator from Idaho is in error. The highest exports were in 1918, 1919, and 1920, when they aggregated between seven and eight billion dollars each year.

Mr. BORAH. That was immediately after the war.

Mr. TYDINGS. I do not think those are fair years to take as examples. But let me say that, regardless of what the tariff was or was not—and I do not want to get into a discussion of the tariff—the fact is that I can show that in the year when we exported the most, I do not care what year it was, we also imported the most. We cannot export without importing. The farmer cannot buy a pair of shoes until he takes his eggs or wheat into town and turns the eggs or the wheat into money, and with that money he buys the shoes. Prohibit the farmer from selling his eggs or his wheat, and he cannot buy any shoes. So it is with nations.

Mr. President, this country exports more than it imports. Let us suppose we stopped all trade; who would be the greater loser, the country which sells more to the world than it buys from the world or the country which sells less to the world than it buys from the world?

Mr. FRAZIER. Mr. President——

Mr. TYDINGS. I cannot yield now; I have only a little time.

I am not finding fault with the amendment offered by the Senator from Wisconsin. As I have said, it is a perfectly logical step; but I believe it is wrong fundamentally; and, as he himself stated, we are going at this thing from the wrong angle.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. TYDINGS. I will yield briefly; I have only a few minutes.

Mr. LA FOLLETTE. I merely wish to say that it seems to me that the Senator from Maryland is arguing against the fundamental policy involved in the Agricultural Adjustment Act and not against my amendment.

Mr. TYDINGS. That is correct; I have said that. I am not going to vote for the Senator's amendment, because I am not going to vote for the bill. I think the Senator's amendment is but a byproduct of this whole scheme.

Mr. LA FOLLETTE. Mr. President——

Mr. TYDINGS. I am not reflecting on the Senator. I hope he will let me finish.

Mr. LA FOLLETTE. Will not the Senator yield?

Mr. TYDINGS. I would rather not, because I should like to make a few observations, and I will try not to draw the Senator into the argument by any other reference to his amendment particularly.

I believe that in 1937 or 1938, at some time along in the future, the job of the Congress is going to be to unscramble this whole situation, and it is going to be a bigger job than any job the Congress has undertaken so far. These are all artificial measures. Obviously, if industry is getting more than it should get in comparison with agricultural prices, then the thing to do is to pull down industry to the level where agriculture can exist on the same parity with industry. If it is wrong, as is claimed by the agriculturists, to put industry on stilts, it is equally wrong to put agriculture on stilts. Gentlemen cannot blow hot and cold.

This does not mean free trade, it does not mean we have to wipe out all tariffs, that we must not take any account of how much is sold and how much is not sold, and what the imports and the exports are between countries.

We had the N. R. A., and what did that do? The N. R. A. put the farmer further below parity than he was before the N. R. A. was established. The fact was recognized at once that the farmer was not getting a fair return for his toil, and one of the first acts passed was one accentuating the unfairness existing between agriculture and industry. Senators voted for it. I think it was wrong, and I myself did not support it. But today the average man who works on a farm on wages, from sunup to sundown, counting his room and board, gets 50 or 60 percent as much as the wage paid to a comparable man in industry, and who has the nerve to do anything about that unfairness? Nobody.

I am not objecting to the laboring man getting all the money he can, but we must not lose sight of the fact that it is possible for him to get into such a situation that great masses of the people are penalized to the amount of every dollar which is above the parity of the man who toils on the farm.

I shall not vote for the pending measure for the reason that I do not believe we are going at the problem which confronts this country in a rational way. There has to be a scaling down of industry. I do not mean that any particular man should be treated unfairly, and I do not mean to say that wages, or this, that, or the other thing must be summarily reduced. What I do say is that the mission of the Congress is not to condone evils by raising up other things to the standard of the evils, but our mission is to bring down those things which are too high, so that all will rest on a good, solid foundation.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. GLASS. The last National Democratic Convention declared that that was the mission of the Democratic Party, but not a sentence has been written into law in the 3 years the party has been in power looking to that end.

Mr. TYDINGS. The Senator is correct. What is the condition of the United States today, not only as respects agriculture, but along other lines? Go into the cities of the United States, with their great reservoirs of unemployed. Is it possible to make food cost more and at the same time help the distressed people in the cities, for whom we have just appropriated $4,880,000,000?

Is it possible to make clothing cost more and at the same time help the plight of the man who has descended to the lowest rung of the ladder? The Senator from Minnesota [Mr. SHIPSTEAD] and others who are here know that we cannot help the man who is already out of work by adding to the cost of living. We can help him by reducing the cost of living; and, if we do that, we will increase the demand for the necessities of life, taking up the surplus in the market, and difficult and hard though the road is to walk, with all the commitments of the higher price returns which our people have made in the days of prosperity, the high-priced mortgages, and all that; difficult as the road is to walk, in the last analysis, it will be easier than the road we are walking, which is piling one economic monstrosity—I cannot think of a more appropriate word—on top of another economic monstrosity.

At some time—it may be 2 years, 5 years, 10 years off—some day the farmer is going to realize, and the man who works in the city is going to realize, that there is very little difference between getting $3 a day and paying 30 cents a dozen for eggs, and getting $4 a day and paying 40 cents a dozen for eggs. The question of wages should be discussed in comparison with what a man must translate his earnings into in order to live comfortably with his family. So it is with the farmer.

I am not going to vote for this measure because it will further handicap America in competing in the world markets. We have already lost your world markets, though not necessarily because of the depression. We should have lost them in 1920 and 1921 and 1922 had it not been for the fact that we were sending billions of dollars abroad each year in the form of international loans, which the borrowers were using to pay us for the goods they were purchasing in this country. We had 14 or 15 years of the illusion of prosperity. We have always refused—and, in my humble judgment, we refuse today—to face the naked fact that trade ultimately has to balance. We cannot put artificial stilts under or restrictions upon commerce without in the end finding that whatever we have taken away from the other fellow we have taken away from ourselves.

Agriculture comes here with the best case in the world. It has been pilloried upon the public platform and crucified on the cross. Coming, as I do, from an industrial State, while I have committed my sins, I believe the RECORD will show that no man in this body representing an industrial State has voted for as much low tariff as have I.

In fact, I believe there is only one item which might be a subject of question in this body in all the items of the tariff acts to which I have given my support.

I know that in the end industry cannot live, any more than agriculture can live, if we continue to run this country out of line, as it has been run since 1920, first with the Emergency Tariff Act, then with the Smoot-Hawley Tariff Act, and then with the international loans which gave us the deception of prosperity.

Mr. President, I am not going to support this bill, because I believe its whole trend is against the logic and the force of events. I believe it violates every economic principle which can be safely used to conduct a nation's affairs. In not voting for it, however, I am not criticising those who offer this amendment, who support it, and who feel that the only way they can get a measure of justice for their people, who are entitled to equal protection, is to do this thing, wrong though it may eventually prove to be as time unfolds itself.

With that observation as to the reason why I shall not support this measure, I shall say no more in criticism of it.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. SHIPSTEAD. Does the Senator concede that in justice and in right a man may commit murder in self-defense?

Mr. TYDINGS. Yes. I think that is a pretty good defense.

Mr. SHIPSTEAD. That is the reason why I shall support this bill.

Mr. BAILEY. One cannot commit murder in self-defense. It cannot be done.

Mr. PITTMAN. Mr. President, I do not attempt to make any argument in regard to the tariff. I think the only grounds in the world upon which tariff arguments were based have entirely changed.

Nearly every country has proceeded to depreciate its currency for the particular purpose of securing foreign trade. Japan has a very peculiar system. Japan really has two currencies. For the purpose of buying abroad, she is tied to the pound sterling. For the purpose of employing labor at home, she has a very much inflated domestic currency which passes at par.

That situation exists more or less throughout the world. Therefore, it is impossible at the present time for us to use the checks and balances which we use under normal conditions.

Whether or not this process of raising the purchasing power of our people is right, undoubtedly it is right to attempt to increase the purchasing power of our people. I believe it is right to attempt to increase their consumptive power. It is right to increase it in any way we see fit.

We all admit that the laws under which we are now operating, called the "new deal", are emergency laws, and are entirely artificial; and yet it has not been suggested what we should adopt in their place. We operated under natural laws, we will assume, in 1930 and in 1931 and a part of 1933, and undoubtedly in 1932; but under those natural laws by March 1, 1933, we had reached the point of bankruptcy of every bank in the United States; at least, we were so told. That condition might have finally meant the bankruptcy of our Government. Then we should have had total bankruptcy everywhere.

If we have nothing else to suggest, if we are not to have anything artificial to stimulate what was then almost a dead government and a dead people, we have the laissez faire Government of the past. Liquidation was the theory of the administration which preceded the present one. Under it there were foreclosures, bank failures, liquidations down to the very point of death. Certainly none of us desires to go back to such a condition. We are in an artificial era.

I cannot conceive how anyone, even though he were the most ardent free trader under the natural conditions which preceded the war, could now be a free trader. I cannot conceive how anyone today would be willing to allow the living conditions in this country to sink to the level of those in Japan; yet the ultimate answer to the question is that if we let nature take its course, we shall sink to that level.

I believe in holding high in this country the standard of living of every class of people, higher than anywhere in the world, no matter how we do it, even if we have to build a Chinese wall around this country. I would rather do that than have us sink to the level of the people of some of the countries of the world at the present time.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. BAILEY. Will the Senator permit me to insert a fact? The wages paid textile workers in Japan, on the average, come to 23½ cents a day. In America at the present time textile workers are earning 30 cents an hour. Japan is shipping textile goods into this country.

Mr. PITTMAN. As I stated before, Japan has her money tied to the pound sterling for purchases abroad. Her money used for purchases at home is an inflated currency. As the Senator from North Carolina said, the wage paid a Japanese textile worker is about 23 cents a day.

Mr. BAILEY. Unless we take steps to stop the shipping of textile goods into this country the inevitable consequence will be the depression of the wages of the textile workers in America.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. PITTMAN. I shall yield a little later.

Mr. TYDINGS. I desire to reply to the Senator from North Carolina.

Mr. PITTMAN. I shall try to get through in time to permit the Senators to have their colloquy.

I have the highest admiration for the distinguished Senator from South Carolina [Mr. SMITH], who is in charge of this bill. I admire his persistency in standing for his principle of free trade no matter whether or not the whole world changes. It is a magnificent persistency. Take the case of cotton, for instance: The people of this country are being taxed for the purpose of maintaining an artificial price for cotton. They are not only being taxed to reduce the production of cotton but they are being taxed to support those who have been taken off the land by reason of the reduction of cotton cultivation. Not only that, but the labor of this country is bearing all its part of the burden of taxation for the benefit of the cotton planter, to support those who are put off the land, and for the benefit of the artificial price.

The same thing is true in the case of wheat. Of course, the Senator from Maryland is opposed to the whole system. I may be opposed to the whole system, but I am not discussing the system. I am discussing the absolute necessity of placing a wall around this country if nothing but a wall will protect what we are trying to do.

Of course, the cotton planter is not worrying about that. The cotton planter is the largest exporter we have. When we come down to every other farmer in the country, however, when we come down to the man who is working in a mill, the condition is different. I do not think over 40 percent of mill capacity is operating today in this country. Was it our idea to increase the capacity of those mills to 100 percent so that they could hire labor? I think it was our intention to do that. It is our intention now to do it.

If we do not have production, it is totally immaterial what the price is. The production of our factories today is only about 40 percent of normal. We cannot increase that production if we allow Japanese manufactured goods or the manufactured goods from any other country to flood the United States. We might as well face that situation if we intend to increase production. If we are to limit our production in this country, it is totally immaterial whether or not we let those goods come in.

I say now to the Senate that I am not in favor of lowering the standard of living in this country to the level that it has reached in other countries, no matter what artificial means may be necessary to protect it.

I desire also to have the value of farm products raised to the level of the price of products of industry in this country. I am hopeful that that may be accomplished without dragging down the standards of agriculture. I would rather attempt to lift the farmer than to drag down industry. I can-

not conceive that industry can be dragged down unless the standards of living are also lowered. I am willing to try, by every possible means, to raise the standard of agriculture before I take steps by my vote to degrade, reduce, and break down the conditions of industry. I think that is possible. I would go as far as the Senator from North Carolina suggested we go, and I would rather go there now. So far as the basic agricultural commodities are concerned, I would not allow agricultural products to come in from any country in the world until we had restored the normal production in this country. That is all I have to say.

Mr. SCHALL. I ask unanimous consent to read my speech on the pending bill through the eyes of the clerk.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. BARKLEY. In the absence of the Senator from Arkansas [Mr. ROBINSON], I ask the Senator to postpone his request for the time being.

The PRESIDING OFFICER. Objection is heard.

Mr. McNARY. Mr. President, I inquire what was the statement of the Senator from Kentucky?

Mr. SCHALL. The Senator from Kentucky wants the Senator from Arkansas to censor my remarks.

Mr. BARKLEY. I was asking the Senator from Minnesota to withhold his request until the return of the Senator from Arkansas. I do not know that there will be any objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. BARKLEY. I reserve the right to object. So far as I am concerned, I have no objection to the reading of the Senator's speech; but, in the absence of the Senator from Arkansas, I think it ought to be stated that, if consent is to be given, the right to object to any portion of the speech shall be reserved as the reading progresses.

Mr. McNARY. That has been the declaration heretofore.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. BONE. Mr. President, I wonder if the Senator from Minnesota will yield long enough for me to ask the Senator from Wisconsin a question? I merely want some enlightenment on his amendment.

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Washington?

Mr. SCHALL. I yield.

Mr. BONE. If my memory serves me aright, the National Industrial Recovery Act contains a provision which authorizes the President, through the Tariff Commission, to prevent dumping operations on the part of foreign governments. Is that correct?

Mr. LA FOLLETTE. That is correct.

Mr. BONE. Can the Senator from Wisconsin advise me whether such prohibition extends to farm commodities, or is it restricted to industrial commodities?

Mr. LA FOLLETTE. It is my assumption that it was restricted to commodities affected by the National Industrial Recovery Act, but I confess that I have not recently surveyed that situation.

My interest in this matter was prompted by the fact that the House committee incorporated a provision similar to the one which I am offering, and, after looking into the situation confronting us growing out of the alarming rate of increase in the importations of commodities affected by the Agricultural Adjustment Act, I felt it was imperative that some such power should be delegated.

Mr. BONE. Of course, where we are attempting to protect the consumption of our own products in this country that would partly be thwarted unless there were some definite control of imports.

Mr. LA FOLLETTE. That is correct; and, even if the terms of the National Industrial Recovery Act were broad enough to include agriculture, I would favor, in view of the emergency, including such a provision in this bill, and to that extent indicate the sentiment of the Congress that urgent necessity requires this action be taken.

Mr. GORE. Mr. President, I ask the Senator from Minnesota if he will yield to me for only a few moments, because what I have to say relates to the discussion which has been under way during the last hour or so. I will occupy the time for only a few minutes.

Mr. SCHALL. Mr. President, I inquire if the remarks of the Senator from Oklahoma will be taken out of my time?

The PRESIDING OFFICER. No; they will be taken out of the time of the Senator from Oklahoma. The Senator from Minnesota will have the floor at the conclusion of the remarks of the Senator from Oklahoma.

Mr. SCHALL. And the other remarks will not be taken out of my time?

The PRESIDING OFFICER. The statement of the Senator from Oklahoma will not be taken out of the time of the Senator from Minnesota.

Mr. SCHALL. I am not inquiring as to the remarks of the Senator from Washington and the Senator from Wisconsin.

The PRESIDING OFFICER. The time of the Senator from Minnesota will begin when the reading of his remarks commences.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. The same time limitation will apply to an address read by the clerk as if the Senator from Minnesota delivered it in person?

The PRESIDING OFFICER. The Senator from Kentucky has made a correct statement.

Mr. SCHALL. I yield to the Senator from Oklahoma.

Mr. GORE. Mr. President, the amendment offered by the Senator from Wisconsin is logically consistent with the pending bill. Indeed, rigorous consistency would demand its adoption if we are to follow this scheme to the ends of the earth, if we are to follow this theory to its logical conclusion—and we will probably do that one day. I appreciate the inconsistency of limiting farm products at home and importing the same kind of farm products from abroad. I appreciate the inconsistency of permitting foreign-grown farm products to come into this country when the Government is trying by artificial means to raise, maintain, and peg the prices of domestic agricultural products. Theoretically, that would be an absurdity in the midst of such a program. Practically, it would perhaps be an absurdity but for the drought which occurred last year. I think that, to a large extent, the condition of which Senators have been complaining this morning, particularly the increase in the importations of foreign agricultural products, has been due, in large measure, to the unexampled drought which occurred last year.

I realize, however, that the pending amendment should challenge the support of all Senators who believe that trade is a curse and not a blessing. I think it ought to receive the support of all Senators who think that foreign commerce ought to be prohibited and that its prohibition would contribute to national prosperity.

This is one of the penalties of embarking upon a plan which involves a resort to artificial forces to control natural forces and to suspend or repeal the fundamental laws of economics. We are caught in a cataract which we cannot govern and cannot resist. It reminds me of an old saying, that "he who rides a tiger sometimes has trouble in dismounting."

We have embarked upon that experiment. Other peoples in other ages have embarked upon the same experiment, and with one uniform and unfailing result—defeat and ofttimes disaster. But, undaunted souls, not intimidated by the warnings and lessons of experience, once more we have adventured upon the impossible, and I repeat that those who are attempting the impossible ought in advance to calculate upon a substantial percentage of failure.

I recall that the Yellow River in China has been leveed and diked for centuries and centuries past. The floodwaters have from time to time deposited silt at the bottom of the stream, necessitating the heightening of the levees and the dikes, and when that was done more silt was deposited, requiring a further heightening of the dams and the levees and the dikes. Today, Mr. President, there are stretches of that river where the bottom of the stream is 10

feet above the tops of the houses. Perhaps that was not expected in the beginning, but it accounts for the unbridled disasters which occur in China and which, from time to time, overwhelm and destroy her hapless millions of people. I do not mean that we ought to be warned by that example, even by analogy. Let us repeat the blunder and learn that lesson for ourselves. Let us pay the tuition which is required to learn once again what all history teaches.

I do not know whether in the debate this morning the tragic element or the comic element predominated. In some respects it was vaudeville, and the acting was superb. It was a parade of scarecrows. Some Senators were duly affrighted; their acting was perfect. It was a ghost dance that challenged admiration.

The Senator from Michigan [Mr. VANDENBERG], always a master of his subject, always familiar with the facts and the statistics required to sustain his conclusions, unfortunately this morning had a lapse of memory or possibly a missing page in his notes. He could not remember the percentages. The percentages slipped through a slot in his memory. But after all, he said, percentages were not significant; they were of no consequence; they taught no lesson that we need to learn. The Senator said it is the trend that counts—"it is the trend that counts"—and the trend is known to him and to us and we ought to be duly shocked and we ought to take warning. Let us see.

The Senator said that during the first 3 months of this year we have actually imported 7,000,000 bushels of corn—7,000,000 bushels of corn! He does not know what the percentage is, but he does know that 7,000,000 bushels of corn count even in this age of billions. Seven million bushels of corn in the first quarter! If that enormous influx of corn should continue during the remainder of the year, it would rise to the staggering total of 28,000,000 bushels of corn. Contemplate 28,000,000 bushels of corn!

Our corn crop last year, in spite of the drought, was 1,600,000,000 bushels. It was little more than half a crop. Ordinarily we produce between two and one-half billion and 3,000,000,000 bushels of corn. One year the crop topped 3,000,000,000 bushels. Two and one-half billion bushels is around the average. Two and one-half billion bushels of corn. Yet the Senator from Michigan takes fright because, forsooth, 28,000,000 bushels of corn may invade the American market during the current year. We have had many disasters, but that threatens to be the worst of them all. [Laughter.]

The Senator said we have imported during the first 3 months of this year 16,000,000 pounds of canned meat. It sounds big. He does not know what the percentage is or what is the percentage of increase. Sixteen million pounds of canned meat in the first quarter. At that rate it would be 64,000,000 during the year—hardly enough to serve one meal for the American people. Yet the Senator takes fright that in a country where 10,000,000 people are hungry one imported meal might wreck the destinies of the Republic.

How much beef did the Government slaughter last year in the United States? It was 4,900,000,000 pounds. Now we are getting into the right altitude. We are getting up into billions now. [Laughter.] The packers slaughtered last year 6,900,000,000 pounds of beef not including veal. Yet the Senator fears that a hungry people may be ruined by the importation of a little more than 60,000,000 pounds of canned meats. We have resisted a good many enemies in the past, but we may not be able to live down the importation of 64,000,000 pounds of corned beef.

The pork we slaughtered last year, I believe, aggregated 15,500,000,000 pounds and all the meat of all kinds imported this year into the United States would not feed all the American people 1 day—not 1 day.

We cannot reach sound conclusions on this subject unless and until we take percentages into account.

Mr. President, when we import this trifling amount of canned meat how is it paid for? The chances are that American cotton raised in Mississippi or Oklahoma paid for this canned meat. Have the farmers who produce a surplus amount of cotton no right to dispose of their surplus in the markets of the world? Last year the consumption of foreign-grown cotton increased in foreign countries 1,676,000 bales and more, while the foreign consumption of American grown cotton decreased last year 1,951,000 bales, almost bale for bale. There is a "baleful" warning to the cotton growers of the country, to the cotton growers of the South, a "baleful" warning to every section of this country whose prosperity depends in any measure upon the prosperity of the cotton farmers of the South.

Japan has shipped a few consignments of cotton goods into the United States. For centuries Japan was known as a hermit nation. She had no intercourse with the outside world. We sent a flotilla to Japan to compel her to unlock her gates and to establish communication with the outside world. Was Japan after all wise when she assumed and maintained the character of a hermit nation? Are we now disposed to emulate an example which we compelled Japan to abandon?

The cotton goods imported into this country this year from Japan, if the current rate continues, I believe will be less than 1 percent of our domestic production. Japan is the largest purchaser of American-grown cotton. She takes annually 1,500,000 bales. One year she took 1,700,000 bales. Japan today, I believe, is buying more cotton from the United States than England, France, and Germany combined. She buys cotton from the farmers of Oklahoma and Texas. How does she pay for it? How can she pay for it? In gold. She can pay for it in gold if she has the gold, or she can pay for our raw cotton with her cotton fabrics if we will let her make the trade. If we refuse to trade with her, if we close our gates to keep her cotton goods out of this country, then and there we close our gates to keep our raw cotton in this country. That truth is not only self-evident, but it is indisputable.

Japan's total exports during the whole of last year, measured in terms of gold, was about $300,000,000, equivalent to our export trade during 3 months in terms of gold. Yet the Senator takes fright lest Japan should overwhelm the United States with cotton fabrics manufactured out of raw cotton grown in our Southern States.

I do not know whether it would be equally effective, but how would it serve to stop exporting cotton to Japan altogether and pile up our surplus of domestic cotton and force her to look to other quarters for raw material which our farmers can furnish and should furnish?

Mr. President, we export 40 percent of all the tobacco grown in this country. Have not our tobacco growers a right to their farm market? Have not they a right to sell their surplus abroad? How can we sell abroad unless we buy abroad? How can the foreign customer of our tobacco pay for the tobacco he buys? In sooth, he can pay in gold if he has the gold. But he has not got the gold. We have got the gold already. He can pay for our tobacco with his goods if we will accept the goods. He cannot pay at all if we will not accept his goods. It may be that cotton cloth which came into this country from Japan was made out of cotton grown in North Carolina and came back home to pay for tobacco grown in North Carolina. Should we stop that trade? Should we stop that transaction? If we should, we would impair not only the prosperity of the tobacco States but the prosperity of every other State which is dependent in any measure upon the prosperity of the tobacco States.

Mr. President, we export 40 percent, or we used to export 40 percent, of all the packing-house lard produced in this country. Has not the corn and hog farmer a right to the foreign markets for his surplus corn and lard? How can the foreigner buy our lard unless we accept his goods in exchange? How can he pay for American lard except with his own goods? Of course, gold would be acceptable, but gold is not available. We must take his goods if we wish to dispose of our goods. There is no other choice, except to trade or not to trade. Every section that is dependent at all upon the prosperity of the Corn Belt for its own prosperity shares the dependence of the Corn Belt upon a foreign outlet for its surplus output.

It may be that the canned beef, which so much appalled the Senator from Michigan, came into this country from the Argentine in direct payment for lard produced in Illinois. It paid for American goods of some description.

Mr. President, from 1921 to 1933 our exports of semimanufactured goods declined 42 percent. Our exports of finished manufactured goods declined 62 percent. Our exports of foodstuffs, as I now recall, declined 93 percent. Our farmers have almost lost their foreign market as it is. Are Senators content with the economic consequences? Is foreign trade a one-way traffic? Can we sell our surpluses abroad and buy nothing from our customers abroad? Foreign commerce, after all, is barter, in the last analysis.

Sir, we have got to trade our way out of this trouble. We have got to trade our way out if we ever get out. Unfortunately that way is no longer a highway. I sometimes fear that we are marking time and not marching; that we are going around and around and not going forward.

What would be thought of the man who, trapped in a burning house, would deliberately lock the door and throw the key into the flames?

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER. The time of the Senator from Oklahoma on the amendment has expired. The Senator from Minnesota [Mr. SCHALL] has the floor. The clerk will read the speech of the Senator from Minnesota.

The legislative clerk proceeded to read the speech, and read as follows:

TEN REASONS FOR ENDING THE A. A. A.

Mr. SCHALL. Mr. President, there are at least 10 outstanding and fundamental reasons for ending at this session of Congress the "brain trust" plan, borrowed from Russia, for Federal domination of agriculture by theorists and politicians under the first new-deal failure called A. A. A.

First. In its effect on American agriculture, our one-time leading basic industry, the A. A. A. has destroyed more crops and livestock than drouth, flood, bugs, and disease combined, and undermined the work of the Nation for the past 70 years in promoting agriculture as the economic base of our Republic. As a false and sinister farm builder, the A. A. A. has done more to demoralize agriculture, more to destroy the progress of our 50,000,000 rural population than all previous disasters combined.

Mr. McKELLAR. Mr. President, may I interrupt for a moment? I wish to ask the Senator from Minnesota a question. He is criticizing the A. A. A. I wonder whether he would vote to repeal the Agricultural Adjustment Act.

Mr. SCHALL. Mr. President, I do not wish to have my time taken up by a speech by another Senator.

Mr. McKELLAR. I am asking the Senator from Minnesota a question.

Mr. SCHALL. The Senator may ask it after the conclusion of my speech.

Mr. McKELLAR. No; I prefer to ask it now.

Mr. SCHALL. I do not wish to be shut off by interruptions. I refuse to yield.

The PRESIDING OFFICER. The Senator from Minnesota declines to yield. The clerk will continue to read the speech.

Mr. McKELLAR. Mr. President, was a reservation made about the reading of this speech? If the Senator from Minnesota will not answer a civil question——

Mr. SCHALL. I am very glad to answer questions, but already time has been taken up. I shall be very glad to answer questions, but I do not want my time consumed.

The PRESIDING OFFICER. It would come in the Senator's time; so the clerk will proceed with the reading of the speech.

The legislative clerk resumed the reading of the speech, and read as follows:

Second. In 100 courts of the land, the equity injunctions granted by United States District Courts and Circuit Courts of Appeal, following the decisions of the United States Supreme Court in the petroleum and "sick chicken" cases, are a forecast of the reasonable certainty of the end of the A. A. A. before this year ends. Why should Members of Congress demonstrate, in the face of these multiplying and just decisions, their individual incapacity and untrustworthiness as representatives of the people by casting their votes for this outstanding fraud and failure? Why try to fool the people with pretense and hullabaloo?

Third. The demonstrations of its economic failure are outstanding, as shown by the application to leading staple crops, for example:

(a) The Chicago price of wheat in July 1933, when the A. A. A. first was applied to the wheat crop, was $1.20. Today it is 83 cents—a drop of 37 cents per bushel, and the purchase price today is in a dollar worth 59 cents.

(b) The American cotton industry has lost more in 2 years of the new deal than it had gained in 20 years of normal agricultural development. Half the cotton export trade is gone, and 40 percent of the former cotton hands are on public doles.

(c) We have lost, for the first time in a half-century, our proud position as the world's leading agricultural Nation, and are today reduced to the position of importers of all the principal food products.

(d) In its effect on unemployment, which was called our national "emergency", the A. A. A. in its crop-curtailment and idleness-producing activities has added at least 1,500,000 and from that to 2,000,000 to the army of unemployed, and placed perhaps twice that number of people on public doles.

Fourth. In destroying and reducing crops and livestock, the A. A. A. has crippled both domestic and foreign trade, and undermined one of the chief sources of railroad traffic and employment, with the result that American railways today are at the lowest ebb of their prosperity in 50 years.

Fifth. In undermining agriculture and reducing the crops that pay for industrial goods, the A. A. A. has cut down the world's greatest market—the American home market—for all the productions of the factory, forest, and mine, and thereby cut down the country's entire business index since July 1933 by more than 15 percent, during a period when competing countries, as Canada and Great Britain, have risen 25 percent.

Sixth. In its direct effect on the industries, A. A. A. processing taxes of $900,000,000 have cut down both the production and the employment of all industries processing the products of agriculture, or over one-half the manufacturing industries of the United States, curtailing their output, destroying their export trade, and by increasing American production costs the A. A. A. has benefited all competing countries which have sent here a record flood of foreign imports.

Seventh. Invasion of the powers of the States over intrastate industries and trade by the A. A. A., as noted by all the courts of the land, threatens the basic structure of our Government, the constitutional guaranty of a republican form of government to each of the sovereign States. The A. A. A. is an ever-threatening menace to our boast of the century that ours is "an indissoluble Union of indestructible States."

Eighth. The A. A. A. undermines the powers of Congress in two directions:

(a) The $900,000,000 of process taxes levied and collected by the A. A. A. usurp the chief function of Congress, the tax power granted in article I.

(b) The domination of agriculture by a system of Federal commands and subsidies destroys the fundamental relation between the people of the respective States and their representatives, the A. A. A. taking the place of the 531 legislative representatives, and usurping the legislative function in all that concerns agriculture.

Ninth. The A. A. A. violates the Constitution in at least three activities:

(a) It assumes to take over the tax power of the legislative branch of government.

(b) It assumes to take over the control of intrastate commerce and industry, belonging to the respective States.

(c) It usurps all legislative functions of government relating to the fundamental industry of every country, the supply of food and clothing.

Tenth. The A. A. A. destroys the human foundation of the Republic, an independent and self-reliant agricultural yeomanry, the foundation of liberty and of all American institutions since the day when our "plowmen fired the shot heard 'round the world."

Gentlemen of the Senate, the end of the A. A. A. is at hand. It is false in principle—that scarcity means plenty. It has neither pride of ancestry nor hope of posterity. It is a sicker bird than the "sick chicken" which the Supreme Court buried, with nine Justices out of nine as pall bearers. It came from Russia. It is time it was deported to Russia. We want no regime of Russian peasantry and Moscow autocrats in America. If we are still Americans we should lose no time in seizing this opportunity to show our faith in the old American creed that "Eternal vigilance is the price of liberty."

Our oaths to support and uphold the Constitution are sufficient to guide our respective votes. Unless any in Congress were elected on the Socialist or Communist platforms of 1932, we can do naught else but vote "nay" on this A. A. A. expansion bill, forced upon us against the provisions of our Bill of Rights.

PURPOSE OF THE NEW DEAL

Mr. President, the main objective of the so-called "new deal", here as abroad, is now apparent, both from the words of the main actors and from the character of the measures they are putting through under gag rule or attempting to put across. Even the United States Supreme Court, in its decision of May 27 on the "sick chicken" case of N. I. R. A., has fairly summarized the new deal as guilty of the following unlawful aims, namely, centralized Federal autocracy invading the powers of the States, unlawfully dominating their major industries, and unlawfully usurping the powers of Congress.

Differences between the new deals here and abroad appear in the main these:

First. The ends which are achieved over there by force of arms are achieved here by force of subsidy. The $5,000,000,000 "Big Bertha" obtained by the President for his 1936 campaign has a far greater and more deadly range in controlling his subjects than all the guns of Mussolini's black shirts and Adolph Hitler's brown-shirted shock troops.

Second. The socialistic-communistic measures drafted by the White House for taking over farm control, factory control, federalizing the banks and railways, and electrocuting the utilities—bills drafted by Frankfurter, Corcoran, Cohen & Co., who, it appears, never read the Constitution or even practiced law—are put over here by gag law without reading, whereas over there the parliaments do not waste their time with useless make-believe, and vote "yea" without gagging.

Prof. Rexford Guy Tugwell, known in Russia as "Comrade Tugwell" and here as "Brain Truster No. 1", has defined the new deal in one paragraph of his 21-page address, now printed and distributed by this administration as a public document, when he describes it as follows:

"Government of men" in place of the 148-year-old "fiction" of "government of laws", which began under the Constitution of 1787.

Even the boys and girls in the public schools know that "government of men" means autocratic rule, unhampered by a Constitution, or by a Congress elected by the people. Such governments as Rome had under its dictators from the time of Fabius Maximus and Sulla down to Pompey and Crassus and the 17 Caesars, such governments as emperors and oligarchic central bureaus gave over their miserable subjects from the time of the Dark Ages down to the modern war lords, are today pictured under the new-deal dictatorship of Mussolini, Hitler, and Joseph Stalin.

This "government of men", says Comrade Tugwell, in his 21-page address delivered before a "science and arts club" in New York, November 16, 1933, sent out under Government frank, is what we have had here since March 4, 1933.

Says Comrade Tugwell, on page 19 of this Government document:

> I have had a chance to see the truth of the saying that ours is a government of men. The fiction that it is a government of laws would, I think, never have attained its great prestige if the right men had been called to govern.

So such Presidents as Washington and Jefferson, Madison and Monroe, Jackson and Lincoln, Cleveland and Theodore Roosevelt, Woodrow Wilson and Calvin Coolidge, were not the "right men", and such Secretaries of State as Jefferson and Randolph, John Quincy Adams and Henry Clay, Daniel Webster and Edward Everett, Seward and Washburne, Evarts and Blaine, Sherman and Root, Bryan and Kellogg, were not at all the right statesmen.

Moreover, according to the gospel of the new deal, as taught by Comrade Tugwell, such Speakers of the House as Muhlenberg and Dayton, Clay and Blaine, Randall and Carlisle, Crisp and Champ Clark, under whom no 50-page bill drafted by the White House was ever put through without reading or debate, and without even printing, within the space of 45 minutes, were not the right men. They held to the old-fashioned idea of the Constitution based on government of laws.

Furthermore, such jurists as Chief Justice John Marshall and Justices Story, Curtis, Field, Chase, Fuller, White, Holmes, and Chief Justice Charles Evans Hughes were not the right men, because they, so Tugwell suspected, stood for government of laws under a Constitution adopted by the American people and ratified by State legislatures, and which Constitution we and he, before taking office, must swear to uphold and defend.

The "right men" in Tugwell's view are Franklin D. Roosevelt, Raymond Moley, "General" Johnson, Barney Baruch, Morgenthau, Jr., Vincent Astor, Ickes and Wallace, Hopkins and Richberg, and likewise those gifted jurists who draft the new-deal measures—Frankfurter, Corcoran, Cohen & Co.—whose bills, or sugar-coated pills, are swallowed by a go-and-get-it Congress under gag rule like a dose of castor oil. But General Johnson now advises the administration to do away with the "magic-box deal."

"Everything depends on men", says Tugwell in this new-deal public document. And such men they are! There is not a tried statesman, not a real lawyer, not a well-known economist, business man, or financier in the whole brainless "brain trust." They are not even full-fledged professors; just a bunch of ex-assistant professors and tutors who lost their temporary jobs until picked up by Franklin Roosevelt and James Aloysius Farley and financed by Vincent Astor, the millionaire clubman who runs the flagship *Nourmahal* when Roosevelt plays Ike Walton.

The PRESIDING OFFICER (Mr. REYNOLDS in the chair). The time of the Senator on the amendment has expired.

Mr. SCHALL. I will take my time on the bill.

The PRESIDING OFFICER. The clerk will continue the reading.

The legislative clerk resumed the reading, and read as follows:

The "brain trusters" were all picked up within a stone's throw of "Hide-away" Park, Wall Street, and Tammany Hall. As "bold experimenters", they are paper imitators, prattling parrots, of the new deals invented by Carl Marx and Nicolai Lenin, and put across by Mussolini, Hitler, and Joseph Stalin.

One of the numerous false pretenses of the "brain trust" and its administration is that it had a "mandate" from the people. If that is so, where and when did they get it? Not a word of it appears in the Chicago platform of the Democratic Party in 1932. Not a word of it was mentioned in any of the preelection speeches of the President and his propaganda. Not a sign of it appeared until the "new dealers" jumped into the saddle March 4, 1933.

The Democratic platform of 1932 called for the opposite policies. It demanded "strict and impartial enforcement of

the antitrust laws to prevent monopoly", and then, after election, under the N. R. A., the administration suspended the antitrust laws entirely, and put over the N. R. A., a staff of high-powered monopolists on the President's "advisory board."

The Chicago platform demanded a Federal Budget annually balanced, and the "new dealers" have piled up Treasury deficits aggregating $12,000,000,000, and have fired Budget Director Lewis Douglas because he insisted upon balancing the Budget.

The Chicago platform demanded cutting down the Federal bureaus and reducing Federal expenditures by not less than 25 percent. The administration has created more new bureaus than all peace-time Presidents of the United States from Washington and Jefferson down—a total of 57 bureaus, equalling Heinz's pickle barrel—and have increased the cost of government to such a point that 1 month of Franklin D. Roosevelt equals the cost of a full year under Theodore Roosevelt, and the world record has been passed in peace-time creation of bureaucratic jobs, debt, deficits, and tax requirements.

The Chicago platform, and indeed the President's inaugural message, demanded "a sound currency at all hazards." Within 90 days after that inaugural pledge, the "new dealers" destroyed the gold standard, demonetized gold, took away gold redemption from all currency, and even bonds, and depreciated the dollar to a fluctuating and uncertain value around 59 cents.

There was one platform in 1932, however, that demanded two-thirds of the program now known as the "new deal", and that was the Socialist platform on which Norman Thomas ran.

There was another platform—the Communist platform, on which Foster ran—which likewise called for much of the new deal, and particularly the Soviet program of the 6 "Delaware holding companies", which 4 members of Roosevelt's Cabinet and 8 of his bureau chiefs, about the time of Tugwell's address, incorporated in Delaware under royal Federal charters to give their 6 Socialist-Communist corporations "perpetual existence", with all the powers of the Soviet General Council over industry.

These two platforms—the Socialist and Communist—borrowed their programs from Carl Marx and Lenin, and from the present Moscow socialistic-communistic model, and the total vote of the candidates of these two parties in 1932 aggregated less than 800,000, or 2 percent of the total popular vote.

And that is the sole semblance of a mandate from the people to this "brain trust", and for the passage of the new-deal bills drafted by Frankfurter, Corcoran, Cohen, et al., pursuant to the prescription of "Comrade", or Dr. Rexford Guy Tugwell—who now sits in the President's weekly Cabinet meeting.

Under this "mandate", or autosuggestion, the administration has had drafted by Frankfurter, Corcoran, Cohen & Co., and passed by an obedient Congress—frequently without a House reading of the bills, and with little or no debate under gag law—something like 60 new-deal measures, largely measures demanded by the Socialist and Communist platforms, notwithstanding the opposite historic views expressed in the platforms of the major parties holding seats in the Senate and House.

The unconstitutional N. R. A., the doubtful paternalism, and processing taxes of the A. A. A., the dole-distributing C. W. A. and F. E. R. A., the White House tariff making, the demonetization of gold, the electrocution of utilities, the proposals to Federalize and centralize the banks and railways as in Russia, the Rayburn Act placing all communications under Federal direction, including autocratic radio, control of telephone, telegraph, and press-dispatch stations, and the score of N. R. A. codes dominating the press and all press machinery and facilities—these are samples of the Fascist-Soviet program of "planned economy", "planned emergency", and "planned chaos."

Three outstanding features of this new deal here are conspicuous in the new deals over in Italy and Russia:

First. The centralized Federal Government invades and overrides the rights and powers of the constituent states.

Mussolini abolished 700 Provinces and municipalities and made them all answer directly to his mandate. Hitler did likewise when he abolished the constitution of Germany. The Soviet usurped all the powers of the constituent Union of Soviet Socialist Republic states.

That is one of the grounds on which the N. R. A. was pronounced unconstitutional by the United States Supreme Court on May 27, 1935. But substantially all of the characteristic new-deal acts do the same thing—they override the power of the respective 48 States as to intrastate commerce, industry, railways, banks, utilities, labor and wages, police powers, and even agriculture.

Partly this Fabian deal has been accomplished by "rubber stamp" law, partly by Executive orders, or edict law, and partly by direct doles or subsidies distributed in billions. Franklin Roosevelt has issued more edict law than all other Presidents combined, and distributed more doles.

Second. Control of the legislative branch of Government by the executive, usurpation of the legislative functions by the President, a combined autocracy of executive and legislative functions—enabling the Executive to vote to himself the appropriations he will spend—is characteristic of the Mussolini, Hitler, and Soviet regimes. This usurpation of legislative power by the Executive is one of the major grounds named by the Supreme Court on May 27 for knocking out the N. R. A. "unconstitutional delegation of legislative powers to the President."

Tariff making by the White House, the processing taxes levied by the A. A. A., the power to grab $5,000,000,000 for his 1936 emergency, are familiar aspects of the same autocratic centralization of the powers of government, including "allocation" of appropriations.

Third. After Mussolini, Hitler, and the Soviet Council had demolished, first, the national parliaments, and, second, the constituent states and local democratic municipalities, they then proceeded, or at one and the same time proceeded, to abolish the bill of rights, freedom of speech and worship, free assembly, and a free press. This was accomplished through a drastic national censorship and a centralized federal propaganda—a resumption of the licensed printing of the Stuart tyranny against which John Milton protested 300 years ago.

That is precisely the program attempted by the "new dealers" here, though not as yet with the success the "brain trust" may have hoped. The N. R. A. codes, aimed at press control, have been nullified by action of the Supreme Court. The Rayburn Communications Act has been a vast handicap to freedom of press dispatches, and has been the means of Federal interference with radio talks, but the administration has not as yet dared to exercise in full the powers of censorship which it has voted to itself by the aid of a go-and-get-it Congress.

Supplementing a too-evident Federal censorship, the Government has built up the most gigantic publicity machine known to history at the cost of scores of millions of dollars. Every economic department in Washington has been resolved into a machine for political propaganda. The Government Printing Office gets out little except propaganda, printed as public documents.

The departments and bureaus have been loaded down with newspaper men—more newspaper reporters, editors, and special writers than all other professions combined. The President, his family, the Cabinet, the "brain trust", are writing books, filling the screens, and are on the radio day after day.

Possibly $200,000,000 may be a conservative estimate of the publicity costs of the new-deal administration annually—salaries for publicity jobs, bureaus that are nothing but propaganda-machines "information" bureaus in all departments, new-deal dope by tons and carloads, radio, moving

picture, press hand-outs, flooding the press and mails, "key men" in every section, fixed data from every bureau and department, newspaper and magazine write ups, baby-bond propaganda, 57 bureau propaganda machines, "fireside chats", 1,000 special articles daily, thousands of pictures, hundreds of books, mimeographs by the hundred million—all to fool the American people into swapping off the American Republic and all the principles for which we have worked and fought for 150 years, and deserting our Constitution to accept the worst that Europe has to offer—and all at the expense of the taxpayers—a highly rouged and lipsticked dictatorship of enthroned and blatant ignorance to which Europe itself cannot point with "pride of lawful ancestry or hope of lawful posterity."

Shall we play the hairy Esau to this new-deal Jacob? Shall we sell our birthright for a ride on Aaron's golden calf?

This thing called "new deal", Senators will find, if they will consult any recent Treasury daily statement, has an accumulated "emergency fund" now mounting to the unheard-of height of $18,000,000,000. The cost of government since the Republic began, over a period of 128 years down to the second term of Wilson's administration, including five wars, was far less than this administration has spent in the last two and a half years.

When the expected allocation of five billion more to the President next year has been allotted, and the cost of government is added, the grand total sum for his administration will figure out to be $37,000,000,000, a billion over one and a half times the cost of all the 35 administrations, including the first term of Wilson, which included five wars.

This vast spending orgy is the equivalent of 7 years of tax collections and all other sources of Federal revenue. Seven years of revenue is spent to subsidize the Nation.

If any business corporation were in that condition of insolvency, it would be thrown into the hands of a receiver on application of the stockholders to the court.

I am wondering if that application may not be filed before the Supreme Court of all, the 40,000,000 registered electors, who assemble in the November term of 1936, and I am wondering if our king will not meanwhile find the means, under his program of planned chaos and destruction, through the Commander in Chief of the Army and Navy, to prevent that decision.

WHEN THE KING DOES WRONG

Mr. President, it has been pointed out repeatedly in the course of this debate, that the provision denying the right of a citizen to appeal to the courts for redress is founded on that old doctrine of the Dark Ages, that—

The King can do no wrong.

In an age, as Senator BORAH put it the other day, when everything the kings did was wrong—down to the levy of imperial taxes, the taking of life, liberty, and property, inquisition and imprisonment, denial of free speech, assembly, and freedom of worship—it became necessary, in order to justify the imperial decrees and imperial acts of robbery and injustice, to announce this doctrine as set forth by Niccolo Machiavelli in his treatise of 400 years ago as adviser of Caesar Borgia and as "brain trust" of Francis I of France.

It was the doctrine of Machiavelli, set up in his treatise on government, bearing the title "The Prince", that the sovereign was beyond the pale of law or courts, and the citizen had no rights which the sovereign should be held to recognize.

The President himself is reported to have issued more decrees or Executive orders having the force of law, than all other Presidents of the United States combined twice over, and then some. But the administration would have the courts to be prohibited from issuing the decrees which they are authorized by the Constitution to issue. This administration has constantly sought through nearly all the bills he has forced through Congress, and is still seeking in this bill, to circumvent the Constitution. In this bill it seeks to place a prohibition upon the rights of the citizen to seek redress in the courts against the tax levies of the A. A. A.—a fundamental right which is as old as that for violation of which George III was indicted by the statement in the Declaration of Independence that—

He has obstructed the administration of justice.

We do not wonder that Tugwell and Moley, Wallace and Frankfurter, declare that we shall never go back to the ideas of 1776, for in the Declaration of Independence, adopted July 4, 1776, we find the following, which is descriptive of the principal evils of this A. A. A. maladministration:

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

Comrade Tugwell promised the Committee on Agriculture that an extra force of 50 persons was all that would be needed to take care of the A. A. A. He now has better than 10,000 on the pay roll of the Government, and a couple hundred of those are the best newspapermen in the country, whose duty it is, under his guidance, to issue propaganda to mislead the people. Their salaries run as high as $9,000, which are paid out of the Public Treasury. The taxpayer is taxed to pay for being fooled, misled, and given false information.

And, again, the Declaration of 1776, signed by the 56 founders of American liberty and drafted by Thomas Jefferson, describes the following evils promoted by this and other new deals, for example:

He has combined with others to subject us to a jurisdiction foreign to our Constitution * * * giving his assent to their acts of pretended legislation. * * * For imposing taxes on us without our consent * * *. For depriving us in many cases of the benefits of trial by jury * * * establishing therein an arbitrary government * * * and fit instrument for introducing the same absolute rule into these Colonies * * * and altering fundamentally the forms of our governments.

It was for such transgressions as these—which have again come into vogue under a new deal older than George III, or Francis I, or Machiavelli and Cesare Borgia—that the signers of the Declaration issued to the world that eternal and thoroughly American idea of 1776, to which Tugwell and Moley, Frankfurter and Cohen, the authors of this bill, say that we shall never go back, namely:

That these United Colonies are, and of right ought to be, free and independent States.

On October 19, 1781, there was enough independent Americanism in this country to compel Lord Cornwallis to surrender his sword to Washington. There was enough of the American spirit to rebel against unconstitutional taxation, the obstruction of justice in American courts, the substitution of autocratic decrees for acts of legislation, the establishment of arbitrary government, and the imperial imposition of autocratic rule for government by laws under the Constitution.

One hundred and fifty years have passed since then. But, if I know anything about the sentiment of this country today, and if I know anything about the true sentiment of the Senators in this Chamber as expressed between the lines of this debate, there is still enough Americanism in America to require "Lord Corn Wallace II" to turn over the sword of the A. A. A. before the nine Justices of the United States Supreme Court break it in two in this coming October term of 1935.

It would be the fitting irony of new-deal fate if, on October 19, 1935, the one hundred and fifty-fifth anniversary of Yorktown, the Supreme Court of America celebrated American tradition by handing down a decision requiring the surrender of "Corn Wallace II."

Who are the Tories in this Senate Chamber who are going to vote against the righteousness of that American decision? It took only 56 signers of the Declaration of Independence to defeat the autocracy for which the first Lord Cornwallis fought. Are there not 56 American patriots in this Senate who are willing to sign a new declaration of independence based on the never-dying doctrine for which our fathers fought and won? Why surrender to the creed of Machiavelli and the creed of Moscow? Let him who swings that

$5,000,000,000 war club, while standing upon the Socialist platform of 1932, beware lest the club fall upon him, as it did upon Francis I and George III.

During the delivery of Mr. SCHALL's speech,

Mr. BILBO. Mr. President, will the Senator from Minnesota yield so that I may secure action on an amendment as to which there will be no controversy?

Mr. SCHALL. I yield for that purpose.

Mr. BILBO. I desire to offer an amendment, which I will ask to have read, as a substitute for section 39 as proposed by the Committee on Agriculture and Forestry.

The PRESIDING OFFICER (Mr. GUFFEY in the chair). The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 71, line 12, in lieu of the language proposed to be inserted by the committee, it is proposed to insert the following:

SEC. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government, unless such association handles the products of or supplies of bona fide cotton-producing members (or the products of or supplies of bona fide cotton-producing members of member associations) in an amount at least equal in value to such as are dealt in for persons other than such bona fide members, but all cotton handled by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business handled by such association.

Mr. McKELLAR. Mr. President, this is an amendment which was offered to section 39, on page 71 of the bill, which was passed over; and those of us who are interested in this cotton amendment—and I have taken a very great interest in it—have agreed that the substitute may be adopted instead of the committee amendment. I desire to have it agreed to at this time.

The PRESIDING OFFICER. There is an amendment to the committee amendment on page 64, beginning in line 20 which is pending.

Mr. McKELLAR. Yes, Mr. President; but we ask unanimous consent that this amendment be adopted, notwithstanding the fact that there is an amendment pending.

Mr. SMITH. Without prejudice.

The PRESIDING OFFICER. Is there objection?

Mr. KING. I do not object, with the understanding that if next Monday, upon a further examination of the amendment, I desire to submit a qualifying amendment or another sentence to it, I shall have the opportunity.

Mr. McKELLAR. There will be absolutely no objection to it if the Senator finds it necessary to do so.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Mississippi [Mr. BILBO] in the nature of a substitute for the committee amendment on page 71, being section 39.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

ORDER FOR RECESS

After the conclusion of Mr. SCHALL's speech,

Mr. ROBINSON. Mr. President, I ask unanimous consent that when the Senate completes its labors today it take a recess until 10 o'clock a. m. Monday next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ACCEPTANCE OF BIDS FOR GOVERNMENT CONTRACTS

Mr. WALSH. Mr. President, there is an emergency measure on the Senate Calendar to which I call the attention of the Senate. It is a matter I have discussed with the Senator from Arkansas [Mr. ROBINSON] and the Senator from Oregon [Mr. MCNARY]. Therefore I ask unanimous consent for the immediate consideration of Calendar No. 1193, being Senate Joint Resolution 163. I will explain the joint resolution as soon as it shall have been laid before the Senate for consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution referred to by the Senator from Massachusetts?

There being no objection, the Senate proceeded to consider the joint resolution (S. J. Res. 163) to authorize the acceptance of bids for Government contracts made subject to codes of fair competition, which was read, as follows:

Resolved, etc., That no bid submitted prior to the enactment of this joint resolution in response to the invitation of any executive department, independent establishment, or other agency or instrumentality of the United States, the District of Columbia, or any corporation all the stock of which is owned by the United States (all of the foregoing being hereinafter designated as "agencies of the United States"), if otherwise valid and acceptable, shall be rejected because made subject to the provisions of any code or codes of fair competition, or any related requirements (as provided in Executive Order No. 6646 of Mar. 14, 1934), if the bidder, with the assent of his surety, shall agree in writing that the contract, if entered into, shall, in lieu of such code provisions or other related requirements, be subject to all acts of Congress, enacted after the date of enactment of this joint resolution, requiring the observance of minimum wages, maximum hours, or limitations as to age of employees in the performance of contracts with agencies of the United States. In such cases the compensation provided for in the contract shall be reduced from that stated in the bid by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract is reduced solely by reason of the contractor not complying with the provisions of such code or codes or related requirements; and the compensation for the performance of the contract shall be increased from that fixed in the contract by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract has been increased solely by reason of compliance with such subsequent acts of Congress, if any, relating to the performance of contracts with agencies of the United States.

Mr. WALSH. Mr. President, before the decision of the United States Supreme Court declaring the N. R. A. unconstitutional, various departments of the Government had invited bids for the purchase of supplies, for construction work and for various other undertakings. All of the bids were for contracts subject to code competition. After the decision of the Supreme Court, the Comptroller General ruled that these bids were illegal, and that it might be necessary for the departments to resubmit their propositions for rebidding. This would mean much delay, and create a good deal of confusion, and many Senators have had appeals for relief made to them from bidders who were the lowest bidders on the various undertakings of the Government.

It is therefore proposed, after consultation with the various departments of the Government and the General Accounting Office, that the joint resolution now being considered should be enacted into law.

This joint resolution makes valid these bids, if the bidder with the assent of his surety, shall agree in writing that the contract entered into, shall, in lieu of such code provisions, be subject to all acts of Congress enacted after the date of enactment of the joint resolution, requiring the observance of minimum wages, maximum hours, or limitations as to age of employees in the performance of contracts with agencies of the United States.

The joint resolution was submitted to various departments of the Government and also to the Comptroller General, is in form satisfactory, and will remedy the necessity of the readvertisement of such bids, which without this resolution now are being rejected by order of the Comptroller General.

In view of this explanation, I hope the joint resolution may be passed and go to the other House, so that there may be no further delay in the disposal of this vast volume of public business.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Florida?

Mr. WALSH. I yield.

Mr. FLETCHER. I will refer to a situation which arose in the Joint Committee on Printing. We advertised for bids for newsprint and other paper and envelops as required by law. Under the old code arrangement bids came in, but then the decision of the Supreme Court was handed down and the committee thought there was nothing to do but to reject the bids and to call for new bids, as we did. I do not want any complication about that, and I suppose the joint resolution would scarcely refer to a situation such as that?

Mr. WALSH. Not at all. I might say that several departments have tried personally to negotiate with the lowest bidder to meet these requirements in writing so that they would

be able to make contracts with them. I ask for a vote on the joint resolution.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS ON MONDAY

Mr. ROBINSON. Mr. President, under the agreement which has been entered, the Senate will meet at 10 o'clock a. m. on Monday next to continue consideration of the A. A. A. amendments. It seems to me the consideration of this subject should be brought to a conclusion on that day, and I hope that Senators will contribute to that end.

REFINANCING OF FARM INDEBTEDNESS

Mr. FRAZIER. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from former Representative Wefald, of Minnesota, who is now a member of the railroad commission of that State. The letter is addressed to Representative LEMKE and has reference to the so-called "Frazier-Lemke farm-refinancing bill."

I wish to say that this bill is on the calendar of the Senate and is pending before the Committee on Agriculture of the House of Representatives. There is a petition pending in that body asking for the discharge of the committee, in order that the bill may be brought to the floor of the House.

The letter of Mr. Wefald is very interesting. The bill has been endorsed by the legislatures of 32 States and the farm organizations all over the country are in favor of it.

The PRESIDING OFFICER. Without objection, the letter will be printed in the RECORD.

The letter referred to is as follows:

MINNESOTA RAILROAD AND WAREHOUSE COMMISSION,
STATE OFFICE BUILDING,
St. Paul, July 16, 1935.

Congressman WILLIAM LEMKE,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN: I have just read the Minneapolis Daily Star for today, which carries a front-page leader article relative to the chances for passage of the Frazier-Lemke refinancing bill in this session of Congress. It is the most heartening news that I have read for a long time, as it holds out hope to the debt-ridden farmers of the Northwest that eventually some measure of justice may be afforded to them.

The headline says Frazier-Lemke national plan nears success. It goes on to give the history of the fight to bring about the passage of the bill by bringing the bill out of the committee and to a vote in the House. The article states that 204 names were secured on the discharge petition, but that thereupon the administration leaders became busy, and were instrumental in having a number of Congressmen withdraw their names from the petition, leaving the number of those who stood pat at 189. The article goes on to say that it now looks very likely that 216 names will be obtained for the withdrawal petition, and that if the bill is ever brought out of the committee it is sure to pass in the House.

The article states that the administration leaders had scared the men who withdrew their names from the petition to do so by intimating that the President would veto the bill if it came to him. It goes on to state that the movers of the bill organized and sent to the President a committee for a "face to face show-down on the veto report." It then goes on to state "the President told the committee that he had authorized no one to say he would reject the measure if it was enacted."

The news contained in this last quotation is the most heartening and most welcome news that has come to the farmers of the Northwest since Mr. Roosevelt was inaugurated as President.

You know how splendidly the Northwest States supported the President for election in 1932, but the greatest disappointment to the farmers has been the fact that so far it has been impossible to induce Congress to pass the Frazier-Lemke refinancing bill, and that it has been assiduously circulated out here that the President was opposed to the enactment into law of this bill.

I have traveled extensively in Minnesota this summer, and I am in close touch with the situation in North and South Dakota and, to some extent, with the situation in Wisconsin, and I know that there is no measure before Congress at this time, nor has there since March 4, 1933, been a proposal before Congress in which the farmers have been as much interested as they are in the Frazier-Lemke refinancing bill.

The people out here will be with the President in his great fight, in his taxation proposal, which some people dub a "share-the-wealth" plan. They are with him in his stand relative to the country possibly in some respects having outgrown the Federal Constitution. They are with him in his public utilities' fight, although this fight to clean up the public utilities' mess does not mean so much to the farmers as to the urban population because only a small number of the farmers have as yet enjoyed the services of the electric utilities.

I have heard many grumblings against the administration in the farming country during this summer, and the murmur is growing louder and more pronounced, I am sorry to say, but I believe that the passage by Congress, and the approval of the President, of the Frazier-Lemke refinancing bill, will rehabilitate the President with the farmers of the Northwest in the high place in their estimation that he held during the first 2 years of his incumbency of the Presidency.

I further want to state that it is my belief that if the Frazier-Lemke refinancing bill is not acted upon in this session that its results relative to the President's chances for carrying the votes of the northwestern States in the next election will not be what I and many, many other people would like to see it.

The farmer is a proud fellow. A dole may be very agreeable and acceptable to many of the urban population of the country, but it does not appeal to the farmer. The farmer wants to be rehabilitated in the private ownership of his farm, which he wants to continue to operate under his own private initiative, but it has come to be the deep-seated belief of the average farmer in the Northwest that without the passage of the Frazier-Lemke refinancing bill the farming class will never be rehabilitated into the proud position that it once held.

We people out in the Northwest cannot understand why this measure should be termed an inflationary measure, because the Treasury notes used in the payment of the farm debts will be founded upon the fertile and productive soil of the farms of the United States, the best security in the United States and in the world. No industrial security can in any sense compare with the security offered by our farmers.

The low rate of interest promised the farmers in this proposal is absolutely essential to the farmers if it is ever hoped or expected that the farmers shall be able to be put on their feet again.

I began to talk the ideas contained in the Frazier-Lemke bill in my campaign for reelection to Congress in 1926. I am quite sure that I was the only man in Congress, and that includes both Houses of Congress, who took such a stand at that time. I was not able to get very many to listen to me, and many people told me that I was crazy; but, due to the glorious fight that you have fought for the farmers in the furtherance of this proposal—and I think the fight that you have been making is one of the greatest fights for justice, for human rights, for the farmers especially—that has been made in the history of Congress; and there is no matter before Congress at this time upon which the concensus of the opinion of the American farmers is so united as it is at this time in favor of the passage of this proposal.

I hope that Congress will see the light that it may give particular and favorable action on the Frazier-Lemke bill or it will be, if action is not taken in the present session of Congress, notice to the farmers of the United States, and we shall so consider it here in the Northwest that the President, in spite of all the many great achievements to his credit and his administration, are not concerned about the welfare of the farmers of the United States.

We are yet a thousand miles from the solution of the present economic depression which we are in, and we people of the Northwest are absolutely sure that as the farmer was the cornerstone of our national prosperity in the past, he must again come into that position or there will not be any prosperity in the United States, but unbounded and unlimited misery. It is to be hoped that the present Congress and the President will do what they can to take us out of our misery.

I wish you good luck in your present strenuous undertaking, and I join with the hundreds of thousands of farmers of the Northwest who are asking upon you God's blessing and that He may give you strength to triumph for the people whose champion you have been in this great and holy cause.

Very sincerely,

KNUD WEFALD, *Commissioner.*

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. TRAMMELL, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers in the Marine Corps, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER (Mr. GUFFEY in the chair). If there be no further reports of committees, the clerk will state the first nomination in order on the calendar.

THE JUDICIARY

The legislative clerk read the nomination of Albert M. Rowe to be United States marshal, northern district of West Virginia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

THE NATIONAL ARCHIVES

The legislative clerk read the nomination of Dorsey W. Hyde, Jr., District of Columbia, to be Director of Archival Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Solon J. Buck, of Pennsylvania, to be Director of Publications.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Thaddeus S. Page, of North Carolina, to be administrative secretary.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Collas G. Harris, of Virginia, to be executive officer.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

That completes the calendar.

RECESS

Mr. ROBINSON. I move, pursuant to the order heretofore entered, that the Senate stand in recess until 10 o'clock a. m. Monday next.

The motion was agreed to; and (at 2 o'clock and 5 minutes p. m.) the Senate, under the order previously entered, took a recess until Monday, July 22, 1935, at 10 o'clock a. m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, July 20 (legislative day of Monday, May 13), 1935

UNITED STATES MARSHAL

Albert M. Rowe to be United States marshal, northern district of West Virginia.

THE NATIONAL ARCHIVES

Dorsey W. Hyde, Jr., to be director of Archival Service.
Solon J. Buck to be director of publications.
Thaddeus S. Page to be administrative secretary.
Collas G. Harris to be executive officer.